

Chapter:	95	FIRE SERVICES ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 194 of 2003	01/01/2004
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To make better provision as to the constitution, duties and powers of the Fire Services Department and as to the discipline of members thereof and to make provision for the prevention of fire hazards, for the investigation into matters relating to a fire and for a welfare fund; and to regulate the registration of fire service installation contractors and to provide for the control of the sale, supply, installation, repair, maintenance and inspection of fire service installations or equipment; and for purposes connected with the matters aforesaid.

(Amended 42 of 1961 s. 2; 1 of 1964 s. 2; 45 of 1971 s. 2; 7 of 2003 s. 2)

[13 August 1954]

(Originally 32 of 1954)

Part:	I	PRELIMINARY		30/06/1997
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Section:	1	Short title		30/06/1997
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This Ordinance may be cited as the Fire Services Ordinance.

(Amended 42 of 1961 s. 3)

Section:	2	Interpretation	L.N. 9 of 2010	31/03/2010
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In this Ordinance, unless the context otherwise requires-

"calamity" (災難) means an occurrence by which life or property is endangered; (Added 1 of 1961 s. 2)

"civil service provident fund scheme" (公務員公積金計劃) means the Civil Service Provident Fund Scheme referred to in the government regulations; (Added 6 of 2009 s. 3)

"Director" (處長) means the Director of Fire Services; (Replaced 42 of 1961 s. 2)

"fire hazard" (火警危險) means-

(a)-(b) (Repealed 4 of 1985 s. 2)

(c) any removal from any building of any fire service installation or equipment which was provided in such building in accordance with plans certified by the Director for the purposes of section 16 of the Buildings Ordinance (Cap 123);

(d) the presence in any building of any fire service installation or equipment which from lack of proper maintenance or for any other reason is not in efficient working order; (Amended 56 of 1969 s. 2)

(e) inadequate means of egress from any premises in a building to street level outside the building or using such means of egress for a purpose which gives rise to any circumstance described in paragraph (f); (Added 56 of 1969 s. 2. Amended 29 of 1975 s. 2)

(f) any other matter or circumstance which materially increases the likelihood of fire or other calamity or the danger to life or property that would result from the outbreak of fire or the occurrence of any other calamity, or which would materially hamper the Fire Services Department in the discharge of its duties in the event of fire or other calamity; (Added 1 of 1964 s. 3)

"fire service installation or equipment" (消防裝置或設備) means any installation or equipment manufactured, used or designed to be used for the purposes of-

(a) extinguishing, attacking, preventing or limiting a fire;

(b) giving warning of a fire;

(c) providing access to any premises or place for the purpose of extinguishing, attacking, preventing or limiting a fire; (Added 45 of 1971 s. 3)

(d) facilitating the evacuation from any premises in case of fire; (Added 7 of 2003 s. 3)

(e) providing a stand-by power supply to an installation or equipment the purposes of which are mentioned in paragraphs (a) to (d) in the event of the loss of normal power supply; (Added 7 of 2003

s. 3)

"government regulations" (政府規例) means the administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service; (Replaced 76 of 1999 s. 3)

"member" (成員) means a person holding any rank in the Fire Services Department set out in the Sixth Schedule; (Replaced 29 of 1975 s. 2)

"member of other ranks" (員佐級成員) means a member holding a rank set out in Part III of the Sixth Schedule; (Added 29 of 1975 s. 2)

"occupier" (佔用人) means in the case of domestic buildings a person resident therein and in the case of other buildings means a person carrying on an occupation full-time in such building; (Added 29 of 1975 s. 2)

"owner" (擁有人)-

(a) in respect of any premises, has the meaning assigned to it by section 2 of the Buildings Ordinance (Cap 123); and

(b) in respect of any fire service installation or equipment, includes the occupier or the owner of the premises in or on which the fire service installation or equipment is installed or kept; (Replaced 45 of 1971 s. 3)

"premises" (處所) includes any place, but excludes any vessel; (Added 1 of 1964 s. 3. Amended 55 of 1981 s. 2)

"Public Service (Administration) Order" (《公務人員(管理)命令》) means-

(a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);

(b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and

(c) any other regulation made or any direction given under that Order, as amended from time to time; (Added 76 of 1999 s. 3)

"retirement benefits" (退休福利), in relation to a person, means-

(a) the pension, gratuity or other allowance of that person as provided for under the Pensions Ordinance (Cap 89);

(b) the pension benefits of that person as provided for under the Pension Benefits Ordinance (Cap 99); or

(c) the part of that person's beneficial interests in the civil service provident fund scheme that is attributable to sums derived from the voluntary contributions made by the Government, as employer, in respect of that person under section 11(4) of the Mandatory Provident Fund Schemes Ordinance (Cap 485), together with the income, profits or losses arising from any investment of those sums and of such income or profits; (Added 6 of 2009 s. 3)

"senior officer" (高級人員) means a member holding a rank set out in Part I of the Sixth Schedule; (Replaced 29 of 1975 s. 2)

"subordinate officer" (部屬人員) means a member holding a rank set out in Part II of the Sixth Schedule; (Replaced 29 of 1975 s. 2)

"tenant" (租客) includes sub-tenant; (Added 54 of 1986 s. 2)

"vessel" (船隻) includes-

(a) any ship (not being a ship of war or a ship having the status of a ship of war), junk, boat, dynamically supported craft, seaplane or any other description of vessel used in navigation; and (Amended 41 of 1992 s. 2)

(b) any other description of vessel not used in navigation or not constructed or adapted for use in navigation. (Added 55 of 1981 s. 2.)

Part:	II	CONSTITUTION, DUTIES AND POWERS		30/06/1997
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Section:	3	Constitution	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The Fire Services Department shall consist of such senior officers, subordinate officers and members of

other ranks as the Chief Executive may direct. (Amended 76 of 1999 s. 3)

(2) A person holding a post in the Fire Services Department specified in the Seventh Schedule shall be deemed to be a member of the Department for the purposes of sections 6(2), 22, 23, 27(1) and 28. (Amended 4 of 1986 s. 2)
(Replaced 29 of 1975 s. 3)

Section:	4	Terms of service of members of the Fire Services Department	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99), the Public Service Commission Ordinance (Cap 93), Public Service (Administration) Order and government regulations for the time being in force, save in so far as is otherwise provided therein or in this Ordinance or in any regulations made under this Ordinance, shall apply to all members.

(Amended 15 of 1979 s. 8; 36 of 1987 s. 41; 76 of 1999 s. 3)

Section:	5	Administration of Fire Services Department by Director	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The Director, subject to the orders and control of the Chief Executive, shall be charged with the supreme direction and administration of the Fire Services Department.

(Amended 42 of 1961 s. 2; 76 of 1999 s. 3)

Section:	6	Delegation of powers	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) Save where the contrary intention appears from the context of any enactment and subject to any special instructions of the Director, a Deputy Director of Fire Services may exercise or discharge any of the powers or duties which the Director by any enactment is entitled to exercise or required to discharge.

(2) Save where the contrary intention appears from the context of any enactment and subject to any special instructions of the Chief Executive, the Director may authorize any member, not being below the rank of subordinate officer, by name, office or appointment, to exercise or discharge any of the powers or duties which the Director by any enactment is entitled to exercise or required to discharge. (Amended 29 of 1975 s. 4; 76 of 1999 s. 3)

(3) For the avoidance of doubt, nothing in this section shall be deemed to derogate from any power of delegation conferred upon the Director by the provisions of any other enactment.

(Replaced 42 of 1961 s. 4)

Section:	7	Duties of Fire Services Department	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The duties of the Fire Services Department shall be to-

- (a) extinguish fires; (Replaced 55 of 1981 s. 3)
- (b) protect life and property in case of fire or other calamity; (Replaced 55 of 1981 s. 3)
- (c) give advice on fire protection measures and fire hazards as occasion requires; (Replaced 55 of 1981 s. 3)
- (d) assist any person who appears to need prompt or immediate medical attention by-
 - (i) securing his safety;
 - (ii) resuscitating or sustaining his life;

- (iii) reducing his suffering or distress;
- (e) convey-
 - (i) any person referred to in paragraph (d) to a hospital or other place where medical attention is available to him; and
 - (ii) in co-operation with the proper authorities, any person to or from any hospital or clinic to or from any other place, and administer care and attention to any person so conveyed;
- (f) carry out such other duties as may be imposed on it by law or by any direction of the Chief Executive; and (Amended 76 of 1999 s. 3)
- (g) do any thing which is necessary or desirable to carry out effectively any duty which is specified in this section or imposed under paragraph (f).

(Replaced 29 of 1975 s. 5)

Section:	8	General powers of entry	L.N. 194 of 2003	01/01/2004
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(1) Subject to this section, the Director or any person authorized by him in writing on producing, if so required, the writing showing his authority, shall have a right to enter any premises at all reasonable hours for the purpose of-

- (a) ascertaining whether there is, or has been, on or in connexion with the premises, any contravention of any of the provisions of this Ordinance;
- (b) obtaining information required for fire-fighting purposes with respect to the character of the premises, the available water supplies and the means of access thereto, and other material circumstances;
- (c) ascertaining whether or not there exists any fire hazard;
- (d) the performance by the Director or by the Fire Services Department of his or its powers or duties under any enactment:

Provided that the Director, or any person authorized by him in writing, shall not exercise the right of entry conferred by this subsection in respect of such premises as are not a place of public entertainment or public assembly, factory, workshop or workplace nor premises otherwise used for business purposes, unless 24 hours' notice in writing of the intended entry has been given to the occupier.

(2) If it is shown to the satisfaction of a magistrate on sworn information in writing-

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any purpose specified in subsection (1); and
- (c) the notice of the intention to apply for the warrant has been given to the occupier of the premises, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry,

the magistrate may by warrant in the form of Form 1 in the Fifth Schedule authorize the Director, or any person authorized by the Director in writing in that behalf, to enter the premises, if need be by force. (Amended 29 of 1975 s. 6; 47 of 1997 s. 10)

(3) The Director or any person entering any premises by virtue of this section, or of a warrant issued hereunder, may take with him such persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them to be at the time of entry.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who, in compliance with this section or a warrant issued hereunder, enters a factory, workshop, workplace or premises used for business purposes discloses to any person any information obtained by him in the factory, workshop or workplace or premises used for business purposes with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence and shall be liable to a fine at level 4. (Amended 25 of 1982 s. 2; 7 of 2003 s. 13)

(Added 1 of 1964 s. 4)

Section:	8A	General powers of fire investigation	L.N. 194 of 2003	01/01/2004
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(1) Within a reasonable period after a fire in or on any premises has been extinguished, the Director or any

member authorized by the Director in writing on producing, if so required, the document showing the member's authority, may enter the premises for the purpose of investigation into the cause of or other matters relating to the fire.

(2) Having entered the premises, the Director or member-

- (a) may stay in or on the premises for so long as it is reasonably necessary for the purpose referred to in subsection (1);
- (b) may remove and take possession of any article or thing found in or on the premises that the Director or member has reasonable cause to believe is necessary for the purpose referred to in subsection (1);
- (c) may deal with the article or thing referred to in paragraph (b) in such a way as appears to the Director or member to be reasonably necessary for examination or analysis;
- (d) may retain the article or thing referred to in paragraph (b) for so long as it is reasonably necessary for examination or analysis;
- (e) may take such photographs and make such video recordings as the Director or member has reasonable cause to believe is necessary for the purpose referred to in subsection (1);
- (f) may require any person whom the Director or member has reasonable cause to believe is able to give any information relevant to the purpose referred to in subsection (1)-
 - (i) to attend at a time and place specified by the Director or member;
 - (ii) to answer (in the absence of persons other than any person whom the Director or member may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the Director or member thinks fit to ask; and
 - (iii) to sign a declaration of the truth of the person's answer;
- (g) may require the production of, and inspect and take copies of documents that the Director or member has reasonable cause to believe is necessary for the purpose referred to in subsection (1);
- (h) may require any person to afford the Director or member such facilities and assistance with respect to any article or thing within that person's control or in relation to which that person has responsibilities as the Director or member considers reasonably necessary to exercise any of the powers conferred by this subsection.

(3) Nothing in this section shall be taken to compel a person to disclose any information or produce any document that the person would on grounds of legal professional privilege be entitled to refuse to disclose or produce.

(4) On leaving any unoccupied premises that the Director or member entered under this section, the Director or member shall leave them as effectually secured against trespassers as the Director or member found them to be at the time of entry.

(5) If the Director or member who-

- (a) obtains any information from the answer given or document obtained under subsection (2)(f) or (g), as the case may be; or
- (b) in compliance with this section, enters a factory, workshop, workplace or premises used for business purposes,

discloses to any person any information obtained by the Director or member under subsection (2)(f) or (g) or in the factory, workshop, workplace or premises with regard to any manufacturing process or trade secret, the Director or member shall, unless the disclosure is made in the performance of the Director's or member's duty, be guilty of an offence and shall be liable to a fine at level 4.

(6) This section shall not affect the power of the Commissioner of Police under the Fire Investigation Ordinance (Cap 12)

(Added 7 of 2003 s. 5)

Section:	8B	Answers that may implicate criminal liability	L.N. 194 of 2003	01/01/2004
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If an answer to a question asked under section 8A(2)(f)(ii) tends to incriminate the person who gave the answer, neither the question nor the answer shall be admissible in evidence against the person in criminal proceedings other than proceedings for an offence under section 36 of the Crimes Ordinance (Cap 200) in respect of the answer given.

(Added 7 of 2003 s. 5)

Section:	8C	Disposal of article or thing removed and possessed by Director or member for purpose of fire investigation	L.N. 194 of 2003	01/01/2004
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(1) If any article or thing is removed from any premises and possessed by the Director or a member under

section 8A(2)(b), a notice in both English and Chinese shall be caused to be affixed by the Director or member at a conspicuous part of the premises-

- (a) setting out details of the article or thing; and
- (b) calling for submission, within 1 month after the day on which the notice was affixed, of any claim for the return of the article or thing after it has been examined or analysed under section 8A(2)(c).

(2) If a claim is made under subsection (1) for the return of the article or thing, the Director or member may refuse to return it unless satisfied that the claimant is the owner or otherwise entitled to possession of the article or thing.

(3) If the article or thing is not claimed within the period under subsection (1), or if the Director or member refuses to return it under subsection (2), the article or thing may be disposed of in such a way as the Director or member thinks fit.

(Added 7 of 2003 s. 5)

Section:	8D	Disposal of property connected with offences	L.N. 194 of 2003	01/01/2004
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Section 102 of the Criminal Procedure Ordinance (Cap 221) shall apply with respect to any property came into the possession of the Director or a member in connection with an offence under this Ordinance as it applies with respect to the property in the possession of a court, magistrate, the police or the Customs and Excise Service.

(Added 7 of 2003 s. 5)

Section:	9	Power of Director in respect of abatement and prevention of fire hazards	L.N. 194 of 2003	01/01/2004
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For the purpose of abating a fire hazard or preventing it from recurring, the Director-

- (a) if satisfied of the existence in or on any premises of any fire hazard, may serve a prescribed notice on a person requiring the person to do such things as may be specified by the Director to abate the fire hazard within the period specified in the notice;
- (b) may, under the prescribed circumstances, cause to be carried out any works in respect of any premises and recover the expenses incurred from any person;
- (c) may, under the prescribed circumstances, remove and take possession of any article or thing and dispose of it in the prescribed manner;
- (d) may, under the prescribed circumstances, cause to be registered in the Land Registry any information concerning any premises in relation to which a person is charged with, convicted of, acquitted of or successfully appeals against a conviction of an offence under this Ordinance;
- (e) may cause to be publicised by the prescribed means the fact of a conviction of an offence under this Ordinance;
- (f) may apply to a court or magistrate for an order-
 - (i) that closes any premises in relation to which a person has been convicted of an offence under this Ordinance in accordance with the regulation made under section 25(1)(hb)(ii);
 - (ii) that prohibits any premises to be used for a particular purpose in accordance with the regulation made under section 25(1)(hb)(iv);
 - (iii) that requires a person to abate a fire hazard or prevent it from recurring; or
 - (iv) that requires a person to remove any article or thing that obstructs or may obstruct, or locks or may lock the means of escape in any premises;

(Replaced 7 of 2003 s. 6)

Note:

For the transitional provisions relating to the amendments made by the Fire Services (Amendment) Ordinance 2003 (7 of 2003), see Part III (sections 25 to 29) of that Amendment Ordinance.

Section:	9A	(Repealed 7 of 2003 s. 7)	L.N. 194 of 2003	01/01/2004
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Section:	9B	(Repealed 7 of 2003 s. 7)	L.N. 194 of 2003	01/01/2004
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Section:	9C	(Repealed 7 of 2003 s. 7)	L.N. 194 of 2003	01/01/2004
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Section:	9D	(Repealed 7 of 2003 s. 7)	L.N. 194 of 2003	01/01/2004
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Section:	10	Powers of Fire Services Department on occasion of fire		30/06/1997
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The Director or other member in charge of the Fire Services Department or any contingent thereof on the occasion of a fire or other calamity may- (Amended 1 of 1961 s. 4; 42 of 1961 s. 2; 29 of 1975 s. 9)

- (a) take such measures as may appear to him to be necessary or expedient for the protection of life and property;
- (b) remove or order any member under his command to remove any person interfering by his presence or actions with the operations of the Fire Services Department; (Amended 42 of 1961 s. 2)
- (c) by himself or members under his command enter, break into or through and take possession of or demolish or cause to be taken possession of or demolished any premises, vessel or thing for the purpose of putting an end to the fire or minimizing the effect of the calamity; (Amended 1 of 1961 s. 4; 41 of 1992 s. 3)
- (d) close any street near the site of the fire or calamity; (Amended 1 of 1961 s. 4)
- (e) use any convenient supply of water.

Section:	11	Power to fix fire hydrant and emergency water supply location plates	L.N. 194 of 2003	01/01/2004
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(1) Upon giving 7 days' notice in writing to the owner of any property situate in the vicinity of a fire hydrant or emergency water supply, the Director may cause a plate indicating the location of such fire hydrant or water supply to be fixed to such part of the property as may, in the opinion of the Director, be best suited to indicate such location. (Amended 42 of 1961 s. 2)

(2) Any person who refuses to allow the fixing of any such plate as is referred to in subsection (1) or obstructs any person in the course of the fixing thereof or removes or defaces any such plate after it has been so fixed shall be guilty of an offence and shall be liable to a fine at level 2. (Amended 7 of 2003 s. 13)

(Added 1 of 1961 s. 5)

Part:	III	DISCIPLINE		30/06/1997
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Section:	12	Offences against discipline generally		30/06/1997
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Any member who commits any of the offences against discipline specified in the First Schedule shall be liable to be dismissed or otherwise dealt with as provided in this Ordinance and in regulations made thereunder.

(Amended 33 of 1956 s. 2)

Section:	13	Offences against discipline by senior officers	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

Whenever it is alleged that any senior officer has been guilty of an offence against discipline or whenever an investigation is being undertaken into any conduct which may amount to the commission of an offence against discipline by a senior officer- (Amended 50 of 1978 s. 2)

- (a) the provisions of Public Service (Administration) Order and government regulations which relate to

- interdiction shall apply; (Amended 76 of 1999 s. 3)
- (b) the matter shall be investigated and the senior officer dealt with in the appropriate manner provided by the said regulations and orders for allegations of misconduct made against a public officer.

Section:	13A	Liability of subordinate officers and members of other ranks to summary dismissal upon abscondment	L.N. 194 of 2003	01/01/2004
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(1) Where a subordinate officer or member of other ranks is absent from duty without leave for a period exceeding 14 days and the Director is satisfied that- (Amended 7 of 2003 s. 8)

- (a) the subordinate officer or member of other ranks cannot be traced; or
- (b) on being required by notice in writing (sent to an address or addresses through which it may be reasonably expected to reach him) to give, within the period specified in the notice, an excuse for his absence, the subordinate officer or member of other ranks has failed to give any excuse or to give an excuse that is acceptable,

the Director may dispense with an investigation and summarily dismiss the subordinate officer or member of other ranks.

(2) Where a subordinate officer or member of other ranks is summarily dismissed by the Director pursuant to subsection (1), he may appeal against such dismissal in accordance with the Fourth Schedule.

(Added 55 of 1981 s. 4)

Note:

For the transitional provisions relating to the amendments made by the Fire Services (Amendment) Ordinance 2003 (7 of 2003), see Part III (sections 25 to 29) of that Amendment Ordinance.

Section:	14	Offences against discipline by subordinate officer and member of other ranks	L.N. 194 of 2003	01/01/2004
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(1) The Director may interdict a subordinate officer or member of other ranks from the exercise of the powers and functions of his office whenever-

- (a) he is charged with an offence against discipline; or
- (b) an investigation is being undertaken into any conduct which may amount to the commission of an offence against discipline and the Director considers that it is contrary to the public interest for the subordinate officer or member of other ranks to continue to exercise the powers and functions of his office.

(2) A subordinate officer or member of other ranks who is interdicted under subsection (1)(b) shall be entitled until such time as he is charged with a disciplinary offence to the full amount of the emoluments of his office which he would have received if he had not been interdicted.

(3) A subordinate officer or member of other ranks who-

- (a) is interdicted under subsection (1)(a); or
- (b) having been interdicted under subsection (1)(b), is charged with a disciplinary offence,

shall receive such proportion of the emoluments of his office, not being less than one-half, as the Director thinks fit.

(4) Whenever it is alleged that a subordinate officer or member of other ranks has committed a disciplinary offence, investigation shall be made into the allegation in the manner provided for by Part I of the Second Schedule and punishment may be awarded in accordance with the provisions of the Third Schedule.

(5) Notwithstanding section 6(2), the Director shall not authorize any other member to exercise the power of dismissal conferred on him by the Third Schedule.

(6) If proceedings against a subordinate officer or member of other ranks do not result in any punishment he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

(7) If a punishment other than dismissal is awarded, any subordinate officer or member of other ranks may be paid such proportion of the emoluments withheld as a result of his interdiction as the Chief Executive thinks fit where the punishment is imposed by the Chief Executive or as the Director thinks fit in every other case. (Amended 76 of 1999 s. 3)

(8) (Repealed 7 of 2003 s. 9)

(Replaced 50 of 1978 s. 3)

Section:	14A	Criminal offences by subordinate officers and members of other ranks		30/06/1997
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(1) If criminal proceedings have been, or are likely to be, instituted against a subordinate officer or member of other ranks, or an investigation is being undertaken into any conduct which may amount to the commission of a criminal offence by such officer or member, he may be interdicted and paid emoluments in accordance with section 14 which shall (except subsection (4)) apply, with all necessary modifications, to an interdiction under this subsection.

(2) If in criminal proceedings before any court a subordinate officer or member of other ranks is found guilty of or pleads guilty to a criminal offence and any appeal in or other application for review of those proceedings is not allowed or is withdrawn, the officer or member may be punished in accordance with Part II of the Second Schedule. (Amended L.N. 262 of 1978)

(3) Notwithstanding subsection (1), a subordinate officer or member of other ranks who is found guilty of or pleads guilty to a criminal offence which in the opinion of the Director is serious enough to warrant his dismissal shall not, as from the time when he is found or pleads guilty as aforesaid or when he is interdicted (whichever is the later), be paid any emoluments of his office pending consideration of the case in accordance with Part II of the Second Schedule.

(4) In this section, "criminal proceedings" (刑事法律程序) and "criminal offence" (刑事罪行) include respectively-

- (a) criminal proceedings in, and
- (b) a criminal offence against the law of,

any place outside Hong Kong.

(Replaced 50 of 1978 s. 4)

Section:	14B	Appeals and review	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The provisions in the Fourth Schedule shall have effect for the purpose of-

- (a) conferring on a subordinate officer or a member of other ranks the rights of appeal against a finding or punishment set out in that Schedule; and
- (b) making provision as to the bringing and disposal of such appeals and the procedure therefor.

(2) Any restriction in law on the power of the Chief Executive to delegate the hearing of an appeal shall not apply to an appeal referred to in subsection (1). (Amended 76 of 1999 s. 3)

(3) Where a subordinate officer or member of other ranks has been found guilty of a disciplinary offence and has been punished by the Director or another member, the Director may, of his own motion, within 14 days of the finding or the punishment (if it was awarded on a later day), and in accordance with the provisions of the Fourth Schedule, review the finding or punishment or both, and within 14 days of the punishment he may review the punishment awarded following a plea of guilty to a disciplinary offence.

(Added 29 of 1975 s. 11)

Section:	14C	Payment for loss or damage to property	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) Where the Chief Executive or the Director has found a subordinate officer or member of other ranks guilty of an offence against discipline, the Chief Executive or the Director may, in addition to any punishment that the Chief Executive or the Director is empowered to award in accordance with the provisions of the Third Schedule, order such subordinate officer or member of other ranks to pay to the Government in full or in part- (Amended 76 of 1999 s. 3)

- (a) the cost of repairing or replacing any article of clothing, equipment or property whatsoever entrusted or supplied to him in his capacity as a subordinate officer or member of other ranks which has been lost or damaged by him;
- (b) the cost of repairing or replacing any Government property lost or damaged by him; or
- (c) the amount of any compensation paid, ex gratia or otherwise, by the Government to any person in

respect of the loss or damage of that person's property caused by the subordinate officer or member of other ranks,

but only in each case if the loss or damage has resulted from the neglect or fault of such subordinate officer or member of other ranks and the amount ordered to be paid does not exceed his salary for one month.

(2) The Director may require a subordinate officer or member of other ranks to pay to the Government in full or in part-

- (a) the cost of repairing or replacing any article of clothing, equipment or property whatsoever entrusted or supplied to him in his capacity as a subordinate officer or member of other ranks which has been lost or damaged by him;
- (b) the cost of repairing or replacing any Government property lost or damaged by him; or
- (c) the amount of any compensation paid, ex gratia or otherwise, by the Government to any person in respect of the loss or damage of that person's property caused by the subordinate officer or member of other ranks,

but only in each case if the loss or damage has resulted from the neglect or fault of such subordinate officer or member of other ranks and the amount ordered to be paid does not exceed his salary for one month.

(3) For the purpose of enabling due inquiry to be made as to whether a subordinate officer or member of other ranks should be required to pay any amount under subsection (2), affording him due opportunity to make representations and enabling any requirement under that subsection to be appealed against and reviewed, Part III shall apply mutatis mutandis to and in respect of such a requirement as it applies to and in respect of a finding of guilty of an offence against discipline in accordance with the provisions of the Third Schedule and an award of punishment.

(Added 4 of 1986 s. 3)

Section:	15	Penal deductions from emoluments		30/06/1997
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- (1) The following penal deductions may be made from the emoluments due to a member-
 - (a) all emoluments for every day of absence either on desertion or without leave;
 - (b) the sum required to pay any fine or other sum ordered to be paid on conviction for a criminal offence or for an offence against discipline.
- (2) For the purposes of subsection (1)-
 - (a) no member shall be treated as absent unless the absence has lasted 6 hours or upwards except where the absence prevented the prompt dispatch of any contingent, appliance, ambulance, fire boat, or vehicle of the Fire Services Department in answer to any call; (Amended 42 of 1961 s. 2)
 - (b) the number of days shall be reckoned as from the time when the absence commences.

Section:	16	Removal of doubt	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

For the avoidance of doubt it is hereby declared that-

- (a) if criminal proceedings have been, or are likely to be, instituted against a senior officer, or an investigation is being undertaken into any conduct which may amount to the commission of a criminal offence by a senior officer, he may be interdicted from duty and paid emoluments in accordance with Public Service (Administration) Order and government regulations; (Replaced 50 of 1978 s. 5)
- (b) a senior officer who in criminal proceeding before any court is found guilty of or pleads guilty to any offence may be punished in accordance with Public Service (Administration) Order and government regulations; (Replaced 29 of 1975 s. 12)
- (c) nothing in this Part shall be construed to preclude the summary dismissal of any member in accordance with Public Service (Administration) Order and government regulations;
- (d) nothing in this Part shall be construed to preclude the termination of the employment in accordance with Public Service (Administration) Order of a member on the ground that, having regard to the conditions of the public service, the usefulness of the member thereto and all the other circumstances of the case, such termination is desirable in the public interest. (Added 33 of 1965 s. 4)

(Amended 76 of 1999 s. 3)

Section:	17	(Repealed 29 of 1975 s. 13)		30/06/1997
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Part:	IV	FIRE SERVICES DEPARTMENT WELFARE FUND	L.N. 289 of 1999	19/11/1999
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(Part IV replaced 58 of 1999 s. 2)

Section:	18	Definitions: Part IV	L.N. 9 of 2010	31/03/2010
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In this Part-

"acquire" (取得) means acquire by purchase or by any other lawful means;

"amenities" (設施活動) means any of the following-

- (a) facilities that are not chargeable to the general revenue, including holiday premises and recreational facilities (whether provided free or for a charge);
- (b) social, educational and recreational activities and performances (whether provided free or for a charge and whether provided for participation or as spectator events);

"beneficiaries" (受益人) means the following persons-

- (a) Fire Services employees;
- (b) former Fire Services employees;
- (c) dependants of deceased Fire Services employees;
- (d) dependants of deceased former Fire Services employees;

"corporation" (法團) means the corporation sole constituted under section 19(1);

"Department" means the Fire Services Department;

"dependant" (受養人) means-

- (a) in relation to a Fire Services employee or a former Fire Services employee-a person who, in the opinion of the Director, is wholly or partially dependent on the employee or former employee; and
- (b) in relation to a deceased Fire Services employee or a deceased former Fire Services employee-a person who, in the opinion of the Director, was, at the time of the death of the employee or former employee, wholly or partially dependent on the employee or former employee;

"dispose of" (處置) means dispose of by sale, lease, hiring, mortgage or any other lawful means;

"Fire Services employee" (消防處僱員) means any person employed in the Department;

"Fire Services Staff Purchase Scheme" (消防處職員購物計劃) means the scheme (if any) established under section 19E;

"former Fire Services employee" (前消防處僱員) means a person who was formerly a Fire Services employee and-

- (a) who has retired from the Department with retirement benefits; or (Amended 6 of 2009 s. 21)
- (b) whose contract of service as a member of the Department has expired on or after the person reached 55 years of age without the contract being renewed;

"function" (職能) includes a power, an authority and a duty;

"Fund" (基金) means the Fire Services Department Welfare Fund continued by section 19A;

"this Part" (本部) includes regulations made under section 25(b).

Section:	19	Director to be corporation sole for purposes of this Part	L.N. 289 of 1999	19/11/1999
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(1) The Director is constituted as a corporation sole for the purposes of this Part with the corporate name of "Director of Fire Services Incorporated".

(2) The corporation-

- (a) has perpetual succession; and
- (b) for the purposes of this Part, may acquire, hold and dispose of real and personal property; and
- (c) may take legal proceedings and be proceeded against in its corporate name; and
- (d) is required to have a corporate seal; and
- (e) for the purposes of this Part, has the capacity to do and be subjected to all other things that bodies corporate may, by law, do and be subjected to.

(3) A document requiring authentication by the corporation is sufficiently authenticated if it is signed by the Director or by any Fire Services employee authorized to do so by the Director.

(4) The affixing of the corporate seal to a document executed by the corporation is not valid unless authenticated by the Director or a Fire Services employee designated for the purpose by the Director.

(5) The corporation is not a trustee for the beneficiaries, but, subject to subsection (6), nothing in this Part limits a right conferred by law to bring legal proceedings against the corporation for a contravention of this Part or a failure to perform a duty imposed by this Part.

(6) Neither the Director nor any delegate of the corporation is personally liable in any legal proceedings arising out of an act done or omitted to be done in relation to the Fund if the act was done or omitted to be done in good faith for the purpose of giving effect to this Part.

Section:	19A	Continuance of Fire Services Department Welfare Fund	L.N. 289 of 1999	19/11/1999
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(1) The fund called the "Fire Services Department Welfare Fund" in English and "消防處福利基金" in Chinese is continued by this section.

(2) The Fund and the property derived from the application of the Fund are vested in the corporation.

Section:	19B	What the Fund consists of	26 of 2012	27/07/2012
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The Fund consists of the following-

- (a) all fees paid for the services of members detailed by the Director to perform special services under section 23 and for the use of equipment referred to in that section;
- (b) any donations made to the Fund;
- (c) if a Fire Services Staff Purchase Scheme is established under section 19E, proceeds derived from transactions under the Scheme;
- (d) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (e) all fees collected from social, educational and recreational activities organized by or on behalf of the Director for the purposes of the Fund;
- (f) money derived from the investment of the Fund;
- (g) money accruing as interest on loans made from the Fund;
- (h) gifts of money required under the notice from time to time given by the Chief Executive for the purposes of section 3 of the Prevention of Bribery Ordinance (Cap 201) to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 214; 26 of 2012 s. 44)
- (i) any money voted to the Fund by the Legislative Council;
- (j) money held in the Fund immediately before the commencement of Schedule 1 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (k) money paid or payable to the credit of the Fund from any other lawful source.

Section:	19C	Functions of corporation	L.N. 289 of 1999	19/11/1999
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(1) Subject to this Part, the principal function of the corporation is to administer the Fund, and the property derived from the application of the Fund, for the benefit of beneficiaries and others as provided by this Part.

(2) The corporation has such ancillary functions as are necessary to enable it to perform its principal function.

(3) The corporation is required-

- (a) to act honestly in all matters relating to its principal function; and
- (b) to exercise in relation to all matters relating to the administration of the Fund the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another person for whom the person felt morally bound to provide; and
- (c) to ensure that its functions relating to the Fund are performed or exercised in the best interests of beneficiaries.

Section:	19D	What the Fund may be used for	L.N. 289 of 1999	19/11/1999
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- (1) The Fund may be used for any of the following purposes-
 - (a) providing and maintaining amenities for the use and enjoyment of the beneficiaries;
 - (b) making payments to the corporation's employees in respect of their employment;
 - (c) making payments for the services of the corporation's agents;
 - (d) compensating Fire Services employees for extra services provided by them;
 - (e) making loans to beneficiaries;
 - (f) granting financial assistance to dependants of deceased Fire Services employees and deceased former Fire Services employees in order to meet the funeral expenses of those deceased employees and deceased former employees;
 - (g) making grants, allowances and gifts to beneficiaries for purposes other than the purpose mentioned in paragraph (f);
 - (h) making or acquiring souvenirs for sale to beneficiaries and others;
 - (i) if a Fire Services Staff Purchase Scheme is established under section 19E, undertaking transactions for the purpose of giving effect to the Scheme;
 - (j) making donations to charitable or community organizations;
 - (k) paying interest that is payable on loans made to the corporation or the Fund.
- (2) The corporation-
 - (a) may dispose of property derived from the application of the Fund that is, in its opinion, no longer required for the purposes of the Fund; and
 - (b) may pay from the Fund the expenses incurred in disposing of the property.
- (3) Loans to beneficiaries may, at the discretion of the corporation, be granted free of interest or subject to the payment of interest.
- (4) Whenever the Director considers it appropriate to do so, the Director may permit persons who are not beneficiaries to enjoy the use of amenities derived from the application of the Fund. Permission may be granted subject to such conditions as the Director considers appropriate.

Section:	19E	Corporation may establish Fire Services Staff Purchase Scheme	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may establish and maintain a scheme, to be known as the Fire Services Staff Purchase Scheme, under which-
 - (a) the Fund may be used to acquire goods or services for resupply to beneficiaries, or to finance arrangements for the supply of goods or services to beneficiaries; and
 - (b) payment by beneficiaries for the goods or services may be made either in a single cash sum or by instalments.
- (2) If a Fire Services Staff Purchase Scheme is established, the corporation must ensure that the proceeds derived from transactions under the Scheme are credited to the Fund.
- (3) For the purposes of this section, "supply" (供應) and "resupply" (重新供應) mean supply and resupply for sale.

Section:	19F	Corporation may make donations	L.N. 289 of 1999	19/11/1999
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The corporation may, whenever appropriate, donate money from the Fund to charitable or community organizations on such terms and conditions as it thinks fit.

Section:	19G	Corporation may employ staff	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may, for the purposes of this Part-
 - (a) employ persons under contracts of employment; or
 - (b) use the services of any staff or facilities of the Department.
- (2) The corporation may fix the remuneration and other conditions of employment of its staff.

Section:	19H	Corporation may engage agents	L.N. 289 of 1999	19/11/1999
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The corporation may engage and pay agents to transact any business or do any act (including receiving or paying money) that the corporation is authorized or required to do for the purposes of this Part.

Section:	19I	Corporation may delegate its functions	L.N. 289 of 1999	19/11/1999
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(1) The corporation may delegate to a Fire Services employee any of its functions, other than this power of delegation.

(2) A delegation under this section may-

- (a) be general or limited; and
- (b) be revoked, wholly or partly, by the corporation.

(3) A delegated function is to be performed or exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the performance or exercise of a function delegated under this section, exercise any other function that is incidental to the delegated function.

(5) A delegated function that is duly performed or exercised by a delegate is taken to have been performed or exercised by the corporation.

(6) If a function is delegated to the holder of a particular office in the Department-

- (a) the delegation does not cease to have effect merely because the person who was the holder of the office when the function was delegated ceases to be the holder of that office; and
- (b) the function may be exercised, or, in the case of a duty, must be performed, by the person for the time being occupying or acting in the office.

(7) A function that has been delegated may be performed or exercised by the corporation despite the delegation.

Section:	19J	Corporation may enter into contracts and other transactions	L.N. 289 of 1999	19/11/1999
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(1) The corporation may enter into contracts and other transactions for the purposes of the Fund.

(2) A person who pays money under a contract or other transaction purporting to be entered into under this section has no obligation to see that the money is paid into the Fund.

(3) A person who enters into a contract or other transaction with a Fire Services employee who purports to be a delegate of the corporation has no obligation to be satisfied that the corporation has delegated to the employee the power to enter into the contract or other transaction.

Part:	V	MISCELLANEOUS		30/06/1997
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Section:	20	Fire Services Department orders	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The Director may make orders called "Fire Services Department General Orders" not inconsistent with the provisions of- (Amended 42 of 1961 s. 2)

- (a) this Ordinance and any regulations made thereunder;
- (b) the Stores Regulations of the Government;
- (c) Public Service (Administration) Order and government regulations, as modified by this Ordinance and by regulations made thereunder. (Amended 76 of 1999 s. 3)

(2) Such orders may provide for-

- (a) the control, direction and information of the Fire Services Department; (Amended 42 of 1961 s. 2)
- (b) discipline;
- (c) training;

- (d) classifications and promotions;
- (e) inspections, drills, exercises and parades;
- (f) welfare;
- (g) departmental finance;
- (h) buildings, grounds, stores, furniture and equipment;
- (i) services to be performed by members;
- (j) the manner and form of reports, correspondence and other records;
- (k) the performance of any act which may be necessary for the proper carrying out of the provisions of this Ordinance or any regulations made thereunder or of any other enactment or for the discharge of any duty imposed by law on the Fire Services Department; (Amended 42 of 1961 s. 2)
- (l) such other matters as may be necessary or expedient for preventing abuse or neglect of duty, for rendering the Fire Services Department efficient in the discharge of its duties and for carrying out the objects of this Ordinance. (Amended 42 of 1961 s. 2)

Section:	21	Damage done at a fire	L.N. 194 of 2003	01/01/2004
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(1) Save where subsection (2) applies, a damage done by the Fire Services Department in the discharge of its duty on the occasion of a fire or an incident that may pose an immediate danger of fire is taken to be a damage by fire within the meaning of a policy of insurance against fire.

(2) For the purpose of a policy of insurance against fire that was executed immediately before the commencement* of section 10 of the Fire Services (Amendment) Ordinance 2003 (7 of 2003), a damage done by the Fire Services Department in the discharge of its duty on the occasion of a fire is taken to be a damage by fire within the meaning of the policy of insurance against fire.

(Replaced 7 of 2003 s. 10)

Note:

* Commencement date: 1 January 2004.

Section:	22	Protection of members of Fire Services Department		30/06/1997
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(1) No member acting bona fide under powers conferred by this Ordinance shall be liable to any action for damages for any act done or omitted to be done by him in connexion with his duties on the occasion of a fire or other calamity. (Amended 1 of 1961 s. 7; 42 of 1961 s. 2)

(2) Where a member has done or omitted to do any thing in connexion with his duties which he is empowered to do or omit to do on the occasion of a fire or other calamity, and it is subsequently discovered that a fire or other calamity had not in fact occurred, such act or omission shall be deemed to have been done or omitted pursuant to this Ordinance if it was done or omitted in good faith and would have been lawfully done or omitted if a fire or other calamity had in fact occurred. (Added 29 of 1975 s. 15)

Section:	23	Special services and fees	L.N. 289 of 1999	19/11/1999
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) On the application of any person, the Director may, if he thinks fit, detail any member to perform special services in, upon or about any premises, vessel, vehicle or aircraft specified by the applicant and for the purpose furnish such equipment as he may deem necessary. (Amended 33 of 1956 s. 6; 42 of 1961 s. 2; 29 of 1975 s. 16; 58 of 1999 s. 2)

(2) The applicant shall pay to the Director for the services of any member so detailed and for the use of equipment so furnished such fees as the Director may think fit. (Amended 33 of 1956 s. 6; 42 of 1961 s. 2)

(3) All fees so received by the Director shall be paid by him into the Treasury forthwith to the credit of the Fire Services Department Welfare Fund and be accounted for monthly and shall be recoverable by action in like manner as other Government debts. (Amended 42 of 1961 s. 2; 76 of 1999 s. 3)

Section:	24	(Repealed 4 of 1985 s. 3)		30/06/1997
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Section:	25	Power to make regulations	L.N. 194 of 2003	01/01/2004
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- (1) The Chief Executive in Council may by regulation provide for- (Amended 76 of 1999 s. 3; 7 of 2003 s. 11)
- (a) discipline and punishment of subordinate officers and members of other ranks; (Amended 29 of 1975 s. 17)
 - (b) the control, administration and investment of the Fire Services Department Welfare Fund; (Amended 42 of 1961 s. 2; 58 of 1999 s. 2)
 - (c) description of uniforms and equipment to be provided;
 - (d) such other matters as may be necessary or expedient for rendering the Fire Services Department efficient in the discharge of its duties; (Amended 42 of 1961 s. 2)
 - (e) the making and issue of reports and certificates regarding-
 - (i) fires or other calamities attended by the Fire Services Department; (Amended 42 of 1961 s. 2)
 - (ii) premises, vessels or other property damaged by fire;
 - (iii) matters relating to fire risks or fire precautions in or connected with any premises, vessel or other property,
 and fees to be charged in relation thereto; (Added 1 of 1961 s. 8)
 - (f) the registration and de-registration of fire service installation contractors and fees to be charged in relation thereto; (Added 45 of 1971 s. 4. Amended 34 of 1986 s. 2)
 - (g) the appointment, powers and procedure of a disciplinary board in relation to fire service installation contractors; (Added 45 of 1971 s. 4)
 - (h) the control of the sale, supply, installation, repair, maintenance and inspection of fire service installations or equipment; (Added 45 of 1971 s. 4)
 - (ha) fees or charges payable in respect of carrying into effect the provisions of the Ordinance (other than provisions relating to the discharge of any duty imposed by law on the Fire Services Department), whether similar or not to any matter mentioned in this section; (Added 34 of 1986 s. 2. Amended L.N. 63 of 1992)
 - (hb) the making of an order by a court or magistrate-
 - (i) that requires a person to abate a fire hazard or prevent it from recurring;
 - (ii) that closes any premises in relation to which a person has been convicted of an offence under this Ordinance;
 - (iii) that rescinds or suspends an order under subparagraph (ii);
 - (iv) that prohibits any premises to be used for a particular purpose;
 - (v) that requires a person to remove any article or thing that obstructs or may obstruct, or locks or may lock the means of escape in any premises;
 - (vi) that terminates the tenancy of any premises; (Added 7 of 2003 s. 11)
 - (hc) the procedure and other matters relating to an order under paragraph (hb); (Added 7 of 2003 s. 11)
 - (hd) the prevention of obstruction to and locking of the means of escape in any premises; (Added 7 of 2003 s. 11)
 - (he) the regulation of the conveyance on land of a container that contains a part of a motor vehicle that has fuel in its fuel tank or is otherwise stained with fuel; (Added 7 of 2003 s. 11)
 - (hf) the regulation of the stowage of a part of a motor vehicle that has fuel in its fuel tank or is otherwise stained with fuel, in a container that is or is to be conveyed on land; (Added 7 of 2003 s. 11)
 - (hg) the powers of any prescribed public officer to stop, board and search a vehicle or enter and search a container and seize, remove and detain articles or things carried in, on or by the vehicle or contained in the container that is related to an offence under this Ordinance; (Added 7 of 2003 s. 11)
 - (hh) the prohibition of possession or control of a prescribed substance in or on any prescribed premises for the purpose of a business of supplying the substance for transferring to the fuel tank of a motor vehicle; (Added 7 of 2003 s. 11)
 - (hi) the power of the Director to obtain, or to authorize a member in writing to obtain, personal particulars from any person under the prescribed circumstances; (Added 7 of 2003 s. 11)
 - (hj) the liability of the owner, tenant, occupier or person in charge of any premises who knowingly permits or suffers an offence under this Ordinance to be committed in or on the premises; (Added 7 of 2003 s.

11)

- (hk) the liability of a person who lets, or agrees to let, whether as principal or agent of another person, any premises with the knowledge that an offence under this Ordinance is to be committed in or on the premises; (Added 7 of 2003 s. 11)
- (hl) the prescribing of anything required to be prescribed under this Ordinance; (Added 7 of 2003 s. 11)
- (i) generally, for the carrying into effect of the provisions of the Ordinance in relation to any matter, whether similar or not to those in this section mentioned, as to which it may be convenient to make regulations.

(2) A regulation made under this section may provide that the Director may not authorize members of certain ranks to exercise a power or discharge a duty that the Director by any enactment is entitled to exercise or required to discharge. (Added 7 of 2003 s. 11)

(3) A regulation made under this section may provide that-

- (a) any contravention of the provisions of the regulation shall be an offence; and
- (b) any person who contravenes the regulation shall be liable on conviction to a fine not exceeding \$300000 and to imprisonment for a period not exceeding 1 year, and in the case of a continuing offence, to a daily penalty not exceeding \$30000. (Added 7 of 2003 s. 11)

Section:	26	Amendment of Schedules	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The Chief Executive in Council may by regulation amend- (Amended 76 of 1999 s. 3)

- (a) the Sixth and Seventh Schedules to show respectively the ranks in the Fire Services Department and the posts specified for the purposes of section 3(2) in such manner as he thinks fit; and
- (b) any other Schedule to make therein any provision which he could make by regulation under section 25. (Replaced 29 of 1975 s. 18)

Section:	27	Offences	L.N. 194 of 2003	01/01/2004
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(1) Any person who, without reasonable excuse, resists, obstructs or delays any member acting in the exercise of the member's power, or in the discharge of any duty conferred by this Ordinance, shall be guilty of an offence and shall be liable to a fine at level 3 and to imprisonment for 6 months. (Replaced 7 of 2003 s. 12)

(2) Any member who-

- (a) deserts;
- (b) on the occasion of a fire or other calamity wilfully disobeys a lawful command of a member whom it is his duty to obey, (Amended 29 of 1975 s. 19)

shall be guilty of an offence and shall be liable to a fine at level 2 and to imprisonment for 6 months. (Amended 25 of 1982 s. 5)

(3) Any person who, not being a member, wears, without permission of the Director, the uniform of the Fire Services Department, or any dress having the appearance or bearing any of the distinctive marks of that uniform, shall be guilty of an offence and shall be liable to a fine at level 4 and to imprisonment for 6 months. (Amended 42 of 1961 s. 2; 29 of 1975 s. 19)

(7 of 2003 s. 13)

Section:	28	False alarms of fire	L.N. 194 of 2003	01/01/2004
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Any person who gives or causes to be given an alarm of fire or other calamity which he knows to be false to the Fire Services Department or to any member shall be guilty of an offence and shall be liable to a fine at level 2 and to imprisonment for 6 months.

(Added 17 of 1959 s. 2. Amended 42 of 1961 s. 2; 29 of 1975 s. 20; 7 of 2003 s. 13)

Schedule:	1	OFFENCES AGAINST DISCIPLINE	76 of 1999	01/07/1997
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Remarks:

Any member commits an offence against discipline who-

- (1) is guilty of cowardice in the performance of his duty;
- (2) without good and sufficient cause fails to carry out any lawful order, whether written or verbal;
- (3) is insubordinate towards any member whose orders it is his duty to obey;
- (4)
 - (a) neglects or without good and sufficient cause fails to do, promptly and diligently, anything it is his duty to do;
 - (b) by carelessness or neglect in the performance of his duty contributes to the occurrence of any loss, damage or injury to any person or property;
- (5) knowingly makes any false, misleading, or inaccurate statement in connexion with his duty either verbally or in writing;
- (6) with intent to deceive destroys any official record, document or book or alters or erases any entry therein;
- (7) without proper authority-
 - (a) divulges any matter which it is his duty to keep secret;
 - (b) directly or indirectly communicates to the press or to any other person any matter which may have come to his knowledge in the course of his official duties;
 - (c) publishes any matter or makes any public pronouncement relating to the Fire Services Department; (Amended 42 of 1961 s. 2)
- (8)
 - (a) solicits or receives any unauthorized fee, gratuity or other consideration in connexion with his duties as a member;
 - (b) fails to account for, or to make a prompt and true return of, any money or property for which he is responsible, either in connexion with his duties as a member or with any fund connected with the Fire Services Department or the Fire Services Department staff; (Amended 42 of 1961 s. 2)
 - (c) improperly uses his position as a member;
- (9) without proper authority or reasonable excuse-
 - (a) absents himself from duty or from any place of parade;
 - (b) arrives late for any duty or parade;
- (10)
 - (a) wilfully or negligently damages or loses any articles of clothing or equipment, or any implement, accoutrement or appointment whatever, with which he has been provided or entrusted, or fails to take proper care thereof;
 - (b) neglects to report any damage to, or loss of, any article of clothing or equipment, or any implement, accoutrement or appointment whatever, with which he has been provided or entrusted; (Amended L.N. 63 of 1992)
- (11) when on duty, or called upon for duty, is unfit for duty by reason of intoxicating drink or of drugs taken otherwise than under medical direction; (Amended 29 of 1975 s. 21)
- (12) when on or off duty acts in a disorderly manner, or in any manner prejudicial to discipline, or likely to bring discredit upon the Fire Services Department or the public service; (Amended 42 of 1961 s. 2)
- (13) is guilty of anything, whether by reason of contravention of government regulations or otherwise, which amounts to misconduct in a public office. (Amended 76 of 1999 s. 3)

Schedule:	2		76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

[section 14]

PART I

RULES OF PROCEDURE FOR THE INVESTIGATION INTO OFFENCES AGAINST DISCIPLINE BY SUBORDINATE OFFICERS AND MEMBERS OF OTHER RANKS

1. Every charge shall be entered on a charge sheet.
2. Every charge shall be investigated by the Director in the first instance without delay in the presence of the accused and a full record thereof be made by the Director. (Amended 42 of 1961 s. 2)
3. The charge shall be read and explained to the accused.
4. Evidence shall not be on oath.
5. The accused shall have full liberty to cross-examine any witness against him and to call any witnesses and make any statement in his defence.
6. No documentary evidence shall be used against the accused unless he has previously been supplied with a copy thereof or has been given access thereto.
7. The Director may at any stage of the proceedings amend the charge or add a new charge:
Provided that in such event the amended or new charge shall be read and explained to the accused who shall be entitled to have any witnesses who have given evidence recalled for further cross-examination and to call such further witnesses as he may desire. (Amended 42 of 1961 s. 2)
8. At the conclusion of the hearing of a charge, the Director shall- (Amended 42 of 1961 s. 2)
 - (a) if in his opinion the evidence does not show that some offence against discipline has been committed, dismiss it;
 - (b) if in his opinion the evidence does show that some offence against discipline has been committed, either-
 - (i) award a punishment within his powers; or
 - (ii) refer the case to the Chief Executive. (Amended 76 of 1999 s. 3)
9. (1) Whenever the Director refers a case to the Chief Executive under rule 8(b) he shall forward- (Amended 42 of 1961 s. 2; 76 of 1999 s. 3)
 - (a) a typed copy of the record of proceedings (including the charge) certified by himself to be a true copy of the original thereof;
 - (b) a report setting out-
 - (i) his reasons for considering the charge proved;
 - (ii) his recommendations whether as regards punishment or otherwise; (Amended G.N.A. 61 of 1956)
 - (c) the accused's conduct sheet.

(2) Whenever the Director so refers a case he shall inform the accused that he may within 14 days forward any further representations he may wish to make in writing to the Chief Executive. (Amended 42 of 1961 s. 2; 76 of 1999 s. 3)
10. Upon reference to him of a case and after consideration of any representations in writing of the accused, the

Chief Executive shall- (Amended 76 of 1999 s. 3)

- (a) if he is of opinion that the charge has not been proved, either-
 - (i) dismiss it; or
 - (ii) order either further investigation by the Director, or a fresh investigation in such manner and by such person or persons as he may think fit; (Amended 42 of 1961 s. 2)
- (b) if he is of opinion that the charge is proved, or if, after any further or fresh investigation ordered under paragraph (a), he is of such opinion, shall award a punishment within his powers. (Amended G.N.A. 61 of 1956; 29 of 1975 s. 22)

11. Every punishment awarded shall be entered in the conduct sheet of the member so punished.

12. Where the Director has delegated any function, power or duty to another member pursuant to section 6(2), references in rules 8, 9 and 10-

- (a) to the Director, shall be read as if they were references to that other member; and
- (b) to the Chief Executive, shall be read as if they were references to the Director,

but any case referred to the Director by another member pursuant to rule 8(b) (as modified by this rule) may be referred to the Chief Executive by the Director in accordance with rules 9 and 10. (Added 29 of 1975 s. 22. Amended 76 of 1999 s. 3)

PART II

[section 14A]

RULES FOR AWARDING PUNISHMENT WHERE A CRIMINAL OFFENCE HAS BEEN COMMITTED BY A SUBORDINATE OFFICER OR A MEMBER OF OTHER RANKS

1. In the case of a subordinate officer, the Director shall as soon as practicable-
 - (a) refer the case to the Chief Executive; and
 - (b) notify the subordinate officer that he has done so and that the subordinate officer may make representations in writing to the Chief Executive in mitigation of punishment within 14 days of receiving such notice or within such further period as the Chief Executive may allow.
2. In referring a case under rule 1 the Director shall send to the Chief Executive-
 - (a) a copy of the record of the proceedings;
 - (b) the officer's conduct sheet; and
 - (c) the recommendation of the Director with respect to punishment or otherwise.
3. The Chief Executive may, after considering any representations made by the officer, award any one or more of the punishments which he may award under paragraph (1) of Part I of the Third Schedule in respect of a disciplinary offence by a subordinate officer.
4. In the case of a member of other ranks, the Director shall notify the member that he may make representations in writing in mitigation of punishment within 14 days of receiving such notification and, after considering any such representations, may award any one or more of the punishments which he may award under Part II of the Third Schedule.

(Part II added 29 of 1975 s. 22. Amended 76 of 1999 s. 3)

Schedule:	3	PUNISHMENT OF SUBORDINATE OFFICERS AND MEMBERS OF OTHER RANKS FOR OFFENCES AGAINST DISCIPLINE	L.N. 9 of 2010	31/03/2010
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[section 14]

PART I-SUBORDINATE OFFICERS

Subordinate officers found guilty of an offence against discipline may be awarded punishments as follows-

- (1) by the Chief Executive- (Amended 76 of 1999 s. 3)
 - (a) any one or more of the following-
 - (i) dismissal without retirement benefits; (Amended 6 of 2009 s. 4)
 - (ia) compulsory retirement with full retirement benefits or reduced retirement benefits or without retirement benefits; (Added 55 of 1981 s. 5. Amended 6 of 2009 s. 4)
 - (ii) reduction in rank;
 - (iii) stoppage or deferment of increment; (Amended 1 of 1964 s. 7)
 - (iv) fine;
 - (v) severe reprimand;
 - (vi) reprimand;
 - (vii) extra duties; (Amended 29 of 1975 s. 23)
 - (b) (Repealed 4 of 1986 s. 5)
- (2) by the Director any one or more of the following-
 - (a) reduction in rank;
 - (b) stoppage or deferment of increment;
 - (c) a fine not exceeding one month's salary (excluding allowances);
 - (d) severe reprimand;
 - (e) reprimand;
 - (f) extra duties. (Replaced 29 of 1975 s. 23)

PART II-MEMBERS OF OTHER RANKS

Members of other ranks found guilty of an offence against discipline may be punished by the Director or the Chief Executive- (Amended 76 of 1999 s. 3)

- (a) by any one or more of the following-
 - (i) dismissal without retirement benefits; (Amended 6 of 2009 s. 4)
 - (ia) compulsory retirement with full retirement benefits or reduced retirement benefits or without retirement benefits; (Added 55 of 1981 s. 5. Amended 61 of 1988 s. 10; 6 of 2009 s. 4)
 - (ii) reduction in rank;
 - (iii) stoppage or deferment of increment;
 - (iv) a fine not exceeding one month's salary (excluding allowances);
 - (v) severe reprimand;
 - (vi) reprimand;
 - (vii) extra duties.
- (b) (Repealed 4 of 1986 s. 5)

(Part II replaced 29 of 1975 s. 23)

Note:

This Schedule was amended by section 4 of the Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (6 of 2009). The transitional provisions contained in section 30 of that Amendment Ordinance read as follows-

"30. Transitional provisions

(1) If, after the commencement* of Parts 2 and 4, any public officer who is found guilty of or pleads guilty to any misconduct or offence for which that officer is punishable under any enactment amended by this Ordinance, that officer is to be punished in accordance with that enactment as amended by this Ordinance even though the misconduct or offence was committed before the commencement.

(2) If, after the commencement of Part 5, a court in criminal proceedings finds that a charge against any police officer in respect of a criminal offence has been proved, pay and allowance may cease to be payable to that officer in accordance with section 37(4) of the Police Force Ordinance (Cap 232) as amended by this Ordinance even though the criminal offence was committed before the commencement."

* **Commencement date: 31 March 2010.**

Schedule:	4	RIGHTS OF APPEAL AND RELATED PROVISIONS	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

[section 14B]

1. A subordinate officer or member of other ranks (including one who has been dismissed) may appeal, in accordance with the following rules, against-
 - (a) a finding by the Director or other member that he is guilty of a disciplinary offence;
 - (b) any punishment awarded by the Director or other member, other than under rule 4;
 - (c) any order or requirement for payment in respect of loss or damage made by the Director under section 14C. (Added 4 of 1986 s. 6)
2. A member of other ranks may also appeal, in accordance with the following rules, against a punishment awarded to him by the Director under Part II of the Second Schedule.
3. The appeal shall lie-
 - (a) to the Chief Executive, in respect of a finding made or punishment awarded by the Director; and (Amended 76 of 1999 s. 3)
 - (b) to the Director, in all other cases.
4. Upon an appeal, the Chief Executive or the Director, as the case may be, may- (Amended 76 of 1999 s. 3)
 - (a) confirm or reverse the finding;
 - (b) confirm the punishment;
 - (c) subject to rule 9, substitute any other punishment which could have been awarded in the first instance;
 - (d) remit the punishment in full or in part without substituting any other punishment;
 - (e) if he dismisses an appeal against a finding and no punishment has been awarded, treat the appeal as if it were a case referred to him for punishment and award any punishment or take any other action which he is authorized to take.
5. Upon a review under section 14B(3) the Director may exercise any of the powers in rule 4(a), (b), (c) or (d).
6. An appeal shall be made in writing within 14 days from the day on which the subordinate officer or member of other ranks is informed that he has been found guilty of an offence or from any later day on which punishment is awarded for that offence.
7. For the purpose of any appeal against a finding, the Chief Executive or the Director, as the case may be, may- (Amended 76 of 1999 s. 3)
 - (a) take again the whole or any part of the evidence or accept in whole or in part the record of the evidence already taken; and
 - (b) hear any additional evidence which he may consider relevant,and the Director may exercise the like powers where he reviews a finding under section 14B(3).
8. In the event of an appeal, any punishment (other than a reprimand or severe reprimand) awarded to a subordinate officer or a member of other ranks shall be suspended until the appeal is disposed of or abandoned.
9. Neither the Director nor the Chief Executive shall award a greater punishment under rules 4 and 5 without first allowing the subordinate officer or member of other ranks a reasonable opportunity to be heard or to make representations in writing as to why the punishment should not be increased. (Amended 76 of 1999 s. 3)
(Fourth Schedule added 29 of 1975 s. 25)

Schedule:	5		L.N. 194 of 2003	01/01/2004
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[section 8(2)]

FORM 1

FIRE SERVICES ORDINANCE

(Section 8(2))

Warrant to effect entry in premises

WHEREAS application has been made by or on behalf of the Director of Fire Services to me, C.D., a magistrate of Hong Kong, for authority to enter certain premises
 (here insert description of premises), and whereas I, C.D., and satisfied by information on oath that there is reasonable ground for entry to such premises and that
 (here insert ground on which warrant is issued):

NOW, THEREFORE, I, the said C.D., do hereby authorize the Director of Fire Services or any person authorized by the Director of Fire Services in writing in that behalf to enter the said premises, if need be by force, taking with him such persons as may be necessary.

Dated this day of,

[L.S.]

(Signed)

Magistrate.

(Added 1 of 1964 s. 8. Amended 47 of 1997 s. 10; 76 of 1999 s. 3; 7 of 2003 s. 14)

FORMS 2-3
(Repealed 7 of 2003 s. 14)

FORM 3A
(Repealed 7 of 2003 s. 14)

FORM 4
(Repealed 7 of 2003 s. 14)

Schedule:	6	RANKS IN THE FIRE SERVICES DEPARTMENT	L.N. 194 of 2003	01/01/2004
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[sections 2 & 26]

PART I-SENIOR OFFICERS

Director of Fire Services
 Deputy Director of Fire Services
 Chief Fire Officer
 Chief Ambulance Officer
 Deputy Chief Fire Officer
 Deputy Chief Ambulance Officer (Added 7 of 2003 s. 15)
 Senior Assistant Chief Ambulance Officer (Added 7 of 2003 s. 15)
 Assistant Chief Ambulance Officer
 Senior Divisional Officer
 Divisional Officer
 Superintendent (Ambulance)

(Part I replaced 55 of 1981 s. 6)

PART II-SUBORDINATE OFFICERS

Assistant Divisional Officer
 Senior Ambulance Officer
 Senior Station Officer (Added 55 of 1981 s. 6)
 Station Officer
 Ambulance Officer

PART III-MEMBERS OF OTHER RANKS

Principal Fireman
 Principal Ambulanceman
 Senior Fireman
 Senior Ambulanceman
 Fireman
 Ambulanceman

(Sixth Schedule added 29 of 1975 s. 26)

Schedule:	7	POSTS SPECIFIED FOR THE PURPOSES OF SECTION 3(2)	L.N. 194 of 2003	01/01/2004
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[sections 3(2) & 26]

Senior Engineer
 Engineer
 Chief Technical Officer
 Principal Technical Officer
 Senior Mechanical Inspector
 Mechanical Inspector
 Senior Building Services Inspector
 Building Services Inspector
 Assistant Building Services Inspector
 Electrical Inspector
 Special Photographer I
 Special Photographer II

(Seventh Schedule replaced 4 of 1986 s. 7. Amended 7 of 2003 s. 16)