

Chapter:	104	FERRY SERVICES ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To provide for the granting of franchises and licences to operate ferry services, the regulation of the operation and maintenance of such services, and for matters incidental thereto and connected therewith.

[15 June 1982]

(Originally 30 of 1982)

Part:	I	PRELIMINARY		30/06/1997
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Section:	1	Short title		30/06/1997
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## PART I

### PRELIMINARY

This Ordinance may be cited as the Ferry Services Ordinance.

Section:	2	Interpretation	62 of 1999	01/07/1997
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#### Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

- (1) In this Ordinance, unless the context otherwise requires-
- "Commissioner" (署長) means the Commissioner for Transport;
- "ferry vessel" (渡輪) means any vessel used for a ferry service;
- "ferry service" (渡輪服務) means a service provided by means of a vessel, other than a vessel exclusively propelled by oars, for the conveyance by water of passengers, baggage, goods or vehicles, for reward at separate fares between 2 or more points within the waters of Hong Kong, whether or not such points are varied from time to time and whether or not the service is operated to a fixed timetable;
- "franchise" (專營權) means a franchise granted under section 6;
- "franchise period" (專營期) means the period fixed under section 7 for which a franchise is granted and includes any period for which the franchise is extended under that section;
- "franchised service" (專營服務) means a ferry service in respect of which there is in force a franchise;
- "grantee" (專營公司) means a company to which a franchise is granted;
- "licence" (牌照) means a licence granted under section 28;
- "licensed service" (領牌服務) means a ferry service in respect of which there is in force a licence;
- "licensee" (持牌人) means a person to whom a licence is granted;
- "proper and efficient ferry service" (適當而有效率的渡輪服務)-
- (a) in relation to a grantee, has the meaning assigned to it by section 12;
  - (b) in relation to a licensee, has the meaning assigned to it by section 31;
- "Victoria port" (維多利亞港口) means the area of the waters of Hong Kong declared under section 56 of the Shipping and Port Control Ordinance (Cap 313) as Victoria port.
- (2) Where under this Ordinance the Chief Executive in Council or the Commissioner is empowered to grant a franchise or licence to operate a ferry service between any 2 or more points, such points may be fixed by reference to any pier, berth, frontage or location. (Amended 62 of 1999 s. 3)

Section:	3	Power of Chief Executive to give directions to public officer	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Chief Executive may give to a public officer such directions as he thinks fit with respect to the exercise or performance of his powers, functions and duties under this Ordinance, either generally or in a particular case.

(2) A public officer shall, in the exercise or performance of his powers, functions and duties under this Ordinance, comply with any direction given by the Chief Executive under subsection (1).

(Amended 62 of 1999 s. 3)

Part:	II	CONTROL OF FERRY SERVICES		30/06/1997
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Section:	4	Prohibition of operation of ferry service except under a franchise or licence		30/06/1997
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(1) Subject to section 5, no person shall operate or permit the operation of a vessel on a ferry service except under a franchise or a licence.

(2) Subject to section 5, no person shall operate or manage or assist in the management of a ferry service unless that service is operated under a franchise or licence.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$100000.

Section:	5	Exempted ferry services	L.N. 282 of 2006	02/01/2007
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(1) This Part does not apply to a tour service, a cargo service, an employees' service or a permitted service.

(2) In this section-

"cargo service" (載貨服務) means a service for the carriage of cargo by lighters or cargo boats;

"employees' service" (運載僱員服務) means a service provided by an employer solely for the carriage of persons employed by him;

"permitted service" (獲准許的服務) means a service-

- (a) permitted by the Director of Marine in writing for the carriage of passengers between piers and moored ships, or for the carriage of passengers for special purposes designated by the Director of Marine; or
- (b) for the carriage of passengers across Victoria port between such hours as the Commissioner may by notice in the Gazette approve and operated by a ferry vessel; (Amended 43 of 1999 s. 91)

"tour service" (遊覽服務) means a service-

- (a) for the carriage of passengers for reward at separate fares;
- (b) whereby the passengers travel together on a vessel from one or more places of embarkation on a journey that ends at the place or places of embarkation or ends at a place from which transport on land back to such place or places of embarkation is provided as part of the service;
- (c) whereby the passengers do not disembark during the journey, or disembark solely for the purpose of activities arranged or promoted as part of the service; and
- (d) whereby all the passengers are carried for the greater part of the journey.

(3) For the purposes of this Ordinance, a payment made by a person entitling him to be carried as a passenger on a ferry vessel shall be treated as a separate fare notwithstanding that it is made in consideration of other matters in addition to the journey and irrespective of the person by or to whom it is made.

Part:	III	FERRY SERVICE FRANCHISES	62 of 1999	01/07/1997
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Section:	6	Grant of franchises	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Subject to this Ordinance, the Chief Executive in Council may grant to any company within the meaning of the Companies Ordinance (Cap 32), or any company to which Part IX or Part XI of the Companies Ordinance (Cap 32) applies, a franchise that confers the right to operate a ferry service between such points as are specified by him.

(2) A franchise may confer on the grantee the exclusive right to operate a franchised service.

(3) A franchise-

(a) may be granted following a public tender or in such other manner as the Chief Executive in Council thinks fit;

(b) shall be subject to such conditions as the Chief Executive in Council specifies, which may include, without limiting the generality of the foregoing, conditions in respect of the management and commercial development of piers, pier rental and the maintenance of a proper and efficient ferry service generally; and

(c) shall be subject to the provisions of this Ordinance as it may from time to time be amended.

(4) Without prejudice to any other provision of this Ordinance, a franchise may, with the written consent of the grantee, be amended by the Chief Executive in Council. (Amended L.N. 387 of 1987)

(Amended 62 of 1999 s. 3)

Section:	7	Periods of franchise and extensions thereof	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) A franchise may be granted for an initial period not exceeding 15 years, and in calculating a franchise period no account shall be taken of any change made from time to time in the franchised services operated under the franchise.

(2) The Chief Executive in Council may, at the request in writing of a grantee, if he is satisfied that the grantee is capable of maintaining a proper and efficient ferry service and it is in the public interest to continue the franchised service or services, extend the franchise for a period or periods not exceeding 15 years beginning on the date on which the extension is granted. (Amended 62 of 1999 s. 3)

(3) A request under subsection (2) may be made-

(a) not more than once in each 5 year period during the franchise period, the first of such periods to be treated as commencing on the date of the granting of the franchise and subsequent periods as commencing on the fifth anniversary of the date of commencement of the prior period; and

(b) in any case not less than 2 years before the expiration of the franchise period.

Section:	8	Restriction on transfer of franchise	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

A grantee shall not transfer its franchise, or any part thereof, without the approval of the Chief Executive in Council.

(Amended 62 of 1999 s. 3)

Section:	9	Directors of grantee companies	28 of 1998; 62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 28 of 1998 s. 2; 62 of 1999 s. 3

It shall be a condition of the franchise that, unless the Chief Executive in Council otherwise permits, a majority of the directors of a grantee shall be individuals ordinarily resident in Hong Kong and shall participate actively as directors in the management of the grantee.

(Amended 28 of 1998 s. 2; 62 of 1999 s. 3)

Section:	10	Chief Executive may appoint additional directors	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Chief Executive may, notwithstanding any provision of the Companies Ordinance (Cap 32) or any other law or of any document, appoint, for such period as he may direct, not more than 2 persons to be additional directors of a grantee; and, notwithstanding any such provision as aforesaid, a person so appointed may not be removed from office as additional director of a grantee except by the Chief Executive. (Amended 62 of 1999 s. 3)

(2) A person so appointed to be an additional director of a grantee shall primarily represent the interests of the Government and for that purpose shall be entitled to participate at meetings of the grantee and the board of directors of the grantee, to have access to all material concerning the affairs of the grantee which is available to any other director and require such information with respect to the grantee's affairs as he may specify to be furnished to him; and, without prejudice to the foregoing but subject to subsection (3), any such person shall be treated for all purposes as if he had been appointed at a general meeting of the grantee as a director thereof.

(3) No fee or reward, financial or otherwise, shall be paid by a grantee to a person appointed to be an additional director of the grantee under this section in respect of the performance of his functions as such additional director.

Section:	11	Grantee not to alter memorandum or articles without Chief Executive's approval	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

It shall be a condition of any franchise that the grantee shall not permit any alteration to its memorandum or articles of association without the approval of the Chief Executive.

(Amended 62 of 1999 s. 3)

Part:	IV	OPERATION AND CONTROL OF FRANCHISED SERVICES		30/06/1997
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Section:	12	Grantee to maintain proper service		30/06/1997
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(1) A grantee shall, at all times during the franchise period, maintain to the satisfaction of the Commissioner a proper and efficient ferry service.

(2) Without prejudice to the generality of subsection (1), the grantee shall not be treated for any of the purposes of this Ordinance as maintaining a proper and efficient ferry service unless it provides every service authorized by its franchise or under this Ordinance and maintains and operates every such service in accordance with its franchise, this Ordinance and any direction, specification or requirement under its franchise or this Ordinance or under any plan in force under section 22 relating to the future operations of the grantee.

Section:	13	Alteration of services and provision of new services	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Subject to this section, the Chief Executive in Council may by notice in writing to the grantee authorize it, before the expiration of such period as may be specified in the notice, to-

- (a) alter a franchised service in the manner specified in the notice, whether by way of increasing or reducing the number of points of call, or otherwise;
- (b) operate a new ferry service under the franchise between such points of call as may be specified in the notice.

(2) Where under subsection (1) the Chief Executive in Council authorizes a grantee to operate a new ferry

service, he may confer on the grantee the exclusive right to operate such service.

(3) The grantee shall operate a new ferry service or an altered franchised service authorized under this section in accordance with the authorization.

(4) The period referred to in subsection (1) shall be-

- (a) in the case of a notice given under paragraph (a) thereof, not less than 6 months; and
- (b) in the case of a notice given under paragraph (b) thereof, not less than 12 months.

(5) The Chief Executive in Council shall not give an authorization under subsection (1) unless the grantee agrees in writing to the proposal.

(6) A grantee may apply in writing through the Commissioner requesting the Chief Executive in Council to alter a franchised service or to operate a new ferry service under this section.

(7) An application under subsection (6) shall be made, unless the Chief Executive in Council otherwise directs, not less than 6 months before the proposed alteration or new ferry service is to come into force.

(8) The Commissioner may with the consent of the Chief Executive in Council by agreement with a grantee permit the grantee to cease operating a ferry service.

(Amended 62 of 1999 s. 3)

Section:	14	Temporary alteration of services and provision of temporary new services		30/06/1997
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(1) The Commissioner may by notice in writing direct a grantee to alter a franchised service temporarily.

(2) The Commissioner may by notice in writing direct a grantee to operate a temporary new ferry service under the franchise.

(3) A direction given under this section shall not begin until the expiration of a period specified by the Commissioner which the Commissioner considers reasonable.

(4) A direction given under this section shall have effect for an initial period as specified in the notice not exceeding 12 months from the date from which the direction has effect and may be extended by the Commissioner for a further period or periods not exceeding 12 months in aggregate.

(5) In this section "to alter a franchised service" (更改專營服務) includes to vary the number of points of call served by a franchised service.

Section:	15	Commissioner may specify frequency of services and carrying capacity and types of vessels		30/06/1997
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(1) As regards any franchised service, the Commissioner may direct the grantee by notice in writing as to the frequency at which the franchised service shall be operated and the carrying capacity and type of ferry vessel to be used from the fleet of vessels that the grantee has available for use.

(2) A direction under this section shall not begin until the expiration of a period of 3 months from the giving of the notice unless the Commissioner and the grantee otherwise agree.

(3) As regards any franchised service for which a direction is given under this section, the grantee may increase the frequency to a greater frequency than that at which the franchised service is directed to be operated under this section.

(4) Where a grantee increases the frequency of a franchised service under subsection (3), the grantee shall, if the alteration continues for a period in excess of 48 hours, notify the Commissioner of the increased frequency in writing.

Section:	16	Conditions etc., with respect to directions	L.N. 104 of 2004	01/07/2004
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(1) The Commissioner shall not direct a grantee under section 14 or 15, unless he-

- (a) has consulted with the Director of Civil Engineering and Development and the Director of Marine; (Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 104 of 2004)
- (b) has given reasonable notice of the direction to the grantee;
- (c) has considered any submissions made by the grantee; and
- (d) has had regard to-
  - (i) the projected demand over a reasonable period for ferry services;

- (ii) other transport services and facilities provided or to be provided (whether by the grantee or otherwise);
- (iii) the availability of piers and ferry vessels;
- (iv) the financial implications for the grantee;
- (v) any additional resources that may be required by the grantee; and
- (vi) any other factors that the Commissioner considers relevant.

(2) If a grantee disagrees with a direction given by the Commissioner the grantee may within 14 days of the direction, or such further period as the Commissioner may allow, object by notice in writing served on the Commissioner.

(3) Subject to subsection (4), the Commissioner shall within 28 days of receiving of an objection under subsection (2) notify the grantee whether he allows or rejects the objection or intends to refer the matter to the Chief Executive in Council. (Amended 62 of 1999 s. 3)

(4) Where an objection under subsection (2) is based on the ground of adverse financial implications the Commissioner shall not reject the objection until he has referred the objection and his comments on it to the Chief Executive in Council for his determination. (Amended 62 of 1999 s. 3)

(5) Where a grantee objects under this section, it shall provide full details of its objection including copies of all documents, papers, submissions and financial particulars upon which it relies in support of its objection.

Section:	17	Application by grantee in respect of temporary alterations to services		30/06/1997
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(1) A grantee may apply in writing to the Commissioner to exercise his powers under section 14 or 15 in respect of a franchised service operated by the grantee.

(2) Unless the Commissioner otherwise agrees, an application under subsection (1) shall be delivered to the Commissioner not less than 28 days prior to the date upon which the grantee desires to introduce the alteration or commence operating the new ferry service set out in its application.

Section:	18	Suspension or alteration of franchised service in circumstances beyond the control of a grantee		30/06/1997
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(1) Whenever a grantee suspends or alters otherwise than in accordance with section 15(3) a franchised service for a period of more than 48 hours, or it appears likely that a suspension or alteration will last for more than 48 hours, the grantee shall notify the Commissioner as soon as practicable after it becomes aware that the suspension or alteration is likely to last for more than 48 hours.

(2) The Commissioner may direct a grantee to supply within a reasonable time such information as the Commissioner thinks fit relating to the cause of any suspension or alteration referred to in subsection (1) and the steps taken or proposed to be taken by the grantee in relation thereto.

(3) Whenever a grantee suspends or alters a service for less than 48 hours, the Commissioner may direct the grantee to supply within a reasonable time such information as the Commissioner thinks fit relating to the suspension or alteration.

(4) Where a grantee suspends or alters a franchised service for more than 48 hours otherwise than in accordance with section 15(3) the Commissioner may-

- (a) direct the grantee to make application for a variation of the franchised service;
- (b) direct the grantee to resume the franchised service; or
- (c) take such other action under this Part as he sees fit.

(5) Where a grantee suspends or alters a franchised service by reason of circumstances beyond its control, such suspension or alteration shall not be taken as a breach of its franchise or a failure to maintain a proper and efficient service if the grantee complies with the requirements of this section and all the requirements and directions of the Commissioner in relation to the suspension or alteration.

Section:	19	Fares on franchised services	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

- (1) The Chief Executive in Council may by order determine- (Amended 62 of 1999 s. 3)
  - (a) the maximum fares that may be charged for the carriage of passengers, baggage, goods and vehicles on any franchised service and may determine such fares in relation to classes of passengers, times of operation of the franchised services, and standards of ferry vessel accommodation; and
  - (b) the maximum rate of increase that may be permitted by the Commissioner under subsection (3) within the schedule of maximum fares determined under paragraph (a).

(2) Where the Commissioner directs a grantee under section 14 to alter a franchised service temporarily by operating over a different journey distance, or to operate a temporary new ferry service under the franchise, the Commissioner shall determine the maximum fares which may be charged for the carriage of passengers, baggage, goods and vehicles on such service and such fares shall be calculated having regard to the appropriate maximum fares determined under subsection (1)(a) and the classes of passengers and standards of ferry vessel accommodation.

- (3) Where the Commissioner is satisfied that circumstances require a franchised service to be operated-
  - (a) where a direction is given under section 15, at a frequency greater than this specified in that direction.
  - (b) during a period or on a day other than that specified in a direction under section 15; or
  - (c) with a ferry vessel of a carrying capacity or type other than that specified in a direction under section 15,

he may by notice in writing permit the grantee to charge an increased fare for the carriage of passengers, baggage, goods and vehicles on such service during the operation of such service, and such increased fare shall be calculated having regard to the appropriate maximum fares determined under subsection (1)(a), and such additional amount as the Commissioner may think fit not exceeding the maximum rate of increase determined under subsection (1)(b).

(4) A grantee may apply in writing to the Chief Executive in Council through the Commissioner for a revision of the maximum fares applicable in relation to a ferry service. (Amended 62 of 1999 s. 3)

(5) If a grantee applies under subsection (4) for a revision of the maximum fares applicable in relation to a ferry service and provides full details including all documents, papers, submissions and financial particulars upon which it bases its application for revision, the Commissioner shall submit the application to the Chief Executive in Council for determination as soon as is practicable after receiving such details and in any event not more than 6 months after receiving such details. (Amended 62 of 1999 s. 3)

- (6) A grantee shall not charge-
  - (a) a fare exceeding the maximum fare determined under subsection (1)(a) or (2) or permitted under subsection (3); or
  - (b) except with the prior permission of the Commissioner, a fare other than that determined or permitted under this section.

Section:	20	Commissioner may specify piers and berths	L.N. 104 of 2004	01/07/2004
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(1) As regards any franchised service the Commissioner may, from time to time, after consultation with the Director of Marine, the Director of Civil Engineering and Development and the grantee, by notice in writing specify the piers or berths to be used by the grantee for the purposes of such franchised service. (Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 104 of 2004)

(2) Subject to this Ordinance, the grantee shall not use a pier or berth other than a pier or berth specified under this section for the purposes of any franchised service.

Section:	21	Records		30/06/1997
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(1) In respect of any franchise, the Commissioner may by notice in writing direct the grantee to keep, in such form as the Commissioner may reasonably require, records in respect of all or any of the following matters-

- (a) the number and capacity of the ferry vessels in use on each franchised service each day;
- (b) the number of journeys operated by each ferry vessel on a franchised service each day;
- (c) the number and classification of passengers and vehicles carried on each ferry journey on each franchised service each day;
- (d) the number and classification of passengers and vehicles carried on each franchised service each day;
- (e) the daily receipts in respect of each franchised service;
- (f) the number and specifications of ferry vessels used or kept by the grantee for the purposes of or in connection with its franchise, and the number and specifications of ferry vessels under construction or which have been ordered for the purposes of the franchise;

(g) the maintenance of ferry vessels, piers and any other facilities employed by a grantee in connection with the franchise.

(2) A grantee shall furnish to the Commissioner, at such times and in such form as he may reasonably direct, copies of any records which it is directed to keep pursuant to any notice under subsection (1).

(3) The Financial Secretary or any person authorized in writing by him may inspect, at any reasonable time, any records and accounts kept by the grantee in connection with its franchise and make and take away copies of any such records or accounts.

Section:	22	Forward planning	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) A grantee and the Commissioner shall not later than 30 November in each year reach agreement as far as they are able on a plan relating to the operations of the grantee for the next 5 years.

(2) In the event that the grantee and the Commissioner fail to reach agreement on any point in a plan, the Commissioner shall forward the details of the point in disagreement, including the grantee's submissions in relation thereto, to the Secretary for Transport and Housing who shall decide on the point having regard to the submissions of the grantee and the Commissioner and such decisions of the Secretary for Transport and Housing shall be incorporated in the plan. (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(3) In the exercise of any power under this Ordinance, the Chief Executive in Council and the Commissioner shall have regard to any plan in force under this section. (Amended 62 of 1999 s. 3)

(4) Where a grantee fails to comply with a plan in force under this section by reason of circumstances beyond its control, such failure shall not be taken as a breach of its franchise or a failure to maintain a proper and efficient service.

Section:	23	Chief Executive in Council may impose financial penalty	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Chief Executive in Council may by notice in writing impose on a grantee a financial penalty specified in the notice for any failure by the grantee to comply with its franchise or this Ordinance or any direction or requirement under its franchise or this Ordinance or any provision of any plan in force under section 22 where the Chief Executive in Council is satisfied that the grantee has had reasonable opportunity of complying with its franchise, this Ordinance, the direction or the requirement, as the case may be, and an opportunity of showing cause why the penalty should not be imposed.

(2) A financial penalty imposed under this section shall not exceed-

(a) in respect of any one or more failures-

(i) \$10000 in the case of a first imposition of such penalty;

(ii) \$20000 in the case of a second imposition of such penalty;

(iii) \$50000 in the case of a third or subsequent imposition of such penalty; and

(b) in respect of any failure which is of a continuing nature \$10000 for each day on which the failure continues.

(3) A financial penalty imposed under this section shall be recoverable by the Government as a civil debt.

(4) Where the Chief Executive in Council is considering the imposition of a penalty on a grantee under this section and a penalty has previously been imposed on the grantee under this section, the Chief Executive in Council shall not consider any failures of the grantee which were considered for the imposition of the penalty on the previous occasion unless the grantee has failed to pay that previous penalty or to rectify any default that gave rise to such failure.

(Amended 62 of 1999 s. 3)

Part:	V	EMERGENCY AND REVOCATION	62 of 1999	01/07/1997
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Section:	24	Emergency or breakdown in franchised service	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

- (1) If the Chief Executive in Council considers-
- (a) that an emergency exists or is likely to come into existence; or
  - (b) after consultation between the grantee and the Commissioner, that there is or is likely to be a substantial breakdown for any reason in the operation of a franchised service,
- he may suspend the franchise either altogether or in respect of any such franchised service operated thereunder as he may specify, and such suspension shall have effect until the Chief Executive in Council terminates the suspension or declares that the circumstances that gave rise to the suspension no longer exist. (Amended 62 of 1999 s. 3)
- (2) Where under subsection (1) a franchise is suspended altogether or in respect of any franchised service, the Government may take possession of any property of the grantee used or kept by it for the purposes of or in connection with its franchise and the Government or its nominee may use such property in the operation of such ferry service as the Commissioner thinks fit.
- (3) A grantee shall be entitled to compensation for the use or loss of or damage to any of its property of which possession has been taken under subsection (2) and, except where a franchise is revoked under section 25, for any loss or damage sustained in consequence of any suspension of its franchise or of any franchised service under subsection (1).

Section:	25	Revocation of authority to operate a franchised service or of franchise	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

- (1) If it appears to the Chief Executive in Council that without good cause a grantee has failed, or is likely to fail, to maintain a proper and efficient ferry service, either generally or in respect of any franchised service the Chief Executive in Council may direct the Commissioner to serve on the grantee a notice in writing requiring the grantee to show cause in writing, within 28 days after the service of the notice-
- (a) why its authority to operate any franchised service set out in the notice should not be revoked; or
  - (b) why its franchise should not be revoked altogether.
- (2) Any notice served under subsection (1) shall specify the ground for revoking the franchise or any authority thereunder and may relate to and include any franchised service whether the grantee has failed to maintain a proper and efficient ferry service in relation to that service or not.
- (3) If, after the service of a notice under subsection (1)(a)-
- (a) the grantee does not show cause why its authority to operate the franchised services set out therein should not be revoked; or
  - (b) the Chief Executive in Council, having considered any representations made by the grantee, is of the opinion that the grantee has not shown cause why such authority should not be revoked,
- the Chief Executive in Council may, with effect from such date as he may specify, revoke the right of the grantee to operate all or any of the franchised services set out in the notice.
- (4) If, after the service of a notice under subsection (1)(b)-
- (a) the grantee does not show cause why the franchise should not be revoked altogether; or
  - (b) the Chief Executive in Council, having considered any representations made by the grantee, is of the opinion that the grantee has not shown cause why the franchise should not be revoked altogether,
- the Chief Executive in Council may, with effect from such date as he may specify, revoke the franchise.
- (5) Notice of any revocation under this section shall be served on the grantee and, as soon as practicable thereafter, published in the Gazette.
- (6) A grantee shall not be entitled to compensation in respect of the revocation of a right or franchise under this section.

(Amended 62 of 1999 s. 3)

Section:	26	Temporary taking by Government of property where franchise has been revoked	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) Where a franchise is revoked under section 25 the Government may take possession of any property used or kept by a grantee for the purposes of or in connection with the operation of any ferry service under the franchise so revoked and such property may be used by the Government, or its nominee, in the operation of such ferry service as the Commissioner thinks fit.

(2) Any property of which possession is taken under subsection (1) may be retained by the Government for such initial period, not exceeding 2 years, as the Chief Executive in Council may direct and such period may be extended by resolution of the Legislative Council for further successive periods not exceeding 6 months each. (Amended 62 of 1999 s. 3)

(3) At any time during or upon the expiration of the period, including any extension thereof, referred to in subsection (2), any property of which possession is taken under subsection (1) may be returned to the grantee of the revoked franchise or otherwise disposed of in such manner and upon such terms as the Chief Executive in Council thinks fit and where any property is disposed of otherwise than by return the owner shall be entitled to compensation to the extent that the property is not replaced or otherwise compensated for. (Amended 62 of 1999 s. 3)

(4) Where possession is taken under subsection (1) of any property, the owner shall be entitled to compensation for the use or loss of or damage to such property.

(5) In calculating the amount of compensation payable under subsection (4), the amount of any compensation payable under section 24(3) shall be deducted from such amount.

(6) In this section "property used or kept by a grantee for the purposes of or in connection with the operation of any ferry service" (為經營任何渡輪服務的目的或與經營任何渡輪服務相關而由專營公司使用或備存的財產) includes property so used or kept which is also used or kept for any other purposes.

Section:	27	Arbitration	L.N. 38 of 2011	01/06/2011
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(1) If the Government and an owner are unable to agree as to the amount of compensation payable under this Part, either party may refer the matter to arbitration under the Arbitration Ordinance (Cap 609). (Amended 17 of 2010 s. 112)

(2) In determining the amount of compensation payable an arbitrator shall have regard to any matter he considers relevant, subject to this Ordinance and to the value of any asset taken over in the operation of a ferry service.

Part:	VI	FERRY SERVICE LICENCES	L.N. 130 of 2007	01/07/2007
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Section:	28	Grant of licence	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) Subject to this Ordinance, the Commissioner may if he thinks fit grant to any person a licence to operate a ferry service between such points as are specified in the licence.

(2) A licence-

(a) may be granted in such form as the Commissioner thinks fit;

(b) shall be subject to such conditions as the Commissioner may specify; and

(c) may, after consultation with the licensee, be amended by the Commissioner.

(3) The Commissioner may, after consultation with a licensee and having regard to the financial circumstances of the licensee, specify by notice in writing served by post on the licensee the minimum frequency of a licensed

service.

(4) The Commissioner shall, before granting a licence under subsection (1), consult with the Director of Marine and the Director of Civil Engineering and Development with respect to the proposed grant and the proposed conditions of such licence. (Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 104 of 2004)

(5) The Commissioner may require an applicant for a licence to supply such information in such manner as the Commissioner may reasonably require in order to decide whether or not to grant a licence to the applicant.

(6) Where 2 or more persons apply, or it appears to the Commissioner that 2 or more persons are likely to apply, separately for a licence to operate substantially the same ferry service between the same points, the Commissioner shall, without prejudice to this section, make arrangements for such applications to be made by way of public tender in such manner and within such period as he may determine; but the Commissioner shall not be bound to grant any application so made, and any application relating to such ferry service which is made otherwise than in accordance with such arrangements while they are in force shall not be considered.

(7) Any person whose application for a licence is not granted by the Commissioner may appeal in writing-

- (a) against the decision of the Commissioner, within 28 days of the date of such decision, to the Secretary for Transport and Housing who may confirm or set aside such decision after considering any written representations submitted to him by the appellant and the Commissioner in respect of that decision; and
- (b) if he is aggrieved by the decision of the Secretary for Transport and Housing, to the Chief Executive in Council within 28 days of the date of that decision, and the decision of the Chief Executive in Council on any such appeal shall be final. (Amended 62 of 1999 s. 3; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	29	Period of grant		30/06/1997
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(1) A licence may be granted for any period not exceeding 3 years.

(2) The Commissioner may, at the request of the licensee, during any period while the licence is in force, extend the period of the licence for a further period or periods not exceeding 3 years at any one time, so that the period for which the licence was granted together with all extensions thereof shall not in any case exceed in the aggregate a period of 10 years.

Section:	30	Restriction on transfer of licence		30/06/1997
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A licensee shall not transfer his licence without the approval of the Commissioner.

Section:	31	Licensee to maintain proper service		30/06/1997
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(1) A licensee shall, at all times during the licence period, maintain to the satisfaction of the Commissioner a proper and efficient ferry service.

(2) Without prejudice to the generally of subsection (1), the licensee shall not be treated for any of the purposes of this Ordinance as maintaining a proper and efficient ferry service unless he maintains the service and operates the same in accordance with the licence, this Ordinance and any direction, specification or requirement under the licence or this Ordinance.

Section:	32	Suspension or alteration of licensed service		30/06/1997
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(1) Whenever a licensee suspends or alters a licensed service so that it is suspended or altered for-

- (a) more than 48 hours in the case of a daily or more frequent service; or
- (b) two or more successive occasions occurring during a period of not less than 5 days in any other case,

the licensee shall give notice in writing to the Commissioner as soon as practicable after the licensee becomes aware that the suspension or alteration is likely so to continue or occur for such a period.

(2) The Commissioner may require a licensee to supply, within a reasonable time, such information as the Commissioner thinks fit relating to the cause of any suspension or alteration referred to in subsection (1) and the steps taken or proposed to be taken by the licensee in relation thereto.

(3) Whenever a licensee suspends or alters a licensed service and is not required to give notice to the Commissioner under subsection (1), the Commissioner may require a licensee to supply, within a reasonable time,

such information as the Commissioner thinks fit relating to the suspension or alteration.

- (4) As regards any suspension of or alteration to any licensed service, the Commissioner may-
- (a) authorize the suspension or alteration of such service on such terms and conditions as he sees fit; or
  - (b) direct the licensee to resume any service so altered or suspended.

(5) Where a licensee suspends or alters a licensed service by reason of circumstances beyond his control, such suspension or alteration shall not be taken as a breach of his licence if he complies with all the requirements of this section and all the requirements and directions of the Commissioner in relation to the suspension or alteration.

Section:	33	Fares on licensed services		30/06/1997
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(1) The Commissioner may by notice in the Gazette determine the maximum fares that may be charged for the carriage of passengers, baggage, goods and vehicles on any licensed service.

(2) A licensee shall not charge a fare exceeding the maximum fare determined under subsection (1).

(3) Nothing in this section shall prevent a licensee from charging a fare lower than the maximum fare determined under subsection (1).

Section:	34	Revocation of licence		30/06/1997
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(1) If it appears to the Commissioner that without good cause a licensee has failed, or is likely to fail, to maintain a proper and efficient ferry service the Commissioner may serve on the licensee a notice requiring the licensee to show cause in writing, within 14 days after the service of the notice, why his licence should not be revoked, and any such notice shall specify the ground for revoking such licence.

(2) If, after the service of a notice under subsection (1)-

- (a) the licensee does not show cause why the licence should not be revoked; or
- (b) the Commissioner, having considered any representations made by the licensee, is of the opinion that the licensee has not shown cause why the licence should not be revoked,

the Commissioner may by notice in writing served on the licensee revoke the licence, with effect from such date as he may specify in such notice.

Section:	35	(Omitted as spent)		30/06/1997
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(Omitted as spent)

Section:	36	Commissioner to report	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

The Commissioner shall, not later than 31 March in each year, report to the Chief Executive in Council on all actions taken by him under this Part during the preceding year.

(Amended 62 of 1999 s. 3)

Part:	VII	MISCELLANEOUS	62 of 1999	01/07/1997
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Section:	37	Profit Control Scheme	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Financial Secretary and the grantee may, with the approval of the Chief Executive in Council, enter into an agreement to control the level and distribution of profits arising from the operations of the grantee under the franchise, any agreement entered into in pursuance of this Ordinance and any other operations of the grantee specified in the agreement. (Amended 62 of 1999 s. 3)

(2) An agreement entered into under subsection (1) may specify circumstances under which the right to control the level and distribution of profits may be exercised.

(3) The operations of the grantee which may be specified in an agreement entered into under this section may include any operation of the grantee and shall not be limited to operations conducted under or in pursuance of this Ordinance or the franchise.

(4) The terms of any agreement entered into under this section shall be reviewed every 3 years by the Financial Secretary and the grantee.

(5) Any amendment agreed to by the Financial Secretary and the grantee shall be subject to the approval of the Chief Executive in Council. (Amended 62 of 1999 s. 3)

(6) The Financial Secretary may at any reasonable time, inspect any record or account kept by the grantee in connection with its franchise or any operations specified in an agreement entered into under this section and the Financial Secretary may make and take away copies of any such record or account.

(7) The grantee shall supply upon the written request of the Financial Secretary any relevant financial information regarding the operations under the franchise.

Section:	38	Inspection by Director of Civil Engineering and Development of premises	L.N. 104 of 2004	01/07/2004
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(1) The Director of Civil Engineering and Development or any person authorized by him, may-

(a) at all reasonable times inspect- (Amended L.N. 104 of 2004)

(i) any premises used by a grantee or licensee in connection with a franchise or licence and all facilities provided by a grantee or licensee for the safe operation, maintenance and repair of all buildings, structures, piers and electrical and mechanical plant and equipment so used;

(ii) any pier wholly or partly maintained by a grantee or licensee in connection with a franchise or licence;

(b) require a grantee or licensee to carry out in respect of all such piers or such of those piers as he may specify, any inspection or survey, repair, provision of equipment, maintenance or other works, within such reasonable time as he may specify;

(c) require an independent inspection or survey of any such plant, equipment or pier at such periodical intervals as he may reasonably specify, by a qualified person approved by him.

(2) A grantee or licensee shall afford such facilities for carrying out of any inspections referred to in subsection (1) as may be required by the Director of Civil Engineering and Development.

(3) The cost of any inspection, independent inspection or survey, repair, equipment, maintenance or other works required under subsection (1)(b) or (c) shall be borne by the grantee or licensee.

(4) This section shall be construed so that the powers granted by it to the Director of Civil Engineering and Development are in addition to and do not derogate from any other power howsoever granted to or vested in the Director of Civil Engineering and Development.

(Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 104 of 2004)

Section:	39	Inspection by Director of Marine of ferry vessels		30/06/1997
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(1) The Director of Marine or any person authorized by him, may-

(a) at all reasonable times inspect any ferry vessel and any premises or pier used by a grantee in connection with its franchise; and

(b) require a grantee to carry out in respect of all such ferry vessels or such of those vessels as he may specify, any repair, provision of equipment, maintenance or other works, within such reasonable time as he may specify.

(2) A grantee shall afford such facilities for the carrying out of any inspections referred to in subsection (1)(a) as may be required by the Director of Marine.

(3) This section shall be construed so that the powers granted by it to the Director of Marine are in addition to and do not derogate from any other power howsoever granted to or vested in the Director of Marine.

Section:	40	Commissioner may have access		30/06/1997
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The Commissioner or any person authorized in writing by him may at all reasonable times have access to and

may enter upon any pier or ferry vessel used in connection with any ferry service.

Section:	41	Appeal by grantee or licensee	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) A grantee or licensee aggrieved by any decision, direction or requirement of the Secretary for Transport and Housing, the Commissioner, the Director of Civil Engineering and Development or the Director of Marine or any person authorized by any one of them, under this Ordinance or the franchise or licence may, within 28 days of the giving or making of the decision, direction or requirement, appeal by petition to the Chief Executive in Council, and the decision of the Chief Executive in Council on any such appeal shall be final. (Amended L.N. 127 of 1986; L.N. 364 of 1991; L.N. 106 of 2002; L.N. 104 of 2004; L.N. 130 of 2007)

(2) Where a grantee or licensee appeals under subsection (1), the decision, direction or requirement, as the case may be, shall not have effect until the appeal has been determined, unless the Chief Executive in Council otherwise directs.

(Amended 62 of 1999 s. 3)

Section:	42	Obstruction of public officers		30/06/1997
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Any person who obstructs a public officer in the carrying out of his duties or the exercise of his powers under this Ordinance commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

Section:	43	Publication of franchised and licensed services		30/06/1997
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The Commissioner shall from time to time, as he thinks necessary, cause to be published in the Gazette a list of all franchised services and licensed services.

Section:	44	Regulations	62 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 62 of 1999 s. 3

(1) The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 62 of 1999 s. 3)

- (a) the provision of adequate signs and destination indicators at piers used by ferry vessels;
- (b) regulating the conduct of persons while employed by a grantee or a licensee;
- (c) regulating the carriage of passengers, baggage, goods and vehicles on ferry vessels;
- (d) the method of payment of fares by passengers and for vehicles carried on such vessels;
- (e) regulating the use of piers used by ferry vessels;
- (f) the safe and efficient operation of ferry services;
- (g) the control and marshalling of passengers and of vehicular traffic on or about any ferry vessel, pier or adjacent roadway;
- (h) the fees, rent, pier rent or premium to be paid in respect of any licence;
- (i) the publication by grantees and licensees of adequate information in relation to schedules of services and fares;
- (j) regulating the use of defined areas of ferry vessels, piers and adjacent or ancillary buildings by restricting or permitting such activities therein as may be prescribed;
- (k) permitting prescribed persons to seek prescribed information relating to the identity of persons reasonably suspected of contravening the Ordinance;
- (l) generally for the purposes of this Ordinance.

(2) Any such regulations may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding 6 months imprisonment and a fine of \$5000.

Section:	45	By-laws		30/06/1997
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(1) Subject to this Ordinance and to the terms of its franchise, a grantee may make by-laws for all or any of the following matters-

- (a) the protection of property owned or controlled by the grantee;
- (b) the prevention of frauds by passengers or members of the public on the grantee;
- (c) the safe and efficient operation of the grantee's ferry service;
- (d) the procedure to be followed in respect of accidents involving ferry vessels;
- (e) generally as to the conduct of persons while using piers and the grantee's ferry vessels and in particular (but without prejudice to the generality of the foregoing) for-
  - (i) authorizing the removal from such a ferry vessel or pier of any person contravening the by-laws by an employee of the grantee or at the request of an employee by a police officer;
  - (ii) requiring any person on a ferry vessel or pier reasonably suspected of contravening the by-laws to give his name and address on demand;
  - (iii) requiring a passenger to declare, if so requested, the journey he intends to take or has taken on the ferry vessel and to pay the fare for the whole of that journey and to accept any ticket provided therefor;
  - (iv) requiring, on demand being made for the purpose by a person authorized by the grantee, production during the journey and surrender at the end of the journey by a passenger of any ticket issued to him;
  - (v) requiring a passenger, if so requested, to leave the ferry vessel on the completion of the journey for which he has paid;
  - (vi) requiring the surrender by a passenger on the expiration of the period for which it is issued of a ticket issued to him.

(2) By-laws made under subsection (1) shall be subject to the approval of the Legislative Council.

(3) Any such by-laws may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding a fine of \$2000.

(4) A grantee shall cause printed copies of all by-laws made under this section to be kept at its registered office and to be sold at a reasonable charge to any person applying therefor.

Section:	46	Repeals and savings		30/06/1997
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(1) (Spent)

(2) For the avoidance of doubt, it is hereby declared that notwithstanding the repeal of the Hong Kong and Yaumati Ferry Company (Services) Ordinance (Cap 266, 1979 Ed.) and the "Star" Ferry Company (Services) Ordinance (Cap 274, 1977 Ed.), the Hong Kong and Yaumati Ferry Company By-laws and the "Star" Ferry Company, Limited, By-laws shall, save in so far as they are inconsistent with any of the provisions of this Ordinance, continue in operation until they are replaced by by-laws made under section 45 which are expressed to be in substitution for such by-laws. (Amended L.N. 345 of 1982)