

Independent Commission Against Corruption Ordinance, Hong Kong

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| Chapter: | 204 | INDEPENDENT COMMISSION AGAINST CORRUPTION ORDINANCE | Gazette Number | Version Date |
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| | | Long title | | 30/06/1997 |
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To provide for the establishment of an Independent Commission Against Corruption and matters incidental thereto.

[15 February 1974]

(Originally 7 of 1974)

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| Section: | 1 | Short title | | 30/06/1997 |
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This Ordinance may be cited as the Independent Commission Against Corruption Ordinance.

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| Section: | 2 | Interpretation | 14 of 2003 | 09/05/2003 |
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In this Ordinance, unless the context otherwise requires-

"Commission" (廉政公署) means the Independent Commission Against Corruption established under section 3;

"Commissioner" (廉政專員) means the Commissioner of the Independent Commission Against Corruption appointed in accordance with the Basic Law and includes the Deputy Commissioner appointed under section 6; (Replaced 1 of 2003 s. 3)

"officer" (廉署人員) means an officer of the Commission appointed under section 8;

"prescribed officer" (訂明人員) means-

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a))-
 - (i) any principal official of the Government appointed in accordance with the Basic Law;
 - (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66) and any person appointed under section 5A(3) of that Ordinance;
 - (iii) Chairman of the Public Service Commission;
 - (iv) any member of the staff of the Commission;
 - (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary; (Added 14 of 2003 s. 19)

"public body" (公共機構) has the meaning assigned to it in section 2 of the Prevention of Bribery Ordinance (Cap 201); (Replaced 51 of 1987 s. 2)

"public servant" (公職人員) has the meaning assigned to it in section 2 of the Prevention of Bribery Ordinance (Cap 201); (Replaced 51 of 1987 s. 2. Amended 1 of 2003 s. 3)

"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 1 of 2003 s. 3)

(Amended 14 of 2003 s. 19)

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| Section: | 3 | Establishment of the Commission | | 30/06/1997 |
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There is hereby established the Independent Commission Against Corruption which shall consist of the Commissioner, the Deputy Commissioner and such officers as may be appointed.

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| Section: | 4 | Maintenance of the Commission | | 30/06/1997 |
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The expenses of the Commission shall be charged to the general revenue.

(Amended 51 of 1987 s. 3)

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| Section: | 5 | Office of Commissioner | 14 of 2003 | 09/05/2003 |
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(1) The Commissioner, subject to the orders and control of the Chief Executive, shall be responsible for the direction and administration of the Commission. (Replaced 1 of 2003 s. 3)

(2) The Commissioner shall not be subject to the direction or control of any person other than the Chief Executive.

(3) The Commissioner shall hold office on such terms and conditions as the Chief Executive may think fit.

(4) The Commissioner shall not, while he holds the office of the Commissioner, discharge the duties of any other prescribed officer. (Amended 14 of 2003 s. 20)

(Amended 1 of 2003 s. 3)

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| Section: | 6 | Appointment of Deputy Commissioner | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

The Chief Executive may appoint a Deputy Commissioner on such terms and conditions as he may think fit.

(Amended 1 of 2003 s. 3)

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| Section: | 7 | Acting Commissioner | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) If the office of the Commissioner is vacant or the Commissioner is absent from duty, the Deputy Commissioner shall, save where the Chief Executive otherwise directs, act as Commissioner.

(2) If both the Commissioner and the Deputy Commissioner are absent from duty, the Chief Executive may appoint another person to act as Commissioner during that absence.

(Amended 1 of 2003 s. 3)

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| Section: | 8 | Appointment of officers | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) The Commissioner may appoint such officers as the Chief Executive thinks necessary to assist the Commissioner in the performance of his functions under this Ordinance.

(2) (a) Subject to paragraph (b), the Commissioner may, if he is satisfied that it is in the interests of the Commission to do so, after consulting the Advisory Committee on Corruption, terminate the appointment of an officer.

(b) Before terminating an appointment under this subsection-

- (i) the Commissioner shall by notice in writing inform the officer concerned that the termination of his appointment is under consideration and the reasons therefor; and
- (ii) in the notice such officer shall be given a period of not less than 7 days within which to make, and is hereby authorized to make if he so wishes, written representations to the Commissioner as regards such reasons or as to why his appointment should not be terminated or as regards both.

(c) Where an appointment is terminated under this subsection-

- (i) the Commissioner shall notify the officer in writing of the termination; and
- (ii) the officer may, within the period of 21 days beginning on the date of the notification under subparagraph (i), appeal to the Chief Executive against the termination.

- (d) On an appeal under paragraph (c) the Chief Executive may confirm or set aside the termination.
- (e) Where an appointment is terminated under subsection (2)(a), the termination shall operate forthwith but if on an appeal under paragraph (c)(ii) the termination is set aside, the officer concerned shall be treated in all respects as if the Commissioner had not terminated his appointment. (Replaced 48 of 1996 s. 19)
- (3) The terms and conditions of employment of officers shall be subject to the approval of the Chief Executive, who may vary any terms or conditions imposed by virtue of subsection (4).
- (4) Subject to this section and section 11(2), the Commissioner and officers shall be employed subject to Public Service (Administration) Order, Government regulations and such administrative rules as apply generally to public officers, except insofar as the application of such Public Service (Administration) Order, Government regulations or rules may be modified by standing orders made under section 11(2).

(Amended 1 of 2003 s. 3)

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| Section: | 9 | Warrant card | 30/06/1997 |
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The Commissioner may issue to such officers as he thinks fit a warrant card which shall be prima facie evidence of the officer's appointment as such.

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| Section: | 10 | Power of arrest | 14 of 2003 | 09/05/2003 |
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- (1) An officer authorized in that behalf by the Commissioner may without warrant arrest a person if he reasonably suspects that such person is guilty of an offence under this Ordinance or the Prevention of Bribery Ordinance (Cap 201) or the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) or, being a prescribed officer, is guilty of an offence of blackmail committed by or through the misuse of office. (Amended 27 of 1980 s. 2; 10 of 2000 s. 47; 14 of 2003 s. 21)
- (2) Where, during an investigation by the Commission of a suspected offence under the Prevention of Bribery Ordinance (Cap 201) or of a suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), another offence is disclosed, any such officer may without warrant arrest a person if he reasonably suspects that such person is guilty of that other offence and-
- (a) he reasonably suspects that such other offence was connected with, or that either directly or indirectly its commission was facilitated by, the suspected offence under the Prevention of Bribery Ordinance (Cap 201) or the suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), as the case may be; or (Amended 16 of 1991 s. 2; 10 of 2000 s. 47)
- (b) the other offence is one which is specified for the purposes of this subsection in subsection (5).
- (3) Any such officer-
- (a) may use such force as is reasonable in the circumstances in effecting an arrest under subsection (1) or (2); and (Amended 18 of 1976 s. 2)
- (b) may, for the purpose of effecting such an arrest, enter and search any premises or place if he has reason to believe that there is in the premises or place a person who is to be so arrested.
- (4) No premises or place shall be entered under subsection (3) unless the officer has first stated that he is an officer and the purpose for which he seeks entry and produced his warrant card to any person requesting its production, but subject as aforesaid any such officer may enter any such premises or place by force, if necessary.
- (5) The following offences are specified for the purposes of subsection (2)-
- (a) the offence of perverting or obstructing the course of justice;
- (aa) the offence of theft under section 9 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2)
- (b) the offence of blackmail under section 23 of the Theft Ordinance (Cap 210);
- (ba) the offence of fraud under section 16A of the Theft Ordinance (Cap 210); (Added 45 of 1999 s. 5)
- (c) the offence of obtaining property by deception under section 17 of the Theft Ordinance (Cap 210);
- (d) the offence of obtaining pecuniary advantage by deception under section 18 of the Theft Ordinance (Cap 210);
- (da) the offence of obtaining services by deception under section 18A of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (db) the offence of evading liability by deception under section 18B of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (dc) the offence of making off without payment under section 18C of the Theft Ordinance (Cap 210);

- (Added 51 of 1987 s. 4)
- (dd) the offence of procuring a false entry in certain records under section 18D of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)
- (de) the offence of false accounting under section 19 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2. Amended 51 of 1987 s. 4)
- (e) the offence of assisting an offender under section 90 of the Criminal Procedure Ordinance (Cap 221);
- (ea) any offence under regulations in force under the Electoral Affairs Commission Ordinance (Cap 541); (Replaced 134 of 1997 s. 85)
- (f) the offence of conspiracy to defraud and the offence of conspiracy to commit any of the offences referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea); (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)
- (g) an attempt to commit any offence referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea) or the offence of aiding, abetting, counselling or procuring any offence so referred to. (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)
- (Replaced 14 of 1976 s. 2)

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| Section: | 10A | Procedure after arrest | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

- (1) A person arrested under section 10-
 - (a) may be taken forthwith to a police station and there dealt with in accordance with the Police Force Ordinance (Cap 232); or
 - (b) may be taken to the offices of the Commission.
- (2) A person arrested under section 10 who is taken to the offices of the Commission may be-
 - (a) detained there if an officer of the rank of Senior Commission Against Corruption Officer or above considers it necessary for the purpose of further inquiries;
 - (b) released from custody-
 - (i) on his depositing such reasonable sum of money as an officer of the rank of Senior Commission Against Corruption Officer or above may require; or
 - (ii) on his entering into such recognizance, with such sureties, if any, as an officer of the rank of Senior Commission Against Corruption Officer or above may require; or
 - (iii) on his depositing such a sum of money and entering into such a recognizance.
- (3) A person who has deposited a sum of money for the purposes of subsection (2) and has thereupon been released from custody shall-
 - (a) attend at the offices of the Commission at such time as an officer of the rank of Senior Commission Against Corruption Officer or above has specified and, having so attended, shall further attend at such other times thereafter as such an officer may specify; or (Amended 48 of 1996 s. 20)
 - (b) appear before a magistrate at such time and place as an officer of the rank of Senior Commission Against Corruption Officer or above has specified.
- (3A) A person who has been released from custody under subsection (3) and-
 - (a) who attends at the offices of the Commission at a further time as shall have been specified; and
 - (b) who on such attendance advises an officer of the rank of Senior Commission Against Corruption Officer or above that he will refuse to attend at any further time, whether specified or not,
 shall have the sum of money deposited for the purposes of subsection (2) refunded to him and shall not be bound by any recognizance entered into by him with respect to his attendance. (Added 48 of 1996 s. 20)
- (4) A recognizance entered into for the purposes of subsection (2) shall be conditioned-
 - (a) for the attendance of the person at the offices of the Commission at such time as may be specified therein and at such other time thereafter as an officer of the rank of Senior Commission Against Corruption Officer or above may specify; or
 - (b) for the appearance of the person before a magistrate at such time and place as may be specified therein.
- (5) If any person fails to attend at the offices of the Commission or to appear before a magistrate in accordance with subsection (3) or a recognizance entered into for the purposes of subsection (2), such sum of money may be forfeited or such recognizance estreated by a magistrate on application by the Commissioner.

(6) A person who is detained at the offices of the Commission under subsection (2)(a) shall be brought before a magistrate as soon as practicable and in any event within 48 hours after his arrest unless he is sooner released, whether under subsection (2)(b) or otherwise.

(7) (a) A person who is detained at the offices of the Commission under subsection (2)(a) may be taken in the custody of an officer to and from any other place if an officer of the rank of Senior Commission Against Corruption Officer or above considers it necessary or desirable to do so.

(b) Any person who is being taken to and from any such place in the custody of an officer under paragraph (a) shall be deemed to be in lawful custody.

(8) The Chief Executive may by order make such provision as he considers necessary with respect to the treatment of persons detained at the offices of the Commission, whether under subsection (2)(a) or pursuant to the order of a magistrate under section 20(3) or 79(1) of the Magistrates Ordinance (Cap 227). (Amended 51 of 1987 s. 5; 1 of 2003 s. 3)

(Added 14 of 1976 s. 2. Amended 27 of 1980 s.3)

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| Section: | 10AA | Arrest of persons granted bail | 30/06/1997 |
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(1) An officer authorized in that behalf by the Commissioner may arrest without warrant any person who has been released from custody in accordance with section 10A(2), or otherwise admitted to bail following his arrest under section 10 or his appearance on a summons in respect of an offence referred to in that section-

(a) if the officer has reasonable grounds for believing that any condition on or subject to which such person was so released or otherwise admitted to bail has been or is likely to be broken; or

(b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the condition that he will appear at the time and place required and for that reason the surety wishes to be relieved of his obligation as surety. (Amended 56 of 1994 s. 10)

(2) Any person arrested under subsection (1) shall be brought within the period of 24 hours after his arrest or as soon as practicable after the expiry of that period before a magistrate, except where he was so arrested within the period of 24 hours immediately preceding an occasion on which he is required by virtue of a condition of his release under section 10A(2) or other bail to appear before any court, in which case he shall be brought before that court.

(3) If it appears to the court before which a person is brought under subsection (2) that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be broken, the court may-

(a) remand that person in custody; or

(b) admit that person to bail on the same conditions or on such other conditions as it thinks fit,

but if it does not so appear to that court the court shall admit that person to bail on the same conditions.

(4) Nothing in this section shall derogate from or affect the powers of arrest contained in section 9K of the Criminal Procedure Ordinance (Cap 221). (Amended 56 of 1994 s. 10)

(Added 51 of 1987 s. 6)

[cf. 1967 c. 80 s. 23 U.K.]

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| Section: | 10B | Search warrants | 30/06/1997 |
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Without prejudice to section 17(1) of the Prevention of Bribery Ordinance (Cap 201), if a magistrate is satisfied by information on oath that there is reason to believe that there is in any premises or place anything which is or contains evidence of the commission of any of the offences referred to in section 10, he may by warrant directed to any officer authorize such officer, and any other officers assisting him, to enter and search such premises or place.

(Added 14 of 1976 s. 2. Amended 48 of 1996 s. 21)

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| Section: | 10C | Power of search and seizure | 30/06/1997 |
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(1) An officer authorized in that behalf by the Commissioner may-

(a) search any person if he reasonably suspects that such person is guilty of any of the offences referred to in section 10;

(b) search the premises or place in which any person was arrested under section 10, or the premises or place in which a person who evades arrest therein under section 10 was to be arrested, for evidence of any of the offences referred to in that section;

- (c) seize and detain anything which such officer has reason to believe to be or to contain evidence of any of the offences referred to in section 10;
 - (d) (Repealed 45 of 1992 s. 2)
 - (1A)(Repealed 45 of 1992 s. 2)
 - (2) A person shall not be searched under subsection (1) except by a person of the same sex.
 - (3) The powers conferred by subsection (1) shall not derogate from the power conferred on any officer by section 17 of the Prevention of Bribery Ordinance (Cap 201) or a warrant issued thereunder.
- (Added 14 of 1976 s. 2)

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| Section: | 10D | Power to take finger-prints and photographs | | 30/06/1997 |
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(1) Where a person has been arrested under section 10 or, has been served with a summons under section 8(2) of the Magistrates Ordinance (Cap 227) in respect of a section 10 offence, any officer may take, or cause to be taken under the supervision of an officer, photographs, finger-prints and the weight and height measurements of that person. (Amended 48 of 1996 s. 22)

(2) The identifying particulars of a person taken under subsection (1) may be retained by the Commissioner, except that if-

- (a) a decision is taken not to charge the person with any offence; or
- (b) the person is charged with a section 10 offence but discharged by a court before conviction or acquitted at his trial or on appeal,

the identifying particulars, together with any negatives or copies thereof, shall as soon as reasonably practicable be destroyed or, if the person prefers, delivered to that person.

(3) Notwithstanding subsection (2), the Commissioner may retain the identifying particulars of a person who has been previously convicted of any section 10 offence.

(4) In this section-

"identifying particulars" (辨別身分資料) in relation to a person means photographs, finger-prints and the weight and height measurements of that person;

"section 10 offence" (第10條罪行) means any offence for which a person may be arrested under section 10.

(Replaced 21 of 1991 s. 2)

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| Section: | 10E | Taking of non-intimate samples | L.N. 100 of 2001 | 01/07/2001 |
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(1) In any investigation in respect of an offence committed or believed to have been committed, a non-intimate sample may be taken from a person with or without his consent for forensic analysis only if-

- (a) that person is dealt with and detained pursuant to section 10A; and
- (b) an officer of the rank of Senior Commission Against Corruption Officer or above ("authorizing officer") authorizes it to be taken.

(2) An authorizing officer may only give an authorization as required under subsection (1)(b) if he has reasonable grounds-

- (a) for suspecting that the person from whom the non-intimate sample is to be taken has committed a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove the commission of the offence by that person.

(3) An authorizing officer-

- (a) subject to paragraph (b), must give an authorization pursuant to subsection (2) in writing;
- (b) where it is impracticable to comply with paragraph (a), may give such authorization orally, in which case he must confirm it in writing as soon as practicable.

(4) Where an authorization has been given pursuant to subsection (2), an officer shall, before the taking of a non-intimate sample, inform the person from whom the sample is to be taken-

- (a) of the nature of the offence in which the person is suspected to have committed;
- (b) that there are reasonable grounds to believe that the sample will tend to confirm or disprove the commission of the offence by that person;
- (c) of the giving of the authorization;
- (d) that he may or may not consent to the taking of the sample;

- (e) that if he does not consent to the taking of the sample, the sample will still be taken from him by using reasonable force if necessary;
 - (f) that the sample will be analysed and the information derived from such analysis may provide evidence that might be used in criminal proceedings for such offence or any other offence for which a person may be arrested under section 10;
 - (g) that he may make a request to an officer for access to the information derived from the analysis of the sample; and
 - (h) that if he is subsequently convicted of any serious arrestable offence, any DNA information derived from the sample may be permanently stored in the DNA database maintained under section 59G(1) of the Police Force Ordinance (Cap 232) and may be used for the purposes specified in subsection (2) of that section.
- (5) The person from whom a non-intimate sample was taken pursuant to subsection (1) is entitled to access to the information derived from the analysis of the sample.
- (6) Any consent given for the taking of a non-intimate sample pursuant to this section must be given in writing and signed by the person giving the consent.
- (7) A non-intimate sample from a person may only be taken by-
- (a) a registered medical practitioner; or
 - (b) an officer, or a public officer working in the Government Laboratory, who has received training for the purpose.
- (8) An officer may use such force as is reasonably necessary for the purposes of taking or assisting the taking of a non-intimate sample from a person pursuant to this section.
- (9) In this section, sections 10F and 10G-
- "DNA" means deoxyribonucleic acid;
- "DNA information" (DNA 資料) means genetic information derived from the forensic DNA analysis of an intimate sample or a non-intimate sample;
- "intimate sample" (體內樣本) means-
- (a) a sample of blood, semen or any other tissue fluid, urine or hair other than head hair;
 - (b) a dental impression;
 - (c) a swab taken from a private part of a person's body or from a person's body orifice other than the mouth;
- "non-intimate sample" (非體內樣本) means-
- (a) a sample of head hair;
 - (b) a sample taken from a nail or from under a nail;
 - (c) a swab taken from any part, other than a private part, of a person's body or from the mouth but not any other body orifice;
 - (d) saliva;
 - (e) an impression of any part of a person's body other than-
 - (i) an impression of a private part;
 - (ii) an impression of the face; or
 - (iii) the identifying particulars described in section 59(6) of the Police Force Ordinance (Cap 232);
- "private part" (私處) in relation to a person's body, means the genital or anal area and includes the breasts in the case of a woman;
- "serious arrestable offence" (嚴重的可逮捕罪行) means an offence for which a person may be arrested under section 10 and for which a person may under or by virtue of any law be sentenced to imprisonment for a term not less than 7 years.

(Added 68 of 2000 s. 4)

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| Section: | 10F | Limitations on use of samples and results of forensic analysis | L.N. 100 of 2001 | 01/07/2001 |
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- (1) Without prejudice to subsection (4), no person shall have access to, dispose of or use a non-intimate sample taken pursuant to section 10E except for the purposes of-
- (a) forensic analysis in the course of an investigation of any offence for which a person may be arrested under section 10; or
 - (b) any proceedings for any such offence.

(2) Without prejudice to subsection (4), no person shall have access to, disclose or use the results of forensic analysis of a non-intimate sample taken pursuant to section 10E except-

- (a) for the purposes of-
 - (i) forensic comparison and interpretation in the course of investigation of any offence for which a person may be arrested under section 10;
 - (ii) any proceedings for such an offence; or
 - (iii) making the results available to the person to whom the results relate; or
- (b) for the purposes of section 59G(1) and (2) of the Police Force Ordinance (Cap 232) where the results are of forensic DNA analysis.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(4) Whether or not a non-intimate sample taken pursuant to section 10E or the results of forensic analysis of the sample has been destroyed under section 10G, no person shall use the sample or results in any proceedings for an offence for which a person may be arrested under section 10 after-

- (a) it is decided that a person from whom the sample was taken shall not be charged with any offence for which a person may be arrested under section 10;
- (b) if the person has been charged with one or more such offences-
 - (i) the charge or all the charges, as the case may be, is or are withdrawn;
 - (ii) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (iii) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.

(Added 68 of 2000 s. 4)

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| Section: | 10G | Disposal of samples and records | L.N. 100 of 2001 | 01/07/2001 |
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- (1) The Commissioner shall take reasonable steps to ensure that-
 - (a) a non-intimate sample taken pursuant to section 10E; and
 - (b) a record to the extent that it contains information about the sample and particulars that are identifiable by any person as particulars identifying that information with the person from whom the sample was taken,

which may be retained by him or on his behalf are destroyed as soon as practicable after-

- (i) if the person has not been charged with any offence for which a person may be arrested under section 10, the expiry of-
 - (A) subject to subparagraph (B), 12 months from the date on which the sample was taken ("the relevant period"); or
 - (B) such further period or periods as may be extended under subsection (2) ("the extended period");
- (ii) if the person has been charged with one or more offences for which a person may be arrested under section 10 within the relevant period and the extended period, if any-
 - (A) the charge or all the charges, as the case may be, is or are withdrawn;
 - (B) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (C) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.

(2) An officer of the rank of Assistant Director of the Commission Against Corruption or above may extend or further extend the relevant period for not more than 6 months for each extension if he is satisfied on reasonable grounds that it is necessary to the continuing investigation of the offence or offences in relation to which the sample was taken that the sample and the record concerned be retained.

(3) Subsection (1) shall not affect any DNA information which has already been permanently stored in the DNA database pursuant to section 59G(1)(a), (b) or (c) of the Police Force Ordinance (Cap 232).

- (4) Without prejudice to the operation of subsections (1) and (2), if-
 - (a) a person from whom a non-intimate sample was taken pursuant to section 10E has been convicted of one or more offences for which a person may be arrested under section 10; and
 - (b) there is no other charge against the person-
 - (i) in relation to an offence which a person may be arrested under section 10; and

(ii) which renders the retention of the sample necessary,
then the Commissioner shall take reasonable steps to ensure that the sample which may be retained by him or on his behalf is destroyed as soon as practicable after the conclusion of all proceedings (including any appeal) arising out of the conviction.

(Added 68 of 2000 s. 4)

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| Section: | 11 | Standing orders | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

- (1) The Commissioner may make orders, which shall be known as Commission standing orders, providing for-
 - (a) the control, direction and administration of the Commission;
 - (b) the discipline, training, classification and promotion of officers;
 - (c) the duties of officers;
 - (d) the financial regulation of the Commission;
 - (e) such other matters as may, in his opinion, be necessary or expedient for preventing abuse or neglect of duty and for upholding the integrity of the Commission.
- (2) The Commissioner may, with the prior approval of the Chief Executive, by standing order modify the application to officers of Public Service (Administration) Order, Government regulations or administrative rules applicable by virtue of section 8(4). (Amended 1 of 2003 s. 3)
- (3) No Commission standing order shall be inconsistent with any of the provisions of this Ordinance.

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| Section: | 12 | Duties of the Commissioner | 14 of 2003 | 09/05/2003 |
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It shall be the duty of the Commissioner, on behalf of the Chief Executive, to- (Amended 1 of 2003 s. 3)

- (a) receive and consider complaints alleging corrupt practices and investigate such of those complaints as he considers practicable;
- (b) investigate-
 - (i) any alleged or suspected offence under this Ordinance;
 - (ii) any alleged or suspected offence under the Prevention of Bribery Ordinance (Cap 201);
 - (iii) any alleged or suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); (Amended 10 of 2000 s. 47)
 - (iv) any alleged or suspected offence of blackmail committed by a prescribed officer by or through the misuse of his office; (Amended 14 of 2003 s. 22)
 - (v) any alleged or suspected conspiracy to commit an offence under the Prevention of Bribery Ordinance (Cap 201);
 - (vi) any alleged or suspected conspiracy to commit an offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554); and (Amended 10 of 2000 s. 47)
 - (vii) any alleged or suspected conspiracy (by 2 or more persons including a prescribed officer) to commit an offence of blackmail by or through the misuse of the office of that prescribed officer; (Replaced 16 of 1991 s. 3, Amended 14 of 2003 s. 22)
- (c) investigate any conduct of a prescribed officer which, in the opinion of the Commissioner is connected with or conducive to corrupt practices and to report thereon to the Chief Executive; (Amended 1 of 2003 s. 3; 14 of 2003 s. 22)
- (d) examine the practices and procedures of Government departments and public bodies, in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Commissioner, may be conducive to corrupt practices;
- (e) instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- (f) advise heads of Government departments or of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such departments or public bodies which the Commissioner thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- (g) educate the public against the evils of corruption; and
- (h) enlist and foster public support in combatting corruption.

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| Section: | 13 | Powers of the Commissioner | 14 of 2003 | 09/05/2003 |
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- (1) For the purpose of the performance of his functions under this Ordinance the Commissioner may-
- (a) authorize in writing any officer to conduct an inquiry or examination;
 - (b) enter any Government premises and require any prescribed officer to answer questions concerning the duties of any prescribed officer or public servant and require the production of any standing orders, directions, office manuals or instructions relating thereto;
 - (c) (Repealed 45 of 1992 s. 3)
 - (d) authorize in writing any person to perform any of his duties and to exercise such powers under this Ordinance and the Prevention of Bribery Ordinance (Cap 201) as he may specify. (Amended 10 of 2000 s. 47)
- (2) The Commissioner or any officer authorized for the purposes of this subsection in writing by the Commissioner shall have the following powers, namely-
- (a) as regards the performance of any of the Commissioner's functions under this Ordinance, access to all records, books and other documents relating to the work of any Government department in the possession or under the control of any prescribed officer;
 - (b) in so far as is necessary for the performance of any of the Commissioner's functions under section 12(d) or (f), access to such records, books and other documents in the possession or under the control of a public body as the Commissioner or such officer reasonably considers will reveal the practices and procedures of that public body;
 - (c) as regards any such records, books and other documents, power to photograph or make copies of them. (Replaced 48 of 1996 s. 23)
- (3) In this section "documents" (文件) has the meaning assigned to "document" in section 2 of the Prevention of Bribery Ordinance (Cap 201). (Added 48 of 1996 s. 23)
- (Amended 14 of 2003 s. 23)

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| Section: | 13A | Resisting or obstructing officers | | 30/06/1997 |
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Any person who resists or obstructs an officer in the execution of his duty shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months.

(Added 14 of 1976 s. 4. Amended 51 of 1987 s. 7)

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| Section: | 13B | False reports to officers | | 30/06/1997 |
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Any person who knowingly-

- (a) makes or causes to be made to an officer a false report of the commission of any offence; or
- (b) misleads an officer by giving false information or by making false statements or accusations,

shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year.

(Added 14 of 1976 s. 4. Amended 51 of 1987 s. 8)

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| Section: | 13C | Falsely pretending to be an officer, etc. | | 30/06/1997 |
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Any person who falsely pretends-

- (a) that he is an officer or has any of the powers of an officer under this Ordinance or the Prevention of Bribery Ordinance (Cap 201) or under any authorization or warrant under either of those Ordinances; or
- (b) that he is able to procure an officer to do or refrain from doing anything in connection with the duty of such officer,

shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year.

(Added 14 of 1976 s. 4)

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| Section: | 13D | Disposal of property connected with offences | | 30/06/1997 |
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Section 102 of the Criminal Procedure Ordinance (Cap 221) shall apply with respect to property in the possession of the Commissioner or any officer as it applies with respect to property in the possession of a court or the police.

(Added 14 of 1976 s. 4)

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| Section: | 13E | Time limit for prosecution of offences under section 13B or 13C | | 30/06/1997 |
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(1) Notwithstanding section 26 of the Magistrates Ordinance (Cap 227), a complaint may be made or an information laid in respect of an offence under section 13B or 13C within 1 year from the time when the matter of such complaint or information respectively arose.

(2) Where a person has, before the commencement of the Independent Commission Against Corruption (Amendment) Ordinance 1980 (27 of 1980), committed an offence under section 13B or 13C and but for subsection (1) would not be liable to prosecution for that offence by reason of section 26 of the Magistrates Ordinance (Cap 227), he shall, notwithstanding subsection (1), not be liable to be prosecuted for that offence.

(Added 27 of 1980 s. 6)

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| Section: | 14 | Estimates | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) In each financial year, before a date appointed by the Chief Executive, the Commissioner shall forward to the Chief Executive, for his approval, estimates of the expenditure of the Commission for the next financial year.

(2) The estimates shall be in such form and contain such information as the Chief Executive may require.

(Amended 1 of 2003 s. 3)

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| Section: | 15 | Accounts | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) The Commissioner shall maintain proper accounts of such expenditure by the Commission as the Chief Executive may require. (Amended 1 of 2003 s. 3)

(2) As soon as may be convenient after the end of each financial year, the Commissioner shall cause a statement of accounts during the previous financial year to be prepared.

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| Section: | 16 | Audit | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) The Director of Audit shall at any time be entitled to have access to all accounts maintained under section 15(1) and he may require such information and explanation thereon as he thinks fit.

(2) The Director of Audit shall audit the statement of accounts prepared under section 15(2) and report thereon to the Chief Executive. (Amended 1 of 2003 s. 3)

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| Section: | 17 | Annual report | 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) The Commissioner shall, on or before 31 March in each year, or by such later date as the Chief Executive

may allow, submit to the Chief Executive a report on the activities of the Commission in the previous year.

(2) The Chief Executive shall cause the report to be laid on the table of the Legislative Council.

(Amended 1 of 2003 s. 3)

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| Section: | 17A | Welfare fund | 30/06/1997 |
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(1) There shall be established a fund to be known as the "Independent Commission Against Corruption Welfare Fund".

(2) The fund shall consist of-

- (a) such donations and voluntary contributions as may be made thereto;
- (b) such sums as may, from time to time, be voted thereto by the Legislative Council; and
- (c) such sums as may accrue by way of dividend or interest from the investment of the fund or any part thereof.

(3) The fund shall be controlled by the Commissioner and applied to the following purposes-

- (a) procuring for officers of the Commission and other persons employed by the Commission or for former officers or persons so employed who have ceased employment or retired on pension, gratuity or other allowance, comforts, conveniences or other benefits not chargeable to the general revenue;
- (b) granting loans to officers of the Commission and other persons employed by the Commission or former officers of the Commission and other persons formerly employed by the Commission who have ceased to be employed or retired on pension, gratuity or other allowance;
- (c) making grants to persons who were wholly or partially dependent at the time of his death on-
 - (i) a deceased officer or a deceased former officer of the Commission who had ceased to be employed or had retired on pension, gratuity or other allowance; or
 - (ii) a deceased person employed by the Commission or a deceased person who was at any time employed by the Commission and who had ceased to be employed or had retired on pension, gratuity or other allowance,

and who are in need of financial assistance, whether towards the payment of funeral expenses of the deceased or otherwise.

(Added 27 of 1980 s. 7)

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| Section: | 18 | Saving of certain common law privileges | 30/06/1997 |
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Nothing in this Ordinance shall prejudice any claim to privilege which any person may have at common law in relation to any communication, document or other thing made or given to a solicitor or counsel.

(Added 14 of 1976 s. 5)

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| Section: | 18A | Investigation of pre-1977 offences | L.N. 362 of 1997; 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) Notwithstanding section 12, the Commissioner shall not act as required by paragraphs (a), (b) and (c) of that section in respect of alleged or suspected offences committed before 1 January 1977 except in relation to-

- (a) persons not in Hong Kong or against whom a warrant of arrest was outstanding on 5 November 1977;
- (b) any person who before 5 November 1977 had been interviewed by an officer and to whom allegations had been put that he had committed an offence;
- (c) an offence which the Chief Executive considers sufficiently heinous to warrant action.

(2) A certificate under the hand of the Chief Secretary for Administration stating the fact that the Chief Executive considers an offence sufficiently heinous to warrant action shall be conclusive evidence of that fact.
(Amended L.N. 362 of 1997)

(Added 9 of 1978 s. 2. Amended 1 of 2003 s. 3)

Independent Commission Against Corruption Ordinance, Hong Kong

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|----------|-----|---------------------------------|----------------|--------------|
| Chapter: | 201 | PREVENTION OF BRIBERY ORDINANCE | Gazette Number | Version Date |
|----------|-----|---------------------------------|----------------|--------------|

| | | | |
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| | | Long title | 30/06/1997 |
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To make further and better provision for the prevention of bribery and for purposes necessary thereto or connected therewith.

[14 May 1971] *L.N. 58 of 1971*

(Originally 102 of 1970)

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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 Prevention of Bribery Ordinance.

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| Section: | 2 | Interpretation | 14 of 2003 | 09/05/2003 |
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(1) In this Ordinance, unless the context otherwise requires-
"advantage" (利益) means-

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), particulars of which are included in an election return in accordance with that Ordinance; (Amended 33 of 1991 s. 2; 10 of 2000 s. 47)

"agent" (代理人) includes a public servant and any person employed by or acting for another;

"banker's books" (銀行簿冊) means-

- (a) any ledger, ledger card, statement of account, day book, cash book, account book or other book or document whatsoever;
 - (b) any cheque, voucher, record card, report, letter or other document whatsoever; and
 - (c) any copy of anything referred to in paragraph (a) or (b), used in the ordinary business of a bank;
- (Replaced 28 of 1980 s. 2)

"child" (子女) includes a child who is illegitimate or adopted, a foster child and a step-child;

"Commissioner" (專員) means the Commissioner of the Independent Commission Against Corruption appointed in accordance with the Basic Law and includes the Deputy Commissioner appointed under section 6 of the Independent Commission Against Corruption Ordinance (Cap 204) and the person appointed to act as the Commissioner of the Independent Commission Against Corruption under section 7(2) of that Ordinance; (Replaced 1 of 2003 s. 3)

"company books" (公司簿冊) means the annual return and balance sheets and any ledger, day book, cash book, account book, bank book, report, letter or other book or document used in the ordinary business of a company; (Amended 28 of 1980 s. 2)

"court" (法庭) includes a magistrate hearing proceedings with a view to committal for trial under section 85 of the Magistrates Ordinance (Cap 227);

"document" (文件) includes any register, book, record, tape-recording, any form of computer input or output, and any other material (whether produced mechanically, electrically, or manually or by any other means whatsoever); (Added 28 of 1980 s. 2)

"entertainment" (款待) means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions;

"investigating officer" (調查人員) means any person authorized by the Commissioner to exercise the powers of an investigating officer under this Ordinance; (Added 9 of 1974 s. 2)

"parents" (父母) includes parents-in-law and step-parents;

"prescribed officer" (訂明人員) means-

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a))-
 - (i) any principal official of the Government appointed in accordance with the Basic Law;
 - (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66) and any person appointed under section 5A(3) of that Ordinance;
 - (iii) Chairman of the Public Service Commission;
 - (iv) any member of the staff of the Independent Commission Against Corruption;
 - (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary; (Added 14 of 2003 s. 13)

"principal" (主事人) includes-

- (a) an employer;
- (b) a beneficiary under a trust;
- (c) a trust estate as though it were a person;
- (d) any person beneficially interested in the estate of a deceased person;
- (e) the estate of a deceased person as though it were a person; and
- (f) in the case of an employee of a public body, the public body;

"public body" (公共機構) means-

- (a) the Government;
- (b) the Executive Council;
- (c) the Legislative Council;
- (d) (Repealed 78 of 1999 s. 7)
- (da) any District Council; (Added 42 of 1981 s. 27. Amended 8 of 1999 s. 89)
- (db) (Repealed 78 of 1999 s. 7)
- (e) any board, commission, committee or other body, whether paid or unpaid, appointed by or on behalf of the Chief Executive or the Chief Executive in Council; and (Amended 1 of 2003 s. 3)
- (f) any board, commission, committee or other body specified in Schedule 1; (Amended 20 of 1999 s. 2)

"public servant" (公職人員) means any prescribed officer and also any employee of a public body and- (Amended 48 of 1996 s. 2; 14 of 2003 s. 13)

- (a) in the case of a public body other than a body referred to in paragraph (aa), (b) or (c) of this definition, any member of the public body; (Amended 20 of 1999 s. 2)
- (aa) in the case of a public body specified in Schedule 2-
 - (i) an office holder of the public body (other than an honorary office holder);
 - (ii) any member of any council, board, committee or other body of the public body which is vested with any responsibility for the conduct or management of the affairs of the public body; (Added 20 of 1999 s. 2)
- (b) in the case of a public body which is a club or association, any member of the public body who-
 - (i) is an office holder of the body (other than an honorary office holder); or
 - (ii) is vested with any responsibility for the conduct or management of its affairs;
- (c) in the case of a public body which is an educational institution established or continued in being by an Ordinance, any officer of the institution and, subject to subsection (3), any member of any council,

board, committee or other body of the institution, which is itself a public body, or which-

- (i) is established by or under the Ordinance relating to the institution;
- (ii) is vested with any responsibility for the conduct or management of the affairs of the institution (not being affairs of a purely social, recreational or cultural nature); and
- (iii) is not excluded under subsection (3),

whether the employee, officer or member is temporary or permanent and whether paid or unpaid, but-

- (A) the holding of a share by a person in a company which is a public body; or
- (B) the entitlement of a person to vote at meetings of a club or association which is a public body,

shall not of itself constitute that person a public servant; (Replaced 50 of 1987 s. 2)

"spouse" (配偶) includes a concubine.

- (2) For the purposes of this Ordinance-
 - (a) a person offers an advantage if he, or any other person acting on his behalf, directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any advantage to or for the benefit of or in trust for any other person;
 - (b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and
 - (c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.
- (3) The Chief Executive may by notice in the Gazette- (Amended 1 of 2003 s. 3)
 - (a) exclude, for the purposes of the definition of "public servant" in subsection (1), any council, board, committee or other body of any educational institution specified in the notice;
 - (b) exclude from the definition of "public servant" any member of any council, board, committee or other body of any educational institution, who would otherwise by virtue of his membership thereof fall within that definition. (Added 50 of 1987 s. 2)

(Amended 14 of 2003 s. 13)

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| Section: | 3 | Soliciting or accepting an advantage | 14 of 2003 | 09/05/2003 |
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PART II

OFFENCES

Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.

(Amended 1 of 2003 s. 3; 14 of 2003 s. 14)

Note:

The Acceptance of Advantages (Chief Executive's Permission) Notice 2007 was given by the Chief Executive and published as G.N. 1133 in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007 for the purpose of this section.

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| Section: | 4 | Bribery | 22 of 2008 | 04/07/2008 |
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(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's- (Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his- (Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2A) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's-

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence. (Added 22 of 2008 s. 2)

(2B) If the Chief Executive, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his-

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

he shall be guilty of an offence. (Added 22 of 2008 s. 2)

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section. (Added 28 of 1980 s. 3. Amended 14 of 2003 s. 15)

(4) For the purposes of subsection (3) permission shall be in writing and-

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 3)

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| Section: | 5 | Bribery for giving assistance, etc. in regard to contracts | 22 of 2008 | 04/07/2008 |
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(1) Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used influence in-

- (a) the promotion, execution, or procuring of-
 - (i) any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, or
 - (ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as aforesaid, shall be guilty of an offence.

(2) Any public servant who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in-

(a) the promotion, execution or procuring of, or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in, any such contract or subcontract as is referred to in subsection (1) shall be guilty of an offence.

(3) Any person who, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's giving assistance or using influence in, or having given assistance or used influence in-

(a) the promotion, execution or procuring of-

(i) any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance; or

(ii) any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as is referred to in paragraph (a), shall be guilty of an offence. (Added 22 of 2008 s. 3)

(4) If the Chief Executive, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in-

(a) the promotion, execution or procuring of; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in, any such contract or subcontract as is referred to in subsection (3)(a), he shall be guilty of an offence. (Added 22 of 2008 s. 3)

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| Section: | 6 | Bribery for procuring withdrawal of tenders | 30/06/1997 |
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(1) Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for such a contract as is referred to in subsection (1), shall be guilty of an offence.

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| Section: | 7 | Bribery in relation to auctions | 30/06/1997 |
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(1) Any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

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| Section: | 8 | Bribery of public servants by persons having dealings with public bodies | 14 of 2003 | 09/05/2003 |
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(1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence. (Amended 14 of 2003 s. 16)

(2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

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| Section: | 9 | Corrupt transactions with agents | | 30/06/1997 |
|----------|---|----------------------------------|--|------------|

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his-

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's-

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document-

- (a) in respect of which the principal is interested; and
- (b) which contains any statement which is false or erroneous or defective in any material particular; and
- (c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2). (Replaced 28 of 1980 s. 4)

(5) For the purposes of subsection (4) permission shall-

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 4)

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| Section: | 10 | Possession of unexplained property | 22 of 2008 | 04/07/2008 |
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(1) Any person who, being or having been the Chief Executive or a prescribed officer- (Amended 14 of 2003 s. 17; 22 of 2008 s. 4)

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.

(1A) If the accused in any proceedings for an offence under subsection (1) is or has been the Chief Executive, the court, in determining whether the accused has given a satisfactory explanation as provided in that subsection, shall take into account assets that he declared to the Chief Justice pursuant to Paragraph 2, Article 47 of the Basic Law. (Added 22 of 2008 s. 4)

(1B) The Chief Justice shall disclose to a court information about assets declared to him pursuant to Paragraph 2, Article 47 of the Basic Law if the disclosure is required by an order made by the court for the purposes of subsection (1A). (Added 22 of 2008 s. 4)

(2) Where a court is satisfied in proceedings for an offence under subsection (1)(b) that, having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources

or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused. (Added 9 of 1974 s. 3. Amended 48 of 1996 s. 3)

(3)-(4) (Repealed 56 of 1973 s. 2)

(5) In this section, "official emoluments" (公職薪俸) includes a pension or gratuity payable under the Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap 401). (Amended 36 of 1987 s. 44; 85 of 1988 s. 51)

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| Section: | 11 | Giver and acceptor of bribe to be guilty notwithstanding that purpose not carried out, etc. | | 30/06/1997 |
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(1) If, in any proceedings for an offence under any section in this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or reward for or otherwise on account of his doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall be no defence that-

- (a) he did not actually have the power, right or opportunity so to do or forbear;
- (b) he accepted the advantage without intending so to do or forbear; or
- (c) he did not in fact so do or forbear.

(2) If, in any proceedings for an offence under any section in this Part, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

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| Section: | 12 | Penalty for offences | 25 of 1998; 1 of 2003 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2; 1 of 2003 s. 3

(1) Any person guilty of an offence under this Part, other than an offence under section 3, shall be liable-

- (a) on conviction on indictment-
 - (i) for an offence under section 10, to a fine of \$1000000 and to imprisonment for 10 years;
 - (ii) for an offence under section 5 or 6, to a fine of \$500000 and to imprisonment for 10 years; and
 - (iii) for any other offence under this Part, to a fine of \$500000 and to imprisonment for 7 years; and
 (Replaced 50 of 1987 s. 3)
- (b) on summary conviction-
 - (i) for an offence under section 10, to a fine of \$500000 and to imprisonment for 3 years; and
 - (ii) for any other offence under this Part, to a fine of \$100000 and to imprisonment for 3 years,
 (Replaced 50 of 1987 s. 3)

and shall be ordered to pay to such person or public body and in such manner as the court directs, the amount or value of any advantage received by him, or such part thereof as the court may specify. (Amended 28 of 1980 s. 5)

(2) Any person guilty of an offence under section 3 shall be liable on conviction to a fine of \$100000 and to imprisonment for 1 year, and shall be ordered to pay to the Government in such manner as the court directs the amount or value of the advantage received by him or such part thereof as the court may specify. (Amended 9 of 1974 s. 4; 28 of 1980 s. 5; 1 of 2003 s. 3)

(3) In addition to any penalty imposed under subsection (1), the court may order a person convicted of an offence under section 10(1)(b) to pay to the Government- (Amended 1 of 2003 s. 3)

- (a) a sum not exceeding the amount of the pecuniary resources; or
- (b) a sum not exceeding the value of the property,

the acquisition of which by him was not explained to the satisfaction of the court. (Added 9 of 1974 s. 4)

(4) An order under subsection (3) may be enforced in the same manner as a judgment of the High Court in its civil jurisdiction. (Added 9 of 1974 s. 4. Amended 25 of 1998 s. 2)

(5) An order may be made under subsection (3) in respect of an offence under section 10(1)(b) where the facts that gave rise to that offence arose before 15 February 1974. (Added 61 of 1980 s. 2)

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| Section: | 12A | Conspiracy | | 30/06/1997 |
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Remarks:

Due to technical constraints, sections 12AA, 12AB and 12AC of this Ordinance are placed after section 12A in the BLIS system. The correct sequence of the sections should be "12AA, 12AB, 12AC, 12A".

(1) Any person convicted of conspiracy to commit an offence under this Part shall be dealt with and punished in like manner as if convicted of such offence and any rules of evidence which apply with respect to the proof of any such offence shall apply in like manner to the proof of conspiracy to commit such offence.

(2) The powers of investigation conferred by Part III of this Ordinance shall apply with respect to a conspiracy to commit an offence under this Ordinance in like manner as they apply to the investigation of any such offence.

(Added 28 of 1980 s. 6)

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|----------|------|------------------------|--------------------------------|------------|
| Section: | 12AA | Confiscation of assets | L.N. 362 of 1997; 1 of 2003 | 01/07/1997 |
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Remarks:

- Due to technical constraints, sections 12AA, 12AB and 12AC of this Ordinance are placed after section 12A in the BLIS system. The correct sequence of the sections should be "12AA, 12AB, 12AC, 12A".
- Adaptation amendments retroactively made - see 1 of 2003 s. 3

(1) Subject to this section, where a person is convicted on indictment of an offence under section 10(1)(b) the court may, in addition to any penalty imposed under section 12(1), order the confiscation of any pecuniary resources or property-

- found at the trial to be in his control as provided in section 10; and
- of an amount or value not exceeding the amount or value of pecuniary resources or property the acquisition of which by him was not explained to the satisfaction of the court.

(2) Any application for an order under subsection (1) shall be made by the Secretary for Justice within 28 days after the date of the conviction. (Amended L.N. 362 of 1997)

(3) An order under subsection (1) shall not be made in respect of pecuniary resources or property held by a person other than the person convicted unless that other person has been given reasonable notice that such an order may be made and has had an opportunity to show cause why it should not be made.

(4) An order under subsection (1) shall not be made in respect of pecuniary resources or property held by a person other than the person convicted if that other person satisfies the court in any proceedings to show cause under subsection (3) that he had-

- acted in good faith as regards the circumstances in which the pecuniary resources or property came to be held by him; and
- so acted in relation to the pecuniary resources or property that an order in the circumstances would be unjust.

(5) Nothing in subsection (4) shall be construed as limiting the court's discretion to decline to make an order under subsection (1) on grounds other than those specified in subsection (4).

(6) An order under subsection (1)-

- may be made subject to such conditions as the court thinks fit in all the circumstances of the case; and
- may be made in respect of an offence under section 10(1)(b) where the facts that gave rise to that offence occurred before the date of commencement of the Prevention of Bribery (Amendment) Ordinance 1987 (50 of 1987).

(7) A court may make orders under both subsection (1) and section 12(3) in respect of the same offence but shall not make orders under both provisions in respect of the same pecuniary resources or property.

(8) An order under subsection (1) may make provision for taking possession of pecuniary resources or property to which the order applies and for the disposal of such resources or property by or on behalf of the Government. (Amended 1 of 2003 s. 3)

(Added 50 of 1987 s. 4)

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|----------|------|-----------------------------------|--|------------|
| Section: | 12AB | Appeal against confiscation order | | 30/06/1997 |
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Remarks:

Due to technical constraints, sections 12AA, 12AB and 12AC of this Ordinance are placed after section 12A in the BLIS system. The correct sequence of the sections should be "12AA, 12AB, 12AC, 12A".

(1) Subject to this section, where an order is made under section 12AA in respect of pecuniary resources or property held by a person other than the person convicted, that other person may, within 28 days after the date of making the order, appeal against the order to the Court of Appeal.

(2) On an appeal under this section the Court of Appeal may-

(a) confirm the order, with or without modification; or

(b) quash the order and make such other order (if any) under section 12AA as it thinks appropriate.

(3) Proceedings under this section shall not operate as a stay of execution of an order unless the court which makes the order or the Court of Appeal otherwise orders and any stay of execution may be subject to such conditions as to costs, the giving of security or otherwise as the court or the Court of Appeal thinks fit.

(4) Subject to this section, an appeal shall be brought in such manner and shall be subject to such conditions as are prescribed by rules made under subsection (5).

(5) The Criminal Procedure Rules Committee constituted under section 9 of the Criminal Procedure Ordinance (Cap 221) may make rules of procedure for the purposes of this section. (Amended 13 of 1995 s. 28)

(6) Nothing in this section shall prejudice or affect the right of a convicted person to appeal against his sentence under Part IV of the Criminal Procedure Ordinance (Cap 221).

(Added 50 of 1987 s. 4)

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| Section: | 12AC | Costs in proceedings on confiscation order | 25 of 1998 | 01/07/1997 |
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Remarks:

1. Due to technical constraints, sections 12AA, 12AB and 12AC of this Ordinance are placed after section 12A in the BLIS system. The correct sequence of the sections should be "12AA, 12AB, 12AC, 12A".

2. Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) The court or the Court of Appeal, as the case may be, may, if it thinks fit, award to any person his reasonable costs in respect of any proceedings before it in relation to-

(a) the making of an order under section 12AA; or

(b) an appeal under section 12AB,

where such an order is not made or is quashed.

(2) Any costs awarded under subsection (1)-

(a) shall, except where the amount is fixed by the court or the Court of Appeal, be ascertained by the Registrar of the High Court; and (Amended 25 of 1998 s. 2)

(b) shall be paid from general revenue.

(Added 50 of 1987 s. 4)

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|----------|----|---------------------------------|------------|------------|
| Section: | 13 | Special powers of investigation | 25 of 1998 | 01/07/1997 |
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

PART III

POWERS OF INVESTIGATION

(1) Where the Commissioner is satisfied that there is reasonable cause to believe-

(a) that an offence under this Ordinance may have been committed by any person; and

(b) that any share account, purchase account, club account, subscription account, investment account, trust account, mutual or trust fund account, expense account, bank account or other account of whatsoever kind or description, and any banker's books, company books, documents or other article of or relating

to any person named or otherwise identified in writing by the Commissioner are likely to be relevant for the purposes of an investigation of such offence,
he may for those purposes authorize in writing any investigating officer on production by him of the authorization if so required-

- (i) to investigate and inspect such accounts, books or documents or other article of or relating to the person named or otherwise identified by the Commissioner;
- (ii) to require from any person the production of such accounts, books, documents, or other article of or relating to the person named or otherwise identified by the Commissioner which may be required for the purposes of such investigation and the disclosure of all or any information relating thereto, and to take copies of such accounts, books or documents or of any relevant entry therein and photographs of any other article.

(Replaced 48 of 1996 s. 4)

(1A) The Commissioner shall not, without the leave of the Court of First Instance obtained on ex parte application in chambers, issue an authorization under or by virtue of which any particular person who is alleged or suspected to have committed an offence under this Ordinance can be required to comply with any requirement of the description mentioned in subsection (1)(i) and (ii). (Added 48 of 1996 s. 4)

(1B) The Court of First Instance shall not grant leave for the issue of an authorization under subsection (1)(i) and (ii) unless, on consideration of an application under subsection (1A), it is satisfied as to the matters that the Commissioner is required to be satisfied under subsection (1). (Added 48 of 1996 s. 4)

(2) (a) Every authorization given under subsection (1) shall be deemed also to authorize the investigating officer to require from any person information as to whether or not at any bank, company or other place there is any account, book, document or other article liable to investigation, inspection or production under such authorization. (Amended 9 of 1974 s. 5; 50 of 1987 s. 5; 48 of 1996 s. 4)

(b) A requirement under paragraph (a) shall be made in writing and any statement therein as to the existence of the appropriate authorization under subsection (1) shall be accepted as true without further proof of the fact.

(3) Any person who, having been lawfully required under this section to disclose any information or to produce any accounts, books, documents or other article to an investigating officer authorized under subsection (1), shall, notwithstanding the provisions of other Ordinance or rule of law to the contrary save only the provisions of section 4 of the Inland Revenue Ordinance (Cap 112), comply with such requirement, and any such person who fails or neglects, without reasonable excuse, so to do, and any person who obstructs any such investigating officer in the execution of the authorization given under subsection (1), shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year. (Amended 9 of 1974 s. 5; L.N. 374 of 1991; 48 of 1996 s. 4)

(4) Any person who falsely represents that an appropriate authorization has been given under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year.

(Amended 25 of 1998 s. 2)

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| Section: | 13A | Order to make material available and to render assistance | 25 of 1998 | 01/07/1997 |
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) The Commissioner or an investigating officer with the approval of the Commissioner or the Deputy Commissioner may, for the purpose of an investigation into, or proceedings relating to, an offence suspected to have been committed under this Ordinance, make an ex parte application to the Court of First Instance in chambers for an order under subsection (2) in relation to particular material or material of a particular description held by the Commissioner of Inland Revenue or by any officer of the Inland Revenue Department. (Amended 25 of 1998 s. 2)

(2) Subject to subsection (6), the Court of First Instance may, if on such an application it is satisfied that- (Amended 25 of 1998 s. 2)

- (a) there are reasonable grounds for suspecting that an offence under this Ordinance has been committed;
- (b) there are reasonable grounds for believing that the material to which the application relates is likely to be relevant to the investigation or proceedings for the purpose of which the application is made; and
- (c) there are reasonable grounds for believing that it is in the public interest, having regard to-
 - (i) the seriousness of the offence suspected to have been committed;

- (ii) whether or not the suspected offence could be effectively investigated if an order under this subsection is not made;
- (iii) the benefit likely to accrue to the investigation or proceedings if the material is so produced or if access to it is given; and
- (iv) the public interest in preserving secrecy with regard to matters relating to the affairs of persons that may come to the knowledge of the Commissioner of Inland Revenue or to any officer of the Inland Revenue Department in the performance of their duties under the Inland Revenue Ordinance (Cap 112),

make an order that the Commissioner of Inland Revenue or any officer of the Inland Revenue Department-

- (i) shall-
 - (A) produce the material for the Commissioner or an investigating officer to take away; or
 - (B) give them access to it,
 within such period as the order may specify;
- (ii) shall, in relation to that material, render to the Commissioner or an investigating officer in the exercise of the powers of the Commissioner or an investigating officer or the discharge of the duties of the Commissioner or an investigating officer under this Ordinance such assistance as the Commissioner or an investigating officer, as the case may be, may reasonably require.

(3) The period to be specified in an order under subsection (2) shall be 7 days unless it appears to the Court of First Instance that a longer or shorter period would be appropriate in the particular circumstances of the application. (Amended 25 of 1998 s. 2)

(4) Where an order is made under subsection (2) the Commissioner of Inland Revenue or any officer of the Inland Revenue Department shall, notwithstanding the provisions of any other law to the contrary including the provisions of section 4 of the Inland Revenue Ordinance (Cap 112) and sections 13 and 14 of this Ordinance, comply with the terms of that order within such period as the order may specify.

(5) For the purposes of the prosecution of an offence under this Ordinance where an order is made under subsection (2), the giving of evidence by the Commissioner of Inland Revenue or any officer of the Inland Revenue Department in relation to particular material or material of a particular description with respect to which the order is made shall not be subject to any obligation as to secrecy or other restriction as to disclosure imposed by section 4 of the Inland Revenue Ordinance (Cap 112) or otherwise.

(6) Where an application under subsection (1) relates to material of a particular description, an order under subsection (2) shall only be made where an application in relation to particular material is not reasonably practicable.

(7) Where material to which an application under this section relates consists of information recorded otherwise than in legible form-

- (a) an order under subsection (2)(i)(A) shall have effect as an order to produce the material in a form in which it can be taken away; and
- (b) an order under subsection (2)(i)(B) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(8) Where an order made under subsection (2)(i) relates to information recorded otherwise than in legible form, the Commissioner or an investigating officer may by notice in writing require the Commissioner of Inland Revenue or an officer of the Inland Revenue Department to produce the material in a form in which it is visible and legible and can be taken away.

(9) The Commissioner or an investigating officer may by notice in writing-

- (a) extend the period specified in an order under subsection (2) (and any such extension shall be deemed to be an order made by the Court of First Instance under that subsection); (Amended 25 of 1998 s. 2)
- (b) release the Commissioner of Inland Revenue or an officer of the Inland Revenue Department from any obligation under an order of the description mentioned in subsection (8) to produce material in the form in which it was recorded.

(10) The Commissioner or an investigating officer may photograph or make copies of any material produced under this section.

(Added 48 of 1996 s. 5)

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| Section: | 13B | Disclosure of information obtained under section 13A | L.N. 362 of 1997 | 01/07/1997 |
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Where any information subject to an obligation of secrecy under the Inland Revenue Ordinance (Cap 112) has been obtained from the Commissioner of Inland Revenue or any officer of the Inland Revenue Department under or

including an order in respect of which a direction is made under subsection (7), in contravention of that order commits an offence and is liable on conviction to a fine of \$10000 and to imprisonment for 6 months.

(Added 48 of 1996 s. 5. Amended L.N. 362 of 1997)

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|----------|----|-----------------------------|------------|------------|
| Section: | 14 | Power to obtain information | 25 of 1998 | 01/07/1997 |
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1A) The Commissioner or an investigating officer may, for the purpose of an investigation into, or proceedings relating to, an offence suspected to have been committed by any person under this Ordinance, make an ex parte application to the Court of First Instance in chambers for an order under subsection (1). (Added 48 of 1996 s. 6. Amended 25 of 1998 s. 2)

(1B) The Court of First Instance shall not make an order under subsection (1) unless on an ex parte application made to it under subsection (1A) it is satisfied that there are reasonable grounds for suspecting that- (Amended 25 of 1998 s. 2)

- (a) in the case of an application relating to subsection (1)(c), that the information to be required from the person being the subject of the application is likely to be relevant to the investigation or the proceedings;
- (b) in the case of an application relating to subsection (1)(d) or (e), that the person being the subject of the application has or may reasonably have access to information likely to be relevant to the investigation or the proceedings. (Added 48 of 1996 s. 6)

(1) Where on an application under subsection (1A) the Court of First Instance is satisfied that there are reasonable grounds for suspecting that an offence under this Ordinance has been committed it may make an order authorizing the Commissioner by a notice in writing to require- (Replaced 48 of 1996 s. 6. Amended 25 of 1998 s. 2)

- (a) such person to furnish to the investigating officer specified in such notice a statutory declaration or, as the Commissioner sees fit, a statement in writing, enumerating-
 - (i) the property, being property in such categories or classes of property, movable or immovable, as may be specified in such notice, belonging to or possessed by, or which at any time during the 3 years immediately preceding the date of such notice or during such shorter period as may be specified in such notice belonged to or was possessed by, such person, his agents or trustees, specifying in respect of each property enumerated whether it is or was possessed jointly (and, if so, with whom) or severally; and specifying the date upon which, and the person from whom, each such property was acquired and whether by purchase, gift, bequest, inheritance or otherwise, and, where it was acquired by purchase, specifying the consideration paid therefor; and in respect of any property enumerated which has been disposed of, whether by sale, gift or otherwise, at any time during the 3 years immediately preceding the date of the notice or such shorter period as aforesaid, specifying how and to whom the same was disposed of and, where it was disposed of by sale, specifying the consideration given therefor; (Amended 50 of 1987 s. 6)
 - (ii) all expenditure incurred by such person in respect of himself, his spouse, parents or children with regard to living expenses and other private expenditure during any period specified in such notice (not, however, being a period commencing earlier than 3 years from the date of the notice);
 - (iii) all liabilities incurred by such person, his agents or trustees, at such time or during such period as may be specified in such notice (not, however, being a time or a period commencing earlier than 3 years from the date of the notice), and specifying in respect of each such liability whether it was incurred jointly (and, if so, with whom) or severally; (Amended 28 of 1980 s. 7)
- (b) such person to furnish to the investigating officer specified in such notice a statutory declaration or, as the Commissioner sees fit, a statement in writing of any money or other property sent out of Hong Kong by him or on his behalf during such period as may be specified in the notice; (Amended 50 of 1987 s. 14)
- (c) any other person to furnish to the investigating officer specified in such notice a statutory declaration or, as the Commissioner sees fit, a statement in writing enumerating the property, being property in such categories or classes of property, movable or immovable, as may be specified in such notice, belonging to or possessed by him and further stating, in respect of each such property, the date upon which and the person from whom it was acquired, if the Commissioner believes that such information

- may assist the investigation or proceedings; (Amended 50 of 1987 s. 6)
- (d) any other person whom the Commissioner believes to be acquainted with any facts relevant to such investigation or proceedings to furnish to the investigating officer specified in such notice all information in his possession or to which he may reasonably have access (not being information readily available to the public) respecting such matters as are specified in the notice or, as the Commissioner sees fit, to appear before the investigating officer specified in such notice or such other person specified in the notice and to answer orally on oath or affirmation any questions relevant thereto; and, on demand by the investigating officer specified in such notice or such other person, to produce or deliver or otherwise furnish to him the original or a copy of any document in his possession or under his control or to which he may reasonably have access (not being a document readily available to the public) which, in the opinion of the investigating officer specified in such notice or such other person, may be relevant to such investigation or proceedings; for the purposes of this paragraph the investigating officer specified in such notice or such other person shall have authority to administer any oath or take any affirmation; (Amended 28 of 1980 s. 7)
 - (e) the person in charge of any public body or any department, office or establishment of any public body to produce or furnish to the investigating officer specified in such notice any document or a copy, certified by the person in charge, of any document which is in his possession or under his control or to which he may reasonably have access (not being a document readily available to the public); (Amended 28 of 1980 s. 7)
 - (f) the manager of any bank to give to the investigating officer specified in such notice copies of the accounts of such person or of his spouse, parents or children at the bank as shall be named in the notice.
- (2) Without prejudice to the generality thereof, the powers conferred by subsection (1)(d) include the power to require information from, and to require the attendance for the purpose of answering questions of-
- (a) any person, or any employee of any person, who has acted for or is acting for any party to any particular land or property transaction; and
 - (b) any person, or any employee of any person, who was concerned in the passing of any consideration, brokerage, commission or fee, or in the clearing or collection of any cheque or other instrument of exchange, respecting any particular land or property transaction,
- as to any of the following matters, that is to say-
- (i) the full names (including aliases) and addresses of any of the persons referred to in paragraphs (a) and (b) and any other information in his possession which may be helpful in identifying or locating any such person;
 - (ii) any consideration, brokerage, commission or fee paid or received in respect of or in connection with any such land or property transaction; and
 - (iii) the terms and conditions of any such land or property transaction.
- (3) A notice under subsection (1) shall be served on the person to whom it is addressed either personally or by registered post addressed to his last known place of business or residence.
- (4) Every person on whom a notice under subsection (1) is served shall, notwithstanding the provisions of other Ordinance or rule of law to the contrary save only the provisions of section 4 of the Inland Revenue Ordinance (Cap 112), comply with the terms of that notice within such time as may be specified therein or within such further time as the Commissioner may, in his discretion, authorize, and any person on whom such a notice has been served, who, without reasonable excuse, neglects or fails so to comply shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year. (Amended 25 of 1998 s. 2)
- (5) A person who wilfully makes any false statement in answer to a notice under subsection (1) shall be guilty of an offence and shall be liable to a fine of \$20000 and to imprisonment for 1 year. (Added 9 of 1974 s. 6)
- (Amended 9 of 1974 s. 6)

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| Section: | 14A | (Repealed 48 of 1996 s. 17) | 30/06/1997 |
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(Repealed 48 of 1996 s. 17)

Notes:

1. Please see the saving provisions contained in s. 18 of 48 of 1996, which section is reproduced as follows-

"18. Savings

(1) Notwithstanding the repeal of section 14A of the principal Ordinance by section 17 of this Ordinance, a written notice issued under section 14A(1) of the principal Ordinance and in force immediately before the coming into operation of this Ordinance, shall continue in force according to its tenor for such period as it would have continued in force had section 14A of the principal Ordinance not been repealed and shall as from the coming into operation of this Ordinance be treated as if it were an order made by the District Court and served under section 14C of the principal Ordinance prior to its amendment by section 7 of this Ordinance.

(2) Notwithstanding the amendment of section 14C of the principal Ordinance by section 7 of this Ordinance, an order issued under section 14C(1) of the principal Ordinance and in force immediately before the coming into operation of this Ordinance shall continue in force according to its tenor for such period as it would have continued in force had section 14C of the principal Ordinance not been amended and shall as from the coming into operation of this Ordinance be treated as if it were an order made by the District Court and served under section 14C of the principal Ordinance prior to its amendment by section 7 of this Ordinance."

2. For text of s. 14A prior to its repeal by s. 17 of 48 of 1996, please see the Revised Edition of the Laws and ss. 2 & 3 of 8 of 1993.

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| Section: | 14B | (Repealed 48 of 1996 s. 17) | | 30/06/1997 |
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| Section: | 14C | Restraining orders | 25 of 1998 | 01/07/1997 |
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

- (1) If, on application ex parte by or on behalf of the Commissioner, the court is satisfied that-
- any property is in the possession of or under the control of or is due to a person (hereinafter in this section and in sections 14D and 14E referred to as the "suspected person"), who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by him under this Ordinance or against whom a prosecution for such an offence has been instituted, from another person (hereinafter so referred to as the "third party"); or
 - a third party is holding any property for or on behalf of or to the order of a suspected person,
- the court may make an order under this subsection (hereinafter so referred to as a "restraining order").
- (2) In making a restraining order the court may-
- impose such conditions; or
 - exempt such property from the operation thereof (including periodic payments of money),
- as it thinks fit, but subject as aforesaid, the suspected person and any third party on whom a restraining order is served in accordance with subsection (3) shall not dispose of or otherwise deal with any property specified in the restraining order save in accordance with directions of the court.
- (2A) A restraining order shall, if so provided in the order, apply to the income from any property specified therein as it applies to the property itself. (Added 50 of 1987 s. 8)
- (3) A restraining order shall be served on the suspected person and any third party to whom it is directed and may be served by delivering it to him or them personally or may, where the court is satisfied that such person cannot be found or is not in Hong Kong, be served in such other manner as the court may direct on application ex parte by or on behalf of the Commissioner. (Amended 15 of 1976 s. 3)
- (3A) Where any property specified in a restraining order is immovable property, such order shall be deemed to be an instrument affecting land and shall be registrable as such in the Land Registry under the Land Registration Ordinance (Cap 128) in such manner as the Land Registrar thinks fit. (Added 28 of 1980 s. 10. Amended 8 of 1993 ss. 2 & 3)
- (3B) Where any property specified in a restraining order includes any debt or obligation due by a bank or deposit-taking company to the person to whom the notice is given the Commissioner may serve on such bank or deposit-taking company a copy of that restraining order which copy restraining order shall have the effect of directing the bank or deposit-taking company with respect to the person specified in the copy restraining order not to pay,

liquidate, satisfy, settle or discharge that debt or obligation either in whole or in part without the consent of the court. (Added 48 of 1996 s. 7)

- (4) Subject to subsection (5), a restraining order with respect to property-
 - (a) of the description mentioned in subsection (1)(a) shall continue in force for a period of 12 months from the making thereof, but on application by or on behalf of the Commissioner the court may extend its operation for periods of 12 months at a time;
 - (b) of the description mentioned in subsection (1)(b) shall continue in force for a period of 6 months from the making thereof, but on application by or on behalf of the Commissioner the court may extend its operation for periods of 3 months at a time. (Replaced 48 of 1996 s. 7)
- (5) Where-
 - (a) a restraining order is made with respect to a third party or a suspected person against whom a prosecution for an offence under this Ordinance has been instituted; or
 - (b) a restraining order is in force with respect to a third party or a suspected person against whom a prosecution for such an offence is instituted,

the restraining order shall, except in the case of a prosecution against a third party, continue in force until the proceedings on such prosecution have been finally determined and, if an order is made against that person under section 12(3) or 12AA, until that order has been set aside, complied with or enforced, as the case may be. (Amended 50 of 1987 s. 8)

(5A) Nothing in subsection (4) or (5) shall prevent the court from making a further restraining order in respect of the same property on application ex parte by or on behalf of the Commissioner. (Added 50 of 1987 s. 8)

(6) A suspected person or third party on whom a copy of a restraining order has been served in accordance with subsection (3) or (3B) of this section or section 14D(5) shall be guilty of an offence and shall be liable on conviction to a fine of \$50000 or to the value of the property disposed of or otherwise dealt with, whichever is greater, and to imprisonment for 1 year if, during the continuance in force of the order, he knowingly disposes of or otherwise deals with any property specified in the restraining order otherwise than in accordance with directions of the court.

(7) In this section and in sections 14D and 14E, "court" means the Court of First Instance. (Added 48 of 1996 s. 7. Amended 25 of 1998 s. 2)

(Added 9 of 1974 s. 7. Amended 48 of 1996 s. 7)

Notes:

1. Please see the saving provisions contained in s. 18 of 48 of 1996, which section is reproduced as follows-

"18. Savings

(1) Notwithstanding the repeal of section 14A of the principal Ordinance by section 17 of this Ordinance, a written notice issued under section 14A(1) of the principal Ordinance and in force immediately before the coming into operation of this Ordinance, shall continue in force according to its tenor for such period as it would have continued in force had section 14A of the principal Ordinance not been repealed and shall as from the coming into operation of this Ordinance be treated as if it were an order made by the District Court and served under section 14C of the principal Ordinance prior to its amendment by section 7 of this Ordinance.

(2) Notwithstanding the amendment of section 14C of the principal Ordinance by section 7 of this Ordinance, an order issued under section 14C(1) of the principal Ordinance and in force immediately before the coming into operation of this Ordinance shall continue in force according to its tenor for such period as it would have continued in force had section 14C of the principal Ordinance not been amended and shall as from the coming into operation of this Ordinance be treated as if it were an order made by the District Court and served under section 14C of the principal Ordinance prior to its amendment by section 7 of this Ordinance."

2. For text of s. 14C prior to its amendment by s. 7 of 48 of 1996, please see the Revised Edition of the Laws and ss. 2 & 3 of 8 of 1993.

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| Section: | 14D | Variation and revocation of restraining orders | 30/06/1997 |
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(1) The Commissioner may at any time apply ex parte to the court for the variation or revocation of a restraining order. (Amended 48 of 1996 s. 8)

(2) A person on whom a restraining order has been served in accordance with section 14C(3) or subsection (5) of this section may at any time apply to the court for an order revoking or varying the order.

(3) The applicant under subsection (2) shall give to the Commissioner such notice of the day fixed for the hearing of the application as a judge of the court may order.

(4) On the hearing of an application under subsection (2), the court may-

- (a) revoke the order if it is satisfied that undue hardship will be caused by its continuance in operation;
- (b) vary the order in such manner as it thinks fit.

(5) Where a restraining order has been revoked or varied under this section, notice of such revocation or the order as so varied, as the case may be, shall be served on the third party to whom it is directed and on the suspected person.

(Added 9 of 1974 s. 7)

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| Section: | 14E | Application for directions | 30/06/1997 |
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(1) The suspected person or a third party on whom a restraining order has been served in accordance with section 14C(3) or 14D(5) may at any time apply to the court for directions.

(2) The parties to any such application shall be-

- (a) the suspected person and the third party; and
- (b) the Commissioner.

(3) A person applying for directions under subsection (1) shall give to each other party to the application such notice of the day fixed for the hearing of the application as a judge of the court may order.

(4) On the hearing of an application under subsection (1), the court may give such directions as it thinks fit.

(Added 9 of 1974 s. 7)

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| Section: | 15 | Legal advisers and privileged information | 30/06/1997 |
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(1) Save as is provided in this section, nothing in this Ordinance shall require the disclosure by a legal adviser of any privileged information, communication, book, document or other article.

(2) Subject to subsection (4), the information referred to in section 13(2) and in section 14(2) may be required from a legal adviser as from any other person, notwithstanding that the effect of compliance with such a requirement would be to disclose any privileged information or communication.

(3) Subject to subsection (4), a legal adviser may be required by notice under section 14(1)(d)-

- (a) to state whether, at any time during such period as is specified in the notice, he has acted on behalf of any person named or otherwise identified in the notice in connection with-
 - (i) the transfer by such person of any moneys out of Hong Kong; or
 - (ii) the investment by such a person within or outside Hong Kong of any moneys; and (Amended 50 of 1987 s.14)
- (b) if so, to furnish information in his possession with respect thereto, being information as to-
 - (i) the date of the transfer or investment;
 - (ii) the amount of the transfer or investment;
 - (iii) in the case of a transfer, the name and address of the bank and the name and number (if any) of the account to which the money was transferred;
 - (iv) in the case of an investment, the nature of the investment,

notwithstanding that the effect of compliance with such a requirement would be to disclose any privileged information or communication.

(4) Nothing in subsection (2) or (3) shall require a legal adviser to comply with any such requirement as is specified therein to the extent to which such compliance would disclose any privileged information or communication which came to his knowledge for the purpose of any proceedings, begun or in contemplation, before a court or to enable him to give legal advice to his client.

(5) In this section "legal adviser" (法律顧問) means counsel or a solicitor.

(6) The protection conferred by this section on a legal adviser shall extend to a clerk or servant of or employed by a legal adviser.

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| Section: | 16 | Power to obtain assistance | | 30/06/1997 |
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(1) Any investigating officer conducting an investigation into an offence alleged or suspected to have been committed under this Ordinance may apply to any public servant for assistance in the exercise of his powers or the discharge of his duties under this Ordinance.

(2) Any public servant who when requested under subsection (1) to render assistance, without reasonable excuse neglects or fails to render such assistance shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year.

(Replaced 48 of 1996 s. 9)

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| Section: | 17 | Further powers of search | 25 of 1998 | 01/07/1997 |
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Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) Any investigating officer may, for the purposes of an investigation into, or proceedings relating to, an offence suspected to have been committed under this Ordinance, make an ex parte application to a court for the issue of a warrant under subsection (1A). (Replaced 48 of 1996 s. 10)

(1A) Where on an application under subsection (1) the court is satisfied that there is reasonable cause to believe that in any premises or place there is anything which is or contains evidence of an offence under this Ordinance, the court may by warrant directed to an investigating officer named in the warrant, empower such officer and any other investigating officer, to enter such premises or place, by force if necessary, and search the same. (Added 48 of 1996 s. 10)

(1B) Notwithstanding subsections (1) and (1A), where the Commissioner is satisfied that there is reasonable cause to believe-

- (a) that in any premises or place there may be anything which is or contains evidence of an offence under this Ordinance; and
- (b) that the making of an ex parte application under subsection (1) would seriously impede an investigation into, or proceedings relating to, an offence suspected to have been committed under this Ordinance,

the Commissioner may by warrant directed to an investigating officer named in the warrant, empower such officer and any other investigating officer to enter such premises or place, by force if necessary, and search the same. (Added 48 of 1996 s. 10)

(2) Without prejudice to any other law relating to entry and search, the chambers of counsel or the office of a solicitor are not subject to entry and search under this section or any warrant issued under this section except in the course of investigating an offence under this Ordinance alleged or suspected to have been committed by that counsel or that solicitor, as the case may be, or by his clerk or any servant employed by him in such chambers or office.

(3) Any person who obstructs or resists the Commissioner or any investigating officer in the exercise of the powers of entry and search under this section shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year. (Amended 9 of 1974 s. 9; 28 of 1980 s. 12; 48 of 1996 s. 10)

(4) In this section "court" (法庭) means a magistrate and the Court of First Instance. (Added 48 of 1996 s. 10. Amended 25 of 1998 s. 2)

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| Section: | 17A | Surrender of travel document | 10 of 2005 | 08/07/2005 |
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(1) A magistrate may, on the application ex parte of the Commissioner, by written notice require a person who is the subject of an investigation in respect of an offence reasonably suspected to have been committed by him under this Ordinance to surrender to the Commissioner any travel document in his possession. (Amended 50 of 1987 s. 9; 48 of 1996 s. 11)

(2) A notice under subsection (1) shall be served personally on the person to whom it is addressed.

(3) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(3A) Subject to subsection (6), a person to whom a notice under subsection (1) is addressed shall not leave Hong Kong, whether or not the notice has been served on him under subsection (2), before the expiry of a period of 6 months from the date of the notice unless-

- (a) an application made under section 17B(1) for the return of a travel document is granted; or
 - (b) an application made under section 17BA(1) for permission to leave Hong Kong is granted. (Added 10 of 2005 s. 41)
- (4) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may be arrested and taken before a magistrate by a police officer or by a person appointed in that behalf by the Commissioner. (Amended 10 of 2005 s. 41)
- (5) Where a person is taken before a magistrate under subsection (4), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison there to be safely kept-
- (a) until the expiry of the period of 28 days from the date of his committal to prison as aforesaid; or
 - (b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Commissioner of Correctional Services to discharge such person from prison (which order shall be sufficient warrant for the Commissioner of Correctional Services so to do), (Amended L.N. 30 of 1982)
- whichever occurs first.
- (5A) Subject to subsection (6), a travel document surrendered to the Commissioner in compliance with a notice under subsection (1) may be detained for a period of 6 months from the date of the notice unless an application made under section 17B(1) for the return of the travel document is granted. (Added 10 of 2005 s. 41)
- (6) The period of 6 months referred to in subsections (3A) and (5A) may be extended for a further period of 3 months if a magistrate, on application by the Commissioner, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorizes such extension: (Amended 50 of 1987 s. 9; 10 of 2005 s. 41)
- Provided that a magistrate shall not hear an application under this subsection unless reasonable notice of the application has been given by the Commissioner to the person to whom the relevant notice is addressed. (Added 50 of 1987 s. 9. Amended 10 of 2005 s. 41)
- (6A) All proceedings before a magistrate under this section shall be conducted in chambers. (Added 15 of 1976 s. 5)
- (6B) A notice under subsection (1) which has been served in accordance with subsection (2) and complied with shall not thereafter be revoked or withdrawn. (Added 50 of 1987 s. 9)
- (7) In this section and in section 17B, "travel document" (旅行證件) means a passport or other document establishing the identity or nationality of a holder. (Amended 50 of 1987 s. 9)
- (Added 56 of 1973 s. 3. Amended 9 of 1974 s. 10)

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| Section: | 17B | Return of travel documents | 10 of 2005 | 08/07/2005 |
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- (1) A person who has surrendered a travel document under section 17A may at any time make application in writing, either to the Commissioner or to a magistrate or both for its return, and every such application shall contain a statement of the grounds on which it is made.
- (2) A magistrate shall not consider an application made under subsection (1) unless he is satisfied that reasonable notice in writing of it has been given to the Commissioner.
- (3) The Commissioner or a magistrate shall only grant an application made under subsection (1) where the Commissioner or the magistrate, as the case may be, is satisfied that having regard to all the circumstances, including the interests of the investigation referred to in section 17A(1), a refusal to grant the application would cause unreasonable hardship to the applicant.
- (4) Before an application is granted under this section-
- (a) the applicant may be required to-
 - (i) deposit such reasonable sum of money with such person as may be specified;
 - (ii) enter into such recognizance with such sureties, if any, as may be specified; or
 - (iii) deposit such a sum of money and enter into such a recognizance as may be specified;
 - (b) any such applicant or surety may be required to deposit such property or document of title thereto with such person as may be specified for retention by that person until such time as any recognizance entered into under this subsection is no longer required or is forfeited.
- (5) A recognizance referred to in subsection (4) shall be subject to the conditions that-
- (a) the applicant shall further surrender his travel document to the Commissioner at such time as may be specified; and

- (b) the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified. (Replaced 10 of 2005 s. 42)
- (6) An application under this section may be granted either without conditions or subject to the conditions that- (Amended 10 of 2005 s. 42)
 - (a) the applicant shall further surrender his travel document to the Commissioner at such time as may be specified; and
 - (b) the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified. (Amended 10 of 2005 s. 42)
- (7) Where a travel document is returned to the applicant under this section subject to a condition imposed under subsection (5)(a) or (6)(a), then after the time specified under that subsection, the provisions of section 17A(3A) shall continue to apply in respect of the applicant and the provisions of section 17A(5A) shall continue to apply in respect of the travel document surrendered by the applicant pursuant to the condition as if no return had been made to the applicant under this section. (Replaced 10 of 2005 s. 42)
- (8) Proceedings before a magistrate under this section-
 - (a) shall be conducted in chambers; and
 - (b) shall be deemed to be proceedings which a magistrate has power to determine in a summary way within the meaning of sections 105 and 113(3) of the Magistrates Ordinance (Cap 227) and, accordingly, Part VII of that Ordinance (which relates to appeals) shall apply, with the necessary modifications, to appeals against an order of a magistrate under this section.
- (9) Anything to be specified in respect of an applicant under this section shall be specified by notice in writing served personally on the applicant.

(Replaced 48 of 1996 s. 12)

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| Section: | 17BA | Permission to leave Hong Kong | 10 of 2005 | 08/07/2005 |
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- (1) Without prejudice to section 17B, a person on whom a notice under section 17A(1) is served may at any time make application in writing to the Commissioner or to a magistrate or both for permission to leave Hong Kong, and every such application shall contain a statement of the grounds on which it is made.
- (2) A magistrate shall not consider an application made under subsection (1) unless he is satisfied that reasonable notice in writing of it has been given to the Commissioner.
- (3) The Commissioner or a magistrate shall only grant an application made under subsection (1) where the Commissioner or the magistrate, as the case may be, is satisfied that having regard to all the circumstances, including the interests of the investigation referred to in section 17A(1), a refusal to grant the application would cause unreasonable hardship to the applicant.
- (4) Before an application is granted under this section-
 - (a) the applicant may be required to-
 - (i) deposit such reasonable sum of money with such person as may be specified;
 - (ii) enter into such recognizance with such sureties, if any, as may be specified; or
 - (iii) deposit such a sum of money and enter into such a recognizance as may be specified;
 - (b) any such applicant or surety may be required to deposit such property or document of title thereto with such person as may be specified for retention by that person until such time as any recognizance entered into under this subsection is no longer required or is forfeited.
- (5) A recognizance referred to in subsection (4) shall be subject to a condition that the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified.
- (6) An application under this section may be granted either without condition or subject to a condition that the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified.
- (7) Where a person is permitted to leave Hong Kong under this section subject to a condition imposed under subsection (5) or (6), then after the time specified under that subsection or (if applicable) after the last of such times, the provisions of section 17A(3A) shall continue to apply in respect of the person as if the person had not been permitted to leave Hong Kong under this section.
- (8) Proceedings before a magistrate under this section-
 - (a) shall be conducted in chambers; and
 - (b) shall be deemed to be proceedings which a magistrate has power to determine in a summary way

within the meaning of sections 105 and 113(3) of the Magistrates Ordinance (Cap 227) and, accordingly, Part VII of that Ordinance (which relates to appeals) shall apply, with the necessary modifications, to appeals against an order of a magistrate under this section.

(9) Anything to be specified in respect of an applicant under this section shall be specified by notice in writing served personally on the applicant.

(Added 10 of 2005 s. 43)

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| Section: | 17C | Further provisions relating to security, appearance, etc. | 10 of 2005 | 08/07/2005 |
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(1) Where a person granted an application under section 17B fails to comply with the requirement of any condition imposed under that section- (Amended 48 of 1996 s. 13)

- (a) he may be arrested and dealt with in the same manner that a person who fails to comply with a notice under section 17A(1) may be arrested and dealt with under section 17A(4) and (5); and
- (b) any deposit made or recognizance entered into under section 17B may be forfeited by a magistrate on application by the Commissioner or under section 65 (which relates to the enforcement of recognizances) of the Magistrates Ordinance (Cap 227).

(1A) Where a person granted an application under section 17BA fails to comply with the requirement of any condition imposed under that section, any deposit made or recognizance entered into under that section may be forfeited by a magistrate on application by the Commissioner or under section 65 of the Magistrates Ordinance (Cap 227). (Added 10 of 2005 s. 44)

(2) Without prejudice to section 65 of the Magistrates Ordinance (Cap 227), where a magistrate declares or orders the forfeiture of a recognizance under this section, such declaration or order may, on the application of the Commissioner, be registered in the Court of First Instance, and thereupon the provisions of sections 110, 111, 112, 113 and 114 (which relate to the enforcement of recognizances) of the Criminal Procedure Ordinance (Cap 221) shall apply to and in relation to that recognizance. (Amended 25 of 1998 s. 2)

(3) (Repealed 44 of 1992 s. 4)

(Added 50 of 1987 s. 10)

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| Section: | 18 | (Repealed 44 of 1992 s. 5) | | 30/06/1997 |
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| Section: | 19 | Custom not to be a defence | | 30/06/1997 |
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PART IV

EVIDENCE

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

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| Section: | 20 | Admissibility of accused's declarations and statements | | 30/06/1997 |
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In any proceedings against a person for an offence under this Ordinance-

- (a) if such person tenders himself as a witness then any statutory declaration or statement in writing furnished by him in compliance or purported compliance with the terms of a notice served on him under section 14 shall be regarded as a former statement made by him relative to the subject-matter of the proceedings and sections 13 and 14 of the Evidence Ordinance (Cap 8) shall apply with respect to that witness;
- (b) the fact of the person's failure in any respect to comply with the terms of a notice served on him under section 14 may be adduced in evidence and made the subject of comment by the court and the prosecution.

(Replaced 48 of 1996 s. 14)

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| Section: | 21 | Evidence of pecuniary resources or property | | 30/06/1997 |
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(1) In any proceedings against a person for an offence under Part II (other than section 10), the fact that the accused was, at or about the date of or at any time since the date of the alleged offence, or is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that he had, at or about the date of or at any time since the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken by the court-

- (a) as corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or solicited any advantage; and
- (b) as showing that such advantage was accepted or solicited as an inducement or reward.

(2) For the purposes of subsection (1) a person accused of an offence under Part II (other than section 10) shall be presumed to be or to have been in possession of pecuniary resources or property, or to have obtained an accretion thereto, where such resources or property are or were held, or such accretion was obtained, by any other person whom, having regard to his relationship to the accused or to any other circumstances, there is reason to believe is or was holding such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

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|----------|-----|---|------------|------------|
| Section: | 21A | Certificate as to official emoluments, etc. | 14 of 2003 | 09/05/2003 |
|----------|-----|---|------------|------------|

(1) In any proceedings against a person for an offence under this Ordinance, a certificate purporting- (Amended 50 of 1987 s. 12)

- (a) to certify-

- (i) the rate of, and the total amount of, official emoluments and the allowances, other than such emoluments, paid to any prescribed officer in relation to the discharge by him of his duties as a prescribed officer; (Amended 14 of 2003 s. 18)
- (ii) that any person was or was not serving at any specified time or during any specified period as a prescribed officer or ceased to be a prescribed officer at or before any specified time; or (Amended 14 of 2003 s. 18)
- (iii) that a prescribed officer held or did not hold at any specified time any specified office; and (Amended 14 of 2003 s. 18)

- (b) to be signed by the Chief Secretary for Administration,

shall be admitted in such proceedings by any court on its production without further proof.

(2) On the production of a certificate under subsection (1) the court before which it is produced shall, until the contrary is proved, presume-

- (a) that the facts stated therein are true; and
- (b) that the certificate was signed by the Chief Secretary for Administration.

(3) In this section, "official emoluments" (公職薪俸) includes a pension or gratuity payable under the Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap 401). (Amended 36 of 1987 s. 44; 85 of 1988 s. 51)

(Added 69 of 1978 s. 2. Amended L.N. 362 of 1997)

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|----------|----|--|------------|------------|
| Section: | 22 | Person giving or receiving bribe not to be regarded as an accomplice | 25 of 1998 | 01/07/1997 |
|----------|----|--|------------|------------|

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

Notwithstanding any Ordinance, rule of law or practice to the contrary, no witness shall, in any proceedings for an offence under Part II, be regarded as an accomplice by reason only of any payment or delivery by him or on his behalf of any advantage to the person accused or, as the case may be, by reason only of any payment or delivery of any advantage by or on behalf of the person accused to him.

(Amended 25 of 1998 s. 2)

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|----------|----|---|---------------------------------|------------|
| Section: | 23 | Power to secure evidence of parties to offences | L.N. 362 of 1997; 25 of 1998 | 01/07/1997 |
|----------|----|---|---------------------------------|------------|

Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

In or for the purpose of any proceedings for an offence under Part II, the court may, at the request in writing of the Secretary for Justice, inform any person accused or suspected of such offence or of any other offence under Part II that, if he gives full and true evidence in such proceedings and, where such proceedings are proceedings held with a view to committal for trial under section 85 of the Magistrates Ordinance (Cap 227), in the trial before the High Court of all things as to which he is lawfully examined, he will not be prosecuted for any offence disclosed by his evidence; and upon such person giving evidence in any such proceedings no prosecution against him for any offence disclosed by his evidence therein shall be instituted or carried on unless the court before which he gives evidence considers that he has wilfully withheld evidence or given false testimony and so certifies to the Secretary for Justice in writing.

(Amended L.N. 362 of 1997; 25 of 1998 s. 2)

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|----------|----|-----------------|--|------------|
| Section: | 24 | Burden of proof | | 30/06/1997 |
|----------|----|-----------------|--|------------|

In any proceedings against a person for an offence under this Ordinance, the burden of proving a defence of lawful authority or reasonable excuse shall lie upon the accused.

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|----------|----|-----------------------------|--|------------|
| Section: | 25 | (Repealed 48 of 1996 s. 17) | | 30/06/1997 |
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|----------|----|-----------------------------|--|------------|
| Section: | 26 | (Repealed 48 of 1996 s. 17) | | 30/06/1997 |
|----------|----|-----------------------------|--|------------|

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|----------|----|---|------------------|------------|
| Section: | 27 | Frivolous, false or groundless complaints to be reported to the Secretary for Justice | L.N. 362 of 1997 | 01/07/1997 |
|----------|----|---|------------------|------------|

PART V

MISCELLANEOUS

At the conclusion of proceedings for an offence under this Ordinance, the court may, if of the opinion that the complainant or any other person has knowingly, and with intent to harm the accused, made a false, frivolous or groundless allegation against him, so certify in writing and transmit the certificate and the record of the proceedings to the Secretary for Justice.

(Amended L.N. 362 of 1997)

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|----------|----|--------------------|-----------------|------------|
| Section: | 28 | Costs on acquittal | 25 of 1998 s. 2 | 01/07/1997 |
|----------|----|--------------------|-----------------|------------|

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

Where a person is acquitted after trial before the High Court or the District Court for an offence under Part II, the court may award costs to that person, such costs to be taxed and paid out of the general revenue.

(Amended 25 of 1998 s. 2)

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|----------|----|---|--|------------|
| Section: | 29 | Offence of making a false report of the commission of offence, etc. | | 30/06/1997 |
|----------|----|---|--|------------|

Any person who, during the course of an investigation into, or in any proceedings relating to, an offence alleged or suspected to have been committed under this Ordinance, knowingly-

- (a) makes or causes to be made a false report of the commission of an offence under this Ordinance to any investigating officer specified in an authorization given under section 13; or
 - (b) misleads any investigating officer specified in an authorization given under section 13,
- shall be guilty of an offence and shall be liable on summary conviction to a fine of \$20000 and to imprisonment for 1 year.

(Amended 9 of 1974 s. 12)

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|----------|----|--|------------|
| Section: | 30 | Offence to disclose identity, etc. of persons being investigated | 30/06/1997 |
|----------|----|--|------------|

(1) Any person who knowing or suspecting that an investigation in respect of an offence alleged or suspected to have been committed under Part II is taking place, without lawful authority or reasonable excuse, discloses to-

- (a) the person who is the subject of the investigation (the "subject person") the fact that he is so subject or any details of such investigation; or
 - (b) the public, a section of the public or any particular person the identity of the subject person or the fact that the subject person is so subject or any details of such investigation,
- shall be guilty of an offence and shall be liable on conviction to a fine of \$20000 and to imprisonment for 1 year. (Replaced 48 of 1996 s. 15)

(1A) (Repealed 48 of 1996 s. 16)

(2) Subsection (1) shall not apply as regards disclosure of any of the descriptions mentioned in that subsection where, in connection with such investigation-

- (a) a warrant has been issued for the arrest of the subject person;
 - (b) the subject person has been arrested whether with or without warrant;
 - (c) the subject person has been required to furnish a statutory declaration or a statement in writing by a notice served on him under section 14(1)(a) or (b);
 - (d) a restraining order has been served on any person under section 14C(3);
 - (e) the residence of the subject person has been searched under a warrant issued under section 17; or
 - (f) the subject person has been required to surrender to the Commissioner any travel document in his possession by a notice served on him under section 17A. (Replaced 48 of 1996 s. 16)
- (3) Without affecting the generality of the expression "reasonable excuse" in subsection (1) a person has a reasonable excuse as regards disclosure of any of the descriptions mentioned in that subsection if, but only to the extent that, the disclosure reveals-
- (a) any unlawful activity, abuse of power, serious neglect of duty, or other serious misconduct by the Commissioner, the Deputy Commissioner or any officer of the Commission; or
 - (b) a serious threat to public order or to the security of Hong Kong or to the health or safety of the public. (Replaced 48 of 1996 s. 16)

(Amended 9 of 1974 s. 13)

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|----------|-----|-------------------------|------------|
| Section: | 30A | Protection of informers | 30/06/1997 |
|----------|-----|-------------------------|------------|

- (1) Save as provided in subsection (2)-
- (a) no information for an offence under this Ordinance shall be admitted in evidence in any civil or criminal proceeding; and
 - (b) no witness in any civil or criminal proceeding shall be obliged-
 - (i) to disclose the name or address of any informer who has given information to the Commissioner with respect to an offence under this Ordinance or of any person who has assisted the Commissioner in any way with respect to such an offence; or
 - (ii) to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person,
 if, in either case, such informer or person is not himself a witness in such proceeding,
- and, if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding contain an entry in which any such informer or person is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer or such person from discovery.
- (2) If in any proceeding before a court for an offence under this Ordinance the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not

believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties thereto without disclosure of the name of an informer or a person who has assisted the Commissioner, the court may permit inquiry and require full disclosure concerning the informer or such person.

(Added 28 of 1980 s. 13)

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|----------|----|---|------------------|------------|
| Section: | 31 | Consent of Secretary for Justice required for prosecution of offences under Part II | L.N. 362 of 1997 | 01/07/1997 |
|----------|----|---|------------------|------------|

(1) No prosecution for an offence under Part II shall be instituted except with the consent of the Secretary for Justice.

(2) Notwithstanding subsection (1) of this section a person may be charged with an offence under Part II and may be arrested therefor, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail notwithstanding that the consent of the Secretary for Justice to the institution of a prosecution for the offence has not been obtained, but no such person shall be remanded in custody or on bail for longer than 3 days on such charge unless in the meantime the consent of the Secretary for Justice aforesaid has been obtained. (Amended 56 of 1973 s. 4)

(3) When a person is brought before a magistrate before the Secretary for Justice has consented to the prosecution, the charge shall be explained to the person accused but he shall not be called upon to plead and the provision of the law for the time being in force relating to criminal procedure shall be modified accordingly.

(4) Neither section 7 of the Legal Officers Ordinance (Cap 87) nor section 43 of the Interpretation and General Clauses Ordinance (Cap 1) shall apply to or in respect of the giving by the Secretary for Justice of his consent to the institution of a prosecution for an offence against section 10. (Added 56 of 1973 s. 4)

(Amended L.N. 362 of 1997)

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|----------|-----|--|--|------------|
| Section: | 31A | Time limit for prosecution of offences | | 30/06/1997 |
|----------|-----|--|--|------------|

Remarks:

Due to technical constraints, sections 31AA and 31AB of this Ordinance are placed after section 31A in the BLIS system. The correct sequence of the sections should be "31AA, 31AB, 31A".

(1) Notwithstanding section 26 of the Magistrates Ordinance (Cap 227), a complaint may be made or an information laid in respect of an offence under section 3, 14(5), 14A(5), 14C(6) or 33A within 2 years from the time when the matter of such complaint or information respectively arose.

(2) Notwithstanding section 26 of the Magistrates Ordinance (Cap 227), a complaint may be made or an information laid in respect of an offence under section 13(3), 13(4), 29 or 30(1) within 1 year from the time when the matter of such complaint or information respectively arose.

(3) Where a person has, before the commencement of the Prevention of Bribery (Amendment) Ordinance 1980 (28 of 1980), committed an offence under section 3, 13(3), 13(4), 14(5), 14A(5), 14C(6), 29 or 30(1) and, but for this section, would not be liable to be prosecuted for that offence by virtue of section 26 of the Magistrates Ordinance (Cap 227), he shall, notwithstanding this section, not be liable to be prosecuted for that offence.

(Added 28 of 1980 s. 14)

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|----------|------|--|------------|------------|
| Section: | 31AA | Referral of matter involving offence suspected to have been committed by Chief Executive | 22 of 2008 | 04/07/2008 |
|----------|------|--|------------|------------|

Remarks:

Due to technical constraints, sections 31AA and 31AB of this Ordinance are placed after section 31A in the BLIS system. The correct sequence of the sections should be "31AA, 31AB, 31A".

(1) Notwithstanding section 30, where the Commissioner has reason to suspect that the Chief Executive may have committed an offence under this Ordinance, the Commissioner may refer the matter to the Secretary for Justice for him to consider whether to exercise his power under subsection (2).

(2) Notwithstanding section 30, where as a result of a referral made under subsection (1), the Secretary for Justice has reason to suspect that the Chief Executive may have committed an offence under this Ordinance, he may refer the matter to the Members of the Legislative Council for them to consider whether to take any action under

Article 73(9) of the Basic Law.

(Added 22 of 2008 s. 5)

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|----------|------|--|------------|------------|
| Section: | 31AB | Disclosure of information received under section 31AA by Members of Legislative Council etc. | 22 of 2008 | 04/07/2008 |
|----------|------|--|------------|------------|

Remarks:

Due to technical constraints, sections 31AA and 31AB of this Ordinance are placed after section 31A in the BLIS system. The correct sequence of the sections should be "31AA, 31AB, 31A".

(1) Notwithstanding section 30, a Member of the Legislative Council may disclose any information received under section 31AA to the Secretary General for the purpose of enabling the Members of the Legislative Council to take, or to consider whether to take, any action under Article 73(9) of the Basic Law.

(2) Notwithstanding section 30, the Secretary General may, with the prior approval of the President of the Legislative Council, disclose any information received under subsection (1) to any member of the staff employed in the Legislative Council Secretariat if the Secretary General is satisfied that the disclosure is reasonably necessary for the purpose of enabling the Members of the Legislative Council to take, or to consider whether to take, any action under Article 73(9) of the Basic Law.

(3) The President of the Legislative Council shall not approve a disclosure under subsection (2) unless the President is satisfied that the disclosure is reasonably necessary for the purpose of enabling the Members of the Legislative Council to take, or to consider whether to take, any action under Article 73(9) of the Basic Law.

(4) Where in relation to a matter referred to the Members of the Legislative Council under section 31AA(2), a motion has been initiated jointly by one-fourth of all the Members of the Legislative Council under Article 73(9) of the Basic Law charging the Chief Executive with serious breach of law or dereliction of duty, section 30(1) shall not apply as regards the disclosure by any person of any information relating to the matter provided by the Secretary for Justice to the Members of the Legislative Council under section 31AA(2).

(5) In this section, "Secretary General" (秘書長) has the meaning assigned to it in section 2 of The Legislative Council Commission Ordinance (Cap 443).

(Added 22 of 2008 s. 5)

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|----------|----|---|--|------------|
| Section: | 32 | Alternative convictions, and amending particulars | | 30/06/1997 |
|----------|----|---|--|------------|

(1) If, on the trial of any person for any offence under Part II, it is not proved that the accused is guilty of the offence charged but it is proved that the accused is guilty of some other offence under Part II, the accused may, notwithstanding the absence of consent under section 31 in respect of such other offence, be convicted of such other offence, and be liable to be dealt with accordingly. (Amended 56 of 1973 s. 5)

(2) If on the trial of any person for any offence under Part II there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused to an acquittal of the offence charged if, in the opinion of the court, there is prima facie evidence of the commission of that offence, and in such a case the court may, notwithstanding the absence of consent under section 31 in respect of the particulars supported by the evidence adduced, make the necessary amendment to the particulars, and shall thereupon read and explain the same to the accused and the parties shall be allowed to recall and examine on matters relevant to such amendment any witness who may have been examined and, subject to the provisions of subsection (3), to call any further witness. (Amended 56 of 1973 s. 5)

(3) If an amendment is made under subsection (2) after the case for the prosecution is closed no further witness may be called by the prosecution other than such and on such matters only as it would, apart from the provisions of this subsection, be permissible to call and put in evidence in rebuttal.

(4) Nothing in this section shall exclude the application of any other law whereby a person may be found guilty of an offence other than that with which he is charged.

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|----------|----|---|------------------|------------|
| Section: | 33 | Effect of conviction of an offence under this Ordinance | L.N. 320 of 1999 | 01/01/2000 |
|----------|----|---|------------------|------------|

Any person convicted of an offence under Part II of this Ordinance shall, by reason of such conviction, be disqualified for a period of 5 years from the date of such conviction from-

- (a) being elected as a Member of the Legislative Council; or
- (b) being or being elected or appointed as a member of the Executive Council and any other public body, other than a public body specified in Schedule 1. (Amended 20 of 1999 s. 4; 78 of 1999 s. 7)
(Replaced 134 of 1997 s. 85)

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|----------|-----|---|------------------|------------|
| Section: | 33A | Power of court to prohibit employment of convicted person | L.N. 362 of 1997 | 01/07/1997 |
|----------|-----|---|------------------|------------|

(1) Where a person has been convicted of an offence under Part II, a court may, on the application of the prosecution or on its own motion, where it considers it to be in the public interest so to do, order that the convicted person be prohibited from taking or continuing employment, whether temporary or permanent and whether paid or unpaid-

- (a) in the case where the convicted person was employed by a corporation or a public body at the time of or prior to his conviction, as a director or manager or in such other capacity concerned with, whether directly or indirectly, the management of that corporation or any public body or any corporation that is a subsidiary of that corporation or any public body within the meaning of section 2 of the Companies Ordinance (Cap 32); or
- (b) in the case where the convicted person was practising any profession or was otherwise self-employed at the time of or prior to his conviction, in the practice of his profession or in the business, or class of business, in which he was so employed, as the case may be;
- (c) in other cases, as a partner or as a manager of or in such other capacity concerned with, whether directly or indirectly, the management of such partnership, firm or person or such class of partnership, firm or person; and
- (d) for such period not exceeding 7 years,

as the court may determine.

(2) A person in respect of whom an order under subsection (1) has been made may at any time during the continuance in force of the order apply to the court for the order to be varied or cancelled.

(3) On an application under subsection (2) the court shall consider all the circumstances including any changes in the applicant's circumstances since the making of the order and whether it would be in the public interest for the order to be varied or cancelled.

(4) Not less than 7 days before the hearing of an application under subsection (2) the person applying shall give written notice to the Secretary for Justice of his intentions and on any hearing of an application the Secretary for Justice shall have the right to appear and be heard. (Amended L.N. 362 of 1997)

(5) Any person in respect of whom an order under subsection (1) has been made who contravenes the order commits an offence and is liable to a fine of \$50000 and to imprisonment for 12 months.

(Added 28 of 1980 s. 16)

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|----------|----|--|--|------------|
| Section: | 34 | Extension of certain provisions in relation to offences under repealed Ordinance | | 30/06/1997 |
|----------|----|--|--|------------|

(1) The provisions contained in Part III shall apply to and in respect of offences suspected or alleged to have been committed under the repealed Prevention of Corruption Ordinance (Cap 215, 1964 Ed.) as they apply to and in respect of offences suspected or alleged to have been committed under this Ordinance.

(2) The references in sections 27, 29 and 30 to this Ordinance shall be deemed to include a reference to the repealed Prevention of Corruption Ordinance (Cap 215, 1964 Ed.).

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|----------|----|------------------------|------------------|------------|
| Section: | 35 | Amendment of Schedules | L.N. 157 of 1999 | 17/06/1999 |
|----------|----|------------------------|------------------|------------|

Remarks:

Adaptation amendments retroactively made - see 1 of 2003 s. 3

The Chief Executive in Council may by order published in the Gazette amend the Schedules.

(Amended 20 of 1999 s. 5; 1 of 2003 s. 3)

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|-----------|---|---------------|-----------------|------------|
| Schedule: | 1 | PUBLIC BODIES | L.N. 36 of 2009 | 01/06/2009 |
|-----------|---|---------------|-----------------|------------|

[sections 2(1) & 35]
(Amended 20 of 1999 s. 6)

1. Hong Kong Telecom International Limited. (Replaced 20 of 1999 s. 6)
2. China Light and Power Company Limited.
3. (Repealed 20 of 1999 s. 6)
4. The Chinese University of Hong Kong. (Replaced 20 of 1999 s. 6)
5. Hong Kong Arts Development Council. (Replaced 26 of 1995 s. 19)
6. (Repealed L.N. 198 of 1999)
7. Fish Marketing Organization.
8. Hong Kong and China Gas Company Limited.
9. Hong Kong and Yaumati Ferry Company Limited.
10. Hong Kong Air Cargo Terminals Limited.
11. Hong Kong Building and Loan Agency.
12. Hong Kong Commercial Broadcasting Company Limited.
13. Hong Kong Electric Company Limited.
14. Hong Kong Export Credit Insurance Corporation.
15. Hong Kong Housing Authority.
16. Hong Kong Housing Society.
17. (Repealed 50 of 1987 s. 13)
18. The Hong Kong Polytechnic University. (Replaced 94 of 1994 s. 23)
19. Hong Kong Productivity Council.
20. Hong Kong Settlers Housing Corporation Limited.
21. Hong Kong Telephone Company Limited.
22. Hong Kong Tourism Board. (Replaced 3 of 2001 s. 45)
23. Hong Kong Trade Development Council.
24. Hong Kong Tramways Limited.
25. Kowloon Motor Bus Company (1933) Limited.
26. (Repealed L.N. 249 of 1990)
27. Ocean Park Corporation. (Amended 35 of 1987 s. 40)
28. Peak Tramways Company Limited.
29. Asia Television Limited. (Replaced L.N. 31 of 1983)
30. Hong Kong Jockey Club. (Amended 20 of 1999 s. 6)
31. The Hong Kong Jockey Club (Charities) Limited. (Replaced L.N. 512 of 1994)
32. "Star" Ferry Company Limited.
33. Television Broadcasts Limited.
34. The Community Chest of Hong Kong.
35. University of Hong Kong.
36. Vegetable Marketing Organization.
37. MTR Corporation Limited. (Added 36 of 1975 s. 31. Amended 13 of 2000 s. 65)
38. (Repealed 5 of 2001 s. 40)
39. The Hong Kong Examinations and Assessment Authority. (Added 23 of 1977 s. 17. Amended 23 of 2002 s. 26)
40. Consumer Council. (Added 56 of 1977 s. 22)
41. (Repealed 20 of 1999 s. 6)
42. The Vocational Training Council. (Added 6 of 1982 s. 25)
43. The Kowloon-Canton Railway Corporation. (Added 73 of 1982 s. 39)
44. New Lantau Bus Company (1973) Limited. (Added L.N. 160 of 1983)
45. Hong Kong Baptist University. (Added 50 of 1983 s. 34. Amended 93 of 1994 s. 39)
46. City University of Hong Kong. (Added 65 of 1983 s. 25. Amended 92 of 1994 s. 32)
47. The Hong Kong Academy for Performing Arts. (Added 38 of 1984 s. 28)
48. The Hong Kong University of Science and Technology. (Added 47 of 1987 s. 25)
49. Broadcasting Authority. (Added 49 of 1987 s. 17)
50. Hong Kong Council on Smoking and Health. (Added 56 of 1987 s. 21)

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|-----------|---|---------------|-----------------|------------|
| Schedule: | 1 | PUBLIC BODIES | L.N. 36 of 2009 | 01/06/2009 |
|-----------|---|---------------|-----------------|------------|

[sections 2(1) & 35]
(Amended 20 of 1999 s. 6)

1. Hong Kong Telecom International Limited. (Replaced 20 of 1999 s. 6)
2. China Light and Power Company Limited.
3. (Repealed 20 of 1999 s. 6)
4. The Chinese University of Hong Kong. (Replaced 20 of 1999 s. 6)
5. Hong Kong Arts Development Council. (Replaced 26 of 1995 s. 19)
6. (Repealed L.N. 198 of 1999)
7. Fish Marketing Organization.
8. Hong Kong and China Gas Company Limited.
9. Hong Kong and Yaumati Ferry Company Limited.
10. Hong Kong Air Cargo Terminals Limited.
11. Hong Kong Building and Loan Agency.
12. Hong Kong Commercial Broadcasting Company Limited.
13. Hong Kong Electric Company Limited.
14. Hong Kong Export Credit Insurance Corporation.
15. Hong Kong Housing Authority.
16. Hong Kong Housing Society.
17. (Repealed 50 of 1987 s. 13)
18. The Hong Kong Polytechnic University. (Replaced 94 of 1994 s. 23)
19. Hong Kong Productivity Council.
20. Hong Kong Settlers Housing Corporation Limited.
21. Hong Kong Telephone Company Limited.
22. Hong Kong Tourism Board. (Replaced 3 of 2001 s. 45)
23. Hong Kong Trade Development Council.
24. Hong Kong Tramways Limited.
25. Kowloon Motor Bus Company (1933) Limited.
26. (Repealed L.N. 249 of 1990)
27. Ocean Park Corporation. (Amended 35 of 1987 s. 40)
28. Peak Tramways Company Limited.
29. Asia Television Limited. (Replaced L.N. 31 of 1983)
30. Hong Kong Jockey Club. (Amended 20 of 1999 s. 6)
31. The Hong Kong Jockey Club (Charities) Limited. (Replaced L.N. 512 of 1994)
32. "Star" Ferry Company Limited.
33. Television Broadcasts Limited.
34. The Community Chest of Hong Kong.
35. University of Hong Kong.
36. Vegetable Marketing Organization.
37. MTR Corporation Limited. (Added 36 of 1975 s. 31. Amended 13 of 2000 s. 65)
38. (Repealed 5 of 2001 s. 40)
39. The Hong Kong Examinations and Assessment Authority. (Added 23 of 1977 s. 17. Amended 23 of 2002 s. 26)
40. Consumer Council. (Added 56 of 1977 s. 22)
41. (Repealed 20 of 1999 s. 6)
42. The Vocational Training Council. (Added 6 of 1982 s. 25)
43. The Kowloon-Canton Railway Corporation. (Added 73 of 1982 s. 39)
44. New Lantao Bus Company (1973) Limited. (Added L.N. 160 of 1983)
45. Hong Kong Baptist University. (Added 50 of 1983 s. 34. Amended 93 of 1994 s. 39)
46. City University of Hong Kong. (Added 65 of 1983 s. 25. Amended 92 of 1994 s. 32)
47. The Hong Kong Academy for Performing Arts. (Added 38 of 1984 s. 28)
48. The Hong Kong University of Science and Technology. (Added 47 of 1987 s. 25)
49. Broadcasting Authority. (Added 49 of 1987 s. 17)
50. Hong Kong Council on Smoking and Health. (Added 56 of 1987 s. 21)

51. Urban Renewal Authority. (Replaced 63 of 2000 s. 38)
52. Securities and Futures Commission. (Added 10 of 1989 Schedule 2)
53. The Open University of Hong Kong. (Replaced 50 of 1997 s. 29)
54. (Repealed 11 of 2004 s. 17)
55. Travel Industry Council of Hong Kong. (Added L.N. 62 of 1990)
56. (Repealed 20 of 1999 s. 6)
57. Hong Kong Council for Accreditation of Academic and Vocational Qualifications. (Replaced 6 of 2007 s. 50)
58. The Hospital Authority (including any committee established by the Hospital Authority). (Added 68 of 1990 s. 24)
59. The Airport Authority. (Replaced 71 of 1995 s. 49)
60. Metro Broadcast Corporation Limited. (Added L.N. 184 of 1991)
61. Hong Kong Academy of Medicine. (Added 55 of 1992 s. 16)
62. Lingnan University. (Added 72 of 1992 s. 29. Replaced 54 of 1999 s. 29)
63. Citybus Limited. (Added L.N. 330 of 1992)
64. New Hong Kong Tunnel Company Limited. (Added L.N. 382 of 1992)
65. Tate's Cairn Tunnel Company Limited. (Added L.N. 382 of 1992)
66. (Repealed 5 of 2001 s. 40)
67. (Repealed 134 of 1997 s. 85)
68. Tradelink Electronic Commerce Limited. (Replaced L.N. 125 of 1998)
69. Travel Industry Compensation Fund Management Board. (Added 51 of 1993 s. 8)
70. Western Harbour Tunnel Company Limited. (Added 72 of 1993 s. 71)
71. Wharf Cable Limited. (Added L.N. 384 of 1993)
72. The Legislative Council Commission. (Added 14 of 1994 s. 24)
73. The Hong Kong Institute of Education. (Added 16 of 1994 s. 25)
74. Hong Kong Quality Assurance Agency. (Added L.N. 409 of 1994)
75. Equal Opportunities Commission. (Added 67 of 1995 s. 91)
76. The Security and Guarding Services Industry Authority. (Added 97 of 1994 s. 34)
77. Legal Aid Services Council. (Added 17 of 1996 s. 14)
78. Route 3 (CPS) Company Limited. (Added 33 of 1995 s. 65)
79. Privacy Commissioner for Personal Data. (Added 81 of 1995 s. 72)
80. Authorized Persons Registration Committee. (Added 54 of 1996 s. 27)
81. Structural Engineers Registration Committee. (Added 54 of 1996 s. 27)
82. Contractors Registration Committee. (Added 54 of 1996 s. 27)
83. The Estate Agents Authority. (Added 48 of 1997 s. 57)
84. Long Win Bus Company Limited. (Replaced 20 of 1999 s. 6)
- 84A. Long-term Prison Sentences Review Board. (Added 86 of 1997 s. 44. Amended 20 of 1999 s. 6)
85. Electoral Affairs Commission. (Added 129 of 1997 s. 24)
86. Mandatory Provident Fund Schemes Authority. (Added 4 of 1998 s. 8)
87. New World First Bus Services Limited. (Added L.N. 239 of 1998)
88. The Hong Kong Mortgage Corporation Limited. (Added L.N. 313 of 1998)
89. Hong Kong Note Printing Limited. (Added L.N. 313 of 1998)
90. Exchange Fund Investment Limited. (Added L.N. 16 of 1999)
91. The Stock Exchange of Hong Kong Limited. (Added 20 of 1999 s. 6)
92. Hong Kong Futures Exchange Limited. (Added 20 of 1999 s. 6)
93. Hong Kong Securities Clearing Company Limited. (Added 20 of 1999 s. 6)
94. The SEHK Options Clearing House Limited. (Added 20 of 1999 s. 6)
95. HKFE Clearing Corporation Limited. (Added 20 of 1999 s. 6)
96. Hong Kong Exchanges and Clearing Limited. (Added 12 of 2000 s. 23)
97. Hong Kong Science and Technology Parks Corporation. (Added 5 of 2001 s. 40)
98. The Ombudsman. (Added 30 of 2001 s. 24)
- *99. A company recognized as an investor compensation company under section 79(1) of the Securities and Futures Ordinance (Cap 571). (Added L.N. 226 of 2002 and 5 of 2002 s. 407)
100. Construction Workers Registration Authority. (Added 18 of 2004 s. 66)
101. Hong Kong Deposit Protection Board. (Added 7 of 2004 s. 55)
102. Geotechnical Engineers Registration Committee. (Added 15 of 2004 s. 61)

103. Hong Kong Sports Institute Limited. (Added L.N. 4 of 2005)
104. Construction Industry Council. (Added 12 of 2006 s. 84)
105. Construction Industry Training Board. (Added 12 of 2006 s. 84)
106. Financial Reporting Council. (Added 18 of 2006 s. 79)
107. Commissioner on Interception of Communications and Surveillance. (Added 20 of 2006 s. 68)
108. Hong Kong IEC Limited. (Added L.N. 233 of 2006)
109. Independent Police Complaints Council. (Added 33 of 2008 s. 47)
110. West Kowloon Cultural District Authority (including any committees established under the West Kowloon Cultural District Authority Ordinance (Cap 601)). (Added 27 of 2008 s. 42)
111. Any entity established under section 5(2)(h) of the West Kowloon Cultural District Authority Ordinance (Cap 601). (Added 27 of 2008 s. 42)
112. Wave Media Limited. (Added L.N. 245 of 2008)

(Replaced L.N. 272 of 1974)

Note:

* The Investor Compensation Company Limited has been recognised as an investor compensation company (please see G.N. 1220 of 2003).

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| Schedule: | 2 | PUBLIC BODIES SPECIFIED FOR PURPOSES OF DEFINITION OF "PUBLIC SERVANT" | L.N. 204 of 2006 | 01/12/2006 |
|-----------|---|--|------------------|------------|

[sections 2(1) & 35]

1. The Stock Exchange of Hong Kong Limited.
2. Hong Kong Futures Exchange Limited.
3. Hong Kong Securities Clearing Company Limited.
4. The SEHK Options Clearing House Limited.
5. HKFE Clearing Corporation Limited.
6. Hong Kong Exchanges and Clearing Limited. (Added 12 of 2000 s. 23)
- *7. A company recognized as an investor compensation company under section 79(1) of the Securities and Futures Ordinance (Cap 571). (Added L.N. 226 of 2002)
8. Financial Reporting Council. (Added 18 of 2006 s. 80)

(Schedule 2 added 20 of 1999 s. 7)

Note:

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