

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)

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

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)

Part:	II	OFFENCES		30/06/1997
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Section:	3	Soliciting or accepting an advantage	14 of 2003	09/05/2003
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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 2010 was given by the Chief Executive and published as G.N. 1967 in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010 for the purpose of this section.

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)

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)

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.

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.

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.

Section:	9	Corrupt transactions with agents		30/06/1997
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(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)

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)

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.

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)

Section:	12AA	Confiscation of assets	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) 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-

- (a) found at the trial to be in his control as provided in section 10; and
- (b) 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-

- (a) acted in good faith as regards the circumstances in which the pecuniary resources or property came to be held by him; and
- (b) 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)-

- (a) may be made subject to such conditions as the court thinks fit in all the circumstances of the case; and
- (b) 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)

Section:	12AB	Appeal against confiscation order		30/06/1997
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(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)

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

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)

Section:	12A	Conspiracy		30/06/1997
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(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)

Part:	III	POWERS OF INVESTIGATION		30/06/1997
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Section:	13	Special powers of investigation	25 of 1998	01/07/1997
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Remarks:

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

(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)

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

Adaptation 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)

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 by virtue of section 13A, that information may be disclosed by the Commissioner or an investigating officer to the Secretary for Justice for the purposes of any proceedings relating to or any prosecution of an offence under this Ordinance but may not otherwise be disclosed.

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

Section:	13C	Restriction on publication of information disclosed under section 13B	L.N. 362 of 1997	01/07/1997
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(1) This section applies-

- (a) to information of the description mentioned in section 13B which has been furnished to the Commissioner of Inland Revenue or to any officer of the Inland Revenue Department in respect of the liability, responsibility or obligation of any person ("the person named") under the Inland Revenue Ordinance (Cap 112);
- (b) where that information is disclosed to the Secretary for Justice under section 13B;

- (c) where the Secretary for Justice decides that any of the information so disclosed is to be adduced in evidence by the prosecution for the purpose of any prosecution of an offence under this Ordinance, not being an offence alleged to have been committed by the person named;
- (d) where a venue for and a date and time of hearing of those proceedings has been fixed; and
- (e) where those proceedings may result in the information being publicly revealed.

(2) As soon as practicable after having made a decision of the description mentioned in subsection (1)(c), and in any case not less than 14 days before the date referred to in subsection (1)(d), the Secretary for Justice shall serve notice in writing of that fact on the person who furnished the information as mentioned in subsection (1)(a) and on the person named.

(3) A notice under subsection (2) shall be accompanied by a statement in writing so as to adequately inform the person on whom it is served of-

- (a) the details of such information disclosed to the Secretary for Justice that is to be so adduced;
- (b) the venue for, date and time of the hearing of those proceedings; and
- (c) the substance of this section.

(4) Within 14 days after the service on him of a notice under subsection (2), the person on whom it is served may on notice in writing to the Secretary for Justice make an application in chambers to the court before whom the proceedings are to be heard for an order under subsection (5) and the Secretary for Justice shall be given an opportunity to be heard on that application.

(5) On application made to it under subsection (4), the court may by order give directions prohibiting or restricting the publication of any information so disclosed to the Secretary for Justice which may lead to the identity of the person named being publicly revealed.

(6) In the making of an order under subsection (5), the court shall in considering whether or not to make an order, have regard to the views of the Secretary for Justice on the application, if any, and those of the applicant and shall consider whether the public interest in the publication of any information being the subject of the application, without prohibition or restriction, outweighs-

- (a) the privacy and confidentiality of that information;
- (b) any prejudice to the person named which might result from the publication of that information without prohibition or restriction; and
- (c) 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).

(7) If in the course of any prosecution of an offence under this Ordinance after the making of an order under subsection (5) the court by whom the order was made is satisfied, after giving the person in favour of whom the order was made an opportunity to be heard, that the effect of that order is to impose a substantial and unreasonable prohibition or restriction upon the reporting of those proceedings or the reporting of that prosecution and that, notwithstanding the matters referred to in subsection (6)(a), (b) and (c) and the views of the person in favour of whom the order was made, if any, it is in the public interest to remove the prohibition or to relax the restriction, the court or the judge shall direct that the order shall not apply to such information in respect of which that order was made as is specified in the direction.

(8) Any person who publishes or broadcasts information being the subject of an order under subsection (5), 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)

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

Adaptation 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)

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

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:

Adaptation 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-
- (a) 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
 - (b) 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-
- (a) impose such conditions; or
 - (b) 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.**

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-
- revoke the order if it is satisfied that undue hardship will be caused by its continuance in operation;
 - 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)

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)

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.

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)

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

Adaptation 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)

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)

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)

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)

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)

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

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)

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.

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

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

Adaptation 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)

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

Section:	24	Burden of proof		30/06/1997
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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.

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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Part:	V	MISCELLANEOUS		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
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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)

Section:	28	Costs on acquittal	25 of 1998	01/07/1997
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Remarks:

Adaptation 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)

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

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

Section:	30A	Protection of informers		30/06/1997
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(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)

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

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

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

Section:	31A	Time limit for prosecution of offences		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 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)

Section:	32	Alternative convictions, and amending particulars		30/06/1997
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(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.

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

Section:	33A	Power of court to prohibit employment of convicted person	L.N. 163 of 2013	03/03/2014
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(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 as defined by section 15 of the Companies Ordinance (Cap 622) for the purposes of that Ordinance; or (Amended 28 of 2012 ss. 912 & 920)
- (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)

Section:	34	Extension of certain provisions in relation to offences under repealed Ordinance		30/06/1997
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(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.).

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

Schedule:		SCHEDULE	L.N. 157 of 1999	17/06/1999
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Remarks:

The Schedule was renumbered as Schedule 1-- see 20 of 1999 s.6. The content of which has been moved to Schedule 1 from then on.

Schedule:	1	Public Bodies	L.N. 93 of 2016	16/07/2016
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[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. Communications Authority (Replaced 17 of 2011 s. 28)
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 Education University of Hong Kong. (Added 16 of 1994 s. 25. Amended 6 of 2016 s. 2)

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. (Repealed 17 of 2012 s. 64)
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. Amended L.N. 38 of 2012)
112. Digital Broadcasting Corporation Hong Kong Limited. (Amended L.N. 50 of 2011)
113. Minor Works Contractors Registration Committee. (Added L.N. 179 of 2009)
114. Inspectors' Registration Committee. (Added 16 of 2011 s. 46)
115. Phoenix U Radio Limited. (Added L.N. 50 of 2011)
116. The disciplinary board panel established under section 108 of the Lifts and Escalators Ordinance (Cap 618), including a disciplinary board established under section 110 of that Ordinance. (Added 8 of 2012 ss. 156 & 160)
117. The appeal board panel established under section 116 of the Lifts and Escalators Ordinance (Cap 618), including an appeal board established under section 118 of that Ordinance. (Added 8 of 2012 ss. 156 & 160)
118. Hong Kong Internet Registration Corporation Limited. (Added L.N. 38 of 2012)
119. Hong Kong Domain Name Registration Company Limited. (Added L.N. 38 of 2012)
120. Hong Kong Applied Science and Technology Research Institute Company Limited. (Added L.N. 38 of 2012)
121. Hong Kong Cyberport Management Company Limited. (Added L.N. 38 of 2012)
122. The wholly owned subsidiary of the Securities and Futures Commission that is established under section

- 5(4)(da) of the Securities and Futures Ordinance (Cap 571). (Added 9 of 2012 s. 35)
123. Competition Commission. (Added 14 of 2012 s. 176)
124. Construction Workers Registration Board. (Added 17 of 2012 s. 64)
125. HK Television Entertainment Company Limited. (Added L.N. 84 of 2015)
129. Hong Kong Green Building Council Limited. (Added L.N. 67 of 2016)
130. BEAM Society Limited. (Added L.N. 67 of 2016)
131. Fantastic Television Limited. (Added L.N. 93 of 2016)

(Replaced L.N. 272 of 1974)
(Format changes—E.R. 1 of 2012)

Note:

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

Schedule:	2	Public Bodies Specified for Purposes of Definition of Public Servant	L.N. 67 of 2016	15/07/2016
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[sections 2(1) & 35]

Public Bodies Specified for Purposes of Definition of *Public Servant*

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)
9. Hong Kong Internet Registration Corporation Limited. (Added L.N. 38 of 2012)
10. Hong Kong Green Building Council Limited. (Added L.N. 67 of 2016)
11. BEAM Society Limited. (Added L.N. 67 of 2016)

(Schedule 2 added 20 of 1999 s. 7)
(Format changes—E.R. 1 of 2012)

Note:

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