

第 1 章

釋義及通則條例

“國家”(State)只包括——

- (a) 中華人民共和國主席；
- (b) 中央人民政府；
- (c) 香港特別行政區政府；
- (d) 行使根據《基本法》由中央人民政府負責行使的職能的中華人民共和國中央當局；
- (e) 符合以下說明——
 - (i) 代中央人民政府行使其行政職能，或行使根據《基本法》由中央人民政府負責行使的職能；及
 - (ii) 沒有行使商業職能，並且是在獲轉授的權力以及獲轉授的職能範圍內行事的中央人民政府的附屬機關；及
- (f) 符合以下說明——
 - (i) 代(d)段提述的中華人民共和國中央當局行使中央人民政府的行政職能，或行使根據《基本法》由中央人民政府負責行使的職能；及
 - (ii) 沒有行使商業職能，並且是在獲轉授的權力以及獲轉授的職能範圍內行事的該等中央當局的附屬機關； (由 1998 年第 26 號第 4 條增補)

CHAPTER 1

INTERPRETATION AND GENERAL CLAUSES

“State” (“國家”) includes only—

- (a) the President of the People's Republic of China;
- (b) the Central People's Government;
- (c) the Government of the Hong Kong Special Administrative Region;
- (d) the Central Authorities of the People's Republic of China that exercise functions for which the Central People's Government has responsibility under the Basic Law;
- (e) subordinate organs of the Central People's Government that—
 - (i) on its behalf, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
 - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; and
- (f) subordinate organs of the Central Authorities of the People's Republic of China referred to in paragraph (d), that—
 - (i) on behalf of those Central Authorities, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
 - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; (Added 26 of 1998 s. 4)

66. “國家”權利的保留

(1) 除非條例明文訂定，或由於必然含意顯示“國家”須受約束，否則任何條例(不論條例是在 1997 年 7 月 1 日之前、當日或之後制定的)在一切情況下均不影響“國家”的權利，對“國家”亦不具約束力。

(2) 《法律適應化修改(釋義條文)條例》(1998 年第 26 號)第 24 條達成廢除及取代本條例原有的第 66 條一事，並不損害第 2A(2)(c) 條的實施(不論實施是在該項廢除及取代之前、之時或之後)。

(由 1998 年第 26 號第 24 條代替)

66. Saving of rights of State

(1) No Ordinance (whether enacted before, on or after 1 July 1997) shall in any manner whatsoever affect the right of or be binding on the State unless it is therein expressly provided or unless it appears by necessary implication that the State is bound thereby.

(2) The repeal and substitution of the former section 66 of this Ordinance effected by section 24 of the Adaptation of Laws (Interpretative Provisions) Ordinance (26 of 1998) do not prejudice the operation of section 2A(2)(c), whether before, on or after that repeal and substitution.

(Replaced 26 of 1998 s. 24)

附表 8

[第 2A(3) 條]

原有法律中的詞語和詞句在 1997 年
7 月 1 日及之後的解釋

1. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣(或相類名稱、詞語或詞句)的提述,在條文內容與以下所有權有關或涉及以下事務或關係的情況下,須解釋為對中華人民共和國中央人民政府或其他主管機關的提述——
 - (a) 香港特別行政區土地的所有權;
 - (b) 中華人民共和國中央人民政府負責處理的事務;
 - (c) 中央與香港特別行政區的關係。
2. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣(或相類名稱、詞語或詞句)的提述,在文意並非第 1 條所指明者的情況下,須解釋為對香港特別行政區政府的提述。
3. 對女皇陛下會同樞密院或對樞密院的提述,在條文的內容與關乎香港的上訴司法管轄權有關的情況下,須解釋為對香港終審法院的提述。
4. 對女皇陛下會同樞密院或對樞密院的提述,在文意並非涉及其上訴司法管轄權的情況下,須以與根據第 1 及 2 條解釋對女皇陛下的提述的相同方式,予以解釋。
5. 對名稱中包含“皇家”一詞的政府機構的提述,須——
 - (a) 在猶如“皇家”一詞已被刪去的情況下理解;及
 - (b) 理解為提述香港特別行政區的相應政府機構。
6. 對殖民地香港(或相類名稱、詞語或詞句)的提述,須解釋為對香港特別行政區的提述,而對殖民地香港的邊界的提述,須解釋為對由中華人民共和國國務院頒布的香港特別行政區行政區域圖所指明的邊界的提述。
7. 對香港最高法院的提述,須解釋為對香港特別行政區高等法院的提述。
8. 對香港上訴法院的提述,須解釋為對香港特別行政區高等法院上訴法庭的提述。
9. 對香港高等法院的提述,須解釋為對香港特別行政區高等法院原訟法庭的提述。
10. 對地方法院的提述,須解釋為對區域法院的提述。
11. 對香港總督的提述,須解釋為對香港特別行政區行政長官的提述;對總督會同行政局的提述,須解釋為對行政長官會同行政會議的提述。
12. 對香港最高法院首席大法官的提述,須解釋為對香港特別行政區高等法院首席法官的提述。
13. 對上訴法院大法官的提述,須解釋為對高等法院上訴法庭法官的提述。
14. 對高等法院大法官的提述,須解釋為對高等法院原訟法庭法官的提述。

SCHEDULE 8

[s. 2A(3)]

CONSTRUCTION ON AND AFTER 1 JULY 1997 OF WORDS
AND EXPRESSIONS IN LAWS PREVIOUSLY IN FORCE

1. Any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) where the content of the provision—
 - (a) relates to title to land in the Hong Kong Special Administrative Region;
 - (b) involves affairs for which the Central People's Government of the People's Republic of China has responsibility;
 - (c) involves the relationship between the Central Authorities and the Hong Kong Special Administrative Region,
 shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China.
2. Any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) in contexts other than those specified in section 1 shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.
3. Any reference to Her Majesty in Council or to the Privy Council, where the content of the provision relates to appellate jurisdiction in relation to Hong Kong, shall be construed as a reference to the Hong Kong Court of Final Appeal.
4. Any reference to Her Majesty in Council or to the Privy Council in contexts other than its appellate jurisdiction shall be construed in the same manner as references to Her Majesty are construed under sections 1 and 2.
5. Any reference to a Government agency which bears a name which includes the word “Royal” shall be read—
 - (a) as if the word “Royal” were omitted; and
 - (b) as a reference to the corresponding Government agency of the Hong Kong Special Administrative Region.
6. Any reference to the Colony of Hong Kong (or to similar names, terms or expressions) shall be construed as a reference to the Hong Kong Special Administrative Region and any reference to the boundaries of the Colony of Hong Kong shall be construed as a reference to the boundaries as specified in the map of the administrative division of the Hong Kong Special Administrative Region published by the State Council of the People's Republic of China.
7. Any reference to the Supreme Court of Hong Kong shall be construed as a reference to the High Court of the Hong Kong Special Administrative Region.
8. Any reference to the Court of Appeal of Hong Kong shall be construed as a reference to the Court of Appeal of the High Court of the Hong Kong Special Administrative Region.
9. Any reference to the High Court of Justice of Hong Kong shall be construed as a reference to the Court of First Instance of the High Court of the Hong Kong Special Administrative Region.
10. Any reference to “地方法院” shall be construed as a reference to “區域法院”.
11. Any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively.
12. Any reference to the Chief Justice of the Supreme Court of Hong Kong shall be read as a reference to the Chief Judge of the High Court of the Hong Kong Special Administrative Region.
13. Any reference to “上訴法院大法官” shall be construed as a reference to “高等法院上訴法庭法官”.
14. Any reference to a judge of the High Court shall be construed as a reference to a judge of the Court of First Instance.

15. 在任何法律中文文本中對立法局、司法機關或行政機關或該等機關的人員的提述，須按照《基本法》有關規定解釋。
16. 在任何法律中對立法局的提述，須視情況要求，解釋為包括對臨時立法會的提述。
17. 對中華人民共和國或中國（或相類名稱、詞語或詞句）的提述，須解釋為對包括台灣、香港特別行政區及澳門在內的中華人民共和國的提述。
18. 對大陸、台灣、香港或澳門的提述（不論是單獨提述或同時提述），須解釋為對作為中華人民共和國一個組成部分的大陸、台灣、香港或澳門（視屬何情況而定）的提述。
19. 對外國（或相類詞語或詞句）的提述，須解釋為對中華人民共和國以外的國家或地區的提述，或解釋為對香港特別行政區以外的任何地方的提述，視乎有關法律的內容而定。
20. 對外國人或外籍人士（或相類詞語或詞句）的提述，須解釋為對並非中華人民共和國公民的人士的提述。
21. 任何保留女皇陛下，其世襲繼承人及繼位人的權利的條文，須解釋為保留中華人民共和國中央人民政府及香港特別行政區政府的根據《基本法》和其他法律的規定所享有的權利。
- 21A. 對立法局的提述，須解釋為對立法會的提述。（由1998年第26號第42條增補）
- 21B. 對行政局的提述，須解釋為對行政會議的提述。（由1998年第26號第42條增補）
- 21C. 對地方法院法官的提述，或對地院法官的提述，須解釋為對區域法院法官的提述。（由1998年第26號第42條增補）
- 21D. 對大法官的提述，或對大法官或法官的提述，須解釋為對法官的提述。（由1998年第26號第42條增補）
- 21E. 對政府的提述，須解釋為對特區政府的提述。（由1998年第26號第42條增補）
- 21F. 對首席法官的提述，或對首席大法官的提述，須解釋為對終審法院首席法官的提述。（由1998年第26號第42條增補）
22. 除文意另有所指外，本附表適用。

（由1997年第110號第6條增補）

* 並請參閱1993年第308號法律公告。

15. Any reference in the Chinese version of any law to the Legislative Council, the Judiciary or the Executive Authorities or to the officers of those bodies shall be construed in accordance with the relevant provisions of the Basic Law.
16. Any reference in any law to the Legislative Council shall, as the case may require, be construed as including a reference to the Provisional Legislative Council.
17. Any reference to the People's Republic of China or to China (or to similar names, terms or expressions) shall be construed as a reference to the People's Republic of China as including Taiwan, the Hong Kong Special Administrative Region and Macau.
18. Any reference to the Mainland, Taiwan, Hong Kong or Macau (whether separately or concurrently) shall be construed as a reference to the Mainland, Taiwan, Hong Kong or Macau, as the case may be, as a part of the People's Republic of China.
19. Any reference to a foreign country or foreign state (or to similar terms or expressions) shall be construed as a reference to a country or territory other than the People's Republic of China or as a reference to any place other than the Hong Kong Special Administrative Region, depending on the content of the relevant law.
20. Any reference to an alien (or to similar terms or expressions) shall be construed as a reference to a person other than a citizen of the People's Republic of China.
21. Any provision saving the rights of Her Majesty, Her Heirs and Successors shall be construed as saving the rights of the Central People's Government of the People's Republic of China and the rights of the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws.
- 21A. Any reference to "立法局" shall be construed as a reference to "立法會". (Added 26 of 1998 s. 42)
- 21B. Any reference to "行政局" shall be construed as a reference to "行政會議". (Added 26 of 1998 s. 42)
- 21C. Any reference to "地方法院法官" or "地院法官" shall be construed as a reference to "區域法院法官". (Added 26 of 1998 s. 42)
- 21D. Any reference to "大法官" or "大法官或法官" shall be construed as a reference to "法官". (Added 26 of 1998 s. 42)
- 21E. Any reference to "政府" shall be construed as a reference to "特區政府". (Added 26 of 1998 s. 42)
- 21F. Any reference to "首席法官" or "首席大法官" shall be construed as a reference to "終審法院首席法官". (Added 26 of 1998 s. 42)
22. This Schedule applies unless the context otherwise requires.

(Added 110 of 1997 s. 6)

* Please also see L.N. 308 of 1993.

第 151 章

社團條例

2. 釋義

(1) 在本條例中，除文意另有所指外——

“三合會儀式”(triad ritual) 指三合會社團普遍採用的任何儀式、與該等儀式十分相似的任何儀式以及該等儀式的任何部分；(由 1961 年第 28 號第 2 條增補)

“分支機構”(branch) 就社團的分支機構而言，包括以任何方式隸屬於其他社團的任何社團；(由 1961 年第 28 號第 2 條增補。由 1997 年第 118 號第 3 條修訂)

“本地社團”(local society) 指在香港組織和成立或總部或主要的業務地點設於香港的任何社團，包括憑藉第 2(2B) 或 4 條而當作是在香港成立的任何社團；(由 1982 年第 36 號第 2 條修訂；由 1988 年第 30 號第 4 條修訂；由 1992 年第 75 號第 3 條修訂；由 1997 年第 118 號第 3 條修訂)

CHAPTER 151

SOCIETIES

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

“branch” (分支機構), in relation to a society, includes any society which is in any way subordinate to any other society; (*Added 28 of 1961 s. 2. Amended 118 of 1997 s. 3*)

“connection” (聯繫), in relation to a society or a branch, that is a political body, includes the following circumstances—

- (a) if the society or the branch solicits or accepts financial contributions, financial sponsorships or financial support of any kind or loans, directly or indirectly, from a foreign political organization or a political organization of Taiwan;
- (b) if the society or the branch is affiliated directly or indirectly with a foreign political organization or a political organization of Taiwan;
- (c) if the society's or the branch's policies or any of them are determined directly or indirectly by a foreign political organization or a political organization of Taiwan; or

“外國政治性組織”(foreign political organization) 包括——

- (a) 外國政府或其政治分部；
- (b) 外國政府的代理人或外國政府的政治分部的代理人；或
- (c) 在外國的政黨或其代理人； (由 1997 年第 118 號第 3 條增補)

“台灣政治性組織”(political organization of Taiwan) 包括——

- (a) 台灣地區的政府或其政治分部；
- (b) 台灣地區的政府的代理人或該政府的政治分部的代理人；或
- (c) 在台灣地區的政黨或其代理人； (由 1997 年第 118 號第 3 條增補)

“社團”(society) 指本條例條文適用的任何會社、公司、一人以上的合夥或組織，不論性質或宗旨為何； (由 1961 年第 28 號第 2 條代替)

“社團事務主任”(Societies Officer) 指按照第 3 條條文委任的社團事務主任及任何助理社團事務主任； (由 1992 年第 75 號第 3 條增補)

“指明的表格”(specified form) 指由社團事務主任指明的表格； (由 1997 年第 118 號第 3 條增補)

“政治性團體”(political body) 指——

- (a) 政黨或宣稱是政黨的組織；或
- (b) 其主要功能或宗旨是為參加選舉的候選人宣傳或作準備的組織； (由 1997 年第 118 號第 3 條增補)

“秘書處”(Secretariat) 指由第 26BA 條設立的洗脫三合會會籍秘書處； (由 1991 年第 12 號第 2 條增補)

“幹事”(office-bearer) 就社團而言，指社團或其分支機構的會長、副會長、秘書或司庫，或社團或其分支機構的委員會成員或管治組織成員，或在社團或其分支機構擔任類似任何上述職位或職務的人；或就三合會社團而言，指在三合會社團擔任普通成員以外任何職級或職位的人； (由 1957 年第 31 號第 2 條修訂；由 1961 年第 28 號第 2 條修訂)

“履行職能”(performance of functions) 包括行使權力和履行責任； (由 1992 年第 75 號第 3 條增補)

“審裁處”(Tribunal) 指由第 26A 條設立的洗脫三合會會籍審裁處； (由 1988 年第 58 號第 2 條增補)

- (d) if a foreign political organization or a political organization of Taiwan directs, dictates, controls or participates, directly or indirectly, in the decision making process of the society or the branch; (Added 118 of 1997 s. 3)

“election”(選舉) means—

- (a) a general election or a by-election to elect members of the Legislative Council; or
- (b) an ordinary election or a by-election to elect members of a District Council; (Added 118 of 1997 s. 3. Amended 8 of 1999 s. 89; 48 of 1999 s. 48; 78 of 1999 s. 7)

“exempted society”(獲豁免社團) means a society exempted by the Societies Officer from registration under this Ordinance; (Added 118 of 1997 s. 3)

“foreign political organization”(外國政治性組織) includes—

- (a) a government of a foreign country or a political subdivision of a government of a foreign country;
- (b) an agent of a government of a foreign country or an agent of a political subdivision of the government of a foreign country; or
- (c) a political party in a foreign country or its agent; (Added 118 of 1997 s. 3. Amended 23 of 1998 s. 2)

“local society”(本地社團) means any society organized and established in Hong Kong or having its headquarters or chief place of business in Hong Kong, and includes any society deemed to be established in Hong Kong by virtue of section 2(2B) or 4; (Amended 36 of 1982 s. 2; 30 of 1988 s. 4; 75 of 1992 s. 3; 118 of 1997 s. 3)

“office-bearer”(幹事) of a society means any person who is the president, or vice-president, or secretary or treasurer of such society or any branch thereof, or who is a member of the committee or governing body of such society or any branch thereof, or who holds in such society or any branch thereof any office or position analogous to any of those mentioned above or in the case of a triad society, any person holding any rank or office in the triad society other than that of any ordinary member; (Amended 31 of 1957 s. 2; 28 of 1961 s. 2)

“performance of functions”(履行職能) includes the exercise of powers and the performance of duties; (Added 75 of 1992 s. 3)

“political body”(政治性團體) means—

- (a) a political party or an organization that purports to be a political party; or
- (b) an organization whose principal function or main object is to promote or prepare a candidate for an election; (Added 118 of 1997 s. 3)

“選舉”(election)指——

- (a) 為選出立法會議員而舉行的換屆選舉或補選；或
- (b) 為選出區議會議員而舉行的一般選舉或補選；(由 1997 年第 118 號第 3 條增補。由 1999 年第 48 號第 48 條修訂；由 1999 年第 78 號第 7 條修訂)

“獲豁免社團”(exempted society)指根據本條例獲社團事務主任豁免註冊的社團；(由 1997 年第 118 號第 3 條增補)

“聯繫”(connection)就屬政治性團體的社團或分支機構而言，包括以下情況——

- (a) 該社團或該分支機構直接或間接尋求或接受外國政治性組織或台灣政治性組織的資助、任何形式的財政上的贊助或支援或貸款；
- (b) 該社團或該分支機構直接或間接附屬於外國政治性組織或台灣政治性組織；
- (c) 該社團或該分支機構的任何政策是直接或間接由外國政治性組織或台灣政治性組織釐定；或
- (d) 在該社團或該分支機構的決策過程中，外國政治性組織或台灣政治性組織直接或間接作出指示、主使、控制或參與。(由 1997 年第 118 號第 3 條增補)

(2) 本條例的條文不適用於附表所列明的人。(由 1961 年第 28 號第 2 條增補。由 1982 年第 36 號第 2 條修訂；由 1992 年第 75 號第 3 條修訂)

(2A) (由 1992 年第 75 號第 3 條廢除)

(2B) 至於已根據《商業登記條例》(第 310 章)登記，因而在附表中列為不屬本條例適用範圍的社團，如社團事務主任向該社團發出書面通知，表示他認為該社團並非純粹用作宗教、慈善、社交或康樂用途，本條例即適用於該社團，而該社團則被當作是在該通知發出當日在香港成立。(由 1997 年第 118 號第 3 條增補)

(3) 行政長官會同行政會議可藉命令修訂附表。(由 1961 年第 28 號第 2 條增補。由 1999 年第 13 號第 3 條修訂)

(4) 在本條例中，“公共安全”、“公共秩序”及“保護他人的權利和自由”各詞的釋義，與根據《公民權利和政治權利國際公約》適用於香港的有關規定所作的釋義相同。“國家安全”(national security)則指保衛中華人民共和國的領土完整及獨立自主。(由 1997 年第 118 號第 3 條代替)

(由 1992 年第 75 號第 3 條修訂)

“political organization of Taiwan”(台灣政治性組織) includes—

- (a) the administration of Taiwan or a political subdivision of the administration;
- (b) an agent of the administration of Taiwan or an agent of a political subdivision of the administration; or
- (c) a political party in Taiwan or its agent; (Added 118 of 1997 s. 3)

“Secretariat”(秘書處) means the Triad Renunciation Secretariat established by section 26BA; (Added 12 of 1991 s. 2)

“Societies Officer”(社團事務主任) means the Societies Officer and any Assistant Societies Officer appointed in accordance with the provisions of section 3; (Added 75 of 1992 s. 3)

“society”(社團) means any club, company, partnership or association of persons, whatever the nature or objects, to which the provisions of this Ordinance apply; (Replaced 28 of 1961 s. 2)

“specified form”(指明的表格) means a form specified by the Societies Officer; (Added 118 of 1997 s. 3)

“triad ritual”(三合會儀式) means any ritual commonly used by triad societies, any ritual closely resembling any such ritual and any part of any such ritual; (Added 28 of 1961 s. 2)

“Tribunal”(審裁處) means the Triad Renunciation Tribunal established by section 26A. (Added 58 of 1988 s. 2)

(2) The provisions of this Ordinance shall not apply to any person listed in the Schedule. (Added 28 of 1961 s. 2. Amended 36 of 1982 s. 2; 75 of 1992 s. 3)

(2A) (Repealed 75 of 1992 s. 3)

(2B) This Ordinance applies to a society to which it otherwise would not apply under the Schedule by its being registered under the Business Registration Ordinance (Cap. 310) if the Societies Officer gives written notice to the society that he is of the opinion that the society is not used solely for religious, charitable, social or recreational purposes. The society is taken to be established in Hong Kong on the date on which the notice is given. (Added 118 of 1997 s. 3)

(3) The Chief Executive in Council may by order amend the Schedule. (Added 28 of 1961 s. 2. Amended 13 of 1999 s. 3)

(4) In this Ordinance the expressions “public safety”, “public order (ordre public)” and “the protection of rights and freedoms of others” are interpreted in the same way as under the International Covenant on Civil and Political Rights as applied to Hong Kong. “national security”(國家安全) means the safeguarding of the territorial integrity and the independence of the People's Republic of China. (Replaced 118 of 1997 s. 3)

(Amended 75 of 1992 s. 3)

5A. 註冊及豁免註冊

- (1) 在第 (3) 款的規限下，社團事務主任可註冊任何社團或分支機構。
- (2) 在第 (3) 款的規限下，社團事務主任如信納任何社團或分支機構是純粹為宗教、慈善、社交或康樂目的而成立，或信納它是純粹成立以作為鄉事委員會或由鄉事委員會組成的聯會或其他組織，他可豁免該社團或該分支機構註冊。社團事務主任如豁免任何社團或任何分支機構註冊，他可以指明的表格發出豁免證明書。
- (3) 社團事務主任在諮詢保安局局長後，可拒絕任何社團或分支機構註冊或拒絕予其豁免註冊——
 - (a) 如他合理地相信拒絕註冊該社團或該分支機構或拒絕予其豁免註冊，是維護國家安全或公共安全、公共秩序或保護他人的權利和自由所需要者；或
 - (b) 如該社團或該分支機構是政治性團體，並與外國政治性組織或台灣政治性組織有聯繫。
- (4) 社團事務主任如事先沒有給予該社團機會，就為何不應拒絕其註冊申請或豁免註冊申請而作出該社團認為適當的陳詞或書面申述，則不得拒絕該項申請，但如社團事務主任合理地相信，給予該社團機會作出陳詞或書面申述，在該個案的情況下並不切實可行，則不在此限。
- (5) 社團事務主任須在作出決定後 14 天內，以書面方式將他拒絕註冊社團或其分支機構或拒絕予其豁免註冊的理由給予該社團。
- (6) 任何社團或分支機構，均可運作及繼續運作，直至有關社團接獲通知指社團事務主任已拒絕其註冊申請或豁免註冊申請為止。

(由 1997 年第 118 號第 4 條增補)

5A. Registration and exemption from registration

- (1) Subject to subsection (3), the Societies Officer may register a society or a branch.
- (2) Subject to subsection (3), the Societies Officer may exempt a society or a branch from registration if he is satisfied that the society or the branch is established solely for religious, charitable, social or recreational purposes or as a rural committee or a federation or other association of rural committees. If the Societies Officer exempts a society or a branch from registration, he may issue a certificate of exemption from registration in the specified form.
- (3) The Societies Officer may, after consultation with the Secretary for Security, refuse to register or to exempt from registration a society or a branch—
 - (a) if he reasonably believes that the refusal is necessary in the interests of national security or public safety, public order (*ordre public*) or the protection of the rights and freedoms of others; or
 - (b) if the society or the branch is a political body that has a connection with a foreign political organization or a political organization of Taiwan.
- (4) The Societies Officer shall not refuse an application for registration or exemption from registration without first giving the society an opportunity to be heard or to make written representations as the society thinks fit as to why the application should not be refused unless the Societies Officer reasonably believes that in the circumstances of the case it would not be practicable to give the society the opportunity to be heard or to make representations.
- (5) The Societies Officer shall give to a society written reasons for his refusal to register or to exempt from registration the society or the branch within 14 days of the decision.
- (6) A society or a branch may operate and continue to operate until the society is notified that the Societies Officer has refused its application for registration or exemption from registration.

(Added 118 of 1997 s. 4)

5D. 取消註冊或註冊豁免

(1) 社團事務主任在諮詢保安局局長後，可取消任何社團或分支機構的註冊或註冊豁免——

- (a) 如他合理地相信，取消該社團或該分支機構的註冊或註冊豁免，是維護國家安全或公共安全、公共秩序或保護他人的權利和自由所需要者；或
- (b) 如該社團或該分支機構是政治性團體，並與外國政治性組織或台灣政治性組織有聯繫。

(2) 社團事務主任如事先沒有給予該社團機會，就為何不應取消有關註冊或註冊豁免而作出該社團認為適當的陳詞或書面申述，則不得取消該項註冊或註冊豁免，但如社團事務主任合理地相信，給予該社團機會作出陳詞或書面申述，在該個案的情況下並不切實可行，則不在此限。

(3) 社團事務主任須在作出決定後 14 天內，以書面方式將他決定取消社團或其分支機構的註冊或註冊豁免的理由給予該社團。

(由 1997 年第 118 號第 4 條增補)

5E. 就取消提出上訴

有關社團、有關分支機構或該社團中或該分支機構中的幹事或成員，如因社團事務主任取消註冊或註冊豁免的決定而感到受屈，均可在有關該項決定的通知發出予該社團後 30 天內，向行政長官會同行政會議提出上訴。行政長官會同行政會議可確認、更改或推翻該項決定，遭上訴的決定則暫停實施，直至行政長官會同行政會議就該項上訴作出聆訊及裁決為止。

(由 1997 年第 118 號第 4 條增補)

5D. Cancellation of registration or exemption from registration

(1) The Societies Officer may, after consultation with the Secretary for Security, cancel the registration or exemption from registration of a society or a branch—

- (a) if he reasonably believes that the cancellation is necessary in the interests of national security or public safety, public order (*ordre public*) or the protection of the rights and freedoms of others; or
- (b) if the society or the branch is a political body that has a connection with a foreign political organization or a political organization of Taiwan.

(2) The Societies Officer shall not cancel the registration or exemption from registration without first giving the society an opportunity to be heard or to make written representations as the society thinks fit as to why the registration or exemption from registration should not be cancelled unless the Societies Officer reasonably believes that in the circumstances of the case it would not be practicable to give the society the opportunity to be heard or to make representations.

(3) The Societies Officer shall give to a society written reasons for his decision to cancel the registration or exemption from registration of the society or branch within 14 days of the decision.

(Added 118 of 1997 s. 4)

5E. Appeal against cancellation

The society, the branch, an office-bearer or a member of the society or the branch who is aggrieved by the decision of the Societies Officer to cancel the registration or exemption from registration may appeal to the Chief Executive in Council within 30 days of the date when notice of the decision was given to the society. The Chief Executive in Council may confirm, vary or reverse the decision. The operation of the decision appealed against is suspended until the Chief Executive in Council has heard and determined the appeal.

(Added 118 of 1997 s. 4)

8. 禁止社團的運作

(1) 如——

- (a) 社團事務主任合理地相信禁止任何社團或分支機構的運作或繼續運作，是維護國家安全或公共安全、公共秩序或保護他人的權利和自由所需要者；或
- (b) 該社團或該分支機構是政治性團體，並與外國政治性組織或台灣政治性組織有聯繫，

社團事務主任可建議保安局局長作出命令，禁止該社團或該分支機構運作或繼續運作。(由 1997 年第 118 號第 5 條代替)

(2) 保安局局長獲社團事務主任根據第 (1) 款作出建議後，可藉在憲報刊登的命令，禁止該社團或該分支機構在香港運作或繼續運作。

(3) 保安局局長如事先沒有給予該社團或該分支機構機會，就為何不應根據第 (2) 款作出命令而作出該社團或該分支機構認為適當的陳詞或書面申述，則不得作出該命令。

(4) 如保安局局長合理地相信給予該社團或該分支機構機會作出陳詞或書面申述，在該個案的情況下並不切實可行，第 (3) 款則不適用。

(5) 根據第 (2) 款作出的命令，須在切實可行範圍內盡快——

- (a) 送達該社團或該分支機構；
- (b) (如該社團或該分支機構佔用或使用任何建築物或處所) 在該社團或該分支機構佔用或使用作為集會地點的建築物或處所以及在該建築物或處所所在的警區中最近的警署，以顯眼方式張貼；及
- (c) 在憲報刊登。

(6) 凡根據第 (2) 款作出命令，即使就該項命令已經有或可能有任何上訴根據第 (7) 款提出，該項命令一經在憲報刊登，即行生效，而該項命令如指明於較後日期生效，則在該指明日期生效。

(7) 根據本條作出的命令涉及的任何社團或任何分支機構，以及該社團中或該分支機構中因保安局局長根據本條作出的命令而感到受屈的幹事或成員，均可在該項命令生效後 30 天內，就該項命令的作出向行政長官會同行政會議上訴，而行政長官會同行政會議可確認、更改或撤銷該項命令。(由 1999 年第 13 號第 3 條修訂)

(由 1992 年第 75 號第 5 條代替。由 1997 年第 118 號第 5 條修訂；由 1997 年第 362 號法律公告修訂)

8. Prohibition of operation of societies

(1) The Societies Officer may recommend to the Secretary for Security to make an order prohibiting the operation or continued operation of the society or the branch—

- (a) if he reasonably believes that the prohibition of the operation or continued operation of a society or a branch is necessary in the interests of national security or public safety, public order (*ordre public*) or the protection of the rights and freedoms of others; or
- (b) if the society or the branch is a political body that has a connection with a foreign political organization or a political organization of Taiwan. (*Replaced 118 of 1997 s. 5*)

(2) On the recommendation by the Societies Officer under subsection (1), the Secretary for Security may by order published in the Gazette prohibit the operation or continued operation of the society or the branch in Hong Kong.

(3) The Secretary for Security shall not make an order under subsection (2) without first affording the society or the branch an opportunity to be heard or to make representations in writing as the society or the branch thinks fit as to why such an order should not be made.

(4) Subsection (3) shall not apply where the Secretary for Security reasonably believes that affording the society or the branch an opportunity to be heard or to make representations in writing would not be practicable in the circumstances of that case.

(5) An order made under subsection (2) shall as soon as practicable be—

- (a) served on the society or the branch;
- (b) (where the society or the branch occupies or uses any building or premises) affixed in a conspicuous manner on any building or premises occupied or used as a place of meeting by the society or the branch and at the nearest police station of the police district in which such building or premises are situated; and
- (c) published in the Gazette.

(6) An order made under subsection (2) shall take effect on publication in the Gazette or, if the order specifies a subsequent date for its taking effect, shall take effect on that specified date, notwithstanding that an appeal has been or may be made against the order under subsection (7).

(7) A society or a branch in relation to which an order is made under this section and any office-bearer or member of the society or the branch who is aggrieved by an order of the Secretary for Security made under this section may appeal to the Chief Executive in Council against the making of the order within 30 days after the order takes effect and the Chief Executive in Council may confirm, vary or revoke the order. (*Amended 13 of 1999 s. 3*)

(*Replaced 75 of 1992 s. 5. Amended 118 of 1997 s. 5*)

15. 社團須提交的資料

(1) 社團事務主任可隨時藉送達任何社團的書面通知，規定該社團以書面向他提交他為根據本條例履行他的職能而合理需要的資料。(由 1992 年第 75 號第 8 條代替)

(1A) 根據第 (1) 款規定提交的資料，可包括該社團或其分支機構的收入、收入來源及開支。(由 1997 年第 118 號第 11 條增補)

(2) 根據第 (1) 款送達的通知，須指明提供資料的時限(該時限不得少於 7 天)：但社團事務主任可就向他提出的申請，在有好的因由提出後，酌情批准將時限延長。(由 1992 年第 75 號第 8 條修訂)

(由 1982 年第 36 號第 8 條修訂；由 1988 年第 30 號第 4 條修訂)

32. 在特殊情況下進入的權力

如裁判官根據經宣誓而作的告發，信納有合理理由相信任何社團或分支機構正用作或經營作某用途，以致禁止該社團或該分支機構的運作或繼續運作是維護國家安全或公共安全、公共秩序或保護他人的權利和自由所需要者，則他可發出手令，授權社團事務主任及該手令所指明的其他人進入和搜查相信是用作該社團或該分支機構集會地點或業務地點的任何地方或處所，並搜查在其內發現的人或從其內逃出的人，以取得該社團或該分支機構正用作上述用途的證據，以及檢取或安排檢取社團事務主任有合理因由相信在根據本條例就該社團或該分支機構所提出的罪行檢控中能作為證據的所有文件或物品。

(由 1992 年第 75 號第 21 條代替。由 1997 年第 118 號第 15 條修訂)

15. Information to be furnished by societies

(1) The Societies Officer may, at any time, by notice in writing served on any society require the society to furnish him in writing with such information as he may reasonably require for the performance of his functions under this Ordinance. (Replaced 75 of 1992 s. 8)

(1A) The information required under subsection (1) may include the income, the source of the income and the expenditure of the society or its branch. (Added 118 of 1997 s. 11)

(2) A notice served under subsection (1) shall specify the time within which (being not less than 7 days) the information shall be supplied:

Provided that the Societies Officer may, on application made to him and on good cause being shown, grant an extension of time at his discretion. (Amended 75 of 1992 s. 8)

(Amended 36 of 1982 s. 8; 30 of 1988 s. 4)

32. Power of entry in special cases

A magistrate may, if satisfied by information on oath that there is reasonable ground for believing that a society or a branch is being used or operated for any purpose that makes the prohibition of the operation or continued operation of the society or the branch necessary in the interests of national security or to public safety or public order (*ordre public*) or the protection of the rights and freedoms of others, issue a warrant authorizing the Societies Officer and such other persons as may be specified in the warrant to enter into and search any place or premises believed to be used as the place of meeting or place of business of the society or the branch and search the persons found therein or escaping therefrom for evidence that the society or the branch is being used for such purpose and seize or cause to be seized all documents or articles which the Societies Officer has reasonable cause to believe to be capable of being evidence in the prosecution of an offence under this Ordinance in connection with the society or the branch.

(Replaced 75 of 1992 s. 21. Amended 118 of 1997 s. 15)

第 200 章

CHAPTER 200

刑事罪行條例

CRIMES

第 I 部

PART I

叛逆

TREASON

2. 叛逆

- (1) 任何人有下列行為，即屬叛逆——
- (a) 殺死或傷害女皇陛下，或導致女皇陛下身體受傷害，或禁錮女皇陛下，或限制女皇陛下的活動；
 - (b) 意圖作出 (a) 段所述的作為，並以公開的作為表明該意圖；
 - (c) 向女皇陛下發動戰爭——
 - (i) 意圖廢除女皇陛下作為聯合王國或女皇陛下其他領土的君主稱號、榮譽及皇室名稱；或
 - (ii) 旨在以武力或強制手段強迫女皇陛下改變其措施或意見，或旨在向國會或任何英國屬土的立法機關施加武力或強制力，或向其作出恐嚇或威嚇；

2. Treason

- (1) A person commits treason if he—
- (a) kills, wounds or causes bodily harm to Her Majesty, or imprisons or restrains Her;
 - (b) forms an intention to do any such act as is mentioned in paragraph (a) and manifests such intention by an overt act;
 - (c) levies war against Her Majesty—
 - (i) with the intent to depose Her Majesty from the style, honour and royal name of the Crown of the United Kingdom or of any other of Her Majesty's dominions; or
 - (ii) in order by force or constraint to compel Her Majesty to change Her measures or counsels, or in order to put any force or constraint upon, or to intimidate or overawe, Parliament or the legislature of any British territory;

- (d) 鼓動外國人以武力入侵聯合王國或任何英國屬土；
- (e) 以任何方式協助與女皇陛下交戰的公敵；或
- (f) 與他人串謀作出 (a) 或 (c) 段所述的事情。

(2) 任何人叛逆，即屬犯罪，一經循公訴程序定罪，可處終身監禁。（由 1993 年第 24 號第 2 條修訂）

[比照 1351 c. 2 U.K.; 比照 1795 c. 7 s. 1 U.K.; 比照 1817 c. 6 s. 1 U.K.]

3. 叛逆性質的罪行

- (1) 任何人意圖達到以下任何目的，即——

- (a) 廢除女皇陛下作為聯合王國或女皇陛下其他領土的君主稱號、榮譽及皇室名稱；
- (b) 在聯合王國或任何英國屬土境內向女皇陛下發動戰爭，旨在以武力或強制手段強迫女皇陛下改變其措施或意見，或旨在向國會或任何英國屬土的立法機關施加武力或強制力，或向其作出恐嚇或威嚇；或
- (c) 鼓動外國人以武力入侵聯合王國或任何英國屬土，

並以任何公開的作為或以發布任何印刷品或文件表明該意圖，即屬犯罪，一經循公訴程序定罪，可處終身監禁。 [比照 1848 c. 12 s. 3 U.K.]

(2) 就根據本條提出的控罪而言，即使被控人經證實的作為足以構成第 2 條所指的叛逆，亦不得以此作為免責辯護；但被裁定本條所訂罪行罪名成立或罪名不成立的人，以後不得根據相同事實就第 2 條所指的叛逆被檢控。 [比照 1848 c. 12 s. 7 U.K.]

4. 對叛逆等的審訊的限制

(1) 除非檢控是在犯罪後 3 年內開始進行，否則任何人不得就第 2 或 3 條所訂的罪行被檢控。 [比照 1695 c. 3 s. 6 U.K.]

- (d) instigates any foreigner with force to invade the United Kingdom or any British territory;
- (e) assists by any means whatever any public enemy at war with Her Majesty; or
- (f) conspires with any other person to do anything mentioned in paragraph (a) or (c).

(2) Any person who commits treason shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. (Amended 24 of 1993 s. 2)

[cf. 1351 c. 2 U.K.; 1795 c. 7 s. 1 U.K.; 1817 c. 6 s. 1 U.K.]

3. Treasonable offences

(1) Any person who forms an intention to effect any of the following purposes, that is to say—

- (a) to depose Her Majesty from the style, honour and royal name of the Crown of the United Kingdom or of any other of Her Majesty's dominions;
- (b) to levy war against Her Majesty within the United Kingdom or any British territory in order by force or constraint to compel Her Majesty to change Her measures or counsels, or in order to put any force or constraint upon, or to intimidate or overawe, Parliament or the legislature of any British territory; or
- (c) to instigate any foreigner with force to invade the United Kingdom or any British territory,

and manifests such intention by an overt act or by publishing any printing or writing, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life. [cf. 1848 c. 12 s. 3 U.K.]

(2) It shall be no defence to a charge under this section that any act proved against the person charged amounts to treason under section 2; but no person convicted or acquitted of an offence under this section shall afterwards be prosecuted for treason under section 2 upon the same facts. [cf. 1848 c. 12 s. 7 U.K.]

4. Limitations as to trial for treason, etc.

(1) A person shall not be prosecuted for any offence under section 2 or 3 unless the prosecution is commenced within 3 years after the offence is committed. [cf. 1695 c. 3 s. 6 U.K.]

(2) 若案件中所指稱公開的作為是殺死女皇陛下或直接企圖危害女皇陛下的生命，則本條對該案並不適用。 [比照 1800 c. 93 s. 1 U.K.]

(3) 叛逆或隱匿叛逆的審訊程序，與審訊謀殺的程序相同。 [比照 1967 c. 58 s. 12(6) U.K.]

5. 襲擊女皇

任何人故意——

- (a) 在女皇陛下附近拿出或有任何武器或具破壞性或危險性的物品，意圖用以傷害女皇陛下；
 - (b) (i) 用任何武器向女皇陛下或其附近發射，或以武器指向、瞄準或對著女皇陛下或其附近；
 - (ii) 導致任何爆炸品在女皇陛下附近爆炸；
 - (iii) 襲擊女皇陛下；或
 - (iv) 將任何物品投向或投中女皇陛下，
- 意圖使女皇陛下受驚或受傷，或意圖激使社會安寧遭破壞，或因而相當可能會導致社會安寧遭破壞，

即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。

[比照 1842 c. 51 s. 2 U.K.]

第 II 部

其他反英皇罪行

6. 煽惑叛變

任何人明知而企圖——

- (a) 勸誘英軍成員放棄職責及放棄向女皇陛下效忠；或 (由 1992 年第 54 號第 19 條修訂；由 1997 年第 20 號第 25 條修訂)
- (b) 煽惑上述任何人——
- (i) 作出叛變的作為或作出叛逆或叛變性質的作為；或
- (ii) 召開或試圖召開叛變性質的集會，

即屬犯罪，一經循公訴程序定罪，可處終身監禁。

[比照 1797 c. 70 s. 1 U.K.]

(2) This section does not apply to cases in which the overt act alleged is the killing of Her Majesty, or a direct attempt to endanger the life of Her Majesty. [cf. 1800 c. 93 s. 1 U.K.]

(3) The procedure on trials for treason or misprision of treason shall be the same as the procedure on trials for murder. [cf. 1967 c. 58 s. 12(6) U.K.]

5. Assaults on the Queen

Any person who wilfully—

- (a) produces or has near Her Majesty any arms or destructive or dangerous thing with intent to use the same to injure Her Majesty;
- (b) with intent to alarm or to injure Her Majesty, or to provoke a breach of the peace or whereby a breach of the peace is likely to be caused—
- (i) discharges, or points, aims or presents any arms at or near Her Majesty;
- (ii) causes any explosive substance to explode near Her Majesty;
- (iii) assaults Her Majesty; or
- (iv) throws anything at or upon Her Majesty,

shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 7 years.

[cf. 1842 c. 51 s. 2 U.K.]

PART II

OTHER OFFENCES AGAINST THE CROWN

6. Incitement to mutiny

Any person who knowingly attempts—

- (a) to seduce any member of Her Majesty's forces from his duty and allegiance to Her Majesty; or (Amended 54 of 1992 s. 19; 20 of 1997 s. 25)
- (b) to incite any such person—
- (i) to commit an act of mutiny or any traitorous or mutinous act; or
- (ii) to make or endeavour to make a mutinous assembly,

shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

[cf. 1797 c. 70 s. 1 U.K.]

7. 煽惑離叛

(1) 任何人明知而企圖勸誘——

- (a) 英軍成員；
- (b) (由 1997 年第 20 號第 25 條廢除)
- (ba) 政府飛行服務隊的成員； (由 1992 年第 54 號第 19 條增補)
- (c) 警務人員；或
- (d) 皇家香港輔助警察隊的成員，

放棄職責或放棄向女皇陛下效忠，即屬犯罪。 [比照 1934 c. 56 s. 1 U.K.]

(2) 任何人——

- (a) 知道第 (1) 款所述的成員、官員或人員行將棄職或擅離職守，仍協助該人作該行動；或
- (b) 知道該成員、官員或人員是棄職者或擅離職守者，仍藏匿該人、協助該人藏匿或協助將該人從羈押中救出，

即屬犯罪。

(3) 任何人意圖犯第 (1) 款所訂罪行，或意圖協助、教唆、慫恿或促致犯第 (1) 款所訂罪行，而管有某種性質的文件，且將該種性質的文件的文本派發予第 (1) 款所述的成員、官員或人員是會構成第 (1) 款所述罪行的，即屬犯罪。 [比照 1934 c. 56 s. 2(1) U.K.]

(4) 任何人犯本條所訂罪行，一經循公訴程序定罪，可處罰款 \$5,000 及監禁 2 年。 [比照 1934 c. 56 s. 3(1) U.K.]

(5) 如某人由某法庭或在某法庭席前被裁定犯本條所訂罪行，該法庭可命令毀滅或按照命令所指明的其他方式處理與該罪行有關的文件；但在提出上訴的期限屆滿前不得毀滅任何文件，而如有人提出上訴，則在上訴獲最終裁定或被放棄前，不得毀滅任何文件。 [比照 1934 c. 56 s. 3(4) U.K.]

(6) 未經律政司同意，不得就本條所訂罪行提出檢控。 [比照 1934 c. 56 s. 3(2) U.K.]

8. 搜查及防止發生第 7 條所訂罪行的權力

(1) 如法官根據經宣誓而作的告發，信納有合理理由懷疑有人犯第 7 條所訂罪行，並信納會在告發所指明的處所或地方發現犯該罪證據，可批出搜查令，授權一名不低於督察職級的警務人員，連同任何其他警務人員——

7. Incitement to disaffection

(1) Any person who knowingly attempts to seduce—

- (a) any member of Her Majesty's forces;
- (b) (*Repealed 20 of 1997 s. 25*)
- (ba) any member of the Government Flying Service; (*Added 54 of 1992 s. 19*)
- (c) any police officer; or
- (d) any member of the Royal Hong Kong Auxiliary Police Force,

from his duty or allegiance to Her Majesty shall be guilty of an offence. [cf. 1934 c. 56 s. 1 U.K.]

(2) Any person who—

- (a) knowing that any member or officer mentioned in subsection (1) is about to desert or absent himself without leave, assists him in so doing; or
- (b) knowing such member or officer to be a deserter or absentee without leave, conceals him or assists him in concealing himself or assists in his rescue from custody,

shall be guilty of an offence.

(3) Any person who, with intent to commit or to aid, abet, counsel or procure the commission of an offence under subsection (1), has in his possession any document of such a nature that the dissemination of copies thereof among the members or officers mentioned in subsection (1) would constitute such an offence, shall be guilty of an offence. [cf. 1934 c. 56 s. 2(1) U.K.]

(4) Any person guilty of an offence under this section shall be liable on conviction upon indictment to a fine of \$5,000 and to imprisonment for 2 years. [cf. 1934 c. 56 s. 3(1) U.K.]

(5) The court by or before which a person is convicted of an offence under this section may order any documents connected with the offence to be destroyed or dealt with in such other manner as may be specified in the order; but no documents shall be destroyed before the expiration of the period within which an appeal may be lodged, and if an appeal is lodged no document shall be destroyed until after the appeal has been finally determined or abandoned. [cf. 1934 c. 56 s. 3(4) U.K.]

(6) No prosecution for an offence under this section shall be instituted without the consent of the Attorney General. [cf. 1934 c. 56 s. 3(2) U.K.]

8. Power to search and prevent offences under section 7

(1) If a judge is satisfied by information on oath that there is reasonable ground for suspecting that an offence under section 7 has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may grant a search warrant authorizing a police officer not below the rank of inspector, together with any other police officers—

- (a) 於搜查令簽發日期起計 1 個月內隨時進入該處所或地方，在有需要時並可使用武力進入；
- (b) 搜查該處所或地方，及搜查在場所發現的任何人；及
- (c) 檢取在該處所或地方或在上述任何人身上發現，而該警務人員有合理理由懷疑是屬犯該罪行證據的任何物品。
- (2) 依據第 (1) 款批出的搜查令對任何女子作搜查，只可由另一名女子進行。
- (3) 儘管有第 (1) 款的規定——
 - (a) 該款所述的搜查令，只可就懷疑在提起告發前 3 個月內所犯的罪行批出；
 - (b) 如根據第 (1) 款批出的搜查令已就某處所執行，則進行或指示進行搜查的警務人員——
 - (i) 須通知佔用人已進行搜查，並須應要求向該佔用人提供一份從該處所移走的文件或其他物件的列表；及
 - (ii) 如曾從其他人身上移走任何文件，須向該人提供一份該等文件的列表；
 - (c) 根據第 (1) 款檢取的物品，可保留一段不超過 1 個月的期間，而倘在該段期間內已開始進行第 7 條所訂罪行的法律程序，則可保留至該等法律程序終結為止；及
 - (d) 《刑事訴訟程序條例》(第 221 章) 第 102 條 (該條就處置與罪行有關的財產作出規定) 適用於根據本條已歸警方管有的財產，猶如該條適用於在該條所述的情況下歸警方管有的財產一樣。

[比照 1934 c. 56 s. 2(2) U.K.]

9. 煽動意圖

- (1) 煽動意圖是指意圖——
 - (a) 引起憎恨或藐視女皇陛下本人、其世襲繼承人或其他繼承人，或香港政府，或女皇陛下的領土其他部分的政府，或依法成立而受女皇陛下保護的領域的政府，或激起對其離叛；或 (由 1938 年第 28 號第 2 條代替)

- (a) to enter the premises or place at any time within 1 month from the date of the warrant, if necessary by force;
- (b) to search the premises or place and any person found therein; and
- (c) to seize anything found on the premises or place or on any such person which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence.
- (2) A woman shall not be searched, in pursuance of a warrant granted under subsection (1), except by a woman.
- (3) Notwithstanding anything contained in subsection (1)—
 - (a) a warrant shall only be granted under subsection (1) in respect of an offence suspected to have been committed within the 3 months prior to the laying of the information thereof;
 - (b) if a warrant under subsection (1) has been executed on any premises, the police officer who has conducted or directed the search shall—
 - (i) notify the occupier that the search has taken place, and supply him on request with a list of any documents or other objects which have been removed from the premises; and
 - (ii) where any documents have been removed from any other person, supply that person with a list of such documents;
 - (c) anything seized under subsection (1) may be retained for a period not exceeding 1 month, or if within that period proceedings are commenced for an offence under section 7, until the conclusion of those proceedings; and
 - (d) section 102 of the Criminal Procedure Ordinance (Cap. 221) (which makes provision for the disposal of property connected with offences) shall apply to property which has come into the possession of the police under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that section.

[cf. 1934 c. 56 s. 2(2) U.K.]

9. Seditious intention

- (1) A seditious intention is an intention—
 - (a) to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, or Her Heirs or Successors, or against the Government of Hong Kong, or the government of any other part of Her Majesty's dominions or of any territory under Her Majesty's protection as by law established; or (Replaced 28 of 1938 s. 2)

- (b) 激起女皇陛下子民或香港居民企圖不循合法途徑促致改變其他在香港的依法制定的事項；或
 - (c) 引起對香港司法的憎恨、藐視或激起對其離叛；或
 - (d) 引起女皇陛下子民間或香港居民間的不滿或離叛；或
 - (e) 引起或加深香港不同階層居民間的惡感及敵意；或
 - (f) 煽惑他人使用暴力；或 (由 1970 年第 30 號第 2 條增補)
 - (g) 慫恿他人不守法或不服從合法命令。 (由 1970 年第 30 號第 2 條增補)
- (2) 任何作為、言論或刊物，不會僅因其有下列意圖而具有煽動性—— (由 1938 年第 28 號第 2 條修訂)
- (a) 顯示女皇陛下在其任何措施上被誤導或犯錯誤；或
 - (b) 指出依法成立的香港政府或香港憲制的錯誤或缺點，或法例或司法的錯誤或缺點，而目的在於矯正該等錯誤或缺點；或
 - (c) 慫恿女皇陛下子民或香港居民嘗試循合法途徑促致改變在香港的依法制定的事項；或
 - (d) 指出在香港不同階層居民間產生或有傾向產生惡感及敵意的事項，而目的在於將其消除。 (由 1938 年第 28 號第 2 條修訂)
- (3) (由 1992 年第 74 號第 2 條廢除)

(將 1938 年第 13 號第 3 條編入)

10. 罪行

- (1) 任何人——
- (a) 作出、企圖作出、準備作出或與任何人串謀作出具煽動意圖的作為；或
 - (b) 發表煽動文字；或
 - (c) 刊印、發布、出售、要約出售、分發、展示或複製煽動刊物；或
 - (d) 輸入煽動刊物 (其本人無理由相信該刊物屬煽動刊物則除外)；

- (b) to excite Her Majesty's subjects or inhabitants of Hong Kong to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Hong Kong as by law established; or
 - (c) to bring into hatred or contempt or to excite disaffection against the administration of justice in Hong Kong; or
 - (d) to raise discontent or disaffection amongst Her Majesty's subjects or inhabitants of Hong Kong; or
 - (e) to promote feelings of ill-will and enmity between different classes of the population of Hong Kong; or
 - (f) to incite persons to violence; or (Added 30 of 1970 s. 2)
 - (g) to counsel disobedience to law or to any lawful order. (Added 30 of 1970 s. 2)
- (2) An act, speech or publication is not seditious by reason only that it intends— (Amended 28 of 1938 s. 2)
- (a) to show that Her Majesty has been misled or mistaken in any of Her measures; or
 - (b) to point out errors or defects in the government or constitution of Hong Kong as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
 - (c) to persuade Her Majesty's subjects or inhabitants of Hong Kong to attempt to procure by lawful means the alteration of any matter in Hong Kong as by law established; or
 - (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of Hong Kong. (Amended 28 of 1938 s. 2)
- (3) (Repealed 74 of 1992 s. 2)

(13 of 1938 s. 3 incorporated)

10. Offences

- (1) Any person who—
- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention; or
 - (b) utters any seditious words; or
 - (c) prints, publishes, sells, offers for sale, distributes, displays or reproduces any seditious publication; or
 - (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

即屬犯罪，第一次定罪可處罰款 \$5,000 及監禁 2 年，其後定罪可處監禁 3 年；煽動刊物則予以沒收並歸予官方。（將 1938 年第 13 號第 4 條編入。由 1950 年第 22 號附表修訂；由 1970 年第 30 號第 3 條修訂）

(2) 任何人無合法辯解而管有煽動刊物，即屬犯罪，第一次定罪可處罰款 \$2,000 及監禁 1 年，其後定罪可處監禁 2 年；該等刊物則予以沒收並歸予官方。（將 1938 年第 13 號第 4 條編入。由 1950 年第 22 號附表修訂）

(3) 凡任何人就煽動刊物而被根據第 (1) 或 (2) 款定罪後，法庭可命令檢取及沒收由下列的人管有的任何該等煽動刊物文本——

- (a) 上述被定罪的人；或
- (b) 命令內載明名稱的其他人（如法庭根據經宣誓後作出的證供，信納該人管有的刊物文本是供上述被定罪的人使用的）。（將 1971 年第 60 號第 19 條編入）[比照 1819 c. 8 ss. 1 & 2 U.K.]

(4) 根據第 (3) 款檢取的刊物文本，須按照法庭指示處置；但在提出上訴的期限屆滿前不得毀滅該等刊物文本，或如有人提出上訴，則在上訴獲最終裁定或被放棄前，不得毀滅該等刊物文本。（將 1971 年第 60 號第 19 條編入）

(5) 在本條中——

“煽動文字”(seditious words) 指具煽動意圖的文字；

“煽動刊物”(seditious publication) 指具煽動意圖的刊物。（將 1938 年第 13 號第 2 條編入）

11. 法律程序

(1) 就第 10 條所訂罪行提出的檢控，只可於犯罪後 6 個月內開始進行。

(2) 未經律政司書面同意，不得就第 10 條所訂罪行提出檢控。

(將 1938 年第 13 號第 5 條編入)

12. 證據

任何人不得因一名證人所作的未經佐證證供而被裁定犯第 10 條所訂的罪行。

(將 1938 年第 13 號第 6 條編入)

shall be guilty of an offence and shall be liable for a first offence to a fine of \$5,000 and to imprisonment for 2 years, and for a subsequent offence to imprisonment for 3 years; and any seditious publication shall be forfeited to the Crown. (13 of 1938 s. 4 incorporated. Amended 22 of 1950 Schedule; 30 of 1970 s. 3)

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and shall be liable for a first offence to a fine of \$2,000 and to imprisonment for 1 year, and for a subsequent offence to imprisonment for 2 years; and such publication shall be forfeited to the Crown. (13 of 1938 s. 4 incorporated. Amended 22 of 1950 Schedule)

(3) Where any person has been convicted of an offence under subsection (1) or (2) in respect of any seditious publication, the court may order the seizure and forfeiture of any copies of the seditious publication in the possession of—

- (a) the person convicted; or
- (b) any other person named in the order, if the court is satisfied by evidence on oath that the copies are in the possession of the other person for the use of the person convicted. (60 of 1971 s. 19 incorporated) [cf. 1819 c. 8 ss. 1 & 2 U.K.]

(4) Any copies seized under subsection (3) shall be disposed of as the court may direct; but no copies shall be destroyed until the expiration of the period within which an appeal may be lodged or, if an appeal is lodged, until the appeal has been finally determined or abandoned. (60 of 1971 s. 19 incorporated)

(5) In this section—

“seditious publication”(煽動刊物) means a publication having a seditious intention;

“seditious words”(煽動文字) means words having a seditious intention. (13 of 1938 s. 2 incorporated)

11. Legal proceedings

(1) No prosecution for an offence under section 10 shall be begun except within 6 months after the offence is committed.

(2) No prosecution for an offence under section 10 shall be instituted without the written consent of the Attorney General.

(13 of 1938 s. 5 incorporated)

12. Evidence

No person shall be convicted for an offence under section 10 on the uncorroborated testimony of one witness.

(13 of 1938 s. 6 incorporated)

13. 搜查令

如裁判官根據經宣誓而作的告發，信納有合理理由相信有人已經或行將犯第 10 條所訂罪行，可批出搜查令，授權警務人員，在所需協助下及在有需要時使用武力下進入搜查令所載明的處所或地方，及搜查該處所或地方和每名在場所發現的人，並檢取在該處所或地方發現而該警務人員有合理理由懷疑是屬犯第 10 條所訂罪行證據的任何物品。

(將 1938 年第 13 號第 7 條編入)

14. 移走煽動刊物的權力

(1) 任何警務人員或公職人員均可——

- (a) 進入任何處所或地方；
- (b) 截停及登上任何車輛、電車、火車或船隻，

並從該處移走或清除任何煽動刊物。

(2) 任何警務人員或公職人員均可——

- (a) 破啟其根據本條獲授權進入的處所或地方的外門或內門；
- (b) 以武力驅逐或移走妨礙其根據本條獲授權行使移走或清除權力的人或物品；
- (c) 扣留任何車輛、電車、火車或船隻，直至從該處將煽動刊物全部移走或清除為止；
- (d) 在移走或清除煽動刊物時，將任何人驅離任何車輛、電車、火車或船隻。

(3) 儘管有第 (1)(a) 款的規定，如有關的煽動刊物並非從公眾地方可見，則只有在符合下列情況下，方可行使該款所賦予的權力——

- (a) 事先取得有關處所或地方佔用人的准許；或
- (b) 根據及按照裁判官為此目的而發出的手令。

(將 1970 年第 30 號第 4 條編入)

15. 為犯死刑罪而作的非法誓言

任何人——

- (a) 為任何誓言或屬誓言性質的協定而監督或在場並同意有關監督，而該等誓言或屬誓言性質的協定其意是約束作出該等誓言或協定的人必須犯謀殺、叛逆或有暴力的海盜行為的罪行的；或 (由 1993 年第 24 號第 3 條修訂)

13. Search warrant

If a magistrate is satisfied by information on oath that there is reasonable cause to believe that an offence under section 10 has been or is about to be committed he may grant a search warrant authorizing any police officer to enter any premises or place named in the warrant, with such assistance as may be necessary, and if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place which the officer has reasonable ground for suspecting to be evidence of an offence under section 10.

(13 of 1938 s. 7 incorporated)

14. Power to remove seditious publications

(1) Any police officer or public officer may—

- (a) enter any premises or place;
- (b) stop and board any vehicle, tramcar, train or vessel,

and remove therefrom or obliterate any seditious publication.

(2) Any police officer or public officer may—

- (a) break open any outer or inner door of any premises or place which he is empowered by this section to enter;
- (b) remove by force any person or thing obstructing any removal or obliteration which he is empowered by this section to make;
- (c) detain any vehicle, tramcar, train or vessel until any seditious publication has been removed or obliterated therefrom;
- (d) remove any person from any vehicle, tramcar, train or vessel while any seditious publication is removed or obliterated.

(3) Notwithstanding anything contained in subsection (1)(a), the powers conferred thereby shall, if the seditious publication is not visible from a public place, only be exercised—

- (a) with the prior permission of the occupier of the premises or place; or
- (b) under and in accordance with a warrant issued by a magistrate for such purpose.

(30 of 1970 s. 4 incorporated)

15. Unlawful oaths to commit capital offences

Any person who—

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit an offence of murder, treason or piracy with violence; or (Amended 24 of 1993 s. 3)

(b) 並非被強迫而作出上述誓言或協定，
即屬犯罪，一經循公訴程序定罪，可處終身監禁。

[比照 1812 c. 104 ss. 1 & 6 U.K.]

16. 為犯罪而作的其他非法誓言

任何人——

- (a) 為任何誓言或屬誓言性質的協定而監督或在場並同意有關監督，而該等誓言或屬誓言性質的協定其意是約束作出該等誓言或協定的人必須作出下列任何作為——
 - (i) 參加任何叛變或煽動性質的計劃；
 - (ii) 犯任何非可懲處死刑的罪行；
 - (iii) 激使社會安寧遭破壞；
 - (iv) 隸屬任何為作出第 (i)、(ii) 或 (iii) 節所述的作為而組成的任何聯會或社團；
 - (v) 服從並非依法設立的委員會或團體的命令或指揮，或服從法律上無此權限的領導者或指揮者或其他人的命令或指揮；
 - (vi) 不告發或不提出證據指證任何有關連者或其他人；
 - (vii) 不揭發或透露任何非法聯會或社團或任何已作出或將會作出的非法作為、由其本人或其他人監督或作出或向其本人或向其他人提出的非法誓言或協定，或該等誓言或協定的意義；或

(b) 並非被強迫而作出上述誓言或協定，
即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。

[比照 1797 c. 123 ss. 1 & 5 U.K.]

17. 被強迫作非法誓言

就根據第 15 或 16 條提出的控罪而言，即使被控人被強迫作出第 15 或 16 條所述的誓言或協定，亦不得以此作為免責辯護，除非——

- (a) 在作出該誓言或協定後 14 天內；或
- (b) 如被強行阻止或受疾病所阻，在阻礙消失後 14 天內，
該被控人——

(b) takes any such oath or engagement, not being compelled to do so,
shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

[cf. 1812 c. 104 ss. 1 & 6 U.K.]

16. Other unlawful oaths to commit offences

Any person who—

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to act in any of the following ways, that is to say—
 - (i) to engage in any mutinous or seditious enterprise;
 - (ii) to commit any offence not punishable with death;
 - (iii) to provoke a breach of the peace;
 - (iv) to be of any association or society, formed for the purpose of doing any act mentioned in sub-paragraph (i), (ii) or (iii);
 - (v) to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose;
 - (vi) not to inform or give evidence against any associate or other person;
 - (vii) not to reveal or discover any unlawful association or society or any illegal act done or to be done, or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person, or the import of any such oath or engagement; or

(b) takes any such oath or engagement, not being compelled to do so,
shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 7 years.

[cf. 1797 c. 123 ss. 1 & 5 U.K.]

17. Compulsion in taking unlawful oaths

It shall be no defence to a charge under section 15 or 16 that the person charged was compelled to take any oath or engagement mentioned therein, unless—

- (a) within 14 days after taking it; or
- (b) if prevented by actual force or sickness, within 14 days after the termination of such prevention,
the person charged declares—

(i) 藉在裁判官席前宣誓而作的告發；或

(ii) 如實際服役於英軍，則藉該項告發或給予其指揮官員的通知，

聲明其就該事項知道的一切事情，包括為誓言或協定而監督或作出誓言或協定的時間、地點和在場的人。

[比照 1797 c. 123 s. 2 U.K. ; 比照 1812 c. 104 s. 2 U.K.]

18. 非法操練

(1) 任何人——

(a) 未經總督或警務處處長准許而訓練或操練他人使用武器或進行軍事練習或變陣演習；或

(b) 出席未經總督或警務處處長准許舉行的聚會，而該聚會旨在訓練或操練他人使用武器或進行軍事練習或變陣演習，

即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。

(2) 任何人——

(a) 在第 (1) 款所述的聚會中接受訓練或操練使用武器或進行軍事練習或變陣演習；或

(b) 出席任何該等聚會，旨在接受該等訓練或操練，

即屬犯罪，一經循公訴程序定罪，可處監禁 2 年。

[比照 1819 c. 1 s. 1 U.K.]

19. 有暴力的海盜行為

任何人意圖對任何船隻犯海盜行為罪，或正在對任何船隻犯海盜行為罪時，或緊接對任何船隻犯海盜行為罪之前或之後——

(a) 襲擊以意圖謀殺船隻上或隸屬該船隻的任何人；或

(b) 傷害上述的人；或

(c) 非法作出任何可令上述的人生命受到危害的作為，

即屬犯罪，一經循公訴程序定罪，可處終身監禁。（由 1993 年第 24 號第 4 條修訂）

[比照 1837 c. 88 s. 2 U.K.]

(i) by information on oath before a magistrate; or

(ii) if he is on actual service in Her Majesty's forces, either by such information or by informing his commanding officer,

of all he knows concerning the matter, including any person by whom and in whose presence, and the place where, and the time when, the oath or engagement was administered or taken.

[cf. 1797 c. 123 s. 2 U.K.; 1812 c. 104 s. 2 U.K.]

18. Unlawful drilling

(1) Any person who—

(a) without the permission of the Governor or the Commissioner of Police, trains or drills any other person in the use of arms or the practice of military exercises or evolutions; or

(b) is present at any meeting of persons, held without the permission of the Governor or the Commissioner of Police for the purpose of training or drilling any other persons in the use of arms or the practice of military exercises or evolutions,

shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 7 years.

(2) Any person who—

(a) at any meeting mentioned in subsection (1) is trained or drilled in the use of arms or the practice of military exercises or evolutions; or

(b) is present at any such meeting for the purpose of being so trained or drilled,

shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 2 years.

[cf. 1819 c. 1 s. 1 U.K.]

19. Piracy with violence

Any person who with intent to commit or at the time of or immediately before or immediately after committing the offence of piracy in respect of any vessel—

(a) assaults with intent to murder any person on board of or belonging to the vessel; or

(b) wounds any such person; or

(c) unlawfully does any act by which the life of any such person may be endangered,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. (Amended 24 of 1993 s. 4)

[cf. 1837 c. 88 s. 2 U.K.]

第 XIA 部

初步罪行

串謀

159A. 串謀罪

(1) 除本部條文另有規定外，如任何人與任何其他人士達成作出某項行為的協議，而該項協議如按照他們的意圖得以落實，即出現以下的情況——

- (a) 該項行為必會構成或涉及協議的一方或多於一方犯一項或多於一項罪行；或
- (b) 若非存在某些致令不可能犯該罪行或任何該等罪行的事實，該項行為即會構成或涉及犯該罪行或該等罪行，

PART XIA

PRELIMINARY OFFENCES

Conspiracy

159A. The offence of conspiracy

(1) Subject to the following provisions of this Part, if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either—

- (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement; or
- (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,

則該人即屬串謀犯該罪行或該等罪行。

(2) 凡任何罪行是犯該罪行的人在不知悉犯該罪行所需的任何特定事實或情況下仍可招致關於該罪行的法律責任的，則除非該人及協議中最少有其他一方意圖使該事實或情況於構成該罪行的行為發生時存在，或知道該事實或情況將會於該行為發生時存在，否則該人不得憑藉第(1)款而被裁定串謀犯該罪行。

(3) 在本條中，“罪行”(offence)指任何可在香港審訊的罪行，並包括謀殺，即使有關的謀殺如按照協議各方的意圖而作出該項謀殺便不可在香港審訊亦然。

159B. 串謀的法律責任的豁免

(1) 如任何人是任何串謀犯罪的目標受害人，則該人不得憑藉第 159A 條而被裁定犯該罪。

(2) 如任何人與一名或多於一名其他人達成協議犯一項或多於一項罪行，並只與該或該等其他人達成該協議，而該或該等其他人在達成協議時和在協議存在的時間均一直屬以下所述任何一類或多於一類的人——

- (a) 該人的配偶；
- (b) 未滿刑事罪責年齡的人；及
- (c) 該罪行或每項該等罪行的目標受害人，

則該人不得憑藉第 159A 條而被裁定串謀犯該罪行或該等罪行。

(3) 如某人憑藉《少年犯條例》(第 226 章)第 3 條而不可推翻地被推定為不能犯罪，則就第(2)(b)款而言，該人即屬未滿刑事罪責年齡。

159C. 罰則

(1) 任何人如憑藉第 159A 條被裁定串謀犯一項或多於一項罪行，一經循公訴程序定罪——

- (a) 如情況屬第(3)或(4)款所指者，可處的刑罰須按照該款而與有關的一項或多於一項罪行(在本條中稱為“有關罪行”)的嚴重程度相稱；及
- (b) 如屬任何其他情況，可處罰款。

he is guilty of conspiracy to commit the offence or offences in question.

(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

(3) In this section “offence” means any offence triable in Hong Kong and includes murder notwithstanding that the murder in question would not be so triable if committed in accordance with the intentions of the parties to the agreement.

159B. Exemptions from liability for conspiracy

(1) A person shall not by virtue of section 159A be guilty of conspiracy to commit any offence if he is an intended victim of that offence.

(2) A person shall not by virtue of section 159A be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions—

- (a) his spouse;
- (b) a person under the age of criminal responsibility; and
- (c) an intended victim of that offence or of each of those offences.

(3) A person is under the age of criminal responsibility for the purposes of subsection (2)(b) so long as it is conclusively presumed, by virtue of section 3 of the Juvenile Offenders Ordinance (Cap. 226), that he cannot be guilty of any offence.

159C. Penalties

(1) A person guilty of conspiracy to commit any offence or offences by virtue of section 159A shall be liable on conviction on indictment—

- (a) in a case falling within subsection (3) or (4), to imprisonment for a term related in accordance with that subsection to the gravity of the offence or offences in question (referred to in this section as “the relevant offence or offences”); and
- (b) in any other case, to a fine.

(2) 如情況屬第 (3) 或 (4) 款所指者，第 (1)(b) 款不得視為損害《刑事訴訟程序條例》(第 221 章) 第 113A 條 (法庭判罰款的權力) 的適用。

(3) 凡有關罪行或有關罪行中的任何罪行是以下所述者——

(a) 謀殺，或強制性須判終身監禁的任何其他罪行；或

(b) 規定判刑最高可達終身監禁的罪行，

則被定罪的人可處終身監禁。

(4) 凡情況並非屬第 (3) 款所適用，而有關罪行或有關罪行中的任何罪行是可處監禁的，則被定罪的人可處監禁，為期不超過就該罪行所規定的最高刑期或 (如有多於一項該等罪行) 任何就該等罪行所規定的最高刑期 (如規定的刑期有差異，就本條而言，以較長或最長的刑期為準)。

(5) 凡有關罪行或有關罪行中的任何罪行是可循公訴程序或簡易程序審訊的，則憑藉第 159A 條被裁定串謀犯一項或多於一項罪行的人一經循簡易程序定罪，該人可處一經循簡易程序就該有關罪行或有關罪行中的任何罪行被定罪所本可被判處的刑罰。

(6) 被裁定犯普通法中的串謀欺詐罪的人，可處監禁 14 年。

(7) 凡任何條例賦予處以罰款或沒收、檢取和搜查的權力，或賦予取消、暫時吊銷或中止，或拒絕發出任何牌照、執照、許可證或其他授權的任何權力及酌情決定權，或施加任何被裁定犯有關罪行後須予執行或履行的責任，或任何就因有關罪行被羈押的人而須執行或履行的責任，則該項權力或責任須當作亦可在裁定串謀犯該有關罪行後予以行使或履行，但本款任何條文不得當作授權處以任何監禁刑罰，但在因為沒有繳付任何憑藉本款處以的罰款的情況下而處以監禁刑罰則屬例外。

159D. 對提出法律程序的限制

凡——

(a) 有任何罪行已依據任何協議而犯下；及

(2) Subsection (1)(b) shall not be taken as prejudicing the application of section 113A of the Criminal Procedure Ordinance (Cap. 221) (power of court to fine) in a case falling within subsection (3) or (4).

(3) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions—

(a) murder, or any other offence the sentence for which is mandatory life imprisonment; or

(b) an offence for which a sentence extending to imprisonment for life is provided,

the person convicted shall be liable to imprisonment for life.

(4) Where in a case other than one to which subsection (3) applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted shall be liable to imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this section where the terms provided differ).

(5) A person guilty of conspiracy to commit any offence or offences by virtue of section 159A shall, where the relevant offence or any of the relevant offences is triable on indictment or summarily, be liable on summary conviction to any penalty to which he would have been liable on summary conviction of that relevant offence or any of the relevant offences.

(6) A person convicted of the offence at common law of conspiracy to defraud shall be liable to imprisonment for 14 years.

(7) Where any Ordinance confers a power of imposing pecuniary penalties or of forfeiture, seizure and search, or any powers and discretions to cancel, suspend or refuse to issue any licence, permit or other authorization, or imposes a duty which is to be exercised or performed consequent upon a conviction of a relevant offence or in relation to a person who is detained in custody for a relevant offence, then that power or duty shall be deemed to be also exercisable or performable consequent upon a conviction of a conspiracy to commit that relevant offence, but nothing in this subsection shall be deemed to authorize the imposition of any sentence of imprisonment otherwise than in default of payment of any pecuniary penalty which may be imposed by virtue of this subsection.

159D. Restriction on the institution of proceedings

Where—

(a) an offence has been committed in pursuance of any agreement; and

(b) 由於任何適用於提出任何該等法律程序的時限已經屆滿，因此不能就該罪行提出法律程序，

則根據第 159A 條就串謀犯該罪行而進行的法律程序不得基於該項協議而針對任何人提出。

159E. 廢除、保留及過渡性條文

- (1) 除本條條文另有規定外，普通法中的串謀罪現予廢除。
- (2) 如普通法中的串謀罪關乎串謀欺詐，則第 (1) 款並不影響該罪行。
- (3) 如——

- (a) 任何人與任何其他人士達成作出某項行為的協議；及
- (b) 該項協議如按照他們的意圖得以落實，該項行為必會構成或涉及協議的一方或多於一方犯一項或多於一項罪行，

則該項行為將會如此一事並不妨礙串謀欺詐的控罪就該項協議而針對他們中任何人提出。

(4) 凡某人在公訴書上或控罪書上被指稱與一名或多於一名的其他人串謀犯罪，並只與該或該等其他人串謀犯罪，則他無權只因該或該等其他人已被裁定罪名不成立，而就該串謀罪被裁定罪名不成立或被撤銷其定罪。

(5) 與第 (4) 款的條文有抵觸的任何法律規則或常規現予廢除。

(6) 第 159A 及 159B 條所訂定的規則適用於裁定某人是否犯任何成文法則 (第 159A 條除外) 所訂的串謀罪，但屬任何該等成文法則所訂罪行的行為不得同時屬第 159A 條所訂的罪行。

(7) 第 (1) 款並不影響——

- (a) 在本部實施前已展開的任何法律程序；或
- (b) 在本部實施後，針對被控以與在本部實施前展開的任何法律程序中的串謀控罪相同的串謀罪的人而展開的任何法律程序。

159F. 適用範圍

第 159A 至 159E 條適用於屬《刑事司法管轄權條例》(第 461 章) 第 6 條所指的協議。

(b) proceedings may not be instituted for that offence because any time limit applicable to the institution of any such proceedings has expired,

proceedings under section 159A for conspiracy to commit that offence shall not be instituted against any person on the basis of that agreement.

159E. Abolitions, savings and transitional provisions

(1) Subject to the following provisions of this section, the offence of conspiracy at common law is abolished.

(2) Subsection (1) shall not affect the offence of conspiracy at common law so far as relates to conspiracy to defraud.

(3) If—

- (a) a person agrees with any other person or persons that a course of conduct shall be pursued; and
- (b) that course of conduct will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement if the agreement is carried out in accordance with their intentions,

the fact that it will do so shall not preclude a charge of conspiracy to defraud being brought against any of them in respect of the agreement.

(4) A person shall not be entitled to be acquitted of, or to have quashed his conviction for, the offence of conspiracy for the reason only that the only other person or persons with whom he is alleged, in the indictment or charge sheet, to have entered into that conspiracy are or have been acquitted.

(5) Any rule of law or practice inconsistent with the provisions of subsection (4) is abolished.

(6) The rules laid down by sections 159A and 159B shall apply for determining whether a person is guilty of an offence of conspiracy under any enactment other than section 159A, but conduct which is an offence under any such other enactment shall not also be an offence under section 159A.

(7) Subsection (1) shall not affect—

- (a) any proceedings commenced before the time when this Part comes into operation; or
- (b) any proceedings commenced after that time against a person charged with the same conspiracy as that charged in any proceedings commenced before that time.

159F. Application

Sections 159A to 159E shall apply to an agreement which falls within section 6 of the Criminal Jurisdiction Ordinance (Cap. 461).

企圖

159G. 企圖犯罪

(1) 如任何意圖犯本條所適用的罪行的人作出的某項作為已超乎只屬犯該罪行的預備作為者，則該人即屬企圖犯該罪行。

(2) 雖則有關的事實顯示犯本條所適用的罪行並不可能，任何人仍可被裁定企圖犯該罪行。

(3) 凡有人被控犯某項罪行，則即使該人並無被控企圖犯該罪行，亦可被裁定企圖犯該罪行。

(4) 在任何個案中，凡——

- (a) 除根據本款外，某人的意圖不會被視為構成犯罪的意圖；但
- (b) 該個案的事實如是一如他所相信者，他的意圖即會被視為構成犯罪的意圖，

則就第(1)款而言，他須被視為已具有犯該罪行的意圖。

(5) 本條適用於任何假若完成的話即會屬可在香港審訊的罪行，但協助、教唆、慫恿或促使犯該罪行則除外。

159H. 程序及其他條文對第 159G 條所訂的罪行適用

(1) 任何本條適用的條文對第 159G 條所訂的企圖犯罪罪行具有效力，如同該條文對企圖犯的罪行具有效力一樣。

(2) 本條適用於不論於何時制定的成文法則所訂立或根據該等成文法則所訂立的任何以下所述條文——

- (a) 規定除非由某人或其代表提出或進行，或經某人同意方可提出或進行，否則禁止提出或進行法律程序的條文(包括同時對該項禁止訂立例外情況的任何條文)；
- (b) 賦予提出法律程序的權力的條本；
- (c) 關於進行法律程序的地點的條文；
- (d) 禁止在某個時限屆滿後提出法律程序的條文；
- (e) 賦予逮捕或搜查的權力的條文；
- (f) 賦予檢取和扣留財產的權力的條文；

Attempt

159G. Attempting to commit an offence

(1) A person who, intending to commit an offence to which this section applies, does an act that is more than merely preparatory to the commission of the offence is guilty of attempting to commit the offence.

(2) A person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.

(3) Where a person is charged with an offence, he may be convicted of having attempted to commit that offence even though he was not charged with the attempt.

(4) In any case where—

- (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence; but
- (b) if the facts of the case had been as he believed them to be, his intention would be so regarded,

then, for the purposes of subsection (1), he shall be regarded as having had an intent to commit that offence.

(5) This section applies to any offence which, if it were completed, would be triable in Hong Kong other than aiding, abetting, counselling or procuring the commission of an offence.

159H. Application of procedural and other provisions to offences under section 159G

(1) Any provision to which this section applies shall have effect with respect to an offence under section 159G of attempting to commit an offence as it has effect with respect to the offence attempted.

(2) This section applies to provisions of any of the following descriptions made by or under any enactment (whenever passed)—

- (a) provisions whereby proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provision which also makes other exceptions to the prohibition);
- (b) provisions conferring power to institute proceedings;
- (c) provisions as to the venue of proceedings;
- (d) provisions whereby proceedings may not be instituted after the expiration of a time limit;
- (e) provisions conferring a power to arrest or search;
- (f) provisions conferring a power to seize and detain property;

- (g) 賦予處以罰款的權力的條文；
- (h) 賦予沒收的權力 (包括處理任何可予沒收的東西的權力) 的條文；
- (i) 賦予權力和給予酌情決定權以取消、暫時吊銷或中止，或拒絕發出任何牌照、執照、許可證或其他授權的條文；
- (j) 施加責任的條文；
- (k) 禁止任何人因一名證人所作的無佐證證供而被裁定犯罪或交付審訊的條文 (包括規定須有不少于 2 名可靠證人的證供的條文)；
- (l) 規定如經證明由法團所犯的某項罪行是獲得其他人的同意或是在該人的縱容下犯的，該人亦屬犯該罪行的條文。

159I. 其他成文法則所訂的企圖罪

- (1) 除第 (6) 款及任何與第 (2) 至 (5) 款有抵觸的其他成文法則的條文另有規定外，就裁定某人是否犯特別法律條文所訂的企圖罪而言，第 (2) 至 (5) 款均具有效力。
- (2) 就本條例而言，特別法律條文所訂的企圖罪即符合以下所述的罪行——
 - (a) 由並非第 159G 條的成文法則 (包括後於本部通過的成文法則) 所設定；及
 - (b) 述明為一項企圖犯其他罪行 (在本條中稱為“有關的完整罪行”) 的罪行。
- (3) 如任何人意圖犯有關的完整罪行而作出的某項作為已超乎犯該罪的預備作為者，則該人即屬犯特別法律條文所訂的企圖罪。
- (4) 雖則有關的事實顯示犯有關的完整罪行並不可能，任何人仍可被裁定犯特別法律條文所訂的企圖罪。
- (5) 在任何個案中，凡——
 - (a) 除根據本款外，某人的意圖不會被視為構成犯有關的完整罪行的意圖；但
 - (b) 該個案的事實如是一如他所相信者，他的意圖即會被視為構成犯有關的完整罪行的意圖，
 則就第 (3) 款而言，他須被視為已具有犯該罪行的意圖。

- (g) provisions conferring a power to impose pecuniary penalties;
- (h) provisions conferring a power to forfeit, including any power to deal with anything liable to be forfeited;
- (i) provisions conferring any powers and giving any discretions to cancel, suspend or refuse to issue any licence, permit or other authorization;
- (j) provisions imposing a duty;
- (k) provisions whereby a person may not be convicted or committed for trial on the uncorroborated evidence of one witness (including any provision requiring the evidence of not less than 2 credible witnesses);
- (l) provisions whereby, if an offence committed by a body corporate is proved to have been committed with the consent or connivance of another person, that person also is guilty of the offence.

159I. Offences of attempt under other enactments

- (1) Subsections (2) to (5) shall have effect, subject to subsection (6) and to any inconsistent provision in any other enactment, for the purpose of determining whether a person is guilty of an attempt under a special statutory provision.
- (2) For the purposes of this Ordinance an attempt under a special statutory provision is an offence which—
 - (a) is created by an enactment other than section 159G, including an enactment passed after this Part; and
 - (b) is expressed as an offence of attempting to commit another offence (in this section referred to as “the relevant full offence”).
- (3) A person is guilty of an attempt under a special statutory provision if, with intent to commit the relevant full offence, he does an act which is more than merely preparatory to the commission of that offence.
- (4) A person may be guilty of an attempt under a special statutory provision even though the facts are such that the commission of the relevant full offence is impossible.
- (5) In any case where—
 - (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit the relevant full offence; but
 - (b) if the facts of the case had been as he believed them to be, his intention would be so regarded,
 then, for the purposes of subsection (3), he shall be regarded as having had an intent to commit that offence.

(6) 第(2)至(5)款對在本部生效日期前作出的作為不具效力。

159J. 審訊及罰則

(1) 任何人如憑藉第 159G 條被裁定企圖犯某罪行，可處以下刑罰——

- (a) 如企圖犯的罪行是謀殺或強制性須判終身監禁的任何其他罪行，一經循公訴程序定罪，可處終身監禁；
- (b) 如企圖犯的罪行是可公訴的但卻不屬 (a) 段所指者，一經循公訴程序定罪，可處該人一經循公訴程序就該罪行被定罪所本可被判處的刑罰；及
- (c) 如企圖犯的罪行是可循公訴程序或簡易程序審訊的，可處該人一經循簡易程序就該罪行被定罪所本可被判處的刑罰。

(2) 在就第 159G 條所訂的罪行而針對任何人進行的法律程序中，凡在法律上有足夠證據支持一項裁斷，謂該人已作出該條第(1)款所指的作為，則他的作為是否屬該款所指者是一個事實問題。

(3) 在就特別法律條文所訂的企圖罪而針對任何人進行的法律程序中，凡在法律上有足夠證據支持一項裁斷，謂該人已作出第 159I(3) 條所指的作為，則他的作為是否屬該款所指者是一個事實問題。

(4) 凡憑藉第 159H(2)(e)、(f)、(g)、(h)、(i) 或 (j) 條而賦予的權力、給予的酌情決定權或施加的責任是於裁定犯罪後行使或履行或就因犯罪被羈押的人而行使或履行的，則該項權力、酌情決定權或責任須當作在裁定企圖犯該罪行後亦可予以行使或履行，但本款任何條文不得當作授權處以任何監禁的刑罰，但在因為沒有繳付任何憑藉本款處以的罰款的情況下而處以監禁的刑罰則屬例外。

159K. 對普通法的影響

(1) 就並非關乎在本部生效日期前作出的作為的所有目的而言，普通法中的企圖罪現予廢除。

(2) 除關乎在本部生效日期前犯的罪行外，先於本部通過的任何成文法則內提述可解釋為普通法中的企圖罪之處，須解釋為提述第 159G 條所訂的罪行。

(6) Subsections (2) to (5) shall not have effect in relation to an act done before the commencement of this Part.

159J. Trial and penalties

(1) A person guilty by virtue of section 159G of attempting to commit an offence shall—

- (a) if the offence attempted is murder or any other offence the sentence for which is mandatory life imprisonment, be liable on conviction on indictment to imprisonment for life;
- (b) if the offence attempted is indictable but does not fall within paragraph (a), be liable on conviction on indictment to any penalty to which he would have been liable on conviction on indictment of that offence; and
- (c) if the offence attempted is triable on indictment or summarily, be liable on summary conviction to any penalty to which he would have been liable on summary conviction of that offence.

(2) Where, in proceedings against a person for an offence under section 159G, there is evidence sufficient in law to support a finding that he did an act falling within subsection (1) of that section, the question whether or not his act fell within that subsection is a question of fact.

(3) Where, in proceedings against a person for an attempt under a special statutory provision, there is evidence sufficient in law to support a finding that he did an act falling within section 159I(3), the question whether or not his act fell within that subsection is a question of fact.

(4) Any power conferred, discretion given, or duty imposed by virtue of section 159H(2)(e), (f), (g), (h), (i) or (j) which is to be exercised or performed consequent upon a conviction of an offence or in relation to a person who is detained in custody for an offence, then that power, discretion or duty shall be deemed to be also exercisable or performable consequent upon a conviction of an attempt to commit that offence, but nothing in this subsection shall be deemed to authorize the imposition of any sentence of imprisonment otherwise than in default of payment of any pecuniary penalty which may be imposed by virtue of this subsection.

159K. Effect on common law

(1) The offence of attempt at common law is abolished for all purposes not relating to acts done before the commencement of this Part.

(2) Except as regards offences committed before the commencement of this Part, references in any enactment passed before this Part which fall to be construed as references to the offence of attempt at common law shall be construed as references to the offence under section 159G.

雜項條文

159L. 初步罪行的非獨有性

有關的行為根據本部和根據另一條例均構成罪行此一事實，並不妨礙裁定犯本部或該另一條例所訂的該罪行。

(第 XIIA 部由 1996 年第 49 號第 2 條增補)

附表

[第 149 條]

被控人可被定罪的其他罪名

項	控罪	被告人可被定罪 的其他罪名
1.	強姦 (第 118 條)	以威脅促使他人作非法的性行為 (第 119 條) 以虛假藉口促使他人作非法的性行為 (第 120 條) 施用藥物以獲得或便利作非法的性行為 (第 121 條)
2.	未經同意下作出的肛交 (第 118A 條)	非私下作出的同性肛交 (第 118F 條) 以威脅促使他人作非法的性行為 (第 119 條) 施用藥物以獲得或便利作非法的性行為 (第 121 條)
3.	意圖作出肛交而襲擊 (第 118B 條)	猥褻侵犯 (第 122 條)
4.	由 21 歲以下男子作出或與 21 歲以下男子作出同性肛交 (第 118C 條)	猥褻侵犯 (第 122 條) 由 21 歲以下男子作出或與 21 歲以下男子作出嚴重猥褻作為 (第 118H 條)
5.	與精神上無行為能力的人作出肛交 (第 118E 條)	男子與男性精神上無行為能力的人作出嚴重猥褻作為 (第 118I 條) 猥褻侵犯 (第 122 條) (由 1997 年第 81 號第 59 條修訂)
6.	非私下作出的同性肛交 (第 118F 條)	男子與男子非私下作出的嚴重猥褻作為 (第 118J 條)

(附表由 1978 年第 1 號第 7 條增補。由 1991 年第 90 號第 25 條修訂)

Miscellaneous provisions

159L. Non-exclusivity of preliminary offences

Conviction of an offence under this Part or under another Ordinance is not precluded by the fact that the conduct in question constitutes an offence both under this Part and under that other Ordinance.

(Part XIIA added 49 of 1996 s. 2)

SCHEDULE

[s. 149]

OTHER OFFENCES OF WHICH ACCUSED MAY BE CONVICTED

Item	Offence charged	Other offences of which defendant may be convicted
1.	Rape (section 118)	Procurement of another person by threats (section 119) Procurement of another person by false pretences (section 120) Administering drugs to obtain or facilitate unlawful sexual act (section 121)
2.	Non-consensual buggery (section 118A)	Homosexual buggery committed otherwise than in private (section 118F) Procurement of another person by threats (section 119) Administering drugs to obtain or facilitate unlawful sexual act (section 121)
3.	Assault with intent to commit buggery (section 118B)	Indecent assault (section 122)
4.	Homosexual buggery with or by man under 21 (section 118C)	Indecent assault (section 122) Gross indecency with or by man under 21 (section 118H)
5.	Buggery with mentally incapacitated person (section 118E)	Gross indecency by man with male mentally incapacitated person (section 118I) Indecent assault (section 122) (Amended 81 of 1997 s. 59)
6.	Homosexual buggery committed otherwise than in private (section 118F)	Gross indecency by man with man otherwise than in private (section 118J)

(Schedule added 1 of 1978 s. 7. Amended 90 of 1991 s. 25)

第 461 章

刑事司法管轄權條例

本條例旨在就香港法院對某些罪行的司法管轄權，以及為有關連的目的，訂定條文。

[1996 年 3 月 8 日] 1996 年第 130 號法律公告

1. 簡稱

- (1) 本條例可引稱為《刑事司法管轄權條例》。
- (2) (已失時效而略去)

2. 本條例所適用的罪行

- (1) 本條例適用於下列兩類罪行——
 - (a) 第(2)款所述的任何罪行(“甲類”罪行)；及
 - (b) 第(3)款所述的任何罪行(“乙類”罪行)。
- (2) 甲類罪行為——
 - (a) 《盜竊罪條例》(第 210 章)下列條文所訂的任何罪行——
 - 第 9 條(盜竊)
 - 第 16A 條(欺詐) (由 1999 年第 45 號第 7 條增補)
 - 第 17 條(以欺騙手段取得財產)
 - 第 18 條(以欺騙手段取得金錢利益)
 - 第 18A 條(以欺騙手段取得服務)
 - 第 18B 條(以欺騙手段逃避法律責任)

CHAPTER 461

CRIMINAL JURISDICTION

An Ordinance to make provision about the jurisdiction of courts in Hong Kong in relation to certain offences and for connected purposes.

[8 March 1996] L.N. 130 of 1996

1. Short title

- (1) This Ordinance may be cited as the Criminal Jurisdiction Ordinance.
- (2) (*Omitted as spent*)

2. Offences to which this Ordinance applies

- (1) This Ordinance applies to 2 groups of offences—
 - (a) any offence mentioned in subsection (2) (a “Group A” offence); and
 - (b) any offence mentioned in subsection (3) (a “Group B” offence).
- (2) The Group A offences are—
 - (a) an offence under any of the following provisions of the Theft Ordinance (Cap. 210)—
 - section 9 (theft)
 - section 16A (fraud) (*Added 45 of 1999 s. 7*)
 - section 17 (obtaining property by deception)
 - section 18 (obtaining pecuniary advantage by deception)
 - section 18A (obtaining services by deception)
 - section 18B (evasion of liability by deception)

第 18D 條 (以欺騙手段促使在某些紀錄裏產生虛假記項)

第 19 條 (偽造帳目)

第 21 條 (公司董事等人作出虛假報表)

第 22(2) 條 (以欺騙手段促使有價產權書的簽立)

第 23 條 (勒索)

第 24 條 (處理贓物)

(b) 《刑事罪行條例》(第 200 章) 下列條文所訂的任何罪行——

第 71 條 (偽造)

第 72 條 (製造虛假文書的副本)

第 73 條 (使用虛假文書)

第 74 條 (使用虛假文書的副本)

第 75 條 (管有虛假文書)

第 76 條 (製造或管有用作製造虛假文書的設備)

(3) 乙類罪行為——

(a) 串謀犯甲類罪行；

(b) 串謀詐騙；

(c) 企圖犯甲類罪行；

(d) 煽惑他人犯甲類罪行。

(4) 行政長官會同行政會議可藉在憲報頒布命令，修訂第 (2) 或 (3) 款的條文，增訂或刪除任何罪行。(由 1999 年第 39 號第 3 條修訂)

(5) 除非有關命令的草稿事先已提交立法會，並經立法會以決議通過，否則不得根據第 (4) 款作出任何命令；《釋義及通則條例》(第 1 章) 第 34 條不適用於該類命令。(由 1999 年第 39 號第 3 條修訂)

3. 對甲類罪行的司法管轄權

(1) 為本條的施行，“有關事情”(relevant event)，就任何甲類罪行而言，指就該罪行定罪而須予以證明的任何作為或不作為或其他事情(包括一項或多項作為或不作為所產生的任何後果)。

(2) 為確定某一事情就任何甲類罪行而言是否屬有關事情，任何關於該事情在何地發生的問題，均不須理會。

(3) 就任何甲類罪行而言，如有任何有關事情是在香港發生的，則任何人可因犯該甲類罪行而被判有罪。

[比照 1993 c. 36 s. 2 U.K.]

section 18D (procuring false entry in certain records by deception)

section 19 (false accounting)

section 21 (false statements by company directors, etc.)

section 22(2) (procuring the execution of a valuable security by deception)

section 23 (blackmail)

section 24 (handling stolen goods)

(b) an offence under any of the following provisions of the Crimes Ordinance (Cap. 200)—

section 71 (forgery)

section 72 (copying a false instrument)

section 73 (using a false instrument)

section 74 (using a copy of a false instrument)

section 75 (possessing a false instrument)

section 76 (making or possessing equipment for making a false instrument)

(3) The Group B offences are—

(a) conspiracy to commit a Group A offence;

(b) conspiracy to defraud;

(c) attempting to commit a Group A offence;

(d) incitement to commit a Group A offence.

(4) The Chief Executive in Council may, by order in the Gazette, amend subsection (2) or (3) by adding or removing any offence. (*Amended 39 of 1999 s. 3*)

(5) No order shall be made under subsection (4) unless a draft of it has been laid before and approved by resolution of the Legislative Council, and section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in relation to any such order.

3. Jurisdiction in respect of Group A offences

(1) For the purpose of this section, “relevant event” (有關事情), in relation to any Group A offence, means any act or omission or other event (including any result of one or more acts or omissions) proof of which is required for conviction of the offence.

(2) For the purpose of determining whether or not a particular event is a relevant event in relation to a Group A offence, any question as to where it occurred is to be disregarded.

(3) A person may be guilty of a Group A offence if any of the events which are relevant events in relation to the offence occurred in Hong Kong.

[cf. 1993 c. 36 s. 2 U.K.]

4. 對就某些罪行行使的司法管轄權而言 屬於無關重要的問題

- (1) 任何人可被判犯了甲類或乙類罪行，不論——
 - (a) 他的公民身分或國籍，亦不論他在有關時間是否香港永久性居民；
 - (b) 他在任何上述時間是否身在香港。
- (2) 被控串謀犯甲類罪行或串謀在香港詐騙的被告人，可被判犯了該罪，不論——
 - (a) 他是否在香港成為串謀的一方；
 - (b) 任何關乎該項串謀的作為或不作為或其他事情是否在香港發生。
- (3) 被控企圖犯甲類罪行的被告人，可被判犯了該罪，不論——
 - (a) 該企圖犯罪的行為是否在香港作出；
 - (b) 該企圖犯罪的行為是否在香港產生作用。
- (4) 被控煽惑他人犯甲類罪行的被告人，可被判犯了該罪，不論該煽惑他人的行為是否在香港發生。
- (5) 如某成文法則賦予司法管轄權以對有關罪行進行審訊，而該成文法則就被控人的公民身分或國籍問題，訂有條文，則第(1)(a)款並不適用。

[比照 1993 c. 36 s. 3 U.K.]

5. 以事情發生地點決定司法管轄權

就甲類或乙類罪行而言——

- (a) 若有任何財產是從香港發送或在香港收到的，該財產即屬在香港取得；及
- (b) 若有任何資料、指示、請求、要求或其他事宜以任何方式——
 - (i) 從香港傳遞至香港以外的任何地方；或
 - (ii) 從香港以外的任何地方傳遞至香港，
 則該資料、指示、請求、要求或其他事宜即屬在香港傳送。

[比照 1993 c. 36 s. 4 U.K.]

6. 擴大對某些串謀、企圖犯罪及煽惑 他人的罪行的司法管轄權

- (1) 在符合第 7(1) 條的條文下，任何人可被判犯了串謀犯任何甲類罪行或串謀詐騙，只要——

4. Questions immaterial to jurisdiction in the case of certain offences

- (1) A person may be guilty of a Group A or Group B offence—
 - (a) whatever his citizenship or nationality, or whether or not he was a permanent resident of Hong Kong at any material time;
 - (b) whether or not he was in Hong Kong at any such time.
- (2) On a charge of conspiracy to commit a Group A offence, or conspiracy to defraud in Hong Kong, the defendant may be guilty of the offence whether or not—
 - (a) he became a party to the conspiracy in Hong Kong;
 - (b) any act or omission or other event in relation to the conspiracy occurred in Hong Kong.
- (3) On a charge of attempting to commit a Group A offence, the defendant may be guilty of the offence whether or not—
 - (a) the attempt was made in Hong Kong;
 - (b) it had an effect in Hong Kong.
- (4) On a charge of incitement to commit a Group A offence, the defendant may be guilty of an offence whether or not the incitement took place in Hong Kong.
- (5) Subsection (1)(a) does not apply where jurisdiction is given to try the offence in question by an enactment which makes provision by reference to the citizenship or nationality of the person charged.

[cf. 1993 c. 36 s. 3 U.K.]

5. Location of events for jurisdictional purposes

In relation to a Group A or Group B offence—

- (a) there is an obtaining of property in Hong Kong if the property is either despatched from or received in Hong Kong; and
- (b) there is a communication in Hong Kong of any information, instruction, request, demand or other matter if it is sent by any means—
 - (i) from Hong Kong to elsewhere; or
 - (ii) from elsewhere to Hong Kong.

[cf. 1993 c. 36 s. 4 U.K.]

6. Extended jurisdiction in relation to certain conspiracies, attempts and incitements

- (1) Subject to section 7(1), a person may be guilty of conspiracy to commit any Group A offence, or of conspiracy to defraud, if—

- (a) 在構成該串謀罪的協議中的一方或一方的代理人，曾在該協議達成前在香港作出任何與該協議有關的事；或
- (b) 在該協議中的一方是在香港（不論是親身或透過代理人）成為該協議的一方；或
- (c) 在協議中的一方或一方的代理人依據該協議曾在香港作出或不作出任何事，

以及假若不是因為該串謀罪中的各方所構想的罪行或欺詐行為並非擬在香港發生，該串謀罪是可在香港審訊的。

(2) 在符合第 7(2) 條的條文下，任何人可被判犯了企圖或煽惑他人犯甲類罪行，只要——

- (a) 該企圖犯罪或煽惑他人的行為是在香港作出的；及
- (b) 假若不是因為被控人所構想的事不屬可在香港審訊的罪行，該企圖犯罪或煽惑他人的行為是可在香港審訊的。

7. 外地法律的適用程度

(1) 如為實施所協定的行為過程而會在某個階段涉及——

- (a) 一方或超過一方的作為或不作為；或
- (b) 其他事情的發生，

而根據在該作為、不作為或事情擬發生的地方的有效法律，該作為、不作為或事情是構成一項罪行的，則任何人只有在此情況下被判犯了可憑藉第 6(1) 條審訊的罪行。

(2) 如任何人所構想的事會涉及犯一項該事或其任何部分擬發生的地方的有效法律所訂的罪行，則該人只有在此情況下被判犯了可憑藉第 6(2) 條審訊的罪行。

(3) 任何行為如根據任何地方的有效法律是可予懲罰的，就本條及第 8 條而言，即屬該法律所訂的罪行，不管該法律如何描述該行為。

[比照 1993 c. 36 s.6 (1)-(3) U.K.]

8. 外地法律的證明

(1) 除第 (3) 款另有規定外，第 7(1) 或 (2) 條內所指明的條件須視為已予符合，除非在終審法院首席法官所訂立的法院規則所指明的時間內，辯方向控方送達通知書——

- (a) 述明根據對有關行為所指稱的事實，辯方認為該條件未予符合；
- (b) 說明辯方如此認為所依據的理由；及
- (c) 要求控方證明該條件已予符合。

- (a) a party to the agreement constituting the conspiracy, or a party's agent, did anything in Hong Kong in relation to the agreement before its formation; or
- (b) a party to it became a party in Hong Kong (by joining it either in person or through an agent); or
- (c) a party to it, or a party's agent, did or omitted anything in Hong Kong in pursuance of it,

and the conspiracy would be triable in Hong Kong but for the offence or fraud which the parties to it had in view not being intended to take place in Hong Kong.

(2) Subject to section 7(2), a person may be guilty of attempting to commit or incitement to commit a Group A offence if—

- (a) the attempt is made or the incitement takes place in Hong Kong; and
- (b) the attempt or the incitement would be triable in Hong Kong but for what the person charged had in view not being an offence triable in Hong Kong.

7. Relevance of external law

(1) A person is guilty of an offence triable by virtue of section 6(1) only if the pursuit of the agreed course of conduct would at some stage involve—

- (a) an act or omission by one or more of the parties; or
- (b) the happening of some other event,

constituting an offence under the law in force where the act, omission or other event was intended to take place.

(2) A person is guilty of an offence triable by virtue of section 6(2) only if what he had in view would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(3) Conduct punishable under the law in force in any place is an offence under that law for the purpose of this section and section 8, however it is described in that law.

[cf. 1993 c. 36 s. 6(1)-(3) U.K.]

8. Proof of external law

(1) Subject to subsection (3), a condition specified in section 7(1) or (2) shall be taken to be satisfied unless, within a time specified by rules of court made by the Chief Justice, the defence serve on the prosecution a notice—

- (a) stating that, on the facts as alleged with respect to the relevant conduct, the condition is not in their opinion satisfied;
- (b) showing their grounds for that opinion; and
- (c) requiring the prosecution to show that it is satisfied.

- (2) 在第(1)款中，“有關行為”(the relevant conduct)——
- (a) 若關乎第 7(1) 條內的條件，即指協定的行為過程；及
 - (b) 若關乎第 7(2) 條內的條件，即指被告人所構想的事。
- (3) 法院如認為適當，可准許辯方在無須根據第(1)款事先送達通知書的情況下要求控方證明該條件已予符合。
- (4) 在原訟法庭的審訊中，該條件是否已予符合的問題，須由法官單獨裁定，並可在陪審團組成前作出裁定。
- (5) 終審法院首席法官可訂立法院規則，指明在甚麼時間內將第(1)款所指的通知書送達控方。

(由 1998 年第 25 號第 2 條修訂)
[比照 1993 c. 36 s. 6 (4)–(7) U.K.]

9. 本條例的適用性

本條例的任何條文均不適用於本條例實施前發生的任何作為、不作為或其他事情。

[比照 1993 c. 36 s. 78(5) U.K.]

- (2) In subsection (1), “the relevant conduct” (有關行為) means—
- (a) where the condition in section 7(1) is in question, the agreed course of conduct; and
 - (b) where the condition in section 7(2) is in question, what the defendant had in view.
- (3) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under subsection (1).
- (4) In a trial in the Court of First Instance, the question whether the condition is satisfied shall be decided by the judge alone, and may be decided by him before a jury is empanelled. (*Amended 25 of 1998 s. 2*)
- (5) The Chief Justice may make rules of court specifying the time within which a notice under subsection (1) shall be served on the prosecution.
[cf. 1993 c. 36 s. 6(4)–(7) U.K.]

9. Application

Nothing in this Ordinance applies to any act, omission or other event occurring before the coming into force of this Ordinance.

[cf. 1993 c. 36 s. 78(5) U.K.]

第 521 章

官方機密條例

本條例旨在管制未經授權而取得或披露官方資料。

[本條例 (第 28 條除外) } 1997 年 6 月 27 日 1997 年第 369 號法律公告]

第 I 部

導言

1. 簡稱及生效日期

- (1) 本條例可引稱為《官方機密條例》。
- (2) 本條例自保安局局長以憲報公告指定的日期起實施。 (由 1997 年第 362 號法律公告修訂)

第 II 部

間諜活動

2. 釋義

- (1) 在本部中——
“女皇陛下轄下職位”(office under Her Majesty) 包括聯合王國政府、香港政府或任何英國屬地政府的任何部門之內或轄下的任何職位或僱用；
“文件”(document) 包括文件的一部分；

CHAPTER 521

OFFICIAL SECRETS

An Ordinance to control the unauthorized obtaining or disclosure of official information.

[The Ordinance (other than section 28) } 27 June 1997 L.N. 369 of 1997]

PART I

PRELIMINARY

1. Short title and commencement

- (1) This Ordinance may be cited as the Official Secrets Ordinance.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice in the Gazette.

PART II

ESPIONAGE

2. Interpretation

- (1) In this Part—
“document” (文件) includes part of a document;
“model” (模型) includes design, pattern and specimen;
“munitions” (軍火) includes the whole or any part of any vessel, aircraft, tank or similar engine, arms and ammunition, torpedo or mine, intended or

“本部所訂罪行”(offence under this Part) 包括任何可根據本部懲處的作為、不作為或其他事情；

“軍火”(munitions) 包括擬在戰爭中使用或經改裝以在戰爭中使用的任何船隻、航空器、坦克或類似機器的整體或其任何部分、槍械及彈藥、魚雷、水雷、地雷或空雷，以及任何擬作該用途的其他物品、物料或裝置，不論是實有的或擬有的；

“禁地”(prohibited place) 指任何——

- (a) 防衛工事、軍火庫、海軍設施、空軍設施或屬於女皇陛下、由女皇陛下佔用或代表女皇陛下佔用的站所、工廠、船塢、坑道、雷場、營舍、船隻或航空器；
- (b) 屬於女皇陛下、由女皇陛下佔用或代表女皇陛下佔用的電報、電話、無線電或訊號站所或辦公室；
- (c) 屬於女皇陛下、由女皇陛下佔用或代表女皇陛下佔用，並用於建造、修理、製作或貯存任何供戰時使用的軍火、船隻、航空器、槍械或物料或工具，或用於建造、修理、製作或貯存與之有關的圖片、模型、圖則或文件的地方，或屬於女皇陛下、由女皇陛下佔用或代表女皇陛下佔用，並為在戰時取得任何有用的金屬、石油或礦物的目的而使用的地方；
- (d) 不屬於女皇陛下、而在該地方內，有任何軍火或與之有關的任何圖片、模型、圖則或文件正根據與女皇陛下或與代表女皇陛下的人訂立的合約而製作、修理、取得或貯存或在其他情況下代表聯合王國而製作、修理、取得或貯存；
- (e) 屬於女皇陛下或為女皇陛下使用的地方，而該地方在當其時是已由總督以與其有關的資料或對其的損害會對敵人有用處為理由，為施行本條而藉命令宣布為禁地的；
- (f) 鐵路、道路、通道或航道或其他陸路或水路運輸途徑（包括屬其一部分或與其有關連的任何設施或構築物），而該鐵路、道路、通道、航道或途徑在當其時是已由總督以與其有關的資料、其毀壞或對其作出的阻礙或干擾會對敵人有用處為理由，為施行本條而藉命令宣布為禁地的；
- (g) 為公眾目的而用於氣體、水務或電力設施或其他設施的地方，而該地方在當其時是已由總督以與其有關的資料、其毀壞或對其作出的阻礙或干擾會對敵人有用處為理由，為施行本條而藉命令宣布為禁地的；及

adapted for use in war, and any other article, material or device, whether actual or proposed, intended for such use;

“offence under this Part” (本部所訂罪行) includes any act, omission or other thing that is punishable under this Part;

“office under Her Majesty” (女皇陛下轄下職位) includes any office or employment in or under any department of the Government of the United Kingdom, Hong Kong or any British possession;

“prohibited place” (禁地) means—

- (a) any work of defence, arsenal, naval or air force establishment or station, factory, dockyard, mine, minefield, camp, vessel or aircraft belonging to or occupied by or on behalf of Her Majesty;
- (b) any telegraph, telephone, wireless or signal station or office so belonging or occupied;
- (c) any place belonging to or occupied by or on behalf of Her Majesty and used for the purpose of building, repairing, making or storing any munitions, vessel, aircraft, arms or materials or instruments for use in time of war, or any sketches, models, plans or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;
- (d) any place not belonging to Her Majesty where any munitions, or any sketches, models, plans or documents relating thereto, are being made, repaired, got or stored under contract with, or with any person on behalf of, Her Majesty or otherwise on behalf of the United Kingdom;
- (e) any place belonging to or used for the purposes of Her Majesty that is for the time being declared by order of the Governor to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or damage thereto, would be useful to an enemy;
- (f) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), that is for the time being declared by order of the Governor to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy;
- (g) any place used for gas, water or electricity works or other works for purposes of a public character that is for the time being declared by order of the Governor to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy; and

- (h) 有任何軍火或與之有關的任何圖片、模型、圖則或文件正並非代表女皇陛下而製作、修理或貯存的地方，而該地方在當其時是已由總督以與其有關的資料、其毀壞或對其作出的阻礙或干擾會對敵人有用處為理由，為施行本條而藉命令宣布為禁地的；

“圖片”(sketch) 包括任何照片或其他表達一處地方或一件物品的方式；

“模型”(model) 包括設計、式樣及樣本；

“警司級人員”(superintendent of police) 包括任何職級相若於警司或職級較警司級為高的警務人員，亦包括獲總督為施行本部而授予警司級人員的權力的任何人。

(2) 在本部中提述警務處處長之處，須解釋為包括提述獲他明示授權在他因疾病、缺勤或其他因由而不能夠為施行本部而行事時，代表他如此行事的任何警務人員。

(3) 在本部中，除文意另有所指外——

- (a) 提述屬於女皇陛下的地方之處，包括屬於聯合王國政府、香港政府或任何英國屬地政府的部門的地方，不論該地方實際上是否歸屬女皇陛下；
- (b) 提述傳達的詞句，包括提述任何傳達，不論是全部傳達或部分傳達，亦不論所傳達的是圖片、圖則、模型、物品、紀錄、文件或資料本身或只是傳達其內容或效果或對其所作的描述；
- (c) 提述取得或保留圖片、圖則、模型、物品、紀錄或文件的詞句，包括複製或安排複製圖片、圖則、模型、物品、紀錄或文件的整體或其任何部分；及
- (d) 提述傳達圖片、圖則、模型、物品、紀錄或文件的詞句，包括轉移或轉傳圖片、圖則、模型、物品、紀錄或文件。

[比照 1911 c. 28 ss. 3 & 12 U.K.; 1920 c. 75 s. 6(3) U.K.]

3. 諜報活動

(1) 任何人如為有損聯合王國或香港的安全或利益的目的而作出以下作為，即屬犯罪——

- (a) 接近、察看、越過或進入禁地，或處身毗鄰禁地之處；

- (h) any place where any munitions, or any sketches, models, plans or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Her Majesty that is for the time being declared by order of the Governor to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy;

“sketch”(圖片) includes any photograph or other mode of representing a place or thing;

“superintendent of police”(警司級人員) includes any police officer of a like or superior rank and any person upon whom the powers of a superintendent of police are for the purposes of this Part conferred by the Governor.

(2) References in this Part to the Commissioner of Police shall be construed as including references to any police officer expressly authorized by him to act on his behalf for the purposes of this Part when by reason of illness, absence or other cause he is unable to do so.

(3) In this Part, unless the context otherwise requires——

- (a) a reference to a place belonging to Her Majesty includes a place belonging to a department of the Government of the United Kingdom, Hong Kong or any British possession, whether or not the place is actually vested in Her Majesty;
- (b) expressions referring to communicating include any communicating, whether in whole or in part, and whether the sketch, plan, model, article, note, document or information itself or the substance, effect, or description thereof only be communicated;
- (c) expressions referring to obtaining or retaining any sketch, plan, model, article, note or document include copying or causing to be copied the whole or any part of a sketch, plan, model, article, note or document; and
- (d) expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document.

[cf. 1911 c. 28 ss. 3 & 12 U.K.; 1920 c. 75 s. 6(3) U.K.]

3. Spying

(1) A person commits an offence if he, for a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong——

- (a) approaches, inspects, passes over or is in the neighbourhood of, or enters, a prohibited place;

- (b) 製作旨在對、可能對或擬對敵人有直接或間接用處的圖片、圖則、模型或紀錄；或
- (c) 取得、收集、記錄或發表相當可能對、可能對或擬對敵人有直接或間接用處的任何機密的官方代碼或通行碼、任何圖片、圖則、模型或紀錄或其他文件或資料，或將之傳達予任何其他人。

(2) 在就本條所訂罪行而對某人提起的法律程序中，無須證明他犯有顯示有損聯合王國或香港的安全或利益的任何特定作為，而即使沒有證明他犯有該等作為，但如從案件的情況、他的行徑或經證明的他為人所知的品格看來，他的目的看似是有損聯合王國或香港的安全或利益的作為的目的，則他仍可被定罪。

(3) 在就本條所訂罪行而對某人提起的法律程序中，他曾經與或曾經企圖與在香港或其他地方的外國或台灣特工通訊此一事實，即為他曾為有損聯合王國或香港的安全或利益的目的而取得（或曾企圖為該目的而取得）旨在對、可能對或擬對敵人有直接或間接用處的資料的證據。

(4) 在不損害第(3)款的一般性的原則下，就該款而言——

(a) 任何人曾在香港或其他地方——

- (i) 造訪外國或台灣特工的地址或與外國或台灣特工交往或與外國或台灣特工有聯繫；
- (ii) 被發現管有外國或台灣特工的姓名或地址或關於外國或台灣特工的任何其他資料；或
- (iii) 將外國或台灣特工的姓名或地址或關於外國或台灣特工的任何其他資料給予任何其他人，或從任何其他人處取得該等姓名、地址或資料。

則在沒有相反證據的情況下，該人須當作曾與外國或台灣特工通訊；及

- (b) 任何被合理地懷疑是用於接收擬給予外國或台灣特工的通訊的在香港或其他地方的地址，或外國或台灣特工所居住或經營任何業務的地址，或外國或台灣特工為發出或接收通訊而使用的地址，須當作為外國或台灣特工的地址，而致予該等地址的通訊則須當作為與外國或台灣特工的通訊。

- (b) makes a sketch, plan, model or note that is calculated to be or might be or is intended to be directly or indirectly useful to an enemy; or
- (c) obtains, collects, records or publishes, or communicates to any other person, any secret official code word or password, or any sketch, plan, model or note, or other document or information, that is likely to be or might be or is intended to be directly or indirectly useful to an enemy.

(2) In any proceedings against a person for an offence under this section, it shall not be necessary to show that he was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong.

(3) In any proceedings against a person for an offence under this section, the fact that he has been in communication with, or attempted to communicate with, a foreign or Taiwan agent in Hong Kong or elsewhere, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong, obtained or attempted to obtain information that is calculated to be or might be or is intended to be directly or indirectly useful to an enemy.

(4) For the purpose of subsection (3) but without prejudice to the generality of that subsection—

- (a) a person shall, in the absence of evidence to the contrary, be deemed to have been in communication with a foreign or Taiwan agent if he has, in Hong Kong or elsewhere—
 - (i) visited the address of a foreign or Taiwan agent or consorted or associated with a foreign or Taiwan agent;
 - (ii) been found in possession of the name or address of, or any other information regarding, a foreign or Taiwan agent; or
 - (iii) supplied to any other person, or obtained from any other person, the name or address of, or any other information regarding, a foreign or Taiwan agent; and
- (b) any address, in Hong Kong or elsewhere, reasonably suspected of being an address used for the receipt of communications intended for a foreign or Taiwan agent, or any address at which a foreign or Taiwan agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign or Taiwan agent, and communications addressed to such an address to be communications with a foreign or Taiwan agent.

(5) 在本條中，“外國或台灣特工”(foreign or Taiwan agent) 包括——

- (a) 受或曾經受或被合理地懷疑是受或曾經受外國或台灣直接或間接僱用，以在香港或其他地方作出有損聯合王國或香港的安全或利益的作為的人；或
- (b) 已經或已企圖或被合理地懷疑已經或已企圖在香港或其他地方為外國或台灣的利益作出該等作為的人。

(由 1998 年第 23 號第 2 條修訂)

[比照 1911 c. 28 s. 1 U.K.; 1920 c. 75 s. 2 U.K.]

4. 窩藏

任何人如作出以下作為，即屬犯罪——

- (a) 在知道或有合理理由推測另一人即將或已經犯第 3 條所訂罪行的情況下，明知而窩藏該另一人；
- (b) 明知而准許任何該等人士於他所佔用或控制的處所會面或集會；或
- (c) 在已經窩藏任何該等人士或已准許任何該等人士於他所佔用或控制的處所會面或集會的情況下，故意不向或拒絕向警司級人員披露在他權力範圍內所能就任何該等人士提供的資料。

[比照 1911 c. 28 s. 7 U.K.]

5. 未經授權而使用制服、偽造等

(1) 任何人如為取得或協助另一人取得進入禁地的許可的目的或為任何其他有損聯合王國或香港的安全或利益的目的，作出以下作為，即屬犯罪——

- (a) 在沒有合法權限的情況下，使用或穿著任何海軍、軍事、空軍、警察或其他官方制服，或使用或穿著與該等制服相似至屬旨在欺騙的任何制服，或虛假地表示自己是擁有權或曾有權使用或穿著該等制服的人；
- (b) 在任何聲明或申請中，或在他所簽署或他人代表他簽署的任何文件中，明知而以口頭或書面作出任何虛假陳述或作出任何遺漏，或縱容他人作出任何虛假陳述或作出任何遺漏；

(5) In this section “foreign or Taiwan agent” (外國或台灣特工) includes a person who—

- (a) is or has been or is reasonably suspected of being or having been employed by a foreign state or Taiwan either directly or indirectly for the purpose of committing an act, in Hong Kong or elsewhere, prejudicial to the safety or interests of the United Kingdom or Hong Kong; or
- (b) has or is reasonably suspected of having, in Hong Kong or elsewhere, committed or attempted to commit such an act in the interests of a foreign state or Taiwan.

(Amended 23 of 1998 s. 2)

[cf. 1911 c. 28 s. 1 U.K.; 1920 c. 75 s. 2 U.K.]

4. Harboursing

A person commits an offence if he—

- (a) knowingly harbours another person whom he knows, or has reasonable grounds for supposing, to be a person who is about to commit or who has committed an offence under section 3;
- (b) knowingly permits any such persons to meet or assemble in any premises in his occupation or under his control; or
- (c) having harboured any such person, or having permitted any such persons to meet or assemble in any premises in his occupation or under his control, wilfully omits or refuses to disclose to a superintendent of police any information that it is in his power to give in relation to any such person.

[cf. 1911 c. 28 s. 7 U.K.]

5. Unauthorized use of uniforms, forgery, etc.

(1) A person commits an offence if he, for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place, or for any other purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong—

- (a) uses or wears, without lawful authority, any naval, military, airforce, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform;
- (b) orally or in writing, in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission;

- (c) 偽造、竄改或干擾任何護照或任何海軍、軍事、空軍、警察或官方通行證、許可證、證明書、執照、牌照或性質相若的文件(在本條中稱為官方文件)，或使用或管有任何該等偽造的、經竄改的或有問題的官方文件；
- (d) 假冒或虛假地表示自己是正擔任女皇陛下轄下職位的人或該等人士的僱員，或假冒或虛假地表示自己是或不是已獲妥善地發給或傳達官方文件或機密的官方代碼或通行碼的人，或意圖為自己或他人取得官方文件或機密的官方代碼或通行碼，明知而作出任何虛假陳述；
- (e) 在沒有有關政府部門或主管當局的授權下，使用、管有或控制——
- (i) 任何政府部門或由女皇陛下委任的或在女皇陛下授權下行事的任何外交、海軍、軍事或空軍主管當局的任何印模、印章或印戳，或屬於該等部門或主管當局的印模、印章或印戳，或由該等部門或主管當局所使用、製作或提供的印模、印章或印戳；或
 - (ii) 與第(i)節所述的印模、印章或印戳相似至屬旨在欺騙的任何印模、印章或印戳；或
- (f) 偽製(e)(i)段所述的任何印模、印章或印戳，或使用、管有或控制任何該等偽製的印模、印章或印戳。
- (2) 如就本條所訂罪行而對某人提起的法律程序涉及證明有損聯合王國或香港的安全或利益的目的，第3(2)條如同適用於根據該條提起的法律程序般適用。

[比照 1920 c. 75 s. 1(1) & (3) U.K.]

6. 未經授權而使用官方文件等

- (1) 任何人作出以下作為或有以下不作為，即屬犯罪——
- (a) 在沒有保留官方文件(不論是否已完成或已為供使用而發出)的權利之時或在保留該等文件屬違反其責任之時，為任何有損聯合王國或香港的安全或利益的目的而保留該等文件；或沒有遵從由聯合王國政府任何部門、香港政府任何部門或獲該等部門授權的任何人就交回或處置該等文件而發出的任何指示；

- (c) forges, alters or tampers with any passport or any naval, military, airforce, police, or official pass, permit, certificate, licence or other document of a similar character (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered or irregular official document;
- (d) impersonates, or falsely represents himself to be a person holding, or in the employment of a person holding, office under Her Majesty, or to be or not to be a person to whom an official document or secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement;
- (e) uses, or has in his possession or under his control, without the authority of the Government department or the authority concerned—
- (i) any die, seal or stamp of or belonging to, or used, made or provided by any Government department or by any diplomatic, naval, military or airforce authority appointed by or acting under the authority of Her Majesty; or
 - (ii) any die, seal or stamp so nearly resembling any die, seal or stamp mentioned in subparagraph (i) as to be calculated to deceive; or
- (f) counterfeits any die, seal or stamp mentioned in paragraph (e)(i), or uses, or has in his possession or under his control, any such counterfeited die, seal or stamp.

(2) In the case of any proceedings against a person for an offence under this section involving the proof of a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong, section 3(2) applies in like manner as it applies to proceedings under that section.

[cf. 1920 c. 75 s. 1(1) & (3) U.K.]

6. Unauthorized use of official documents, etc.

- (1) A person commits an offence if he—
- (a) retains for any purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong any official document, whether or not completed or issued for use, when he has no right to retain it or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any department of the Government of the United Kingdom or Hong Kong or any person authorized by such department with regard to the return or disposal thereof;

- (b) 容許另一人管有任何僅為供他一人使用而發出的官方文件；或傳達任何如此發出的機密的官方代碼或通行碼；或在沒有合法權限或辯解的情況下，管有任何為供任何其他人士使用而發出的官方文件或機密的官方代碼或通行碼；或在藉拾獲或其他方式而取得由某人或某主管當局發出或為供某人或某主管當局使用而發出的任何官方文件的管有後，忽略或沒有將該文件歸還該人、該主管當局或警務人員；或
- (c) 在沒有合法權限或辯解的情況下，製造、售賣或為售賣而管有第 5(1)(e) 或 (f) 條所述的任何印模、印章或印戳。
- (2) 如就本條所訂罪行而對某人提起的法律程序涉及證明有損聯合王國或香港的安全或利益的目的，第 3(2) 條如同適用於根據該條提起的法律程序般適用。
- [比照 1920 c. 75 s. 1(2) & (3) U.K.]

7. 妨礙

任何人在禁地附近妨礙、明知而誤導或以其他方式干預或阻礙以下人士，即屬犯罪——

- (a) 警務處處長、警司級人員或其他警務人員；或
- (b) 正在就該禁地執行護衛、放哨、巡邏或其他類似職務的女皇陛下部隊成員。

[比照 1920 c. 75 s. 3 U.K.]

8. 提供資料的責任

- (1) 凡警務處處長信納——
- (a) 有合理理由懷疑有人已犯第 3 條所訂罪行；及
- (b) 有合理理由相信任何人能夠提供關於該罪行或懷疑已犯的罪行的資料，他可向總督申請，准許他行使第 (2) 款所賦權力。
- (2) 如總督授予第 (1) 款所述的准許，警務處處長可授權一名警司級人員或任何職級不低於督察級的警務人員要求被相信是能夠提供資料的人——

- (b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of any person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or
- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale any die, seal or stamp mentioned in section 5(1)(e) or (f).
- (2) In the case of any proceedings against a person for an offence under this section involving the proof of a purpose prejudicial to the safety or interests of the United Kingdom or Hong Kong, section 3(2) applies in like manner as it applies to proceedings under that section.
- [cf. 1920 c. 75 s. 1(2) & (3) U.K.]

7. Obstruction

A person commits an offence if he, in the vicinity of a prohibited place, obstructs, knowingly misleads or otherwise interferes with or impedes—

- (a) the Commissioner of Police or a superintendent of police or other police officer; or
- (b) a member of Her Majesty's forces engaged on guard, sentry, patrol or other similar duty in relation to the prohibited place.
- [cf. 1920 c. 75 s. 3 U.K.]

8. Duty to give information

- (1) The Commissioner of Police may apply to the Governor for permission to exercise the powers conferred by subsection (2) where the Commissioner is satisfied that there is—
- (a) reasonable ground for suspecting that an offence under section 3 has been committed; and
- (b) reasonable ground for believing that any person is able to furnish information as to the offence or suspected offence.
- (2) If the Governor grants the permission mentioned in subsection (1), the Commissioner of Police may authorize a superintendent of police, or any police officer not below the rank of inspector, to require the person believed to be able to furnish information—

- (a) 提供在其權力範圍內並與有關的罪行或懷疑已犯的罪行有關的資料；及
- (b) 在獲付其合理開支之後，在該名人員指明的合理時間及地點出席。

(3) 凡警務處處長有合理理由相信某個案的情況極其緊急，而且有需要即時採取行動以保障聯合王國或香港的利益，他可不申請總督的准許而行使第(2)款所述的權力；但如他如此行事，他須事後隨即有關情況向總督報告。

(4) 依據第(2)款下的授權被要求如該款所述般提供資料或出席的人如沒有遵從該項要求，即屬犯罪。

(5) 依據第(2)款下的授權被要求提供資料的人如明知而提供虛假資料，即屬犯罪。

(6) 依據第(2)款下的授權被要求提供資料的人，不得以下述理由而無須提供資料——

- (a) 提供資料可能導致他入罪；或
- (b) 提供資料會屬違反由成文法則或其他規定所施加的關於保密或其他對披露資料的限制的責任。

(7) 因某人遵從憑藉本條施加的要求而作的陳述，不可在針對他的刑事法律程序中用於針對他，但在以下情況則除外——

- (a) 在根據第(5)款或《刑事罪行條例》(第 200 章)第 36 條提起的法律程序中作為證據；或
- (b) 在就任何罪行提起的法律程序中，如他在作供時作出與該陳述不相符的另一陳述，用以質疑其可信程度。

[比照 1920 c. 75 s. 6 U.K.]

9. 關於罪行審訊的條文

(1) 就本部所訂罪行而進行的法律程序，只可由律政司司長提起或在律政司司長同意下提起。

(2) 本部所訂罪行只有在律政司司長同意下方可循簡易程序處理。

- (a) to give any information in his power relating to the offence or suspected offence; and
- (b) on tender of his reasonable expenses, to attend at such reasonable time and place as may be specified by the superintendent or officer.

(3) The Commissioner of Police may exercise the powers mentioned in subsection (2) without applying for the permission of the Governor where he has reasonable ground to believe that the case is one of great emergency and in the interest of the United Kingdom or Hong Kong immediate action is necessary, but if he does so he shall forthwith report the circumstances to the Governor.

(4) A person required in pursuance of an authorization under subsection (2) to give information or to attend as mentioned in that subsection who fails to comply with the requirement commits an offence.

(5) A person required in pursuance of an authorization under subsection (2) to give information who knowingly gives false information commits an offence.

(6) A person is not excused from giving information required in pursuance of an authorization under subsection (2) on the ground that to do so—

- (a) might tend to incriminate him; or
- (b) would breach an obligation as to secrecy or another restriction upon the disclosure of information imposed by enactment or otherwise.

(7) A statement by a person in response to a requirement imposed by virtue of this section may not be used against him in criminal proceedings against him except as follows—

- (a) in evidence in proceedings under subsection (5) or section 36 of the Crimes Ordinance (Cap. 200); or
- (b) for the purpose of impeaching his credibility in proceedings in respect of any offence where in giving evidence he makes a statement inconsistent with it.

[cf. 1920 c. 75 s. 6 U.K.]

9. Provisions as to trial of offences

(1) Proceedings for an offence under this Part shall not be instituted except by or with the consent of the Secretary for Justice.

(2) No offence under this Part shall be dealt with summarily except with the consent of the Secretary for Justice.

(3) 法庭除具有命令不許公眾旁聽任何法律程序的權力外，在不損害該等權力的原則下，如在法庭進行的有關本部所訂罪行的法律程序或上訴時的法律程序中，或在就本部所訂罪行而審訊某人的審訊過程中，控方以發布行將在法律程序中提出的證據或作出的陳述會有損聯合王國或香港的安全為理由，申請在聆訊的任何部分不許全部或部分公眾旁聽，法庭可作出具有此效力的命令，但在任何情況下均須公開宣布判刑。

(由 1997 年第 362 號法律公告修訂)
[比照 1911 c. 28 s. 8 U.K.; 1920 c. 75 s. 8 U.K.]

10. 罰則

- (1) 任何人犯第 3 條所訂罪行，一經循公訴程序定罪，可處監禁 14 年。
- (2) 任何人犯第 4 至 8 條中任何一條所訂罪行——
 - (a) 一經循公訴程序定罪，可處監禁 2 年；
 - (b) 一經循簡易程序定罪，可處第 4 級罰款及監禁 3 個月。

[比照 1920 c. 75 s. 8 U.K.]

11. 搜查手令

- (1) 裁判官如因經宣誓而作的告發而信納有合理理由懷疑有人已犯或即將犯本部所訂罪行，可授予搜查手令，授權任何警務人員——
 - (a) 於任何時間進入該手令所指明的任何處所或地方，在有需要時可使用武力進入；
 - (b) 搜查該處所或地方及於其內發現的每一人；
 - (c) 檢取他在該處所或地方或在該人身上發現的任何圖片、圖則、模型、物品、紀錄、文件或任何性質類似的東西，或任何屬有人已犯或即將犯本部所訂罪行的證據的東西，但先決條件是他有合理理由懷疑有人已就或即將就所檢取的物品犯本部所訂罪行。

(3) In addition and without prejudice to any powers that a court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a court against any person for an offence under this Part or the proceedings on appeal, or in the course of the trial of a person for an offence under this Part, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the United Kingdom or Hong Kong, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

(Amended L.N. 362 of 1997)
[cf. 1911 c. 28 s. 8 U.K.; 1920 c. 75 s. 8 U.K.]

10. Penalties

- (1) A person who commits an offence under section 3 is liable on conviction on indictment to imprisonment for 14 years.
- (2) A person who commits an offence under any of sections 4 to 8 is liable—
 - (a) on conviction on indictment to imprisonment for 2 years;
 - (b) on summary conviction to a fine at level 4 and to imprisonment for 3 months.

[cf. 1920 c. 75 s. 8 U.K.]

11. Search warrants

- (1) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Part has been or is about to be committed, he may grant a search warrant authorizing any police officer to—
 - (a) enter at any time any premises or place named in the warrant, if necessary by force;
 - (b) search the premises or place and every person found therein;
 - (c) seize any sketch, plan, model, article, note, document or anything of a like nature or anything that is evidence of an offence under this Part having been or being about to be committed, that he may find on the premises or place or on any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Part has been or is about to be committed.

(2) 凡警司級人員覺得某個案的情況極其緊急，而且有需要即時採取行動以保障聯合王國或香港的利益，他可藉書面命令向任何警務人員授予與裁判官可根據第(1)款藉手令給予的權限相同的權限。

[比照 1911 c. 28 s. 9 U.K.]

第 III 部

非法披露

12. 釋義

(1) 在本部中——

“公務人員”(public servant)指——

- (a) 在英皇香港政府下擔任受薪職位的人，不論該職位屬永久或臨時性質；
- (b) 任何受僱在英皇聯合王國政府公務員體制(包括女皇陛下外交部及女皇陛下海外公務員系統)內工作的人；
- (c) 武裝部隊任何成員；
- (d) 訂明團體或屬訂明類別的團體的成員或僱員，而他本身是為施行本段而被訂明的或是屬於任何該等團體的訂明成員或僱員類別的；
- (e) 擔任訂明職位人士或該等人士的僱員，而他本身是為施行本段而被訂明的或是屬於訂明僱員類別的；

“地區”(territory)指香港以外的不屬國家的地區；

“防務”(defence)指——

- (a) 武裝部隊的規模、狀況、組織、後勤、戰鬥序列、部署、行動、戒備狀態及訓練；

(2) Where it appears to a superintendent of police that the case is one of great emergency and that in the interests of the United Kingdom or Hong Kong immediate action is necessary, he may by a written order give to any police officer the like authority as may be given by the warrant of a magistrate under subsection (1).

[cf. 1911 c. 28 s. 9 U.K.]

PART III

UNLAWFUL DISCLOSURE

12. Interpretation

(1) In this Part—

“armed forces”(武裝部隊) means the armed forces of the Crown;

“British national”(英國國民) means a British citizen, a British Overseas citizen, a British Dependent Territories citizen, a British National (Overseas) or a British protected person;

“defence”(防務) means—

- (a) the size, shape, organization, logistics, order of battle, deployment, operations, state of readiness and training of the armed forces;
- (b) the weapons, stores or other equipment of the armed forces and the invention, development, production and operation of such equipment and research relating to it;
- (c) defence policy and strategy and military planning and intelligence;
- (d) plans and measures for the maintenance of essential supplies and services that are or would be needed in time of war;

“disclose” and “disclosure”(披露), in relation to a document or other article, include parting with possession of it;

“Hong Kong permanent resident”(香港永久性居民) has the meaning assigned to that term by section 2(1) of the Immigration Ordinance (Cap. 115);

“international relations”(國際關係) means the relations between States, between international organizations or between one or more States and one or more such organizations and includes—

- (a) any matter relating to a State other than the United Kingdom or to an international organization that is capable of affecting the relations of the United Kingdom with another State or with an international organization; and

(b) 武裝部隊的武器、補給品或其他裝備，以及該等裝備的發明、研製、生產及操作和與之有關的研究；

(c) 防衛政策和策略以及軍事規劃和情報；

(d) 維持在戰時需要或會在戰時需要的供應品和服務的計劃及措施；

“武裝部隊”(armed forces)指英皇的武裝部隊；

“披露”(disclose, disclosure)就文件或其他物品而言，包括放棄對該文件或物品的管有；

“訂明”(prescribed)指由總督訂立的命令所訂明；

“香港永久性居民”(Hong Kong permanent resident)具有《人民入境條例》(第 115 章)第 2(1)條給予該詞的涵義；

“英國國民”(British national)指英國公民、英國海外公民、英國屬土公民、英國國民(海外)或受英國保護人士；

“國家”(State)包括一個國家的政府及其政府的任何機構；

“國際關係”(international relations)指國家與國家之間的關係或國際組織與國際組織之間的關係，或一個或多於一個國家與一個或多於一個國際組織之間的關係，並包括——

(a) 關乎聯合王國以外的國家或國際組織、並能影響聯合王國與另一國家或某一國際組織的關係的事宜；及

(b) 關乎聯合王國與香港之間的關係或香港的對外關係的事宜。

(2) 除第(3)款另有規定外，在本部中，“政府承辦商”(government contractor)指任何不是公務人員，但屬——

(a) 為英皇香港政府、第(1)款所述的任何部門、部隊或團體或任何擔任根據第(1)款訂明的職位的人士的目的，提供貨品或服務(或受僱為該等目的提供貨品或服務)的人；或

(b) 根據以下協議或安排提供貨品或服務(或受僱根據以下協議或安排提供貨品或服務)的人：由總督核證為屬任何地區的政府、任何聯合王國以外的國家的政府或任何國際組織屬其中一方的協議或安排的協議或安排，或根據附屬於任何該等協議或安排的或為執行任何該等協議或安排而訂立的協議或安排。

(3) 凡為施行第(1)款而訂立的命令訂明任何團體或任何擔任職位人士的僱員或僱員類別，以下人士須當作不是就本部而言的政府承辦商——

(a) 該團體或擔任該職位人士的未經訂明僱員，或該團體或該人士的僱員但不屬於訂明僱員類別者；及

(b) any matter relating to the relations between the United Kingdom and Hong Kong or the external relations of Hong Kong;

“prescribed”(訂明) means prescribed by an order made by the Governor;

“public servant”(公務人員) means—

(a) any person who holds an office of emolument under the Crown in right of the Government of Hong Kong, whether such office is permanent or temporary;

(b) any person employed in the civil service of the Crown in right of the United Kingdom, including Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service;

(c) any member of the armed forces;

(d) any person who is a member or employee of a prescribed body or a body of a prescribed class and either is prescribed for the purposes of this paragraph or belongs to a prescribed class of members or employees of any such body;

(e) any person who holds a prescribed office or who is an employee of such a person and either is prescribed for the purposes of this paragraph or belongs to a prescribed class of such employees;

“State”(國家) includes the government of a State and any organ of its government;

“territory”(地區) means any territory, not being a State, outside Hong Kong.

(2) In this Part, “government contractor”(政府承辦商) means, subject to subsection (3), any person who is not a public servant but who provides, or is employed in the provision of, goods or services—

(a) for the purposes of the Crown in right of the Government of Hong Kong, of any of the services, forces or bodies mentioned in subsection (1) or of the holder of any office prescribed under subsection (1); or

(b) under an agreement or arrangement certified by the Governor as being an agreement or arrangement to which the Government of a territory, the Government of a State, other than the United Kingdom, or an international organization is a party or which is subordinate to, or made for the purposes of implementing, any such agreement or arrangement.

(3) Where an employee or a class of employees of any body, or of any holder of an office, is prescribed by an order made for the purposes of subsection (1), the following persons shall be deemed not to be a government contractor for the purposes of this Part—

(a) any employee of that body, or of the holder of that office, who is not prescribed or is not within the prescribed class of employees; and

(b) 並非為執行該團體或擔任該職位的人士的某職能的目的而提供貨品或服務(或並非受僱為該目的而提供貨品或服務)的人,而該僱員或該訂明類別的僱員是就該職能而被任用的。

(4) 除第(5)款另有規定外而在符合第(6)款的規定下,在本部中,“國際組織”(international organization)指其成員僅限於國家或國家及地區的組織,亦包括提述該等組織轄下的機構。

(5) 在第(4)款中,提述國際組織之處,包括提述任何該等組織(不論其成員是否僅限於國家或國家及地區),並包括商業組織。

(6) 在為本條的施行而決定某一組織的成員是否僅限於國家或國家及地區時,任何成員如本身屬成員僅限於國家的組織,或本身屬該等組織轄下的機構,須視為國家。

(7) 在本部中,“保安或情報”(security or intelligence)指保安或情報部門或其任何部分的工作或支援該等部門的工作,而提述關乎保安或情報的資料之處,包括提述由該等部門、支援該等部門的人或該等部門的任何部分所持有或轉傳的資料。

[比照 1989 c. 6 ss. 1(9), 2(4), 3(5), 12 & 13 U.K.]

13. 保安及情報資料——部門成員及獲知會人士

(1) 任何屬或曾經屬——

- (a) 保安及情報部門的成員的人士;或
- (b) 獲知會受本款條文規限的人士,

如在沒有合法權限的情況下,披露憑藉他作為任何該等部門的成員的身分或於該項知會有效或曾經有效期間在其工作過程中而由或曾經由他管有,並關乎保安或情報的資料、文件或其他物品,即屬犯罪。

(2) 第(1)款中提述披露關乎保安或情報的資料之處,包括提述作出本意是披露該等資料的陳述,亦包括提述作出擬被其所致予的人視為該等披露的陳述。

(3) 被控犯本條所訂罪行的人如證明在指稱的罪行發生時,他既不知道亦無合理理由相信有關的資料、文件或物品是關乎保安或情報的,即可以此作為免責辯護。

(b) any person who does not provide, or is not employed in the provision of, goods or services for the purposes of the performance of those functions of the body or the holder of the office in connection with which the employee or prescribed class of employees is engaged.

(4) In this Part, “international organization” (國際組織) means, subject to subsections (5) and (6), an organization of which only States or States and territories are members and includes a reference to any organ of such an organization.

(5) In subsection (4) the reference to an international organization includes a reference to any such organization whether or not one of which only States or States and territories are members and includes a commercial organization.

(6) In determining for the purposes of this section whether only States or States and territories are members of an organization, any member that is itself an organization of which only States are members, or that is an organ of such an organization, shall be treated as a State.

(7) In this Part, “security or intelligence” (保安或情報) means the work of, or in support of, the security or intelligence services or any part of them, and references to information relating to security or intelligence include references to information held or transmitted by those services or by persons in support of them, or any part of them.

[cf. 1989 c. 6 ss. 1(9), 2(4), 3(5), 12 & 13 U.K.]

13. Security and intelligence information—members of services and persons notified

(1) A person who is or has been—

- (a) a member of the security and intelligence services; or
- (b) a person notified that he is subject to the provisions of this subsection,

commits an offence if without lawful authority he discloses any information, document or other article relating to security or intelligence that is or has been in his possession by virtue of his position as a member of any of those services or in the course of his work while the notification is or was in force.

(2) The reference in subsection (1) to disclosing information relating to security or intelligence includes a reference to making any statement that purports to be a disclosure of such information or is intended to be taken by those to whom it is addressed as being such a disclosure.

(3) It is a defence for a person charged with an offence under this section to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that the information, document or article in question related to security or intelligence.

(4) 某人受第(1)款規限的知會，須以總督送達該人的書面通知而作出，而總督如認為有關人士所承擔的工作屬或包括與保安或情報部門有關連，且其性質是為保障聯合王國的國家安全或香港的安全的需要，該人宜受該款規限，則總督可送達該等通知。

(5) 除第(6)款另有規定外，為施行第(1)款而作出的知會，在自其送達日期起計的5年期內有效，但該項知會可藉根據第(4)款送達的另一通知而續期，每次可續期5年。

(6) 為施行第(1)款而作出的知會可隨時藉由總督送達有關人士的另一書面通知而撤銷，而總督如認為該人所承擔的工作不再屬第(4)款所述者，即須送達該另一通知。

[比照 1989 c. 6 s. 1 U.K.]

14. 保安及情報資料——公務人員及承辦商

(1) 屬或曾經屬公務人員或政府承辦商的人如在沒有合法權限的情況下，作出一項具損害性的披露，而所披露的是憑藉他作為公務人員或政府承辦商的身分(但並非第13(1)條所述者)而由或曾經由他管有，並關乎保安或情報的資料、文件或其他物品，即屬犯罪。

(2) 就第(1)款而言，如——

- (a) 披露導致對保安或情報部門或其任何部分的工作的損害；
- (b) 有關資料、文件或物品的性質屬若被未經授權而披露便相當可能會導致該等損害者；或
- (c) 某種類或類別的資料、文件或物品被未經授權而披露便相當可能會具有該效果，而有關的資料、文件或物品屬於該種類或類別。

披露即屬具損害性。

(3) 被控犯本條所訂罪行的人如證明在指稱的罪行發生時，他既不知道亦無合理因由相信——

- (a) 有關的資料、文件或物品關乎保安或情報；或
- (b) 披露會屬第(2)款所指的具損害性，

即可以此作為免責辯護。

[比照 1989 c. 6 s. 1 U.K.]

(4) Notification that a person is subject to subsection (1) shall be effected by a notice in writing served on him by the Governor, and such a notice may be served if, in the Governor's opinion, the work undertaken by the person in question is or includes work connected with the security or intelligence services and its nature is such that the interests of the national security of the United Kingdom or the security of Hong Kong require that he should be subject to that subsection.

(5) Subject to subsection (6), a notification for the purposes of subsection (1) shall be in force for the period of 5 years beginning with the day on which it is served but may be renewed by further notices under subsection (4) for periods of 5 years at a time.

(6) A notification for the purposes of subsection (1) may at any time be revoked by a further notice in writing served by the Governor on the person concerned and the Governor shall serve such a further notice as soon as, in his opinion, the work undertaken by that person ceases to be such as is mentioned in subsection (4).

[cf. 1989 c. 6 s. 1 U.K.]

14. Security and intelligence information— public servants and contractors

(1) A person who is or has been a public servant or government contractor commits an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to security or intelligence that is or has been in his possession by virtue of his position as such but otherwise than as mentioned in section 13(1).

(2) For the purposes of subsection (1), a disclosure is damaging if—

- (a) the disclosure causes damage to the work of, or any part of, the security or intelligence services;
- (b) the information, document or article in question is of such a nature that its unauthorized disclosure would be likely to cause such damage; or
- (c) the information, document or article in question falls within a class or description of information, documents or articles the unauthorized disclosure of which would be likely to have that effect.

(3) It is a defence for a person charged with an offence under this section to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that—

- (a) the information, document or article in question related to security or intelligence; or
- (b) the disclosure would be damaging within the meaning of subsection (2).

[cf. 1989 c. 6 s. 1 U.K.]

15. 防務資料

(1) 屬或曾經屬公務人員或政府承辦商的人如在沒有合法權限的情況下，作出一項具損害性的披露，而所披露的是憑藉他作為公務人員或政府承辦商的身分而由或曾經由他管有，並關乎防務的資料、文件或其他物品，即屬犯罪。

(2) 就第(1)款而言，如——

- (a) 披露對武裝部隊或其任何部分執行其任務的能力有損害；
- (b) 披露引致武裝部隊成員死亡或受傷，或引致武裝部隊的裝備或裝置受嚴重損害；
- (c) 披露危害(但並非以(a)及(b)段所述方式危害)聯合王國或香港在其他地方的利益、嚴重妨礙聯合王國或香港促進或保障該等利益或危害英國國民或香港永久性居民在其他地方的安全；或(由1998年第23號第2條修訂)
- (d) 有關的資料、文件或物品的性質屬若被未經授權而披露便相當可能會具有(a)至(c)段所描述的任何效果者，

披露即屬具損害性。

(3) 被控犯本條所訂罪行的人如證明在指稱的罪行發生時，他既不知道亦無合理理由相信——

- (a) 有關的資料、文件或物品關乎防務；或
- (b) 披露會屬第(2)款所指的具損害性，

即可以此作為免責辯護。

[比照 1989 c. 6 s. 2 U.K.]

16. 關乎國際關係的資料

(1) 屬或曾經屬公務人員或政府承辦商的人如在沒有合法權限的情況下，作出一項具損害性的披露，而所披露的是——

- (a) 關乎國際關係的資料、文件或其他物品；或
- (b) 自聯合王國以外的國家或地區或自國際組織取得的任何機密的資料、文件或其他物品，

且該等資料、文件或物品是憑藉他作為公務人員或政府承辦商的身分而由或曾經由他管有的，他即屬犯罪。

(2) 就第(1)款而言，如——

15. Defence information

(1) A person who is or has been a public servant or government contractor commits an offence if without lawful authority he makes a damaging disclosure of any information, document or other article relating to defence that is or has been in his possession by virtue of his position as such.

(2) For the purposes of subsection (1), a disclosure is damaging if—

- (a) the disclosure damages the capability of, or any part of, the armed forces to carry out their tasks;
- (b) the disclosure leads to loss of life or injury to members of the armed forces or serious damage to the equipment or installations of those forces;
- (c) otherwise than as mentioned in paragraphs (a) and (b), the disclosure endangers the interests of the United Kingdom or Hong Kong elsewhere, seriously obstructs the promotion or protection by the United Kingdom or Hong Kong of those interests or endangers the safety of British nationals or Hong Kong permanent residents elsewhere; or (*Amended 23 of 1998 s. 2*)
- (d) the information, document or article in question is of such a nature that its unauthorized disclosure would be likely to have any of the effects described in paragraphs (a) to (c).

(3) It is a defence for a person charged with an offence under this section to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that—

- (a) the information, document or article in question related to defence; or
- (b) the disclosure would be damaging within the meaning of subsection (2).

[cf. 1989 c. 6 s. 2 U.K.]

16. Information related to international relations

(1) A person who is or has been a public servant or government contractor commits an offence if without lawful authority he makes a damaging disclosure of—

- (a) any information, document or other article relating to international relations; or
- (b) any confidential information, document or other article that was obtained from a territory or a State, other than the United Kingdom, or an international organization,

being information or a document or article that is or has been in his possession by virtue of his position as a public servant or government contractor.

(2) For the purposes of subsection (1), a disclosure is damaging if—

- (a) 披露危害聯合王國或香港在其他地方的利益、嚴重妨礙聯合王國或香港促進或保障該等利益或危害英國國民或香港永久性居民在其他地方的安全；或（由 1998 年第 23 號第 2 條修訂）
- (b) 有關的資料、文件或物品的性質屬若被未經授權而披露便相當可能會具有 (a) 段所描述的任何效果者，

披露即屬具損害性。

(3) 就第 (1)(b) 款所述的資料、文件或其他物品而言——

- (a) 確定其屬機密此一事實；或
- (b) 確定其性質或內容，

可足以為第 (2)(b) 款的施行而確定該資料、文件或物品的性質屬若被未經授權而披露便相當可能具有該款所述的任何效果者。

(4) 被控犯本條所訂罪行的人如證明在指稱的罪行發生時，他既不知道亦無合理理由相信——

- (a) 有關的資料、文件或物品屬第 (1) 款所述者；或
- (b) 披露會屬第 (2) 款所指的具損害性，

即可以此作為免責辯護。

(5) 就本條而言，凡自某地區、國家或組織按某些條款取得資料、文件或物品而該等條款規定它須在機密情況下持有，或在某情況下自某地區、國家或組織取得資料、文件或物品而該情況令該地區、國家或組織期望它在機密情況下持有是合理的，該資料、文件或物品即屬機密。

[比照 1989 c. 6 s. 3 U.K.]

17. 關乎犯罪及刑事調查的資料

(1) 屬或曾經屬公務人員或政府承辦商的人如在沒有合法權限的情況下，披露本條適用並憑藉他作為公務人員或政府承辦商身分而由或曾經由他管有的資料、文件或其他物品，即屬犯罪。

(2) 本條適用於——

- (a) 若被披露便——
- (i) 導致犯罪的資料、文件或其他物品；

- (a) the disclosure endangers the interests of the United Kingdom or Hong Kong elsewhere, seriously obstructs the promotion or protection by the United Kingdom or Hong Kong of those interests or endangers the safety of British nationals or Hong Kong permanent residents elsewhere; or (Amended 23 of 1998 s. 2)
- (b) the information, document or article in question is of such a nature that its unauthorized disclosure would be likely to have any of the effects described in paragraph (a).

(3) In the case of information or a document or other article mentioned in subsection (1)(b)—

- (a) to establish as a fact that it is confidential; or
- (b) to establish its nature or contents,

may be sufficient to establish for the purpose of subsection (2)(b) that the information, document or article is of such a nature that its unauthorized disclosure would be likely to have any of the effects described in that subsection.

(4) It is a defence for a person charged with an offence under this section to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that—

- (a) the information, document or article in question was such as is mentioned in subsection (1); or
- (b) the disclosure would be damaging within the meaning of subsection (2).

(5) For the purposes of this section, any information, document or article obtained from a territory, State or organization is confidential at any time while the terms on which it was obtained require it to be held in confidence or while the circumstances in which it was obtained make it reasonable for the territory, State or organization to expect that it would be so held.

[cf. 1989 c. 6 s. 3 U.K.]

17. Information related to commission of offences and criminal investigations

(1) A person who is or has been a public servant or government contractor commits an offence if without lawful authority he discloses any information, document or other article to which this section applies and that is or has been in his possession by virtue of his position as such.

(2) This section applies to—

- (a) any information, document or other article the disclosure of which—
- (i) results in the commission of an offence;

- (ii) 利便某人逃離合法羈押或作出對受合法羈押的人的穩當看管有損害的作為的資料、文件或其他物品；或
- (iii) 阻礙防止或偵查罪行，或阻礙拘捕或檢控疑犯的資料、文件或其他物品；
- (b) 其性質屬若被未經授權而披露便相當可能會具有 (a) 段所述的任何效果的資料、文件或其他物件；
- (c) 因為根據在《電訊條例》(第 106 章) 第 33 條下發出的命令採取的行動而取得的資料；
- (d) 因為根據在《郵政署條例》(第 98 章) 第 13(1) 條下發出的手令採取的行動而取得的資料；或
- (e) 關乎因為如 (c) 或 (d) 段所述採取行動而取得的資料，以及被或曾經被用於 (或被或曾經被持有以用於) 該等行動的或因為該等行動而取得的文件或其他物品。

(3) 就符合第 (2)(a) 款的描述的披露而被控犯本條所訂罪行的人如證明在指稱的罪行發生時，他既不知道亦無合理理由相信該項披露會有該款所述的任何效果，即可以此作為免責辯護。

(4) 就任何其他披露而被控犯本條所訂罪行的人如證明在指稱的罪行發生時，他既不知道亦無合理理由相信有關的資料、文件或物品是本條適用的資料、文件或物品，即可以此作為免責辯護。

(5) 在本條中，“合法羈押”(legal custody) 包括依據任何成文法則或任何根據成文法則作出的文書而作的拘留。

[比照 1989 c. 6 s. 4 U.K.]

18. 因未經授權的披露所得的資料或在機密情況下託付的資料

(1) 如有任何資料、文件或其他物品在第 (2) 款所述的情況下落入某人的管有，而該人知道或有合理理由相信——

- (a) 第 13 至 17 條中的任何一條禁止將它披露；及
 - (b) 它是如第 (2) 款所述落入他的管有的，
- 而在沒有合法權限的情況下將它披露，該人即屬犯罪。

- (ii) facilitates an escape from legal custody or the doing of any other act prejudicial to the safekeeping of persons in legal custody; or
- (iii) impedes the prevention or detection of offences or the apprehension or prosecution of suspected offenders;
- (b) any information, document or other article the nature of which is such that its unauthorized disclosure would be likely to have any of the effects mentioned in paragraph (a);
- (c) any information obtained by reason of action taken under an order issued under section 33 of the Telecommunications Ordinance (Cap. 106); (*Amended 36 of 2000 s. 28*)
- (d) any information obtained by reason of action taken under a warrant issued under section 13(1) of the Post Office Ordinance (Cap. 98); or
- (e) any information relating to the obtaining of information by reason of action taken as mentioned in paragraph (c) or (d) and any document or other article that is or has been used or held for use in, or has been obtained by reason of, any such action.

(3) It is a defence for a person charged with an offence under this section in respect of a disclosure falling within subsection (2)(a) to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that the disclosure would have any of the effects mentioned in that subsection.

(4) It is a defence for a person charged with an offence under this section in respect of any other disclosure to prove that, at the time of the alleged offence, he did not know and had no reasonable cause to believe that the information, document or article in question was information or a document or article to which this section applies.

(5) In this section “legal custody” (合法羈押) includes detention in pursuance of any enactment or any instrument made under an enactment.

[cf. 1989 c. 6 s. 4 U.K.]

18. Information resulting from unauthorized disclosures or information entrusted in confidence

(1) A person who comes into possession of any information, document or other article in circumstances mentioned in subsection (2) commits an offence if he discloses it without lawful authority and knowing, or having reasonable cause to believe, that—

- (a) it is protected against disclosure by any of sections 13 to 17; and
- (b) it has come into his possession as mentioned in subsection (2).

(2) 第(1)款所提述的情況為第 13 至 17 條中的任何一條禁止披露的資料、文件或其他物品因以下事件以致落入有關人士的管有——

- (a) 某公務人員或政府承辦商在沒有合法權限的情況下將它披露(不論是向該有關人士或另一人披露);
- (b) 某公務人員或政府承辦商按某些條款將它託付該有關人士而該等條款規定它須在機密情況下持有,或某公務人員或政府承辦商在某情況下將它託付該有關人士而該情況令該公務人員或政府承辦商能合理地期望它會在機密情況下持有;或
- (c) 它如(b)段所述被託付某人而該人在沒有合法權限的情況下將它披露(不論是向該有關人士或另一人披露)。

(3) 就第 13 至 16 條中的任何一條禁止披露的資料、文件或物品而言,除非——

- (a) 任何人將之披露是具損害性的;及
- (b) 該人知道或有合理理由相信將之披露是具損害性的,

否則該人不屬犯本條所訂罪行。

(4) 披露資料、文件或其他物品是否具損害性此一問題,須為第(3)款的施行,而以就公務人員在違反第 14、15 或 16 條的情況下披露該資料、文件或物品裁定該問題的方式,予以裁定。

(5) 凡資料、文件或其他物品因以下事件以致落入某人的管有——

- (a) 它如第(2)(a)款所述被政府承辦商披露;或
- (b) 它如第(2)(c)款所述被披露,

則除非該項披露是由英國國民或香港永久性居民作出的或是在香港作出的,否則該人並不就該資料、文件或物品犯本條所訂罪行。

(6) 就本條而言,如任何資料、文件或物品——

- (a) 關乎保安或情報或防務或國際關係,或屬如第 16(1)(b)條所述者;或
- (b) 是第 17 條適用的資料、文件或物品,

該資料、文件或物品即屬為第 13 至 17 條中的任何一條禁止披露者,而如它符合(a)段的描述,它即屬為第 13 至 16 條中的任何一條禁止披露者。

(7) 任何人不得就他披露任何資料、文件或其他物品,而既被裁定犯本條所訂罪行又被裁定犯第 13 至 17 條中的任何一條所訂的罪行。

[比照 1989 c. 6 s. 5 U.K.]

(2) The circumstances referred to in subsection (1) are where any information, document or other article protected against disclosure by any of sections 13 to 17 has come into a person's possession as a result of it having been—

- (a) disclosed (whether to him or another) by a public servant or government contractor without lawful authority;
- (b) entrusted to him by a public servant or government contractor on terms requiring it to be held in confidence or in circumstances in which the public servant or government contractor could reasonably expect that it would be so held; or
- (c) disclosed (whether to him or another) without lawful authority by a person to whom it was entrusted as mentioned in paragraph (b).

(3) In the case of information or a document or article protected against disclosure by sections 13 to 16, a person does not commit an offence under this section unless—

- (a) the disclosure by him is damaging; and
- (b) he makes it knowing, or having reasonable cause to believe, that it would be damaging.

(4) The question whether a disclosure of information or of a document or other article is damaging shall be determined for the purposes of subsection (3) as it would be determined in relation to a disclosure of that information, document or article by a public servant in contravention of section 14, 15 or 16.

(5) A person does not commit an offence under this section in respect of information or a document or other article that has come into his possession as a result of it having been disclosed—

- (a) as mentioned in subsection (2)(a) by a government contractor; or
- (b) as mentioned in subsection (2)(c),

unless that disclosure was by a British national or Hong Kong permanent resident or took place in Hong Kong.

(6) For the purposes of this section, information or a document or article is protected against disclosure by any of sections 13 to 17 if—

- (a) it relates to security or intelligence, defence or international relations or is such as is mentioned in section 16(1)(b); or
- (b) it is information or a document or article to which section 17 applies,

and information or a document or article is protected against disclosure by sections 13 to 16 if it falls within paragraph (a).

(7) No person shall be convicted for both an offence under this section and an offence under any of sections 13 to 17 in relation to the disclosure by him of any information or document or other article.

[cf. 1989 c. 6 s. 5 U.K.]

19. 因諜報活動所得的資料

任何人如在沒有合法權限的情況下，披露他知道或有合理理由相信是因違反第 3 條以致落入他的管有的任何資料、文件或其他物品，即屬犯罪。

[比照 1989 c. 6 s. 5(6) U.K.]

20. 在機密情況下託付予地區、國家或國際組織的資料

(1) 如有任何資料、文件或其他物品在第 (2) 款所述的情況下落入某人的管有，而該人知道或有合理理由相信——

- (a) 它是如第 (2)(a) 款所述在機密情況下傳達的；
- (b) 它是如第 (2)(b) 款所述落入他的管有的；及
- (c) 將它披露會具損害性，

而將它作具損害性的披露，即屬犯罪。

(2) 第 (1) 款所述的情況為關乎保安或情報或防務或國際關係的任何資料、文件或其他物品——

- (a) 被聯合王國政府或香港政府在機密情況下傳達予某地區、國家或國際組織，或被代表聯合王國政府或香港政府在機密情況下傳達予某地區、國家或國際組織；及
- (b) 因為被人在沒有該地區、國家或組織或(如屬組織)組織的成員的授權的情況下披露，以致落入某一人的管有(不論該項披露是向該某一或其他人作出的)。

(3) 在以下情況，有關人士不屬犯第 (1) 款所訂罪行——

- (a) 該人在合法權限下披露有關的資料、文件或物品；或
- (b) 有關的資料、文件或物品已於過去在有關地區、國家或組織或(如屬組織)組織的成員的授權下提供予公眾。

(4) 就本條而言，披露資料、文件或物品是否具損害性此一問題，須以就公務人員在違反第 14、15 或 16 條的情況下披露該資料、文件或物品裁定該問題的會採用方式，予以裁定。

(5) 就本條而言，如任何資料、文件或物品——

19. Information resulting from spying

A person commits an offence if without lawful authority he discloses any information, document or other article that he knows, or has reasonable cause to believe, to have come into his possession as a result of a contravention of section 3.

[cf. 1989 c. 6 s. 5(6) U.K.]

20. Information entrusted in confidence to territories, States or international organizations

(1) A person who comes into possession of any information, document or other article in circumstances mentioned in subsection (2) commits an offence if he makes a damaging disclosure of it knowing, or having reasonable cause to believe, that—

- (a) it has been communicated in confidence as mentioned in subsection (2)(a);
- (b) it has come into his possession as mentioned in subsection (2)(b); and
- (c) its disclosure would be damaging.

(2) The circumstances referred to in subsection (1) are where any information, document or other article relating to security or intelligence, defence or international relations—

- (a) has been communicated in confidence by or on behalf of the Government of the United Kingdom or Hong Kong to a territory or State or an international organization; and
- (b) has come into a person's possession as a result of it having been disclosed (whether to him or another) without the authority of that territory, State or organization or, in the case of an organization, of a member of it.

(3) A person does not commit an offence under subsection (1) if the information, document or article—

- (a) is disclosed by him with lawful authority; or
- (b) has previously been made available to the public with the authority of the territory, State or organization concerned or, in the case of an organization, of a member of it.

(4) For the purposes of this section, the question whether a disclosure is damaging shall be determined as it would be determined in relation to a disclosure of the information, document or article in question by a public servant in contravention of section 14, 15 or 16.

(5) For the purposes of this section, information or a document or article is communicated in confidence if it is communicated—

- (a) 按某些條款傳達而該等條款規定它須在機密情況下持有；或
- (b) 在某情況下傳達而該情況令傳達者能合理地期望它會在機密情況下持有，

該資料、文件或物品即屬在機密情況下傳達。

(6) 任何人不得就他披露任何資料、文件或其他物品，而既被裁定犯本條所訂罪行又被裁定犯第 13 至 18 條中的任何一條所訂的罪行。

[比照 1989 c. 6 s. 6 U.K.]

21. 經授權的披露

- (1) 就本部而言，如——
 - (a) 公務人員；或
 - (b) 既非公務人員亦非政府承辦商，但受制於一項第 13(1) 條所指的有效知會的人，

按照其公務上的職責作出披露，該項披露即屬在合法權限下作出，亦僅在該等情況下該項披露方屬在合法權限下作出。

- (2) 就本部而言，如政府承辦商——
 - (a) 按照正式授權作出披露；或
 - (b) 憑藉某職能而屬政府承辦商，而他在沒有違反正式限制的情況下為該職能的目的作出披露，

該項披露即屬在合法權限下作出，亦僅在該等情況下該項披露方屬在合法權限下作出。

- (3) 就本部而言，如任何其他人所作出的披露——
 - (a) 是由公務人員為他作為公務人員的職能的目的而作出的；或
 - (b) 是按照正式授權作出的，

該項披露即屬在合法權限下作出，亦僅在該等情況下該項披露方屬在合法權限下作出。

(4) 被控犯第 13 至 20 條中的任何一條所訂的罪行的人如證明在指稱的罪行發生時，他相信他有合法權限作出有關的披露而亦沒有合理理由相信情況並非如此，即可以此作為免責辯護。

(5) 除第 (6) 款另有規定外，在本條中，“正式授權”(official authorization) 及“正式限制”(official restriction) 指由公務人員或政府承辦商妥為給予或施加的授權或限制，或由訂明團體或屬於訂明類別的團體妥為給予或施加（或由他人代表訂明團體或屬於訂明類別的團體妥為給予或施加）的授權或限制。

(6) 就第 20 條而言，“正式授權”(official authorization) 包括由有關地區、國家或組織或（如屬組織）組織的成員妥為給予（或由他人代表有關該等地區、國家、組織或成員妥為給予）的授權。

[比照 1989 c. 6 s. 7 U.K.]

- (a) on terms requiring it to be held in confidence; or
- (b) in circumstances in which the person communicating it could reasonably expect that it would be so held.

(6) No person shall be convicted for both an offence under this section and an offence under any of sections 13 to 18 in relation to the disclosure by him of any information or document or other article.

[cf. 1989 c. 6 s. 6 U.K.]

21. Authorized disclosures

- (1) For the purposes of this Part, a disclosure by—

- (a) a public servant; or
- (b) a person, not being a public servant or government contractor, in whose case a notification for the purposes of section 13(1) is in force,

is made with lawful authority if, and only if, it is made in accordance with his official duty.

(2) For the purposes of this Part, a disclosure by a government contractor is made with lawful authority if, and only if, it is made—

- (a) in accordance with an official authorization; or
- (b) for the purposes of the functions by virtue of which he is a government contractor and without contravening an official restriction.

(3) For the purposes of this Part, a disclosure by any other person is made with lawful authority if, and only if, it is made—

- (a) by a public servant for the purposes of his functions as such; or
- (b) in accordance with an official authorization.

(4) It is a defence for a person charged with an offence under any of sections 13 to 20 to prove that at the time of the alleged offence he believed that he had lawful authority to make the disclosure in question and had no reasonable cause to believe otherwise.

(5) In this section “official authorization” (正式授權) and “official restriction” (正式限制) mean, subject to subsection (6), an authorization or restriction duly given or imposed by a public servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

(6) In relation to section 20, “official authorization” (正式授權) includes an authorization duly given by or on behalf of the territory, State or organization concerned or, in the case of an organization, a member of it.

[cf. 1989 c. 6 s. 7 U.K.]

22. 資料的保障

(1) 凡公務人員或政府承辦商憑藉他作為公務人員或政府承辦商的身分，管有或控制任何若被他在沒有合法權限的情況下披露便會屬犯第 13 至 21 條中的任何一條所訂的罪行的文件或其他物品，如——

- (a) (就公務人員而言) 他在違反其公務上的職責的情況下保留該文件或物品；或
- (b) (就政府承辦商而言) 他沒有遵從關於該文件或物品的交回或處置的正式指示；

或沒有採取可合理地期望一名處於其位置的人會採取的謹慎措施，以防止該文件或物品在未經授權下披露，他即屬犯罪。

(2) 被控犯第 (1)(a) 款所訂罪行的公務人員如證明在指稱的罪行發生時，他相信他是按照其公務上的職責行事而亦沒有合理理由相信情況並非如此，即可以此作為免責辯護。

(3) 在第 (1) 及 (2) 款中，提述公務人員之處，包括既非公務人員亦非政府承辦商但受制於一項第 13(1) 條所指的有效知會的人。

(4) 凡任何人管有或控制任何若被他在沒有合法權限的情況下披露便會屬犯第 18 或 19 條所訂罪行的文件或其他物品，如——

- (a) 他沒有遵從關於該文件或物品的交回或處置的正式指示；或
- (b) 他按某些條款自公務人員或政府承辦商處取得該文件或物品而該等條款規定它須在機密情況下持有，或他在某情況下自公務人員或政府承辦商處取得該文件或物品而該情況令該公務人員或政府承辦商能夠合理地期望它會在機密情況下持有，而他沒有採取可合理地期望處於其位置的人會採取的謹慎措施，以防止該文件或物品在未經授權下披露，

他即屬犯罪。

(5) 凡任何人管有或控制任何若被他在沒有合法權限的情況下披露便會屬犯第 20 條所訂罪行的文件或其他物品，他如沒有遵從關於該文件或物品的交回或處置的正式指示，即屬犯罪。

(6) 凡有任何官方資料、文件或其他物品能被人用於取覽被第 13 至 21 條禁止披露的任何資料、文件或其他物品，則任何人披露該資料、文件或物品，而從作出該項披露的情況來看，預期該資料、文件或物品可能被人在沒有權限下用於該目的是合理的，該人即屬犯罪。

22. Safeguarding of information

(1) Where a public servant or government contractor, by virtue of his position as such, has in his possession or under his control any document or other article which it would be an offence under any of sections 13 to 21 for him to disclose without lawful authority, he commits an offence if—

- (a) being a public servant, he retains the document or article contrary to his official duty; or
- (b) being a government contractor, he fails to comply with an official direction for the return or disposal of the document or article,

or if he fails to take such care to prevent the unauthorized disclosure of the document or article as a person in his position may reasonably be expected to take.

(2) It is a defence for a public servant charged with an offence under subsection (1)(a) to prove that at the time of the alleged offence he believed that he was acting in accordance with his official duty and had no reasonable cause to believe otherwise.

(3) In subsections (1) and (2) references to a public servant include any person, not being a public servant or government contractor, in whose case a notification for the purposes of section 13(1) is in force.

(4) Where a person has in his possession or under his control any document or other article that it would be an offence under section 18 or 19 for him to disclose without lawful authority, he commits an offence if—

- (a) he fails to comply with an official direction for its return or disposal; or
- (b) where he obtained it from a public servant or government contractor on terms requiring it to be held in confidence or in circumstances in which that servant or contractor could reasonably expect that it would be so held, he fails to take such care to prevent its unauthorized disclosure as a person in his position may reasonably be expected to take.

(5) Where a person has in his possession or under his control any document or other article that it would be an offence under section 20 for him to disclose without lawful authority, he commits an offence if he fails to comply with an official direction for its return or disposal.

(6) A person commits an offence if he discloses any official information, document or other article that can be used for the purpose of obtaining access to any information, document or other article protected against disclosure by sections 13 to 21 and the circumstances in which it is disclosed are such that it would be reasonable to expect that it might be used for that purpose without authority.

(7) 就第(6)款而言，如有以下情況，有關人士所披露的資料、文件或物品即屬官方資料、文件或物品——

- (a) 他憑藉其作為公務人員或政府承辦商的身分或曾經憑藉該身分而管有該資料、文件或物品；或
- (b) 他知道或有合理理由相信某公務人員或政府承辦商憑藉其作為公務人員或政府承辦商的身分或曾經憑藉該身分而管有該資料、文件或物品。

(8) 第 18(6) 條為本條第(6)款的施行而適用，如同其為該條的施行而適用。

(9) 在本條中，“正式指示”(official direction)指由公務人員或政府承辦商妥為給予的指示，或由訂明團體或屬於訂明類別的團體妥為給予(或由他人代表訂明團體或屬於訂明類別的團體妥為給予)的指示。

[比照 1989 c. 6 s. 8 U.K.]

23. 在海外作出的作為

任何作為若由英國國民、香港永久性居民或公務人員在香港作出便會根據本部任何條文(第 22(1)、(4)或(5)條除外)屬罪行，則該作為如由該人在香港境外作出，即屬該條文所訂的罪行。

[比照 1989 c. 6 s. 14 U.K.]

24. 關於罪行審訊的條文

(1) 就本部所訂罪行而進行的法律程序，只可由律政司提起或在律政司同意下提起。

(2) 法庭除具有命令不許公眾旁聽任何法律程序的權力外，在不損害該等權力的原則下，如在法庭進行的有關本部所訂罪行(第 22(1)、(4)或(5)條所訂罪行除外)的法律程序或上訴時的法律程序中，或在就本部所訂罪行而審訊某人的審訊過程中，控方以發布行將在法律程序中提出的證據或作出的陳述會有損聯合王國或香港的安全為理由，申請在聆訊的任何部分不許全部或部分公眾旁聽，法庭可作出具有此效力的命令，但在任何情況下均須公開宣布判刑。

[比照 1989 c. 6 ss. 9 & 11(2) U.K.]

25. 罰則

(1) 任何人犯本部任何條文(第 22(1)、(4)或(5)條除外)所訂罪行——

(7) For the purposes of subsection (6), a person discloses information or a document or article that is official if—

- (a) he has or has had it in his possession by virtue of his position as a public servant or government contractor; or
- (b) he knows or has reasonable cause to believe that a public servant or government contractor has or has had it in his possession by virtue of his position as such.

(8) Section 18(6) applies for the purposes of subsection (6) of this section as it applies for the purposes of that section.

(9) In this section “official direction” (正式指示) means a direction duly given by a public servant or government contractor or by or on behalf of a prescribed body or a body of a prescribed class.

[cf. 1989 c. 6 s. 8 U.K.]

23. Acts done abroad

Any act done by a British national, a Hong Kong permanent resident or a public servant outside Hong Kong shall, if it would be an offence by that person under any provision of this Part other than section 22(1), (4) or (5) when done by him in Hong Kong, be an offence under that provision.

[cf. 1989 c. 6 s. 14 U.K.]

24. Provisions as to trial of offences

(1) Proceedings for an offence under this Part shall not be instituted except by or with the consent of the Attorney General.

(2) In addition and without prejudice to any powers that a court may possess to order the exclusion of the public from any proceedings, if, in the course of proceedings before a court against any person for an offence under this Part, other than an offence under section 22(1), (4) or (5), or the proceedings on appeal, or in the course of the trial of a person for an offence under this Part, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the United Kingdom or Hong Kong, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

[cf. 1989 c. 6 ss. 9 & 11(2) U.K.]

25. Penalties

(1) A person who commits an offence under any provision of this Part other than section 22(1), (4) or (5) shall be liable—

- (a) 一經循公訴程序定罪，可處罰款 \$500,000 及監禁 2 年；
 - (b) 一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (2) 任何人犯第 22(1)、(4) 或 (5) 條所訂罪行，一經循簡易程序定罪，可處第 4 級罰款及監禁 3 個月。

[比照 1989 c. 6 s. 10 U.K.]

26. 搜查手令

裁判官如因經宣誓而作的告發而信納有合理理由懷疑有人已犯或即將犯本部所訂罪行(第 22(1)、(4) 或 (5) 條所訂罪行除外)，可授予搜查手令，授權任何警務人員——

- (a) 於任何時間進入該手令所指明的任何處所或地方，在有需要時可使用武力進入；
- (b) 搜查該處所或地方及於其內發現的每一人；
- (c) 檢取他在該處所或地方或在該人身上發現的任何圖片、圖則、模型、物品、紀錄、文件或任何性質類似的東西，或任何屬有人已犯或即將犯本部所訂罪行的證據的東西，但先決條件是他有合理理由懷疑有人已就或即將就所檢取的物品犯本部所訂罪行。

[比照 1989 c. 6 s. 11(1) U.K.]

第 IV 部

廢除及相應修訂

27. 《官方機密法令》等的廢除

(1) 《官方機密法令》中於緊接本條生效前在香港適用或適用範圍擴及香港的條文，於該等條文與本條例的條文相抵觸的範圍內，現予廢除。

(2) 《1989 年官方機密法令 1992 (香港) 令》(S.I. 1992 No. 1301) 現予廢除。

(3) 《釋義及通則條例》(第 1 章) 第 23 至 25 條就藉第 (1) 或 (2) 款對聯合王國成文法則的條文所作的廢除而適用，如同它們就條例的條文的廢除而適用。

- (a) on conviction on indictment to a fine of \$500,000 and to imprisonment for 2 years;
- (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.

(2) A person who commits an offence under section 22(1), (4) or (5) shall be liable on summary conviction to a fine at level 4 and to imprisonment for 3 months.

[cf. 1989 c. 6 s. 10 U.K.]

26. Search warrants

If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Part, other than under section 22(1), (4) or (5), has been or is about to be committed, he may grant a search warrant authorizing any police officer to—

- (a) enter at any time any premises or place named in the warrant, if necessary by force;
- (b) search the premises or place and every person found therein;
- (c) seize any sketch, plan, model, article, note, document or anything of a like nature or anything that is evidence of an offence under this Part having been or being about to be committed, that he may find on the premises or place or on any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Part has been or is about to be committed.

[cf. 1989 c. 6 s. 11(1) U.K.]

PART IV

REPEALS AND CONSEQUENTIAL AMENDMENTS

27. Repeal of Official Secrets Acts, etc.

(1) The provisions of the Official Secrets Acts as applied in or extended to Hong Kong immediately before the commencement of this section are hereby repealed so far as they are inconsistent with the provisions of this Ordinance.

(2) The Official Secrets Act 1989 (Hong Kong) Order 1992 (S.I. 1992 No. 1301) is repealed.

(3) Sections 23 to 25 of the Interpretation and General Clauses Ordinance (Cap. 1) apply in relation to the repeal of a provision of a United Kingdom enactment effected by subsection (1) or (2) as they apply in relation to the repeal of a provision of an Ordinance.

(4) 在本條中，“《官方機密法令》”(Official Secrets Acts) 指聯合王國的《1911 至 1989 年官方機密法令》及根據該等法令訂立的任何規例或命令。

28. (由 2000 年第 32 號第 48 條廢除)

(4) In this section, “Official Secrets Acts” (《官方機密法令》) means the Official Secrets Acts 1911 to 1989 of the United Kingdom and any regulations or orders made thereunder.

28. (*Repealed 32 of 2000 s. 48*)

2. 釋義

(1) 在本條例中，除文意另有所指外——

“切實可行”(practicable) 指合理地切實可行；

“局長”(Secretary) 指保安局局長；

“享有法律特權的品目”(items subject to legal privilege) 的涵義與《有組織及嚴重罪行條例》(第 455 章) 第 2(1) 條中該詞的涵義相同；

“武器”(weapons) 包括——

(a) 化學、生物、放射性或核子武器，及該等武器的先質；

(b) 任何軍械及相關的物料(包括彈藥、軍用車輛、軍事設備及準軍事設備)；及

(c) (b) 段所述的任何軍械及相關的物料的任何元件；

“訂明權益”(prescribed interest) 就任何財產而言，指根據法院規則為施行本條例而訂明為權益的該財產的權益；

“恐怖分子”(terrorist) 指作出或企圖作出恐怖主義行為或參與或協助作出恐怖主義行為的人；

“恐怖分子財產”(terrorist property) 指——

(a) 恐怖分子或與恐怖分子有聯繫者的財產；或

(b) 由下述資金組成的任何其他財產——

(i) 擬用於資助或以其他方式協助作出恐怖主義行為的資金；或

(ii) 曾用於資助或以其他方式協助作出恐怖主義行為的資金；

“恐怖主義行為”(terrorist act)——

(a) 除 (b) 段另有規定外，指作出或恐嚇作出行動，而——

(i) 該行動(而如屬恐嚇，則包括假如作出的該行動)——

(A) 導致針對人的嚴重暴力；

(B) 導致對財產的嚴重損害；

(C) 危害作出該行動的人以外的人的生命；

(D) 對公眾人士或部分公眾人士的健康或安全造成嚴重危險；

(E) 是擬嚴重干擾或嚴重擾亂電子系統的；或

(F) 是擬嚴重干擾或嚴重擾亂基本服務、設施或系統(不論是公共或私人的)的；及

(ii) 該行動的作出或該恐嚇是——

(A) 擬強迫特區政府或擬威嚇公眾人士或部分公眾人士的；及

(B) 為推展政治、宗教或思想上的主張而進行的；

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

“Committee”(聯合國委員會) means—

(a) the Committee of the United Nations Security Council established pursuant to the United Nations Security Council Resolution 1267 of 15 October 1999; or

(b) any other committee—

(i) of the United Nations;

(ii) established pursuant to a United Nations Security Council Resolution made, or a United Nations Convention which has entered into force, after 15 October 1999; and

(iii) the function of which, in whole or in part, is to designate persons or property as terrorists, terrorist associates or terrorist property, as the case may be;

“entity”(實體) means any body of persons (including individuals), whether corporate or unincorporate;

“functions”(職能) includes powers;

“funds”(資金) includes funds mentioned in the Schedule;

“items subject to legal privilege”(享有法律特權的品目) has the same meaning as in section 2(1) of the Organized and Serious Crimes Ordinance (Cap. 455);

“practicable”(切實可行) means reasonably practicable;

“prescribed interest”(訂明權益), in relation to any property, means an interest in the property prescribed by rules of court as an interest for the purposes of this Ordinance;

“Secretary”(局長) means the Secretary for Security;

“terrorist”(恐怖分子) means a person who commits, or attempts to commit, a terrorist act or who participates in or facilitates the commission of a terrorist act;

“terrorist act”(恐怖主義行為)——

(a) subject to paragraph (b), means the use or threat of action where—

(i) the action (including, in the case of a threat, the action if carried out)——

(A) causes serious violence against a person;

(B) causes serious damage to property;

(C) endangers a person's life, other than that of the person committing the action;

(D) creates a serious risk to the health or safety of the public or a section of the public;

(E) is intended seriously to interfere with or seriously to disrupt an electronic system; or

(F) is intended seriously to interfere with or seriously to disrupt an essential service, facility or system, whether public or private; and

- (b) (如屬 (a)(i)(D)、(E) 或 (F) 段的情況) 不包括在任何宣揚、抗議、持異見或工業行動的過程中作出或恐嚇作出行動；
- “資金”(funds) 包括附表所述的資金；
- “與恐怖分子有聯繫者”(terrorist associate) 指由恐怖分子直接或間接控制或擁有的實體；
- “實體”(entity) 指任何屬法人團體或並非屬法人團體的團體 (包括個人)；
- “聯合國委員會”(Committee) 指——
- (a) 依據聯合國安全理事會 1999 年 10 月 15 日第 1267 號決議設立的聯合國安全理事會的委員會；或
 - (b) 符合以下說明的任何其他委員會——
 - (i) 它是隸屬聯合國的；
 - (ii) 它是依據在 1999 年 10 月 15 日之後作出的聯合國安全理事會決議或在該日之後生效的聯合國公約設立的；及
 - (iii) 它的全部或部分職能是指定人或財產為恐怖分子、與恐怖分子有聯繫者或恐怖分子財產 (視屬何情況而定)；
- “職能”(functions) 包括權力。
- (2) 在“恐怖主義行為”的定義中——
 - (a) 對行動、人或財產的任何提述，包括在特區以外的行動、人或財產；
 - (b) 對特區政府或公眾人士的任何提述，包括在特區以外地方的政府或公眾人士。
 - (3) 就本條例而言，恐怖分子或與恐怖分子有聯繫者因恐怖主義行為而有的任何得益是——
 - (a) 該恐怖分子或與恐怖分子有聯繫者在任何時間在與作出該行為有關連的情況下收受的任何款項或其他酬賞；
 - (b) 該恐怖分子或與恐怖分子有聯繫者直接或間接從任何上述款項或其他酬賞得來的任何財產，或將任何上述款項或其他酬賞變現而直接或間接所得的任何財產；及
 - (c) 在與作出該行為有關連的情況下取得的任何金錢利益。
 - (4) 就本條例而言，擁有任何財產的訂明權益的人，須當作為持有或曾持有該財產的人，或由或曾由他人為之或代表持有該財產的人。
 - (5) 本條例並不——
 - (a) 規定披露任何享有法律特權的品目；
 - (b) 授權搜查或檢取任何享有法律特權的品目；或
 - (c) 限制免使自己入罪的特權。

- (ii) the use or threat is—
 - (A) intended to compel the Government or to intimidate the public or a section of the public; and
 - (B) made for the purpose of advancing a political, religious or ideological cause;
 - (b) in the case of paragraph (a)(i)(D), (E) or (F), does not include the use or threat of action in the course of any advocacy, protest, dissent or industrial action;
- “terrorist associate” (與恐怖分子有聯繫者) means an entity owned or controlled, directly or indirectly, by a terrorist;
- “terrorist property” (恐怖分子財產) means—
- (a) the property of a terrorist or terrorist associate; or
 - (b) any other property consisting of funds that—
 - (i) is intended to be used to finance or otherwise assist the commission of a terrorist act; or
 - (ii) was used to finance or otherwise assist the commission of a terrorist act;
- “weapons” (武器) includes—
- (a) chemical, biological, radiological or nuclear weapons and their precursors;
 - (b) any arms and related material (including ammunition, military vehicles, military equipment and paramilitary equipment); and
 - (c) any components of any arms and related material mentioned in paragraph (b).
- (2) Any reference in the definition of “terrorist act” to—
 - (a) an action, person or property includes an action, person or property outside the HKSAR;
 - (b) the Government or public includes the government, or the public, of a place outside the HKSAR.
 - (3) For the purposes of this Ordinance, any proceeds of a terrorist or terrorist associate arising from a terrorist act are—
 - (a) any payments or other rewards received at any time by the terrorist or terrorist associate in connection with the commission of that act;
 - (b) any property derived or realized, directly or indirectly, by the terrorist or terrorist associate from any of the payments or other rewards; and
 - (c) any pecuniary advantage obtained in connection with the commission of that act.
 - (4) For the purposes of this Ordinance, a person who has a prescribed interest in any property shall be deemed to be a person by, for or on behalf of whom the property is or was held.
 - (5) Nothing in this Ordinance shall—
 - (a) require the disclosure of any items subject to legal privilege;
 - (b) authorize the search or seizure of any items subject to legal privilege; or
 - (c) restrict the privilege against self-incrimination.

(6) 在不損害原訟法庭在《高等法院規則》(第 4 章, 附屬法例) 下的權力的原則下, 原訟法庭可主動或應申請, 命令——

- (a) 任何受第 5 條所指的申請 (如屬在各方之間提出的第 5(1) 條所指的申請) 所影響的人; 或
- (b) 任何受第 13、17 或 18 條所指的申請所影響的人,

加入成為有關法律程序的一方。

(7) 為免生疑問, 現宣布——

- (a) 《高等法院條例》(第 4 章) 第 14 條適用於任何因——
 - (i) 第 5 條所指的 legal proceedings (如屬在各方之間提出的第 5(1) 條所指的申請); 或
 - (ii) 第 13、17 或 18 條所指的 legal proceedings,
 產生的由原訟法庭作出的判決或命令;
- (b) 本條例的條文須受《釋義及通則條例》(第 1 章) 第 XII 部的實施所規限。

3. 某些條文在特區以外適用

第 7、8、9 及 10 條適用於——

- (a) 任何在特區的人; 及
- (b) 在特區以外的任何下述的人——
 - (i) 香港永久性居民; 或
 - (ii) 根據特區法律成立為法團或組成的團體。

(6) Without prejudice to the powers of the Court of First Instance under the Rules of the High Court (Cap. 4 sub. leg.), the Court of First Instance may of its own motion or on application order that any person who may be affected by an application—

- (a) under section 5 in the case of an application under section 5(1) made inter partes; or
- (b) under section 13, 17 or 18, be joined as a party to the proceedings.

(7) For the avoidance of doubt, it is hereby declared—

- (a) that section 14 of the High Court Ordinance (Cap. 4) shall apply to any judgment or order of the Court of First Instance arising from proceedings—
 - (i) under section 5 in the case of an application under section 5(1) made inter partes; or
 - (ii) under section 13, 17 or 18;
- (b) the provisions of this Ordinance shall be subject to the operation of Part XII of the Interpretation and General Clauses Ordinance (Cap. 1).

3. Application of certain provisions outside HKSAR

Sections 7, 8, 9 and 10 shall apply to—

- (a) any person within the HKSAR; and
- (b) any person outside the HKSAR who is—
 - (i) a Hong Kong permanent resident; or
 - (ii) a body incorporated or constituted under the law of the HKSAR.