

Hon. CHAN Hak-kan
Chairman of the Panel on Security
The Legislative Council of Hong Kong

11 January 2018

Dear Chairman,

Legislation to Criminalise All Forms of Human Trafficking in Hong Kong

We write to request for a meeting to be held at the Security Panel with a focused discussion on the captioned matter. We enclose our proposed legislation on the subject matter for your reference. The proposed legislation was submitted to the Chief Executive, the Secretary for Security and Secretary for Labour and Welfare for their consideration on 1 November 2017, together with the Hong Kong Against Human Trafficking Petition co-signed by prominent figures in society, legislators and the Hong Kong Anti-Trafficking Concern Group comprising non-governmental organisations which are concerned with the subject matter, to call for criminalisation of human trafficking in all forms.

Hong Kong has been placed on the Tier 2 Watch List alongside with countries such as Afghanistan, Pakistan, Niger and Qatar in the Trafficking In Persons (“TIP”) Report conducted by the State Department of the United States for two consecutive years in 2016 and 2017 due to the lack of effective laws to combat human trafficking. Broadly, human trafficking includes trafficking, sex tourism, trafficking for labour and servitude, forced marriage, and commercial sexual exploitation etc, all being part of a growing global phenomenon of modern slavery and one of the most serious human rights abuses we face in the 21st century globally.

Human trafficking is an industry that pervades supply chains in every region of the world and produces an estimate illicit profit of \$150 billion each year. The International Labour Organisation estimates that at least 40.3 million people are victims of forced labour, which includes trafficking and other forms of slavery. Hong Kong may be further named and shamed or even sanctioned, if we continue to lack the relevant laws to combat human trafficking. We believe that it is of paramount importance that Hong Kong, as a developed, international city with a government that values human dignity, confronts the issues of human trafficking face on.

We understand that the Government is making efforts to meet the minimum standards for eliminating human trafficking through methods such as implementing new victim identification guidelines and governmental penalisation of unscrupulous employment agencies. However, the problem remains that Hong Kong currently does not meet the minimum global standard of addressing this tremendous problem in our laws. This is simply unacceptable. Countries such as the People's Republic of China and the United Kingdom have made concerted efforts in recent years to fight this plight through creating legislation.

A good example of effective legislation is the UK's 2015 Modern Slavery Act. To facilitate the legislative process in Hong Kong, we have prepared the Modern Slavery Bill 2017 based on the United Kingdom's Modern Slavery Act with legal experts on the subject matter, Mr. Azan Marwah and Ms. Patricia Ho. The legislation aims to bring Hong Kong's anti-human trafficking framework up to international standard by criminalising all forms of human trafficking, imposing criminality on the proceeds of human trafficking and setting up an independent anti-slavery commission.

It is pressing for Hong Kong to enact the relevant laws to criminalise all forms of human trafficking and the relevant laws deserve thorough and meticulous scrutiny by the Council. We should be grateful if you could designate an entire meeting for the discussion and scrutiny of this matter in this legislative year.

Yours sincerely,



Dennis Kwok



Kenneth Leung

Explanatory Memorandum

PURPOSES

1. The purposes of this Bill are—
 - a. to give effect to Article 4 of the Hong Kong Bill of Rights by prohibiting slavery and slave-trade in all their forms, forced labour, domestic servitude and human trafficking;
 - b. to give effect to Article 1 of the Supplementary Convention on the Abolition of Slavery of 1957 by prohibiting forced marriage; and
 - c. to provide protection for slavery or trafficking victims.

SUMMARY

2. The Bill is in three parts. Part 1 sets out the short title and commencement date for the Bill. Part 2 creates new offences of slavery, human trafficking (expanding the existing prohibition to cover non-sexual forms of exploitation), forced marriage, sex tourism and other related offences, and sets the maximum penalty for such offences. It also provides for two civil preventative orders, the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order, which allow for courts to intervene before a human trafficking and slavery related crime has occurred. The new maritime enforcement powers in relation to vessels are also set out in Part 2. Part 3 amends the Organized and Serious Crimes Ordinance (Cap 455) by providing that the new offences related to slavery and human trafficking are forms of organized and serious crimes, and thereby extends the powers under that Ordinance to cover such offences.

BACKGROUND

3. Modern slavery is a brutal form of organised crime in which people are treated as commodities and exploited for criminal gain. The true extent of modern slavery in Hong Kong, and indeed globally, is unknown. Modern slavery, in particular human trafficking, is an international problem and victims may have entered Hong Kong legally, on forged documentation or clandestinely, or they may be Hong Kong permanent residents living in Hong Kong. Modern slavery takes a number of forms, including sexual exploitation, forced labour and domestic servitude, and victims come from all walks of life. Victims are often unwilling to come forward to law enforcement or public protection agencies, not seeing themselves as victims, or fearing further reprisals from their abusers. In particular, there may be particular social and cultural barriers to men identifying themselves as victims. Victims may also not always be recognised as victims of modern slavery by those who come into contact with them.
4. There are a number of international instruments that cover human trafficking. The main international instrument is the Protocol to the United Nations Convention against Transnational Organized Crime, named the Protocol to Prevent, Suppress and Punish

Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Palermo Protocol”). The People’s Republic of China acceded to that international instrument in February 2010. Although the Palermo Protocol has not been extended to Hong Kong, it has long been the policy of the Hong Kong Special Administrative Region Government to combat activities falling under the Palermo Protocol’s definition of human trafficking, and that such activities are both serious crimes and violations of fundamental human rights and freedoms.

5. In relation to slavery, servitude and forced or compulsory labour, the ILO Convention (No. 29) Concerning Forced or Compulsory Labour added a prohibition of forced or compulsory labour to the existing prohibition of slavery and servitude contained in the 1926 Slavery Convention. These instruments have been extended to Hong Kong. A related more recent ILO Convention, ratified by the People’s Republic of China on 8 August 2002, is ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. That Convention commits signatories to take immediate action to prohibit and eliminate the worst forms of child labour. Article 8 of the International Covenant on Civil and Political Rights, which has also be extended to Hong Kong by Article 4 of the Hong Kong Bill of Rights, prohibits holding a person in slavery or servitude, or requiring a person to perform forced or compulsory labour. Since 6 September 1957, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, has been extended to Hong Kong. That Convention commits signatories to abolish slavery, the slave trade and practices similar to slavery, including debt bondage, serfdom, forced marriage and child exploitation. In relation to trafficking of women, the International Agreement for the Suppression of the White Slave Traffic, the International Convention for the Suppression of the White Slave Traffic, the International Convention for the Suppression of the Traffic in Women and Children, the Protocol amending the International Agreement for the Suppression of the White Slave Traffic, and the International Convention for the suppression of the White Slave Traffic have all been extended to Hong Kong. Those instruments require Hong Kong to take certain measures to prohibit and combat the trafficking of women and children.

COMMENTARY ON SECTIONS

6. Clause 3 repeals section 129 of the Crimes Ordinance ‘Trafficking in persons to or from Hong Kong’ (which will be replaced with a new combined offence of human trafficking).
7. Clause 4 amends the Crimes Ordinance by introducing a new Part XIV with new sections—
 - a. New Crimes Ordinance section 162:
 - i. This section is derived from section 1 of the Modern Slavery Act 2015 (UK).

- ii. Subsection(1) provides for an offence of slavery, servitude and forced or compulsory labour.
- iii. Subsection(2) requires subsection (1) to be interpreted in accordance with Article 4 of the Hong Kong Bill of Rights. That Article states:
 - (1) No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
 - (2) No one shall be held in servitude.
 - (3)
 - (a) No one shall be required to perform forced or compulsory labour.
 - (b) For the purpose of this paragraph the term "forced or compulsory labour" shall not include-
 - (i) any work or service normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) any service of a military character and, where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) any work or service which forms part of normal civil obligations.
- iv. Subsection (3) provides that all the circumstances should be considered when determining whether someone has been held in slavery or servitude or required to perform forced or compulsory labour.
- v. Subsection (4)(a) highlights personal circumstances, which may make the individual more vulnerable, and which may be relevant when determining whether a person has been held in slavery or servitude or required to perform forced or compulsory labour. The list of particular vulnerabilities which may be considered is non-exhaustive but explicitly includes the individual being a child, the person's family relationships and any mental or physical illness.
- vi. Subsection (4)(b) makes clear that, in relation to the forced or compulsory labour offence, the court can consider any work or services provided by the person including any work or services provided in circumstances that amount to exploitation under section 164(3) to (6). This makes it clear that the forced and compulsory labour offence can cover a broad range of types of work and services including types, such as begging or pick-pocketing, which could amount to exploitation under section 164(5) or 3(6).
- vii. Subsection (5) clarifies that an individual's consent (whether an adult or a child) to the conduct alleged to amount to an offence under section 162

does not prevent the court from determining that person is being held in slavery or servitude or required to perform forced or compulsory labour.

- b. New Crimes Ordinance section 163: Human trafficking
 - i. This section is derived from section 2 of the Modern Slavery Act 2015 (UK).
 - ii. This section provides for a single offence of human trafficking covering sexual and non-sexual exploitation. It replaces the existing offence in section 129 of the Crimes Ordinance (Cap 200) (which relates to human trafficking for the purposes of prostitution); this offence is repealed by clause 4. Introducing one offence for all types of trafficking will make it administratively simpler for investigators and prosecutors to bring forward human trafficking prosecutions.
 - iii. Subsection (1) makes it a criminal offence to arrange or facilitate the travel of another person with a view to their being exploited. Travel is defined in subsection (5) as arriving in, entering, departing, or travelling within any country.
 - iv. Subsection (2) provides that for the purpose of a human trafficking offence the victim's consent to their travel, whether they are an adult or a child, is irrelevant.
 - v. Subsection (3) gives examples of what may amount to arranging or facilitating another person's travel. This includes recruiting, transporting, transferring, harbouring, receiving or exchanging control of that person. The language reflects the definitions of trafficking set out in the Convention on Action against Trafficking and the associated Palermo Protocol.
 - vi. Subsection (4) provides that the arranging or facilitating is done with a view to the exploitation of the victim (V) if the perpetrator either intends to exploit V, or knows or ought to know that any other person is likely to exploit V. It is irrelevant where in the world that exploitation might take place.
 - vii. Subsection (6) makes the offence extra-territorial in its reach in relation to Hong Kong residents. It provides that a Hong Kong resident commits an offence regardless of where in the world the arranging or facilitating takes place or regardless of which country is the country of arrival, entry, travel or departure. For example, a Hong Kong resident who trafficks a person from Thailand to Mainland China could be prosecuted in Hong Kong for this offence.
 - viii. Subsection (7) provides for a more limited territorial reach in relation to a non-Hong Kong resident. Such a person commits the offence if any part of the arranging or facilitating takes place in Hong Kong or if Hong Kong is the place of arrival, entry, travel or departure.
- c. New Crimes Ordinance section 164: Meaning of exploitation
 - i. This section is derived from section 3 of the Modern Slavery Act 2015 (UK).

- ii. The section 163 offence is arranging or facilitating travel with a view to the victim's exploitation. This section sets out the meaning of exploitation for the purposes of section 164.
- iii. Subsection (2) sets out that exploitation includes slavery, servitude and forced or compulsory labour by reference to the offence under section 162. Equivalent conduct outside Hong Kong also comes within this definition.
- iv. Subsection (3) sets out that exploitation includes sexual exploitation by reference to conduct which would constitute the commission of an offence of taking, or permitting to take, indecent photographs of children or any of the sexual offences provided for in Part XII of the Crimes Ordinance (Cap 200) (these include offences relating to rape, indecent assault, prostitution and child pornography). Section 164(3)(b) ensures that equivalent conduct committed outside Hong Kong also comes within the definition even though for jurisdictional reasons it would not be an offence under Hong Kong law.
- v. Subsection (4) sets out that exploitation includes exploitation in the context of trafficking for organ removal or for the sale of human tissue by references to offences in the Human Organ Transplant Ordinance (Cap 465). Again, equivalent conduct outside Hong Kong is within the definition.
- vi. Subsection (5) sets out that exploitation includes all other types of exploitation where a person is subject to force, threats or deception which is designed to induce him into providing a service of any kind, providing a person with benefits or enabling another to acquire benefits. This would include forcing a person to engage in activities such as begging or shop theft. It is not necessary for this conduct to be a criminal offence.
- vii. Subsection (6) broadens the type of exploitation described in subsection (5) so that it includes where a person is used (or there is an attempt to use the person) to do something for such a purpose, having been chosen on the grounds that he or she is a child, is ill, disabled, or related to a person, in circumstances where a person without the illness, disability, or family relationship would be likely to refuse.
- d. New Crimes Ordinance section 165: Committing offence with intent to commit the offence of human trafficking
 - i. This section is derived from section 4 of the Modern Slavery Act 2015 (UK).
 - ii. This section provides that it is an offence to commit another offence with a view to committing a trafficking offence under section 163. This separate offence ensures that preparatory criminal conduct which constitutes a lesser offence, for example theft of a vehicle with the intention of using that vehicle to traffick individuals, can attract suitably higher penalties commensurate with the underlying criminal purpose.
- e. New Crimes Ordinance section 166: Forced marriage offences

- i. This section includes a definition of ‘forced marriage’ and two offences related to forced marriage: causing another person to enter a forced marriage and being a party to (but not the victim of) a forced marriage. It is derived from section 270.7B(3) of the Australian Criminal Code Act 1995, and is intended to give full effect to Hong Kong’s obligations under Article 1 of the Supplementary Convention on the Abolition of Slavery of 1957.
 - ii. Subsection (1) defines the meaning of ‘forced marriage’ to include cases where the use of coercion, threat or deception, has caused the victimized party to enter into the marriage without freely and fully consenting.
 - iii. Subsection (2) defines ‘marriage’ for the purpose of that section to include marriages performed in Hong Kong or overseas, whether they are void or invalid due to lack of capacity or consent, or because of polygamy.
 - iv. Subsection (3) extends the definition of ‘forced marriage’ to include cases where coercion, threats or deception is used against the victim or another person.
 - v. Subsection (4) creates the offence of causing another person to enter a forced marriage.
 - vi. Subsection (6) creates the offence of being a party to (but not the victim of) a forced marriage without reasonable excuse.
- f. New Crimes Ordinance section 167: Sex tourism offences
- i. This section creates several offences related to sex tourism, i.e. travel or assisting in the travel of another for the purpose of sexual exploitation of children or other illicit sexual acts. It is derived from §2423 of 18 U.S. Code Chapter 117.
 - ii. Subsection (1) defines the meaning of ‘illicit sexual conduct’ to include sexual acts with children below the age of 16, serious sexual offences that would be crimes if they were committed in Hong Kong, and child pornography offences contrary to the Prevention of Child Pornography Ordinance (Cap 579).
 - iii. Subsection (2) creates a new offence of traveling into or out of Hong Kong for the purpose of illicit sexual conduct.
 - iv. Subsection (3) creates a new offence of being a Hong Kong resident who resides or travels in foreign countries for the purpose of illicit sexual conduct.
 - v. Subsection (4) creates a new offence of facilitation of sex tourism for commercial gain.
 - vi. Subsection (5) creates a new offence of conspiring or attempting to commit any of the other offences in section 167.
- g. New Crimes Ordinance section 168 and Schedule 3 (Clause 5): Defence for slavery or trafficking victims who commit an offence
- i. This section is derived from section 45 of the Modern Slavery Act 2015 (UK).

- ii. Section 168 provides for a defence for slavery or trafficking victims. This is intended to provide further encouragement to victims to come forward and give evidence without fear of being convicted for offences connected to their slavery or trafficking situation. The defence will not apply in the case of certain serious offences as listed in Schedule 3.
- iii. Subsection (1) provides that a person, aged 18 or over at the time of the act which constitutes an offence, is not guilty of that offence if they commit the offence because they are compelled to do so; they were compelled as a result of slavery or relevant exploitation; and a reasonable person with relevant characteristics in the same position as the person would have no realistic alternative to committing the offence.
- iv. Subsection (2) provides that a person may be compelled to commit an offence by another person or by the person's circumstances.
- v. Subsection (3) explains that compulsion is only attributable to slavery or relevant exploitation if it is part of conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or it is a direct consequence of a person being, or having been, a victim of slavery or relevant exploitation.
- vi. Subsection (4) provides that a person under the age of 18 at the time of an act which constitutes an offence is not guilty of that offence if they commit the offence as a direct result of their being a victim of slavery or relevant exploitation, and a reasonable person in the same situation and having the person's relevant characteristics (including their age) would have committed the offence. The lack of the test of compulsion and the lower threshold for meeting the reasonable person test is in recognition of the unique vulnerabilities of children.
- vii. Subsection (5) provides that the relevant characteristics of the victim claiming the defence that will be considered for the purposes of the reasonable person test in subsection (1)(d) and subsection (4)(c) are age, sex, and any mental or physical illness or disability. Subsection (5) also sets out that 'relevant exploitation' is exploitation which is attributable to the person being or having been a victim of trafficking.
- viii. Subsection (6) provides that any reference to an act also includes an omission.
- ix. Subsection (7) introduces Schedule 3, which sets out those offences to which the defence (for both those under the age of 18 and those over the age of 18) will not apply. The defence will not apply to certain serious offences, mainly serious sexual or violent offences, to avoid creating a legal loophole for serious criminals to escape justice. Where the defence does not apply because the offence is too serious, the Department of Justice will still be able to decide not to prosecute if it would not be in the public interest to do so.

- b. New Crimes Ordinance section 171: Slavery and Trafficking Prevention Orders on Application
 - i. This section is derived from section 15 of the Modern Slavery Act 2015 (UK).
 - ii. This section provides for a slavery and trafficking prevention order in cases other than on conviction etc.
 - iii. Subsection (1) provides that an application for a slavery and trafficking prevention order may be made to a chief officer of police, an immigration officer or the Secretary for Justice.
 - iv. The court in accordance with subsection (2) must be satisfied that the defendant is a relevant offender (defined in section 172) and that, since the defendant became a relevant offender, he has acted in a way which demonstrates that there is a risk that the defendant may commit a slavery or human trafficking offence and that it is necessary to make a slavery and trafficking prevention order for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence.
 - v. Subsection (7) provides that where an immigration officer or the Secretary for Justice makes an application, the officers must notify the chief police officer of the area (defined in subsection (8)).
 - vi. Subsection (9) provides that acts of an offender committed before the sections comes into force may also be considered for the purposes of determining whether a slavery and trafficking prevention order may be made.

- c. New Crimes Ordinance section 172: Meaning of “relevant offender”
 - i. This section is derived from section 16 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) to (3) define a relevant offender for the purposes of section 172. A relevant offender includes a person convicted, made the subject of a finding or cautioned for a slavery or human trafficking offence in Hong Kong, and also a person convicted etc. in relation to an equivalent offence outside Hong Kong (defined in subsections (4) and (5)).
 - iii. Subsection (6) provides that where an application is made in respect of an equivalent offence, it is open to the person in respect of whom the application is made to challenge whether the offence he or she has been convicted of is an equivalent offence. They can do so by serving a notice on the applicant setting out the grounds for such a challenge.
 - iv. Subsection (7) provides that references in this section to convictions, findings or cautions for a slavery or human trafficking offence etc. including those taking place before its commencement.

- d. New Crimes Ordinance section 173: Effect of slavery and trafficking prevention orders

- i. This section is derived from section 17 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (1) provides that a slavery and trafficking prevention order may prohibit the person in respect of whom the order is made from doing anything described in it. The nature of any prohibitions is a matter for the court to determine. A prohibition may include preventing a person from participating in a particular type of business, visiting a particular place, working with children or travelling to a specified country etc. The court may only include in an order prohibitions which it is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence as provided in subsection (2).
 - iii. Subsections (3) to (5) provide for the extent and duration of a slavery and trafficking order and the prohibitions in it. A slavery and trafficking prevention order may last for a fixed period of at least five years or until further order. The prohibitions specified in it may each have different duration.
- e. New Crimes Ordinance section 174: Prohibitions on foreign travel
 - i. This section is derived from section 18 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) and (3) provide that a prohibition on foreign travel may be for a fixed period not exceeding five years, but may be renewed at the end of that period.
 - iii. Subsection (2) provides that a slavery and trafficking prevention order may prohibit a person from travelling to any specified country outside Hong Kong, any country other than a country specified in the order or any country outside Hong Kong.
 - iv. Subsection (4) provides that a person prohibited from travelling to any country must surrender all his or her passports to the police.
 - v. Subsections (5) and (6) provides that the police must return any such passports, unless they have been returned to the relevant issuing authorities or international organisations, once the all-country probation cease to have effect.
- f. New Crimes Ordinance section 175: Requirement to provide name and address
 - i. This section is derived from section 19 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (2) provides that the court must be satisfied that this requirement is necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be like to occur if the defendant committed a slavery or human trafficking offence.

- iii. Subsections (3) to (6) provide that a defendant subject to a slavery and trafficking prevention order may be required by the court to notify to the persons specified in the order, within three days, their name and address (including any subsequent changes to this information).
 - iv. Subsection (7) sets out that where this information is provided to the Secretary for Justice or an immigration officer, the same must be provided to the chief officer of police for each relevant police area (as defined in subsection (8)).
- g. New Crimes Ordinance section 176: Variation, renewal and discharge
- i. This section is derived from section 20 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) and (2) enable a person in respect of whom a slavery and trafficking prevention order has been made or to the police, Secretary for Justice or an immigration officer (where they applied for the original order) to apply to the court which made the order to vary, renew or discharge the order. This provision ensures that the order can be modified to reflect changing circumstances, both to ensure that it remains effective to manage the risk posed by activities relating to slavery or trafficking and that the order remains necessary for that purpose.
 - iii. Subsection (3) provides that the person in respect of whom the order was made and, where relevant, the police, the Secretary for Justice or an immigration officer have the right to be heard by the court,
 - iv. Subsection (4) and (5) provide that in relation to the imposition of any additional prohibitions, the court must apply the same test as that which it applied when making the order.
 - v. Subsection (6) provides that an order may not be discharged within five years of it being made without the consent of the person concerned and the relevant chief officer of police.
- h. New Crimes Ordinance section 177: Interim slavery and trafficking prevention orders
- i. This section is derived from section 21 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) to (3) provide for an interim slavery and trafficking prevention order to be made where an application has been made for a slavery and trafficking prevention order under section 171 and the court considers that it is just to do so. For example, the court may make an interim order in a case where it is satisfied that this is necessary for the purpose of protecting a person from immediate harm pending the full determination of the application for the order.
 - iii. Subsections (4) and (5) define an interim and slavery and trafficking prevention order.

- iv. Subsection (7) provides that an interim order must be made for a specified period and ceases to have effect once the main application has been determined.
 - v. Subsection (8) provides that an interim order may be varied, renewed or discharged.....
- i. New Crimes Ordinance section 178: Appeals
 - i. This section is derived from section 22 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1)(a) and (b) provide that a person may appeal against the making of a slavery and trafficking prevention order on conviction in the same manner as an appeal against sentence.
 - iii. Subsections (1)(c) and (2) provides that a slavery and trafficking prevention order made on an application under section 171 and an interim slavery and trafficking prevention order may be appealed to the court.
 - iv. Subsection (3) provides that a person in respect of whom an order is made may also appeal a decision under section 176 to vary, renew or discharge an order.
 - v. Subsection (4) sets out the powers of the Court when determining an appeal. It will be open to the court to revoke the order or to amend its provision (either the duration or the prohibitions contained in it).
 - vi. Subsection (5) provides that in cases specified in the subsection an order made by a Court on an appeal is treated as if it were an order of the court from which the appeal was brought.
9. Clause 6 amends the Crimes Ordinance by introducing a new Part XVI with new sections—
- a. New Crimes Ordinance section 179: Slavery and Trafficking Risk Orders
 - i. This section is derived from section 23 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (1) enables a court to impose a slavery or trafficking risk order on a person on an application by a chief officer of police, an immigration officer or the Secretary for Justice.
 - iii. Subsection (2) sets out the test for making a slavery and trafficking risk order and provides that the court must be satisfied that there is a risk that the defendant may commit a slavery or human trafficking offence and that it is necessary to make a slavery and trafficking risk order for the purposes of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence.
 - iv. Subsection (3) provides whom the chief officer of police may make an application against under this section.

- v. Subsection (4) provides that an application for a slavery and trafficking risk order is made by complaint.
 - vi. Subsection (5) provides that in relation to a person aged under 18 a reference to a magistrates' court is to be taken as referring to a juvenile court.
 - vii. Subsections (6) and (7) provide that where an application officer or the Secretary for Justice makes an application under this section, notification must be given to the chief officer of police for the area where the offender resides or is believed to intend to reside.
 - viii. Subsection (8) provides that a slavery and trafficking risk order may be made in relation to conduct that took place before the commencement of this section.
- b. New Crimes Ordinance section 180: Effect of slavery and trafficking risk order
- i. This section is derived from section 24 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (1) provides that a slavery and trafficking risk order may prohibit the person in respect of whom the order is made from doing anything described in it. The nature of any prohibitions is a matter for the court to determine. A prohibition may include preventing a person from participating in a particular type of business, visiting a particular place, working with children or travelling to a specified country etc. The court may only include in an order prohibitions which it is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence as provided in subsection (2).
 - iii. Subsections (3) to (5) provide for the extent and duration of a slavery and trafficking risk order and the prohibitions in it. A slavery and trafficking risk order may last for a fixed period of at least two years or until further order. The prohibitions specified in it may each have different duration.
- c. New Crimes Ordinance section 181: Prohibitions on foreign travel
- i. This section is derived from section 25 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) and (3) provide that a prohibition on foreign travel may be for a fixed period not exceeding five years, but may be renewed at the end of that period.
 - iii. Subsection (2) provides that a slavery and trafficking risk order may prohibit a person from travelling to any specified country outside Hong Kong, any country other than a country specified in the order or any country outside Hong Kong.
 - iv. Subsection (4) provides that a person prohibited from travelling to any country must surrender all his or her passports to the police.

- v. Subsections (5) and (6) provides that the police must return any such passports, unless they have been returned to the relevant issuing authorities or international organisations, once the all-country probation cease to have effect.
- d. New Crimes Ordinance section 182: Requirement to provide name and address
- i. This section is derived from section 26 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (2) provides that the court must be satisfied that this requirement is necessary for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be like to occur if the defendant committed a slavery or human trafficking offence.
 - iii. Subsections (3) to (6) provide that a defendant subject to a slavery and trafficking risk order may be required by the court to notify to the persons specified in the order, within three days, their name and address (including any subsequent changes to this information).
 - iv. Subsection (7) sets out that where this information is provided to the Secretary for Justice or an immigration officer, the same must be provided to the chief officer of police for each relevant police area (as defined in subsection (8)).
- e. New Crimes Ordinance section 183: Variation, renewal and discharge
- i. This section is derived from section 27 of the Modern Slavery Act 2015 (UK).
 - ii. Subsections (1) and (2) enable a person in respect of whom a slavery and trafficking risk order has been made or to the police, Secretary for Justice or an immigration officer (where they applied for the original order) to apply to the court which made the order to vary, renew or discharge the order. This provision ensures that the order can be modified to reflect changing circumstances, both to ensure that it remains effective to manage the risk posed by activities relating to slavery or trafficking and that the order remains necessary for that purpose.
 - iii. Subsection (3) provides that the person in respect of whom the order was made and, where relevant, the police, the Secretary for Justice or an immigration officer have the right to be heard by the court,
 - iv. Subsection (4) and (5) provide that in relation to the imposition of any additional prohibitions, the court must apply the same test as that which it applied when making the order.
 - v. Subsection (6) provides that an order may not be discharged within two years of it being made without the consent of the person concerned and the relevant chief officer of police.
- f. New Crimes Ordinance section 184: Interim slavery and trafficking risk orders

- i. This section is derived from section 28 of the Modern Slavery Act 2015 (UK).
- ii. Subsections (1) to (3) provide for an interim slavery and trafficking risk order to be made where an application has been made for a slavery and trafficking risk order under section 171 and the court considers that it is just to do so. For example, the court may make an interim order in a case where it is satisfied that this is necessary for the purpose of protecting a person from immediate harm pending the full determination of the application for the order.
- iii. Subsections (4) and (5) define an interim and slavery and trafficking risk order.
- iv. Subsection (7) provides that an interim order must be made for a specified period and ceases to have effect once the main application has been determined.
- v. Subsection (8) provides that an interim order may be varied, renewed or discharged.

g. New Crimes Ordinance section 185: Appeals

- i. This section is derived from section 29 of the Modern Slavery Act 2015 (UK).
- ii. Subsections (1)(a) and (b) provide that a person may appeal against the making of a slavery and trafficking risk order on conviction in the same manner as an appeal against sentence.
- iii. Subsections (1)(c) and (2) provides that a slavery and trafficking risk order made on an application under section 183 and an interim slavery and trafficking risk order may be appealed to the court.
- iv. Subsection (3) provides that a person in respect of whom an order is made may also appeal a decision under section 179 to vary, renew or discharge an order.

10. Clause 7 amends the Crimes Ordinance by introducing a new Part XVII with new sections—

a. New Crimes Ordinance section 186: Maritime Enforcement

- i. This section is derived from section 35 and Part 1 of Schedule 2 of the Modern Slavery Act 2015 (UK). This section provides additional powers for law enforcement in Hong Kong (the police, the Director of the Marine Department, any public officer of the Marine Department, the Secretary for Justice) to tackle suspected human trafficking or slavery at sea. The details of the additional powers are set out in Part 1 of Schedule 4. This is an issue because victims are in many cases trafficked illegally on vessels, and also may be the subject of slavery, servitude and forced or compulsory labour on board vessels. Extending law enforcement powers in relation to suspected modern slavery offences will enable the police

- and other relevant bodies to better protect suspected victims and bring offenders to justice.
- ii. Subsection (1) sets out the scenarios in which a public or law enforcement officer may use additional powers in relation to vessels where an offence of human trafficking or slavery is suspected. These restrictions are in line with the Hong Kong court jurisdiction, so wherever a suspect is apprehended prosecution can take place. The only exception to this is in the case of a Hong Kong vessel or stateless vessel in the territorial waters of another state or relevant territory, whereby the nationality of a suspected offender may not be apparent prior to investigation, the power is provided for all Hong Kong vessels in this scenario.
 - iii. Subsection (2) provides that these powers are only exercisable for the purpose of preventing, detecting, investigating or prosecuting a human trafficking or slavery offence, and in accordance with the rest of this section.
 - iv. Subsection (3) provides that an enforcement officer must gain the authority of the Chief Executive prior to exercising the powers set out in Part 1 of Schedule 4 in relation to a Hong Kong vessel in foreign waters.
 - v. Subsection (4) sets out that the approval of the Chief Executive for the scenario in subsection (3) can only be provided if the state or relevant territory in whose waters the powers would be exercised consents to the use of these powers.
 - vi. Subsection (5) confirms that the authority of the Chief Executive is also required for law enforcement to use these powers in relation to a foreign vessel, or a vessel registered under the law of a relevant territory, within the territorial sea adjacent to Hong Kong. The conditions are: that the home state has requested the assistance of Hong Kong for the purpose set out in subsection (2)(a); and the home state has authorised Hong Kong to act for that purpose.
 - vii. Subsection (7) adds that, in giving this authority, the Chief Executive must also give effect to any conditions or limitations the home state in question has made a condition of their authority.
- b. New Crimes Ordinance section 187: Hot pursuit of vessels in Hong Kong waters
- i. This section is derived from section 38 of the Modern Slavery Act 2015 (UK). This section sets out powers of hot pursuit, where law enforcement seek to pursue a suspected vessel between waters adjacent to Hong Kong or between Hong Kong and international waters.
 - ii. Subsection (1) provides that a Hong Kong public or enforcement officer may exercise the powers set out in Part 1 of Schedule 4 in relation to a vessel in international waters if the vessel is pursued there from relevant waters, and the condition in subsection (4) is met (that before the pursuit

of the vessel, a signal is given for it to stop, and the pursuit of the vessel is not interrupted).

- iii. Subsection (2) sets out the powers in subsection (1) can only be exercised in relation to a vessel for the purposes provided in subsection (2)(a) of section 186, and if the vessel is a foreign vessel or registered under the law of a relevant territory, in accordance with subsections (3).
 - iv. Subsection (3) sets out that for the purpose of subsection (1) relevant waters means Hong Kong waters or international waters (in the case of a Hong Kong vessel or a vessel without nationality) or Hong Kong waters (in the case of a foreign vessel or a vessel registered under the law of a relevant territory).
 - v. Subsection (4) provides that for pursuit to meet the conditions of this section, before the pursuit of the vessel, a signal must be given for it to stop, and the pursuit of the vessel must not be interrupted.
 - vi. Subsection (5) provides that the signal referred to in subsection (4)(a) must be given in a way as to be audible or visible from the vessel in question.
 - vii. Subsection (6) provides that, for the purposes of subsection (4)(b), pursuit is not considered interrupted simply because the method of carrying out the pursuit, or the identity of the vessel or aircraft carrying out the pursuit, changes during the course of the pursuit.
 - viii. Subsection (7) confirms that nothing in this Part affects any right of hot pursuit that a public or enforcement officer may have under international law.
- c. New Crimes Ordinance section 188: Interpretation of Part XVII
- i. This section is derived from section 39 of the Modern Slavery Act 2015 (UK).
 - ii. Subsection (1) sets out the relevant definitions.

11. Clause 8 amends the Crimes Ordinance by introducing a new Part XVIII with new sections—

- a. New Crimes Ordinance section 189: Transparency in supply chains etc
 - i. This section is requires a commercial organisation over a certain size to publish a slavery and human trafficking statement each year which sets out the steps it has taken to ensure there is no slavery or trafficking in its supply chains or its own business, or states that it has taken no such steps. Section 189 does not mandate what a slavery and human trafficking statement must contain (beyond the actual steps taken or a statement that the organisation has taken no steps) nor require commercial organisations to take any particular action beyond preparation of the annual statement.

- ii. Subsection (1) requires a commercial organisation within subsection (2) to prepare a slavery and human trafficking statement for each financial year of the organisation.
- iii. Subsection (2) applies the disclosure duty to commercial organisations that supply goods or services and have a minimal total turnover, which will be set in regulations. Regulations will also set out how an organisation's total turnover is to be determined (subsection (3)).
- iv. Subsection (4) explains that a slavery and human trafficking statement is a statement of the steps that an organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place either in its supply chains or its own business. Alternatively, it can be a statement that the organisation has taken no such steps.
- v. Subsection (5) set out six areas of information that a slavery and human trafficking statement may include. This provision does not require businesses to take any steps in these areas, but it provides a clear indication as to what a business could include. The Government expects many businesses would choose to cover these areas, and this in turn would make statements easier to assess and compare.
- vi. Subsection (6) requires that statements are approved at a senior level within the business. For companies, the provisions are modelled on the Companies Ordinance and would require approval by the Board and a director's signature. This would ensure that these statements have appropriate support and approval from senior management, who are best placed to implement changes in the business.
- vii. Subsection (7) provides that an organisation must publish the slavery and human trafficking statement on its website, if it has one, and that there must be a prominent link to this statement on the homepage. If an organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who requests one in writing, within 30 days of that request (subsection (8)).
- viii. Subsection (9) gives the Chief Executive the power to issue guidance about the duties, imposed by this section, and to publish that guidance in a way the Chief Executive considers appropriate. Such guidance may include further provision about the kind of information which organisations may include in a slavery and human trafficking statement (subsection (10)).
- ix. Subsection (11) sets out the enforcement mechanism for the disclosure duty. If a commercial organisation fails to comply, the Chief Executive may bring civil proceedings in the High Court for an injunction requiring that organisation to comply.
- x. Subsection (12) defines the terms used in the section.

12. Clause 9 creates a new Schedule 3 to the Crimes Ordinance (Cap 200) listing certain serious offences to which the new defence under section 168 shall not apply.
13. Clause 10 creates a new Schedule 4 to the Crimes Ordinance (Cap 200) listing enforcement powers in relation to vessels.
14. Clause 11 amends Schedule 1 of the Organized and Serious Crimes Ordinance (Cap 455) by removing the repealed offence under section 129 and adding the new offences created by the new Part XIV of Crimes Ordinance (Cap 200) (being the content of this Bill) related to slavery and human trafficking, thereby stipulating that they are organized and serious crimes, and thereby extends the powers under that Organized and Serious Crimes Ordinance to cover such offences.

摘要說明

目的

15. 本法案的目的是
 - a. 透過禁止所有形式的奴役和奴隸販賣、強迫勞工、家庭勞工和人口販賣使香港人權法案條例第 4 條得以實施；
 - b. 透過禁止強迫婚姻使 1957 年關於廢除奴隸制的補充公約第 1 條得以實施；及
 - c. 向奴役和人口販賣的受害長提供保護。

概述

16. 本法案分為三部。第 1 部列出簡稱及本法案的生效時間。第 2 部訂立奴役、人口販賣(擴大現存的禁制去涵蓋非性暴力形式的剝削)、強迫婚姻、性旅遊的罪行和其他關聯罪行，及為該等罪行訂立最高刑罰。本法案也為兩個民事的防止命令、防止奴役和人口販賣命令訂立條文及奴役和人口販賣風險命令訂定條文，令法庭可以在人口販賣和奴役相關罪行發生前作出干預。第 2 部也列出新的關於船隻的海事執法權力。第 3 部透過訂明新的關於奴役和人口販賣的罪行屬於有組織及嚴重罪行以修改《有組織及嚴重罪行條例》(香港法律第 455 章)，讓該條例的權利可以覆蓋該等罪行。

背景

17. 現代的奴役是一種殘酷的有組織罪行，人被視為貨物並遭罪犯剝削換取利益。現代奴役的真正程度在香港和全球都不清楚。現代奴役，尤其是人口販賣，是一個國際性的問題。受害人可能合法地，或以虛假文件進入香港，或偷渡到香港，或他們是在香港居住的香港永久性居民。現代的奴役有很多種形式，包括性剝削、強迫勞工和家庭奴工。受害人來自社會各階層。受害人通常不願意向執法機關或公共保護機關求助，因為他們不認為自己是受害人，或他們害怕施虐者會報復。其中，社會和文化可能會阻礙男性界定自己為受害人。和受害人接觸的人也不會通常可以察覺他們是現代奴役的受害人。
18. 有大量的國際條文是關於人口販賣的。主要的國際條文是聯合國打擊跨國有組織犯罪公約和名為禁止和懲治販運人口特別是婦女和兒童行為的補充議定書(「巴勒莫議定書」)。中華人民共和國於 2010 年 2 月簽訂了該國際條文。雖然巴勒莫議定書並不延伸到香港，香港特別行政區的長期政策是打擊巴勒莫議定書定義為人口販賣的行為。該等行為是嚴重罪行和違反基本的人權和自由。
19. 關於奴役、奴工和強迫或強制勞工，國際勞工組織《關於強迫或強制勞動的第 29 號公約》在 1926 年《禁奴公約》現存對奴役和奴工的禁止增加禁止強迫或強制勞動。這些條文已

經延伸至香港。中華人民共和國在 2002 年 8 月簽訂了最新的相關的勞工組織公約—國際勞工組織第 182 號公約《禁止和立即行動消除最惡劣形式的童工勞動公約》。該公約規定簽定國家要採取即時行動去禁止和消除最差的童工勞動。《公民權利和政治權利國際公約》通過《香港人權法案條例》第 4 條延伸到香港，該公約禁止使用任何人作奴役奴工，或要求任何人作出強迫或強制勞動。自一九五七年九月六日起，《廢除奴隸制，奴隸販賣及類似奴隸制的制度與習俗補充公約》已延伸至香港。該公約承諾廢除奴隸制，奴隸販賣和類似奴隸制的做法，包括債役，農奴制，強迫婚姻和剝削兒童。關於販賣婦女行為，《制止白奴販運國際協定》，《制止白人奴隸販運國際公約》，《制止販賣婦女和兒童發展國際公約》，《國際公約的議定書制止白奴販運修正協定》和《禁止白奴販運國際公約》全部延伸至香港。這些文書要求香港採取一些措施，禁止和打擊販賣婦女和兒童行為。

條文的評論

20. 第 3 條廢除刑事罪行條例第 129 條—販運他人進入或離開香港，以一條新的和結合的人口販賣罪行替代。
21. 第 4 條透過引入新的 XIV 部和新條文修改《刑事罪行條例》—
- a. 新《刑事罪行條例》第 162 條：
- i. 本條是從英國現代奴役法案 2015 的第 1 條衍生的。
 - ii. (1)分條為奴役或奴工及強迫或強制勞工的罪行訂立條文。
 - iii. (2)分條要求(1)分條根據《香港人權法案條例》第 4 條詮釋。第 4 條聲明：
 - (一) 任何人不得使充奴隸；奴隸制度及奴隸販賣，不論出於何種方式，悉應禁止。
 - (二) 任何人不得使充奴工。
 - (三) (甲) 任何人不得使服強迫或強制之勞役。
 - (乙) 本項所稱“強迫或強制勞役”不包括下列各項—
 - (i) 經法院依法命令拘禁之人，或在此種拘禁假釋期間之人，通常必須擔任之工作或服役；
 - (ii) 任何軍事性質之服役，及在承認人民可以本其信念反對服兵役之情況下，依法對此種人徵服之國民服役；
 - (iii) 遇有緊急危難或災害禍患危及社會生命安寧時徵召之服役；
 - (iv) 為正常公民義務一部分之工作或服役。
 - iv. (3)分條規定在決定一人是否奴隸或奴工或被要求作強迫或強制勞工，應顧考慮一切有關情況。
 - v. (4)(a) 分條強調令一人容易受害的個人情況。這些情況可能再決定該人是否被充作奴隸或奴工或被要求進行強迫或強制勞動。可以考慮的特定容易受

害情況列表是非窮盡性的，但明確地包括個人為小孩，該人的家庭關係以及任何精神或身體疾病。

- vi. (4)(a) 分條明確規定，就強迫或強制勞動罪行而言，法院可以考慮該人提供的任何工作或服務，包括在根據第 164 (3) 至 (6) 條等同剝削的任何工作或服務)。這表明強制勞動和強制勞動犯罪可以涵蓋廣泛的工作和服務類型，包括根據第 164 (5) 或 3 (6) 條等同剝削的乞討或扒手等類型。
 - vii. (5) 分條澄清，個人同意（無論是成年人還是小孩）被指稱相當於第 162 條規定的罪行的行為並不妨礙法院判定該人被奴役或奴役或被迫強迫執行或強制勞動。
- b. 新《刑事罪行條例》第 163 條：人口販賣
- i. 本條是從英國現代奴役法案 2015 的第 2 條衍生的。
 - ii. 本條規定了涉及性剝削和非性剝削的單一販運人口販運罪。它取代了《刑事罪行條例》（第 200 章）第 129 條（涉及為賣淫而販賣人口）的現行罪行；這一罪行由第 4 條廢除。對所有類型的販運行為提出一項罪行將使調查人員和檢控官行政上更容易提出人口販運起訴。
 - iii. (1) 分條訂明安排或協助另一人的旅行是另該人被剝削構成刑事罪行。旅行在第 (5) 分條中定義為在任何國家進入，進入，離開或旅行。
 - iv. (2) 分條規定，以販賣人口罪行而言，受害人同意旅行，無論是成年人還是小孩，都是無關緊要的。
 - v. (3) 分條列舉了甚麼可構成安排或促進另一人旅行的例子。這包括招募，運送，轉移，窩藏，接收或交換對該人的控制。該語言反映了《打擊人口販運公約》及相關《巴勒莫議定書》規定的販運定義。
 - vi. (4) 分條規定，如果犯罪者打算利用 V，或知道或應該知道任何其他人有可能利用 V，則安排或協助是為了剝削受害者 V。在世界上哪裡發生剝削是不相關的。
 - vii. (6) 分條使罪行和香港居民有關時，香港有治外法權。它規定，無論世界哪里安排或協助發生，或無論哪個國家是抵達，入境，旅行或離開的國家，香港居民均屬犯罪。例如，香港居民從泰國轉運一人到中國大陸可能會因為這個罪行在香港被起訴。
 - viii. (7) 分條規定罪行與非香港居民有關時，治外法權範圍更有限。這些人如有任何部分安排或協助在香港發生，或香港為入境，入境，出差或離開的地方，即屬犯罪。
- c. 新《刑事罪行條例》第 164 條：剝削的意思
- i. 本條是從英國現代奴役法案 2015 的第 3 條衍生的。
 - ii. 第 163 條罪行是正在安排或協助旅行，以便受害者的剝削。本條列出為施救第 164 條而言剝削的涵義。
 - iii. (2) 分條規定，參照第 162 條所述的罪行，剝削包括奴隸制，奴役和強迫勞動。在香港以外的等同行為也屬於該定義。

- iv. (3) 分條規定，剝削包括性剝削，其含義可參照構成拍取或允許拍取兒童不雅照片或其他《刑事罪行條例》第 XII 部訂明的犯罪行為（第 200 章）（其中包括與強姦，猥褻，賣淫及兒童色情製品有關的罪行）。第 164(3)(b)條確保在香港境外進行的同等行為亦屬於該定義範圍內，即使由於管轄權，該行為在本港法律並不構成罪行。
- v. (4) 分條規定，剝削包括通過販賣人口以摘取人體器官或販賣人體組織，其含義可參照《人體器官移植條例》（第 465 章）中的罪行。再次，在香港以外的同等行為屬於該定義。
- vi. (5) 分條規定，剝削包括所有其他類型的剝削 — 當一個人受到強迫，威脅或欺騙，以誘使他提供任何形式的服務，為某人提供利益或使另一人獲得利益。這將包括強迫某人從事諸如乞討或盜竊的活動，這種行為不需要是刑事罪行。
- vii. (6) 分條擴大了第 (5) 分條所述的剝削類型，使其包括使用某人（或試圖使用該人）作做一些事或有該目的，選擇該人的理由是他或她是一個孩子，生病，殘疾或與某人有關，而該人在沒有疾病、殘疾或家庭關係的情況下可能拒絕的該等要求。
- d. 新《刑事罪行條例》第 164 條：企圖犯人口販賣罪之罪行
 - i. 本條是從英國現代奴役法案 2015 的第 4 條衍生的。
 - ii. 本條規定，犯另一罪行，以便干犯第 163 條進行販運的罪行，構成一種罪行。這種單獨的罪行確保構成較小罪行的預備犯罪行為，例如盜竊車輛，以打算使用該罪行車輛販賣人口，可以招致適當與相應的犯罪目的相稱的較高刑罰。
- e. 新《刑事罪行條例》第 166 條：強迫婚姻之罪行
 - i. 本節包括「強迫婚姻」的定義和與強迫婚姻有關的兩項罪行：導致另一人進入強迫婚姻並成為強迫婚姻（而非受害者）的其中一方。它源於 1995 年《澳大利亞刑法典》第 270.7B (3) 條，旨在充分履行香港根據《1957 年廢止奴隸制補充公約》第一條規定的義務。
 - ii. (1) 分條界定了「強迫婚姻」的含義，包括使用脅迫，威脅或欺騙，使受害方在沒有自由和充分同意的情況下進入婚姻的情況。
 - iii. (2) 分條就該條而言界定「婚姻」，包括在香港或海外執行的婚姻，不管這些婚姻是由於缺乏能力或同意或由於一夫多妻制而無效或沒有效力。
 - iv. (3) 分條擴大了「強迫婚姻」的定義，包括對被害人或另一人使用脅迫，威脅或欺騙的情況。
 - v. (4) 分條訂立造成另一人進行強迫婚姻的罪行。
 - vi. (6) 分條訂立在沒有合理辯解的情況下，參予強制婚姻的一方（而非受害者）的罪行。
- f. 新《刑事罪行條例》第 166 條：性旅遊之罪行
 - i. 本條訂立了與性旅遊相關的若干罪行，即旅行或協助另一人為了性剝削兒童或其他非法性行為而旅行。它來自美國法典第 117 章的第 2423 節。

- ii. (1) 分條界定“非法性行為”的含義，包括與 16 歲以下兒童的性行為，如果是在香港犯下會是罪行的嚴重的性罪行，以及違反《防止兒童色情物品條例》(第 579 章)的兒童色情犯罪行為。
 - iii. (2) 分條訂立為非法性行為而進出香港的新罪行。
 - iv. (3) 分條訂立香港居民為非法性行為在外國居住或旅行的新罪行。
 - v. (4) 分條訂立為商業利益促進性旅遊的新罪行。
 - vi. (5) 分條訂立共謀或企圖干犯任何在第 167 條罪行的罪行。
- g. 新《刑事罪行條例》第 168 條和附表 3(第 5 條)：奴役或人口販賣受害者之免責辯護
- i. 本條是從英國現代奴役法案 2015 的第 45 條衍生的。
 - ii. 第 168 條規定了對奴役或人口販賣受害者的保護。這樣做是為了進一步鼓勵受害者出面作證，不用擔心因與奴役或人口販賣活動有關的罪行被定罪。辯護不適用於在附表 3 所列的某些嚴重罪行的情況下。
 - iii. (1) 分條規定，在犯罪行為時是 18 歲或以上的人，如果因被強迫犯罪而犯罪，則不構成犯罪；他們因奴役或相關剝削而被強迫；具有相關特徵的合理的人，在同樣情況下除了犯法外沒有其他的替代方法。
 - iv. (2) 分條規定，任何人可因他個人情況被強迫作出某些行為。
 - v. (3) 分條規定，強迫可在以下情況下歸因於奴隸或相關剝削：這是或是部份可構成(1)分條之罪行的行為或是可構成相關剝削的行為或這是因為此人曾經為奴隸或剝削的受害者的直接結果。
 - vi. (4) 分條規定，在構成罪行的行為發生時，此人為 18 歲以下、此人作出該項行為是因他為或曾經為奴役或剝削的受害者的直接結果及合理的人在同一情況及有與此人的相關特點的情況下，則不構成犯罪。缺乏強迫的測試和合理的人測試的較低門檻是確認兒童獨特的脆弱性。
 - vii. (5) 分條規定，就(1)(d)和(4)(c)分條的合理的人測試而言，受害人申請免責辯護的相關特點指年齡，性別及其他身體或精神問題或殘疾。(5)分條也列明「相關剝削」指可歸因於此人為或曾經為奴役或剝削的受害者之剝削。
 - viii. (6) 分條規定行為包括不作為。
 - ix. (7) 分條引入附表 3。附表 3 列明 18 歲以上或以下人士的免責辯護不適用的罪行。附表 3 不適用於若干罪行，主要是嚴重性或暴力罪行，避免為嚴重罪犯製造漏洞逃出法網。當因罪行太嚴重而免責辯護不適用時，律政司仍可因公眾利益原因不作出控訴。
 - x. (7) 分條規定經立法會批准後，行政長官會同行政會議可下令修改附表 3。
- h. 新《刑事罪行條例》第 169 條：第 XIV 部下的民事申索
- i. 本條是從美國法典第 77 章的第 1595 段衍生的。
 - ii. (1) 分條制定了違反第 XIV 部的新的奴役和販運人口法定侵權行為。這項新的侵權行為不僅涵蓋違反本部犯罪行為的人，也包括那些故意從這些罪行中得益的人。

- iii. (2) 及 (3) 分條規定，本條規定的索賠期限為 10 年，或未成年申請人成年後 10 年。
- iv. 第 (4) 及 (5) 款規定，在刑事調查及檢控期間，根據本條提出的申索將被暫時擱置，直至最終裁定為止。

22. 第 5 條透過引入新的 XV 部和新條文修改《刑事罪行條例》—

- a. 新《刑事罪行條例》第 170 條：防止奴役和人口販賣命令之有關判刑
 - i. 本條是從英國現代奴役法案 2015 的第 14 條衍生的。
 - ii. 本條訂立防止奴役和人口販賣命令和定罪。
 - iii. (1)分條規定法庭可以對任何人(「被告」)作出防止奴役和人口販賣命令。(3)分條界定了奴役和人口販賣的罪行。
 - iv. (2)分條規定法庭必須信納被告有犯奴役或人口販賣罪行之風險及若被告犯該罪行，有需要作出命令以保護整體或特定組別人士有可能受到的身體或精神上的傷害。
 - v. (3)分條透過參照第 XIV 部的罪行界定了奴役和人口販賣的罪行。
 - vi. (4)分條准許行政長官會同行政會議可下令修改第 XIV 部，包括在第 XIV 部增加新的透過立法訂立的奴役和人口販賣的罪行。
 - vii. (5)分條規定防止奴役和人口販賣命令可針對此條生效前已有的定罪和裁斷。

- b. 新《刑事罪行條例》第 171 條：防止奴隸制和人口販賣命令之有關申請
 - i. 本條是從英國現代奴役法案 2015 的第 15 條衍生的。
 - ii. 本條訂立防止在沒有定罪的案件內的奴役和人口販賣命令。
 - iii. (1)分條規定防止奴隸制和人口販賣命令可向主管警務人員、入境事務主任和律政司司長作出。
 - iv. 根據(2)分條，法庭必須信納被告為一相關罪犯(見第 172 條) 及由於被告首次成為相關罪犯，被告作出行為的方式表示被告有犯奴役或人口販賣罪行之風險及若被告犯該罪行，有需要作出命令以保護整體或特定組別人士有可能受到的身體或精神上的傷害。
 - v. (7)分條規定若入境事務主任或律政司司長作出申請，該人員必須通知相關警區的主管警務人員 (定義見(8)分條)。
 - vi. (9)分條規定，就考慮是否作出防止奴隸制和人口販賣命令時，可以考慮罪犯在本條生效前的行為。

- c. 新《刑事罪行條例》第 172 條：「相關罪犯」之涵義
 - i. 本條是從英國現代奴役法案 2015 的第 16 條衍生的。
 - ii. (1)至(3)分條為第 172 條界定了相關罪犯。相關罪犯包括被裁定奴役或人口販賣罪罪名成立、被裁定奴役或人口販賣罪罪名或奴役或人口販賣罪罪名被警誡和被在香港以外被裁定相等罪名(定義見(4)和(5)分條)成立的人。

- iii. (6)分條規定，當有相等罪名的申請時，被告可作出申請挑戰他或她干犯的罪行是否相等罪行。他們可以向申請人發出告示，表示該意見之所據理由。
 - iv. (7)分條規定，在此條有關定罪、裁斷及警誡之提述包括包括在此條生效前的定罪、裁斷及警誡。
- d. 新《刑事罪行條例》第 173 條：防止奴役和人口販賣命令的作用
- i. 本條是從英國現代奴役法案 2015 的第 17 條衍生的。
 - ii. (1)分條規定防止奴役和人口販賣命令可禁止被告進行任何在該命令提及的行為。禁止的性質由法庭決定。禁制可能包括阻止某人參與特定類型的業務，訪問特定地點，與兒童一起工作或前往指定的國家等。法庭必須信納命令的禁止事項是為保護因被告人干犯(2)分條的奴役和人口販賣罪行有可能受到的身體或精神上的傷害整體或特定組別人士而必須的。
 - iii. (3)至(5)分條規定防止奴隸制和人口販賣命令和內含禁止事項的程度和限期。防止奴隸制和人口販賣命令在在命令中指定的定期(最少 5 年)或直至進一步的命令期間具有效力。內裡可指明不同時期有不同禁制。
- e. 新《刑事罪行條例》第 174 條：防止奴役和人口販賣命令的作用
- i. 本條是從英國現代奴役法案 2015 的第 18 條衍生的。
 - ii. (1)至(3) 分條規定對出國旅遊的禁制只有不多於 5 年內的生效時限，但可被延長。
 - iii. (2)分條規定防止奴役和人口販賣命令可禁制到任何指名之香港以外國家、除了指名國家的任何其他國家和任何香港以外的國家旅遊。
 - iv. (4)分條規定被禁制到任何國家旅遊的人必須交出他或她的護照給警察。
 - v. (5)和(6)分條當所有國家的旅遊禁制失效時，警察必須交還該等護照，除非該等護照已退回相關的發行機關或國際組織。
- f. 新《刑事罪行條例》第 175 條：提供名字和地址的要求
- i. 本條是從英國現代奴役法案 2015 的第 19 條衍生的。
 - ii. (2)分條規定，法庭必須信納這要求是為保護因被告人干犯奴役和人口販賣罪行而有可能受到身體或心理上的傷害的整體或特定人士而作出的。
 - iii. (3) 至 (6) 分條規定，法院可要求受到防止奴役和販運人口命令的被告人，在三天內通知其命名的人員被告人的姓名和地址（包括隨後的任何資料更改）。
 - iv. (7)分條規定，若命令要求被告通知律政司司長或入境事務主任，律政司司長或入境事務主任必須向每個相關警區(定義見(8)分條)之主管警務人員提供任何有關該通知的資料。
- g. 新《刑事罪行條例》第 176 條：更改、延續及解除
- i. 本條是從英國現代奴役法案 2015 的第 20 條衍生的。

- ii. (1)和(2)分條規定，防止奴役和販運人口命令針對的人、或申請原有命令的警察、律政司或入境事務主任可向法庭申請將該命令更改、延續或解除。這一規定確保可以對命令進行修改以反映不斷變化的情況，以確保管理與奴役或人口販賣有關的活動所造成的風險仍然有效，而且該命令仍然是為此目的所必需的。
 - iii. (3)分條規定，防止奴役和販運人口命令針對的人或若相關警察、律政司或入境事務主任有聆訊的權利。
 - iv. (4)和(5)分條規定任何另外施加的禁制，法庭必須使用作出原有命令的同等測試。
 - v. (6)分條規定，未經有關人士和有關主管警務人員的同意，命令在五年內不得解除。
- h. 新《刑事罪行條例》第 177 條：臨時防止奴役和人口販賣命令
- i. 本條是從英國現代奴役法案 2015 的第 20 條衍生的。
 - ii. (1)至(3)分條規定，根據第 171 條提出了針對防止奴役和販運人口命令的申請和法院覺得這樣做是公平時，可作出臨時的奴隸制和販運預防命令。例如，如果法院信納在等待最終裁斷時，這樣做是為了保護一個人不受立即傷害的目的而必須的，法院可以作出臨時命令。
 - iii. (4)至(5)分條定義臨時防止奴役和人口販賣命令。
 - iv. (7)分條臨時命令只適用於命令指明的特定時期和在主申請裁定時，將停止生效。
 - v. (8)分條規定臨時命令可更改、延續或解除。
- i. 新《刑事罪行條例》第 178 條：上訴
- i. 本條是從英國現代奴役法案 2015 的第 22 條衍生的。
 - ii. (1)(a) and (b)分條規定，被告可在定罪時對防止奴役和人口販賣命令提出上訴，猶如上訴判刑般上訴。
 - iii. (1)(c) and 2 分條規定，被告可向法庭對根據第 171 條作出的命令和臨時防止奴役和人口販賣命令提出上訴。
 - iv. (3)分條規定被告人可針對第 176 條更改、延續或解除命令的決定上訴。
 - v. (4)分條規定法院在決定上訴時的權力。法院有權力撤銷該命令或修改其規定（包括其中的期限或禁止）。
 - vi. (5)分條規定，本分條列明的案件內，法庭在上訴時作出的命令，將被視為於由作出原命令的法庭作出的命令。

23. 第 6 條透過引入新的 XVI 部和新條文修改《刑事罪行條例》—

- a. 新《刑事罪行條例》第 179 條：奴役和人口販賣風險命令
 - i. 本條是從英國現代奴役法案 2015 的第 23 條衍生的。

- ii. (1)分條准許法庭可根據主管警務人員、入境事務主任和律政司司長之申請向任何人作奴役和人口販賣風險命令。
 - iii. (2)分條訂立作出奴役和人口販賣風險命令的測試，規定法庭必須信納被告有犯奴役或人口販賣罪行之風險有需要因保護整體或特定人士有可能因被告干犯該罪行而受到身體或心理上的傷害而作出命令。
 - iv. (3)分條規定主管警務人員可針對誰作出本條的命令。
 - v. (4)分條規定奴役和人口販賣風險命令的申請以投訴形式提出。
 - vi. (5)分條規定若被告為 18 歲以下，此條下之裁判法院指少年法院。
 - vii. (6)和(7)分條規定若入境事務主任或律政司司長根據本條作出申請，該人員必須通知指被告居住於之地區或人員相信被告企圖居住地區之警區的主管警務人員。
 - viii. (8)分條規定，奴役和人口販賣風險命令可針對此條生效前的行為作出。
- b. 新《刑事罪行條例》第 180 條：奴役和人口販賣風險命令的效力
- i. 本條是從英國現代奴役法案 2015 的第 24 條衍生的。
 - ii. (1)分條規定防止奴役和人口販賣命令可禁止被告進行任何在該命令提及的行為。禁止的性質由法庭決定。禁制可能包括阻止某人參與特定類型的業務，訪問特定地點，與兒童一起工作或前往指定的國家等。法庭必須信納命令的禁止事項是為保護因被告人干犯(2)分條的奴役和人口販賣罪行有可能受到的身體或精神上的傷害整體或特定組別人士而必須的。
 - iii. (3)至(5)分條規定奴役和人口販賣風險命令和內含禁止事項的程度和限期。奴役和人口販賣風險命令在在命令中指明的定期(最少 5 年)或直至進一步的命令期間具有效力。內裡可指明不同時期有不同禁制。
- c. 新《刑事罪行條例》第 181 條：禁止外遊
- i. 本條是從英國現代奴役法案 2015 的第 25 條衍生的。
 - ii. (1)至(3) 分條規定對出國旅遊的禁制只有不多於 5 年內的生效時限，但可被延長。
 - iii. (2)分條規定奴役和人口販賣風險命令可禁制到任何指名之香港以外國家、除了指名國家的任何其他國家和任何香港以外的國家旅遊。
 - iv. (4)分條規定被禁制到任何國家旅遊的人必須交出他或她的護照給警察。
 - v. (5)和(6)分條當所有國家的旅遊禁制失效時，警察必須交還該等護照，除非該等護照已退回相關的發行機關或國際組織。
- d. 新《刑事罪行條例》第 182 條：提供名字和地址的要求
- i. 本條是從英國現代奴役法案 2015 的第 26 條衍生的。
 - ii. (2)分條規定，法庭必須信納這要求是為保護因被告人干犯奴役和人口販賣罪行而有可能受到身體或心理上的傷害的整體或特定人士而作出的。

- iii. (3)至(6)分條規定，法院可要求受到奴役和人口販賣風險命令的被告人，在三天內通知其命名的人員被告人的姓名和地址（包括隨後的任何資料更改）。
 - iv. (7)分條規定，若命令要求被告通知律政司司長或入境事務主任，律政司司長或入境事務主任必須向每個相關警區(定義見(8)分條)之主管警務人員提供任何有關該通知的資料。
- e. 新《刑事罪行條例》第 183 條：更改、延續及解除
- i. 本條是從英國現代奴役法案 2015 的第 27 條衍生的。
 - ii. (1)和(2)分條規定，奴役和人口販賣風險命令針對的人、或申請原有命令的警察、律政司或入境事務主任可向法庭申請將該命令更改、延續或解除。這一規定確保可以對命令進行修改以反映不斷變化的情況，以確保管理與奴役或人口販賣有關的活動所造成的風險仍然有效，而且該命令仍然是為此目的所必需的。
 - iii. (3)分條規定，奴役和人口販賣風險命令針對的人或若相關警察、律政司或入境事務主任有聆訊的權利。
 - iv. (4)和(5)分條規定任何另外施加的禁制，法庭必須使用作出原有命令的同等測試。
 - v. (6)分條規定，未經有關人士和有關主管警務人員的同意，命令在五年內不得解除。
- f. 新《刑事罪行條例》第 184 條：臨時奴役和人口販賣風險命令
- i. 本條是從英國現代奴役法案 2015 的第 28 條衍生的。
 - ii. (1)至(3)分條規定，根據第 171 條提出了針對奴役和人口販賣風險命令的申請和法院覺得這樣做是公平時，可作出臨時的奴役和人口販賣風險命令。例如，如果法院信納在等待最終裁斷時，這樣做是為了保護一個人不受立即傷害的目的而必須的，法院可以作出臨時命令。
 - iii. (4)至(5)分條定義臨時奴役和人口販賣風險命令。
 - iv. (7)分條臨時命令只適用於命令指明的特定時期和在主申請裁定時，將停止生效。
 - v. (8)分條規定臨時命令可更改、延續或解除。
- g. 新《刑事罪行條例》第 185 條：上訴
- i. 本條是從英國現代奴役法案 2015 的第 29 條衍生的。
 - ii. (1)(a) and (b)分條規定，被告可在定罪時對奴役和人口販賣風險命令提出上訴，猶如上訴判刑般上訴。
 - iii. (1)(c) and 2 分條規定，被告可向法庭對根據第 183 條作出的命令和臨時奴役和人口販賣風險命令提出上訴。
 - iv. (3)分條規定被告人可針對第 179 條更改、延續或解除命令的決定上訴。

- v. (4)分條規定法院在決定上訴時的權力。法院有權力撤銷該命令或修改其規定（包括其中的期限或禁止）。

24. 第 7 條透過引入新的 XVII 部和新條文修改《刑事罪行條例》—

a. 新《刑事罪行條例》第 186 條：海事執法

- i. 本條是從英國現代奴役法案 2015 的第 35 條和附表 2 的第 1 部分衍生的。本條為香港執法（警務處，海事處處長，海事處任何公職人員，律政司司長）提供額外的權力以處理在海上涉嫌販運人口或奴役問題。額外權力的細節載於附表 4 第 1 部分。受害者在很多情況下在船上被非法販運，也可能是船上奴役，奴工和強迫或強制勞動的受害者。擴大關於涉嫌現代奴役犯罪行為的執法權力，使警方和其他有關機構能夠更好地保護疑似受害者並將罪犯繩之於法。
- ii. (1) 分條列出公眾或執法人員對涉嫌販賣人口或奴役的船隻可以使用附加權力的情況。這些限制符合香港法院的司法管轄權，所以在任何一名嫌疑犯被捕的地方，都可以起訴。唯一的例外是在另一國或有關領土內的香港船隻或無國籍船隻的情況下，而調查前嫌疑犯的國籍可能不明顯，所有的全力提供給香港船隻。
- iii. (2) 分條規定這些權力只可以為達到防止、偵測、調查或檢控第人口販賣或奴役罪行之目的和根據本條其他分條行使。
- iv. (3) 分條規定，在公職人員行使附表 4 第 1 部關於在外國水域的香港船隻前地權力，必須得到行政長官授權。
- v. (4) 分條規定，(3) 分條下的行政長官授權只可在該外國或相關地區同意下給予。
- vi. (5) 分條規定，在與香港相鄰的領海內的外國船隻或有關領土法律登記的船隻上執法也需要行政長官的批准。條件是：原屬國家根據(2)(a)分條之目的要求香港協助和原屬國家授權香港為該目的行使權力。
- vii. (7) 分條規定，行政長官必須在給予該等授權時，實行原屬國家授權時施加的任何條件或限制。

b. 新《刑事罪行條例》第 187 條：追捕在香港水域的船隻

- i. 本條是從英國現代奴役法案 2015 的第 38 條衍生的。本條規定追捕的權力，執法人員尋求追捕在毗鄰香港的水域或香港與國際水域之間的可疑船隻。
- ii. (1) 分條規定，香港公職或執法人員可在符合(4)分條的條件(在追捕該船隻前，信號發送到該船隻要求它停止及追捕船隻未比中斷)下，於國際水域向船隻行使附表 4 第 1 部權力。
- iii. (2) 分條規定，(1) 分條關於船隻的權力只可為達到第 186 條(2)(a)分條的目的而行使，如果船隻外國船隻或根據有關領土的法律註冊，則按照 (3) 分條。

- iv. (3)分條規定，就(1)分條而言，相關水域指為若為香港船隻或沒有國籍的船隻，香港水域或國際水域或若為外國船隻或根據相關地區登記的船隻，為香港水域。
 - v. (4)分條規定追捕須符合的條件—在追捕該船隻前，信號發送到該船隻要求它停止及追捕船隻未比中斷。
 - vi. (5)分條規定，(4)(a)分條提及的信號必須是在船隻上可聽見或可看見的。
 - vii. (6)分條規定，就(4)(b)分條而言，追捕船隻不單單因為追捕的形方法或進行追捕的船隻或飛機的身份在過程中改面被視為中斷。
 - viii. (7)分條規定，此條不影響任何公職或執法人員可能在國際法下享有的追捕權力。
- c. 新《刑事罪行條例》第 188 條：第 XVII 部釋義
- i. 本條是從英國現代奴役法案 2015 的第 39 條衍生的。
 - ii. (1) 分條列出相關定義。

25. 第 8 條透過引入新的 XVIII 部和新條文修改《刑事罪行條例》—

a. 新《刑事罪行條例》第 189 條：供應鏈之透明度等

- i. 這一條要求一個具有一定規模的商業組織每年出版一個奴役和販賣人口聲明，其中規定了為確保其供應鍊或其自身業務沒有奴役或人口販賣而採取的步驟，或者說沒有採取這樣的步驟。第 189 條沒有規定奴役和人口販運聲明必須包含超出實際採取的步驟沒有採取任何步驟的聲明，也不要求商業組織在編制年度報表之外採取任何特定行動。
- ii. (1)分條規定，(2)分條下的商業組織必須於每個財政年度準備奴役及人口販賣聲明。
- iii. (2)分條規定，提供商品或服務及有不少於規例中訂明的營業額的商業組織需遵守的披露責任。規例將規定組織的總營業額是如何確定的（(3)分條）。
- iv. (4)分條解釋，奴役和販賣人口的聲明是一個組織在財政年度採取步驟的，以確保在供應鍊或其自身業務中不會發生奴役和人口販運的聲明。或者，它可以是一個組織沒有採取這樣的步驟聲明。
- v. (5)分條列出了奴役和販運人口聲明可能包括的六個資料領域。這項規定並不要求企業在這些領域採取任何措施，但它明確表明企業可能包括哪些內容。政府預期很多企業都會選擇覆蓋這些地區，這樣會更容易評估和比較聲明。
- vi. (6)分條要求在業務中的高級職員批准該聲明。對於公司而言，這些規定是以《公司條例》為模式，需要董事會批准和董事簽字。這將確保這些聲明得到高級管理層的適當支持和批准，最有能力實施業務變更。
- vii. (7)分條規定，組織必須在其網站(如有)上公佈奴役和人口販運的聲明，並在主頁上必須有明確的連結。如果一個組織沒有一個網站，它必須在任

何人書面請求之後的 30 天內提供奴役和人口販運陳述的副本（（8）分條）。

- viii. （9）分條規定，行政長官有權就本條施加的責任發出指導意見，並以行政長官認為適當的方式公佈該指引。這種指導可能包括關於組織可能在奴役和販運人口聲明中列入的資料的進一步規定（（10）分條）。
- ix. （11）分條規定披露責任的執行機制。如果商業機構不遵守規定，行政長官可在高等法院的提出民事訴訟程序申請強制令，要求該組織遵守。
- x. （12）分條例出本條使用的詞彙的定義。

26. 第 9 條訂立了一項新的《刑事罪行條例》（第 200 章）附表 3，列出根據第 168 條提出的新的抗辯不適用的某些嚴重罪行。

27. 第 10 條訂立了一項新的《刑事罪行條例》（第 200 章）附表 4，與船隻有關的執法權力。

28. 第 11 條修訂《有組織及嚴重罪行條例》（第 455 章）附表 1，刪除第 129 條所廢除的罪行，並加入新的《刑事罪行條例》（第 200 章）第 XIV 部（作為本條例的內容）新訂的罪行，從而規定他們是有組織和嚴重的罪行，從而擴大了《有組織和嚴重罪行條例》規定的權力，以涵蓋這種罪行。

Draft Modern Slavery Bill 2017

A BILL To

Amend the Crimes Ordinance to make provision about slavery, servitude and forced or compulsory labour, forced marriage and about human trafficking, including provision for the protection of victims; to combat slavery, servitude and forced or compulsory labour, forced marriage and human trafficking; to give effect to and implement Article 4 of the Hong Kong Bill of Rights; to give effect to and implement Article 1 of the Supplementary Convention on the Abolition of Slavery of 1957; and to provide for related matters.

Enacted by the Legislative Council.

Part 1 Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Modern Slavery Ordinance 2017.
- (2) This Ordinance comes into operation on the day on which it is published in the Gazette.

Part 2 Amendments to Crimes Ordinance

2. Crimes Ordinance amended

The Crimes Ordinance (Cap 200) is amended as set out in sections 3, 4, 5, 6, 7, 8.

3. Section 129 repealed

Section 129—

Repeal the section.

4. Part XIV added

After Part XIII—

Add

“Part XIV

Slavery and Human Trafficking

162. Slavery, servitude and forced or compulsory labour

(1) A person commits an offence if—

- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or

- (b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.
 - (2) In subsection (1) the references to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Hong Kong Bill of Rights.
 - (3) In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour, regard may be had to all the circumstances.
 - (4) For example, regard may be had—
 - (a) to any of the person's personal circumstances (such as the person being a child, the person's family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons; or
 - (b) to any work or services provided by the person, including work or services provided in circumstances which constitute exploitation within section 164(3) to (6).
 - (5) The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the person to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or required to perform forced or compulsory labour.
 - (6) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for life;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine of \$100000 or both.
- [cf. 2015 c. 30 s. 1 U.K.]

163. Human trafficking

- (1) A person commits an offence if the person arranges or facilitates the travel of another person ("V") with a view to V being exploited.
- (2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).
- (3) A person may in particular arrange or facilitate V's travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.
- (4) A person arranges or facilitates V's travel with a view to V being exploited only if—
 - (a) the person intends to exploit V (in any part of the world) during or after the travel, or
 - (b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.
- (5) "Travel" means—
 - (a) arriving in, or entering, Hong Kong or any country,
 - (b) departing from Hong Kong or any country,
 - (c) travelling within Hong Kong or any country.
- (6) A person who is a Hong Kong resident commits an offence under this section regardless of—
 - (a) where the arranging or facilitating takes place, or

(b) where the travel takes place.

- (7) A person who is not a Hong Kong resident commits an offence under this section if—
- (a) any part of the arranging or facilitating takes place in Hong Kong, or
 - (b) the travel consists of arrival in or entry into, departure from, or travel within, Hong Kong.
- (8) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for life;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine of \$100000 or both.

[cf. 2015 c. 30 s. 2 U.K.]

164. Meaning of exploitation

(1) For the purposes of section 163 a person is exploited only if one or more of the following subsections apply in relation to the person.

Slavery, servitude and forced or compulsory labour

(2) The person is the victim of behaviour—

- (a) which involves the commission of an offence under section 162, or
- (b) which would involve the commission of an offence under that section if it took place in Hong Kong.

Sexual exploitation

(3) Something is done to or in respect of the person—

- (a) which involves the commission of an offence under Part XII of the Crimes Ordinance (Cap 200), or
- (b) which would involve the commission of such an offence if it were done in Hong Kong.

Removal of organs etc

(4) The person is encouraged, required or expected to do anything—

- (a) which involves the commission, by him or her or another person, of an offence under sections 4 and 5 (Prohibition of commercial dealings in human organs and Offence in respect of organ transplants between living persons) of the Human Organ Transplant Ordinance (Cap 465) as it has effect in Hong Kong, or
- (b) which would involve the commission of such an offence, by him or her or another person, if it were done in Hong Kong.

Securing services etc by force, threats or deception

(5) The person is subjected to force, threats or deception designed to induce him or her—

- (a) to provide services of any kind,
- (b) to provide another person with benefits of any kind, or
- (c) to enable another person to acquire benefits of any kind.

Securing services etc from children and vulnerable persons

(6) Another person uses or attempts to use the person for a purpose within paragraph (a), (b) or (c) of subsection (5), having chosen him or her for that purpose on the grounds that—

- (a) he or she is a child, is mentally or physically ill or disabled, or has a family relationship with a particular person, and

(b)an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose.

[cf. 2015 c. 30 s. 3 U.K.]

165. Committing offence with intent to commit the offence of human trafficking

(1)A person commits an offence under this section if the person commits any offence with the intention of committing an offence under section 163 (including an offence committed by aiding, abetting, counselling or procuring an offence under that section).

(2)A person guilty of an offence under this section shall be liable (unless subsection (3) applies)—

(a)on conviction on indictment, to imprisonment for a term not exceeding 10 years;

(b)on summary conviction, to imprisonment for a term not exceeding 12 months or a fine of \$50,000 or both.

(3)Where the offence under this section is committed by kidnapping or false imprisonment, a person guilty of that offence is liable, on conviction on indictment, to imprisonment for life.

[cf. 2015 c. 30 s. 4 U.K.]

166. Forced marriage offences

(1) For the purposes of this section, a marriage is a forced marriage if, because of the use of coercion, threat or deception, one party to the marriage (“the victim”) entered into the marriage without freely and fully consenting.

(2) For the purposes of subsection (1), marriage includes the following:

(a) any marriage recognised under the law of Hong Kong;

(b) any marriage recognised under a law of a foreign country;

(c) a marriage (including any marriage mentioned in paragraph (a) or (b)) that is void, invalid, or not recognised by law, for any reason, including the following:

(i) a party to the marriage has not freely or fully consented to the marriage (for example, because of natural, induced or age-related incapacity);

(ii) a party to the marriage is married (within the meaning of this subsection) to more than one person.

(3) Subsection (1) applies whether the coercion, threat or deception is used against the victim or another person.

(4) A person (“the first person”) commits an offence if:

(a) the first person engages in conduct; and

(b) the conduct causes another person to enter into a forced marriage as the victim of the marriage.

(5)A person guilty of an offence under subsection (4) shall be liable on conviction upon indictment to imprisonment for 7 years.

(6) A person commits an offence if, without reasonable excuse:

(a) the person is a party to a marriage; and

(b) the marriage is a forced marriage; and

(c) the person is not a victim of the forced marriage.

(7) A person guilty of an offence under subsection (6) shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 7 years;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine of \$50,000 or both.

[cf. Australia, Criminal Code Act 1995, s. 270.7B(3), and Supplementary Convention on the Abolition of Slavery of 1957 Art. 1]

167. Sex Tourism

(1) For the purposes of this section, “illicit sexual conduct” means—

- (a) a sexual act with a person under 16 years of age;
- (b) any conduct that would constitute any of the following offences if the conduct had taken place in Hong Kong:
 - (i) rape, non-consensual buggery, or indecent assault;
 - (ii) an attempt to commit any of those offences;
 - (iii) aiding, abetting, counselling or procuring the commission or attempted commission of any of those offences; and
 - (iv) incitement to commit any of those offences;

or

- (c) any conduct that would constitute an offence contrary to section 3 of the Prevention of Child Pornography Ordinance (Cap 579) if the conduct had taken place in Hong Kong.

(2) A person who enters or leaves Hong Kong for with a motivating purpose of engaging in any illicit sexual conduct with another person commits an offence.

(3) Any Hong Kong resident who travels in a foreign country or resides, either temporarily or permanently, in a foreign country, and engages in any illicit sexual conduct with another person commits an offence.

(4) Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling for a motivating purpose of engaging in illicit sexual conduct commits an offence.

(5) Whoever attempts or conspires to violate subsection (2), (3), or (4) commits an offence.

(6) A person guilty of an offence under this section (6) shall be liable—

- (a) on conviction on indictment, to a fine of \$3,000,000 and imprisonment for life;
- (b) on summary conviction, to imprisonment for a term not exceeding 4 years or a fine of \$500,000 or both.

[cf. 18 U.S. Code Chapter 117, §2423.]

168. Defence for slavery or trafficking victims who commit an offence

(1) A person is not guilty of an offence if—

- (a) the person is aged 18 or over when the person does the act which constitutes the offence,
- (b) the person does that act because the person is compelled to do it,

- (c) the compulsion is attributable to slavery or to relevant exploitation, and
 - (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.
- (2) A person may be compelled to do something by another person or by the person's circumstances.
- (3) Compulsion is attributable to slavery or to relevant exploitation only if—
- (a) it is, or is part of, conduct which constitutes an offence under section 1 or conduct which constitutes relevant exploitation, or
 - (b) it is a direct consequence of a person being, or having been, a victim of slavery or a victim of relevant exploitation.
- (4) A person is not guilty of an offence if—
- (a) the person is under the age of 18 when the person does the act which constitutes the offence,
 - (b) the person does that act as a direct consequence of the person being, or having been, a victim of slavery or a victim of relevant exploitation, and
 - (c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act.
- (5) For the purposes of this section—
- “**relevant characteristics**” means age, sex and any physical or mental illness or disability;
 - “**relevant exploitation**” is exploitation (within the meaning of section 164) that is attributable to the exploited person being, or having been, a victim of human trafficking.
- (6) In this section references to an act include an omission.
- (7) Subsections (1) and (4) do not apply to an offence listed in Schedule 3.
- (8) Subject to the approval of the Legislative Council, the Chief Executive in Council may by order amend Schedule 3.
- [cf. 2015 c. 30 s. 45 U.K.]

169. Civil claims under Part XIV

- (1) A claim by any person (the claimant) that another person (the respondent)-
- (a) has committed an act against the claimant which is unlawful by virtue of this Part; or
 - (b) has knowingly benefited, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this Part
- may be made the subject of civil proceedings in like manner as any other claim in tort.
- (2) Section 4 of the Limitation Ordinance (Cap 347) shall not apply to claims under this Part.
- (3) No action may be maintained under this section unless it is commenced not later than the later of—
- (a) 10 years after the cause of action arose; or

(b) 10 years after the claimant reaches 18 years of age, if the claimant was a minor at the time of the alleged offence.

(4) Any claim filed under this section shall be stayed during the pendency of any criminal case arising out of the same occurrence in which the claimant is the victim.

(5) In subsection (4), a “criminal case” includes investigation and prosecution and is pending until final adjudication in the trial court.

[cf. 18 U.S. Code Chapter 77, §1595.]”

5. Part XV added

After Part XIV—

Add

“Part XV

Slavery and Human Trafficking Prevention Orders

170. Slavery and trafficking prevention orders on sentencing

(1)A court may make a slavery and trafficking prevention order against a person (“the defendant”) where it deals with the defendant in respect of—

(a) a conviction for slavery of human trafficking offence,

(b) a finding that the defendant is not guilty of a slavery or human trafficking offence by reason of insanity, or

(c) a finding that the defendant is under a disability and has done the act charged against the defendant in respect of a slavery or human trafficking offence.

(2)The court may make the order if it is satisfied that—

(a) there is a risk that the defendant may commit a slavery or human trafficking offence, and

(b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(3)A “slavery or human trafficking offence” means an offence listed in Part XIV.

(4) Subject to the approval of the Legislative Council, the Chief Executive in Council may by order amend Part XIV.

(5) For the purposes of this section, convictions and findings include those taking place before this section comes into force.

[cf. 2015 c. 30 s. 14 U.K.]

171. Slavery and trafficking prevention orders on application

(1)A court may make a slavery and trafficking prevention order against a person (“the defendant”) on an application by—

- (a) a chief officer of police,
- (b) an immigration officer, or
- (c) the Secretary for Justice

(2)The court may make the order only if it is satisfied that—

- (a) the defendant is a relevant offender (see section 172), and
- (b) since the defendant first became a relevant offender, the defendant has acted in a way which means that the condition in subsection (3) is met.

(3)The condition is that—

- (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
- (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(4)A chief officer of police may make an application under this section only in respect of a person—

- (a) who committed the offence in the chief officer’s police area, or
- (b) who lives in the chief officer’s police area, or
- (c) who the chief officer believes is in that area or is intending to come to it.

(5)An application under this section is to be made by complaint, and may be made to any court acting for a local justice area that includes—

- (a) any part of a relevant police area, or
- (b) any place where it is alleged that the defendant acted in a way mentioned in subsection (2)(b)

(6)Where the defendant under 18, a reference in this section to a court is to be taken as referring to a juvenile court

(7)Where an immigration officer or the Secretary for Justice makes an application under this section, the officers must give notice of the application to the chief officer of police for a relevant police area.

(8) In this section, “relevant police area” means-

- (a) where the applicant is a chief officer of police, the officer’s police area;
- (b) where the applicant is an immigration officer or the Secretary for Justice, the police area where the defendant lives or police area which the officers believe the defendant is in or is intending to come to.

(9)The acts of the defendant which may be relied on for the purposes of subsection (2)(b) include acts taking place before this section comes into force.

[cf. 2015 c. 30 s. 15 U.K.]

172. Meaning of “relevant offender”

(1)A person is a “relevant offender” for the purposes of section 171 if subsection (2) or (3) applies to the person.

(2)This subsection applies to a person if—

- (a) the person has been convicted of a slavery or human trafficking offence,
- (b) a court has made a finding that the person is not guilty of a slavery or human trafficking offence by reason of insanity,
- (c) a court has made a finding that the person is under a disability and has done the act charged against the person in respect of a slavery or human trafficking offence, or
- (d) the person has been cautioned in respect of a slavery or human trafficking offence.

(3)This subsection applies to a person if, under the law of a country outside Hong Kong—

- (a) the person has been convicted of an equivalent offence (whether or not the person has been punished for it),
- (b) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is not guilty by reason of insanity,
- (c) a court has made, in relation to an equivalent offence, a finding equivalent to a finding that the person is under a disability and has done the act charged against the person, or
- (d) the person has been cautioned in respect of an equivalent offence.

(4)An “equivalent offence” means an act which—

- (a) constituted an offence under the law of the country concerned, and
- (b) would have constituted a slavery or human trafficking offence under the law of Hong Kong if it had been done in Hong Kong.

(5)For the purposes of subsection (4) an act punishable under the law of a country outside Hong Kong constitutes an offence under that law, however it described in that law.

(6)On an application under section 171 where subsection (3) is alleged to apply to the defendant, the condition in subsection (4)(b) is to be taken as met unless—

- (a) not later than provided by rules of court, the defendant serves on the applicant a notice which states that in the defendant’s opinion the condition is not met,

shows the grounds for that opinion, and requires the applicant to prove that the condition is met, or

(b) the court permits the defendant to require the applicant to prove that the condition is met without service of such a notice.

(7)Reference in this section to convictions, findings and cautions include those taking place before this section comes into force.

[cf. 2015 c. 30 s. 16 U.K.]

173. Effect of slavery and trafficking prevention orders

(1)A slavery and trafficking prevention order is an order prohibiting the defendant from doing anything described in the order.

(2)The only prohibitions that may be included in the order are those which the order is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.

(3)The order may prohibit the defendant from doing things in any part of Hong Kong, and anywhere outside Hong Kong.

(4)Subject to section 174(1), a prohibition contained in a slavery and trafficking prevention order has effect—

- (a) for a fixed period, specified in the order, of at least 5 years, or
- (b) until further order.

(5)A slavery and trafficking prevention order—

- (a) may specify that some of its prohibitions have effect until further order and some for a fixed period;
- (b) may specify different periods of different prohibitions.

(6)If a court makes a slavery and trafficking prevention order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

[cf. 2015 c. 30 s. 17 U.K.]

174. Prohibitions on foreign travel

(1)A prohibition on foreign travel contained in a slavery and trafficking prevention order must be for a fixed period of not more than 5 years.

- (2) A “prohibition on foreign travel” means—
- (a) a prohibition on travelling to any country outside Hong Kong named or described in the order,
 - (b) a prohibition on travelling to any country outside Hong Kong other than a country named or described in the order, or
 - (c) a prohibition on travelling to any country outside Hong Kong.
- (3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 176.
- (4) A slavery and trafficking prevention order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant’s passports at a police station specified in the order—
- (a) on or before the date when the prohibition takes effect, or
 - (c) within a period specified in the order.
- (5) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking prevention order containing a prohibition within subsection (2)(c).
- (6) Subsection (5) does not apply in relation to—
- (a) a passport issued by or on behalf of the authorities of a country outside Hong Kong if the passport has been returned to those authorities;
 - (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

[cf. 2015 c. 30 s. 18 U.K.]

175. Requirement to provide name and address

- (1) A slavery and trafficking prevention order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6).
- (2) It may do so only if the court is satisfied that the requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.
- (3) Before the end of the period of 3 days beginning with the day on which a slavery and trafficking prevention order requiring the defendant to comply with subsections (3) to (6) is first served the defendant must, in the way specified in the order, notify the person specified in the order of the relevant matters.
- (4) The relevant matters are—

- (a) the defendant's name and, where the defendant uses one or more other names, each of those names, and
- (b) the defendant's home address.

(5) If while the defendant is subject to the order the defendant—

- (a) uses a name which has not notified under the order, or
- (b) changes home address,

the defendant must, in the way specified in the order, notify the person specified in the order of the new name or the new home address.

(6) The notification must be given before the end of the period of 3 days beginning with the day on which the defendant uses the name or changes home address.

(7) Where the order requires the defendant to notify the Secretary for Justice or an immigration officer, the Secretary for Justice or an immigration officer must give details of any notification to the chief officer of police for each relevant police area.

(8) "Relevant police area" means—

- (a) where the defendant notifies a new name, the police area where the defendant lives;
- (b) where the defendant notifies a change of home address, the police area where the defendant lives and (if different) the police area where the defendant lived before the change of home address.

[cf. 2015 c. 30 s. 19 U.K.]

176. Variation, renewal and discharge

(1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a slavery and trafficking prevention order.

(2) The persons are—

- (a) the defendant;
- (b) the chief officer of police for the area in which the defendant lives;
- (c) a chief officer of the police who believes that the defendant is in, or is intending to come to, that officer's police area;
- (d) where the order was made on an application under section 171 by a chief officer of police, that officer;
- (e) where the order was made on application under section 171 by an immigration officer, an immigration officer;
- (f) where the order was made on an application under section 171 by the Secretary for Justice, the Secretary for Justice.

(3) On the application the court, after hearing—

- (a) the person making the application, and
- (b) the other persons mentioned in subsection (2) (if they wish to be heard), may make any order varying, renewing or discharging the slavery and trafficking prevention order that the court considers appropriate.

(4) An order may be renewed, or varied so as to impose additional prohibitions on the defendant or require the defendant to comply with section 175(3) to (6), only if the court is satisfied that—

- (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and
- (b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(5) Any renewed or varied order—

- (a) may contain only those prohibitions which the court is satisfied are necessary for that purpose,
- (b) may require the defendant to comply with section 175(3) to (6) only if the court is satisfied that the requirement is necessary for that purpose.

(6) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of—

- (a) the defendant and the chief officer of police for the area in which the defendant lives, or
- (b) where the application is made by a chief officer of police, the defendant and that chief officer.

(7) Subsection (6) does not apply to an order containing a prohibition on foreign travel and no other prohibitions.

(8) An application under this section may be made—

- (a) where the appropriate court is the Crown Court, in accordance with rules of court;
- (b) in any other case, by complaint.

(9) Where an immigration officer or the Secretary for Justice makes an application under this section, the officer or the Secretary for Justice must give notice of the application to the chief officer of police for—

- (a) the police area where the defendant lives, or
- (b) a police area which the immigration officer or the Secretary for Justice believes the defendant is in or is intending to come to.

(10) In this section “the appropriate court” means—

- (a) where the Court made the slavery and trafficking prevention order,

- (b) where an adult magistrates' court made the order—
 - (i) that court,
 - (ii) an adult magistrates' court
- (c) where a juvenile court made the order and the defendant is under 18—
 - (i) that court.
- (d) where a juvenile court made the order and the defendant is 18 or over—
 - (i) a magistrates' court.

[cf. 2015 c. 30 s. 20 U.K.]

177. Interim slavery and trafficking prevention orders

(1) This section applies where an application under section 171 (“the main application”) has not been determined.

(2) An application for an interim slavery and trafficking prevention order—

- (a) may be made by the complaint by which the main application is made, or
- (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

(3) The court may, if it considers it just to do so, make an interim slavery and trafficking prevention order.

(4) An interim slavery and trafficking prevention order is an order which prohibits the defendant from doing anything described in the order.

(5) The order may prohibit the defendant from doing things in Hong Kong, and anywhere outside Hong Kong.

(6) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section 175.

If it does, those subsections apply as if references to a slavery and trafficking prevention order were to an interim slavery and trafficking order.

(7) The order—

- (a) has effect only for a fixed period, specified in the order;
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.

(8) The applicant or the defendant may be complaint apply to the Court that made the interim slavery and trafficking prevention order for the order to be varied, renewed or discharged.

[cf. 2015 c. 30 s. 21 U.K.]

178. Appeals

(1)A defendant may appeal against the making of a slavery and trafficking prevention order—

- (a) where the order was made under section 170(1)(a), as if the order were a sentence passed on the defendant for the offence;
- (b) where the order was made under section 170(1)(b) or (c), as if the defendant had been convicted of the offence and the order were a sentence passed on the defendant for the offence;
- (c) where the order was made on an application under section 171, to the Court.

(2)A defendant may appeal to the Court against the making of an interim slavery and trafficking prevention order.

(3)A defendant may appeal against the making of an order under section 176, or the refusal to make such an order—

- (a) where the application for such an order was made to the Court, to the Court of Appeal;
- (b) in any other case, to the Court.

(4)On an appeal under subsection (1)(c), (2) or (3)(b), the Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

(5)Any order made by the Court on an appeal under subsection (1)(c) or (2) is for the purposes of section 176(10) or 177(8) (respectively) to be treated as if it were an order of the court from which the appeal was brought.

(6)Subsection (5) does not apply to an order directing that an application be re-heard by a magistrates' court.

[cf. 2015 c. 30 s. 22 U.K.]

6. Part XVI added

After Part XV—

Add

“Part XVI

Slavery and Trafficking Risk Orders

179. Slavery and trafficking risk orders

(1) A magistrates' court may make a slavery and trafficking risk order against a person ("the defendant") on an application by—

- (a) a chief officer of police,
- (b) an immigration officer, or
- (d) the Secretary for Justice

(2) The court may make the order only if it is satisfied that the defendant has acted in a way which means that—

- (a) there is a risk that the defendant will commit a slavery or human trafficking offence, and
- (b) it is necessary to make the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(3) A chief officer of police may make an application under this section only in respect of a person—

- (a) who lives in the chief officer's police area, or
- (b) who the chief officer believes is in that area or is intending to come to it.

(4) An application under this section is to be made by complaint, and may be made to any magistrates' court acting for a local justice area that includes—

- (a) any part of a relevant police area, or
- (b) any place where it is alleged that the person acted in a way mentioned in subsection (2).

(5) Where the defendant is under 18, a reference in this section to a magistrates' court is to be taken as referring to a juvenile court

(6) Where an immigration officer or the Secretary for Justice makes an application under this section, the officer or the Secretary for Justice must give notice of the application to the chief officer of police for a relevant police area.

(7) "Relevant police area" means—

- (a) where the applicant is a chief officer of police, the officer's police area;
- (b) where the applicant is an immigration officer or the Secretary for Justice, the police area where the defendant lives or police area which the officers believe the defendant is in or is intending to come to.

(8) The acts of the defendant which may be relied on for the purposes of subsection (2) include acts taking place before this section comes into force.

[cf. 2015 c. 30 s. 23 U.K.]

180. Effect of slavery and trafficking risk orders

(1) A slavery and trafficking risk order is an order which prohibits the defendant from doing anything described in the order.

(2) The only prohibitions that may be included in the order are those which the court is satisfied are necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm, which would be likely to occur if the defendant committed a slavery or human trafficking offence.

(3) The order may prohibit the defendant from doing things in any part of Hong Kong, and anywhere outside Hong Kong.

(4) Subject to section 181(1), a prohibition contained in a slavery and trafficking risk order has effect—

- (a) for a fixed period, specified in the order, of at least 2 years, or
- (b) until further order.

(5) A slavery and trafficking risk order—

- (a) may specify that some of its prohibitions have effect until further order and some for a fixed period;
- (b) may specify different periods for different prohibitions.

(6) Where a court makes a slavery and trafficking risk order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

[cf. 2015 c. 30 s. 24 U.K.]

181. Prohibitions on foreign travel

(1) A prohibition on foreign travel contained in a slavery and trafficking risk order must be for a fixed period of not more than 5 years.

(2) A “prohibition on foreign travel” means order—

- (a) a prohibition on traveling to any country outside Hong Kong named or described in the order,
- (b) a prohibition on travelling to any country outside Hong Kong other than a country named or described in the order, or
- (c) a prohibition on travelling to any country outside Hong Kong.

(3) Subsection (1) does not prevent a prohibition on foreign travel from being extended for a further period (of no more than 5 years each time) under section 183.

(4)A slavery and trafficking risk order that contains a prohibition within subsection (2)(c) must require the defendant to surrender all of the defendant's passports at a police station specified in the order—

- (a) on or before the date when the prohibition takes effect, or
- (b) within a period specified in the order.

(5)Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a slavery and trafficking risk order containing a prohibition within subsection (2)(c).

(6)Subsection (5) does not apply in relation to—

- (a) a passport issued by or on behalf of the authorities of a country outside Hong Kong if the passport has been returned to those authorities;
- (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

[cf. 2015 c. 30 s. 25 U.K.]

182. Requirement to provide name and address

(1)A slavery and trafficking risk order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6).

(2)It may do so only if the court is satisfied that the requirement is necessary for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed a slavery or human trafficking offence.

(3)Before the end of the period of 3 days beginning with the day on which a slavery and trafficking risk order requiring the defendant to comply with subsections (3) to (6) is first served the defendant must, in the way specified in the order, notify the person specified in the order of the relevant matters.

(4)The relevant matters are—

- (a) the defendant's name and, where the defendant uses one or more other names, each of those names, and
- (b) changes home address.

(5)If while the defendant is subject to the order the defendant—

- (a) uses a name which has not been notified under the order, or
- (b) changes home address,

the defendant must, in the way specified in the order, notify the person specified in the order of the new name or the new home address.

(6) The notification must be given before the end of the period of 3 days beginning with the day on which the defendant uses the name or changes home address.

(7) Where the order requires the defendant to notify the Secretary for Justice or an immigration officer, the Secretary for Justice or the officer must give details of any notification to the chief officer of police.

(8) "Relevant police area" means—

- (a) where the defendant notifies a new name, the police area where the defendant lives;
- (b) where the defendant notifies a change of home address, the police area where the defendant lives and (if different) the police area where the defendant lived before the change of home address.

[cf. 2015 c. 30 s. 26 U.K.]

183. Variation, renewal and discharge

(1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a slavery and trafficking risk order.

(2) The persons are—

- (a) the defendant;
- (b) the chief officer of police for the area in which the defendant lives;
- (c) a chief officer of the police who believes that the defendant is in, or is intending to come to, that officer's police area;
- (d) where the order was made on an application by a chief officer of police, that officer;
- (e) where the order was made on application by an immigration officer, an immigration officer;
- (f) where the order was made on an application by the Secretary for Justice, the Secretary of Justice.

(3) On the application the court, after hearing—

- (a) the person making the application, and
- (b) the other persons mentioned in subsection (2) (if they wish to be heard), may make any order varying, renewing or discharging the slavery and trafficking prevention order that the court considers appropriate.

(4) An order may be renewed, or varied so as to impose additional prohibitions on the defendant or require the defendant to comply with section 182(3) to (6), only if the court is satisfied that—

- (a) there is a risk that the defendant may commit a slavery or human trafficking offence, and

(b) it is necessary to renew or vary the order for the purpose of protecting persons generally, or particular persons, from the physical or psychological harm which would be likely to occur if the defendant committed such an offence.

(5) Any renewed or varied order—

(a) may contain only those prohibitions which the court is satisfied are necessary for that purpose,

(b) may require the defendant to comply with section 182(3) to (6) only if the court is satisfied that the requirement is necessary for that purpose.

(6) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of—

(a) the defendant and the chief officer of police for the area in which the defendant lives, or

(b) where the application is made by a chief officer of police, the defendant and that chief officer.

(7) Where an immigration officer or the Secretary for Justice makes an application under this section, the officer or the Secretary for Justice must give notice of the application to the chief officer of police for—

(a) the police area where the defendant lives, or

(b) a police area which the immigration officer or the Secretary for Justice believes the defendant is in or is intending to come to.

(8) In this section “the appropriate court” means—

(a) the Court that made the slavery and trafficking risk order,

(b) where a juvenile court made the order and the defendant is under 18—

(i) that court.

(d) where a juvenile court made the order and the defendant is 18 or over—

(i) a magistrates’ court.

[cf. 2015 c. 30 s. 27 U.K.]

184. Interim slavery and trafficking risk orders

(1) This section applies where an application for a slavery and trafficking risk order (“the main application”) has not been determined.

(2) An application for an interim slavery and trafficking risk order—

(a) may be made by the complaint by which the main application is made, or

(b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

(3) The court may, if it considers it just to do so, make an interim slavery and trafficking risk order.

(4) An interim slavery and trafficking risk order is an order which prohibits the defendant from doing anything described in the order.

(5) The order may prohibit the defendant from doing things in Hong Kong, and anywhere outside Hong Kong.

(6) The order may (as well as imposing prohibitions on the defendant) require the defendant to comply with subsections (3) to (6) of section 182.

If it does, those subsections apply as if references to a slavery and trafficking risk order were to an interim slavery and trafficking risk order.

(7) The order—

(a) has effect only for a fixed period, specified in the order;

(b) ceases to have effect, if it has not already done so, on the determination of the main application.

(8) The applicant or the defendant may be complaint apply to the Court that made the interim slavery and trafficking risk order for the order to be varied, renewed or discharged.

[cf. 2015 c. 30 s. 28 U.K.]

185. Appeals

(1) A defendant may appeal to the Court—

(a) against the making of a slavery and trafficking risk order;

(b) against the making of an interim slavery and trafficking risk order;

(c) against the making of an order under section 183, or the refusal to make such an order.

(2) The Court may make such orders as may be necessary to give effect to its determination of the appeal, and may also make such incidental or consequential orders as appear to it to be just.

(3) An order made by the Court on an appeal against the making of a slavery and trafficking risk order or an interim slavery and trafficking risk order is to be treated for the purposes of section 183(8) or 184(8) (respectively) as if it were an order of the court from which the appeal was brought.

(4) Subsection (3) does not apply to an order directing that an application be re-heard by a magistrates' court.

[cf. 2015 c. 30 s. 29 U.K.]

7. Part XVII added

After Part XVI—

Add

“Part XVII

Maritime Enforcement

186. Enforcement powers in relation to ships

(1) A public or law enforcement officer may exercise the powers set out in Part 1 of Schedule 4 (“Part 1 powers”) in relation to—

- (a) a vessel in Hong Kong or in the waters of Hong Kong, foreign waters or international waters,
- (b) a vessel without nationality in Hong Kong or in the waters of Hong Kong or international waters,
- (c) a foreign vessel in Hong Kong or in the waters of Hong Kong, or
- (d) a vessel, registered under the law of Hong Kong or in the waters of Hong Kong.

(2) But Part 1 powers may be exercised only—

- (a) for the purpose of preventing, detecting, investigating or prosecuting an offence under section 1 or 2, and
- (b) in accordance with the rest of this section.

(3) The authority of the Chief Executive is required before a public officer may exercise Part 1 powers in relation to a Hong Kong vessel in foreign waters.

(4) Authority for the purposes of subsection (3) may be given only if the State or relevant territory in whose waters the powers would be exercised consents to the exercise of the powers.

(5) The authority of the Chief Executive is required before a public officer may exercise Part 1 powers in relation to a foreign vessel, or a vessel registered under the law of a relevant territory, within the territorial sea adjacent to Hong Kong.

(6) Authority for the purposes of subsection (5) may be given in relation to a foreign vessel only if —

- (a) the home state has requested the assistance of Hong Kong for the purpose mentioned in subsection (2)(a), or
- (b) the home state has authorised Hong Kong to act for that purpose.

(7) In giving authority for the purposes of subsection (5) in relation to a foreign vessel the Chief Executive must give effect to any conditions or limitations that the home state imposes as part of a request or authorisation of the kind mentioned in subsections (6)(a) or (b) (if the authority is given as a result of that request or authorisation).

[cf. 2015 c. 30 s. 35 U.K.]

187. Hot pursuit of vessels in Hong Kong waters

(1) A Hong Kong public officer may exercise Part 1 powers in relation to a vessel in international waters if—

- (a) the vessel is pursued there,
- (b) immediately before the pursuit of the vessel, the vessel was in relevant waters, and
- (c) the condition in subsection (4) is met.

(2) Part 1 powers may be exercised under subsection (1) only—

- (a) for the purpose mentioned in subsection (2)(a) of section 186

(3) For the purposes of subsection (1)(b), “relevant waters” are—

- (a) in the case of a Hong Kong vessel or a vessel without nationality, Hong Kong waters or international waters;
- (b) in the case of a foreign vessel or a vessel registered under the law of a relevant territory, Hong Kong waters.

(4) The condition referred to in subsection (1)(c) is that—

- (a) before the pursuit of the vessel, a signal is given for it to stop, and
- (b) the pursuit of the vessel is not interrupted.

(5) The signal referred to in subsection (4)(a) must be given in such a way as to be audible or visible from the vessel.

(6) For the purposes of subsection (4)(b), pursuit is not interrupted by reason only of the fact that—

- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,
- changes during the course of the pursuit.

(7) Nothing in this Part affects any right of hot pursuit that a public or enforcement officer may have under international law.

[cf. 2015 c. 30 s. 38 U.K.]

188. Interpretation of Part XVII

(1) In this Part—

“foreign vessel” means a vessel which—

- (a) is registered in a State other than Hong Kong, or
- (b) is not so registered but is entitled to fly the flag of a State other than Hong Kong.

“home state”, in relation to a foreign vessel, means—

- (a) the State in which the vessel is registered, or
- (b) the State whose flag the ship is otherwise entitled to fly;

“Hong Kong vessel” means a local vessel within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap 548) except a local vessel referred to in section 3(4) of that Ordinance;

“international waters”, means waters beyond the territorial sea of Hong Kong or of any other State;

“Part 1 powers” means the powers set out in Part 1 of that Schedule;

“public officer” means—

- (a) the Director and any public officer of the Marine Department of or above the rank of Marine Inspector Class II
- (b) any police officer of or above the rank of Sergeant; and
- (c) any public officer authorised in writing in this behalf by the Director;

“vessel” includes—

- (a) any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation; and
- (b) any other description of vessel in Hong Kong or in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation.

“vessel without nationality” means a vessel which—

- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or
- (b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience;

“waters of Hong Kong” means waters of Hong Kong within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap 1).

[cf. 2015 c. 30 s. 39 U.K.]

8. Part XVIII added

After Part XVII—

Add

“Part XVIII

Transparency in Supply Chains etc

189. Transparency in supply chains etc

(1) A commercial organisation within subsection (2) must prepare a slavery and human trafficking statement for each financial of the organisation.

(2) A commercial organisation is within this subsection if it—

(a) supplies goods or services, and

(b) has a total turnover of not less than an amount prescribed by regulations made by the Chief Executive.

(3) For the purposes of subsection (2)(b), an organisation’s total turnover is to be determined in accordance with regulations made by the Chief Executive.

(4) A slavery and human trafficking statement for a financial year is—

(a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place —

(i) in any of its supply chains, and

(ii) in any part of its own business, or

(b) a statement that the organisation has taken no such steps.

(5) An organisation’s slavery and human trafficking statement may include information about —

(a) the organisation’s structure, its business and its supply chains;

(b) its policies in relation to slavery and human trafficking;

(c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;

(d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;

(e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;

(f) the training about slavery and human trafficking available to its staff.

(6) A slavery and human trafficking statement —

- (a) if the organisation is a body corporate other than a limited liability partnership, must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent);
- (b) if the organisation is a limited liability partnership, must be approved by the members and signed by a designated member;
- (c) if the organisation is a limited partnership registered under the Limited Partnerships Ordinance, must be signed by a general partner,
- (d) if the organisation is any other kind of partnership, must be signed by a partner.

(7) If the organisation has a website, it must —

- (a) publish the slavery and human trafficking statement on that website, and
- (b) include a link to the slavery and human trafficking statement in a prominent place on that website's homepage.

(8) If the organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.

(9) The Chief Executive —

- (a) may issue guidance about the duties imposed on commercial organisations by this section,
- (b) must publish any such guidance in a way the Chief Executive considers appropriate.

(10) The guidance may in particular include further provision about the kind of information which may be included in a slavery and human trafficking statement.

(11) The duties imposed on commercial organisations by this section are enforceable by the Chief Executive bringing civil proceedings in the High Court for an injunction for specific performance under this sections.

(12) For the purposes of this section —

“commercial organisation” means —

- (a) a body corporate (wherever incorporated) which carries on a business, or part of a business in Hong Kong, or
 - (b) a partnership (wherever formed) which carries on a business, or part of a business in Hong Kong,
- and for this purpose “business” includes a trade or profession;

“partnership” means —

- (a) a partnership within the Partnership Ordinance, or

- (b) a limited partnership registered under the Limited Partnership Ordinance, or
- (c) a firm, or an entity of a similar character, formed under the law outside Hong Kong;

“slavery and human trafficking” means —

- (a) conduct which constitutes an offence under sections 129, 162, 163 or 165 of this Ordinance,

[cf. 2015 c. 30 s. 54 U.K.]

9. Schedule 3 added

After Schedule 2—

Add

“Schedule 3

Offences to which defence in section 168 does not apply

Common law offences

1. False imprisonment.
2. Kidnapping.
3. Manslaughter.
4. Murder.
5. Perverting the course of justice.
6. Piracy.

Crimes Ordinance (Cap 200)

7. An offence under any of the following provisions of the Crimes Ordinance (Cap 200)—
 - section 2 (Treason)
 - section 3 (Reasonable offences)
 - section 19 (Piracy with violence)
 - section 24 (threatening a person with intent)
 - section 25 (assaulting with intent to cause certain acts to be done or omitted)
 - section 53 (causing explosion likely to endanger life or property)
 - section 54 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property)
 - section 55 (making or possession of explosive)
 - section 60 (destroying or damaging property)
 - section 61 (threats to destroy or damage property)
 - section 118 (rape)
 - section 118A (Non-consensual buggery)
 - section 118B (Assault with intent to commit buggery)
 - section 118E (Buggery with mentally incapacitated person)

section 118G (Procuring others to commit homosexual buggery)
section 118K (Procuring gross indecency by man with man)
section 119 (Procurement by threats)
section 120 (Procurement by false pretences)
section 121 (Administering drugs to obtain or facilitate unlawful sexual act)
section 122 (Indecent assault)
section 125 (Intercourse with mentally incapacitated person)
section 126 (Abduction of unmarried girl under 16)
section 127 (Abduction of unmarried girl under 18 for sexual intercourse)
section 128 (Abduction of mentally incapacitated person from parent or guardian for sexual act)
section 130 (Control over persons for purpose of unlawful sexual intercourse or prostitution)
section 131 (Causing prostitution)
section 132 (Procurement of girl under 21)
section 133 (Procurement of mentally incapacitated person)
section 134 (Detention for intercourse or in vice establishment)
section 135 (Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16)
section 136 (Causing or encouraging prostitution of mentally incapacitated person)
section 137 (Living on earnings of prostitution of others)
section 138A (Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances)
section 139 (Keeping a vice establishment)
section 140 (Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse)
section 141 (Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act)
section 142 (Permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act)
section 162 (slavery, servitude and forced or compulsory labour)
section 163 (human trafficking).

Offences against the Person Ordinance (Cap 212)

8. An offence under any of the following provisions of the Offences Against the Person Ordinance (Cap 212)—

section 5 (Conspiring or soliciting to commit murder)
section 10 (Administering poison or wounding with intent to murder)
section 11 (Destroying or damaging building with intent to murder)
section 12 (Setting fire to or casting away ship with intent to murder)
section 13 (Attempting to administer poison, or shooting, or attempting to shoot or drown, etc., with intent to murder)
section 14 (Attempting to commit murder by means not specified)

section 15 (Sending letter threatening to murder)
section 16 (Impeding person endeavouring to save himself or another from shipwreck)
section 17 (Shooting or attempting to shoot, or wounding or striking with intent to do grievous bodily harm)
section 19 (Wounding or inflicting grievous bodily harm)
section 20 (Attempting to choke, etc., in order to commit indictable offence)
section 21 (Using chloroform, etc., in order to commit indictable offence)
section 22 (Administering poison, etc., so as to endanger life or inflict grievous bodily harm)
section 26 (Exposing child whereby life is endangered)
section 27 (Ill-treatment or neglect by those in charge of child or young person)
section 28 (Causing bodily injury by gunpower, etc.)
section 29 (Causing gunpowder to explode, etc., or throwing corrosive fluid, with intent to do grievous bodily harm)
section 30 (Placing gunpowder near building, etc., with intent to do bodily injury)
section 31 (Setting spring gun, etc., with intent to inflict grievous bodily harm)
section 32 (Placing wood, etc., on a railway with intent to endanger passengers)
section 33 (Driver of carriage, etc., injuring person by furious driving)
section 35 (Assault magistrate, etc., on account of his preserving wreck)
section 36 (Assault with intent to commit offence, or on police officer, etc.)
section 42 (Forcible taking or detention of person, with intent to sell him)
section 43 (Stealing child under 14 years)
section 44 (Unlawful transfers of possession, custody or control of other persons for valuable consideration)
section 45 (Bigamy)
section 46 (Administering drug or using instrument to procure abortion)
section 47 (Procuring drug, etc., with intent to cause abortion)
section 47A (Medical termination of pregnancy)
section 47B (Child destruction)
section 47C (Infanticide).

Crimes (Torture) Ordinance (Cap 427)

9. An offence under any of the following provisions of the Crimes (Torture) Ordinance (Cap 427)—
 section 3 (Torture).

Internationally Protected Persons and Taking of Hostages Ordinance (Cap 468)

10. An offence under any of the following provisions of the Internationally Protected Persons and Taking of Hostages Ordinance (Cap 468)—
section 3 (Attacks and threats of attack on protected persons)
section 4 (Hostage taking)
section 5 (Attempts etc.).

Aviation Security Ordinance (Cap 494)

11. An offence under any of the following provisions of the Aviation Security Ordinance (Cap 494)—
section 8 (Hijacking)
section 9 (Destroying, damaging or endangering safety of aircraft)
section 10 (Offences in relation to certain dangerous articles)
section 11 (Other acts endangering or likely to endanger safety of aircraft)
section 12 (Acts of violence committed during hijacking or attempted hijacking, etc.)
section 12A (Acts of violence, threats, destruction of property, etc., in general)
section 12B (Offences in relation to unruly behaviour, etc.).

United Nations (Anti-Terrorism Measures) Ordinance (Cap 575)

12. An offence under any of the following provisions of the United Nations (Anti-Terrorism Measures) Ordinance (Cap 575)—
section 4 (Offences).

Prevention of Child Pornography Ordinance (Cap 579)

13. An offence under any of the following provisions of the Prevention of Child Pornography Ordinance (Cap 579)—
section 3 (Offences relating to child pornography).”

10. Schedule 4 added

After Schedule 3—

Add

“Schedule 4

Enforcement Powers in Relation to Vessels

Introductory

1. This Schedule sets out the powers exercisable by Hong Kong public or enforcement officers under sections 186 and 187(1).

Power to stop, board, divert and detain

2. This paragraph applies if a Hong Kong public or enforcement officer has reasonable grounds to suspect that—

- (a) an offence under sections 162 or 163 is being, or has been, committed on the vessel, or
 - (b) the vessel is otherwise being used in connection with the commission of an offence under either of those sections.
3. The public or enforcement officer may—
- (a) stop the vessel;
 - (b) board the vessel;
 - (c) require the vessel to be taken to a port in Hong Kong or elsewhere and detained there.
4. Except as provided by paragraph (6), authority of the Chief Executive is required before a public or enforcement officer may exercise the power conferred by paragraph (3)(c) to require the vessel to be taken to a port outside Hong Kong.
5. Authority for the purposes of sub-paragraph (4) may be given only if the State or relevant territory in which the port is located is willing to receive the vessel.
6. If the public or enforcement officer is acting under authority given for the purpose of section 186(5), the public and enforcement officer may require the vessel to be taken to—
- (a) a port in the home state or relevant territory in question, or
 - (b) if the home state or relevant territory requests, any other State or relevant territory willing to receive the vessel.
7. The public or enforcement officer may require the master of the vessel, or any member of its crew, to take such action as is necessary for the purposes of paragraph (3) or (6).
8. A public or enforcement officer must give notice in writing to the master of any vessel detained under this paragraph.
9. The notice must state that the vessel is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a public or enforcement officer.

Power to search and obtain information

10. This paragraph applies if a Hong Kong public or enforcement officer has reasonable grounds to suspect that there is evidence on the vessel (other than items subject to legal privilege) relating—
- (a) to an offence under sections 162 or 163 is being,
 - (b) to an offence that is connected with an offence under either of those sections.
11. The public or enforcement officer may search—
- (a) the vessel;

- (b) anyone on the vessel;
- (c) anything on the vessel (including cargo).

12. The public or enforcement officer may require a person on the vessel to give information about himself or herself or about anything on the vessel.
13. The power to search conferred by paragraph 11—
- (a) is only a power to search to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in paragraph 10, and
 - (b) in the case of a search of a person, does not authorise a public or enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.
14. In exercising a power conferred by paragraphs 11 or 12 a public or enforcement officer may—
- (a) open any containers;
 - (b) require the production of documents, books or records relating to the vessel or anything on it (but not including anything the public or enforcement officer has reasonable grounds to believe to be an item subject to legal privilege);
 - (c) make photographs or copies of anything the production of which the public or enforcement officer has power to require.
15. The power in paragraph 14(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.
16. Paragraph 14 is without prejudice to the generality of the power conferred by paragraphs 11 and 12.

Power of arrest and seizure

17. This paragraph applies if a Hong Kong public or enforcement officer has reasonable grounds to suspect that an offence under sections 162 or 163 has been, or is being, committed on the vessel.
18. The public or enforcement officer may arrest without warrant anyone whom the public or enforcement officer has reasonable grounds for suspecting to be guilty of the offence.
19. The public or enforcement officer may seize and detain anything found on the ship which appears to the public or enforcement officer to be evidence of the offence (but not including anything that the public or enforcement officer has reasonable grounds to believe to be an item subject to legal privilege).

Code of practice

20. The Chief Executive must prepare and issue a code in respect of the practice to be followed by Hong Kong public and enforcement officers when arresting a person under the power conferred by paragraphs 17 to 19.

21. The code must in particular provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters).

22. A failure of a public or enforcement officer to comply with any provision of the code does not itself render the constable or officer liable to any criminal or civil proceedings.

23. The code—

- (a) is admissible in evidence in criminal and civil proceedings, and
- (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

24. The Chief Executive may at any time revise the whole or any part of the code.

25. The code, or any revision of the code, does not come into operation until the Chief Executive so provides in regulations.

26. Regulations under this paragraph are to be made by statutory instrument.

27. An instrument containing regulations under this paragraph that bring the code into operation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of the Legislative Council.

28. An instrument containing regulations under this paragraph that bring a revision of the code into operation must be laid before the Legislative Council (if the regulations are made without a draft having been laid and approved as mentioned in paragraph 27).

29. Where an instrument, or a draft of an instrument, is laid, the code or revision of the code to which it relates must also be laid.

Assistants

30. A Hong Kong public or enforcement officer may—

- (a) be accompanied by other persons, and
- (b) take equipment or materials,

to assist the public or enforcement officer in the exercise of powers under this Part of this Schedule.

31. A person accompanying a public or enforcement officer under paragraph 30 may perform any of the public or enforcement officer's functions under this Part of this Schedule, but only under the public or enforcement officer's supervision.

Reasonable force

32. A Hong Kong public or enforcement officer may use reasonable force, if necessary, in the performance of functions under this Part of this Schedule.

Evidence of authority

33. A Hong Kong public or enforcement officer must produce evidence of the public or enforcement officer's authority if asked to do so.

Protection of public and enforcement officers

34. A Hong Kong public or enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Part of this Schedule if the court is satisfied that—

- (a) the act was done in good faith, and
- (b) there were reasonable grounds for doing it.

Offences

35. A person commits an offence under the law of Hong Kong if the person—

- (a) intentionally obstructs a public or enforcement officer in the performance of functions under this Part of this Schedule, or
- (b) fails without reasonable excuse to comply with a requirement made by a public or enforcement officer in the performance of those functions.

36. A person who provides information in response to a requirement made by a public or enforcement officer in the performance of functions under this Part of this Schedule commits an offence under the law of Hong Kong if—

- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
- (b) the person intentionally fails to disclose any material particular.

37. A person guilty of an offence under this paragraph is liable on summary conviction to a fine.

Part 3

Amendments to Organized and Serious Crimes Ordinance

11. Offences relevant to definitions of "organized crime" and "specified offence"

Schedule 1 to the Organized and Serious Crimes Ordinance (Cap 455) is amended, in paragraph 11, by adding before "12. Theft Ordinance (Cap 210)"---

"section 162 Slavery, servitude and forced or compulsory labour

section 163	Human trafficking
section 165	Committing offence with intent to commit the offence of human Trafficking
section 166	Forced marriage offences”
and removing after “section 120 procurement of person by false pretences” ---	
“section 129	trafficking to or from Hong Kong in persons”.

現代奴隸制草案 2017

法案

呈於

修改《刑事罪行條例》，增加有關奴隸制、奴工及強迫或強制勞工、強迫婚姻及有關人口販賣條例，包括對受害者保護的條例；打擊奴隸制、奴工及強迫或強制勞工，強迫婚姻及有關人口販賣；賦予香港人權法案第 4 條的權力；賦予 1957 年關於廢除奴隸制的補充公約第 1 條的權力；以及提供其他相關事務的保障。

經由立法會通過

第 I 部

導言

1. 簡稱及生效時間

本條例可引稱為《現代奴隸制條例 2017》。

本條例將於刊登於憲報當日起生效。

第 II 部

《刑事罪行條例》之修改

2. 刑事罪行條例修改

刑事罪行條例之修改記錄在以下第 3,4,5,6,7 及 8 條。

3. 廢除第 129 條

第 129 條

廢除此條例

4. 加入第 XI 部

在第 XIII 部之後

加入

“第 XIV 部

奴隸制及人口販賣

162. 奴隸制、奴工及強迫或強制勞工

(1) 任何人作出以下行為，即屬刑事罪行—

(a) 令他人作奴隸或奴工而知道或應知道他人作奴隸或奴工；

(b) 要求他人作強迫或強制勞工而知道或應知道他人作強迫或強制勞工；

(2)就第(1)款而言，令他人作奴隸或奴工或要求他人作強迫或強制勞工的提述)應根據香港人權法案第 4 條解釋。

(3)在決定一人是否奴隸或奴工或被要求作強迫或強制勞工，應顧及一切有關情況。

(4)例如，應顧及以下情況

(a)任何個人情況(例如那人是兒童，那人的家庭關係以及任何精神及身體問題)令那人比其他人更弱勢；或

(b)根據第 164 條(3)至(6)款，那人提供的工作或服務可被視為被人嚴重剝削。

(5)那人(無論是成人或兒童)對任何被指稱為奴隸制或奴工或被強迫或強制勞工的行為之同意，並不妨礙那人是否奴隸或奴工或強迫或強制勞工之決定。

(6)任何人於此條文下犯罪—

(a) 循公訴程序定罪，可處終身監禁；或

(b) 循簡易程序定罪後，可處監禁不超過 12 個月及罰款\$100000 或其中一項。

[比照 2015 c. 30 s. 1 U.K.]

163.人口販賣

(1)任何人安排或促進另一人(“V”)的運送以達到剝削 V 之目的即屬犯罪。

(2)V(無論是成人或兒童)對於運送的同意是不相關的。

(3)任何人可以以招聘 V，運送和轉移 V，接待或接見 V，或轉移或交換對 V 的操控的形式安排或促進 V 的運送。

(4)任何人只於以下情況被視為安排或促進 V 的運送以剝削 V—

那人在運送的途中或之後(在世界各地)企圖剝削 V；或

那人知道或應知道他人將可能在運送的途中或之後(在世界各地)剝削 V。

(5)運送指—

(a) 抵達，或進入香港或其他國家；

(b) 離開香港或其他國家；

(c) 在香港或其他國家境內被運送。

(6)任何香港居民在此條例下犯罪，不論—

(a)在哪裡安排和促進運送；

(d)

在哪裡運送。

(7)在以下情況，任何非香港居民將犯罪—

(a)任何安排和促進運送的部份在香港進行；或

(e) 運送的過程包括抵達、進入、離開香港，或在香港境內進行

(8)任何人於此條文下犯罪—

循公訴程序定罪，可處終身監禁；或

(b) 循簡易程序定罪後，可處監禁不超過 12 個月及罰款\$100000 或其中一項。

[比照 2015 c. 30 s. 2 U.K.]

164.剝削的涵義

(1)就第 163 條而言，如以下最少一款適用，此人即被視為被剝削。

奴隸制，奴工及強迫或強制勞工

(2)任何人是以下行為的受害者—

(a)該項行為構成第 162 條的罪行；

(b)若該項行為在香港發生，在該條例下可能構成的罪行。

性剝削

(3)以下行為在任何人身上發生—

該項行為構成《刑事罪行條例》第 XII 部的罪行；

若該項行為在香港發生，在該條例下可能構成的罪行。

器官移除等

(4)任何人被鼓勵、要求或期望作出以下行為—

(a)那人或他人的行為構成《人體器官移植條例》禁止將人體器官作商業交易部第 4 及 5 條的罪行，因為此條例在香港具有效力；

若那人或他人的行為在香港發生，可能構成的罪行。

以強迫、威脅或欺詐以確保服務等

(5)任何人被強迫、威脅或欺詐以促使他或她—

(a)提供任何服務；

(b)提供他人任何利益；或

(c)令他人獲得利益。

確保兒童及弱勢社群的服務

(6)任何人選擇他人基於以下原因，利用或嘗試利用他人以達到第 5 款第(a)、(b)或(c)段的目的—

(a)另一人是兒童，有精神及身體問題或殘疾，或與此人有家庭關係；及

(b)其他成人，或沒有問題或殘疾的人或與有問題或殘疾的人有家庭關係的人可能拒絕就該目的被利用。

[比照 2015 c. 30 s. 3 U.K.]

165.企圖犯人口販賣罪之罪行

(1)如任何人根據第 163 條犯企圖犯罪之罪行(包括協助、教唆、慫使或促致犯在該條例下之任何罪行)，即屬犯此條例的罪行。

(2)任何人於此條文下犯罪 (除第(3)款適用外)—

(a) 循公訴程序定罪，可處監禁不超過 10 年；或

(b)循簡易程序定罪後，可處監禁不超過 12 個月及罰款\$50000 或其中一項。

(3)若此條例下之罪行包括綁架或非法禁錮，此人循公訴程序定罪，可處終身監禁。

[比照 2015 c. 30 s. 4 U.K.]

166.強迫婚姻罪行

- (1) 就本條例而言，若因脅迫、威脅或欺詐，婚姻一方(“受害人”)在沒有自由和完全同意下結婚，該婚姻即屬強迫性。
- (2) 就第(1)款而言，婚姻包括以下：
 - (a) 任何根據香港法律認可之婚姻；
 - (b) 任何在其他國家法律認可之婚姻；
 - (c) 在以下情況下，任何無效、作廢和不被法律認可之婚姻(包括在第(a)或(b)提到的任何婚姻)：
 - (i) 婚姻一方在沒有自由和完全同意下結婚(例如因自然、被促使或與年齡有關之無能力)；
 - (ii) 婚姻一方已於多於一人結婚(在此條例的涵義內)
- (3) 無論受害人被脅迫、威脅或欺詐，第(1)款均適用。
- (4) 任何人(“第一人”)在以下情況下即屬犯罪：
 - (a) 第一人參與行為；及
 - (b) 該項行為引致另一人成為強迫婚姻之受害者。
- (5) 任何人於第(4)款下犯罪，循公訴程序定罪，可處監禁 7 年。
- (6) 任何人在以下情況下，若未能提供合理原因，即屬犯罪：
 - (a) 此人為婚姻一方；及
 - (b) 該婚姻為強迫婚姻；及
 - (c) 此人不是強迫婚姻之受害者。
- (7) 任何人於第(6)款下犯罪—
 - (a) 循公訴程序定罪，可處監禁 7 年；
 - (b) 循簡易程序定罪後，可處監禁不超過 12 個月及罰款\$50000 或其中一項。

[比照澳大利亞刑法典法 1995, s. 270.7B(3) 及廢除奴隸制制的補充公約 1957 Art. 1]

167. 性旅遊

- (1) 就本條例而言，“非法性行為”指
 - (a) 與 16 歲以下的人發生的性行為；
 - (b) 若該行為在香港發生，任何行為將構成以下任何罪行：
 - (i) 強姦、未經同意下進行的肛交，猥褻侵犯；
 - (ii) 企圖犯任何該等罪行；
 - (iii) 協助、教唆、慫恿或促使犯或企圖犯任何該等罪行；及
 - (iv) 以及煽惑犯任何該等罪行；或
 - (c) 若該項行為在香港發生，將構成《防止兒童色情物品條例》第 3 條之罪行。
- (2) 任何人進入或離開香港，以達到與任何人發生非法性行為之目的，即屬犯罪。

- (3) 任何香港居民到任何國家旅遊，或短期或永久在其他國家居住，及與任何人發生非法性行為，即屬犯罪。
- (4) 任何人因商業利益或個人經濟利益安排、促使、誘使和促進他人之旅遊，而知道此人之旅遊目的為參與非法性行為，即屬犯罪。
- (5) 任何人企圖或串謀他人違反第(2)、(3)或(4)款，即屬犯罪。
- (6) 任何人於第(6)款下犯罪—
 - (a) 循公訴程序定罪，可處終身監禁及罰款\$3000000；
 - (b) 循簡易程序定罪後，可處監禁不超過 4 年及罰款\$500000 或其中一項。

[cf. 18 U.S. Code Chapter 117, §2423.]

168. 奴隸制或人口販賣受害者之免責辯護

- (1) 在以下情況，任何人均不屬犯罪—
 - (a) 在構成罪行的行為發生時，此人為 18 歲以下；
 - (b) 此人被強迫作出該項行為；
 - (c) 該強迫歸因於奴隸制或相關剝削；及
 - (d) 合理的人在同一情況及有與此人的相關特點的情況下，沒有不作出該項行為的現實選擇。
- (2) 任何人可因他個人情況被強迫作出某些行為。
- (3) 強迫可在以下情況下歸因於奴隸制或相關剝削—
 - (a) 這是或是部份可構成第(1)款之罪行的行為或是可構成相關剝削的行為；或
 - (b) 這是因此人為或曾經為奴隸制或剝削的受害者的直接結果。
- (4) 在以下情況，任何人均不屬犯罪—
 - (a) 在構成罪行的行為發生時，此人為 18 歲以下；
 - (b) 此人作出該項行為是因他為或曾經為奴隸制或剝削的受害者的直接結果；及
 - (c) 合理的人在同一情況及有與此人的相關特點的情況下，會作出該項行為。
- (5) 就本條例而言—
 - “相關特點”指年齡，性別及其他身體或精神問題或殘疾；
 - “相關剝削”指可歸因於此人為或曾經為奴隸制或剝削的受害者之剝削(在第 164 條的涵義內)。
- (6) 在本條中，行為包括不作為。
- (7) 第(1)及(4)款不適用於附表 3 內之罪行。
- (8) 經立法會批准後，行政長官會同行政會議可下令修改附表 3。

[比照 2015 c. 30 s. 45 U.K.]

169. 在第 XIV 部下的民事訴訟

- (1) 任何人(申索人)的申索指另一人(答辯人)—

- (a) 對申索人作出基於本部之非法行為；
 - (b) 明知會在經濟上得益，或在此人知道或應知道他作出違反本部之作為的情況下，參與經營事業而得到任何有價值的東西
- 可以類似侵權法之民事法律程序進行申索。
- (2) 第 347 章《時效條例》第 4 條不適用於本部之訴訟。
 - (3) 若遲於以下時間開始，在本條例下之法律行動將不被處理—
 - (a) 訴訟原因產生後 10 年；或
 - (b) 若罪行發生時申索人為兒童，該申索人達 18 歲後 10 年；
 - (4) 所有根據本條例存檔之訴訟將於任何因相同事故而產生，而申索人亦為受害者的刑事案件待決期間被擱置。
 - (5) 在第(4)款，“刑事案件”包括調查及起訴和待決中直至在審訊法庭的最後判決。

[比照 18 U.S. Code Chapter 77, §1595.]”

5.加入第 XV 部

在第 XIV 部後—
加入

“第 XV 部

防止奴隸制和人口販賣命令

170.防止奴隸制和人口販賣命令之有關判刑

- (1) 在以下情況，法庭可以對任何人(“被告”)作出防止奴隸制和人口販賣命令—
 - (a) 奴隸制或人口販賣罪行之定罪；
 - (b) 被告因精神錯亂而不因奴隸制或人口販賣罪行被定罪之裁斷；
 - (c) 被告因無行為能力而作出被起訴的行為之裁斷。
- (2)若法庭信納以下事件，可以作出命令—
 - (a) 被告有犯奴隸制或人口販賣罪行之風險；及
 - (b) 若被告犯該罪行，有需要作出命令以保護整體或特定組別人士有可能受到的身體或精神上的傷害。
- (3) “奴隸制或人口販賣罪行”指在第 XIV 部列出的罪行。
- (4) 經立法會批准後，行政長官會同行政會議可下令修改第 XIV 部。
- (5) 就本條例而言，定罪和裁斷包括那些在此條例生效前已有的定罪和裁斷。

[比照 2015 c. 30 s. 14 U.K.]

171.防止奴隸制和人口販賣命令之有關申請

- (1) 法庭可以在以下人士之申請下對任何人(“被告”)作出防止奴隸制和人口販賣命令—
- (a) 主管警務人員；
 - (b) 入境事務主任
 - (c) 律政司司長
- (2) 若法庭信納以下事件，可以作出命令—
- (a) 被告為一相關罪犯(見第 172 條)；及
 - (b) 由於被告首次成為相關罪犯，被告作出行為的方式表示第(3)款的條件已達到。
- (3) 該條件為—
- (a) 被告有犯奴隸制或人口販賣罪行之風險；及
 - (b) 若被告犯該罪行，有需要作出命令以保護整體或特定組別人士有可能受到的身體或精神上的傷害。
- (4) 主管警務人員可在以下情況下根據本條例作出申請—
- (a) 任何人在該主管警務人員的地區下犯罪；或
 - (b) 任何人居住在該主管警務人員的警區；或
 - (c) 該主管警務人員相信任何人處於該地區或企圖前往該地區。
- (5) 根據此條例之申請須以投訴形式，並在任何行使以下地區司法之法庭中提到—
- (a) 相關警區的任何部份；或
 - (b) 被告被指稱作出第(2)(b)款行為的任何地方。
- (6) 若被告為 18 歲以下，在此條例中提及的法院指少年法院。
- (7) 若入境事務主任或律政司司長根據本條例作出申請，該人員必須通知相關警區的主管警務人員。
- (8) 就本條例而言，“相關警區”指—
- (a) 若申請人為主管警務人員，指該人員之警區；
 - (b) 若申請人為入境事務主任或律政司司長，指被告處於之地區或人員相信被告企圖前往地區之警區。
- (9) 就第(2)(b)部而言，被告作出之行為可能被援引為包括在此條例生效前的行為。

[比照 2015 c. 30 s. 15 U.K.]

172. “相關罪犯”之涵義

- (1)就第 171 條而言，若第(2)或(3)款適用於任何人，該人即屬相關罪犯。
- (2) 此款適用於任何人若—
- (a) 該人被裁定奴隸制或人口販賣罪名成立；
 - (b) 該人因精神錯亂而不因奴隸制或人口販賣罪行被定罪之裁斷；
 - (c) 該人因無行為能力而作出被起訴的行為之裁斷；
 - (d) 該人因奴隸制或人口販賣罪行而被警誡。
- (3) 此款適用於任何人，若根據非香港之法律—
- (a) 該人曾被裁定相等罪名成立(無論該人有否被懲處)；
 - (b) 該人因精神錯亂而不因相等罪行被定罪之法庭裁斷；
 - (c) 該人因無行為能力而作出被起訴的行為之法庭裁斷；
 - (d) 該人因相等罪行而被警誡。
- (4) “相等罪行”指該行為—
- (a) 構成於該國家法律下之罪行；及
 - (b) 若該行為發生於香港，根據香港法律，將構成奴隸制或人口販賣罪行。
- (5) 就第(4)款而言，無論非香港之法律怎樣形容該項行為，任何可被懲處的行為均屬罪行。
- (6) 根據第 171 條作出之申請中，若第(3)款被指稱適用於被告，在第(4)(b)款的條件將被當作已符合，除—
- (a) 不遲於法院規則中的時限，被告將他認為條件不符合之意見通知送達申請人，表示該意見之所據理由，及要求申請人證明該條件已被符合；或
 - (b) 法庭容許被告要求申請人證明該條件已被符合，並不須送達該通知。
- (7) 在此條例有關定罪、裁斷及警誡之提述包括包括在此條例生效前的定罪、裁斷及警誡。

[比照 2015 c. 30 s. 16 U.K.]

173.防止奴隸制和人口販賣命令的作用

- (1)防止奴隸制和人口販賣命令禁止被告進行任何在該命令提及的行為。
- (2)命令中只可包括那些法庭信納需要因保護整體或特定人士有可能受到身體或心理上的傷害而禁止的行為。
- (3)該命令可禁止被告在香港或任何香港以外地方作出某些行為。
- (4)
除第 174 條第(4)款另有規定外，防止奴隸制和人口販賣命令在以下時期具有效力—
- (a) 在命令中指明的定期，最少 5 年；或
 - (b) 直至進一步的命令。

- (5) 防止奴隸制和人口販賣命令—
 - (a) 可指明某些禁制在進一步的命令前具有效力，而某些則有定期；
 - (b) 可指明不同時期有不同禁制。
- (6) 若法庭對一個已經被防止奴隸制和人口販賣命令限制的人作出同一命令，較早的命令停止生效。

[比照 2015 c. 30 s. 17 U.K.]

174.出國旅遊的禁制

- (1) 防止奴隸制和人口販賣命令中對出國旅遊的禁制只有不多於 5 年內的生效時限。
- (2) “出國旅遊的禁制”指—
 - (a) 禁制到任何在命令中指名之香港以外國家旅遊；
 - (b) 禁制到任何在命令中提及以外之香港以外國家旅遊；
 - (c) 禁制到任何香港以外國家旅遊。
- (3) 根據第 176 條，第(1)款沒有禁止出國旅遊的禁制被延長(每次不多於 5 年)。
- (4) 具有第(2)(c)款的禁制之防止奴隸制和人口販賣命令必須要求被告在命令中指明之警署交出護照—
 - (a) 在命令生效當天或之前；或
 - (c) 在命令中指明的特定時期。
- (5) 任何交出的護照必須在合理切實可行範圍內盡快退回予任何有已失效而具有第(2)(c)款的禁制之防止奴隸制和人口販賣命令的人士。
- (6) 第(5)款不適用於—
 - (a) 香港以外國家機關發行或代發行，亦被退回到此等機關之護照；
 - (b) 國際組織發行或代發行，亦被退回到此等組織之護照。

[比照 2015 c. 30 s. 18 U.K.]

175.提供名字和地址的要求

- (1)防止奴隸制和人口販賣命令可要求(或對被告施加某些條件)被告遵從第(3)至第(6)款。
- (2) 若法庭信納命令中只可包括那些法庭信納需要因保護整體或特定人士有可能受到身體或心理上的傷害而禁止的行為。

(3)防止奴隸制和人口販賣命令要求被告遵從第(3)至第(6)款送達到被告後三天內，被告需要根據命令中指明的形式通知指定人士相關事項。

(4) 相關事項為一

- (a) 被告的名字；若被告曾用一個以上的名字，每一個他的名字；及
- (b) 被告的住宅地址。

(5) 若被告在被命令限制期間一

- (a) 使用一個沒有在命令下通知的名字，或
- (b) 更改住宅地址，

被告必須根據命令中指明的方式，通知命令中指明的人士有關他新的名字或住宅地址。

(6)該通知必須在被告使用新名字或更改住宅地址後三天內提交。

(7)若命令要求被告通知律政司司長或入境事務主任，律政司司長或入境事務主任必須向每個相關警區之主管警務人員提供任何有關該通知的資料。

(8)“相關警區”指一

- (a) 若被告提交通知有關他的新名字，為被告居住的警區；
- (b) 若被告提交通知有關他的住宅地址更改，為被告居住的警區以及(若不同)被告在更改住宅地址前居住的警區。

[比照 2015 c. 30 s. 19 U.K.]

176.更改、延續及解除

(1)任何符合於第(2)款條件的人可向適當法庭申請將防止奴隸制和人口販賣命令更改、延續或解除。

(2) 這些人為一

- (a) 被告；
- (b) 被告居住警區之主管警務人員；
- (c) 相信被告處於該主管警務人員之警區或企圖前往該警區之主管警務人員；
- (d) 若命令是由主管警務人員根據第 171 條申請，為該主管警務人員；
- (e) 若命令是由入境事務主任根據第 171 條申請，為該入境事務主任；
- (f) 若命令是由律政司司長根據第 171 條申請，為律政司司長；

(3) 在向法庭提出的申請中，法庭在聆聽一

- (a) 申請人；及
- (b) 另外在第(2)款提及的人士(若他們希望有陳詞的機會)後，在法庭認為合適的情況下，可以作任何將防止奴隸制和人口販賣命令更改、延期或解除的命令。

- (4) 防止奴隸制和人口販賣命令可以被延續、更改，或施加額外限制予被告或要求被告遵從第 175 條第(3)至(6)款，若法庭信納—
- (a) 被告有犯奴隸制或人口販賣罪行之風險；及
 - (b) 有需要因保護整體或特定人士有可能受到身體或心理上的傷害而更改或延續命令。
- (5) 任何已延續或更改的命令
- (a) 只能包含那些法庭信納為達到該目的而需要的禁制；
 - (b) 若法庭信納為達到該目的而有其需要，可要求被告遵從第 175 條第(3)至(6)款。
- (6) 法庭不能在沒有以下人士的同意下，在作出命令後 5 年內解除命令—
- (a) 被告及被告居住警區之主管警務人員；或
 - (b) 若命令是由主管警務人員申請，被告及主管警務人員。
- (7) 第(6)款不適用於只具有出國旅遊禁制的命令。
- (8) 在此條例下，申請可在以下情況作出—
- (a) 根據法院規則，適當的法庭為皇室法庭；
 - (b) 在任何其他情況，為被告。
- (9) 若入境事務主任或律政司司長根據此條例作出申請，該主任或律政司司長必須向以下警區之主管警務人員提交申請通知—
- (a) 被告居住的警區；或
 - (b) 入境事務主任或律政司司長相信被告處於或企圖前往之警區。
- (10) 就本條而言，“適當的法庭”指—
- (a) 作出防止奴隸制和人口販賣命令的法庭；
 - (b) 若成人裁判法院作出命令—
 - (i) 該法庭；
 - (ii) 成人裁判法院；
 - (c) 若少年法院作出命令而被告為 18 歲以下—
 - (i) 該法庭；
 - (d) 若少年法院作出命令而被告為 18 歲或以上—
 - (i) 裁判法院。

[比照 2015 c. 30 s. 20 U.K.]

177. 臨時防止奴隸制和人口販賣命令

- (1) 此條例適用於根據第 171 條(“主申請”)作出的申請而未被裁定的情況。
- (2) 臨時防止奴隸制和人口販賣命令之申請—
- (a) 在提出主申請時由申請人同時作出；或

(b) 若已作出主申請，可由該申請人向法庭作出。

(3) 法庭可在公平的情況下作出臨時防止奴隸制和人口販賣命令。

(4) 臨時防止奴隸制和人口販賣命令為禁止被告作出任何命令內行為之命令。

(5) 該命令可禁止被告在香港或香港以外其他作出任何行為。

(6) 該命令可(施加禁制予被告)要求被告遵從第 175 條第(3)至(6)款。

若是如此，那些款將適用猶如防止奴隸制和人口販賣命令為臨時命令。

(7) 該命令—

(a) 只適用於命令指明的特定時期；

(b) 在主申請裁定時，命令將停止生效。

(8) 申請人或被告可向法庭申請將臨時防止奴隸制和人口販賣命令更改、延續或解除。

[比照 2015 c. 30 s. 21 U.K.]

178. 上訴

(1) 被告可對防止奴隸制和人口販賣命令提出上訴—

(a) 若命令根據第 170 條(1)(a)款作出，該命令猶如對被告作出的判刑。

(b) 若命令根據第 170 條(1)(b)或(c)款作出，被告猶如被定罪及該命令猶如對被告作出的判刑。

(c) 若命令根據第 171 條作出，向法庭提出。

(2) 被告可向法庭對臨時防止奴隸制和人口販賣命令提出上訴。

(3) 被告可對命令提出上訴

(a) 若申請已向法庭提出，向上訴法庭提出；

(b) 在任何其他情況，向法庭提出。

(4) 在根據第(1)(c)、(2)或(3)(b)段提出之上訴中，法庭可根據上訴結果有需要時作出命令，亦可在公平的情況下作出有連帶關係或相應引致的命令。

(5) 就第 176 條第(10)款和第 177 條第(8)款而言，任何根據第(1)(c)或(2)向法庭提出上訴作出的命令，將被視為於上訴法庭作出的命令。

(6) 第(5)款不適用於指向於裁判法院重審之命令。

[比照 2015 c. 30 s. 22 U.K.]

6. 第 XVI 部

第 XV 部後

加入

“第 XVI 部

奴隸制和人口販賣風險命令

179. 奴隸制和人口販賣風險命令

- (1) 裁判法院可根據以下人士之申請向任何人(“被告”)作奴隸制和人口販賣風險命令—
 - (a) 主管警務人員；
 - (b) 入境事務主任；或
 - (d) 律政司司長。
- (2) 法庭只可在以下情況下作出命令—
 - (a) 被告有犯奴隸制或人口販賣罪行之風險；及
 - (b) 有需要因保護整體或特定人士有可能受到身體或心理上的傷害而作出命令。
- (3) 主管警務人員只可根據以下條例對任何人作出申請—
 - (a) 該人士居住於該主管警務人員的警區；或
 - (b) 主管警務人員相信該人士處於或企圖進入該警區。
- (4) 此條例下之申請須以投訴形式提出，向包括以下範圍之司法地區的裁判法院提出—
 - (a) 任何有關警區之部份；或
 - (b) 任何指稱該人士作出第(2)款之行為的地方。
- (5) 若被告為 18 歲以下，此條例下之裁判法院指少年法院。
- (6) 若入境事務主任或律政司司長根據本條例作出申請，該人員必須通知相關警區的主管警務人員。
- (7) “相關警區”指—
 - (a) 若申請人為主管警務人員，指該人員之警區；
 - (b) 若申請人為入境事務主任或律政司司長，指被告處於之地區或人員相信被告企圖前往地區之警區。
- (8) 就第(2)款而言，被告作出之行為可能被援引為包括在此條例生效前的行為。

[cf. 2015 c. 30 s. 23 U.K.]

180. 奴隸制和人口販賣風險命令的效力

- (1) 奴隸制和人口販賣風險命令為禁止被告作出任何命令內提及的行為的命令。
- (2) 命令中只可包括那些法庭信納需要因保護整體或特定人士有可能受到身體或心理上的傷害而禁止的行為。

- (3) 該命令可禁止被告在香港或任何香港以外地方作出某些行為。
- (4) 除第 181 條第(1)款另有規定外，奴隸制和人口販賣風險命令在以下時期具有效力—
 - (a) 在命令中指明的定期，最少 2 年；或
 - (b) 直至進一步的命令。
- (5) 奴隸制和人口販賣風險命令
 - (a) 可指明某些禁制在進一步的命令前具有效力，而某些則有定期；
 - (b) 可指明不同時期有不同禁制。
- (6) 若法庭對一個已經被奴隸制和人口販賣風險命令限制的人作出同一命令，較早的命令停止生效。

[比照 2015 c. 30 s. 24 U.K.]

181.出國旅遊的禁制

- (1)防止奴隸制和人口販賣命令中對出國旅遊的禁制只有不多於 5 年內的生效時限。
- (2) “出國旅遊的禁制”指—
 - (a) 禁制到任何在命令中指名之香港以外國家旅遊；
 - (b) 禁制到任何在命令中提及以外之香港以外國家旅遊；
 - (c) 禁制到任何香港以外國家旅遊。
- (3) 根據第 176 條，第(1)款沒有禁止出國旅遊的禁制被延長(每次不多於 5 年)。
- (4) 具有第(2)(c)款的禁制之防止奴隸制和人口販賣命令必須要求被告在命令中指明之警署交出護照—
 - (a) 在命令生效當天或之前；或
 - (b)在命令中指明的特定時期。
- (5) 任何交出的護照必須在合理切實可行範圍內盡快退回予任何有已失效而具有第(2)(c)款的禁制之防止奴隸制和人口販賣命令的人士。
- (6) 第(5)款不適用於—
 - (a) 香港以外國家機關發行或代發行，亦被退回到此等機關之護照；
 - (b) 國際組織發行或代發行，亦被退回到此等組織之護照。
- (1)奴隸制和人口販賣風險命令中對出國旅遊的禁制只有不多於 5 年內的生效時限。
- (2) “出國旅遊的禁制”指—

- (a) 禁制到任何在命令中指名之香港以外國家旅遊；
 - (b) 禁制到任何在命令中提及以外之香港以外國家旅遊；
 - (c) 禁制到任何香港以外國家旅遊。
- (3) 根據第 183 條，第(1)款沒有禁止出國旅遊的禁制被延長(每次不多於 5 年)。
- (4) 具有第(2)(c)款的禁制之防止奴隸制和人口販賣命令必須要求被告在命令中指明之警署交出護照—
- (a) 在命令生效當天或之前；或
 - (b) 在命令中指明的特定時期。
- (5) 任何交出的護照必須在合理切實可行範圍內盡快退回予任何有已失效而具有第(2)(c)款的禁制之奴隸制和人口販賣風險命令的人士。
- (6) 第(5)款不適用於—
- (a) 香港以外國家機關發行或代發行，亦被退回到此等機關之護照；
 - (b) 國際組織發行或代發行，亦被退回到此等組織之護照。

[比照 2015 c. 30 s. 25 U.K.]

182.提供名字和地址的要求

- (1) 奴隸制和人口販賣風險命令可要求(或對被告施加某些條件)被告遵從第(3)至第(6)款。
- (2) 若法庭信納命令中只可包括那些法庭信納需要因保護整體或特定人士有可能受到身體或心理上的傷害而禁止的行為。
- (3) 奴隸制和人口販賣風險命令要求被告遵從第(3)至第(6)款送達到被告後三天內，被告需要根據命令中指明的形式通知指定人士相關事項。
- (4) 相關事項為—
 - (a) 被告的名字；若被告曾用一個以上的名字，每一個他的名字；及
 - (b) 被告的住宅地址。
- (5) 若被告在被命令限制期間—
 - (a) 使用一個沒有在命令下通知的名字，或
 - (b) 更改住宅地址。被告必須根據命令中指明的方式，通知命令中指明的人士有關他新的名字或住宅地址。
- (6) 該通知必須在被告使用新名字或更改住宅地址後三天內提交。
- (7) 若命令要求被告通知律政司司長或入境事務主任，律政司司長或入境事務主任必須向每個相關警區之主管警務人員提供任何有關該通知的資料。
- (8) ” 相關警區” 指—

- (a) 若被告提交通知有關他的新名字，為被告居住的警區；
- (b) 若被告提交通知有關他的住宅地址更改，為被告居住的警區以及(若不同)被告在更改住宅地址前居住的警區。

[比照 2015 c. 30 s. 26 U.K.]

183.更改、延續和解除

(1)任何符合於第(2)款條件的人可向適當法庭申請將奴隸制和人口販賣風險命令更改、延續或解除。

(2) 這些人為—

- (a) 被告；
- (b) 被告居住警區之主管警務人員；
- (c) 相信被告處於該主管警務人員之警區或企圖前往該警區之主管警務人員；
- (d) 若命令是由主管警務人員申請，為該主管警務人員；
- (e) 若命令是由入境事務主任申請，為該入境事務主任；
- (f) 若命令是由律政司司長申請，為律政司司長；

(3) 在向法庭提出的申請中，法庭在聆聽—

- (a) 申請人；及
- (b) 另外在第(2)款提及的人士(若他們希望有陳詞的機會)後，在法庭認為合適的情況下，可以作任何將奴隸制和人口販賣風險命令更改、延期或解除的命令。

(4) 奴隸制和人口販賣風險命令可以被延續、更改，或施加額外限制予被告或要求被告遵從第 182 條第(3)至(6)款，若法庭信納—

- (a) 被告有犯奴隸制或人口販賣罪行之風險；及
- (b) 有需要因保護整體或特定人士有可能受到身體或心理上的傷害而更改或延續命令。

(5) 任何已延續或更改的命令

- (a) 只能包含那些法庭信納為達到該目的而需要的禁制；
- (b) 若法庭信納為達到該目的而有其需要，可要求被告遵從第 182 條第(3)至(6)款。

(6) 法庭不能在沒有以下人士的同意下，在作出命令後 2 年內解除命令—

- (a) 被告及被告居住警區之主管警務人員；或
- (b) 若命令是由主管警務人員申請，被告及主管警務人員。

(7) 若入境事務主任或律政司司長根據此條例作出申請，該主任或律政司司長必須向以下警區之主管警務人員提交申請通知—

- (a) 被告居住的警區；或

(b)入境事務主任或律政司司長相信被告處於或企圖前往之警區。

- (8) 就本條而言，“適當的法庭”指—
- (a) 作出奴隸制和人口販賣風險命令的法庭；
 - (b) 若少年法院作出命令而被告為 18 歲以下—
 - (i) 該法庭；
 - (d) 若少年法院作出命令而被告為 18 歲或以上—
 - (i) 裁判法院。

[比照 2015 c. 30 s. 27 U.K.]

184.臨時奴隸制和人口販賣風險命令

- (1)此條例適用於對奴隸制和人口販賣風險命令(“主申請”)作出的申請而未被裁定的情況。
- (2) 臨時奴隸制和人口販賣風險命令之申請—
- (a) 在提出主申請時由申請人同時作出；或
 - (b) 若已作出主申請，可由該申請人向法庭作出。
- (3)法庭可在公平的情況下作出臨時奴隸制和人口販賣風險命令。
- (4) 臨時奴隸制和人口販賣風險命令為禁止被告作出任何命令內行為之命令。
- (5) 該命令可禁止被告在香港或香港以外其他作出任何行為。
- (6) 該命令可(施加禁制予被告)要求被告遵從第 186 條第(3)至(6)款。
若是如此，那些款將適用猶如奴隸制和人口販賣風險命令為臨時命令。
- (7) 該命令—
- (a) 只適用於命令指明的特定時期；
 - (b) 在主申請裁定時，命令將停止生效。
- (8) 申請人或被告可向法庭申請將臨時奴隸制和人口販賣風險命令更改、延續或解除。

[比照 2015 c. 30 s. 28 U.K.]

185.上訴

- (1) 被告可向法庭提出上訴—
- (a) 反對奴隸制和人口販賣風險命令；
 - (b) 反對臨時奴隸制和人口販賣風險命令；
 - (c) 反對根據第 183 條作出的命令，或拒絕作出該命令的決定。

(2) 法庭可根據上訴結果有需要時作出命令，亦可在公平的情況下作出有連帶關係或相應引致的命令。

(3) 就第 183 條第(8)款和第 184 條第(8)款而言，任何向法庭提出上訴作出的命令，將被視為於上訴法庭作出的命令。

(4) 第(3)款不適用於指向於裁判法院重審之命令。

[比照 2015 c. 30 s. 29 U.K.]

7. 加入第 xvii 部

第 XVI 部之後

加入

“第 XVII 部

海事執法

186. 有關船舶之執法權力

(1) 公職或執法人員在以下地方可行使附表 4 第 I 部(“第 I 部權力”)—

- (a) 在香港或香港水域或外國水域或國際水域的船隻；
- (b) 在香港或香港水域或國際水域但沒有香港國籍的船隻；
- (c) 在香港或香港水域的外國船隻；
- (d) 根據香港法律登記或在香港水域的船隻。

(2) 第 I 部權力只可在以下情況行使—

- (a) 為達到防止、偵測、調查或檢控第(1)或(2)款罪行之目的；及
- (b) 根據本條例其他款。

(3) 在公職人員行使第 I 部權力予在外國水域的香港船隻前，必須得到行政長官授權。

(4) 第(3)款下的授權只可在該外國或相關地區同意下給予。

(5) 在公職人員行使第 I 部權力予在外國水域的香港船隻前，必須得到行政長官授權。

(6) 第(5)款下的權力只可在以下情況適用於外國船隻—

- (a) 原屬國家根據第(2)(A)款之目的要求香港協助；或
- (b) 原屬國家授權香港為該目的行使權力。

(7) 就第(5)款授權有關外國船隻時，行政長官必須考慮原屬國家就第(6)(a)款授權時施加的任何條件或限制(如授權基於該條件或限制)。

[比照 2015 c. 30 s. 35 U.K.]

187. 追捕在香港水域的船隻

- (1) 香港公職人員可於國際水域向船隻行使第 I 部權力若—
- (a) 船隻在該位置被追捕；
 - (b) 在緊接船隻被追捕之前，該船隻在相關的水域；及
 - (c) 符合第(4)款的條件。
- (2) 第 I 部權力只可在以下情況根據第(1)款行使—
- (a) 為達到第 186 條第(2)(a)款的目的。
- (3) 就第(1)(b)款而言，“相關水域”指—
- (a) 若為香港船隻或沒有國籍的船隻，為香港水域或國際水域；
 - (b) 若為外國船隻或根據相關地區登記的船隻，為香港水域。
- (4) 第(1)(c)款提及的條件指—
- (a) 在追捕該船隻前，信號發送到該船隻要求它停止；及
 - (b) 追捕船隻未比中斷。
- (5) 第(4)(a)提及的信號必須是在船隻上可聽見或可看見的。
- (6) 就第(4)(b)款言，在以下的情況下，追捕船隻不視被中斷—
- (a) 追捕的形式和方法；或
 - (b) 進行追捕的船隻或飛機的身份；
- 在追捕的過程中改變。
- (7) 此條例不影響任何公職或執法人員可能在國際法下享有的追捕權力。

[比照 2015 c. 30 s. 38 U.K.]

188. 第 XVII 部釋義

- (1) 在本部—
- “外國船隻”指—
- (c) 在香港以外登記的船隻；或
 - (d) 並沒有登記但享有懸掛香港以外國旗權力的船隻。
- 有關外國船隻的原屬國家指—
- (c) 船隻登記的國家；或

(d) 可享有懸掛該國旗權力的國家。

除第 3 條第(4)款提之本地船隻，“香港船隻”指《商船(本地船隻)條例》提及之本地船隻。

“國際水域”指香港以外之水域或其他國家之水域。

“第 I 部”權力指在該附表第 I 部提及之權力。

“公職人員”指—

- (d) 海事處處長或任何二級海事督察職級以上之公職人員；
- (e) 任何警長職級以上之警員；及
- (f) 任何處長書面授權之公職人員。

“船隻”指—

- (c) 任何船舶、中式帆船、船艇、動力承托的航行器、水上飛機或其他種類用於航行的船隻；及
- (d) 在香港境內或香港水域內並非用於航行或並非建造或改裝作航行用途的其他種類船隻。

“沒有國籍的船隻”指—

- (c) 沒有在任何相關地區登記或享有懸掛任何國家或相關地區國旗的船隻；或
- (d) 在多於兩個國家或相關地區下航行，或因本身的方便在不同地方使用不同國旗。

“香港水域”指《釋義及通則條例》第 3 條下的香港水域。

[比照 2015 c. 30 s. 39 U.K.]

8.加入第 XVIII 部

第 XVII 部之後

加入

“第 XVIII 部

供應鏈之透明度等

189.供應鏈之透明度等

(1) 第(2)款下的商業組織必須於每個財政年度準備奴隸制及人口販賣報表。

- (2) 商業組織被包括在本款下若—
 - (a) 該組織提供商品或服務；及
 - (b) 該組織有不少於行政長官訂明的規例中的營業額。
- (3) 就第(2)(b)而言，組織的營業額以行政長官訂明的規例計算。
- (4) 奴隸制及人口販賣報表為—
 - (a) 組織於該財政年度就保證奴隸制及人口販賣沒有在以下地方發生而作出行動的報表；
 - (i) 在組織的任何供應鏈；及
 - (ii) 在組織任何部份的業務；或
 - (b) 組織於該財政年度沒有作出該行動的報表。
- (5) 組織之奴隸制及人口販賣報表應包括以下資訊—
 - (a) 組織架構、業務及供應鏈；
 - (b) 組織有關奴隸制及人口販賣的政策；
 - (c) 組織在該業務名供應鏈針對奴隸制及人口販賣的應盡努力；
 - (d) 有奴隸制及人口販賣風險的業務的任何部份及供應鏈，以及評估及管理該風險的行動；
 - (e) 保證奴隸制及人口販賣沒有在該組織的業務或供應鏈中發生的成效，並在適當情況下以指標量度表現；
 - (f) 該組織之職員有關奴隸制和人口販賣之訓練。
- (6) 組織之奴隸制及人口販賣報表
 - (a) 若該組織為法團而不是有限責任合夥，必須被董事會(或相等管理機構)批准並由一位董事(或相等)簽署。
 - (b) 若該組織為有限責任合夥，必須由成員批准及由一位指定的成員簽署。
 - (c) 若該組織為有限責任合夥在《有限責任合夥條例》登記，必須由一位普通合夥人簽署。
 - (d) 若該組織為任何類別的合夥，必須由一位合夥人簽署。
- (7) 若該組織有網頁，它必須—
 - (a) 在該網頁發布奴隸制及人口販賣報表；及
 - (b) 在網頁當眼位置的放上奴隸制及人口販賣報表之連結。
- (8) 若該組織沒有網頁，它必須提供一份奴隸制及人口販賣報表予所有提出書面要求取得的人士，及必須在要求提出後 30 天內提供。
- (9) 行政長官—
 - (a) 可發出指引關於此條例施加於商業組織的要求；
 - (b) 必須以行政長官認為合適的方式發布。

(10)指引可特別包括更多有關奴隸制及人口販賣報表應有的資料的條例。

(11)在此條例下施加於商業組織的要求可予行政長官以在高等法院提出強制履行的民事訴訟的方式強制執行。

(12) 就本條而言—

“商業組織”指—

- (c) 在香港經營業務或部份業務的法團(無論在何地成立)；或
- (d) 在香港經營業務或部份業務的合夥(無論在何地成立)；

“業務”包括買賣或專業。

“合夥”指—

- (d) 《合夥條例》提及的合夥；或
- (e) 根據《有限責任合夥條例》登記的有限責任合夥
- (f) 根據香港以外法律成立的商號或具相同特點的實體。

“奴隸制及人口販賣”指—

- (b) 任何行為構成第 129、162、163 或 165 條的罪行。

[比照 2015 c. 30 s. 54 U.K.]

9.加入附表 3

附表 2 之後

加入

“附表 3

第 168 條提及之免責辯護不適用於以下罪行

普通法罪行

- 14. 非法禁錮
- 15. 綁架
- 16. 誤殺
- 17. 謀殺
- 18. 妨礙司法公正
- 19. 海盜

《刑事罪行條例》(第 200 章)

20. 以下任何《刑事罪行條例》提及的罪行—

- 第 2 條 叛逆
- 第 3 條 叛逆性質的罪行

- 第 19 條 有暴力的海盜行為
- 第 24 條 禁止某些恐嚇作為
- 第 25 條 襲擊他人意圖導致作出或不作出某些作為
- 第 53 條 導致相當可能會危害生命或財產的爆炸
- 第 54 條 企圖導致爆炸或製造、存有炸藥意圖危害生命或財產
- 第 55 條 製造或管有炸藥
- 第 60 條 摧毀或損壞財產
- 第 61 條 威脅會摧毀或損壞財產
- 第 118 條 強姦
- 第 118A 條 未經同意下作出的肛交
- 第 118B 條 意圖作出肛交而襲擊
- 第 118E 條 與精神上無行為能力的人作出肛交
- 第 118G 條 促致他人作出同性肛交
- 第 118K 條 促致男子與男子作出嚴重猥褻作為
- 第 119 條 以威脅促致他人作非法的性行為
- 第 120 條 以虛假藉口促致他人作非法的性行為
- 第 121 條 施用藥物以獲得或便利作非法的性行為
- 第 122 條 (Indecent assault)
- 第 125 條 與精神上無行為能力的人性交
- 第 126 條 拐帶年齡在 16 歲以下的未婚女童
- 第 127 條 拐帶年齡在 18 歲以下的未婚女童為使她與人性交
- 第 128 條 拐帶精神上無行為能力的人離開父母或監護人為使其作出性行為
- 第 130 條 控制他人而目的在於使他與人非法性交或賣淫
- 第 131 條 導致賣淫
- 第 132 條 促致年齡在 21 歲以下的女童與人非法性交
- 第 133 條 促致精神上無行為能力的人與人非法性交
- 第 134 條 禁錮他人為使他與人性交或禁錮他人於賣淫場所
- 第 135 條 135 導致或鼓勵 16 歲以下女童或男童賣淫；導致或鼓勵他人與其性交或向其猥褻侵犯
- 第 136 條 導致或鼓勵精神上無行為能力的人賣淫
- 第 137 條 依靠他人賣淫的收入為生
- 第 138A 條 利用、促致或提供未滿 18 歲的人以製作色情物品或作真人色情表演
- 第 139 條 經營賣淫場所
- 第 140 條 准許年齡在 13 歲以下的女童或男童經常前往或置身於處所或船隻以與人性交
- 第 141 條 准許青年經常前往或置身於處所或船隻以作出性交、賣淫、肛交或同性性行為

第 142 條 准許精神上無行為能力的人經常前往或置身於處所或船隻
以作出性交、賣淫或同性性行為

第 162 條 奴隸制、奴工及強迫或強制勞工

第 163 條 人口販賣

《侵害人身罪條例》(第 212 章)

21. 以下任何《侵害人身罪條例》提及的罪行—

第 5 條 串謀或唆使謀殺

第 10 條 意圖謀殺而施用毒藥或傷人

第 11 條 意圖謀殺而摧毀或破壞建築物

第 12 條 意圖謀殺而放火燒船或破壞船舶

第 13 條 意圖謀殺而企圖施用毒藥或射擊或企圖射擊、淹溺等

第 14 條 以未有指明的方法企圖謀殺

第 15 條 發送威脅殺人信件

第 16 條 對他人在船舶失事中試圖逃生或救人加以阻礙

第 17 條 意圖造成身體嚴重傷害而射擊、企圖射擊、傷人或打人

第 19 條 傷人或對他人身體加以嚴重傷害

第 20 條 為了犯可公訴的罪行而企圖使人窒息等

第 21 條 為了犯可公訴的罪行而使用哥羅仿等

第 22 條 為危害生命或使人身體受嚴重傷害而施用毒藥等

第 26 條 遺棄兒童以致生命受危害

第 27 條 對所看管兒童或少年人虐待或忽略

第 28 條 以火藥等導致身體受損傷

第 29 條 意圖造成身體嚴重傷害而導致火藥爆炸等或淋潑腐蝕性液體

第 30 條 意圖造成身體損傷而在建築物等附近放置火藥

第 31 條 意圖對人身體加以嚴重傷害而裝置彈簧槍等

第 32 條 意圖危害乘客等的安全而在鐵路上放置木頭等

第 33 條 各類車輛的司機因狂亂駕駛而傷人

第 35 條 因裁判官等保存遭毀壞船隻貨物而予以襲擊

第 36 條 意圖犯罪而襲擊或襲警等

第 42 條 意圖販賣而將人強行帶走或禁錮

第 44 條 為有值代價而非法移轉對於他人的管有、管養或控制

第 45 條 重婚

第 46 條 施用藥物或使用器具以促致墮胎

第 47 條 意圖導致墮胎而取得藥物等

第 47A 條 由醫生終止妊娠的情況

第 47B 條 殺胎

第 47C 條 殺嬰

《刑事罪行(酷刑)條例》(第 427 章)

22. 以下任何《刑事罪行(酷刑)條例》提及的罪行—
第 3 條 酷刑

《應受國際保護人員及劫持人質條例》(第 468 章)

23. 以下任何《應受國際保護人員及劫持人質條例》提及的罪行—
第 3 條 對應受保護人員的攻擊或攻擊威脅
第 4 條 劫持人質
第 5 條 企圖等

《航空保安條例》(第 494 章)

24. 以下任何《航空保安條例》提及的罪行—
第 8 條 劫機
第 9 條 摧毀或損毀飛機或危害飛機的安全
第 10 條 與某些危險物品有關的罪行
第 11 條 危害或相當可能會危害飛機安全的其他作為
第 12 條 在劫機或企圖劫機期間作出的暴力行為等
第 12A 條 一般暴力行為、威脅、毀壞財產等
第 12B 條 與難受管束行為有關的罪行等

《聯合國(反恐怖主義措施)條例》(第 575 章)

25. 以下任何《聯合國(反恐怖主義措施)條例》提及的罪行—
第 4 條 行政長官指明人及財產為恐怖分子、與恐怖分子有聯繫者或恐怖分子財產

《防止兒童色情物品條例》(第 579 章)

26. 以下任何《防止兒童色情物品條例》提及的罪行—
第 3 條 關於兒童色情物品的罪行

10.加入附表 4

附表 3 之後
加入

“附表 4
於船隻行使之權力

導言

1. 本附表列出香港公職或執法人員在第 186 及 187 條(1)款下可行使的權力。

攔截、登上、使轉向及拘留

2. 若香港公職或執法人員有合理理由懷疑以下情況，本段將適用—
 - (a) 在第 162 或 163 條下的罪行已經或正在船隻上發生；或
 - (b) 有關第 162 或 163 條下的罪行正在船隻上發生。
3. 該公職或執法人員可—
 - (a) 攔截船隻；
 - (b) 登上船隻；
 - (c) 要求船隻被帶到香港港口或其他地方拘留。
4. 除第(6)段另有規定外，公職或執法人員行使第(3)(c)段將船隻帶到香港以外港口時，必須先得行政長官授權。
5. 第(4)款下的授權只可在相關港口或地區表示同意收容該船隻的情況下給予。
6. 若該公職或執法人員正行使第 186 條(5)款下的權力，該人員可要求船隻被帶到—
 - (a) 原屬國家和相關地區之港口；或
 - (b) 若原屬國家和相關地區要求，願意收容該船隻的其他國家或相關地區。
7. 該公職或執法人員可要求船長，或任何船員，作出任何因第(3)或(6)段有需要的行動。
8. 公職或執法人員須以書面通知任何因此段被拘留船隻的船長。
9. 該通知須指明船隻將被拘留直至公職或執法人員以書面通知該拘留通知被撤回。

搜查和獲得資訊的權力

10. 若香港公職或執法人員有合理理由懷疑船隻上有關於以下事項的證據(除享有法律特權的品目外)，本段將適用—
 - (a) 第 162 或 163 條罪行；
 - (b) 有第 162 或 163 條罪行的罪行；
11. 該公職或執法人員可搜查—
 - (a) 船隻；
 - (b) 任何在船隻上的人士；
 - (c) 任何在船隻上的物件(包括貨物)。
12. 該公職或執法人員可要求在船隻上的人士提供有關他/她或任何船隻上物件的資訊。

13. 第 11 段賦予搜查的權力—

- (a) 只是搜查在合理查明第 10 段證據之範圍內的權力；及
- (b) 搜查人士時，並不包括授權公職或執法人員要求任何人士在公眾地方脫去外套、夾克或手套以外的衣物。

14. 行使第 11 或 12 段權力時，公職或執法人員可—

- (a) 打開任何容器；
- (b) 要求交出任何有關船隻或任何船上物件的文件，書籍或記錄(不包括任何公職或執法人員有合理理由相信享有法律特權的品目)
- (c) 將任何公職或執法人員有權要求出的物件拍照或複製。

15. 關於第 14(b)段要求交出文件、書籍和記錄的權力，若文件、書籍和記錄的權力以電子形式存檔，公職或執法人員可要求以可閱及可帶走的形式交出文件，書籍或記錄。

16. 第 14 段不損害第 11 和 12 段權力的一般性。

拘捕和扣押的權力

17. 若香港公職或執法人員有合理理由相信第 162 或 163 條下的罪行已經或正在船隻上進行，本段將適用。

18. 在公職或執法人員有合理理由相信任何人犯罪的情況下，可在沒有手令下拘捕該人士。

19. 該公職或執法人員可扣押及拘留任何在船隻上的物件(不包括任何公職或執法人員有合理理由相信享有法律特權的品目)。

實務守則

20. 行政長官必須準備及發布有關第 17 至 19 段公職或執法人員拘捕人士的實務守則。

21. 此守則須特別指定對被拘捕人士提供的資訊(無論是程序上的權利或其他事務)的指引。

22. 若公職或執法人員未能遵守該守則，該人員不會自動負上刑事或民事的責任。

23. 此守則

- (a) 會在刑事或民事訴訟獲接納為證據；及
- (b) 若法庭或審裁處認為相關，可被該法庭或審裁處考慮。

24. 行政長官可於任何時候修改全部或部份守則。

25. 此守則，或任何守則之修改，只會在行政長官在規例指明後生效。

26. 此段下的規例將由法定文書形式訂立。

27. 除草案已被立法會通過外，任何包含此段下的規例、以令守則生效的文書並不能被訂立。

28. 任何包含此段下的規例、以修改守則的文書，必須由立法會通過外(若規例生效前沒有經第 27 段程序通過)。
29. 若文書和草案被提交，有關守則或守則的修改必須被提交。

助理

30. 任何香港公職或執法人員可—
 - (a) 帶同其他人士；及
 - (b) 帶同裝備或物件；以協助該人員行使此附表中此部的權力。
31. 任何根據第 30 段陪同香港公職或執法人員的人士可執行該人員在此附表中此部的職能，但只限於在該人員的督導下。

合理武力

32. 香港公職或執法人員在執行此附表中此部的職能時，可在有需要的情況下使用合理武力。

獲授權的證明

33. 若香港公職或執法人員被要求，該人員必須出示獲授權的證明。

公職或執法人員之保障

34. 若法庭信納以下情況，香港公職或執法人員不需為任何執行本附表中本部職能時的行為負上刑事或民事的責任—
 - (a) 該人員本着真誠地作出該行為；及
 - (b) 有合理理由作出該行為。

罪行

35. 根據香港法律，任何人在以下情況下，即屬犯罪—
 - (a) 故意妨礙公職或執法人員執行此附表中此部的職能；或
 - (b) 在沒有合理原因下，沒有遵從公職或執法人員執行職能時提出的要求。
36. 任何人根據此附表中此部公職或執法人員的職能之要求提供資訊時，在以下情況即屬犯罪—
 - (a) 要項的資訊為虛假，及該人士知道或罔顧資訊為虛假；或
 - (b) 該人士故意沒有披露任何要項。
37. 任何人在此段犯罪將循簡易程序定罪並罰款。

第 3 部

《有組織及嚴重罪行條例》之修改

9.與“有組織罪行”和“指明的罪行”釋義有關的罪行

修改《有組織及嚴重罪行條例》附表 1 第 11 段，在“12. 《盜竊罪條例》(第 210 章)”前加入—

第 162 條 奴隸制、奴工及強迫或強制勞工

第 163 條 人口販賣

第 165 條 企圖犯人口販賣罪之罪行

第 166 條 強迫婚姻罪

及在 “第 120 條 以欺詐促使他人與人性交” 後

刪去 “第 129 條 販運人口進入或離開香港”

Proposal to establish an Independent Anti-slavery Commission

The Independent Anti-Slavery Commissioner

- (1) The Chief Executive must, after consulting the Legislative Council and the Department of Justice, appoint a person as the Independent Anti-Slavery Commissioner (in this Part “the Commissioner”).
- (2) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment.
- (3) The Chief Executive may pay in respect of the Commissioner any expenses, remuneration or allowances that the Chief Executive may determine.
- (4) The Chief Executive—
 - (a) must before the beginning of each financial year specify a maximum sum which the Commissioner may spend that year,
 - (b) may permit that to be exceeded for a specified purpose, and
 - (c) subject to paragraphs (a) and (b), must defray the Commissioner’s expenditure for each financial year.
- (5) In this Part, “financial year” means—
 - (a) the period beginning with the day on which the first Commissioner takes office and ending with the following 31 March, and
 - (b) each successive period of 12 months.
- (6) The Commissioner may appoint staff.

[cf. 2015 c. 30 s. 40 U.K.]

General functions of Commissioner

- (1) The Commissioner must encourage good practice in—
 - (a) the prevention, detection, investigation and prosecution of slavery and human trafficking offences;
 - (b) the identification of victims of those offences.
- (2) For the purposes of this section a slavery and human trafficking offence is an offence under sections 162, 163, 164, 165, 166, 167, 168 and 169 of the new Crimes Ordinance.
- (3) The things that the Commissioner may do in pursuance of subsection (1) include—
 - (a) making reports on any permitted matter to the Chief Executive, the Legislative Council and the Department of Justice;

- (b) making recommendations to any public authority about the exercise of its functions;
- (c) undertaking or supporting (financially or otherwise) the carrying out of research;
- (d) providing information, education or training;
- (e) consulting public authorities, voluntary organisations and other persons;
- (f) co-operating with or working jointly with public authorities, voluntary organisations and other persons, in Hong Kong or internationally.

(4) The matters to which the Commissioner may have regard in pursuance of subsection (1) include the provision of assistance and support to victims of slavery and human trafficking offences.

(5) In subsection (3)(a) “permitted matter” means a matter which—

- (a) the Chief Executive, the Legislative Council and the Department of Justice have asked the Commissioner to report on, or
- (b) the current strategic plan, approved by the Chief Executive under section 191(6), states is a matter the Commissioner proposes to report on.

(6) The Commissioner must (after ascertaining whether the Chief Executive, the Legislative Council or the Department of Justice wish to exercise the powers conferred by subsection (7) publish each report made under subsection (3)(a).

(7) The Chief Executive may direct the Commissioner to omit from any report before publication any material whose publication the Chief Executive thinks—

- (a) would be against the interests of national security,
- (b) might jeopardise the safety of any person in Hong Kong, or
- (c) might prejudice the investigation or prosecution of an offence under the law of Hong Kong.

[cf. 2015 c. 30 s. 41 U.K.]

Strategic plans and annual reports

(1) The Commissioner must as soon as reasonably practicable after the Commissioner’s appointment, prepare a strategic plan and submit it to the Chief Executive for approval.

(2) The Commissioner must, before the end of the period to which a strategic plan relates (“the current period”), prepare a strategic plan for a period immediately following the current period and submit it to the Chief Executive for approval.

(3) The Commissioner may at any time prepare a revised strategic plan and submit it to the Chief Executive for approval.

- (4) A strategic plan is a plan setting out how the Commissioner proposes to exercise the Commissioner's functions in the period to which the plan relates, which must be not less than one year and not more than three years.
- (5) A strategic plan must in particular—
- (a) state the Commissioner's objectives and priorities for the period to which the plan relates;
 - (b) state any matters on which the Commissioner proposes to report under section 190(3)(a) during that period;
 - (c) state any other activities the Commissioner proposes to undertake during the period in the exercise of the Commissioner's functions.
- (6) The Chief Executive may approve a strategic plan either without modifications or with modifications agreed with the Commissioner.
- (7) The Chief Executive must—
- (a) before approving a strategic plan, consult the Legislative Council and the Department of Justice, and
 - (b) after approving a strategic plan, send a copy of the plan to the Legislative Council and the Department of Justice.
- (8) As soon as reasonably practicable after the end of each financial year the Commissioner must submit to the Chief Executive, the Legislative Council and the Department of Justice an annual report on the exercise of the Commissioner's functions during the year.
- (9) An annual report must include—
- (a) an assessment of the extent to which the Commissioner's objectives and priorities have been met in that year;
 - (b) a statement of the matters on which the Commissioner has reported under section 190(3)(a) during the year;
 - (c) a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner's functions.
- (10) The Chief Executive must lay before the Legislative Council—
- (a) any strategic plan the Chief Executive approves, and
 - (b) any annual report the Chief Executive receives,
- and must do so as soon as reasonably practicable after approving the plan or receiving the report.
- (11) An annual report laid under subsection (1) must not contain material removed from the report under subsection (12).

(12) The Chief Executive may remove from an annual report any material whose publication the Chief Executive thinks—

- (a) would be against the interests of national security,
- (b) might jeopardise the safety of any person in Hong Kong, or
- (c) might prejudice the investigation or prosecution of an offence under the law of Hong Kong.

[cf. 2015 c. 30 s. 42 U.K.]

Duty to co-operate with Commissioner

(1)The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner’s functions.

(2)A specified public authority must so far as reasonably practicable comply with a request made to it under this section.

(3)A public authority which discloses information to the Commissioner in pursuance of subsection (2) does not breach any obligation of confidence owed by the public authority in relation to that information; but this does not apply in relation to patient information.

(4)“Patient information” means information (however recorded) which—

- (a) relates to the physical or mental health or condition of an individual, to the diagnosis of an individual’s condition or to an individual’s care or treatment, or is to any extent derived directly or indirectly from such information, and
- (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information).

(5)Except as provided by subsection (3), subsection (2) does not require or authorise any disclosure of information which contravenes a restriction on the disclosure of information (however imposed).

(6)In this section “specified public authority” means a public authority listed in Schedule 5.

(7)The Chief Executive may by regulations amend that Schedule so as to add or remove a public authority.

(8)Regulations under subsection (7) which add a public authority to Schedule 5 may contain provision modifying the application of this section in relation to that authority.

[cf. 2015 c. 30 s. 43 U.K.]

Restriction on exercise of functions

(1)The Commissioner must not exercise any function in relation to an individual case.

(2)Subsection (1) does not prevent the Commissioner considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue.

[cf. 2015 c. 30 s. 44 U.K.]

Public Authorities Under A Duty To Co-operate With the Commissioner

Law enforcement and border security

A chief officer of police in Hong Kong.

The Department of Justice.

An immigration officer.

An official of the Chief Executive Council exercising functions in relation to immigration or asylum.

A customs and excise official.

Local Government

Legislative Council

District Council

建議成立獨立反奴役委員會

獨立反奴役專員

- (1) 行政長官必須在諮詢立法會和律政司後委任一名獨立反奴役專員 (在這部份稱為「專員」)
- (2) 專員應根據委任的條款擔任職位。
- (3) 行政長官可決定支付專員任何支出、酬金或津貼。
- (4) 行政長官 –
 - (a) 必須於每個財政年度開始前指明專員當年可使用的金額的上限，
 - (b) 可批准為特定用途超逾該上限，及
 - (c) 受限於(a)及(b)段，必須支付專員每個財政年度的開支。
- (5) 在這部份，「財政年度」指 –
 - (a) 由專員擔任職位的一天起至緊隨的 3 月 31 日，和
 - (b) 緊隨的每一個由 12 個月組成的時段。
- (6) 專員可委任職員。

[比照 2015 c. 30 s. 40 U.K.]

專員的一般職能

- (1) 專員必須鼓勵以下工作的好做法 –
 - (a) 預防、偵察、調查和檢控奴役和人口販賣的罪行；
 - (b) 識辨以上罪行的受害人。
- (2) 就本條文而言，奴役和人口販賣的罪行是新《刑事罪行條例》下 162, 163, 164, 165, 166, 167, 168 和 169 條的罪行。
- (3) 專員可根據(1)分條做出包括以下的事 –
 - (a) 向行政長官、立法會和律政司報告獲准事項；
 - (b) 向任何公共機構作出關於行使後者職能的建議；
 - (c) 承諾或支持(財政上或其他方面)進行研究；
 - (d) 提供資料、教育或訓練；
 - (e) 諮詢公共機構、志願機構和其他人士；
 - (f) 與香港或國際的公共機構、志願機構和其他人士合作或聯合工作。

- (4) 專員根據(1)分條可考慮的事情包括向奴役和人口販賣的罪行的受害人提供援助和支持。
- (5) 在 3(a)分條「獲准事項」指 –
- (a) 行政長官、立法會和律政司要求專員報告的事項，或
 - (b) 行政長官根據 191(6)條批准的現今策略計劃所指出是專員建議報告的事項。
- (6) 專員必須(經確定行政長官、立法會和律政司是否希望行使(7)分條所賦予的權力)發布每一份根據(3)(a)分條所作出的報告。
- (7) 當行政長官認為任何材料的發布 –
- (a) 會不利國家安全，
 - (b) 可能危害任何在香港的人的安全，或
 - (c) 可能會妨礙香港法律下的罪行的調查或檢控，
- 行政長官可指示專員在報告發布前從報告中省略該等材料。

[比照 2015 c. 30 s. 41 U.K.]

策略計劃和年度被告

- (1) 專員必須在合理和切實可行的範圍內盡快在獲得委任後預備一份策略計劃，並呈交予行政長官批准。
- (2) 專員必須在一份策略計劃相關的時段(「現今時段」)完結前預備緊隨時段的策略計劃並呈交予行政長官批准。
- (3) 專員可隨時預備一份經修訂的策略計劃並呈交予行政長官批准。
- (4) 策略計劃列出專員如何在該計劃的相關時段提議行使專員的職能，該時段不可少於一年但不可以多於三年。
- (5) 策略計劃必須 –
- (a) 陳述相關時段內專員的宗旨和優次；
 - (b) 陳述相關時段內專員建議根據 190(3)(a)條報告的事項；
 - (c) 陳述相關時段內專員在行使其職能建議承擔進行的的任何其他活動。
- (6) 行政長官可以在不修改策略計劃或作出得專員同意的修改的情況下批准策略計劃。
- (7) 行政長官必須 –
- (a) 在批准策略計劃前諮詢立法會和律政司，和
 - (b) 在批准策略計劃後，把計劃的副本發給立法會和律政司。

(8) 專員必須在合理可行的範圍內盡快在每個財政年度的完結後向行政長官、立法會和律政司遞交專員在該年度行使職能的年度報告。

(9) 年度報告必須包括 –

- (a) 就專員於該年達成其宗旨和優次的程度地評估；
- (b) 專員於該年根據 190(3)(a)報告的事項的聲明；
- (c) 專員於該年在行使其職能承擔進行的的任何其他活動。

(10) 行政長官向立法會呈交 –

- (a) 任何行政長官批准的策略計劃，和
 - (b) 任何行政長官收取的年度報告，
- 及必須在合理可行的範圍內在收到該計劃或報告後呈交。

(11) 根據(1)分條呈交的年度報告不可包含根據(12)分條移除的材料。

(12) 當行政長官認為任何材料的發布 –

- (a) 會不利國家安全，
- (b) 可能危害任何在香港的人的安全，或
- (c) 可能會妨礙香港法律下的罪行的調查或檢控，

行政長官可從年度報告中省略該等材料。

[比照 cf. 2015 c. 30 s. 42 U.K.]

與專員合作的責任

(1) 專員可以要求特定公共機構與專員以專員認為就其職能是必須的方式合作。

(2) 特定公共機構必須在合理可行的範圍內遵從本條下做出的要求。

(3) 公共機構根據(2)分條向專員透露資料並不向任何公共機構違反有關資料的保密責任；但這並不適用於病人資料。

(4) 「病人資料」指不論用任何方式記錄的資料，而該等資料 –

- (a) 關於個別人士的生理和心理健康或狀況」、個別人士的狀況的診斷、個別人士的保健和治療或從該等資料以任何程度直接或間接衍生的資料，和
- (b) (不論是單單透過該資料或結合其他資料)識別個別人士或使個別人士被識別

(5) 除非(3)分條規定外，(2)分條並不要求或授權任何違反以任何方式施加的資料披露限制的資料披露。

(6) 本條內「特定公共機關」指附表 5 列出的公共機構。

(7) 行政長官可透過規例修訂該附表以從中增加或除去公共機構。

(8) (7)分條下增加附表 5 的公共機構的規例可包含本條對該機構的適用性的修改。

[比照 2015 c. 30 s. 43 U.K.]

行使職能的限制

(1) 專員不可就個別案件行使任何職能。

(2) (1)分條不會防止專員在考慮一般問題時考慮個別案件及就個別案件作出結論。

[比照 2015 c. 30 s. 44 U.K.]

有責任與專員合作的公共機構

執法和邊境保安機關

主管警務人員

律政司

入境主任

行政會議擔任有關入境或庇護職責的官員

海關官員

本地政府

立法會

區議會