



# Legal Supplement No. 1

TO THE

# HONG KONG GOVERNMENT GAZETTE

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## CRIMES ORDINANCE 1971.

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**HONG KONG**

No. 60 OF 1971.

*Ordinances not allowed — see G.N.  
2810/71*

I assent.

HUGH NORMAN-WALKER,  
*Acting Governor.**18th November, 1971.*

An Ordinance to consolidate certain penal enactments and to make consequential amendments connected therewith.

[19th November, 1971.]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Crimes Ordinance 1971. Short title.

**PART I.****TREASON.**

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

Treason.

*[cf. 1351, c. 2,  
1795, c. 7, s. 1,  
1817, c. 6, s. 1.]*

- (e) assists by any means whatever any public enemy at war with Her Majesty; or
- (f) conspires with any other person to do anything mentioned in paragraph (a) or (c).

(2) Any person who commits treason shall be guilty of an offence and on conviction upon indictment shall be sentenced to death.

Treasonable offences.  
1848 c. 12, s. 3.

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

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

and manifests such intention by an overt act or by publishing any printing or writing, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

1848, c. 12, s. 7.

(2) It shall be no defence to a charge under this section that any act proved against the person charged amounts to treason under section 2; but no person convicted or acquitted of an offence under this section shall afterwards be prosecuted for treason under section 2 upon the same facts.

Limitations as to trial for treason, etc.  
1695, c. 3, s. 6.

**4.** (1) A person shall not be prosecuted for any offence under section 2 or 3 unless the prosecution is commenced within three years after the offence is committed.

1800, c. 93, s. 1.

(2) This section does not apply to cases in which the overt act alleged is the killing of Her Majesty, or a direct attempt to endanger the life of Her Majesty.

1967, c. 58,  
s. 12(6).

(3) The procedure on trials for treason or misprision of treason shall be the same as the procedure on trials for murder.

Assaults on the Queen.  
1842, c. 51, s. 2.

**5.** Any person who wilfully—

- (a) produces or has near Her Majesty any arms or destructive or dangerous thing with intent to use the same to injure Her Majesty;

(b) with intent to alarm or to injure Her Majesty, or to provoke a breach of the peace or whereby a breach of the peace is likely to be caused—

(i) discharges, or points, aims or presents any arms at or near Her Majesty;

(ii) causes any explosive substance to explode near Her Majesty;

(iii) assaults Her Majesty; or

(iv) throws anything at or upon Her Majesty,

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

## PART II.

### OTHER OFFENCES AGAINST THE CROWN.

6. Any person who wilfully and unlawfully sets fire to or otherwise destroys—

(a) any of Her Majesty's vessels of war, whether afloat or being built or under repair;

(b) any arsenal, aircraft factory or dockyard of Her Majesty or any building erected therein or belonging thereto;

(c) any materials in any dockyard of Her Majesty for building or repairing vessels;

(d) any of Her Majesty's military or naval stores, aircraft material or other munitions of war; or

(e) any place where such stores, material or other munitions are kept or placed,

shall be guilty of an offence and on conviction upon indictment shall be sentenced to death.

Arson of Her Majesty's ships etc.

1772. c. 24. s. 1.

7. Any person who knowingly attempts—

(a) to seduce any member of Her Majesty's forces or any member or officer of the Royal Hong Kong Regiment or of the Royal Hong Kong Auxiliary Air Force from his duty and allegiance to Her Majesty; or

(b) to incite any such person—

(i) to commit an act of mutiny or any traitorous or mutinous act; or

Incitement to mutiny.

1797. c. 70. s. 1.



(ii) to make or endeavour to make a mutinous assembly,

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

Incitement to disaffection.  
1934, c. 56, s. 1.

- 8.** (1) Any person who knowingly attempts to seduce—
- (a) any member of Her Majesty's forces;
  - (b) any member or officer of the Royal Hong Kong Regiment or of the Royal Hong Kong Auxiliary Air Force;
  - (c) any police officer; or
  - (d) any member of the Royal Hong Kong Auxiliary Police Force;

from his duty or allegiance to Her Majesty shall be guilty of an offence.

(2) Any person who—

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

shall be guilty of an offence.

1934, c. 56, s. 2(1).

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

1934, c. 56, s. 3(1).

(4) Any person guilty of an offence under this section shall be liable on conviction upon indictment to a fine of five thousand dollars and to imprisonment for two years.

1934, c. 56, s. 3(4).

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

(6) No prosecution for an offence under this section shall be instituted without the consent of the Attorney General.

1934, c. 56, s. 3(2).

9. (1) If a judge is satisfied by information on oath that there is reasonable ground for suspecting that an offence under section 8 has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may grant a search warrant authorizing a police officer not below the rank of inspector, together with any other police officers—

Power to search and prevent offences under section 8.

[cf. 1934, c. 56, s. 2(2).]

- (a) to enter the premises or place at any time within one month from the date of the warrant, if necessary by force;
- (b) to search the premises or place and any person found therein; and
- (c) to seize anything found on the premises or place or on any such person which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence.

(2) A woman shall not be searched, in pursuance of a warrant granted under subsection (1), except by a woman.

(3) Notwithstanding anything contained in subsection (1)—

(a) a warrant shall only be granted under subsection (1) in respect of an offence suspected to have been committed within the three months prior to the laying of the information thereof;

(b) if a warrant under subsection (1) has been executed on any premises, the police officer who has conducted or directed the search shall—

(i) notify the occupier that the search has taken place, and supply him on request with a list of any documents or other objects which have been removed from the premises; and

(ii) where any documents have been removed from any other person, supply that person with a list of such documents;

(c) anything seized under subsection (1) may be retained for a period not exceeding one month, or if within that period proceedings are commenced for an offence under section 8, until the conclusion of those proceedings; and

(d) section 102 of the Criminal Procedure Ordinance (which makes provision for the disposal of property connected with offences) shall apply to property which has come into the possession of the police under this section as it

(Cap. 221.)

applies to property which has come into the possession of the police in the circumstances mentioned in that section.

Unlawful oaths to commit capital offences. 1812, c. 104, ss. 1 & 6.

**10.** Any person who—

- (a) administers, or is present at and consents to the administering of, any oath or engagement in the nature of an oath, purporting to bind the person who takes it to commit any offence punishable with death; or
- (b) takes any such oath or engagement, not being compelled to do so,

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

Other unlawful oaths to commit offences. 1797, c. 123, ss. 1 & 5.

**11.** Any person who—

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

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

**12.** It shall be no defence to a charge under section 10 or 11 that the person charged was compelled to take any oath or engagement mentioned therein, unless—

- (a) within fourteen days after taking it; or

Compulsion in taking unlawful oaths. 1797, c. 123, s. 2. 1812, c. 104, s. 2.



- (b) if prevented by actual force or sickness, within fourteen days after the termination of such prevention,

the person charged declares—

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

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

13. (1) Any person who—

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

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

(2) Any person who—

- (a) at any meeting mentioned in subsection (1) is trained or drilled in the use of arms or the practice of military exercises or evolutions; or  
 (b) is present at any such meeting for the purpose of being so trained or drilled,

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

### PART III.

#### PIRACY.

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

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

Unlawful  
drilling.  
1819, c. 1, s. 1.

Piracy with  
violence.  
1837, c. 88, s. 2.

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

shall be guilty of an offence and on conviction upon indictment shall be sentenced to death.

Piratical acts.  
1698, c. 7, ss.  
7 & 8.

**15.** (1) A person commits a piratical act if—

- (a) being a British subject, he commits any piracy or robbery or any act of hostility or robbery against other British subjects on the sea under colour of any commission from any foreign ruler or under pretence of authority from any person whatever; or
- (b) being on board any British ship he—
- (i) turns pirate, enemy or rebel, and piratically runs away with the ship, or any boat, munitions or goods;
- (ii) voluntarily yields up the ship, or any boat, munitions or goods to any pirate;
- (iii) brings any seducing message from any pirate, enemy or rebel;
- (iv) assaults the master of the ship in order to prevent him from fighting in defence of his ship and goods;
- (v) confines the master of the ship; or
- (vi) makes or endeavours to make a revolt in the ship.

(2) Any person who commits a piratical act shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

Trading, etc.,  
with pirates.  
1721, c. 24, s. 1.

**16.** Any person who knowingly—

- (a) trades with any pirate;
- (b) furnishes any pirate with any munitions or stores of any kind;
- (c) fits out any vessel with a design to trade with, supply or correspond with any pirate; or
- (d) conspires or corresponds with any pirate,

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

Being found  
on board  
piratical vessel  
and unable  
to prove non-  
complicity.

**17.** (1) Any person who is found within Hong Kong on board any vessel equipped for the purposes of piracy, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for three years.

(2) It shall be a defence to a charge under subsection (1) if the person charged proves—

- (a) that he was not on board the vessel willingly; or
- (b) that he did not know that the vessel was equipped for the purposes of piracy.

18. (1) The Governor in Council may make regulations for all or any of the following matters— Regulations.

- (a) searching vessels and persons for the prevention of piracy;
- (b) imposing such restrictions on the movements and actions of vessels and persons as may seem to him desirable in order to render such search effective; and
- (c) such other measures as may seem to him desirable for the prevention of piracy.

(2) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence, and may prescribe penalties therefor not exceeding a fine of five thousand dollars and imprisonment for six months.

## PART IV.

### REPEALS AND AMENDMENTS.

19. (1) The Incitement to Disaffection Ordinance, the Suppression of Piracy Ordinance and the Treasonable Offences Ordinance are repealed. Repeals and amendments.  
(Cap. 200.)  
(Cap. 218.)  
(Cap. 219.)

(2) The enactments specified in the first column of the Schedule are amended to the extent and in the manner set out in the second column of the Schedule. Schedule.

### SCHEDULE.

[s. 19(2).]

#### AMENDMENTS.

1. Application of English Law Ordinance.	The Schedule is amended by deleting items 1, 4, 9, 23, 25, 29, 30, 34, 36, 40, 41, 42, 43, 45, 49, 51, 53, 54, 67 and 70.	(Cap. 88.)
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2. Sedition Ordinance.	Section 4 is amended by inserting, after subsection (2), the following new subsection—	(Cap. 217.)
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“[cf. 1819, c. 8, ss. 1, 2.]

(3) Where any person has been convicted of an offence under subsection (1) or (2) in respect of any seditious publication, the court may

order the seizure and forfeiture of any copies of the seditious publication in the possession of—

- (a) the person convicted; or
- (b) any other person named in the order, if the court is satisfied by evidence on oath that the copies are in the possession of the other person for the use of the person convicted.

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

Passed by the Hong Kong Legislative Council this 17th day of November, 1971.

R. J. FRAMPTON,  
*Clerk to the Legislative Council.*

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

R. J. FRAMPTON,  
*Clerk to the Legislative Council.*