

Chapter:	210	THEFT ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To revise the law as to theft and similar or associated offences, and in connection therewith to make provision as to criminal proceedings by one party to a marriage against the other; and for other purposes connected therewith.

[1 September 1970] *L.N. 124 of 1970*

(Originally 21 of 1970)

Section:	1	Short title and application		30/06/1997
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PRELIMINARY

- (1) This Ordinance may be cited as the Theft Ordinance.
- (2) Save as otherwise provided by this Ordinance, this Ordinance shall have effect only in relation to offences wholly or partly committed on or after the commencement thereof.

[cf. 1968 c. 60 s. 35(1) U.K.]

Section:	2	Basic definition of theft		30/06/1997
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Expanded Cross Reference:

3, 4, 5, 6, 7

(1) A person commits theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and "thief" (竊賊) and "steal" (偷竊) shall be construed accordingly.

(2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.

(3) Sections 3 to 7 shall have effect as regards the interpretation and operation of this section (and except as otherwise provided by this Ordinance shall apply only for purposes of this section). <* Note - Exp. X-Ref.: Sections 3, 4, 5, 6, 7 *>

[cf. 1968 c. 60 s. 1 U.K.]

Section:	3	"Dishonestly" (不誠實地)		30/06/1997
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- (1) A person's appropriation of property belonging to another is not to be regarded as dishonest-
 - (a) if he appropriates the property in the belief that he has in law the right to deprive the other of it, on behalf of himself or of a third person; or
 - (b) if he appropriates the property in the belief that he would have the other's consent if the other knew of the appropriation and the circumstances of it; or
 - (c) (except where the property came to him as trustee or personal representative) if he appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) A person's appropriation of property belonging to another may be dishonest notwithstanding that he is willing to pay for the property.

[cf. 1968 c. 60 s. 2 U.K.]

Section:	4	"Appropriates" (挪佔)		30/06/1997
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(1) Any assumption by a person of the rights of an owner amounts to an appropriation, and this includes, where he has come by the property (innocently or not) without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

(2) Where property or a right or interest in property is or purports to be transferred for value to a person acting

in good faith, no later assumption by him of rights which he believed himself to be acquiring shall, by reason of any defect in the transferor's title, amount to theft of the property.

[cf. 1968 c. 60 s. 3 U.K.]

Section:	5	"Property" (財產)	30/06/1997
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(1) "Property" (財產) includes money and all other property, real and personal, including things in action and other intangible property.

(2) A person cannot steal land, or things forming part of land and severed from it by him or by his directions, except in the following cases, that is to say-

- (a) when he is a trustee or personal representative, or is authorized by power of attorney, or as liquidator of a company, or otherwise, to sell or dispose of land belonging to another, and he appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in him; or
- (b) when he is not in possession of the land and appropriates anything forming part of the land by severing it or causing it to be severed, or after it has been severed; or
- (c) when, being in possession of the land under a tenancy, he appropriates the whole or part of any fixture or structure let to be used with the land.

(3) For the purposes of subsection (2)-

"land" (土地) does not include incorporeal hereditaments;

"tenancy" (租賃) means a tenancy for years or for any less period and includes an agreement for such a tenancy, but a person who after the end of a tenancy remains in possession by virtue of any Ordinance or otherwise is to be treated as having possession under the tenancy, and "let" (租) shall be construed accordingly.

(4) A person who picks mushrooms growing wild on any land, or who picks flowers, fruit or foliage from a plant growing wild on any land, does not (although not in possession of the land) steal what he picks, unless he does it for reward or for sale or other commercial purpose.

(5) For the purposes of subsection (4) "mushroom" (菌類植物) includes any fungus, and "plant" (植物) includes any shrub or tree.

(6) Wild creatures, tamed or untamed, shall be regarded as property; but a person cannot steal a wild creature not tamed nor ordinarily kept in captivity, or the carcass of any such creature, unless either it has been reduced into possession by or on behalf of another person and possession of it has not since been lost or abandoned, or another person is in course of reducing it into possession.

[cf. 1968 c. 60 s. 4 U.K.]

Section:	6	"Belonging to another" (屬於另一人)	30/06/1997
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(1) Property shall be regarded as belonging to any person having possession or control of it, or having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest).

(2) Where property is subject to a trust, the person to whom it belongs shall be regarded as including any person having a right to enforce the trust, and an intention to defeat the trust shall be regarded accordingly as an intention to deprive of the property any person having that right.

(3) Where a person receives property from or on account of another, and is under an obligation to the other to retain and deal with that property or its proceeds in a particular way, the property or its proceeds shall be regarded (as against him) as belonging to the other.

(4) Where a person gets property by another's mistake, and is under an obligation to make restoration (in whole or in part) of the property or its proceeds or of the value thereof, then to the extent of that obligation the property or its proceeds shall be regarded (as against him) as belonging to the person entitled to restoration, and an intention not to make restoration shall be regarded accordingly as an intention to deprive that person of the property or proceeds.

(5) Property of a corporation sole shall be regarded as belonging to the corporation notwithstanding a vacancy in the corporation.

[cf. 1968 c. 60 s. 5 U.K.]

Section:	7	"With the intention of permanently depriving the other of it" (意圖永久地剝奪他人財產)		30/06/1997
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(1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights; and a borrowing or lending of it may amount to so treating if, but only if, the borrowing or lending of it is for a period and in circumstances making it equivalent to an outright taking or disposal.

(2) Without prejudice to the generality of subsection (1), where a person, having possession or control (lawfully or not) of property belonging to another, parts with the property under a condition as to its return which he may not be able to perform, this (if done for purposes of his own and without the other's authority) amounts to treating the property as his own to dispose of regardless of the other's rights.

[cf. 1968 c. 60 s. 6 U.K.]

Section:	8	Other definitions	45 of 1999	16/07/1999
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(1) Section 5(1) and section 6(1) shall apply generally for the purposes of this Ordinance as they apply for the purposes of section 2.

(2) For the purposes of this Ordinance-
"gain" (獲益) and "loss" (損失) are, except in section 16A, to be construed as extending only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and-

- (a) "gain" includes again by keeping what one has, as well as a gain by getting what one has not; and
 - (b) "loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has;
- (Amended 45 of 1999 s. 2)

"goods" (貨品) except in so far as the context otherwise requires, includes money and every other description of property except land, and includes things severed from the land by stealing.

[cf. 1968 c. 60 s. 34 U.K.]

Section:	9	Theft		30/06/1997
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THEFT, ROBBERY, BURGLARY, ETC.

Any person who commits theft shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

[cf. 1968 c. 60 s. 7 U.K.]

Section:	10	Robbery		30/06/1997
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(1) A person commits robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) Any person who commits robbery, or an assault with intent to rob, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

[cf. 1968 c. 60 s. 8 U.K.]

Section:	11	Burglary		30/06/1997
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(1) A person commits burglary if-

- (a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2); or
- (b) having entered any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) are-

- (a) stealing anything in the building or part of a building in question;

- (b) inflicting on any person therein any grievous bodily harm or raping any woman therein; and
- (c) doing unlawful damage to the building or anything therein.

(3) References in subsections (1) and (2) to a building shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

(3A) The reference in subsection (2)(c) to doing unlawful damage to anything in a building includes-

- (a) unlawfully causing a computer in the building to function other than as it has been established by or on behalf of its owner to function, notwithstanding that the unlawful action may not impair the operation of the computer or a program held in the computer or the reliability of data held in the computer;
- (b) unlawfully altering or erasing any program, or data, held in a computer in the building or in a computer storage medium in the building; and
- (c) unlawfully adding any program or data to the contents of a computer in the building or a computer storage medium in the building. (Added 23 of 1993 s. 6)

(4) Any person who commits burglary shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 14 years.

[cf. 1968 c. 60 s. 9 U.K.]

Section:	12	Aggravated burglary	30/06/1997
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(1) A person commits aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence, or any explosive.

(2) For the purposes of subsection (1)-

"firearm" (火器) includes an airgun or air pistol;

"imitation firearm" (仿製火器) means anything which has the appearance of being a firearm, whether capable of being discharged or not;

"weapon of offence" (攻擊性武器) means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use;

"explosive" (炸藥) means any article manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.

(3) Any person who commits aggravated burglary shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for life.

[cf. 1968 c. 60 s. 10 U.K.]

Section:	13	Removal of articles from places open to the public	30/06/1997
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(1) Subject to subsections (3) and (4), where the public have access to a building in order to view the building or part of it or a collection housed in it, any person who without lawful authority removes from the building or its grounds the whole or part of any article displayed or kept for display to the public in the building or that part of it or in its grounds, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 5 years.

(2) For the purposes of subsection (1)-

"collection" (收藏品) includes a collection got together for a temporary purpose, but references in this section to a collection do not apply to a collection made or exhibited for the purpose of effecting sales or other commercial dealings.

(3) It is immaterial for the purposes of subsection (1) that the public's access to a building is limited to a particular period or particular occasion; but where anything removed from a building or its grounds is there otherwise than as forming part of, or being on loan for exhibition with, a collection intended for permanent exhibition to the public, the person removing it does not thereby commit an offence under this section unless he removes it on a day when the public have access to the building as mentioned in subsection (1).

(4) A person does not commit an offence under this section if he believes that he has lawful authority for the removal of the thing in question or that he would have it if the person entitled to give it knew of the removal and the circumstances of it.

[cf. 1968 c. 60 s. 11 U.K.]

Section:	14	Taking conveyance without authority		30/06/1997
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(1) Subject to subsections (2) and (3), any person who, without having the consent of the owner or other lawful authority, takes any conveyance for his own or another's use, or knowing that any conveyance has been taken without such authority, drives it or allows himself to be carried on or in it, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 7 years. (Amended 7 of 1993 s. 2)

(2) Subsection (1) shall not apply in relation to pedal cycles or rickshaws, but, subject to subsection (3), any person who, without having the consent of the owner or other lawful authority, takes a pedal cycle or rickshaw for his own or another's use, or rides a pedal cycle or rickshaw knowing it to have been taken without such authority, shall be guilty of an offence and shall be liable on conviction to a fine of \$500.

(3) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and the circumstances of it.

(4) For the purposes of this section-
"conveyance" (運輸工具) means any conveyance constructed or adapted for the carriage of a person whether by land, water or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried in or on it, and "drive" shall be construed accordingly; and
"owner" (擁有人) in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement means the person in possession of the conveyance under that agreement.

[cf. 1968 c. 60 s. 12 U.K.]

Section:	15	Abstracting of electricity		30/06/1997
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Any person who dishonestly uses without due authority, or dishonestly causes to be wasted or diverted, any electricity shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 5 years.

[cf. 1968 c. 60 s. 13 U.K.]

Section:	16	Dishonest use of public telephone or telex system		30/06/1997
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Any person who dishonestly uses a public telephone or telex system with intent to avoid payment shall be guilty of an offence and shall be liable on conviction to imprisonment for 2 years.

[cf. 1968 c. 60 Sch. 2 Pt. I Para. 8 U.K.]

Section:	16A	Fraud	45 of 1999	16/07/1999
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(1) If any person by any deceit (whether or not the deceit is the sole or main inducement) and with intent to defraud induces another person to commit an act or make an omission, which results either-

(a) in benefit to any person other than the second-mentioned person; or

(b) in prejudice or a substantial risk of prejudice to any person other than the first-mentioned person,

the first-mentioned person commits the offence of fraud and is liable on conviction upon indictment to imprisonment for 14 years.

(2) For the purposes of subsection (1), a person shall be treated as having an intent to defraud if, at the time when he practises the deceit, he intends that he will by the deceit (whether or not the deceit is the sole or main inducement) induce another person to commit an act or make an omission, which will result in either or both of the consequences referred to in paragraphs (a) and (b) of that subsection.

(3) For the purposes of this section-
"act" (作為) and "omission" (不作為) include respectively a series of acts and a series of omissions;
"benefit" (利益) means any financial or proprietary gain, whether temporary or permanent;
"deceit" (欺騙) means any deceit (whether deliberate or reckless) by words or conduct (whether by any act or omission) as to fact or as to law, including a deceit relating to the past, the present or the future and a deceit as to the intentions of the person practising the deceit or of any other person;
"gain" (獲益) includes a gain by keeping what one has, as well as a gain by getting what one has not;

"loss" (損失) includes a loss by not getting what one might get, as well as a loss by parting with what one has;

"prejudice" (不利) means any financial or proprietary loss, whether temporary or permanent.

(4) This section shall not affect or modify the offence at common law of conspiracy to defraud.

(Added 45 of 1999 s. 3)

Section:	17	Obtaining property by deception	10 of 2005	08/07/2005
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FRAUD AND BLACKMAIL

(1) Any person who by any deception (whether or not such deception was the sole or main inducement) dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(2) For the purposes of this section a person is to be treated as obtaining property if he obtains ownership, possession or control of it, and "obtain" (取得) includes obtaining for another or enabling another to obtain or to retain.

(3) Section 7 shall apply for the purposes of this section, with the necessary adaptation of the reference to appropriating as it applies for the purposes of section 2.

(4) For the purposes of this section-

"deception" (欺騙手段) means any deception (whether deliberate or reckless) by words or conduct (whether by any act or omission) as to fact or as to law, including a deception relating to the past, the present or the future and a deception as to the intentions of the person using the deception or any other person. (Amended 10 of 2005 s. 37)

[cf. 1968 c. 60 s. 15 U.K.]

Section:	18	Obtaining pecuniary advantage by deception	L.N. 163 of 2013	03/03/2014
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(1) Any person who by any deception (whether or not such deception was the sole or main inducement) dishonestly obtains for himself or another any pecuniary advantage shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where-

(a) he is granted by a bank or deposit-taking company, or any subsidiary thereof the principal business of which is the provision of credit-

(i) a credit facility or credit arrangement;

(ii) an improvement to, or extension of, the terms of a credit facility or credit arrangement; or

(iii) a credit to, or a set off against, an account,

whether any such credit facility, credit arrangement or account-

(A) is in his name or the name of another person; or

(B) is legally enforceable or not; (Added 46 of 1986 s. 2)

(b) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement on the terms on which he is allowed to do so, whether any such overdraft, policy of insurance or annuity contract-

(i) is in his name or the name of another person; or

(ii) is legally enforceable or not; or (Replaced 46 of 1986 s. 2)

(c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting.

(3) For the purposes of this section-

"bank" (銀行) means-

(a) a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); and

(b) a bank-

(i) incorporated by or under the law or other authority in any place outside Hong Kong, and in this respect "incorporated" (成立為法團) includes established; and

(ii) which is not a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); (Amended 49 of 1995 s. 53)

"deception" (欺騙手段) has the same meaning as in section 17;

"deposit-taking company" (接受存款公司) means a deposit-taking company or restricted licence bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); (Amended 49 of 1995 s. 53)

"subsidiary" (附屬公司) has the same meaning as in the Companies Ordinance (Cap 622). (Replaced 46 of 1986 s. 2. Amended 28 of 2012 ss. 912 & 920)

[cf. 1968 c. 60 s. 16 U.K.]

Section:	18A	Obtaining services by deception	30/06/1997
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(1) A person who by any deception (whether or not such deception was the sole or main inducement) dishonestly obtains services from another shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(2) It is an obtaining of services where the other is induced to confer a benefit by doing some act, or causing or permitting some act to be done, on the understanding that the benefit has been or will be paid for.

(3) For the purposes of this section, "deception" (欺騙手段) has the same meaning as in section 17.

(Added 45 of 1980 s. 3)

[cf. 1978 c. 31 s. 1 U.K.]

Section:	18B	Evasion of liability by deception	30/06/1997
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(1) Subject to subsection (2), where a person by any deception (whether or not such deception was the sole or main inducement)-

(a) dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's;

(b) with intent to make default (whether the default is permanent or otherwise) in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or

(c) dishonestly obtains any exemption from or abatement of liability to make a payment,

he shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(2) For the purposes of this section "liability" (法律責任) means legally enforceable liability; and subsection (1) shall not apply in relation to a liability that has not been accepted or established to pay compensation for a wrongful act or omission.

(3) For the purposes of subsection (1)(b) a person induced to take in payment a cheque or other security for money by way of conditional satisfaction of a pre-existing liability is to be treated not as being paid but as being induced to wait for payment.

(4) For the purposes of subsection (1)(c) "obtains" (取得) includes obtaining for another or enabling another to obtain.

(5) For the purposes of this section, "deception" (欺騙手段) has the same meaning as in section 17.

(Added 45 of 1980 s. 3)

[cf 1978 c. 31 s. 2 U.K.]

Section:	18C	Making off without payment	30/06/1997
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(1) Subject to subsection (3), a person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount due shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 3 years.

(2) For the purposes of this section "payment on the spot" (即場付款) includes payment at the time of collecting goods on which work has been done or in respect of which service has been provided.

(3) Subsection (1) shall not apply where the supply of the goods or the doing of the service is contrary to law, or where the service done is such that payment is not legally enforceable.

(Added 45 of 1980 s. 3)

Section:	18D	Procuring entry in certain records by deception	L.N. 163 of 2013	03/03/2014
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(1) Any person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception (whether or not such deception was the sole or main inducement) procures the making, omission, altering, abstracting, concealing or destruction of an entry in a record of a bank or deposit-taking company, or any subsidiary thereof the principal business of which is the provision of credit, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(2) For the purposes of this section-

"bank" (銀行) means-

- (a) a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); and
- (b) a bank-
 - (i) incorporated by or under the law or other authority in any place outside Hong Kong, and in this respect "incorporated" (成立為法團) includes established; and
 - (ii) which is not a bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); (Amended 49 of 1995 s. 53)

"deception" (欺騙手段) has the same meaning as in section 17;

"deposit-taking company" (接受存款公司) means a deposit-taking company or restricted licence bank within the meaning of section 2(1) of the Banking Ordinance (Cap 155); (Amended 49 of 1995 s. 53)

"record" (紀錄) includes-

- (a) any document or record used in the ordinary business of a bank or deposit-taking company, or any subsidiary thereof the principal business of which is the provision of credit; and
- (b) any document or record so used which is kept otherwise than in a legible form and is capable of being reproduced in a legible form;

"subsidiary" (附屬公司) has the same meaning as in the Companies Ordinance (Cap 622). (Amended 28 of 2012 ss. 912 & 920)

(Added 46 of 1986 s. 3)

Section:	19	False accounting		30/06/1997
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(1) Where a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another-

- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular,

he shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. (Amended 46 of 1986 s. 4)

(2) For the purposes of this section a person who makes or concurs in making in an account, record or document an entry which is or may be misleading, false or deceptive in a material particular, or who omits or concurs in omitting a material particular from an account, record or document, is to be treated as falsifying the account, record or document. (Amended 23 of 1993 s. 7)

(3) For the purposes of this section, "record" (紀錄) includes a record kept by means of a computer. (Added 23 of 1993 s. 7)

[cf. 1968 c. 60 s. 17 U.K.]

Section:	20	Liability of company officers for certain offences by company		30/06/1997
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(1) Where an offence committed by a body corporate under section 17, 18, 18A, 18B, 18D, 19 or 22(2) is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar

officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly. (Amended 45 of 1980 s. 4; 46 of 1986 s. 5; L.N. 16 of 1991)

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

[cf. 1968 c. 60 s. 18 U.K.]

Section:	21	False statements by company directors, etc.	30/06/1997
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(1) Where an officer of a body corporate or unincorporated association (or person purporting to act as such) with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement or account which to his knowledge is or may be misleading, false or deceptive in a material particular, he shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. (Amended 13 of 1974 s. 9; 46 of 1986 s. 6)

(2) For the purposes of this section a person who has entered into a security for the benefit of a body corporate or association is to be treated as a creditor of it.

(3) Where the affairs of a body corporate or association are managed by its members, this section shall apply to any statement which a member publishes or concurs in publishing in connection with his functions of management as if he were an officer of the body corporate or association.

[cf. 1968 c. 60 s. 19 U.K.]

Section:	22	Suppression, etc. of documents	30/06/1997
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(1) Any person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, destroys, defaces or conceals any valuable security, any will or other testamentary document or any original document of or belonging to, or filed or deposited in, any court or any government department shall be guilty of an offence and shall be liable on conviction indictment to imprisonment for 10 years. (Amended 46 of 1986 s. 7)

(2) Any person who dishonestly, with a view to gain for himself or another or with intent to cause loss to another, by any deception (whether or not such deception was the sole or main inducement) procures the execution of a valuable security shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. (Amended 46 of 1986 s. 7)

(3) Subsection (2) shall apply in relation to the making, acceptance, indorsement, alteration, cancellation or destruction in whole or in part of a valuable security, and in relation to the signing or sealing of any paper or other material in order that it may be made or converted into, or used or dealt with as a valuable security, as if that were the execution of a valuable security.

(4) For the purposes of this section-

"deception" (欺騙手段) has the same meaning as in section 17; and

"valuable security" (有價產權書) means any document creating, transferring, surrendering, or releasing any right to, in or over property, or authorizing the payment of money or delivery of any property, or evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.

[cf. 1968 c. 60 s. 20 U.K.]

Section:	23	Blackmail	30/06/1997
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(1) A person commits blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any unwarranted demand with menaces; and for this purpose a demand with menaces is unwarranted unless the person making it does so in the belief-

(a) that he has reasonable grounds for making the demand; and

(b) that the use of the menaces is a proper means of reinforcing the demand.

(2) The nature of the act or omission demanded is immaterial and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.

(3) Any person who commits blackmail shall be guilty of an offence and shall be liable on conviction upon

indictment to imprisonment for 14 years.

(4) Any person who has in his possession or under his control any letter or writing making any unwarranted demand of any person with menaces shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years.

(5) A person does not commit an offence under subsection (4) if he proves that he had the letter or writing in his possession or control otherwise than with intent to utter it.

[cf. 1968 c. 60 s. 21 U.K.]

Section:	24	Handling stolen goods	30/06/1997
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OFFENCES RELATING TO GOODS STOLEN, ETC.

(1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realization by or for the benefit of another person, or if he arranges to do so.

(2) Any person who handles stolen goods shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 14 years.

[cf. 1968 c. 60 s. 22 U.K.]

Section:	25	Advertising rewards for return of goods stolen or lost	30/06/1997
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Where any public advertisement of a reward for the return of any goods which have been stolen or lost uses any words to the effect that no questions will be asked, or that the person producing the goods will be safe from apprehension or inquiry, or that any money paid for the purchase of the goods or advanced by way of loan on them will be repaid, the person advertising the reward and any person who prints or publishes the advertisement shall be guilty of an offence and shall be liable on conviction to a fine of \$2000.

[cf. 1968 c. 60 s. 23 U.K.]

Section:	26	Scope of offences relating to stolen goods	30/06/1997
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(1) The provisions of this Ordinance relating to goods which have been stolen shall apply whether the stealing occurred in Hong Kong or elsewhere, and whether it occurred before or after the commencement of this Ordinance, provided that the stealing (if not an offence under this Ordinance) amounted to an offence where and at the time when the goods were stolen; and references to stolen goods shall be construed accordingly.

(2) For the purposes of those provisions references to stolen goods shall include, in addition to the goods originally stolen and parts of them (whether in their original state or not)-

- (a) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of the thief as being the proceeds of any disposal or realization of the whole or part of the goods stolen or of goods so representing the stolen goods; and
- (b) any other goods which directly or indirectly represent or have at any time represented the stolen goods in the hands of a handler of the stolen goods or any part of them as being the proceeds of any disposal or realization of the whole or part of the stolen goods handled by him or of goods so representing them.

(3) No goods shall be regarded as having continued to be stolen goods after they have been restored to the person from whom they were stolen or to other lawful possession or custody, or after that person and any other person claiming through him have otherwise ceased as regards those goods to have any right to restitution in respect of the theft.

(4) For the purposes of the provisions of this Ordinance relating to goods which have been stolen (including subsections (1) to (3)) goods obtained in Hong Kong or elsewhere either by blackmail or in the circumstances described in section 17(1) shall be regarded as stolen; and "steal" (偷竊), "theft" (盜竊罪) and "thief" (竊賊) shall be construed accordingly.

[cf. 1968 c. 60 s. 24 U.K.]

Section:	27	Going equipped for stealing, etc.		30/06/1997
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POSSESSION OF HOUSEBREAKING IMPLEMENTS, ETC.

(1) Any person who, when not at his place of abode, has with him any article for use in the course of or in connection with any burglary, theft or cheat shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 3 years.

(2) Where a person is charged with an offence under this section, proof that he had with him any article made or adapted for use in committing a burglary, theft or cheat shall be evidence that he had it with him for such use.

(3) For the purposes of this section an offence under section 14 of taking a conveyance shall be treated as theft, and "cheat" (行騙) means an offence under section 17.

[cf. 1968 c. 60 s. 25 U.K.]

Section:	28	Search for stolen goods		30/06/1997
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ENFORCEMENT AND PROCEDURE

(1) If it is made to appear by information on oath before a magistrate that there is reasonable cause to believe that any person has in his custody or possession or on his premises any stolen goods, the magistrate may grant a warrant to search for and seize the same.

(2) (Repealed 13 of 1995 s. 52)

(3) Where under this section a person is authorized to search premises for stolen goods, he may enter and search the premises accordingly, and may seize any goods he believes to be stolen goods.

(4) Section 102 of the Criminal Procedure Ordinance (Cap 221) (which makes provision for the disposal of property connected with offences) shall apply to property which has come into the possession of the police under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that section.

(5) This section is to be construed in accordance with section 26 and in subsection (2) of this section the references to handling stolen goods shall include any corresponding offence committed before the commencement of this Ordinance.

[cf. 1968 c. 60 s. 26 U.K.]

Section:	29	Evidence and procedure on charge of theft, handling stolen goods, and obtaining by deception		30/06/1997
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(1) Any number of persons may be charged in one indictment, information or charge with reference to the same theft, with having at different times or at the same time handled all or any of the stolen goods, and the persons so charged may be tried together.

(2) On the trial of 2 or more persons charged or indicted for jointly handling any stolen goods, the court or jury may find any one of the accused guilty if the court or jury is satisfied that he handled all or any of the stolen goods, whether or not he did so jointly with the other accused or any of them.

(3) Where a person is being proceeded against for handling stolen goods (but not for any offence other than handling stolen goods), then at any stage of the proceedings, if evidence has been given of his having or arranging to have in his possession the goods the subject of the charge, or of his undertaking or assisting in, or arranging to undertake or assist in, their retention, removal, disposal or realization, the following evidence shall be admissible for the purpose of proving that he knew or believed the goods to be stolen goods-

- (a) evidence that he has had in his possession, or has undertaken or assisted in the retention, removal, disposal or realization of, stolen goods from any theft taking place not earlier than 12 months before the offence charged; and
- (b) (if 7 days notice in writing has been given to him of the intention to prove the conviction) evidence that he has within the 5 years preceding the date of the offence charged been convicted of theft or of handling stolen goods.

(4) In any proceedings for the theft of anything in the course of transmission (whether by post or otherwise), or for handling stolen goods from such a theft, a statutory declaration made by any person that he despatched or received

or failed to receive any goods or postal packet, or that any goods or postal packet, when despatched or received by him were in a particular state or condition, shall be admissible as evidence of the facts stated in the declaration, subject to the following conditions-

- (a) a statutory declaration shall only be admissible where and to the extent to which oral evidence to the like effect would have been admissible in the proceedings; and
- (b) a statutory declaration shall only be admissible if at least 7 days before the hearing or trial a copy of it has been given to the person charged, and he has not, at least 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, given the prosecutor written notice requiring the attendance at the hearing or trial of the person making the declaration.

(5) This section is to be construed in accordance with section 26, and in subsection (3)(b) of this section the reference to handling stolen goods shall include any corresponding offence committed before the commencement of this Ordinance.

(6) In any proceedings for an offence under section 17, 18, 18A or 18B- (Amended 45 of 1980 s. 5)

- (a) (Repealed 13 of 1995 s. 53)
- (b) where-
 - (i) any cheque or other bill of exchange bears any writing purporting to be written by or on behalf of the bank or other person on whom the cheque or bill of exchange was drawn and indicating that payment of the cheque or bill of exchange was refused upon presentation on or after becoming due; or
 - (ii) any document purporting to be made by or on behalf of the bank or other person on whom any cheque or bill of exchange was drawn bears any writing indicating that payment of the cheque or bill of exchange was refused upon presentation on or after becoming due, then payment of the cheque or bill of exchange shall, until the contrary is proved, be deemed to have been so refused;
- (c) the provisions of this subsection shall apply whether or not the bank or other person on whom the cheque or bill of exchange was drawn carries on business in Hong Kong and whether the writing was written on the cheque or bill of exchange or the document within or outside Hong Kong;
- (d) any document purporting to be a document of the kind specified in paragraph (b) or purporting to be a copy or reproduction of any such document shall be admitted in evidence on its production by the prosecution without further proof;
- (e) where any cheque or bill of exchange or any document of the kind specified in paragraph (b), or any copy or reproduction of such document, is to be adduced in evidence, a copy thereof shall be served on the defendant not less than 14 days before the commencement of the trial;
- (f) if service is not effected in accordance with paragraph (e), the court may on application by the accused grant an adjournment for such period as it considers just.

[cf. 1968 c. 60 s. 27 U.K.]

Section:	30	Orders for restitution		30/06/1997
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(1) Where goods have been stolen, and a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence), the court by or before which the offender is convicted may on the conviction exercise any of the following powers-

- (a) the court may order anyone having possession or control of the goods to restore them to any person entitled to recover them from him; or
- (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the first-mentioned goods (as being the proceeds of any disposal or realization of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant; or
- (c) on the application of a person who, if the first-mentioned goods were in the possession of the person convicted, would be entitled to recover them from him, the court may order that a sum not exceeding the value of those goods shall be paid to the applicant out of any money of the person convicted which was taken out of his possession on his apprehension.

(2) Where under subsection (1) the court has power on a person's conviction to make an order against him both under paragraph (b) and under paragraph (c) with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the applicant for the orders does not thereby recover more than the value

of those goods.

(3) Where under subsection (1) the court on a person's conviction makes an order under paragraph (a) for the restoration of any goods, and it appears to the court that the person convicted has sold the goods to a person acting in good faith, or has borrowed money on the security of them from a person so acting, then on the application of the purchaser or lender the court may order that there shall be paid to the applicant, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the applicant or, as the case may be, the amount owed to the applicant in respect of the loan.

(4) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers; and for this purpose "the available documents" (可用的文件) means any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial, the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.

(5) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 83X of the Criminal Procedure Ordinance (Cap 221).

(6) References in this section to stealing are to be construed in accordance with section 26(1) and (4).

[cf. 1968 c. 60 s. 28 U.K.]

Section:	31	Husband and wife	23 of 2003	04/07/2003
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GENERAL AND CONSEQUENTIAL PROVISIONS

(1) This Ordinance shall apply in relation to the parties to a marriage, and to property belonging to the wife or husband whether or not by reason of an interest derived from the marriage, as it would apply if they were not married and any such interest subsisted independently of the marriage.

(2) Subject to subsection (4), a person shall have the same right to bring proceedings against that person's wife or husband for any offence (whether under this Ordinance or otherwise) as if they were not married. (Amended 23 of 2003 s. 10)

(3) (Repealed 23 of 2003 s. 10)

(4) Proceedings shall not be instituted against a person for any offence of stealing or doing unlawful damage to property which at the time of the offence belongs to that person's wife or husband, or for any attempt, incitement or conspiracy to commit such an offence, unless the proceedings are instituted by or with the consent of the Secretary for Justice: (Amended L.N. 362 of 1997)

Provided that-

- (a) this subsection shall not apply to proceedings against a person for an offence-
 - (i) if that person is charged with committing the offence jointly with the wife or husband; or
 - (ii) if by virtue of any judicial decree or order (wherever made) that person and the wife or husband are at the time of the offence under no obligation to cohabit; and
- (b) this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of a person for an offence, or the remand in custody or admission to bail of a person charged with an offence, where the arrest (if without a warrant) is made, or the warrant of arrest issues on an information laid, by a person other than the wife or husband.

[cf. 1968 c. 60 s. 30 U.K.]

Section:	32	Verdict		30/06/1997
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(1) If on the trial of any information, charge or indictment for an offence specified in the first column of the Schedule it is proved that the accused is not guilty of that offence but guilty of one of the offences specified opposite thereto in the second column of that Schedule or of attempting or being a party to an offence so specified, the accused shall be acquitted of the offence originally charged and shall be convicted of such other offence or of attempting or being a party to such other offence and be liable to be punished accordingly.

(2) The references in the Schedule to numbered sections and subsections shall be construed to include every offence under the section or subsection so numbered in this Ordinance.

(3) Nothing in this section or in the Schedule shall exclude the application to any offence of any other law

authorizing a person to be found guilty of an offence other than that with which he is charged.

Section:	33	Effect on civil proceedings and rights	30/06/1997
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(1) A person shall not be excused, by reason that to do so may incriminate that person or the wife or husband of that person of an offence under this Ordinance-

- (a) from answering any question put to that person in proceedings for the recovery or administration of any property, for the execution of any trust or for an account of any property or dealings with property; or
- (b) from complying with any order made in any such proceedings,

but no statement or admission made by a person in answering a question put or complying with an order made as aforesaid shall, in proceedings for an offence under this Ordinance, be admissible in evidence against that person or (unless they married after the making of the statement or admission) against the wife or husband of that person.

(2) Notwithstanding any enactment to the contrary, where property has been stolen or obtained by fraud or other wrongful means, the title to that or any other property shall not be affected by reason only of the conviction of the offender.

[cf. 1968 c. 60 s. 31 U.K.]

Section:	34	Effect on existing law and construction of references to offences	30/06/1997
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(1) The following offences at common law are hereby abolished for all purposes not relating to offences committed before the commencement of this Ordinance, that is to say, any offence at common law of larceny, robbery, burglary, receiving stolen property, obtaining property by threats, extortion by colour of office or franchise, false accounting by public officers, concealment of treasure trove and, except as regards offences relating to the public revenue, cheating.

(2) Except as regards offences committed before the commencement of this Ordinance, and except as the context otherwise requires-

- (a) references in any enactment passed before this Ordinance to an offence abolished or contained in any provision repealed by this Ordinance shall, subject to any express amendment or repeal made by this Ordinance, have effect as references to the corresponding offence under this Ordinance, and in any such enactment "receive" (收受) (when the expression relates to an offence of receiving) shall mean handle, and "receiver" (收受贓物者) shall be construed accordingly; and
- (b) without prejudice to paragraph (a), references in any enactment, whenever passed, to theft or stealing (including references to stolen goods), and references to robbery, burglary, aggravated burglary or handling stolen goods, shall be construed in accordance with the provisions of this Ordinance, including those of section 26.

[cf. 1968 c. 60 s. 32 U.K.]

Section:	35	Transitional provisions	30/06/1997
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(1) Sections 29 and 30 shall apply in relation to proceedings for an offence committed before the commencement of this Ordinance as they would apply in relation to proceedings for a corresponding offence under this Ordinance and shall so apply in place of any corresponding enactment repealed by this Ordinance.

(2) Subject to subsection (1), no repeal or amendment by this Ordinance of any enactment relating to procedure or evidence, or to the jurisdiction or powers of any court, or to the effect of a conviction, shall affect the operation of the enactment in relation to offences committed before the commencement of this Ordinance or to proceedings for any such offence.

[cf. 1968 c. 60 s. 35(2) & (3) U.K.]

Schedule:		SCHEDULE	30/06/1997
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[section 32]

ALTERNATIVE VERDICTS

Offences	Other offences of which the defendant may be found guilty
1. Theft (section 9)	(i) Taking conveyance without authority (section 14). (ii) Obtaining property by deception (section 17). (iii) Obtaining pecuniary advantage by deception (section 18). (iv) Obtaining services by deception (section 18A). (v) Evasion of liability by deception (section 18B). (vi) Making off without payment (section 18C). (vii) False accounting (section 19). (viii) Handling stolen goods (section 24). (ix) Going equipped for stealing (section 27).
2. Robbery (section 10).	(i) Theft (section 9). (ii) Assault with intent to rob (section 10). (iii) Blackmail (section 23(1)). (iv) Handling stolen goods (section 24). (v) Common assault.
3. Assault with intent to rob (section 10).	(i) Theft (section 9). (ii) Robbery (section 10). (iii) Blackmail (section 23(1)). (iv) Common assault.
4. Burglary (section 11).	(i) Theft (section 9). (ii) Handling stolen goods (section 24). (iii) Going equipped for stealing (section 27). (iv) Inflicting grievous bodily harm.
5. Aggravated burglary (section 12).	(i) Theft (section 9). (ii) Burglary (section 11). (iii) Handling stolen goods (section 24). (iv) Going equipped for stealing (section 27). (v) Inflicting grievous bodily harm. (vi) Possession of arms. (vii) Possession of imitation firearm. (viii) Possession of explosive.
6. Taking conveyance without authority (section 14(1)).	Going equipped for stealing (section 27).
7. Obtaining property by deception (section 17).	(i) Theft (section 9). (ii) Obtaining pecuniary advantage by deception (section 18). (iii) Obtaining services by deception (section 18A). (iv) Evasion of liability by deception (section 18B). (v) Making off without payment (section 18C). (vi) Blackmail (section 23(1)). (vii) Handling stolen goods (section 24). (viii) Going equipped for stealing (section 27).
8. Obtaining pecuniary advantage by deception (section 18).	(i) Theft (section 9). (ii) Obtaining property by deception (section 17). (iii) Evasion of liability by deception (section 18B). (iv) Blackmail (section 23(1)).

- (v) Handling stolen goods (section 24).
- 9. Evasion of liability by deception (section 18B).
 - (i) Theft (section 9).
 - (ii) Obtaining property by deception (section 17).
 - (iii) Obtaining pecuniary advantage by deception (section 18).
 - (iv) Obtaining services by deception (section 18A).
 - (v) Making off without payment (section 18C).
 - (vi) Blackmail (section 23(1)).
- 10. Making off without payment (section 18C).
 - (i) Theft (section 9).
 - (ii) Obtaining property by deception (section 17).
 - (iii) Obtaining services by deception (section 18A).
 - (iv) Evasion of liability by deception (section 18B).
 - (v) Blackmail (section 23(1)).
- 11. Blackmail (section 23(1)).
 - (i) Obtaining property by deception (section 17).
 - (ii) Obtaining pecuniary advantage by deception (section 18).
 - (iii) Obtaining services by deception (section 18A).
 - (iv) Evasion of liability by deception (section 18B).
 - (v) Making off without payment (section 18C).
 - (vi) Possession of blackmailing letter (section 23(4)).
 - (vii) Common assault.

(Amended 45 of 1980 s. 6; 13 of 1995 s. 2; 80 of 1997 s. 102)