

~~(b) 經電訊人員要求將他所管有而擬傳遞予另一人的訊息交給該人員，而拒絕或忽略如此行事，即屬犯罪，一經循簡易程序定罪，可處罰款 \$20,000 及監禁 12 個月。~~  
(由 1994 年第 18 號第 8 條修訂)

#### 26. 電訊人員發送未予繳費的訊息

任何電訊人員意圖欺詐而藉電訊發送尚未繳付由本條例或根據本條例訂明的收費的訊息，即屬犯罪，一經循簡易程序定罪，可處罰款 \$20,000 及監禁 2 年。  
(由 1994 年第 18 號第 9 條修訂)

#### 27. 蓄意損壞電訊裝置

任何人損壞、移走或以任何方式干擾電訊裝置，而意圖是——  
(a) 阻止或妨礙任何訊息的發送或傳遞；或  
(b) 截取或找出任何訊息的內容，  
即屬犯罪，一經循簡易程序定罪，可處罰款 \$20,000 及監禁 2 年。  
(由 1994 年第 18 號第 10 條修訂)

#### 27A. 藉電訊而在未獲授權下取用電腦資料

(1) 任何人藉着電訊，明知而致使電腦執行任何功能，從而在未獲授權下取用該電腦所保有的任何程式或數據，即屬犯罪，一經定罪，可處罰款 \$20,000。  
(2) 就第 (1) 款而言——  
(a) 該人的意圖不一定要針對——  
(i) 任何個別程式或數據；  
(ii) 任何個別種類的程式或數據；或  
(iii) 任何個別電腦所保有的程式或數據；

~~(b) having been required by a telecommunications officer to deliver up to him a message in the possession of that person and intended for delivery to some other person, refuses or neglects to do so. (Amended 36 of 2000 s. 28)~~  
shall be guilty of an offence and shall be liable on summary conviction to a fine of \$20,000 and to imprisonment for 12 months.  
(Amended 18 of 1994 s. 8)

#### 26. Transmission by telecommunications officer of message not paid for

A telecommunications officer who, with intent to defraud, transmits by telecommunications a message in respect of which the charge prescribed by or under this Ordinance has not been paid shall be guilty of an offence and shall be liable on summary conviction to a fine of \$20,000 and to imprisonment for 2 years.  
(Amended 18 of 1994 s. 9; 36 of 2000 s. 28)

#### 27. Damaging telecommunications installation with intent

Any person who damages, removes or interferes in any way whatsoever with a telecommunications installation with intent to— (Amended 36 of 2000 s. 28)  
(a) prevent or obstruct the transmission or delivery of a message; or  
(b) intercept or discover the contents of a message,  
shall be guilty of an offence and shall be liable on summary conviction to a fine of \$20,000 and to imprisonment for 2 years.  
(Amended 18 of 1994 s. 10)

#### 27A. Unauthorized access to computer by telecommunications

(1) Any person who, by telecommunications, knowingly causes a computer to perform any function to obtain unauthorized access to any program or data held in a computer commits an offence and is liable on conviction to a fine of \$20,000. (Amended 36 of 2000 s. 28)  
(2) For the purposes of subsection (1)—  
(a) the intent of the person need not be directed at—  
(i) any particular program or data;  
(ii) a program or data of a particular kind; or  
(iii) a program or data held in a particular computer;

- (b) 任何人如無權控制對電腦所保有的程式或數據的有關種類的取用，且有下述情況，則他對電腦所保有的任何程式或數據的該類取用，即屬未獲授權——
- (i) 他未獲有此權利的人授權，使他獲得對該電腦所保有的程式或數據的該類取用；
  - (ii) 他不相信自己已獲如此授權；及
  - (iii) 他不相信若他曾申請適當的授權，則他本已獲如此授權。
- (3) 第(1)款的效力，並不損害關於檢查、搜查或檢取權力的任何法律。
- (4) 儘管有《裁判官條例》(第 227 章)第 26 條的規定，關於本條所訂罪行的法律程序，可在發生該罪行的 3 年內或檢控人發現該罪行的 6 個月內(以最先屆滿的期間為準)任何時間提出。

(由 1993 年第 23 號第 2 條增補)

- (b) access of any kind by a person to any program or data held in a computer is unauthorized if he is not entitled to control access of the kind in question to the program or data held in the computer and—
- (i) he has not been authorized to obtain access of the kind in question to the program or data held in the computer by any person who is so entitled;
  - (ii) he does not believe that he has been so authorized; and
  - (iii) he does not believe that he would have been so authorized if he had applied for the appropriate authority.
- (3) Subsection (1) has effect without prejudice to any law relating to powers of inspection, search or seizure.
- (4) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings for an offence under this section may be brought at any time within 3 years of the commission of the offence or within 6 months of the discovery of the offence by the prosecutor, whichever period expires first.

(Added 23 of 1993 s. 2)

~~28. 虛假或具欺騙性的遇險等的訊息~~

~~任何人藉電訊發送或安排藉電訊發送遇險、緊急、安全或識別的虛假訊號，而——~~

- ~~(a) 明知或相信該訊號是虛假的；或~~
- ~~(b) 意圖欺騙，~~

~~即屬犯罪，一經循簡易程序定罪，可處第 3 級罰款及監禁 2 年。~~

~~(由 1996 年第 62 號第 3 條代替)~~

29. 未經准許而進入某些土地

任何人無合法權限或辯解而進入或逗留在提供電訊服務的人所佔用的任何土地，即屬犯罪，一經循簡易程序定罪，可處罰款 \$5,000。

(由 1994 年第 18 號第 12 條修訂)

30. 違反根據第 33 條所作命令的罰則

任何人不遵從根據第 33 條所作的命令，即屬犯罪，一經循簡易程序定罪，可處罰款 \$20,000 及監禁 12 個月。

(由 1994 年第 18 號第 13 條修訂)

~~28. False or deceptive distress, etc., messages~~

~~A person who transmits, or causes to be transmitted, by telecommunications a false distress, urgency, safety or identification signal—~~

~~(Amended 36 of 2000 s. 28)~~

- ~~(a) knowing or believing it to be false; or~~
- ~~(b) with intent to deceive,~~

~~commits an offence and is liable on summary conviction to a fine at level 3 and to imprisonment for 2 years.~~

~~(Replaced 62 of 1996 s. 3)~~

29. Entry on certain land without permission

Any person who, without lawful authority or excuse, enters or remains on any land in the occupation of a person who provides a telecommunications service shall be guilty of an offence and shall be liable on summary conviction to a fine of \$5,000.

(Amended 18 of 1994 s. 12; 36 of 2000 s. 28)

30. Penalty for contravention of order under section 33

Any person who fails to comply with an order under section 33 shall be guilty of an offence and shall be liable on summary conviction to a fine of \$20,000 and to imprisonment for 12 months.

(Amended 18 of 1994 s. 13)

- ~~(5) 保安局局長可藉憲報刊登的命令——(由 1997 年第 362 號法律公告修訂)~~
- ~~(a) 增加或刪除第 (1) 款指明為高性能炸藥的物質，以修訂該款中“塑膠炸藥”(plastic explosive) 的定義；~~
- ~~(b) 增加或刪除指定用作辨認劑的物質以及指明該辨認劑的最低濃度，以修訂第(4)款。~~
- ~~(6) 為施行本部，任何證明書如看來是由政府化驗師簽署，並述明某種爆炸品的特性與第 (1) 款中“塑膠炸藥”(plastic explosive) 的定義指明為高性能炸藥的物質的特性相類似，須被接納為如此述明的事實的證據。~~
- ~~(第 VIIA 部由 1994 年第 52 號第 2 條增補)~~

- ~~(5) The Secretary for Security may by order published in the Gazette—~~
- ~~(a) amend subsection (1) in the definition of “plastic explosive” (塑膠炸藥) by adding or deleting any substance specified in that subsection to be a high explosive;~~
- ~~(b) amend subsection (4) by adding or deleting any substance designated for use as a detection agent and by specifying the minimum concentration for such agent.~~
- ~~(6) For the purpose of this Part, a certificate purporting to be signed by the Government Chemist stating that a particular explosive substance has properties similar to a substance specified in the definition of “plastic explosive” (塑膠炸藥) in subsection (1) to be a high explosive shall be admissible as evidence of the fact so stated.~~

~~(Part VIIA added 52 of 1994 s. 2)~~

### 第 VIII 部

#### 對財產的刑事損壞

#### 59. 釋義

- (1) 在本部中，“財產”(property) 指——
- (a) 屬實體性質的財產，不論屬土地財產或非土地財產，包括金錢及——
- (i) 包括經馴服或通常以禁錮形式飼養的野生動物，以及任何其他野生動物或其屍體，但上述的其他野生動物或其屍體只限於已成為收歸管有之物而有關係的管有仍未失去或被放棄者，或正在成為收歸管有之物；但
- (ii) 不包括土地上野生的菌類植物或土地上野生植物的花、果或葉；或
- (b) 電腦內或電腦儲存媒體內的任何程式或資料，不論該程式或資料是否屬實體性質的財產。

在本款中，“菌類植物”(mushroom) 包括任何真菌，而“植物”(plant) 則包括任何灌木或喬木。(由 1993 年第 23 號第 3 條代替)

(1A) 在本部中，“摧毀或損壞財產”(to destroy or damage any property)，就電腦而言，包括誤用電腦。

在本款中，“誤用電腦”(misuse of a computer) 指——

### PART VIII

#### CRIMINAL DAMAGE TO PROPERTY

#### 59. Interpretation

- (1) In this Part, “property” (財產) means—
- (a) property of a tangible nature, whether real or personal, including money and—
- (i) including wild creatures which have been tamed or are ordinarily kept in captivity, and any other wild creatures or their carcasses if, but only if, they have been reduced into possession which has not been lost or abandoned or are in the course of being reduced into possession; but
- (ii) not including mushrooms growing wild on any land or flowers, fruit or foliage of a plant growing wild on any land; or
- (b) any program, or data, held in a computer or in a computer storage medium, whether or not the program or data is property of a tangible nature.

In this subsection, “mushroom” (菌類植物) includes any fungus and “plant” (植物) includes any shrub or tree. (Replaced 23 of 1993 s. 3)

(1A) In this Part, “to destroy or damage any property” (摧毀或損壞財產) in relation to a computer includes the misuse of a computer.

In this subsection, “misuse of a computer” (誤用電腦) means—

- (a) 導致電腦並非如其擁有人或其擁有人代表對其所設定的運作方式運作，即使如此誤用不會令該電腦的操作、該電腦內的程式或該電腦內的資料的可靠性減損亦然；
- (b) 更改或刪抹電腦內或電腦儲存媒體內的程式或資料；
- (c) 在電腦或電腦儲存媒體所收納的內容上增加程式或資料，而造成導致 (a)、(b) 或 (c) 段所提述的任何類別誤用情形的任何作為，須視為導致該項誤用情形的作為。 (由 1993 年第 23 號第 3 條增補)
- (2) 就本部而言，財產須視為屬於——
- (a) 保管或控制它的人；
- (b) 對它有任何所有人權利或權益 (並非只由轉讓權益協議或授予權益協議產生的衡平法權益) 的人；或
- (c) 在其上有一項押記的人。
- (3) 凡財產受到信託的規限，則該財產所屬於的人，須視為包括有權利強制執行該信託的人。
- (4) 單一法團的財產，即使法團的職位懸空，亦須視為屬於該法團所有。  
(由 1972 年第 48 號第 3 條增補)  
[比照 1971 c. 48 s. 10 U.K.]

#### 60. 摧毀或損壞財產

- (1) 任何人無合法辯解而摧毀或損壞屬於他人的財產，意圖摧毀或損壞該財產或罔顧該財產是否會被摧毀或損壞，即屬犯罪。
- (2) 任何人無合法辯解而摧毀或損壞任何財產 (不論是屬於其本人或他人的)——
- (a) 意圖摧毀或損壞任何財產或罔顧任何財產是否會被摧毀或損壞；及
- (b) 意圖藉摧毀或損壞財產以危害他人生命或罔顧他人生命是否會因而受到危害，
- 即屬犯罪。
- (3) 用火摧毀或損壞財產而犯本條所訂罪行，須被控以縱火。  
(由 1972 年第 48 號第 3 條增補)  
[比照 1971 c. 48 s. 1 U.K.]

- (a) to cause a computer to function other than as it has been established to function by or on behalf of its owner, notwithstanding that the misuse 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) to alter or erase any program or data held in a computer or in a computer storage medium;
- (c) to add any program or data to the contents of a computer or of a computer storage medium,
- and any act which contributes towards causing the misuse of a kind referred to in paragraph (a), (b) or (c) shall be regarded as causing it. (Added 23 of 1993 s. 3)
- (2) Property shall be treated for the purposes of this Part as belonging to any person—
- (a) having the custody or control of it;
- (b) having in it any proprietary right or interest (not being an equitable interest arising only from an agreement to transfer or grant an interest); or
- (c) having a charge on it.
- (3) Where property is subject to a trust, the persons to whom it belongs shall be so treated as including any person having a right to enforce the trust.
- (4) Property of a corporation sole shall be so treated as belonging to the corporation notwithstanding a vacancy in the corporation.  
(Added 48 of 1972 s. 3)  
[cf. 1971 c. 48 s. 10 U.K.]

#### 60. Destroying or damaging property

- (1) A person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence.
- (2) A person who without lawful excuse destroys or damages any property, whether belonging to himself or another—
- (a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
- (b) intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,
- shall be guilty of an offence.
- (3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.  
(Added 48 of 1972 s. 3)  
[cf. 1971 c. 48 s. 1 U.K.]

## 雜項條文

~~159L. 初步罪行的非獨有性~~

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

(第 XIII 部由 1996 年第 49 號第 2 條增補)

## 第 XIII 部

## 雜項罪行

## 160. 遊蕩

(1) 任何人在公眾地方或建築物的共用部分遊蕩，意圖犯可逮捕的罪行，即屬犯罪，可處罰款 \$10,000 及監禁 6 個月。(由 1992 年第 74 號第 3 條代替)

(2) 任何人在公眾地方或建築物的共用部分遊蕩，並以任何方式故意妨礙他人使用該公眾地方或該建築物的共用部分，即屬犯罪，一經定罪，可處監禁 6 個月。

(3) 任何人在公眾地方或建築物的共用部分遊蕩，不論單獨或結伴在該處出現，而導致他人合理地擔心本身的安全或利益，即屬犯罪，一經定罪，可處監禁 2 年。

(4) 在本條中，就建築物而言，“共用部分”(common parts)指——

- (a) 入口大堂、門廊、通路、走廊、樓梯、樓梯平台、天台、升降機或自動梯；
- (b) 建築物佔用人共用的地窖、洗手間、水廁、洗衣房、浴室或廚房；
- (c) 圍地、車房、停車場、汽車間或埗。

(由 1979 年第 37 號第 2 條增補)

## 161. 有犯罪或不誠實意圖而取用電腦

(1) 任何人有下列意圖或目的而取用電腦——

- (a) 意圖犯罪(不論是在取用電腦的同時或在日後任何時間)；
- (b) 不誠實地意圖欺騙(不論是在取用電腦的同時或在日後任何時間)；

## Miscellaneous provisions

~~159L. Non-exclusivity of preliminary offences~~

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

(Part XIII added 49 of 1996 s. 2)

## PART XIII

## MISCELLANEOUS OFFENCES

## 160. Loitering

(1) A person who loiters in a public place or in the common parts of any building with intent to commit an arrestable offence commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months. (Replaced 74 of 1992 s. 3)

(2) Any person who loiters in a public place or in the common parts of any building and in any way wilfully obstructs any person using that place or the common parts of that building, shall be guilty of an offence and shall be liable on conviction to imprisonment for 6 months.

(3) If any person loiters in a public place or in the common parts of any building and his presence there, either alone or with others, causes any person reasonably to be concerned for his safety or well-being, he shall be guilty of an offence and shall be liable on conviction to imprisonment for 2 years.

(4) In this section “common parts” (共用部分), in relation to a building, means—

- (a) any entrance hall, lobby, passageway, corridor, staircase, landing, rooftop, lift or escalator;
- (b) any cellar, toilet, water closet, wash house, bath-house or kitchen which is in common use by the occupiers of the building;
- (c) any compound, garage, carpark, car port or lane.

(Added 37 of 1979 s. 2)

## 161. Access to computer with criminal or dishonest intent

(1) Any person who obtains access to a computer—

- (a) with intent to commit an offence;
- (b) with a dishonest intent to deceive;

- (c) 目的在於使其本人或他人不誠實地獲益 (不論是在取用電腦的同時或在日後任何時間); 或
- (d) 不誠實地意圖導致他人蒙受損失 (不論是在取用電腦的同時或在日後任何時間),

即屬犯罪, 一經循公訴程序定罪, 可處監禁 5 年。

(2) 就第 (1) 款而言, “獲益”(gain) 及 “損失”(loss) 的適用範圍須解釋作不單擴及金錢或其他財產上的獲益或損失, 亦擴及屬暫時性或永久性的任何該等獲益或損失; 而且——

- (a) “獲益”(gain) 包括保有已有之物的獲益, 以及取得未有之物的獲益; 及
- (b) “損失”(loss) 包括沒有取得可得之物的損失, 以及失去已有之物的損失。

(由 1993 年第 23 號第 5 條增補)

- (c) with a view to dishonest gain for himself or another; or
  - (d) with a dishonest intent to cause loss to another,
- whether on the same occasion as he obtains such access or on any future occasion, commits an offence and is liable on conviction upon indictment to imprisonment for 5 years.

(2) For the purposes of subsection (1) “gain” (獲益) and “loss” (損失) are to be construed as extending not 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” (獲益) includes a gain by keeping what one has, as well as a gain by getting what one has not; and
- (b) “loss” (損失) includes a loss by not getting what one might get, as well as a loss by parting with what one has.

(Added 23 of 1993 s. 5)

附表 [第 149 條]		SCHEDULE [s. 149]	
被控人可被定罪的其他罪名		OTHER OFFENCES OF WHICH ACCUSED MAY BE CONVICTED	
項	控罪	Item	Offence charged
1.	強姦 (第 118 條)	1.	Rape (section 118)
2.	未經同意下作出的肛交 (第 118A 條)	2.	Non-consensual buggery (section 118A)
3.	意圖作出肛交而襲擊 (第 118B 條)	3.	Assault with intent to commit buggery (section 118B)
4.	由 21 歲以下男子作出或與 21 歲以下男子作出同性肛交 (第 118C 條)	4.	Homosexual buggery with or by man under 21 (section 118C)
5.	與精神上無行為能力的人作出肛交 (第 118E 條)	5.	Buggery with mentally incapacitated person (section 118E)
6.	非私下作出的同性肛交 (第 118F 條)	6.	Homosexual buggery committed otherwise than in private (section 118F)

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

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