

**Extracts of statutory provisions
relating to the exercise of the
powers of entry and inspection, etc. under a warrant**

**關乎根據手令行使進入及檢查等權力
的法例條文摘錄**

Chapter:	400	Title:	NOISE CONTROL ORDINANCE	Gazette Number:
Section:	25	Heading:	Powers of entry and inspection, etc.	Version Date: 30/06/1997

(3) If it is made to appear to a magistrate by information on oath that there is reason to believe that-

- (a) an offence against this Ordinance has been or is being committed on domestic premises; or
- (b) there is on domestic premises any thing that is or is likely to constitute evidence that an offence against this Ordinance has been or is being committed,

the magistrate may issue a warrant authorizing an authorized officer to enter and search such premises.

(4) If it is made to appear to a magistrate by information on oath that it is necessary for an authorized officer to enter domestic premises for any of the purposes referred to in subsection (1)(b), the magistrate may issue a warrant authorizing the authorized officer to enter such domestic premises.

(6) An authorized officer who enters any place under this section shall, if entry is by warrant issued under subsection (3) or (4), produce that warrant.

章：	400	標題：	噪音管制條例	憲報編號：
條：	25	條文標題：	進入及視察的權力等	版本日期： 30/06/1997

(3) 倘裁判官從經宣誓而作的告發認為有理由相信—

- (a) 住用處所內曾經發生或正在發生違犯本條例的罪行；或
- (b) 住用處所內有任何物件足以證明或相當可能證明該處曾經發生或正在發生違犯本條例的罪行，

裁判官可發出手令，授權獲授權人員進入及搜查該處所。

(4) 倘裁判官從經宣誓而作的告發認為有必要讓獲授權人員為第(1)(b)款所提述的任何目的進入住用處所，可發出手令，授權獲授權人員進入該住用處所。

(6) 根據本條進入任何地方的獲授權人員，如是憑藉根據第(3)或(4)款發出的手令進入的，須出示該手令。

Chapter:	562	Title:	BROADCASTING ORDINANCE	Gazette Number:	48 of 2000
Section:	25	Heading:	Investigation of licensee's business	Version Date:	07/07/2000

(1) Where the Broadcasting Authority is satisfied that it is necessary for the proper performance of its functions under a prescribed Ordinance in order to ensure a licensee's compliance with a licence condition, a requirement under the Ordinance which is applicable to it, a direction, order, or determination, under the Ordinance which is applicable to it, or a provision in a Code of Practice which is applicable to it, it may authorize in writing any person to do all or any of the following at such times as are specified by it in the authorization-

- (a) require a licensee or a person whom such authorized person reasonably believes to be employed or engaged in connection with the relevant business of a person to whom this section applies to produce for examination any data, book, document or record which relates to such business and which is in the possession or under the control of the licensee or person, as the case may be;
- (b) examine and, if he thinks fit, to take copies of any data, book, document or record produced under paragraph (a) or any entry therein;
- (c) remove the data, book, document or record referred to in paragraph (a) or the copies referred to in paragraph (b) for examination by him and the Broadcasting Authority; and
- (d) require a licensee or a person whom such authorized person reasonably believes to be employed or engaged in connection with the relevant business of a person to which this section applies to give the authorized person and the Broadcasting Authority any explanation or further particulars as specified by the authorized person in respect of any data, book, document or record produced under paragraph (a).

(3) A magistrate may, if satisfied by information on oath laid by the chairman or vice chairman of the Broadcasting Authority or by the principal executive officer within the meaning of the Broadcasting Authority Ordinance (Cap 391)-

- (a) that it is necessary for the proper performance of the functions of the Broadcasting Authority as referred to in subsection (1) that entry be obtained to any premises which the chairman, vice chairman or principal executive officer has reasonable grounds for believing is used or occupied by a person to whom this section applies for the purposes of keeping, storing or using any data, book, document or record which relates to the relevant business of the person to whom this section applies; and

(b) that permission to enter such premises has been refused or that entry is likely to be refused,

issue a warrant authorizing a person authorized under subsection (1) to enter such premises, and such person-

(i) may exercise therein the powers specified in subsection (1); and
(ii) copy, seize, remove and detain any data, book, document or record therein or any copy thereof which the authorized person has reasonable grounds for believing will afford evidence likely to assist the Broadcasting Authority in the proper performance of its functions under this Ordinance.

(7) Every person exercising any power under subsection (1) or (3) shall be furnished with a copy of his authorization and shall, upon request, produce for inspection, evidence of his identity and of his authorization.

(1) 廣管局如信納為妥善履行其根據某訂明條例而具有的職能以確保持牌人遵守某牌照條件，或遵守該條例所訂並適用於該持牌人的規定，或遵守根據該條例發出或作出的並適用於該持牌人的指示、命令、決定或裁定，或遵守適用於該持牌人的業務守則條文，以致有此需要，可以書面授權任何人在該局於授權書內指明的時間，作出以下全部或任何一項行動—

- (a) 規定持牌人或獲授權的人合理地相信是受僱於或從事某名本條適用人士的有關業務的人，出示與該業務有關並由持牌人或該人(視屬何情況而定)管有或控制的任何數據、簿冊、文件或紀錄，以供檢查；
- (b) 檢查根據(a)段出示的數據、簿冊、文件或紀錄或其中任何記項，並如認為合適的話，將該等文件或其中任何記項複製副本；
- (c) 移走(a)段所提述的數據、簿冊、文件或紀錄或(b)段所提述的副本，以供他本人及廣管局檢查；及
- (d) 規定持牌人或獲授權的人合理地相信是受僱於或從事某名本條適用人士的有關業務的人，向獲授權的人及廣管局提供任何經獲授權的人指明並與根據(a)段出示的數據、簿冊、文件或紀錄有關的解釋或進一步詳情。

(3) 裁判官如根據廣管局主席、廣管局副主席或《廣播事務管理局條例》(第391章)所指的行政主管經宣誓而作的告發，信納—

- (a) 為妥善履行第(1)款所提述的廣管局的職能，有必要進入該告發人有合理理由相信是由某名本條適用人士使用或佔用、並且用作存放、貯存或使用關乎該人的有關業務的數據、簿冊、文件或紀錄的處所；及
- (b) 進入上述處所的要求已遭拒絕或相當可能遭拒絕，

可發出手令授權根據第(1)款獲授權的人進入上述處所，而該人—

- (i) 可在上述處所行使第(1)款所指明的權力；及
- (ii) 可檢走、移走和扣留上述處所內他有合理理由相信會提供相當可能會協助廣管局妥善履行其根據本條例所具職能的數據、簿冊、文件或紀錄或其任何副本，及將其複製副本。

(7) 根據第(1)或(3)款行使權力的人，均須獲給予授權予他的授權書文本，並須在有人提出要求時，出示其身分證明及授權證明以供查閱。

Chapter:	486	Title:	PERSONAL DATA (PRIVACY) ORDINANCE	Gazette Number:
Section:	42	Heading:	Power of entry on premises for the purposes of an inspection or investigation	

(1) Subject to subsections (3) and (8), the Commissioner may, for the purposes of an inspection-

(a) where the personal data system, or any part thereof, the subject of the inspection is situated in-

- (i) non-domestic premises, enter the premises at any reasonable time;
- (ii) domestic premises, enter the premises with the consent of any person (other than a minor) resident therein;

(b) carry out in the premises the inspection.

(2) Subject to subsections (3) and (8), the Commissioner may, for the purposes of an investigation-

(a) enter any premises-

- (i) occupied by the relevant data user; or
- (ii) in which is situated the personal data system, or any part thereof, used by the relevant data user;

(b) carry out in the premises the investigation.

(3) Subject to subsections (4) and (5), the Commissioner shall, not less than 14 days before exercising his power under subsection (1) or (2) in respect of any premises, by notice in writing served on the relevant data user, inform the data user-

- (a) of the premises in respect of which he proposes to exercise that power; and
- (b) that the power will not be so exercised before the expiration of 14 days after service of the notice.

(6) A magistrate may, if satisfied by information upon oath by the Commissioner or any prescribed officer that there are reasonable grounds for believing that the purposes of any investigation may be substantially prejudiced if the Commissioner were required to comply with subsection (3) before exercising his power under subsection (2) in respect of any premises, issue a warrant-

- (a) in the form specified in Part 1 of Schedule 6; and
- (b) in respect of those premises.

(10) Where the Commissioner, pursuant to a warrant issued under subsection (6), exercises his power under subsection (2) in respect of the premises specified in the warrant, he shall produce the warrant for inspection by any person found in those premises who questions his authority to exercise that power in respect of those premises.

章：	486	標題：	個人資料(私隱)條例	憲報編號：	
條：	42	條文標題：	為視察或調查而進入處所的權力	版本日期：	30/06/1997

- (1) 在符合第(3)及(8)款的規定下，專員可為視察的目的—
- (a) 在以下情況下進入在其內有屬於該項視察對象的個人資料系統或個人資料系統的任何部分的處所—
 - (i) 如屬非住宅處所，可在任何合理時間進入該處所；
 - (ii) 如屬住宅處所，須在於該處居住的任何人(未成年人除外)的同意下進入該處所；
 - (b) 在該處所內進行該項視察。
- (2) 在符合第(3)及(8)款的規定下，專員可為調查的目的—
- (a) 進入—
 - (i) 由有關的資料使用者佔用的；或
 - (ii) 在其內有有關的資料使用者所使用的個人資料系統或個人資料系統的任何部分的，的任何處所；
 - (b) 在該處所內進行該項調查。
- (3) 除第(4)及(5)款另有規定外，專員在就任何處所行使他在第(1)或(2)款下的權力的至少 14 日以前，藉送達有關的資料使用者的書面通知，告知該資料使用者—
- (a) 他擬就甚麼處所行使該權力；及
 - (b) 在該通知送達後的 14 日屆滿前，該權力將不會如此行使。
- (6) 裁判官如因專員或任何訂明人員所作的經宣誓的告發，信納有合理理由相信如專員在就任何處所行使他在第(2)款下的權力前，須遵守第(3)款，便可能對任何調查的目的造成重大損害，該裁判官可—
- (a) 發出符合附表 6 第 1 部所指明的格式的手令；及
 - (b) 就該處所發出該手令。
- (10) 凡專員依據根據第(6)款發出的手令，就該手令所指明的處所行使他在第(2)款下的權力，如在該處所內的任何人質疑專員就該處所行使該權力的權限，專員須出示該手令以供該人查閱。
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Chapter:	331	Title:	IMMIGRATION SERVICE ORDINANCE	Gazette Number:
Section:	13C	Heading:	Power of search and seizure	Version Date: 30/06/1997

(1) Where it appears to a magistrate upon the oath of a member of the Service that there is reason to believe that there is in any place any thing which is or contains evidence which may be required in proceedings for an offence under this Ordinance or for a scheduled offence, or wholly or partly by means of which or in relation to which any such offence has been or is about to be committed, or which is likely to be of value (whether by itself or together with anything else) to any investigation into any such offence, the magistrate may, by warrant delivered to a member of the Service, authorize such member, with such assistance as may be reasonably necessary, to enter the place specified in the warrant and to search for, examine and inspect, and seize, remove and detain any such thing.

(2) Before entering any place under subsection (1), a member of the Service shall, if so required, first-

- (a) state the purposes for which he seeks such entry and produce for inspection his warrant card; and
- (b) produce the warrant pursuant to which the entry is proposed to be made.

(Added 53 of 1996 s. 4

章：	331	標題：	入境事務隊條例	憲報編號：	L.N. 363 of 1997
條：	13C	條文標題：	搜查與檢取的權力	版本日期：	01/07/1997

(1) 凡某裁判官在事務隊成員宣誓後，覺得有理由相信在任何地方有任何是或載有某些證據的東西，而該證據可能需用於就本條例所訂罪行或表列罪行而進行的法律程序的，或該東西是有人完全或部分藉以或就其已犯或即將犯任何該等罪行的，或該東西相當可能對調查該等罪行有價值(不論就其本身或連同其他東西)，該裁判官可藉交付事務隊成員的手令，授權某些成員在合理所需的協助下，進入手令上指明的地方，並搜查、檢驗與查看，以及檢取、帶走和扣留該東西。

(2) 在根據第(1)款進入任何地方前，事務隊成員如被要求時，須首先—

- (a) 述明他尋求進入該地方的目的，並出示他的委任證以供查閱；及
- (b) 出示擬進入該地方所依據的手令。

(由 1996 年第 53 號第 4 條增補。由 1997 年第 363 號法律公告修訂)

Chapter:	506	Title:	FREIGHT CONTAINERS Gazette (SAFETY) ORDINANCE	L.N. 216 of 2006; L.N. 221 of 2006
Section:	19	Heading:	Powers of Director and inspectors	Version Date: 10/11/2006

(3) No premises or vessel which is used solely for dwelling purposes shall be entered or boarded under subsection (1) except by virtue of a warrant issued by a magistrate, where the magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Ordinance has been, is being or is about to be committed in the premises or vessel or that there is in the premises or vessel anything likely to be or to contain evidence of such an offence.

(4) An inspector who enters premises or boards a vessel shall-

- (a) if so required, produce evidence of his identity and of his appointment by the Director under section 18; and
- (b) if a warrant has been issued under subsection (3), produce that warrant to any person who appears to be in charge of the premises or vessel.

章：	506	標題：	運貨貨櫃(安全)條例	憲報編號：	L.N. 216 of 2006; L.N. 221 of 2006
條：	19	條文標題：	處長及督察的權力	版本日期：	10/11/2006

(3) 除非憑藉裁判官在有關情況下發出的手令，否則不得根據第(1)款進入或登上純粹作住宅用途的處所或船隻。上述有關情況是裁判官藉經宣誓而作的告發而信納有合理理由懷疑在該處所或船隻內有人曾犯、正在犯或即將犯本條例所訂的罪行，或懷疑該處所或船隻內有任何相當可能是該罪行的證據的東西或任何相當可能包含該罪行的證據的東西。

(4) 如一

- (a) 被要求，進入處所或登上船隻的督察須出示其身分證據以及處長根據第 18 條對其作出的委任證據；及
- (b) 有手令根據第(3)款發出，進入處所或登上船隻的督察須向看來是負責管理該處所或船隻的人出示該手令。