

## **Bills Committee on the Telecommunication (Amendment) Bill 1999**

### **Powers of Telecommunications Authority (TA) relating to obtaining/disclosure of information and inspection of accounts/documents, etc.**

#### **Exercise of Powers under the Proposed Section 7I**

At the Bills Committee meeting on 1 December 1999, the Administration was asked to explain the circumstances under which the powers under section 7I are to be invoked and exercised, and how third party information is safeguarded having regard to relevant provisions in the Personal Data (Privacy) Ordinance.

2. The proposed section 7I empowers the Telecommunications Authority (TA) to request information from licensees relating to its business that the TA may reasonably require to perform his functions. It also empowers the TA to disclose the information only if it is in the public interest to do so, subject to the requirement under S. 7I (4) that the licensee will be given reasonable opportunity to make representations. The proposed Section 7I is modelled on the existing licence conditions (e.g. General Condition 18 of a Fixed Telecommunication Network Services Licence and Special Condition 14 of a Public Radiocommunication Service Licence issued to operators of Personal Communication Services at [Annex A](#)). We maintain that the powers are restrictive and essential for the TA to carry out his functions.

3. To perform his regulatory functions properly, the TA has to make use of the powers under the proposed section 7I to regulate the telecommunications industry. For example, in case where there is suspected price-fixing in the market, the TA will have to carry out investigation on the case as price-fixing is an anti-competitive act and is prohibited under the proposed section 7K (Anti-competitive practice) and the licence condition. The TA will need to obtain the relevant information from the licensee. Examples of information required include notes of meeting(s) among the licensees in the market, internal meeting notes, information on the mechanism and reasons to set the price. The licensee should not refuse to supply any agreements with other licensees, or notes of meeting on grounds that such information is the subject of a confidential agreement. If any agreements or notes of meeting which can prove that collusion really exists, the TA may have to disclose the relevant

content of such agreements or notes of meeting in his investigation report subject to the requirement in section 7I(4) (opportunity for affected parties to make representations.). Otherwise, the TA's findings and conclusion in his investigation report may not be adequately substantiated so as to satisfy the rules of natural justice.

4. Another example is that the TA may receive feedback from the industry that the capacity for interconnection between networks is inadequate. To assess whether there are really capacity constraint problems, the TA will have to obtain from the relevant licensees information on their existing capacity, existing traffic volume and patterns, forward planning in expanding the capacity, bases of their forecast, implementation schedules, number and details of customer orders outstanding, etc. The TA may need to disclose the information received to other parties for comments, before the TA takes a final decision, so as to verify the accuracy of the information or to satisfy the rules of natural justice.

5. In exercising the powers under the existing licence conditions or the future section 7I if enacted, the TA will observe strictly the provisions in the Personal Data (Privacy) Ordinance. It is very rare that the information requested by the TA would include personal data. If in the rare circumstances that personal data (e.g. the identity of customers) has been included in the information provided to the TA, the TA will maintain strict confidentiality of the personal data as for other commercially sensitive information. The TA will ensure that any disclosure of personal data would not be in contravention of the Personal Data (Privacy) Ordinance.

**“Fishing Expedition” by Office of the Telecommunications Authority (OFTA) Officer**

6. In its presentation to the Bills Committee on 1 December 1999, Cable & Wireless HKT (CWHKT) made a remark that the Office of the Telecommunications Authority (OFTA) went on some form of “fishing expedition” and sought information from CWHKT without clearly establishing the reasons/basis for so doing. The Administration was asked to comment on this remark.

7. The Administration is of the view that the allegation of CWHKT is unfair and completely unfounded and is disappointed at the making of such an unsubstantiated remark at the Bills Committee. In ensuring the licensee's compliance with the Ordinance and the licence conditions, the TA may have to request CWHKT to provide information under its licence condition General Condition 18. The TA is always bound by administrative law to act lawfully and not to exercise his powers arbitrarily.

**A comparison of the proposed provisions in relation to request for information, etc., in the Bill vis-à-vis comparable provisions in other ordinances**

8. At the Bills Committee meeting held on 1 December 1999, the Administration was requested to provide a comparison of the provisions in relation to request for information, entry to premises for inspection of records and documents, etc., vis-à-vis comparable provisions in other Ordinances such as the Independent Commission Against Corruption Ordinance (ICACO) (Cap.204) and the Inland Revenue Ordinance (IRO) (Cap. 112). We have conducted a research into the relevant Ordinances and found that the enforcement agencies under these two Ordinances and the TA have different duties and responsibilities and hence the scope and checks of their powers are not quite the same. For example, the Bill empowers the TA to request licensees to provide information **relating to their businesses** that the TA may **reasonably require to perform his functions** (S.7I). On request for information from non-licensees, a magistrate order should be obtained before the non-licensees could be asked to provide the information. However, under section 51(4) of IRO, an assessor/inspector may require **any person** to provide information for the purposes of obtaining full information in regard to **any matter** that may affect any liability, responsibility or obligation of any person under the Ordinance. For the same purposes, an Assistant Commissioner may require **any person** to attend and be examined and to answer truthfully all questions put to him. Apparently, the scope of powers under the IRO and the types of information to be obtained are much wider. The IRO therefore contains more robust secrecy provisions (section 4). Whereas the ICACO does not contain a general provision on the request for information, but it does contain provisions to empower the officer authorized under the Ordinance to

seize and search anything which he has reason to believe to contain evidence of offences under the Ordinance (see paragraph 9 below).

9. On the power to enter premises for inspecting, copying or seizing documents, section 51B of the IRO requires that while search can only be carried out under warrant, the power to search, once exercisable, extends virtually to **any** premises and **any** document that belongs to **anybody**. In contrast, section 35A of the Bill empowers the TA or his authorized person to enter only premises of **licensees** for inspecting, copying or extracting information **relating to a telecommunications network, system, installation or service conducted by the licensees**. Such power is more restrictive and is necessary for the TA to ensure compliance of licensees and may have to be carried out routinely in form of regular checks. Regarding entry into premises for inspection and seizure of information relating to criminal offences, the ICACO (under certain circumstances in sections 10 and 10C) does **not** require compulsory application for a warrant before seizure of anything that the authorized officer under the ICACO has reason to believe to contain evidence of any offence under section 10 of the ICACO. On the other hand, the existing section 35 of the Telecommunication Ordinance requires that the entry to premises for **dwelling purposes** for search of anything of which the TA or his authorized officer reasonably suspects that an offence under the Telecommunication Ordinance has been committed, **should** be pursuant to a warrant by the magistrate. Relevant extracts of the IRO and the ICACO are attached at Annex B.

10. We believe that a more appropriate comparison of the proposals in the Bill is with the respective powers of the telecommunications regulators in overseas jurisdictions. As set out in the previous paper [CB(1) 141/99/00(03)], the regulators in other countries such as Canada, the UK and Australia are given similar statutory powers to request, and enter premises to inspect documents and information relevant to the exercise of their functions and powers. The proposals in the Bill are therefore in line with international practice for the more liberalized regulatory regimes.

**Extracted from the Licence Conditions of  
Fixed Telecommunication Network Services (FTNS) Licence and  
Public Radiocommunication Service (PRS) Licence**

**General Condition 18 of FTNS Licence**

18. (1) The licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business run by the licensee under this licence, including financial information, accounts and other records as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence including but not limited to his functions under General Conditions 15, 16 and 20(4).
- (2) Subject to paragraph (3), the Authority may use and disclose information to such person as the Authority thinks fit.
- (3) Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of a licensee which disclosure would or could reasonably be expected to -adversely affect the licensee's lawful business or commercial or financial affairs, the Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

**Special Condition 14 of PRS Licence issued to  
Personal Communication Services Operators**

- SC14. (1) The licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business run by the licensee under this licence, including financial information, accounts and other records as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence.

- (2) Subject to subcondition (3), the Authority may use and disclose information to such person as the Authority thinks fit.
- (3) Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of a licensee which disclosure would or could reasonably be expected to adversely affect the licensee's lawful business or commercial or financial affairs, the Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

**BLIS ON  
INTERNET**

Previous section of enactment	Next section of enactment	Switch language	Back to the List of Laws
-------------------------------	---------------------------	-----------------	--------------------------

**Section of Enactment**

Chapter:	E12	Title:	INLAND REVENUE ORDINANCE	Gazette Number:	E.N. 362 of 1997; 12 of 1999
Section:	4	Heading:	Official secrecy	Version/Date:	01/07/1997

Remarks:

Amendments retroactively made-see 12 of 1999 s. 3

(1) Except in the performance of his duties under this Ordinance, every person who has been appointed under or who is or has been employed in carrying out or in assisting any persons to carry out the provisions of this Ordinance shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Ordinance, and shall not communicate any such matter to any person other than the person to whom such matter relates or his executor or the authorized representative of such person or such executor, nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner. (Amended 9 of 1958 s. 3)

(2) Every person appointed under or employed in carrying out the provisions of this Ordinance, shall before acting under this Ordinance take and subscribe before a commissioner for oaths an oath of secrecy in such form as the Board of Inland Revenue may specify. (Amended 39 of 1969 s. 2; 47 of 1997 s. 10)

(3) No person appointed under or employed in carrying out the provisions of this Ordinance shall be required to produce in any court any return, document, or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance, except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance.

(4) Notwithstanding anything contained in this section, the Commissioner or any officer of the Inland Revenue Department authorized by the Commissioner in that behalf may communicate any matter which comes to his knowledge, including a copy of any return, accounts or other document submitted to him in connection with this Ordinance-

(a) to the Commissioner of Rating and Valuation, to the Collector of Stamp Revenue, or to the Estate Duty Commissioner, or (Amended 20 of 1948 s. 4)

(b) (Repealed 12 of 1999 s. 3)

(c) to the Secretary for Justice, or any public officer authorized by him, for the purpose of reporting under section 68(5) an appeal to the Board of Review, or (Added 2 of 1971 s. 3. Amended 79 of 1992 s.10; L.N. 362 of 1997)

(d) to any person appointed under or employed in carrying out the provisions of the Business Registration Ordinance (Cap 310), as regards any matter required to be notified to the Commissioner pursuant to section 8(1) or (2) of that Ordinance by the person submitting such return, accounts or other document. (Added 79 of 1992 s. 10)

(5) Notwithstanding anything contained in this section, the Commissioner may permit the Director of Audit or any officer of that department duly authorized by the Director of Audit in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties. The Director of Audit or any officer so authorized shall be deemed to be a person employed in carrying out the provisions of this Ordinance for the purpose of subsection (2).

(6) Notwithstanding anything contained in this section, where the Commissioner is of the opinion that any tax deemed to be in default under the provisions of section 71(1) has for the time being become irrecoverable, he may communicate to the Financial Secretary the names and descriptions of the persons charged with such tax together with particulars of the tax in default. (Added 9 of 1958 s. 3)

**BLIS ON  
INTERNET**

Previous section of enactment

Next section of enactment

Switch language

Back to the List of Laws

**Section of Enactment**

Chapter: 112 Title: INLAND REVENUE ORDINANCE Gazette Number:  
Section: 51 Heading: Returns and information to be furnished Version Date: 30/06/1997

**PART IX**

**RETURNS, ETC.**

- (1) An assessor may give notice in writing to any person requiring him within a reasonable time stated in such notice to furnish any return which may be specified by the Board of Inland Revenue for-
- (a) property tax, salaries tax or profits tax; or
  - (b) property tax, salaries tax and profits tax,
- under Parts II, III, IV, XA, XB, and XC, containing such particulars and in such form as may be specified by the Board of Inland Revenue. (Replaced 52 of 1993 s. 5)
- (2) Every person chargeable to tax for any year of assessment shall inform the Commissioner in writing that he is so chargeable not later than 4 months after the end of the basis period for that year of assessment unless he has already been required to furnish a return under the provisions of subsection (1). (Replaced 49 of 1956 s. 37)
- (2A) An assessor shall give notice to any individual who has elected to be personally assessed under Part VII requiring that individual within a reasonable time stated in the notice to furnish a return in the specified form of his total income assessable under this Ordinance. (Added 43 of 1989 s. 16)
- (2B) Where a notice is required to be given under subsection (2A) to an individual who is married and not living apart from his or her spouse-
- (a) such notice shall be given to both that individual and his or her spouse; and
  - (b) they shall be required to furnish a return of their joint total income assessable under this Ordinance. (Added 43 of 1989 s. 16)
- (2C) For the purposes of this section, compliance by a person, and his or her spouse when they have jointly elected to be personally assessed, with the requirements of a notice issued under subsection (1) shall be deemed to be compliance with the requirements of a notice issued under subsection (2A) or (2B). (Added 52 of 1993 s. 5)
- (3) An assessor may give notice in writing to any person when and as often as he thinks necessary requiring him within a reasonable time stated in such notice to furnish fuller or further returns respecting any matter of which a return is required or prescribed by this Ordinance.
- (4) For the purposes of obtaining full information in regard to any matter which may affect any liability, responsibility or obligation of any person under this Ordinance-
- (a) an assessor or an inspector may give notice in writing to such person, or to any other person whom he considers may be in possession of information or documents in regard to any such matter as aforesaid, requiring him within such reasonable time as is stated in the notice to furnish all information in his possession respecting any such matter, and to produce for examination any deeds, plans, instruments, books, accounts, trade lists, stock lists, vouchers, bank statements or other documents which the assessor or inspector giving the notice considers are or may be relevant for the purpose aforesaid;
- Provided that in the case of a notice under this paragraph requiring the production of any account kept by a solicitor and relating to the affairs of any client or clients of his, production of a copy of all relevant entries therein respecting any matter upon which information is sought shall be a sufficient compliance with the aforesaid requirement of the notice if the copy is certified by the solicitor as being a correct copy

of all relevant entries in such account respecting the matter aforesaid;

(b) an assistant commissioner may give notice in writing to such person, or to such other person, requiring him, at a time and place to be named by the assistant commissioner, to attend and be examined, and upon such examination to answer truthfully all questions put to him, respecting any such matter as aforesaid.

(Replaced 35 of 1965 s. 26. Amended 40 of 1972 s. 4)

(4A) For the avoidance of doubt it is hereby declared that the powers conferred by subsection (4) include the power to require information from, and to require the attendance for the purpose of being examined of,-

(a) any person, or any employee of any person, who was a party to any particular land or property transaction;

(b) any person, or any employee of any person, who has acted for or is acting for any party to any particular land or property transaction;

(c) any person who either paid or received, directly or indirectly, any consideration, brokerage, commission or fee in respect of or in connection with any particular land or property transaction; and

(d) any person, or any employee of any person, who was concerned in the passing of any consideration, brokerage, commission or fee, or in the clearing or collection of any cheque or other instrument of exchange, respecting any particular land or property transaction,

as to any of the following matters, that is to say-

(i) the full names (including aliases) and addresses of any of the persons referred to in paragraphs (a) to (d) and any other information in his possession which may be helpful in identifying or locating any such persons;

(ii) any consideration, brokerage, commission or fee paid or received in respect of or in connection with any such land or property transaction; and

(iii) the terms and conditions of any such land or property transaction;

and the existence in respect of any communication, whether oral or written, of privilege from disclosure shall not constitute any excuse for the non-disclosure of information as to any of the matters specified in paragraphs (i) to (iii) where disclosure thereof is required from any of the persons referred to in paragraphs (a) to (d), but except as aforesaid nothing in subsection (4) shall require disclosure by counsel or solicitor of any privileged information or communication given or made to him in that capacity. (Added 35 of 1965 s. 26)

(4B) (a) Any person who without reasonable excuse, the burden of proof whereof shall lie upon him, fails to comply with the requirements of a notice given to him under subsection (4)(a) or fails to attend in answer to a notice issued under subsection (4)(b) or having attended fails to answer any questions put to him, being questions which under that paragraph may be put to him, shall be liable to a penalty at level 3 recoverable under section 75 as a civil debt due to the Government: (Amended 11 of 1985 s. 3; LN 338 of 1995; 19 of 1996 s. 15)

Provided that-

(i) the Commissioner may compound any such penalty and may before judgment in proceedings therefor stay or compound such proceedings, or may refuse to accept payment of such penalty or any part thereof except under a judgment of the court in proceedings for the recovery thereof;

(ii) the court before which any proceedings for such penalty are brought may, if it thinks fit, give judgment for a less amount.

(b) In addition to giving judgment for the penalty or any less amount as aforesaid, the court may order the person against whom the proceedings were brought to do, within a time specified in the order, the act which he has failed to do. (Added 35 of 1965 s. 26)

(5) A return, statement, or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement, or form shall be deemed to be cognizant of all matters therein.

(6) Any person who ceases to carry on any trade, profession or business or who ceases to own any source of income or to be the owner of any land or buildings or land and buildings in respect of which tax is chargeable under the provisions of Part II, III, IV or VII shall so inform the Commissioner in writing within 1 month of such cessation. (Replaced 49 of 1956 s. 37; 8 of 1983 s. 14)

(7) Any person chargeable to tax under Part III, IV or VII who is about to leave Hong Kong for any period exceeding 1 month shall give notice in writing to the Commissioner of his expected date of departure, and if he intends to return to Hong Kong the approximate date of his return. Such notice shall be given not later than 1 month before the expected date of departure:

Provided that-

(a) the Commissioner may accept such shorter notice as he may deem reasonable; and

(b) this subsection shall not apply in the case of an individual who is required in the course of his employment, business or profession to leave Hong Kong at frequent intervals. (Added 49 of 1956 s. 37.)

Amended 7 of 1986 s. 12)

(8) Any person chargeable to tax under Part II, III, IV or VII who changes his address shall within 1 month inform the Commissioner in writing of the particulars of the change. (Added 2 of 1971 s. 33.

Amended 8 of 1983 s. 14)

(9) (Repealed 43 of 1975 s. 2)

---

[Previous section of enactment](#)

[Next section of enactment](#)

[Switch language](#)

[Back to the List of Laws](#)

## BLIS ON INTERNET

[Previous section of enactment](#)
[Next section of enactment](#)
[Switch language](#)
[Back to the List of Laws](#)

### Section of Enactment

Chapter:	204	Title:	INDEPENDENT COMMISSION AGAINST CORRUPTION ORDINANCE	Gazette Number:	45 of 1999
Section:	10	Heading:	Power of arrest	Version Date:	16/07/1999

(1) An officer authorized in that behalf by the Commissioner may without warrant arrest a person if he reasonably suspects that such person is guilty of an offence under this Ordinance or the Prevention of Bribery Ordinance (Cap 201) or the Corrupt and Illegal Practices Ordinance (Cap 288) or, being a Crown servant, is guilty of an offence of blackmail committed by or through the misuse of office. (Amended 27 of 1980 s. 2)

(2) Where, during an investigation by the Commission of a suspected offence under the Prevention of Bribery Ordinance (Cap 201) or of a suspected offence under the Corrupt and Illegal Practices Ordinance (Cap 288), another offence is disclosed, any such officer may without warrant arrest a person if he reasonably suspects that such person is guilty of that other offence and- (Amended 16 of 1991 s. 2)

(a) he reasonably suspects that such other offence was connected with, or that either directly or indirectly its commission was facilitated by, the suspected offence under the Prevention of Bribery Ordinance (Cap 201) or the suspected offence under the Corrupt and Illegal Practices Ordinance (Cap 288), as the case may be; or (Amended 16 of 1991 s. 2)

(b) the other offence is one which is specified for the purposes of this subsection in subsection (5).

(3) Any such officer-

(a) may use such force as is reasonable in the circumstances in effecting an arrest under subsection (1) or (2); and (Amended 18 of 1976 s. 2)

(b) may, for the purpose of effecting such an arrest, enter and search any premises or place if he has reason to believe that there is in the premises or place a person who is to be so arrested.

(4) No premises or place shall be entered under subsection (3) unless the officer has first stated that he is an officer and the purpose for which he seeks entry and produced his warrant card to any person requesting its production, but subject as aforesaid any such officer may enter any such premises or place by force, if necessary.

(5) The following offences are specified for the purposes of subsection (2)-

(a) the offence of perverting or obstructing the course of justice;

(aa) the offence of theft under section 9 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2)

(b) the offence of blackmail under section 23 of the Theft Ordinance (Cap 210);

(ba) the offence of fraud under section 16A of the Theft Ordinance (Cap 210); (Added 45 of 1999 s. 5)

(c) the offence of obtaining property by deception under section 17 of the Theft Ordinance (Cap 210);

(d) the offence of obtaining pecuniary advantage by deception under section 18 of the Theft Ordinance (Cap 210);

(da) the offence of obtaining services by deception under section 18A of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)

(db) the offence of evading liability by deception under section 18B of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)

(dc) the offence of making off without payment under section 18C of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)

(dd) the offence of procuring a false entry in certain records under section 18D of the Theft Ordinance (Cap 210); (Added 51 of 1987 s. 4)

(de) the offence of false accounting under section 19 of the Theft Ordinance (Cap 210); (Added 27 of 1980 s. 2. Amended 51 of 1987 s. 4)

(e) the offence of assisting an offender under section 90 of the Criminal Procedure Ordinance (Cap 221);  
(ea) any offence under regulations in force under the Electoral Affairs Commission Ordinance (Cap 541);  
(Replaced 134 of 1997 s. 85)

(f) the offence of conspiracy to defraud and the offence of conspiracy to commit any of the offences referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea); (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)

(g) an attempt to commit any offence referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e) or (ea) or the offence of aiding, abetting, counselling or procuring any offence so referred to. (Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5)

(Replaced 14 of 1976 s. 2)

---

Previous section of enactment

Next section of enactment

Switch language

Back to the List of Laws

# BLIS ON INTERNET

<a href="#">Previous section of enactment</a>	<a href="#">Next section of enactment</a>	<a href="#">Switch language</a>	<a href="#">Back to the List of Laws</a>
---	---	---------------------------------	--

## Section of Enactment



Chapter:	204	Title:	INDEPENDENT COMMISSION AGAINST CORRUPTION ORDINANCE	Gazette Number:	
Section:	10B	Heading:	Search warrants	Version/Date:	30/06/1997

Without prejudice to section 17(1) of the Prevention of Bribery Ordinance (Cap 201), if a magistrate is satisfied by information on oath that there is reason to believe that there is in any premises or place anything which is or contains evidence of the commission of any of the offences referred to in section 10, he may by warrant directed to any officer authorize such officer, and any other officers assisting him, to enter and search such premises or place.

(Added 14 of 1976 s. 2. Amended 48 of 1996 s. 21)

<a href="#">Previous section of enactment</a>	<a href="#">Next section of enactment</a>	<a href="#">Switch language</a>	<a href="#">Back to the List of Laws</a>
---	---	---------------------------------	--

## BLIS ON INTERNET

[Previous section of enactment](#)   [Next section of enactment](#)   [Switch language](#)   [Back to the List of Laws](#)

### Section of Enactment

---

Chapter: 204   Title: INDEPENDENT COMMISSION AGAINST CORRUPTION ORDINANCE   Gazette Number:  
Section: 10C   Heading: Power of search and seizure   Version Date: 30/06/1997

- (1) An officer authorized in that behalf by the Commissioner may-
- (a) search any person if he reasonably suspects that such person is guilty of any of the offences referred to in section 10;
  - (b) search the premises or place in which any person was arrested under section 10, or the premises or place in which a person who evades arrest therein under section 10 was to be arrested, for evidence of any of the offences referred to in that section;
  - (c) seize and detain anything which such officer has reason to believe to be or to contain evidence of any of the offences referred to in section 10;
  - (d) (Repealed 45 of 1992 s. 2)
  - (1A) (Repealed 45 of 1992 s. 2)
- (2) A person shall not be searched under subsection (1) except by a person of the same sex.
- (3) The powers conferred by subsection (1) shall not derogate from the power conferred on any officer by section 17 of the Prevention of Bribery Ordinance (Cap 201) or a warrant issued thereunder.

(Added 14 of 1976 s. 2)

---

[Previous section of enactment](#)   [Next section of enactment](#)   [Switch language](#)   [Back to the List of Laws](#)

**BLIS ON  
INTERNET**

[Previous section of enactment](#)   
 [Next section of enactment](#)   
 [Switch language](#)   
 [Back to the List of Laws](#)

**Section of Enactment**

Chapter: 112    Title: INLAND REVENUE ORDINANCE    Gazette Number:  
 Section: 51B    Heading: Power to issue search warrant    Version Date: 30/06/1997

(1) If the Commissioner, or an officer of the Inland Revenue Department not below the rank of chief assessor authorized in writing by the Commissioner for the purpose (in this section referred to as the authorized officer), satisfies a magistrate, by statement made on oath,-

(a) that there are reasonable grounds for suspecting that a person has made an incorrect return or supplied false information having the effect of understating his income or profits chargeable to tax and has done so without reasonable excuse and not through an innocent oversight or omission; or

(b) that a person has failed to comply with an order of a court made under section 80(1) or (2A) directing him to comply with the requirements of a notice given to him under section 51(1) or (3), (Amended 56 of 1993 s. 22)

the magistrate may by warrant authorize the Commissioner or authorized officer to exercise the following powers-

(i) without previous notice at any reasonable time during the day, to enter and have free access to any land, buildings, or place where he suspects there to be any books, records, accounts or documents of that person, or of any other person, which may afford evidence material in assessing the liability of the first-mentioned person for tax, and there to search for and examine any books, records, accounts or documents; (Amended 43 of 1975 s. 4)

(ii) in carrying out any such search, to open or cause to be removed and opened, any article in which he suspects any books, records, accounts or documents to be contained;

(iii) to take possession of any books, records, accounts or documents of that person or that person's spouse, and to make copies of such parts of any books, records, accounts or documents of any other person, as may afford evidence material in assessing the liability of the first-mentioned person for tax; (Replaced 43 of 1975 s. 4. Amended 71 of 1983 s. 27)

(iv) to retain any such books, records, accounts or documents for as long as they may be reasonably required for any assessment to be made or for any proceedings under this Ordinance to be completed: Provided that if the Commissioner or authorized officer shall retain any book, record, account or document for a period of more than 14 days, the person aggrieved may apply in writing to the Board of Review for an order directing the return thereof and the Board of Review, after hearing the applicant or his authorized representative and the Commissioner or his representative, may so order, either unconditionally or subject to any condition which the Board may consider it proper to impose. (Amended 7 of 1975 s. 34)

(1A) Any officer of the Inland Revenue Department under the direction of the Commissioner or an authorized officer may assist the Commissioner or an authorized officer in the execution of a warrant issued under subsection (1) and may exercise any of the powers referred to in subsection (1)(i), (ii) and (iii). (Added 40 of 1972 s. 6)

(2) When exercising any power under subsection (1), the Commissioner or authorized officer shall produce on demand the warrant issued to him under that subsection.

(3) The person to whose affairs any books, records, accounts or documents taken possession of under subsection (1) relate shall be entitled to examine and make extracts from them at such times and under such conditions as the Commissioner may determine.

(4) Any person who obstructs or hinders the Commissioner or an authorized officer acting in the discharge of his duty under subsection (1) or an officer assisting him under subsection (1A) shall be guilty of an offence: Penalty a fine at level 3 and imprisonment for 6 months. (Amended 56 of 1993 s. 22; L.N. 338 of 1995)