

Immigration Prosecution Practice

Officers of the Immigration Department of or above the rank of Immigration Officer are authorized by the Director of Public Prosecutions under Sections 12 and 13 of the Magistrates Ordinance, Chapter 227 to prosecute immigration-related offences under the Ordinances set out in the attached Schedule in the Magistrates' Court. They mainly prosecute cases intercepted by the Immigration Department but there are also immigration offences referred to them by other departments. Court Prosecutors, Government Counsel or counsel-on-fiat will be requested to prosecute via the Department of Justice if the case involves a charge which officers of the Immigration Department are not authorized to prosecute, i.e. any offence alleged to have been committed under Ordinances other than the Ordinances referred to in the Schedule. Cases tried in the higher courts are prosecuted by Government Counsel or counsel-on-fiat.

2. In the Magistrates' Court, Government Counsel or counsel-on-fiat will be requested to conduct the prosecution if the case is a complicated one or if a difficult point of law is involved.

Immigration Department
March 2000

The Schedule

- (1) Immigration Ordinance, Cap. 115.
- (2) Immigration Service Ordinance, Cap. 331.
- (3) Registration of Persons Ordinance, Cap. 177.
- (4) Crimes Ordinance, Cap. 200, s.32, s.34, s.35, s.36, s.38, s.40, s.71, s.72, s.73, s.74, s.75, s.76, s.88, s.89, s.93.
- (5) Births and Deaths Registration Ordinance, Cap. 174, s.21(3), s.28.
- (6) Births Registration (Special Registers) Ordinance, Cap. 175, s.10.
- (7) Deaths Registration (Special Registers) Ordinance, Cap. 176, s.10.
- (8) Marriage Reform Ordinance, Cap. 178, s.10(2), s.23.
- (9) Marriage Ordinance, Cap. 181, s.29, s.30, s.31, s.32, s.33, s.39(3), s.39(4).
- (10) Offences against the Person Ordinance, Cap. 212, s.45.