

**Comparison of acts proscribed by the
International Convention for the Suppression of the Terrorist Bombings (Bombings Convention)
and existing similar criminal offences**

Statutory Provision	Section 11B of United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill)	Section 53 of Crimes Ordinance (Cap. 200)	Section 54 of Crimes Ordinance (Cap. 200)
Offence	<p>(1) A person shall not unlawfully and intentionally deliver, place, discharge or detonate an explosive or other lethal device in; into or against a prescribed object with the intention to cause death or serious bodily injury to any person.</p> <p>(2) A person shall not unlawfully and intentionally deliver, place, discharge, or detonate an explosive or other lethal device in, into or against a prescribed object –</p> <p>(a) with the intention to cause extensive destruction of the prescribed object; and</p> <p>(b) where such destruction results in or is likely to result in major economic loss.</p>	<p>A person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be guilty of an offence.</p>	<p>A person who unlawfully and maliciously –</p> <p>(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property; or</p> <p>(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property,</p> <p>shall whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be guilty of an offence.</p>

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<p>Elements of Offence</p>	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) unlawfully & intentionally; (iii) deliver/place/discharge/ detonate an explosive/ a lethal device as defined in section 11A(1); (iv) in/into/against a prescribed object as defined in section 11A(1); (v) with the intention to cause death/serious bodily harm to any person (section 11B(1)); <p>or</p> <p>with intention to cause extensive destruction of a prescribed object which results in or is likely to result in major economic loss (section 11B(2)).</p> <p>Section 3 provides that section 11B shall apply to -</p>	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) unlawfully & maliciously; (iii) cause by an explosive substance an explosion; and (iv) the explosion is of a nature which is likely to endanger life or cause serious injury to property. 	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) unlawfully & maliciously; (iii) does an act with intent to cause by an explosive substance or conspires to cause by an explosive substance an explosion which is likely to endanger life or to cause serious injury to property; <p>or</p> <p>makes/has in his possession or under his control any explosive substance with intent by means thereof to endanger life or cause serious injury to property or to enable any other person by means thereof to endanger life or cause serious injury to property.</p>

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	<p>(a) any person within the HKSAR; and</p> <p>(b) any person outside the HKSAR who is –</p> <p style="padding-left: 40px;">(i) a Hong Kong permanent resident; or</p> <p style="padding-left: 40px;">(ii) a body incorporated or constituted under the law of the HKSAR.</p>		
Penalty	Life imprisonment	Life imprisonment	20 years' imprisonment
Remarks (when compared against the requirements of the Bombings Convention)	Section 11B follows closely the wording of (and accordingly the elements and mens rea involved) of the acts proscribed by the Bombings Convention. Section 3 implements the jurisdictional requirements of the Bombings Convention.	<ul style="list-style-type: none"> - only covers explosive, not other lethal device. - offence must be committed in Hong Kong. 	<ul style="list-style-type: none"> - only covers explosive, not other lethal device. - offence must be committed in Hong Kong.

Statutory Provision	Section 60 of Crimes Ordinance (Cap. 200)	Section 11 of Offences Against the Person Ordinance (Cap. 212)	Section 28 of Offences Against the Person Ordinance (Cap. 212)
Offence	<p>(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.</p> <p>(2) A person who without lawful excuse destroys or damages any property, whether belonging to himself or another –</p> <p>(a) intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and</p> <p>(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,</p>	<p>Any person who, by the explosion of gunpowder or any other explosive substance, destroys or damages any building with intent to commit murder shall be guilty of an offence triable upon indictment.</p>	<p>A person who unlawfully and maliciously, by the explosion of gunpowder or any other explosive substance, burns, maims, disfigures, disables, or does any grievous bodily harm to any person shall be guilty of an offence triable upon indictment.</p>

Statutory Provision	Section 60 of Crimes Ordinance (Cap. 200)	Section 11 of Offences Against the Person Ordinance (Cap. 212)	Section 28 of Offences Against the Person Ordinance (Cap. 212)
	<p>shall be guilty of an offence.</p> <p>(3) An offence committed under this section by destroying or damaging property by fire shall be charged as arson.</p>		
Elements of Offence	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) without lawful excuse; (iii) destroy/damage any property belonging to another; (iv) intending to destroy or damage any such property or is reckless as to whether any such property would be destroyed/damaged (section 60(1)). <p>and</p> <ul style="list-style-type: none"> (v) intending by destruction/damage to endanger life of another or is reckless as to whether life of 	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) by an explosion of gunpowder or an explosive substance; (iii) destroy or damage a building; and (iv) with intent to commit murder. 	<p>Prosecution has to prove :-</p> <ul style="list-style-type: none"> (i) a person; (ii) unlawfully & maliciously; (iii) by explosion of gunpowder or any other explosive substance; and (iv) burns/maims/disfigures/disables/ does grievous bodily harm to a person.

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	another would be thereby endangered. (section 60(2)).		
Penalty	Life imprisonment for contravention of section 60(2) 10 years imprisonment for contravention of section 60(1)	Life imprisonment	Life imprisonment
Remarks (when compared against the requirements of the Bombings Convention)	<ul style="list-style-type: none"> - actual damage/destruction has to be proved. - offence must be committed in Hong Kong. 	<ul style="list-style-type: none"> - the intent must be to commit murder. - does not cover other lethal device. - actual damage/demolition has to be proved. - only covers buildings; the definition of “prescribed object” in section 11A(1) of the Bill is wider. - offence must be committed in Hong Kong. 	<ul style="list-style-type: none"> - grievous bodily harm has to be proved. - target at a person, not cover damage to property. - does not cover other lethal device. - offence must be committed in Hong Kong.

Statutory provision	Section 29 of Offences Against the Person Ordinance (Cap. 212)	Section 30 of Offences Against the Person Ordinance (Cap. 212)
Offence	<p>Any person who unlawfully and maliciously –</p> <p>(a) causes any gunpowder or other explosive substance to explode; or</p> <p>(b) sends or delivers to, or causes to be taken or received by, any person any explosive substance or any other dangerous or noxious thing; or</p> <p>(c) puts or lays at any place, or casts or throws at or upon or otherwise applies to any person, any corrosive fluid or any destructive or explosive substance,</p> <p>with intent in any of such cases to burn, maim, disfigure, or disable any person or to do some grievous bodily harm to any person, shall, whether any bodily injury is effected or not, be guilty of an offence triable upon indictment.</p>	<p>Any person who unlawfully and maliciously places or throws in, into, upon, against or near any building, ship, or vessel any gunpowder or other explosive substance, with intent to do any bodily injury to any person, shall, whether or not any explosion takes place and whether or not any bodily injury is effected, be guilty of an offence triable upon indictment.</p>
Elements of Offence	<p>Prosecution has to prove :-</p> <p>(i) a person;</p>	<p>Prosecution has to prove :-</p> <p>(i) a person;</p>

	<p>(ii) unlawfully & maliciously;</p> <p>(iii) does (a), (b) or (c); and</p> <p>(iv) with intent to burn, maim/disfigure/disable a person or to do some grievous bodily harm to a person.</p>	<p>(ii) unlawfully & maliciously;</p> <p>(iii) place/throw in, into, upon or near any building, ship or vessel.</p> <p>(iv) any gunpowder or other explosive substance; and</p> <p>(v) with intent to do any bodily injury to any person.</p>
Penalty	Life imprisonment	14 years' imprisonment
Remarks (when compared against the requirements of the Bombings Convention)	<ul style="list-style-type: none"> - covers injury to a person, does not cover act with intent to cause destruction to property. - offence must be committed in Hong Kong. 	<ul style="list-style-type: none"> - does not cover other lethal device. - may not cover a place of public use/transportation system (definition of "prescribed object" in section 11A(1) of the Bill is wider). - does not cover act with intent to cause destruction to property. - offence must be committed in Hong Kong.