

立法會
司法及法律事務委員會資料文件
檢討《刑事罪行條例》第 XII 部有關性罪行的條文

背景

在 2004 年 4 月 26 日的會議上，立法會司法及法律事務委員會得悉，政府擬對上次立法工作中原先根據《2001 年成文法(雜項規定)條例草案》(《條例草案》)提出修訂的《刑事罪行條例》(第 200 章)內的一些性罪行條文繼續進行檢討。該項工作的目的是釐清有關強姦配偶罪的法律。2004 年 4 月 29 日，司法及法律事務委員會秘書以書面告知政府，事務委員會同意政府的做法，並要求政府在完成檢討後向委員會匯報。本文件謹將檢討結果向事務委員會匯報。

上次立法工作中涉及強姦配偶罪的範疇

2. 2000 年 5 月，事務委員會就《刑事罪行條例》第 118 條對強姦的定義引起混淆，表示關注。混淆源於未能肯定該條中“非法性交”一詞可否根據舊的普通法詮釋而解釋為在婚姻的關係之外的性交。有觀點認為結婚後夫婦即同意性交這個古舊普通法推定可能仍然有效。因此，該觀點認為法院裁定丈夫不可能被判強姦妻子罪名成立的可能性仍然存在。

3. 有關法律在英國上議院就 *Regina v R* [1991] 1 WLR 767, 4 All ER 481 一案中的裁決而得以釐清。在該影響深遠的裁決中，多位上議院法官認為，現時再沒有法律規定，一旦結婚，妻子即被視作同意與丈夫性交，不得反悔。法庭裁定，任何女子，未經其同意而與她性交即屬非法，而在強姦罪行中“非法性交”中的“非法”一詞是不必要的用語(或沒有作用)。因此，若妻子不同意性交，丈夫可以被裁定強姦妻子罪名成立。

4. 事務委員會認為應當修訂《刑事罪行條例》，清楚訂明強姦配偶是一項罪行。雖然政府認為在 *Regina v R* 一案的裁決後，如妻子不同意性交，則丈夫有可能被裁定強姦妻子罪，但為免生疑問，政府同意建議修改法例。

5. 因此，在 2001 年 7 月 4 日向立法會提交的《條例草案》提出多項建議，包括釐清有關強姦配偶罪的法例。在審議《條例草案》期間，法案委員會認為，與其按《條例草案》的建議同時處理強姦以外的性罪行，不如採取較為簡單的做法，在委員會審議階段只處理強姦配偶罪便已足夠。法案委員會因而提出作“最少改動”的做法，而政府亦同意有關做法。根據這個做法，建議釐清有關法例的明確範疇將限於第 118 條(強姦)，以及被控強姦罪者可被裁定罪名成立的三項其他罪行。該三項其他罪行包括第 119 條(以威脅促致他人作非法的性行爲)、第 120 條(以虛假藉口促致他人作非法的性行爲)及第 121 條(施用藥物以獲得或便利作非法性行爲)。

6. 《成文法(雜項規定)條例》(2002 年第 23 號條例) 其後在 2002 年 7 月獲立法會通過。條例就《刑事罪行條例》增補了新的第 117(1B)條。根據第 117(1B)條，就第 118 條(強姦)、119 條(以威脅促致他人作非法的性行爲)、120 條(以虛假藉口促致他人作非法的性行爲)及 121 條(施用藥物以獲得或便利作非法性行爲)而言，並在不影響《刑事罪行條例》第 XII 部的其他條文的一般性的原則下，任何男子與其妻子性交並非在“非法性交”、“非法的性交”(unlawful sexual intercourse)的涵蓋範圍以外。因此，現在無人質疑(i)強姦配偶是一項罪行；(ii)一名男子可以對其妻子干犯其他三項性罪行(即以威脅促致他人作非法的性行爲、以虛假藉口促致他人作非法的性行爲、以及施用藥物以獲得或便利作非法性行爲)。

問題

7. 因此，是次檢討要處理的問題，是研究是否需要就其他性罪行立法，使這些罪行的定義同樣與 *Regina v R* 一案中反映的原則相符，以消除不合時宜的偏見，並為已婚婦女提供更大的保障。

載有“非法性交、非法的性交”或“非法的性行爲”字眼的條文

8. 《刑事罪行條例》第 XII 部中關於“非法性交、非法的性交”或“非法的性行爲”的罪行分別列入三個主要的題目內—

- (i) 性罪行(第 118、119、120、121、123、124、125、127 和 128 條)；

- (ii) 利用他人作性活動(第 130、132、133、134 和 135 條)；以及
- (iii) 使用處所等作不正當的性活動(第 140、141 和 142 條)。

上述條文的副本載於**附件**。

利用和使用處所

9. 是次檢討要處理的問題，不可能會發生在“利用他人作性活動”和“使用處所等作不正當的性活動”兩個題目所涉的罪行。儘管該等條文訂明的罪行，有部分提述“非法性交、非法的性交”和“非法的性行爲”，但這些罪行提述的非法性交、非法的性交和性行爲一般都是在婚姻關係之外的性活動。此外，假如丈夫在上述條文所設想的情況下迫使妻子未經同意而與他性交，該名丈夫可被控以強姦罪名。因此，政府決定無須對該等條文作出修訂。

性罪行

10. 法案新增的《刑事罪行條例》第 117(1B)條清楚訂明，就第 118、119、120 及 121 條而言，任何男子與其妻子性交並非在“非法性交”、“非法的性交”(unlawful sexual intercourse)的涵蓋範圍以外。因此，由於第 117(1B)條所產生的法律效力，這些條文在上次立法工作中已予修訂，無須再作任何改動。

11. 第 123 及 124 條的內容如下－

第 123 條

“任何男子與一名年齡在 13 歲以下的女童非法性交，即屬犯罪，一經循公訴程序定罪，可處終身監禁。”

第 124 條

“(1) 除第(2)款另有規定外，任何男子與一名年齡在 16 歲以下的女童非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 5 年。”

12. 根據《婚姻條例》(第 181 章)第 27(2)條，如婚姻其中一方於舉行婚禮時未足 16 歲，該宗婚姻即屬無效。第 123 及 124 條並不涉及在婚姻

關係之內的非法性交，因此不會被授引來檢控丈夫未經妻子同意而與她性交，也無須修訂有關係文以便為已婚婦女提供更大的保障。

13. 第 125 條的內容如下－

第 125 條

“(1) 除第(2)款另有規定外，任何男子與一名屬精神上無行為能力的人的女子非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。”

14. 已婚人士可能因為意外或疾病導致嚴重精神上無行為能力，因而失去同意進行性交的能力。丈夫雖然知悉妻子在精神上無行為能力，卻與她性交，仍可被控以強姦罪。因此，政府無須修訂第 125 條來保障妻子。

15. 第 127 條的內容如下－

第 127 條

“(1) 任何人將一名年齡在 18 歲以下的未婚女童，在違反其父母或監護人的意願的情況下，從其父母或監護人的管有下帶走，意圖使她與多名或某一名男子非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。”

16. 根據 *R v Chapman* [1959] 1 QB 100 一案，《1956 年性罪行法令》第 19 條(等同於《刑事罪行條例》第 127 條)中的非法性交指在婚姻關係之外的性交，由於第 127 條的目的，旨在保護年齡在 18 歲以下的未婚女童不會為使她與人性交而遭拐帶，政府無須修訂這條文為已婚婦女提供更大的保障。

17. 第 128 條的內容如下－

第 128 條

“(1) 除第(2)款另有規定外，任何人將一名精神上無行為能力的人，在違反其父母或監護人的意願的情況下，從其父母或監護人的管有下帶走，意圖使該精神上無行為能力的人作非法的性行為，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。”

18. 第 128 條涉及拐帶精神上無行為能力的人離開父母或監護人為使其作出非法性行為，並不涉及在婚姻關係之內的非法性交。政府無須修訂這條文為已婚婦女提供更大的保障。

結論

19. 經完成檢討《刑事罪行條例》第 123、124、125、127、128、130、132、133、134、135、141 及 142 條中有關性罪行(其中涉及非法性交及非法性行為)的條文後，政府認為由於該等條文並不涉及在婚姻關係之內的非法性交或非法性行為，故此政府無須修訂有關條文為已婚婦女提供更大的保障。此外，2002 年通過的《成文法(雜項規定)條例》(2002 年第 23 號條例)中的修訂條文，已對在婚姻關係之內的非法性交及非法性行為訂定足夠的刑事懲處。因此，政府認為沒有需要進一步立法。

律政司

法律政策科

2005 年 5 月

#316455 v.3

“擁有人”(owner)就任何處所而言，指根據租契、特許或其他方式直接從政府名下持有該處所的人、管有承按人、單獨或與他人共同及為其本人或為他人收取該處所租金的人，及在假設該處所租給租客的情況下，任何收取該處所租金的人；此外，在不能尋獲或不能確定上文界定的擁有人時，或在上文界定的擁有人不在香港或無行為能力時，則此詞亦包括該等擁有人的代理人。(由 1998 年第 29 號第 105 條修訂)

(1A) 就本部而言，任何人如作出下列作為即屬作非法的性行為，亦只有作出下列作為方屬作非法的性行為——

- (a) 作出非法的性交；
- (b) 與一名異性的人作出肛交或嚴重猥褻作為，而該人是不可與該異性的人作出合法性交的；或
- (c) 與一名同性的人作出肛交或嚴重猥褻作為。(由 1991 年第 90 號第 2 條增補)

(1B) 為免生疑問，現宣布就第 118、119、120 及 121 條而言，並在不影響本部其他條文的一般性的原則下，任何男子與其妻子性交並非在“非法性交”、“非法的性交”(unlawful sexual intercourse)的涵蓋範圍以外。(由 2002 年第 23 號第 11 條增補)

(2) 在本部條文中，如使用“男子”一詞而無加上“男童”一詞，或相反情況，則該條文適用於該二詞同被使用時所會適用的人；“女子”及“女童”兩詞的情形亦相同。

(3) 就本部而言，除非有下列情況，否則處所、船隻或任何地方不得視為賣淫場所——

- (a) 該處所、船隻或地方由 2 人或由超過 2 人完全或主要用以賣淫；或
(由 1991 年第 90 號第 2 條修訂)
- (b) 該處所、船隻或地方完全或主要用以組織或安排賣淫，或與組織或安排賣淫有關而使用。

(由 1978 年第 1 號第 6 條增補。由 1997 年第 81 號第 59 條修訂)

[比照 1956 c. 69 s. 45 U.K.]

性罪行

118. 強姦

(1) 任何男子強姦一名女子，即屬犯罪，一經循公訴程序定罪，可處終身監禁。[比照 1956 c. 69 s. 1 U.K.]

“specified sexual offence”(指明性罪行) means any of the following, namely, rape, non-consensual buggery, indecent assault, an attempt to commit any of those offences, aiding, abetting, counselling or procuring the commission or attempted commission of any of those offences, and incitement to commit any of those offences; (Added 90 of 1991 s. 2)

“suspension order”(暫停執行令) means an order made under section 153I(4). (Added 69 of 1990 s. 2)

(1A) For the purposes of this Part a person does an unlawful sexual act if, and only if, that person—

- (a) has unlawful sexual intercourse;
- (b) commits buggery or an act of gross indecency with a person of the opposite sex with whom that person may not have lawful sexual intercourse; or
- (c) commits buggery or an act of gross indecency with a person of the same sex. (Added 90 of 1991 s. 2)

(1B) For the avoidance of doubt, it is declared that for the purposes of sections 118, 119, 120 and 121 and without affecting the generality of any other provisions of this Part, “unlawful sexual intercourse”(非法性交、非法的性交) does not exclude sexual intercourse that a man has with his wife. (Added 23 of 2002 s. 11)

(2) The use in any provision of this Part of the word “man” without the addition of the word “boy”, or vice versa, shall not prevent the provision applying to any person to whom it would have applied if both words had been used, and similarly with the words “woman” and “girl”.

(3) Premises, vessel or any place shall not be treated as a vice establishment for the purposes of this Part unless—

- (a) the premises, vessel or place are or is used wholly or mainly by 2 or more persons for the purposes of prostitution; or (Amended 90 of 1991 s. 2)
- (b) the premises, vessel or place are or is used wholly or mainly for or in connexion with the organizing or arranging of prostitution.

(Added 1 of 1978 s. 6. Amended 81 of 1997 s. 59)
[cf. 1956 c. 69 s. 45 U.K.]

Sexual offences

118. Rape

(1) A man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. [cf. 1956 c. 69 s. 1 U.K.]

- (2) 任何男子冒充一名已婚女子的丈夫，誘使該女子與他性交，即屬強姦。
- (3) 任何男子——
 - (a) 與一名女子非法性交，而性交時該女子對此並不同意；及

- (2) A man who induces a married woman to have sexual intercourse with him by impersonating her husband commits rape.
- (3) A man commits rape if—
 - (a) he has unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it; and

(b) 當時他知道該女子並不同意性交，或罔顧該女子是否對此同意，即屬強姦。 (由 1978 年第 25 號第 3 條增補) [比照 1976 c. 82 s. 1(1) U.K.]

(4) 現予聲明，在強姦罪行的審訊中，陪審團如須考慮一名男子是否相信一名女子同意性交，則在考慮此事時，除須顧及其他有關事項，亦須顧及該名男子是否有合理理由相信該名女子同意性交。 (由 1978 年第 25 號第 3 條增補) [比照 1976 c. 82 s. 1(2) U.K.]

(5) 有關第 (4) 款所述的審訊，如在區域法院進行，或在裁判官席前或在少年法庭循簡易程序進行，則在該款中凡提述陪審團，即須解釋為提述區域法院、裁判官或少年法庭 (視屬何情況而定)。 (由 1978 年第 25 號第 3 條增補。由 1998 年第 25 號第 2 條修訂) [比照 1976 c. 82 s. 7(3) U.K.]

(由 1978 年第 1 號第 6 條增補)

~~118A. 未經同意下作出的肛交~~

~~任何人與另一人作出肛交，而在肛交時該另一人對此並不同意，即屬犯罪，一經循公訴程序定罪，可處終身監禁。~~

~~(由 1991 年第 90 號第 3 條增補)~~

~~118B. 意圖作出肛交而襲擊~~

~~任何人襲擊另一人，意圖作出肛交，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。~~

~~(由 1991 年第 90 號第 3 條增補)~~

~~118C. 由 21 歲以下男子作出或與 21 歲以下男子作出同性肛交~~

~~任何男子——~~

~~(a) 與年齡在 21 歲以下的男子作出肛交；或~~

~~(b) 年齡在 21 歲以下，而與另一名男子作出肛交，~~

~~即屬犯罪，一經循公訴程序定罪，可處終身監禁。~~

~~(由 1991 年第 90 號第 3 條增補)~~

(b) at that time he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it. (Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 1(1) U.K.]

(4) It is hereby declared that if at a trial for a rape offence the jury has to consider whether a man believed that a woman was consenting to sexual intercourse, the presence or absence of reasonable grounds for such a belief is a matter to which the jury is to have regard, in conjunction with any other relevant matters, in considering whether he so believed. (Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 1(2) U.K.]

(5) In relation to such a trial as is mentioned in subsection (4) which is a trial in the District Court or a summary trial before a magistrate or in a juvenile court, references to the jury in that subsection shall be construed as references to the District Court, the magistrate or the juvenile court, as the case may be. (Added 25 of 1978 s. 3) [cf. 1976 c. 82 s. 7(3) U.K.]

(Added 1 of 1978 s. 6)

~~118A. Non-consensual buggery~~

~~A person who commits buggery with another person who at the time of the buggery does not consent to it shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.~~

~~(Added 90 of 1991 s. 3)~~

~~118B. Assault with intent to commit buggery~~

~~A person who assaults another person with intent to commit buggery shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.~~

~~(Added 90 of 1991 s. 3)~~

~~118C. Homosexual buggery with or by man under 21~~

~~A man who——~~

~~(a) commits buggery with a man under the age of 21; or~~

~~(b) being under the age of 21 commits buggery with another man, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.~~

~~(Added 90 of 1991 s. 3)~~

~~118K. 促致男子與男子作出嚴重猥褻作為~~

任何人促致一名男子與另一名屬第三者的男子作出嚴重猥褻作為，即屬犯罪，一經循公訴程序定罪，可處監禁 2 年。

(由 1991 年第 90 號第 3 條增補)

118L. 獸交

任何人與動物作出違反自然性交，即屬犯獸交的罪行，一經循公訴程序定罪，可處罰款 \$50,000 及監禁 10 年。

(由 1991 年第 90 號第 3 條增補)

118M. 普通法中的肛交罪行及與動物作出違反自然性交的罪行的廢除

普通法中的肛交罪行及與動物作出違反自然性交的罪行現予廢除。

(由 1991 年第 90 號第 3 條增補)

118N. 已犯的肛交罪行、與動物作出違反自然性交的罪行及男性之間作出的嚴重猥褻作為的罪行

(1) 任何人如在《1991 年刑事罪行(修訂)條例》*(1991 年第 90 號)生效前已犯——

- (a) 肛交罪行或與動物作出違反自然性交的罪行；或
- (b) 《侵害人身罪條例》(第 212 章)原有第 51 條所訂罪行(有關男性與男性之間作出的嚴重猥褻作為的罪行)，

不得因此而被檢控，但假設《1991 年刑事罪行(修訂)條例》*(1991 年第 90 號)在該作為作出時已實施，而作出該作為即屬犯罪，則屬例外。

(2) 在本條中，凡提述原有某條條文，即提述《1991 年刑事罪行(修訂)條例》*(1991 年第 90 號)所廢除的某條條文。

(3) 在本條中，“罪”、“罪行”(an offence)包括企圖、煽惑及串謀犯罪，亦包括協助、教唆、慫使及促致犯罪或企圖犯罪。

(由 1991 年第 90 號第 3 條增補)

119. 以威脅促致他人作非法的性行為

(1) 任何人以威脅或恐嚇手段，促致另一人在香港或外地作非法的性行為，即屬犯罪，一經循公訴程序定罪，可處監禁 14 年。(由 1991 年第 90 號第 4 條修訂)

* “《1991 年刑事罪行(修訂)條例》”乃“Crimes (Amendment) Ordinance 1991”之譯名。

~~118K. Procuring gross indecency by man with man~~

A person who procures a man to commit an act of gross indecency with a third person, who is another man, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 2 years.

(Added 90 of 1991 s. 3)

118L. Bestiality

A person who commits buggery with an animal shall be guilty of the crime of bestiality and shall be liable on conviction on indictment to a fine of \$50,000 and to imprisonment for 10 years.

(Added 90 of 1991 s. 3)

118M. Abolition of buggery at common law

The offence of buggery at common law is abolished.

(Added 90 of 1991 s. 3)

118N. Past offences of buggery and gross indecency by males

(1) No person shall be prosecuted for an offence—

- (a) of buggery; or
- (b) under the former section 51 of the Offences against the Person Ordinance (Cap. 212) (offences relating to gross indecency by male with male),

committed before the commencement of the Crimes (Amendment) Ordinance 1991 (90 of 1991) except in respect of an act that would have been an offence had the Crimes (Amendment) Ordinance 1991 (90 of 1991) been in operation at the time of the act.

(2) In this section, a reference to a former section is a reference to a section repealed by the Crimes (Amendment) Ordinance 1991 (90 of 1991).

(3) In this section, “an offence” (罪、罪行) includes attempting, inciting and conspiring to commit an offence, and aiding, abetting, counselling and procuring the commission or attempted commission of an offence.

(Added 90 of 1991 s. 3)

119. Procurement by threats

(1) A person who procures another person, by threats or intimidation, to do an unlawful sexual act in Hong Kong or elsewhere shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (Amended 90 of 1991 s. 4)

(2) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補)
[比照 1956 c. 69 s. 2 U.K.]

120. 以虛假藉口促使他人作非法的性行為

(1) 任何人以虛假藉口或虛假申述，促使另一人在香港或外地作非法的性行為，即屬犯罪，一經循公訴程序定罪，可處監禁 5 年。(由 1991 年第 90 號第 5 條修訂)

(2) 就第 (1) 款而言，“藉口”(pretence)或“申述”(representation)包括與過去、現在或將來有關的藉口或申述，亦包括與使用藉口或申述的人或任何其他人的意圖有關的藉口或申述。

(3) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補)
[比照 1956 c. 69 s. 3 U.K.]

121. 施用藥物以獲得或便利作非法的性行為

(1) 任何人對另一人使用、施用或導致另一人服用任何藥物、物質或物品，意圖使該另一人神志不清或軟弱無力，以使任何人得以與該另一人作非法的性行為，即屬犯罪，一經循公訴程序定罪，可處監禁 14 年。(由 1991 年第 90 號第 6 條修訂)

(2) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補)
[比照 1956 c. 69 s. 4 U.K.]

122. 猥褻侵犯

(1) 除第 (3) 款另有規定外，任何人猥褻侵犯另一人，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。

(2) 年齡在 16 歲以下的人，在法律上是不能給予同意，使某項作為不構成本條所指的侵犯的。

(2) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 2 U.K.]

120. Procurement by false pretences

(1) A person who procures another person, by false pretences or false representations, to do an unlawful sexual act in Hong Kong or elsewhere shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years. (Amended 90 of 1991 s. 5)

(2) For the purposes of subsection (1), “pretence” (藉口) or “representation” (申述) includes a pretence or representation relating to the past, the present or the future and any pretence or representation as to the intention of the person using the pretence or representation or any other person.

(3) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 3 U.K.]

121. Administering drugs to obtain or facilitate unlawful sexual act

(1) A person who applies or administers to, or causes to be taken by, another person any drug, matter or thing with intent to stupefy or overpower that other person so as thereby to enable anyone to do an unlawful sexual act with that other person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (Amended 90 of 1991 s. 6)

(2) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 4 U.K.]

122. Indecent assault

(1) Subject to subsection (3), a person who indecently assaults another person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) A person under the age of 16 cannot in law give any consent which would prevent an act being an assault for the purposes of this section.

~~(3) 任何人如與或基於合理理由而相信他或她與另一人為已婚夫婦，則不會因第(2)款的規定而犯猥褻侵犯該另一人的罪行。(由1991年第90號第7條代替)~~

~~(4) 屬精神上無行為能力的人的女子在法律上是不能給予同意，使某項作為不構成本條所指的侵犯的，但任何人只會在知道或有理由懷疑她是精神上無行為能力的人的情況下，方可因她無能力同意而被視為犯猥褻侵犯精神上無行為能力的人的罪行。(由1997年第81號第59條修訂)~~

~~(由1978年第1號第6條增補。由1991年第90號第7條修訂)
[比照1956 c. 69 s. 14 U.K.]~~

123. 與年齡在13歲以下的女童性交

任何男子與一名年齡在13歲以下的女童非法性交，即屬犯罪，一經循公訴程序定罪，可處終身監禁。

(由1978年第1號第6條增補)
[比照1956 c. 69 s. 5 U.K.]

124. 與年齡在16歲以下的女童性交

(1) 除第(2)款另有規定外，任何男子與一名年齡在16歲以下的女童非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁5年。

(2) 凡根據《婚姻條例》(第181章)第27(2)條，因妻子年齡在16歲以下以致婚姻無效，如丈夫相信並有合理理由相信她是他的妻子，則該婚姻的無效不得令致丈夫因與她性交而犯本條所訂罪行。

(由1978年第1號第6條增補)
[比照1956 c. 69 s. 6 U.K.]

125. 與精神上無行為能力的人性交

(1) 除第(2)款另有規定外，任何男子與一名屬精神上無行為能力的人的女子非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁10年。(由1995年第68號第49條修訂)

~~(3) A person is not, by virtue of subsection (2), guilty of indecently assaulting another person, if that person is, or believes on reasonable grounds that he or she is, married to that other person. (Replaced 90 of 1991 s. 7)~~

~~(4) A woman who is a mentally incapacitated person cannot in law give any consent which would prevent an act being an assault for the purposes of this section, but a person is only to be treated as guilty of indecently assaulting a mentally incapacitated person by reason of that incapacity to consent, if that person knew or had reason to suspect her to be a mentally incapacitated person. (Amended 81 of 1997 s. 59)~~

~~(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 7)
[cf. 1956 c. 69 s. 14 U.K.]~~

123. Intercourse with girl under 13

A man who has unlawful sexual intercourse with a girl under the age of 13 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 5 U.K.]

124. Intercourse with girl under 16

(1) Subject to subsection (2), a man who has unlawful sexual intercourse with a girl under the age of 16 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

(2) Where a marriage is invalid under section 27(2) of the Marriage Ordinance (Cap. 181) by reason of the wife being under the age of 16, the invalidity shall not make the husband guilty of an offence under this section because he has sexual intercourse with her, if he believes her to be his wife and has reasonable cause for the belief.

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 6 U.K.]

125. Intercourse with mentally incapacitated person

(1) Subject to subsection (2), a man who has unlawful sexual intercourse with a woman who is a mentally incapacitated person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (Amended 68 of 1995 s. 49)

(2) 任何男子如不知道亦無理由懷疑一名女子是精神上無行為能力的人，則不會因與該女子非法性交而犯本條所訂罪行。

(由 1978 年第 1 號第 6 條增補。由 1997 年第 31 號第 4 條修訂；由 1997 年第 81 號第 59 條修訂)

[比照 1956 c. 69 s. 7 U.K.]

~~126. 拐帶年齡在 16 歲以下的未婚女童~~

~~(1) 任何人無合法權限或辯解，將一名年齡在 16 歲以下的未婚女童，在違反其父母或監護人的意願的情況下，從其父母或監護人的管有下帶走，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。~~

~~(2) 在第 (1) 款中，“監護人”(guardian) 指合法照顧或監管該女童的人。~~

~~(由 1978 年第 1 號第 6 條增補。由 1997 年第 31 號第 5 條修訂)~~

~~[比照 1956 c. 69 s. 20 U.K.]~~

127. 拐帶年齡在 18 歲以下的未婚女童
為使她與人性交

(1) 任何人將一名年齡在 18 歲以下的未婚女童，在違反其父母或監護人的意願的情況下，從其父母或監護人的管有下帶走，意圖使她與多名或某一名男子非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。

(2) 在第 (1) 款中，“監護人”(guardian) 指合法照顧或監管該女童的人。

(由 1978 年第 1 號第 6 條增補)

[比照 1956 c. 69 s. 19 U.K.]

128. 拐帶精神上無行為能力的人離開
父母或監護人為使其作出性行為

(1) 除第 (2) 款另有規定外，任何人將一名精神上無行為能力的人，在違反其父母或監護人的意願的情況下，從其父母或監護人的管有下帶走，意圖使該精神上無行為能力的人作非法的性行為，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。

(由 1997 年第 31 號第 6 條修訂)

(2) 任何人如不知道亦無理由懷疑另一人是精神上無行為能力的人，則不會因將該另一人從其父母或監護人的管有下帶走而犯本條所訂罪行。

(2) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a woman if he does not know and has no reason to suspect her to be a mentally incapacitated person.

(Added 1 of 1978 s. 6. Amended 31 of 1997 s. 4; 81 of 1997 s. 59)

[cf. 1956 c. 69 s. 7 U.K.]

~~126. Abduction of unmarried girl under 16~~

~~(1) A person who, without lawful authority or excuse, takes an unmarried girl under the age of 16 out of the possession of her parent or guardian against the will of the parent or guardian shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.~~

~~(2) In subsection (1), “guardian” (監護人) means any person having the lawful care or charge of the girl.~~

~~(Added 1 of 1978 s. 6. Amended 31 of 1997 s. 5)~~

~~[cf. 1956 c. 69 s. 20 U.K.]~~

127. Abduction of unmarried girl under 18
for sexual intercourse

(1) A person who takes an unmarried girl under the age of 18 out of the possession of her parent or guardian against the will of the parent or guardian with the intention that she shall have unlawful sexual intercourse with men or with a particular man shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.

(2) In subsection (1), “guardian” (監護人) means any person having the lawful care or charge of the girl.

(Added 1 of 1978 s. 6)

[cf. 1956 c. 69 s. 19 U.K.]

128. Abduction of mentally incapacitated person
from parent or guardian for sexual act

(1) Subject to subsection (2), a person who takes a mentally incapacitated person out of the possession of her or his parent or guardian against the will of the parent or guardian with the intention that the mentally incapacitated person shall do an unlawful sexual act shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (Amended 31 of 1997 s. 6)

(2) A person who takes another out of the possession of a parent or guardian is not guilty of an offence under this section if that person does not know and has no reason to suspect the other to be a mentally incapacitated person.

(3) 在本條中，“監護人”(guardian)指合法照顧或監管該精神上無行為能力的人的人。

(由 1991 年第 90 號第 8 條代替。由 1997 年第 81 號第 59 條修訂)
[比照 1956 c. 69 s. 21 U.K.]

利用他人作性活動

~~129. 販運他人進入或離開香港~~

(1) 任何人參與將另一人帶入或帶出香港，目的在於賣淫，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。

(2) 就根據本條提出的控罪而言，即使被控人證明上述的另一人同意被帶入或帶出香港，不論她或他是否知道此舉的目的在於賣淫，或證明該另一人因此曾接受任何利益，亦不得以此作為免責辯護。

(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 9 條修訂；由 1997 年第 31 號第 7 條修訂)

130. 控制他人而目的在於使他與人非法性交或賣淫

(1) 任何人——

(a) 窩藏、控制或指示另一人，意圖使該人與他人作出非法的性行為；或

(b) 窩藏、控制、指示或影響另一人，目的在於或旨在使該人賣淫，

即屬犯罪，一經循公訴程序定罪，可處監禁 14 年。(由 1991 年第 90 號第 10 條代替)

(2) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補)

~~131. 導致賣淫~~

(1) 任何人——

(a) 促使另一人在香港或外地成為娼妓；或

(3) In this section, “guardian” (監護人) means any person having the lawful care or charge of the mentally incapacitated person.

(Replaced 90 of 1991 s. 8. Amended 81 of 1997 s. 59)
[cf. 1956 c. 69 s. 21 U.K.]

Exploitation of other persons for sexual purposes

~~129. Trafficking in persons to or from Hong Kong~~

(1) A person who takes part in bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) It shall not be a defence to a charge under this section to prove that the other person consented to being brought into or taken out of Hong Kong whether or not she or he knew it was for the purpose of prostitution or that she or he received any advantage therefor.

(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 9; 31 of 1997 s. 7)

130. Control over persons for purpose of unlawful sexual intercourse or prostitution

(1) A person who—

(a) harbours another person or exercises control or direction over another person with the intention that that person shall do unlawful sexual acts with others; or

(b) harbours another person or exercises control, direction or influence over another person for the purpose of or with a view to that person's prostitution,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (Replaced 90 of 1991 s. 10)

(2) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6)

~~131. Causing prostitution~~

(1) A person who—

(a) procures another person to become, in Hong Kong or elsewhere, a prostitute; or

~~(b) 促致另一人離開香港，意圖使該另一人在外地居住於或經常出入於經營作賣淫場所的處所、船隻或地方；或~~

~~(c) 促致另一人離開她或他在香港的經常居住地方，意圖使該另一人在香港或外地居住於或經常出入於經營作賣淫場所的處所、船隻或地方，目的在於賣淫，~~

~~即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。~~

~~(2) (由 2000 年第 43 號第 3 條廢除)~~

~~(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 11 條修訂；由 1997 年第 31 號第 8 條修訂)~~

~~[比照 1956 c. 69 s. 22 U.K.]~~

132. 促致年齡在 21 歲以下的女童與人非法性交

(1) 任何人促致一名年齡在 21 歲以下的女童在香港或外地與第三者非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 5 年。

(2) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補)

[比照 1956 c. 69 s. 23 U.K.]

133. 促致精神上無行為能力的人與人非法性交

(1) 除第 (2) 款另有規定外，任何人促致一名屬精神上無行為能力的人的女子在香港或外地與第三者非法性交，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。(由 1997 年第 31 號第 9 條修訂)

(2) 任何人如不知道亦無理由懷疑一名女子是精神上無行為能力的人，則不會因促致該女子非法性交而犯本條所訂罪行。

(3) (由 2000 年第 43 號第 3 條廢除)

(由 1978 年第 1 號第 6 條增補。由 1997 年第 81 號第 59 條修訂)

[比照 1956 c. 69 s. 9 U.K.]

~~(b) procures another person to leave Hong Kong, intending that other person to become, elsewhere, an inmate of or frequent any premises, vessel or place kept as a vice establishment, or~~

~~(c) procures another person to leave her or his usual place of abode in Hong Kong, intending that other person to become an inmate of or frequent any premises, vessel or place kept as a vice establishment, in Hong Kong or elsewhere, for the purpose of prostitution,~~

~~shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.~~

~~(2) (Repealed 43 of 2000 s. 3)~~

~~(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 11; 31 of 1997 s. 8)
[cf. 1956 c. 69 s. 22 U.K.]~~

132. Procurement of girl under 21

(1) A person who procures a girl under the age of 21 to have unlawful sexual intercourse in Hong Kong or elsewhere with a third person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years.

(2) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6)
[cf. 1956 c. 69 s. 23 U.K.]

133. Procurement of mentally incapacitated person

(1) Subject to subsection (2), a person who procures a woman who is a mentally incapacitated person to have unlawful sexual intercourse in Hong Kong or elsewhere with a third person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (Amended 31 of 1997 s. 9)

(2) A person shall not be guilty of an offence under this section because he procures a mentally incapacitated person to have unlawful sexual intercourse, if he does not know and has no reason to suspect her to be a mentally incapacitated person.

(3) (Repealed 43 of 2000 s. 3)

(Added 1 of 1978 s. 6. Amended 81 of 1997 s. 59)
[cf. 1956 c. 69 s. 9 U.K.]

134. 禁錮他人為使他與人性交或 禁錮他人於賣淫場所

(1) 任何人以任何方式或方法，違反另一人的意願而將其禁錮——

(a) 意圖使該另一人作非法的性行為；或 (由 1991 年第 90 號第 12 條代替)

(b) 在經營作賣淫場所的處所、船隻或地方，

即屬犯罪，一經循公訴程序定罪，可處監禁 14 年。

(2) 凡有任何人在任何處所或船隻而目的在於作非法的性行為，或有任何人在經營作賣淫場所的任何處所、船隻或地方，則就第 (1) 款而言，另一人如意圖強迫或誘使該人留在該處而——

(a) 扣起該人的衣服或其他財產；或

(b) 威脅該人不得取去由該另一人供給或指示供給的衣服，否則提出法律程序，

即須當作將該人禁錮於該處。(由 1991 年第 90 號第 12 條代替)

(3) 任何人取去或被人發現管有衣服，而該等衣服是該人為得以離開其被禁錮而目的在於作非法的性行為的處所或船隻，或得以離開經營作賣淫場所的處所、船隻或地方而需用的，則該人無須負上循任何民事或刑事法律程序而被追究的責任。

(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 12 條修訂)

[比照 1956 c. 69 s. 24 U.K.]

135. 導致或鼓勵 16 歲以下女童或男童賣淫；導致或 鼓勵他人與其性交或向其猥褻侵犯

(1) 任何人導致或鼓勵一名年齡在 16 歲以下女童或男童賣淫，或導致或鼓勵任何人與該女童或男童作非法的性行為，且對該女童或男童負有責任，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。(由 1991 年第 90 號第 13 條代替。由 1997 年第 31 號第 10 條修訂)

(2) 凡有女童或男童當娼妓或曾與人作非法的性行為，則就本條而言，任何人明知而容許該女童或男童與娼妓或已知為不道德的人為伍、受其僱用或繼續受其僱用，即須當作導致或鼓勵該女童或男童當娼妓或與人作非法的性行為。(由 1991 年第 90 號第 13 條代替)

134. Detention for intercourse or in vice establishment

(1) A person who in any manner or by any means detains another person against her or his will—

(a) with the intention that the other person shall do an unlawful sexual act; or (*Replaced 90 of 1991 s. 12*)

(b) on any premises or vessel, or in any place, kept as a vice establishment,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

(2) Where a person is on any premises or vessel for the purpose of doing an unlawful sexual act or is on any premises or vessel, or in any place, kept as a vice establishment, another person shall be deemed for the purposes of subsection (1) to detain that person there if, with the intention of compelling or inducing that person to remain there, the other person—

(a) withholds from that person any of that person's clothes or other property; or

(b) threatens that person with legal proceedings in the event of that person taking away clothes provided for that person by the other person or on the other person's directions. (*Replaced 90 of 1991 s. 12*)

(3) A person shall not be liable to any legal proceedings, whether civil or criminal, for taking away or being found in possession of any clothes she or he needed to enable her or him to leave premises or a vessel on which she or he was being detained for the purpose of doing an unlawful sexual act or to leave any premises, vessel or place kept as a vice establishment.

(*Added 1 of 1978 s. 6. Amended 90 of 1991 s. 12*)

[*cf. 1956 c. 69 s. 24 U.K.*]

135. Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16

(1) A person who causes or encourages the prostitution of or an unlawful sexual act with a girl or boy under the age of 16 for whom that person is responsible shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (*Replaced 90 of 1991 s. 13. Amended 31 of 1997 s. 10*)

(2) Where a girl or boy is a prostitute or has done an unlawful sexual act, a person shall be deemed for the purposes of this section to have caused or encouraged the same if that person knowingly allowed the girl or boy to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character. (*Replaced 90 of 1991 s. 13*)

(3) 除第(4)款另有規定外，就本條而言，被視為對任何女童或男童負有責任的人為下列各人——

- (a) 女童或男童的父母或合法監護人；
- (b) 實際管有或控制女童或男童的人，或獲女童或男童的父母、合法監護人或管養女童或男童的人交托監管女童或男童的人；及
- (c) 管養、監管或照顧女童或男童的其他人。

(4) 在第(3)款中，就女童或男童而言，“父母”(parent)並不包括遭具有司法管轄權的法庭頒令剝奪其對該女童或男童的管養權的人；但除此之外，如女童或男童已被人根據《領養條例》(第 290 章)領養，“父母”(parent)指其領養人，又如女童或男童為非婚生且未被人根據上述條例領養者，該詞則指其母親及經判定為其指認父親的人。

(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 13 條修訂)
[比照 1956 c. 69 s. 28 U.K.]

~~136. 導致或鼓勵精神上無行為能力的人賣淫~~

~~(1) 除第(2)款另有規定外，任何人導致或鼓勵一名精神上無行為能力的人在香
港或外地賣淫，即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。(由 1991 年第
90 號第 14 條修訂)~~

~~(2) 任何人如不知道亦無理由懷疑另一人是精神上無行為能力的人，則不會因導
致或鼓勵該另一人賣淫而犯本條所訂罪行。(由 1991 年第 90 號第 14 條代替)~~

~~(由 1978 年第 1 號第 6 條增補。由 1997 年第 81 號第 59 條修訂)
[比照 1956 c. 69 s. 29 U.K.]~~

137. 依靠他人賣淫的收入為生

(1) 任何人明知而完全或部分依靠另一人賣淫的收入為生，即屬犯罪，一經循公
訴程序定罪，可處監禁 10 年。

(2) 就第(1)款而言，任何人與一名娼妓同居或慣常在一起，或控制、指示或影
響另一人的行動而所採用方式顯示他或她正在協助、教唆或強迫該另一人向他人賣
淫，則須被推定為明知而依靠賣淫的收入為生，除非他或她證明並非如此。

(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 15 條修訂；由 1997 年第
31 號第 11 條修訂)

[比照 1956 c. 69 s. 30 U.K.]

(3) Subject to subsection (4), the persons who for the purposes of this section are to be treated as responsible for a girl or boy are—

- (a) any person who is her or his parent or legal guardian;
- (b) any person who has actual possession or control of her or him, or to whose charge she or he has been committed by her or his parent or legal guardian or by a person having the custody of her or him; and
- (c) any other person who has the custody, charge or care of her or him.

(4) In subsection (3), “parent” (父母) does not include, in relation to any girl or boy, a person deprived of her or his custody by order of a court of competent jurisdiction but, subject to that, in the case of a girl or boy who has been adopted under the Adoption Ordinance (Cap. 290) means her or his adopters and in the case of a girl or boy who is illegitimate, and has not been so adopted, means her or his mother and any person who has been adjudged to be her or his putative father.

(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 13)
[cf. 1956 c. 69 s. 28 U.K.]

~~136. Causing or encouraging prostitution of mentally incapacitated person~~

~~(1) Subject to subsection (2), a person who causes or encourages the prostitution in Hong Kong or elsewhere of a mentally incapacitated person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (Amended 90 of 1991 s. 14)~~

~~(2) A person who causes or encourages the prostitution of another is not guilty of an offence under this section if that person does not know and has no reason to suspect the other to be a mentally incapacitated person. (Replaced 90 of 1991 s. 14)~~

~~(Added 1 of 1978 s. 6. Amended 81 of 1997 s. 59)
[cf. 1956 c. 69 s. 29 U.K.]~~

137. Living on earnings of prostitution of others

(1) A person who knowingly lives wholly or in part on the earnings of prostitution of another shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) For the purposes of subsection (1), a person who lives with or is habitually in the company of a prostitute, or who exercises control, direction or influence over another person's movements in a way which shows he or she is aiding, abetting or compelling that other person's prostitution with others, shall be presumed to be knowingly living on the earnings of prostitution, unless he or she proves the contrary.

(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 15; 31 of 1997 s. 11)
[cf. 1956 c. 69 s. 30 U.K.]

~~(5) 在本條中——~~
~~“色情物品”(pornography)指——~~
~~(a) 對某人作色情描劃的照片、影片、電腦產生的影像或其他視像描劃，不論它是以電子或任何其他方式製作或產生，亦不論它是否經過修改；或~~
~~(b) 收納(a)段提述的照片、影片、影像或描劃的任何東西，~~
~~並包括以任何方式貯存並能轉為(a)段提述的照片、影片、影像或描劃的資料或數據，以及包含上述資料或數據的任何東西；~~
~~“真人色情表演”(live pornographic performance)包括對某人作色情描劃的任何戲劇、節目、展覽、表演、娛樂、演出、陳列或其他種類的表演。~~
~~(由 2003 年第 31 號第 14 條增補)~~

139. 經營賣淫場所

~~(1) 任何人於任何時候—— (由 1990 年第 69 號第 3 條修訂)~~
~~(a) 將任何處所、船隻或地方經營作賣淫場所；或~~
~~(b) 管理或協助管理，或以其他方式掌管或控制經營作賣淫場所的處所、船隻或地方，~~
 即屬犯罪——
~~(i) 一經循簡易程序定罪，可處監禁 3 年；或~~
~~(ii) 一經循公訴程序定罪，可處監禁 10 年。~~
~~(2) 凡——~~
~~(a) 對某人提出本條所指的控罪，或本條所指的控罪被撤回；或~~
~~(b) 某人被裁定本條所訂罪行罪名不成立或罪名成立，或就本條所訂罪行的定罪上訴成功，~~
 則第 145A 條即行適用。 (由 1990 年第 69 號第 3 條增補)
 (由 1978 年第 1 號第 6 條增補。由 1997 年第 31 號第 12 條修訂)
 [比照 1956 c. 69 s. 33 U.K.]

使用處所等作不正當的性活動

140. 准許年齡在 13 歲以下的女童或男童經常前往或置身於處所或船隻以與人性交

任何處所或船隻的擁有人或佔用人，及管理、協助管理或協助控制任何處所或船隻的人，誘使或明知而容受一名年齡在 13 歲以下的女童或男童經常前往該處所或船

~~(5) In this section——~~
~~“live pornographic performance”(真人色情表演) includes any play, show, exhibition, act, entertainment, presentation, display or other performance of any kind in which a person is pornographically depicted;~~
~~“pornography”(色情物品) means——~~
~~(a) a photograph, film, computer-generated image or other visual depiction that depicts a person pornographically, whether it is made or generated by electronic or any other means and whether or not it has been modified; or~~
~~(b) anything that incorporates a photograph, film, image or depiction referred to in paragraph (a),~~
~~and includes data stored in a form that is capable of conversion into a photograph, film, image or depiction referred to in paragraph (a) and anything containing such data.~~
~~(Added 31 of 2003 s. 14)~~

139. Keeping a vice establishment

~~(1) A person who on any occasion—— (Amended 69 of 1990 s. 3)~~
~~(a) keeps any premises, vessel or place as a vice establishment; or~~
~~(b) manages or assists in the management, or is otherwise in charge or control, of any premises, vessel or place kept as a vice establishment,~~
 shall be guilty of an offence and shall be liable——
~~(i) on summary conviction to imprisonment for 3 years; or~~
~~(ii) on conviction on indictment to imprisonment for 10 years.~~
~~(2) Where——~~
~~(a) a charge under this section is preferred against a person or is withdrawn; or~~
~~(b) a person is acquitted or convicted of, or successfully appeals against a conviction for, an offence under this section,~~
 section 145A applies. (Added 69 of 1990 s. 3)
 (Added 1 of 1978 s. 6. Amended 31 of 1997 s. 12)
 [cf. 1956 c. 69 s. 33 U.K.]

Use of premises, etc. for illicit sexual purposes

140. Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse

An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel,

隻或置身於該處所或船隻，目的在於作非法的性行為或在於賣淫，即屬犯罪，一經循公訴程序定罪，可處終身監禁。

(由 1978 年第 1 號第 6 條增補。由 1991 年第 90 號第 17 條修訂)
[比照 1956 c. 69 s. 25 U.K.]

**141. 准許青年經常前往或置身於處所或船隻以作出
性交、賣淫、肛交或同性性行為**

任何處所或船隻的擁有人或佔用人，及管理、協助管理或協助控制任何處所或船隻的人，誘使或明知而容受——

who induces or knowingly suffers a girl or boy under the age of 13 to resort to or be on such premises or vessel for the purpose of doing an unlawful sexual act or for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.

(Added 1 of 1978 s. 6. Amended 90 of 1991 s. 17)
[cf. 1956 c. 69 s. 25 U.K.]

**141. Permitting young person to resort to or
be on premises or vessel for intercourse,
prostitution, buggery or homosexual act**

An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers—

- (a) 一名年齡在 16 歲以下的女童經常前往該處所或船隻或置身於該處所或船隻，目的在於與男子非法性交或在於賣淫；
- (b) 一名年齡在 21 歲以下的女童或男童經常前往該處所或船隻或置身於該處所或船隻，目的在於與男子作出肛交；或
- (c) 一名年齡在 21 歲以下的男童經常前往該處所或船隻或置身於該處所或船隻，目的在於與男子作出嚴重猥褻作為，

即屬犯罪，一經循公訴程序定罪，可處監禁 14 年。

(由 1991 年第 90 號第 18 條代替)

142. 准許精神上無行為能力的人經常前往或置身於處所或船隻以作出性交、賣淫或同性性行為

(1) 除第 (2) 款另有規定外，任何處所或船隻的擁有人或佔用人，及管理、協助管理或協助控制任何處所或船隻的人，誘使或明知而容受——

- (a) 一名屬精神上無行為能力的人的女子經常前往該處所或船隻或置身於該處所或船隻，目的在於與男子非法性交或在於賣淫；或
- (b) 一名屬精神上無行為能力的人的男子經常前往該處所或船隻或置身於該處所或船隻，目的在於與男子作出肛交或在於與男子作出嚴重猥褻作為，

即屬犯罪，一經循公訴程序定罪，可處監禁 10 年。

(2) 任何人如不知道亦無理由懷疑另一人是精神上無行為能力的人，則不會因誘使或明知而容受該另一人經常前往處所或船隻或置身於處所或船隻而犯本條所訂罪行。

(由 1991 年第 90 號第 19 條代替。由 1997 年第 81 號第 59 條修訂)

~~143. 出租處所以供用作賣淫場所~~

~~(1) 任何人身為處所的擁有人或租客或其代理人—— (由 1990 年第 69 號第 3 條修訂)~~

- ~~(a) 將處所全部或部分出租，而知道其全部或部分將經營作賣淫場所；或~~
- ~~(b) 如處所全部或部分已用作賣淫場所，故意參與讓其繼續作此用途，~~

~~即屬犯罪，一經循公訴程序定罪，可處監禁 7 年。~~

- (a) a girl under the age of 16 to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with a man or for the purpose of prostitution;
- (b) a girl or boy under the age of 21 to resort to or be on such premises or vessel for the purpose of committing buggery with a man; or
- (c) a boy under the age of 21 to resort to or be on such premises or vessel for the purpose of committing an act of gross indecency with a man,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years.

(Replaced 90 of 1991 s. 18)

142. Permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act

(1) Subject to subsection (2), an owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers—

- (a) a woman who is a mentally incapacitated person to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with a man or for the purpose of prostitution; or
- (b) a man who is a mentally incapacitated person to resort to or be on such premises or vessel for the purpose of committing buggery with a man or an act of gross indecency with a man,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(2) A person who induces or knowingly suffers another to resort to or be on any premises or vessel is not guilty of an offence under this section if that person does not know and has no reason to suspect the other to be a mentally incapacitated person.

(Replaced 90 of 1991 s. 19. Amended 81 of 1997 s. 59)

~~143. Letting premises for use as a vice establishment~~

~~(1) A person who, being the owner or tenant of any premises or his agent— (Amended 69 of 1990 s. 3)~~

- ~~(a) lets the whole or part of the premises with the knowledge that it is to be kept, in whole or in part, as a vice establishment; or~~
- ~~(b) where the whole or part of the premises is used as a vice establishment, is wilfully a party to that use continuing,~~

~~shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years.~~