

Independent Commission Against Corruption Ordinance

(Cap. 204)

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To provide for the establishment of an Independent Commission Against Corruption and matters incidental thereto.

[15 February 1974]

(Format changes—E.R. 1 of 2018)

1. Short title

This Ordinance may be cited as the Independent Commission Against Corruption Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

Commission (廉政公署) means the Independent Commission Against Corruption established under section 3;

Commissioner (廉政專員) means the Commissioner of the Independent Commission Against Corruption appointed in accordance with the Basic Law and includes the Deputy Commissioner appointed under section 6; *(Replaced 1 of 2003 s. 3)*

officer (廉署人員) means an officer of the Commission appointed under section 8;

prescribed officer (訂明人員) means—

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a))—
 - (i) any principal official of the Government appointed in accordance with the Basic Law;

- (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;
- (iii) Chairman of the Public Service Commission;
- (iv) any member of the staff of the Commission;
- (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary; (*Added 14 of 2003 s. 19*)

public body (公共機構) has the meaning assigned to it in section 2 of the Prevention of Bribery Ordinance (Cap. 201); (*Replaced 51 of 1987 s. 2*)

public servant (公職人員) has the meaning assigned to it in section 2 of the Prevention of Bribery Ordinance (Cap. 201); (*Replaced 51 of 1987 s. 2. Amended E.R. 1 of 2018*)

Public Service (Administration) Order (《公務人員(管理)命令》) means—

- (a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
- (b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
- (c) any other regulation made or any direction given under that Order,

as amended from time to time. (*Added 1 of 2003 s. 3*)

(*Amended 14 of 2003 s. 19*)

3. Establishment of the Commission

There is hereby established the Independent Commission Against Corruption which shall consist of the Commissioner, the Deputy Commissioner and such officers as may be appointed.

4. Maintenance of the Commission

The expenses of the Commission shall be charged to the general revenue.

(Amended 51 of 1987 s. 3)

5. Office of Commissioner

- (1) The Commissioner, subject to the orders and control of the Chief Executive, shall be responsible for the direction and administration of the Commission. *(Replaced 1 of 2003 s. 3)*
- (2) The Commissioner shall not be subject to the direction or control of any person other than the Chief Executive.
- (3) The Commissioner shall hold office on such terms and conditions as the Chief Executive may think fit.
- (4) The Commissioner shall not, while he holds the office of the Commissioner, discharge the duties of any other prescribed officer. *(Amended 14 of 2003 s. 20)*

(Amended 1 of 2003 s. 3)

6. Appointment of Deputy Commissioner

The Chief Executive may appoint a Deputy Commissioner on such terms and conditions as he may think fit.

(Amended 1 of 2003 s. 3)

7. Acting Commissioner

- (1) If the office of the Commissioner is vacant or the Commissioner is absent from duty, the Deputy Commissioner

shall, save where the Chief Executive otherwise directs, act as Commissioner.

- (2) If both the Commissioner and the Deputy Commissioner are absent from duty, the Chief Executive may appoint another person to act as Commissioner during that absence.

(Amended 1 of 2003 s. 3)

8. Appointment of officers

- (1) The Commissioner may appoint such officers as the Chief Executive thinks necessary to assist the Commissioner in the performance of his functions under this Ordinance.
- (2) (a) Subject to paragraph (b), the Commissioner may, if he is satisfied that it is in the interests of the Commission to do so, after consulting the Advisory Committee on Corruption, terminate the appointment of an officer.
- (b) Before terminating an appointment under this subsection—
- (i) the Commissioner shall by notice in writing inform the officer concerned that the termination of his appointment is under consideration and the reasons therefor; and
- (ii) in the notice such officer shall be given a period of not less than 7 days within which to make, and is hereby authorized to make if he so wishes, written representations to the Commissioner as regards such reasons or as to why his appointment should not be terminated or as regards both.
- (c) Where an appointment is terminated under this subsection—
- (i) the Commissioner shall notify the officer in writing of the termination; and

- (ii) the officer may, within the period of 21 days beginning on the date of the notification under subparagraph (i), appeal to the Chief Executive against the termination.
- (d) On an appeal under paragraph (c) the Chief Executive may confirm or set aside the termination.
- (e) Where an appointment is terminated under subsection (2)(a), the termination shall operate forthwith but if on an appeal under paragraph (c)(ii) the termination is set aside, the officer concerned shall be treated in all respects as if the Commissioner had not terminated his appointment. *(Replaced 48 of 1996 s. 19)*
- (3) The terms and conditions of employment of officers shall be subject to the approval of the Chief Executive, who may vary any terms or conditions imposed by virtue of subsection (4).
- (4) Subject to this section and section 11(2), the Commissioner and officers shall be employed subject to Public Service (Administration) Order, Government regulations and such administrative rules as apply generally to public officers, except insofar as the application of such Public Service (Administration) Order, Government regulations or rules may be modified by standing orders made under section 11(2).

(Amended 1 of 2003 s. 3)

9. Warrant card

The Commissioner may issue to such officers as he thinks fit a warrant card which shall be prima facie evidence of the officer's appointment as such.

10. Power of arrest

- (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 Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) or, being a prescribed officer, is guilty of an offence of blackmail committed by or through the misuse of office. (*Amended 27 of 1980 s. 2; 10 of 2000 s. 47; 14 of 2003 s. 21*)

- (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 Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), 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; 10 of 2000 s. 47*)
- (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 Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), as the case may be; or (*Amended 16 of 1991 s. 2; 10 of 2000 s. 47*)
- (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)*
- (eb) the offence under section 14(1A) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) of dealing with certain property in contravention of section 8A of that Ordinance; *(Added 14 of 2018 s. 12)*
- (ec) the offence under section 14(4A) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) of doing certain acts in contravention of section 11K, 11L or 11M of that Ordinance; *(Added 14 of 2018 s. 12)*
- (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), (ea), (eb) or (ec); *(Replaced 27 of 1980 s. 2. Amended 51 of 1987 s. 4; 16 of 1991 s. 2; 45 of 1999 s. 5; 14 of 2018 s. 12)*
- (g) an attempt to commit any offence referred to in paragraph (a), (aa), (b), (ba), (c), (d), (da), (db), (dc), (dd), (de), (e), (ea), (eb) or (ec) 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; 14 of 2018 s. 12)*

(Replaced 14 of 1976 s. 2)

10A. Procedure after arrest

- (1) A person arrested under section 10—
 - (a) may be taken forthwith to a police station and there dealt with in accordance with the Police Force Ordinance (Cap. 232); or
 - (b) may be taken to the offices of the Commission.
- (2) A person arrested under section 10 who is taken to the offices of the Commission may be—
 - (a) detained there if an officer of the rank of Senior Commission Against Corruption Officer or above considers it necessary for the purpose of further inquiries;
 - (b) released from custody—
 - (i) on his depositing such reasonable sum of money as an officer of the rank of Senior Commission Against Corruption Officer or above may require; or
 - (ii) on his entering into such recognizance, with such sureties, if any, as an officer of the rank of Senior Commission Against Corruption Officer or above may require; or
 - (iii) on his depositing such a sum of money and entering into such a recognizance.
- (3) A person who has deposited a sum of money for the purposes of subsection (2) and has thereupon been released from custody shall—
 - (a) attend at the offices of the Commission at such time as an officer of the rank of Senior Commission Against Corruption Officer or above has specified and, having

so attended, shall further attend at such other times thereafter as such an officer may specify; or (*Amended 48 of 1996 s. 20*)

- (b) appear before a magistrate at such time and place as an officer of the rank of Senior Commission Against Corruption Officer or above has specified.

(3A) A person who has been released from custody under subsection (3) and—

- (a) who attends at the offices of the Commission at a further time as shall have been specified; and
- (b) who on such attendance advises an officer of the rank of Senior Commission Against Corruption Officer or above that he will refuse to attend at any further time, whether specified or not,

shall have the sum of money deposited for the purposes of subsection (2) refunded to him and shall not be bound by any recognizance entered into by him with respect to his attendance. (*Added 48 of 1996 s. 20*)

(4) A recognizance entered into for the purposes of subsection (2) shall be conditioned—

- (a) for the attendance of the person at the offices of the Commission at such time as may be specified therein and at such other time thereafter as an officer of the rank of Senior Commission Against Corruption Officer or above may specify; or
- (b) for the appearance of the person before a magistrate at such time and place as may be specified therein.

(5) If any person fails to attend at the offices of the Commission or to appear before a magistrate in accordance with subsection (3) or a recognizance entered into for the purposes of subsection (2), such sum of money may be forfeited or

such recognizance estreated by a magistrate on application by the Commissioner.

- (6) A person who is detained at the offices of the Commission under subsection (2)(a) shall be brought before a magistrate as soon as practicable and in any event within 48 hours after his arrest unless he is sooner released, whether under subsection (2)(b) or otherwise.
- (7) (a) A person who is detained at the offices of the Commission under subsection (2)(a) may be taken in the custody of an officer to and from any other place if an officer of the rank of Senior Commission Against Corruption Officer or above considers it necessary or desirable to do so.
- (b) Any person who is being taken to and from any such place in the custody of an officer under paragraph (a) shall be deemed to be in lawful custody.
- (8) The Chief Executive may by order make such provision as he considers necessary with respect to the treatment of persons detained at the offices of the Commission, whether under subsection (2)(a) or pursuant to the order of a magistrate under section 20(3) or 79(1) of the Magistrates Ordinance (Cap. 227). (*Amended 51 of 1987 s. 5; 1 of 2003 s. 3*)

(Added 14 of 1976 s. 2. Amended 27 of 1980 s. 3)

10AA. Arrest of persons granted bail

- (1) An officer authorized in that behalf by the Commissioner may arrest without warrant any person who has been released from custody in accordance with section 10A(2), or otherwise admitted to bail following his arrest under section 10 or his appearance on a summons in respect of an offence referred to in that section—

- (a) if the officer has reasonable grounds for believing that any condition on or subject to which such person was so released or otherwise admitted to bail has been or is likely to be broken; or
 - (b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the condition that he will appear at the time and place required and for that reason the surety wishes to be relieved of his obligation as surety. (*Amended 56 of 1994 s. 10*)
- (2) Any person arrested under subsection (1) shall be brought within the period of 24 hours after his arrest or as soon as practicable after the expiry of that period before a magistrate, except where he was so arrested within the period of 24 hours immediately preceding an occasion on which he is required by virtue of a condition of his release under section 10A(2) or other bail to appear before any court, in which case he shall be brought before that court.
- (3) If it appears to the court before which a person is brought under subsection (2) that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be broken, the court may—
 - (a) remand that person in custody; or
 - (b) admit that person to bail on the same conditions or on such other conditions as it thinks fit,but if it does not so appear to that court the court shall admit that person to bail on the same conditions.
- (4) Nothing in this section shall derogate from or affect the powers of arrest contained in section 9K of the Criminal Procedure Ordinance (Cap. 221). (*Amended 56 of 1994 s. 10*)

(*Added 51 of 1987 s. 6*)

[cf. 1967 c. 80 s. 23 U.K.]

10B. Search warrants

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)

10C. Power of search and seizure

- (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. *(Amended E.R. 1 of 2018)*
 - (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)

10D. Power to take finger-prints and photographs

- (1) Where a person has been arrested under section 10 or, has been served with a summons under section 8(2) of the Magistrates Ordinance (Cap. 227) in respect of a section 10 offence, any officer may take, or cause to be taken under the supervision of an officer, photographs, finger-prints and the weight and height measurements of that person. *(Amended 48 of 1996 s. 22)*
- (2) The identifying particulars of a person taken under subsection (1) may be retained by the Commissioner, except that if—
- (a) a decision is taken not to charge the person with any offence; or
 - (b) the person is charged with a section 10 offence but discharged by a court before conviction or acquitted at his trial or on appeal,
- the identifying particulars, together with any negatives or copies thereof, shall as soon as reasonably practicable be destroyed or, if the person prefers, delivered to that person.
- (3) Notwithstanding subsection (2), the Commissioner may retain the identifying particulars of a person who has been previously convicted of any section 10 offence.
- (4) In this section—
- identifying particulars*** (辨別身分資料) in relation to a person means photographs, finger-prints and the weight and height measurements of that person;

section 10 offence (第10條罪行) means any offence for which a person may be arrested under section 10.

(Replaced 21 of 1991 s. 2)

10E. Taking of non-intimate samples

- (1) In any investigation in respect of an offence committed or believed to have been committed, a non-intimate sample may be taken from a person with or without his consent for forensic analysis only if—
 - (a) that person is dealt with and detained pursuant to section 10A; and
 - (b) an officer of the rank of Senior Commission Against Corruption Officer or above (**authorizing officer**) authorizes it to be taken.
- (2) An authorizing officer may only give an authorization as required under subsection (1)(b) if he has reasonable grounds—
 - (a) for suspecting that the person from whom the non-intimate sample is to be taken has committed a serious arrestable offence; and
 - (b) for believing that the sample will tend to confirm or disprove the commission of the offence by that person.
- (3) An authorizing officer—
 - (a) subject to paragraph (b), must give an authorization pursuant to subsection (2) in writing;
 - (b) where it is impracticable to comply with paragraph (a), may give such authorization orally, in which case he must confirm it in writing as soon as practicable.
- (4) Where an authorization has been given pursuant to subsection (2), an officer shall, before the taking of a non-intimate

sample, inform the person from whom the sample is to be taken—

- (a) of the nature of the offence in which the person is suspected to have committed;
 - (b) that there are reasonable grounds to believe that the sample will tend to confirm or disprove the commission of the offence by that person;
 - (c) of the giving of the authorization;
 - (d) that he may or may not consent to the taking of the sample;
 - (e) that if he does not consent to the taking of the sample, the sample will still be taken from him by using reasonable force if necessary;
 - (f) that the sample will be analysed and the information derived from such analysis may provide evidence that might be used in criminal proceedings for such offence or any other offence for which a person may be arrested under section 10;
 - (g) that he may make a request to an officer for access to the information derived from the analysis of the sample; and
 - (h) that if he is subsequently convicted of any serious arrestable offence, any DNA information derived from the sample may be permanently stored in the DNA database maintained under section 59G(1) of the Police Force Ordinance (Cap. 232) and may be used for the purposes specified in subsection (2) of that section.
- (5) The person from whom a non-intimate sample was taken pursuant to subsection (1) is entitled to access to the information derived from the analysis of the sample.

- (6) Any consent given for the taking of a non-intimate sample pursuant to this section must be given in writing and signed by the person giving the consent.
- (7) A non-intimate sample from a person may only be taken by—
 - (a) a registered medical practitioner; or
 - (b) an officer, or a public officer working in the Government Laboratory, who has received training for the purpose.
- (8) An officer may use such force as is reasonably necessary for the purposes of taking or assisting the taking of a non-intimate sample from a person pursuant to this section.
- (9) In this section, sections 10F and 10G—

DNA means deoxyribonucleic acid;

DNA information (DNA 資料) means genetic information derived from the forensic DNA analysis of an intimate sample or a non-intimate sample;

intimate sample (體內樣本) means—

- (a) a sample of blood, semen or any other tissue fluid, urine or hair other than head hair;
- (b) a dental impression;
- (c) a swab taken from a private part of a person's body or from a person's body orifice other than the mouth;

non-intimate sample (非體內樣本) means—

- (a) a sample of head hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part, other than a private part, of a person's body or from the mouth but not any other body orifice;
- (d) saliva;

- (e) an impression of any part of a person's body other than—
 - (i) an impression of a private part;
 - (ii) an impression of the face; or
 - (iii) the identifying particulars described in section 59(6) of the Police Force Ordinance (Cap. 232);

private part (私處) in relation to a person's body, means the genital or anal area and includes the breasts in the case of a woman;

serious arrestable offence (嚴重的可逮捕罪行) means an offence for which a person may be arrested under section 10 and for which a person may under or by virtue of any law be sentenced to imprisonment for a term not less than 7 years.

(Added 68 of 2000 s. 4)

10F. Limitations on use of samples and results of forensic analysis

- (1) Without prejudice to subsection (4), no person shall have access to, dispose of or use a non-intimate sample taken pursuant to section 10E except for the purposes of—
 - (a) forensic analysis in the course of an investigation of any offence for which a person may be arrested under section 10; or
 - (b) any proceedings for any such offence.
- (2) Without prejudice to subsection (4), no person shall have access to, disclose or use the results of forensic analysis of a non-intimate sample taken pursuant to section 10E except—
 - (a) for the purposes of—
 - (i) forensic comparison and interpretation in the course of investigation of any offence for which a person may be arrested under section 10;
 - (ii) any proceedings for such an offence; or

- (iii) making the results available to the person to whom the results relate; or
 - (b) for the purposes of section 59G(1) and (2) of the Police Force Ordinance (Cap. 232) where the results are of forensic DNA analysis.
- (3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months.
- (4) Whether or not a non-intimate sample taken pursuant to section 10E or the results of forensic analysis of the sample has been destroyed under section 10G, no person shall use the sample or results in any proceedings for an offence for which a person may be arrested under section 10 after—
 - (a) it is decided that a person from whom the sample was taken shall not be charged with any offence for which a person may be arrested under section 10;
 - (b) if the person has been charged with one or more such offences—
 - (i) the charge or all the charges, as the case may be, is or are withdrawn;
 - (ii) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (iii) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.

(Added 68 of 2000 s. 4)

10G. Disposal of samples and records

- (1) The Commissioner shall take reasonable steps to ensure that—

- (a) a non-intimate sample taken pursuant to section 10E; and
 - (b) a record to the extent that it contains information about the sample and particulars that are identifiable by any person as particulars identifying that information with the person from whom the sample was taken, which may be retained by him or on his behalf are destroyed as soon as practicable after—
 - (i) if the person has not been charged with any offence for which a person may be arrested under section 10, the expiry of—
 - (A) subject to subparagraph (B), 12 months from the date on which the sample was taken (*the relevant period*); or
 - (B) such further period or periods as may be extended under subsection (2) (*the extended period*);
 - (ii) if the person has been charged with one or more offences for which a person may be arrested under section 10 within the relevant period and the extended period, if any—
 - (A) the charge or all the charges, as the case may be, is or are withdrawn;
 - (B) the person is discharged by a court before conviction of the offence or all the offences, as the case may be; or
 - (C) the person is acquitted of the offence or all the offences, as the case may be, at trial or on appeal, whichever occurs first.
- (2) An officer of the rank of Assistant Director of the Commission Against Corruption or above may extend or further extend the relevant period for not more than 6 months

for each extension if he is satisfied on reasonable grounds that it is necessary to the continuing investigation of the offence or offences in relation to which the sample was taken that the sample and the record concerned be retained.

- (3) Subsection (1) shall not affect any DNA information which has already been permanently stored in the DNA database pursuant to section 59G(1)(a), (b) or (c) of the Police Force Ordinance (Cap. 232).
- (4) Without prejudice to the operation of subsections (1) and (2), if—
 - (a) a person from whom a non-intimate sample was taken pursuant to section 10E has been convicted of one or more offences for which a person may be arrested under section 10; and
 - (b) there is no other charge against the person—
 - (i) in relation to an offence which a person may be arrested under section 10; and
 - (ii) which renders the retention of the sample necessary,

then the Commissioner shall take reasonable steps to ensure that the sample which may be retained by him or on his behalf is destroyed as soon as practicable after the conclusion of all proceedings (including any appeal) arising out of the conviction.

(Added 68 of 2000 s. 4)

11. Standing orders

- (1) The Commissioner may make orders, which shall be known as Commission standing orders, providing for—
 - (a) the control, direction and administration of the Commission;

- (b) the discipline, training, classification and promotion of officers;
 - (c) the duties of officers;
 - (d) the financial regulation of the Commission;
 - (e) such other matters as may, in his opinion, be necessary or expedient for preventing abuse or neglect of duty and for upholding the integrity of the Commission.
- (2) The Commissioner may, with the prior approval of the Chief Executive, by standing order modify the application to officers of Public Service (Administration) Order, Government regulations or administrative rules applicable by virtue of section 8(4). (*Amended 1 of 2003 s. 3*)
- (3) No Commission standing order shall be inconsistent with any of the provisions of this Ordinance.

12. Duties of the Commissioner

It shall be the duty of the Commissioner, on behalf of the Chief Executive, to— (*Amended 1 of 2003 s. 3*)

- (a) receive and consider complaints alleging corrupt practices and investigate such of those complaints as he considers practicable;
- (b) investigate—
 - (i) any alleged or suspected offence under this Ordinance;
 - (ii) any alleged or suspected offence under the Prevention of Bribery Ordinance (Cap. 201);
 - (iii) any alleged or suspected offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); (*Amended 10 of 2000 s. 47*)

- (iv) any alleged or suspected offence of blackmail committed by a prescribed officer by or through the misuse of his office; (*Amended 14 of 2003 s. 22*)
- (v) any alleged or suspected conspiracy to commit an offence under the Prevention of Bribery Ordinance (Cap. 201);
- (vi) any alleged or suspected conspiracy to commit an offence under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); and (*Amended 10 of 2000 s. 47*)
- (vii) any alleged or suspected conspiracy (by 2 or more persons including a prescribed officer) to commit an offence of blackmail by or through the misuse of the office of that prescribed officer; (*Replaced 16 of 1991 s. 3. Amended 14 of 2003 s. 22*)
- (c) investigate any conduct of a prescribed officer which, in the opinion of the Commissioner, is connected with or conducive to corrupt practices and to report thereon to the Chief Executive; (*Amended 1 of 2003 s. 3; 14 of 2003 s. 22*)
- (d) examine the practices and procedures of Government departments and public bodies, in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Commissioner, may be conducive to corrupt practices;
- (e) instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- (f) advise heads of Government departments or of public bodies of changes in practices or procedures compatible

with the effective discharge of the duties of such departments or public bodies which the Commissioner thinks necessary to reduce the likelihood of the occurrence of corrupt practices;

- (g) educate the public against the evils of corruption; and
- (h) enlist and foster public support in combatting corruption.

13. Powers of the Commissioner

- (1) For the purpose of the performance of his functions under this Ordinance the Commissioner may—
 - (a) authorize in writing any officer to conduct an inquiry or examination;
 - (b) enter any Government premises and require any prescribed officer to answer questions concerning the duties of any prescribed officer or public servant and require the production of any standing orders, directions, office manuals or instructions relating thereto;
 - (c) *(Repealed 45 of 1992 s. 3)*
 - (d) authorize in writing any person to perform any of his duties and to exercise such powers under this Ordinance and the Prevention of Bribery Ordinance (Cap. 201) as he may specify. *(Amended 10 of 2000 s. 47)*
- (2) The Commissioner or any officer authorized for the purposes of this subsection in writing by the Commissioner shall have the following powers, namely—
 - (a) as regards the performance of any of the Commissioner's functions under this Ordinance, access to all records, books and other documents relating to the work of any Government department in the possession or under the control of any prescribed officer;

- (b) in so far as is necessary for the performance of any of the Commissioner's functions under section 12(d) or (f), access to such records, books and other documents in the possession or under the control of a public body as the Commissioner or such officer reasonably considers will reveal the practices and procedures of that public body;
 - (c) as regards any such records, books and other documents, power to photograph or make copies of them. (*Replaced 48 of 1996 s. 23*)
- (3) In this section **documents** (文件) has the meaning assigned to **document** in section 2 of the Prevention of Bribery Ordinance (Cap. 201). (*Added 48 of 1996 s. 23*)
- (*Amended 14 of 2003 s. 23*)

13A. Resisting or obstructing officers

Any person who resists or obstructs an officer in the execution of his duty shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.

(*Added 14 of 1976 s. 4. Amended 51 of 1987 s. 7; E.R. 3 of 2021*)

13B. False reports to officers

Any person who knowingly—

- (a) makes or causes to be made to an officer a false report of the commission of any offence; or
- (b) misleads an officer by giving false information or by making false statements or accusations,

shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(*Added 14 of 1976 s. 4. Amended 51 of 1987 s. 8; E.R. 3 of 2021*)

13C. Falsely pretending to be an officer, etc.

Any person who falsely pretends—

- (a) that he is an officer or has any of the powers of an officer under this Ordinance or the Prevention of Bribery Ordinance (Cap. 201) or under any authorization or warrant under either of those Ordinances; or
- (b) that he is able to procure an officer to do or refrain from doing anything in connection with the duty of such officer,

shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(Added 14 of 1976 s. 4. Amended E.R. 3 of 2021)

13D. Disposal of property connected with offences

Section 102 of the Criminal Procedure Ordinance (Cap. 221) shall apply with respect to property in the possession of the Commissioner or any officer as it applies with respect to property in the possession of a court or the police.

(Added 14 of 1976 s. 4)

13E. Time limit for prosecution of offences under section 13B or 13C

- (1) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), a complaint may be made or an information laid in respect of an offence under section 13B or 13C within 1 year from the time when the matter of such complaint or information respectively arose.
- (2) Where a person has, before the commencement of the Independent Commission Against Corruption (Amendment) Ordinance 1980 (27 of 1980), committed an offence under section 13B or 13C and but for subsection (1) would not be liable to prosecution for that offence by reason of section

26 of the Magistrates Ordinance (Cap. 227), he shall, notwithstanding subsection (1), not be liable to be prosecuted for that offence.

(Added 27 of 1980 s. 6)

14. Estimates

- (1) In each financial year, before a date appointed by the Chief Executive, the Commissioner shall forward to the Chief Executive, for his approval, estimates of the expenditure of the Commission for the next financial year.
- (2) The estimates shall be in such form and contain such information as the Chief Executive may require.

(Amended 1 of 2003 s. 3)

15. Accounts

- (1) The Commissioner shall maintain proper accounts of such expenditure by the Commission as the Chief Executive may require. *(Amended 1 of 2003 s. 3)*
- (2) As soon as may be convenient after the end of each financial year, the Commissioner shall cause a statement of accounts during the previous financial year to be prepared.

16. Audit

- (1) The Director of Audit shall at any time be entitled to have access to all accounts maintained under section 15(1) and he may require such information and explanation thereon as he thinks fit.
- (2) The Director of Audit shall audit the statement of accounts prepared under section 15(2) and report thereon to the Chief Executive. *(Amended 1 of 2003 s. 3)*

17. Annual report

- (1) The Commissioner shall, on or before 31 March in each year, or by such later date as the Chief Executive may allow, submit to the Chief Executive a report on the activities of the Commission in the previous year.
- (2) The Chief Executive shall cause the report to be laid on the table of the Legislative Council.

(Amended 1 of 2003 s. 3)

17A. Welfare fund

- (1) There shall be established a fund to be known as the “Independent Commission Against Corruption Welfare Fund”.
- (2) The fund shall consist of—
 - (a) such donations and voluntary contributions as may be made thereto;
 - (b) such sums as may, from time to time, be voted thereto by the Legislative Council; and
 - (c) such sums as may accrue by way of dividend or interest from the investment of the fund or any part thereof.
- (3) The fund shall be controlled by the Commissioner and applied to the following purposes—
 - (a) procuring for officers of the Commission and other persons employed by the Commission or for former officers or persons so employed who have ceased employment or retired on pension, gratuity or other allowance, comforts, conveniences or other benefits not chargeable to the general revenue;
 - (b) granting loans to officers of the Commission and other persons employed by the Commission or former officers of the Commission and other persons formerly employed by the Commission who have ceased to be employed or retired on pension, gratuity or other allowance;

- (c) making grants to persons who were wholly or partially dependent at the time of his death on—
 - (i) a deceased officer or a deceased former officer of the Commission who had ceased to be employed or had retired on pension, gratuity or other allowance; or
 - (ii) a deceased person employed by the Commission or a deceased person who was at any time employed by the Commission and who had ceased to be employed or had retired on pension, gratuity or other allowance,and who are in need of financial assistance, whether towards the payment of funeral expenses of the deceased or otherwise.

(Added 27 of 1980 s. 7)

18. Saving of certain common law privileges

Nothing in this Ordinance shall prejudice any claim to privilege which any person may have at common law in relation to any communication, document or other thing made or given to a solicitor or counsel.

(Added 14 of 1976 s. 5)

18A. Investigation of pre-1977 offences

- (1) Notwithstanding section 12, the Commissioner shall not act as required by paragraphs (a), (b) and (c) of that section in respect of alleged or suspected offences committed before 1 January 1977 except in relation to—
 - (a) persons not in Hong Kong or against whom a warrant of arrest was outstanding on 5 November 1977;

- (b) any person who before 5 November 1977 had been interviewed by an officer and to whom allegations had been put that he had committed an offence;
 - (c) an offence which the Chief Executive considers sufficiently heinous to warrant action.
- (2) A certificate under the hand of the Chief Secretary for Administration stating the fact that the Chief Executive considers an offence sufficiently heinous to warrant action shall be conclusive evidence of that fact. (*Amended L.N. 362 of 1997*)

(Added 9 of 1978 s. 2. Amended 1 of 2003 s. 3)