

《大規模毀滅武器(提供服務的管制)條例》

WEAPONS OF MASS DESTRUCTION (CONTROL OF PROVISION OF SERVICES) ORDINANCE

(第 526 章)

(Cap. 526)

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本條例旨在管制提供將會或可能協助發展、生產、取得或貯存可造成大規模毀滅的武器或將會或可能協助該等武器的投射工具的服務。

An Ordinance to control the provision of services that will or may assist the development, production, acquisition or stockpiling of weapons capable of causing mass destruction or that will or may assist the means of delivery of such weapons.

[1997 年 6 月 27 日]

[27 June 1997]

導言

Preliminary

1. 簡稱

本條例可引稱為《大規模毀滅武器(提供服務的管制)條例》。

1. Short title

This Ordinance may be cited as the Weapons of Mass Destruction (Control of Provision of Services) Ordinance.

2. 釋義

(具追溯力的適應化修訂——見 1998 年第 25 號第 2 條；2000 年第 65 號第 3 條)

(1) 在本條例中，除文意另有所指外——

“大規模毀滅武器”(weapons of mass destruction)指任何生物、化學或核子武器；

“車輛”(vehicle)指用於或可用於陸上(不論是用於道路或軌道)並以任何方式拉動、驅動或帶動的各種運送或運輸工具或其他流動裝置；

“法院”(court)指原訟法庭；(由 1998 年第 25 號第 2 條修訂)

“航空器”(aircraft)指任何可憑空氣的反作用而在大氣中獲得支承力的機器；

“海關人員”(member of the Customs and Excise Service)指任何擔任《香港海關條例》(第 342 章)附表 1 所指明職位的人；

2. Interpretation

(Adaptation amendments retroactively made - see 25 of 1998 s. 2; 65 of 2000 s. 3)

(1) In this Ordinance, unless the context otherwise requires—

“aircraft”(航空器)means any machine which can derive support in the atmosphere from reactions of the air;

“authorized officer”(獲授權人員)means a person authorized by the Commissioner under section 3;

“Commissioner”(關長)means the Commissioner for Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Amended 65 of 2000 s. 3)

“court”(法院)means the Court of First Instance; (Amended 25 of 1998 s. 2)

“export”(輸出)means to take, or cause to be taken, out of Hong Kong any article;

- “船隻”(vessel) 包括為運載人或物品而用於航行的各類型船隻，不論該船隻是否靠機械驅動，亦不論該船隻是否由另一船隻拖動或推動；
- “輸入”(import) 指將任何物品帶進香港或致使任何物品被帶進香港；
- “輸出”(export) 指將任何物品從香港運出或致使任何物品從香港運出；
- “獲授權人員”(authorized officer) 指關長根據第 3 條授權的人；
(由 2000 年第 65 號第 3 條修訂)
- “關長”(Commissioner) 指海關關長及任何海關副關長或海關助理關長。
(由 1997 年第 362 號法律公告修訂；由 2000 年第 65 號第 3 條修訂；由 2014 年第 18 號第 127 條修訂)
- (2) 在第 (1) 款中，“生物武器”(biological weapon) 指——
- (a) 類型和數量不屬於預防、保護或其他和平用途所正當需要的任何生物劑或毒素；或
- (b) 為了將生物劑或毒素使用於敵對目的或武裝衝突而設計的任何武器、設備或投射工具，
- 而就上述定義而言——
- (i) “生物劑”(biological agent) 指任何微生物劑或其他生物劑；
- (ii) “毒素”(toxin) 指任何毒素，不論其來源或生產方法如何。
- (3) 在第 (1) 款中，“化學武器”(chemical weapon) 的涵義，與《化學武器(公約)條例》(第 578 章) 第 2(1) 條中該詞的涵義相同。
(由 2003 年第 26 號第 44 條修訂)
- (4) 在第 (1) 款中，“核子武器”(nuclear weapon) 指——
- (a) 類型或類型和數量不屬於預防、保護或其他和平用途所正當需要的任何——
- (i) 核子爆炸器件；

- “import”(輸入) means to bring, or cause to be brought, into Hong Kong any article;
- “member of the Customs and Excise Service”(海關人員) means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342);
- “vehicle”(車輛) means every means of conveyance or of transit or other mobile apparatus used or capable of being used on land, whether on roads or rails and, in any way whatever, drawn or propelled or carried;
- “vessel”(船隻) includes every description of vessel used in navigation for the carriage of persons or articles, whether or not the vessel is mechanically propelled and whether or not the vessel is towed or pushed by another vessel;
- “weapons of mass destruction”(大規模毀滅武器) means any biological, chemical or nuclear weapon.
- (2) In subsection (1), “biological weapon”(生物武器) means—
- (a) any biological agent or toxin of a type and in a quantity that has no justification for prophylactic, protective or other peaceful purposes; or
- (b) any weapon, equipment or means of delivery designed to use biological agents or toxins for hostile purposes or in armed conflict,
- and for the purposes of the foregoing definition—
- (i) “biological agent”(生物劑) means any microbial or other biological agent;
- (ii) “toxin”(毒素) means any toxin, whatever its origin or method of production.
- (3) In subsection (1), “chemical weapon”(化學武器) has the same meaning as in section 2(1) of the Chemical Weapons

- (ii) 該器件的組成部分或從屬系統；或
 - (iii) 為用於設計、發展或製造該器件而特定設計或特別改裝的物品、物料、裝備或器件；
- (b) 核子爆炸器件的任何投射工具。

3. 關長委任獲授權人員的權力

(具追溯力的適應化修訂——見 2000 年第 65 號第 3 條)
關長可以書面授權任何受僱於香港海關的貿易管制主任職系的公職人員及任何督察級或以上的警務人員，行使本條例所授予獲授權人員的任何權力和執行本條例所委予獲授權人員的任何職責。

(由 2000 年第 65 號第 3 條修訂)

提供與大規模毀滅武器有關的服務的管制

4. 禁止提供與大規模毀滅武器有關的服務

- (1) 如——
- (a) 某人（“該人”）提供任何服務予他人；及
 - (b) 該人基於合理理由相信或懷疑該等服務將會或可能協助發展、生產、取得或貯存大規模毀滅武器，

- (Convention) Ordinance (Cap. 578). (*Amended 26 of 2003 s. 44*)
- (4) In subsection (1), “nuclear weapon” (核子武器) means—
- (a) any—
 - (i) nuclear explosive device;
 - (ii) components or subsystems of such a device; or
 - (iii) article, material, equipment or device specifically designed or specially modified for use in the design, development or fabrication of such devices, of a type, or of a type and in a quantity, that has no justification for prophylactic, preventive or other peaceful purposes;
 - (b) any means of delivery of a nuclear explosive device.

3. Power of Commissioner to appoint authorized officers

The Commissioner may authorize in writing any public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade and any police officer of the rank of inspector or above to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer by this Ordinance.

Control of provision of services in relation to weapons of mass destruction

4. Prohibition on providing services in relation to weapons of mass destruction

- (1) If—
- (a) a person provides any services to another person; and

則該人即屬犯罪。

- (2) 就第 (1)(b) 款而言，有關的發展、生產、取得或貯存是否在香港或其他地方進行，並不具關鍵性。
- (3) 在不局限第 (1) 款提述的提供服務的一般性的原則下，在第 (1) 款中，凡提述提供服務，即包括提述作出賦予某人利益、授予某人權利或特權、提供設施予某人，或以其他方式協助某人的任何事情（輸入或輸出貨品除外），並包括根據以下合約而作出的任何事情——
 - (a) 在有或沒有貨品的輸入或輸出的情況下執行工作（包括屬專業性質的工作）的合約或與在該情況下執行工作（包括屬專業性質的工作）有關的合約；或
 - (b) 借出款項或以其他方式提供財政資助的合約或與借出款項或以其他方式提供財政資助有關的合約。
- (4) 任何人如犯第 (1) 款所訂罪行——
 - (a) 一經循簡易程序定罪，可處罰款 \$500,000 及監禁 2 年；
 - (b) 一經循公訴程序定罪，可處款額無限的罰款及監禁 7 年。

強制執行

5. 強制執行的一般權力

在不損害第 6 條所授予的權力下，任何海關人員及獲授權人員均可為施行本條例而——

- (b) the first-mentioned person believes or suspects, on reasonable grounds, that the services will or may assist the development, production, acquisition or stockpiling of weapons of mass destruction,
the first-mentioned person commits an offence.
- (2) For the purposes of subsection (1)(b), it is immaterial whether the development, production, acquisition or stockpiling in question takes place in Hong Kong or elsewhere.
- (3) A reference in subsection (1) to the provision of services includes, without limiting the generality of that expression, a reference to doing anything (other than importing or exporting goods) that confers a benefit on, grants a right or privilege to, provides a facility for, or otherwise assists, someone, including anything done under—
 - (a) a contract for or in relation to the performance of work (including work of a professional nature) with or without the import or export of goods; or
 - (b) a contract for or in relation to the lending of money or other provision of financial assistance.
- (4) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction, to a fine of \$500,000 and to imprisonment for 2 years;
 - (b) on conviction upon indictment, to a fine of an unlimited amount and to imprisonment for 7 years.

Enforcement

5. General powers of enforcement

Without prejudice to the powers conferred by section 6, any member of the Customs and Excise Service and any authorized

- (a) 截停、登上和搜查任何船隻、航空器或車輛；
- (b) 要求出示或提供任何屬該人員懷疑是與本條例所訂罪行有關的文件；
- (c) 查驗 (b) 段所提述的任何文件和抄錄或複印該等文件；
- (d) 規定任何與 (b) 段所述的任何文件有關的，並且是——
 - (i) 載於根據本條進入或登上的處所、地方、船隻、航空器或車輛之內或之上的電腦的，或是載於可從該處所、地方、船隻、航空器或車輛接觸到的電腦的資料；或
 - (ii) 載於根據本條進入或登上的處所、地方、船隻、航空器或車輛之內或之上所發現的任何裝置的資料，而該等資料是能夠在電腦上檢索的，須於該處所、地方、船隻、航空器或車輛之內或之上的電腦以可見和可閱讀的形式呈示，並可查驗該等資料；
- (e) 規定 (d) 段所述的任何資料，須以可取走和以可見和可閱讀或能夠在電腦上檢索的形式呈示；
- (f) 取走根據 (e) 段呈示的複本；
- (g) 截停和搜查任何進入或離開香港的人；但任何人除非由相同性別的人搜查，否則不得被搜查，又如他反對在公眾地方被搜查，則亦不得在公眾地方被搜查。

6. 進入並搜查處所；扣留和搜查船隻等

officer may, for the purposes of this Ordinance—

- (a) stop, board and search any vessel, aircraft or vehicle;
- (b) require the production or furnishing of any document which he suspects to be relevant to an offence under this Ordinance;
- (c) examine and take copies of any document referred to in paragraph (b);
- (d) require any information relating to any document referred to in paragraph (b) that is—
 - (i) contained in a computer in, on or accessible from the premises, place, vessel, aircraft or vehicle entered or boarded under this section; or
 - (ii) contained in any device found in or on the premises, place, vessel, aircraft or vehicle entered or boarded under this section and which is capable of being retrieved on a computer,to be produced on a computer in or on the premises, place, vessel, aircraft or vehicle in a visible and legible form, and examine the information;
- (e) require any information described in paragraph (d) to be produced in a form in which it can be taken away and in which it is either visible and legible or capable of being retrieved on a computer;
- (f) take away the copy so produced under paragraph (e);
- (g) stop and search any person entering or leaving Hong Kong; but no person shall be searched except by a person of the same sex, or be searched in a public place if he objects to being so searched.

6. Entry and search of premises; detention and search of vessels,

(具追溯力的適應化修訂——見 2000 年第 65 號第 3 條)

- (1) 裁判官如基於經宣誓而作的告發，信納有合理理由懷疑在任何處所或地方內有根據第 7 條可予檢取的物品，即可發出手令，授權海關人員或獲授權人員進入並搜查該處所或地方。
- (2) 關長如合理地懷疑——
 - (a) (i) 在任何處所或地方內有根據第 7(1) 條可予檢取的物品；或
 - (ii) 在任何處所或地方內有載有屬第 7(2) 條指明種類的資料的電腦，或可從任何處所或地方接觸到載有該等資料的電腦，或在任何處所或地方內有任何以能夠在電腦上檢索該等資料的形式載有該等資料的裝置；及
 - (b) 除非立即進入並搜查該處所或地方，否則該物品相當可能會被移離該處所或地方，或有關資料相當可能會被毀滅或相當可能會令致有關資料不能在電腦上檢索，

則關長可藉書面授權海關人員或獲授權人員進入並搜查該處所或地方。(由 2000 年第 65 號第 3 條修訂)

- (3) 除第 (4) 款另有規定外，任何海關人員及獲授權人員如有合理理由懷疑在任何船隻、航空器或車輛之內或之上有根據第 7 條可予檢取的物品，則該人員可載停、登上、移走、扣留和搜查該船隻、航空器或車輛。
- (4) 第 (3) 款並不授權——
 - (a) 在沒有政務司司長的同意下扣留任何超逾 250 總噸的船隻超過 12 小時；或
 - (b) 在沒有政務司司長的同意下扣留任何航空器超過 6 小時，
但政務司司長可簽署書面命令進一步扣留該船隻，而進一步扣留的每個時段不得超過 12 小時，或進一

etc.

- (1) A magistrate may, if he is satisfied by information on oath that there is reasonable ground for suspecting that there is in any premises or place any article which may be seized under section 7, issue a warrant authorizing a member of the Customs and Excise Service or an authorized officer to enter and search the premises or place.
- (2) If the Commissioner reasonably suspects—
 - (a) that—
 - (i) there is in any premises or place any article which may be seized under section 7(1); or
 - (ii) there is in, or accessible from any premises or place a computer containing any information of a kind specified in section 7(2), or there is in any premises or place any device which contains any such information in a form in which it is capable of being retrieved on a computer; and
 - (b) that unless the premises or place are entered and searched immediately, the article is likely to be removed from the premises or place or the information is likely to be destroyed or rendered incapable of being retrieved on a computer,he may authorize in writing a member of the Customs and Excise Service or an authorized officer to enter and search the premises or place.
- (3) Subject to subsection (4), any member of the Customs and Excise Service and any authorized officer may, if he reasonably suspects that there is in or on any vessel, aircraft or vehicle any article which may be seized under section 7, stop, board, remove, detain and search the vessel, aircraft or vehicle.

步扣留該航空器，而進一步扣留的每個時段不得超過 6 小時；政務司司長作出的該等命令須述明該命令於何時開始生效及其有效的期間。(由 1997 年第 362 號法律公告修訂)

7. 檢取物品或規定須提供資料的權力

(具追溯力的適應化修訂——見 2000 年第 65 號第 3 條)

- (1) 任何海關人員或獲授權人員如有合理理由懷疑某物品涉及犯有本條例所訂罪行，或有合理理由懷疑該物品屬犯該罪行的證據或含有犯該罪行的證據，則該人員可檢取該物品。
- (2) 凡任何海關人員或獲授權人員有合理理由懷疑某些資料是與已犯的或可能已犯的本條例所訂罪行有關的，而該等資料是載於根據第 6 條進入或登上的處所、地方、船隻、航空器或車輛之內或之上的電腦的，或是載於可從該處所、地方、船隻、航空器或車輛接觸到的電腦的，則該人員可——
 - (a) 規定該等資料須於該處所、地方、船隻、航空器或車輛之內或之上的電腦以可見和可閱讀的形式呈示，並可查驗該等資料；

- (4) Subsection (3) does not authorize—
 - (a) the detention for more than 12 hours without the consent of the Chief Secretary for Administration of any vessel which has a tonnage exceeding 250 gross tons; or
 - (b) the detention for more than 6 hours without the consent of the Chief Secretary for Administration of any aircraft, and the Chief Secretary for Administration may, by order in writing under his hand, detain such a vessel for further periods of not more than 12 hours each or detain an aircraft for further periods of not more than 6 hours each, and any such order made by the Chief Secretary for Administration shall state the times from which and for which the order shall be effective. (*Amended L.N. 362 of 1997*)

7. Power to seize articles or require production of information

- (1) Any member of the Customs and Excise Service and any authorized officer may seize any article in respect of which he reasonably suspects that an offence has been committed under this Ordinance, or which he reasonably suspects to be, or to contain, evidence of the commission of such an offence.
- (2) Where any member of the Customs and Excise Service or an authorized officer reasonably suspects, as regards any information that is contained in a computer in, on or accessible from any premises, place, vessel, aircraft or vehicle entered or boarded under section 6, that the information relates to an offence which has been, or may have been, committed under this Ordinance, the member or officer—
 - (a) may require the information to be produced on a computer in or on the premises, place, vessel, aircraft or vehicle in a visible and legible form, and may examine the information;

- (b) 規定該等資料須以可取走和以可見和可閱讀或能夠在電腦上檢索的形式呈示，並可取走如此呈示的複本。
- (3) 在第(2)款中，凡提述載於根據第6條進入或登上的處所、地方、船隻、航空器或車輛之內或之上的電腦的資料，包括提述載於該等處所、地方、船隻、航空器或車輛之內或之上所發現的裝置的資料，而該等資料是能夠在電腦上檢索的。
- (4) 海關人員或獲授權人員根據本條檢取的任何物品或其他文件的擁有人經向關長提出申請，並在受關長施加的條件規限下，可為被檢取的物品或文件拍照或製作該物品或文件的其他形式的複製品。(由 2000 年第 65 號第 3 條修訂)

8. 逮捕權

- (1) 在不抵觸第(2)款的規定下，海關人員及獲授權人員如合理地懷疑某人已犯本條例所訂的任何罪行，可無須手令而將該人逮捕或扣留一段為作進一步查訊而合理所需的期間。
- (2) 任何海關人員及獲授權人員根據第(1)款逮捕任何人後，須將該人帶往警署，如需作進一步查訊，則可先將該人帶返香港海關辦事處或獲授權人員的辦事處，然後才帶往警署以便按照《警隊條例》(第 232 章)的條文處理；但在任何情況下，不得將任何人扣留超過 48 小時而不將他檢控和帶到裁判官席前。
- (3) 任何人如用武力反抗或企圖逃避根據本條進行的逮捕，海關人員或獲授權人員可使用合理需要的武力以進行逮捕。

- (b) may require the information to be produced in a form in which it can be taken away and in which it is either visible and legible or capable of being retrieved on a computer, and may take away the copy so produced.
- (3) In subsection (2), a reference to information contained in a computer in or on any premises, place, vessel, aircraft or vehicle entered or boarded under section 6 includes a reference to information which is contained in any device found in or on such premises, place, vessel, aircraft or vehicle and which is capable of being retrieved on a computer.
- (4) The owner of any article or other document seized by a member of the Customs and Excise Service or an authorized officer under this section may, on application to the Commissioner and subject to such conditions as the Commissioner may impose, photograph or make any other form of copy of the seized article or document.

8. Powers of arrest

- (1) Subject to subsection (2), any member of the Customs and Excise Service or any authorized officer may, without warrant, arrest, or detain for such period as is reasonably necessary for further inquiries to be carried out, any person whom he reasonably suspects of having committed any offence under this Ordinance.
- (2) Any member of the Customs and Excise Service and any authorized officer who arrests any person under subsection (1) shall take the person to a police station or, if further inquiries are necessary, first to the office of the Customs and Excise Service or the office of an authorized officer and then to a police station, there to be dealt with in accordance with the provisions of the Police Force Ordinance (Cap. 232); but in

- (4) 任何海關人員或獲授權人員如有理由相信其擬逮捕的人(在本條中稱為“疑犯”)已進入任何處所或地方或正在其內，則任何在該處所或地方居住或掌管該處所或地方的人須在該海關人員或獲授權人員提出要求下，容許該等人員自由進入該處所或地方，並提供一切合理便利，以便在該處所或地方內搜查疑犯。
- (5) 如未能根據第(4)款獲准進入該處所或地方，而進入並搜查該處所或地方的手令原可發出但卻未能在不給予疑犯機會逃脫的情況下取得，則海關人員或獲授權人員可進入該處所或地方搜尋疑犯，並且可為進入或搜尋的目的而破啟該處所或地方的任何外門或內門或任何窗戶。

9. 調查的附帶權力

- (1) 任何海關人員及獲授權人員均可——
 - (a) 使用合理需要的武力，以進入本條例賦權其進入並搜查的任何處所或地方；

- no case shall any person be detained for more than 48 hours without being charged and brought before a magistrate.
- (3) If any person forcibly resists or attempts to evade arrest under this section, the member of the Customs and Excise Service or the authorized officer may use such force as is reasonably necessary to effect the arrest.
 - (4) If any member of the Customs and Excise Service or any authorized officer has reason to believe that a person whom he intends to arrest (in this section referred to as “the suspected offender”) has entered into or is in any premises or place, any person residing in or in charge of such premises or place shall, on demand by the member or authorized officer, allow him free entry thereto and afford all reasonable facilities to search for the suspected offender in those premises or that place.
 - (5) If entry to such premises or place cannot be obtained under subsection (4), a member of the Customs and Excise Service or an authorized officer, in any case in which a warrant to enter and search such premises or place may issue but cannot be obtained without affording the suspected offender an opportunity to escape, may enter the premises or place and search for the suspected offender and for the purpose of entry or search may break open any outer or inner door or window of the premises or place.

9. Ancillary powers of investigation

- (1) Any member of the Customs and Excise Service and any authorized officer may—
 - (a) use such force as is reasonably necessary to enter any premises or place which he is empowered by this Ordinance to enter and search;

- (b) 使用合理需要的武力，以截停、登上、移走、扣留和搜查本條例賦權其截停、登上、移走、扣留和搜查的任何船隻、航空器或車輛；
 - (c) 使用合理需要的武力，以將任何妨礙其行使本條例所授權力的人或東西移走；
 - (d) 為進行搜查任何獲本條例賦權其在容許搜查得以進行而合理地需要的期間內扣留以下的人——
 - (i) 看似管有或控制第 5(b) 條提及的任何文件、第 7(1) 條提及的任何物品或第 5(d) 或 7(2) 及 (3) 條提及的任何電腦或器件的人；及
 - (ii) 如並不如此扣留，則可能妨害調查的目的的人；
 - (e) 阻止任何人接近、登上或離開其獲本條例賦權截停、登上和搜查的任何船隻、航空器或車輛，直至搜查該船隻、航空器或車輛完畢為止；
 - (f) 搜查其合理地懷疑為犯本條例所訂罪行的人，以及搜查該人的財產及財物；但任何人除非由相同性別的人搜查，否則不得被搜查，又如他反對在公眾地方被搜查，則亦不得在公眾地方被搜查。
- (2) 凡任何海關人員或獲授權人員——
- (a) 根據第 5(a) 條獲授權搜查任何船隻、航空器或車輛；
 - (b) 根據第 5(c) 或 (d) 條獲授權查驗任何文件或資料；
 - (c) 根據第 6 條獲授權進入並搜查任何處所或地方，或搜查任何船隻、航空器或車輛；
 - (d) 根據第 7 條獲授權查驗任何資料，
- 則該人員如認為為妥善和有效執行該等職責而有需要或適宜，可喚請任何人協助其進行該等進入、搜查或查驗。

- (b) use such force as is reasonably necessary to stop, board, remove, detain and search any vessel, aircraft or vehicle which he is empowered by this Ordinance to stop, board, remove, detain and search;
 - (c) use such force as is reasonably necessary to remove any person or thing obstructing him in the exercise of any power conferred on him by this Ordinance;
 - (d) for the purposes of carrying out a search of any premises or place which he is empowered by this Ordinance to search, to detain during such period as is reasonably required to permit the search to be carried out any person who—
 - (i) may appear to have in his possession or under his control any document as is mentioned in section 5(b), any article as is mentioned in section 7(1) or any computer or device as is mentioned in section 5(d) or 7(2) and (3); and
 - (ii) if not so detained, might prejudice the purpose of the search;
 - (e) prevent any person from approaching, boarding or leaving any vessel, aircraft or vehicle which he is empowered by this Ordinance to stop, board and search until it has been searched;
 - (f) search the person and property and effects of any person whom he reasonably suspects of being guilty of an offence under this Ordinance; but no person shall be searched except by a person of the same sex, or be searched in a public place if he objects to being so searched.
- (2) A member of the Customs and Excise Service or an authorized officer who is authorized—

10. 將處所等上鎖和加貼封條

- (1) 任何海關人員及獲授權人員可為行使本條例所授予的權力，將任何處所或地方，或任何船隻、航空器、車輛或物品上鎖或加貼封條。
- (2) 如海關人員或獲授權人員已將任何處所或任何船隻、航空器、車輛或物品上鎖或加貼封條，除第(3)款所規定的情況外，任何人如弄開或干擾該鎖或封條，即屬犯罪，一經定罪，可處第2級罰款及監禁3個月。
- (3) 如——
 - (a) 任何弄開或干擾該鎖或封條的人是真誠相信必須立刻弄開或干擾該鎖或封條以避免——
 - (i) 任何人受到傷害；或
 - (ii) 任何處所、船隻、航空器、車輛或物品受到損壞；或
 - (b) 任何公職人員是在行使其合法職責時弄開或干擾該鎖或封條，
則該人或該公職人員不得當作已違反本款的規定。

- (a) under section 5(a), to search any vessel, aircraft or vehicle;
- (b) under section 5(c) or (d), to examine any document or information;
- (c) under section 6, to enter and search any premises or place or to search any vessel, aircraft or vehicle;
- (d) under section 7, to examine any information,
may, if he reasonably considers it necessary or desirable for the proper and effective performance of those duties, call upon any person to assist him in carrying out that entry, search or examination.

10. Placing of locks and seals on premises, etc.

- (1) Any member of the Customs and Excise Service and any authorized officer may, for the purposes of exercising the powers conferred on him by this Ordinance, place a lock or seal on any premises or place, or on any vessel, aircraft, vehicle or article.
- (2) If a member of the Customs and Excise Service or an authorized officer has placed a lock or seal on any premises, or on any vessel, aircraft, vehicle or article, then except as provided in subsection (3) any person who breaks or interferes with such a lock or seal shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 3 months.
- (3) If—
 - (a) any person breaks or interferes with any such lock or seal in the bona fide belief that it is necessary immediately to break or interfere with the lock or seal in order to prevent—
 - (i) injury being suffered by any person; or

11. 妨礙

- (1) 任何人——
 - (a) 妨礙海關人員或獲授權人員行使本條例所授予的任何權力或執行本條例所委予的任何職責；
 - (b) 不遵從海關人員或獲授權人員在行使任何該等權力或執行任何該等職責時所作出的任何規定、指示或要求，
即屬犯罪，一經定罪，可處第 6 級罰款及監禁 6 個月。
- (2) 任何人在任何海關人員或獲授權人員根據本條例執行其職責時，明知而向該人員作出虛假的報告，或提供任何虛假或具誤導性的資料，即屬犯罪，一經定罪，可處第 6 級罰款及監禁 6 個月。

雜項條文

12. 強制令

（具追溯力的適應化修訂——見 2000 年第 65 號第 3 條）

11. Obstruction

- (ii) damage being incurred to any premises, vessel, aircraft, vehicle or article; or
 - (b) any public officer breaks or interferes with any such lock or seal in the exercise of his lawful duties,
such person or public officer shall be deemed not to have contravened this subsection.
- (1) Any person who—
 - (a) obstructs a member of the Customs and Excise Service or an authorized officer in the exercise of any power or the performance of any duty conferred or imposed on members of the Customs and Excise Service and authorized officers by this Ordinance;
 - (b) fails to comply with any requirement, direction or demand given or made by a member of the Customs and Excise Service or an authorized officer in the exercise or performance of any such power or duty,
shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 6 months.
 - (2) Any person who knowingly makes a false report, or furnishes any false or misleading information, to any member of the Customs and Excise Service or any authorized officer in performing his duties under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 6 months.

Miscellaneous

12. Injunctions

- (1) If a person has engaged, or is proposing to engage, in any

- (1) 任何人如曾作出或擬作出任何曾是或會是第 4 條所訂罪行的行為，法院可應關長的申請而批予強制令，制止該人作出該行為，法院如認為有利於司法公正，亦可規定該人作出某特定事情。(由 2000 年第 65 號第 3 條修訂)
- (2) 法院如認為有利於司法公正，可在有待對根據第 (1) 款提出的申請作出裁定的情況下，批出暫時強制令。
- (3) 法院可撤銷或更改根據第 (1) 或 (2) 款批予的強制令。
- (4) 法院批予強制令制止某人從事某行為的權力可予行使——
 - (a) 不論法院是否覺得該人擬再次作出或持續作出該類行為；及
 - (b) 不論該人是否以前曾從事該類行為。
- (5) 法院批予強制令規定某人作出某特定事情的權力可予行使——
 - (a) 不論法院是否覺得該人擬拒絕作出或再次沒有作出或持續拒絕作出或持續沒有作出該事情；及
 - (b) 不論該人是否以前曾拒絕作出或沒有作出該事情。

13. 法人團體的罪行

凡任何法人團體犯第 4 條所訂的罪行，而該罪行經證明是在該法人團體的任何董事、經理、秘書或其他相類高級人員或本意是以任何該等身分行事的任何人同意或縱容下犯的，則上述的人及該法人團體均屬犯該罪行，並且可據此予以起訴和受罰。

- conduct that was or would be an offence under section 4, the court may, on the application of the Commissioner, grant an injunction restraining the person from engaging in the conduct and, if in the court's opinion it is in the interests of justice to do so, requiring the person to do a particular thing.
- (2) If in the opinion of the court it is in the interests of justice to do so, the court may grant an interim injunction pending determination of an application under subsection (1).
- (3) The court may discharge or vary an injunction granted under subsection (1) or (2).
- (4) The power of the court to grant an injunction restraining a person from engaging in conduct may be exercised—
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the person has previously engaged in conduct of that kind.
- (5) The power of the court to grant an injunction requiring a person to do a particular thing may be exercised—
 - (a) whether or not it appears to the court that the person intends to refuse, or fail again, or to continue to refuse or fail, to do that thing; and
 - (b) whether or not the person has previously refused or failed to do that thing.

13. Offences by bodies corporate

Where an offence under section 4 which is committed by a body corporate is proved to have been committed with the consent and connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be

14. 檢控罪行

- (1) 除非由律政司司長提起或在律政司司長同意下提起，否則不得就第 4 條所訂的罪行提起法律程序。(由 1997 年第 362 號法律公告修訂)
- (2) 第 (1) 款的規定不得阻止為了就某罪行逮捕任何人而發出或執行手令，亦不得阻止任何就某罪行被檢控的人遭還押或獲得保釋。

15. (已失時效而略去)

guilty of that offence and shall be liable to be proceeded against and punished accordingly.

14. Prosecution of offences

- (1) Proceedings for an offence under section 4 shall not be instituted except by or with the consent of the Secretary for Justice. (*Amended L.N. 362 of 1997*)
- (2) Subsection (1) shall not prevent the issue or execution of a warrant for the arrest of any person in respect of an offence, or the remanding in custody or on bail of any person charged with an offence.

15. (Omitted as spent)