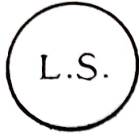


HONG KONG

No. 16 OF 1963.



I assent.

R. B. BLACK,
Governor.

9th May, 1963.

An Ordinance to make amendments to the law relating to homicide.

[10th May, 1963.]

*Ordinance
not disallowed
see G.N.
1238/63.*

BE it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof, as follows—

1. This Ordinance may be cited as the Homicide Ordinance, 1963. Short title.

2. (1) Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence. Abolition of "constructive malice".

(2) For the purposes of subsection (1), a killing done in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody, shall be treated as a killing in the course or furtherance of an offence.

3. (1) Where a person kills or is a party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing. Persons suffering from diminished responsibility.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section not liable to be convicted of murder.

(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.

(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.

Provocation.

4. Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.

Suicide pacts.

5. (1) It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or be a party to the other killing himself or being killed by a third person.

(2) Where it is shown that a person charged with the murder of another killed the other or was a party to his killing himself or being killed, it shall be for the defence to prove that the person charged was acting in pursuance of a suicide pact between him and the other.

(3) For the purposes of this section, "suicide pact" means a common agreement between two or more persons having for its object the death of all of them, whether or not each is to take his own life, but nothing done by a person who enters into a suicide pact shall be treated as done by him in pursuance of the pact unless it is done while he has the settled intention of dying in pursuance of the pact.

Form of sentence of death.

(Cap. 212).

6. Where by virtue of section 3 of the Offences against the Person Ordinance sentence of death is pronounced, it shall be to the effect only that the prisoner is to "suffer death in the manner authorized by law".

Amendment of section 4 of Chapter 212.

7. Section 4 of the Offences against the Person Ordinance is amended by the deletion of the comma and words ", and the sentence of the court shall so direct".

Past offences.

8. The provisions of this Ordinance shall not have effect in relation to any offence in respect of which an indictment has been signed before the commencement of this Ordinance but, subject thereto, such provisions shall have effect in relation to offences committed wholly or partly before the commencement of this Ordinance in like manner as they apply to offences committed thereafter.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council on the 8th day of May, 1963, and is found by me to be a true and correctly printed copy of the said Bill.

A. CHAPMAN,
Deputy Clerk of Councils.

(Secretariat GR7/3231/56)