



J. M.

SUPPLEMENT NO. 1
TO THE
HONG KONG GOVERNMENT GAZETTE
Published by Authority

SUP. TO GAZETTE No. 37]

FRIDAY, JULY 30, 1948.

[Vol. XC

HONG KONG

No. 39 OF 1948.

I assent.

L. S.

A. G. GRANTHAM,
Governor.

29th July, 1948.

An Ordinance to amend the law for the Prevention of Corruption.

[30th July, 1948.]

BE it enacted by the Governor of Hong Kong with the advice and consent of the Legislative Council thereof:

1. This Ordinance may be cited as the Prevention of Corruption Short title Ordinance, 1948.

2. In this Ordinance—

“advantage” includes any office or dignity, and any forbearance to demand any money or money’s worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined;

“agent” includes a public servant and any person employed by or acting for another;

“consideration” includes valuable consideration of any kind;

Interpreta-
tion.

52 & 53 Vict.
c.69, s.7.

“person” includes a body of persons, corporate or unincorporate;

“principal” includes an employer;

“public body” includes any executive, legislative, municipal or urban council, any Government department or undertaking, any local or public authority or undertaking, any board, commission committee or other body whether paid or unpaid appointed by the Governor or Government of Hong Kong or which has power by the under or for the purposes of any enactment in force in the Colony;

“public office” means any office or employment permanent or temporary and whether paid or unpaid of a person as a member, officer, or servant of such public body;

“public servant” means in addition to the meaning assigned to it by the Interpretation Ordinance, 1911, any employee or member of a public body as defined in this Ordinance, whether temporary or permanent and whether paid or unpaid.

Ordinance
No. 31 of
1911, s. 39,
s.s. (10).

Corruption
in office an
offence.
52 & 53 Vict.
c. 69, s. 1.

3. (1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of an offence.

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of an offence.

Corrupt
transactions
with agents an
offence.
6 Ed. 7 c. 34.

4. If—

(i) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Ordinance done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs of business; or

(ii) any person corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Ordinance done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(iii) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal;

he shall be guilty of an offence.

5. (1) Any person who commits an offence against section 3 of this Ordinance shall— Penalty for offences.

(a) be liable on summary conviction to imprisonment for a term not exceeding two years and to fine not exceeding five thousand dollars;

(b) be liable on conviction on indictment to imprisonment for a term not exceeding five years and to a fine not exceeding ten thousand dollars;

(c) in addition be liable to be ordered to pay to such body, and in such manner as the magistrate or the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof;

(d) be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction;

(e) in the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable to be adjudged to be forever incapable of holding any public office, and to be incapable for seven years of being registered as an elector of members of any public body, and any enactment from time to time in force in the Colony for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting; and

(f) if such person is an officer or servant in the employ of any public body upon such conviction he shall, at the discretion of the magistrate or the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

(2) Any person committing an offence against section 4 of this Ordinance shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding two years and to a fine not exceeding one thousand dollars;

(b) on conviction on indictment to imprisonment not exceeding five years and to a fine not exceeding ten thousand dollars;

(c) if such person is a public servant he shall at the discretion of the magistrate or the court be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction; and

(d) in addition to be ordered to pay to his principal and in such manner as the magistrate or the court may direct, any gift or consideration or any part thereof.

Increase of maximum penalty in certain cases.

6 & 7 Geo. V. c.64, s.1.

6. A person convicted on indictment of an offence under section 3 or section 4 shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with His Majesty or any Government Department or any public body or a sub-contract to execute any work comprised in such a contract, be liable to imprisonment for a term not exceeding seven nor less than three years: Provided that nothing in this section shall prevent the infliction in addition to imprisonment of such punishment other than imprisonment as may be inflicted under sub-section (1) or sub-section (2) of section 5.

Savings.

7. A person shall not be exempt from punishment under this Ordinance by reason of the invalidity of the appointment or election of a person to a public office.

Restriction on prosecution.

6 Ed. 7 c.34, s.2.

8. A prosecution for an offence under this Ordinance shall not be instituted except by or with the consent of the Attorney General or Solicitor General.

Evidence of accomplice.

9. Notwithstanding any rule of practice or procedure to the contrary in the event of a person being charged with an offence against section 3 or section 4, a judge shall not be required to direct the jury that it is dangerous to convict on the evidence of an accomplice without corroboration in a material particular implicating the accused, but in every such case the jury shall be directed to convict if they are satisfied beyond reasonable doubt that the evidence of such accomplice is worthy of belief.

Special powers of investigation.

10. (1) Notwithstanding anything in any other law contained, the Attorney General if satisfied that there are reasonable grounds for suspecting that an offence against this Ordinance has been committed by any person may in writing specially authorise a police officer not below the rank of Assistant Superintendent of Police to investigate any bank account, share account or purchase account of such person and such authority shall be sufficient warrant for the production of such accounts and documents as may be required for scrutiny by the officer so authorised.

(2) Any person who fails to disclose such information to a police officer so authorised shall be guilty of an offence against this Ordinance and shall be liable on summary conviction to imprisonment for a term not exceeding one year and to a fine not exceeding two thousand dollars.

11. Where in any proceedings against a person for an offence under this Ordinance, it is proved that any money, gift, or other consideration has been paid or given to or received by a person in the employment whether permanent or temporary and whether paid or unpaid of His Majesty or any Government Department or a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from His Majesty or from the Government of Hong Kong or from any Government Department or public body, the money, gift, or consideration shall be deemed to have been paid or given and received corruptly as such inducement or reward as is mentioned in section 3 or section 4 unless the contrary is proved.

Presumption
of corruption
in certain
cases.
6 & 7 Geo. V,
c.64, s.2.

12. It is hereby declared that in any trial or inquiry by a magistrate or a court in respect of an offence against this Ordinance it may be proved and taken into consideration by such magistrate or court that an accused person—

Special rules
of evidence.

(a) is in possession or has disposed of pecuniary resources or property disproportionate to his known sources of income for which he cannot satisfactorily account; or

(b) has at or about the time of an alleged offence obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account.

13. Sections 2, 3 and 4 of the Misdemeanors Punishment Ordinance, 1898, are hereby repealed.

Repeal of
sections 2, 3
and 4 of
Ordinance
No. 1 of
1898.

Passed the Legislative Council of Hong Kong, this 28th day of July, 1948.

ALASTAIR TODD,
Deputy Clerk of Councils.