

(11) in SBCR 11/2856/98 pt. 8
LS/B/1/00-01

18 October 2000

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Dear Mr Kau,

Rehabilitation Centres Bill

Thank you for your letter of 12 October 2000. We would like to provide clarifications as follows.

Clause 4(6)

The word “progress” in clause 4(6) will be given its ordinary dictionary meaning. In reviewing the progress of a young offender, the Commissioner of Correctional Services will consider many aspects including the young offender’s improvement in behaviour, self-care ability, response towards counselling, etc.

Clause 9(4)

When clause 9(4) is read together with clause 9(3), the words “if no person appears to be on the premises...” are intended to cover the situation in which a police officer or correctional services officer reasonably believes that a person unlawfully at large is on particular premises but the person chooses to hide on the premises and refuses to answer the door. This clause is necessary for the effective execution of the recall order.

Clause 11(2) & (3)

We will discuss with counsel and consider excluding the application of rule 222(1) of the Prison Rules altogether as necessary to achieve our intent. Apart from rule 222(1) of the Prison Rules, we have not detected any ambiguity arising from the references to “prison” and “hostel” since the remaining rules (rule 222(2) to rule 235) apply equally to both.

Clause 12(2)

A piece of subsidiary legislation, in this case, the Prison Rules, can only be confined to its subordinate relationship to its enabling principal legislation. Its inherent limitation renders it impossible to have any overriding power which its principal legislation does not have under clause 12(2). We therefore consider that the current clause 12(2) is in order.

Prison Rules

Rule 99

We can rely on clause 12(1) to cover the situation envisaged, as in applying the Prisons Ordinance and the Prison Rules, the provisions “shall be read with such alteration and modifications not affecting their substance as are necessary to render the same applicable”.

Rules 256 to 264B and Rules 265 to 272

The above rules relate to the operation of the Correctional Services Department Welfare Fund and the Prisoners Welfare Fund, which should also apply to CSD staff and inmates in the future Rehabilitation Centres. We will discuss with counsel and consider amending the Bill as necessary to achieve our purpose.

Should you have any further queries, please feel free to give me a call.

Yours sincerely,

(David Wong)
for Secretary for Security

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