

(11) in SBCR 11/2856/98 pt. 8
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Secretary for Security
Security Bureau
(Attn: Mr David WONG
Prin AS (S)B)
6/F, CGO
Lower Albert Road
Hong Kong

By Fax (2868 3243) and By Post

19 October 2000

Dear Mr WONG

Rehabilitation Centres Bill

Thank you for your letter dated 18 October 2000. I have the following observations on the clarifications provided by you :

Clause 4(6)

The ordinary dictionary meaning of "progress" is equivocal. The context of clause 4(6) has not dispelled the ambiguity. Please consider adding words descriptive of the "progress".

Clause 9(4)

Your intention is understood but it is not reflected in the drafting of clause 9(4). It would be adding words that are not there if you argue that the whole of clause 9(4) is subject to the condition stated at the beginning of clause 9(3). Please consider separate the two situations covered by clause 9(4) into (a) and (b) and repeat the condition of suspecting in respect of no person appears to be on the premises.

Clause 11(2) and (3)

It seems to me that the exclusion of rule 222(1) would render rule 222(2) rather odd. Perhaps it is only necessary to exclude paragraph (a) in Rule 222(1).

Clause 12(2)

It may be as you said in other circumstances. However, the provisions of Prison Rules imported by clause 12(1) would no longer be subsidiary legislation, they would be part of the Rehabilitation Centres Ordinance. There would not be any issue of inherent limitation or overriding power.

Prison Rules

Rule 99

Clause 12(1) has no application here because Rule 99 by itself does not require any modification or alteration in order to have effect in relation to rehabilitation centres. What is needed is the **addition** of "magistrates". It is therefore outside the ambit of clause 12(1).

There are two further matters that I would draw your attention :

Juvenile offenders Ordinance

Please confirm that the Administration does not intend the rehabilitation centres to be used for custody of young person pending trial. Otherwise section 7(1) of the Juvenile Offenders Ordinance may need to be amended.

Rehabilitation Centres Regulation

Schedule 2

There is no apparent connection between paragraph 2 and paragraph 1 although the intention is that when the situation described in paragraph 1 occurs, the officer shall serve the notice as described in paragraph 2.

I would appreciate your response to the above and reverting on the outcome of your discussion with counsel.

Yours sincerely

(KAU Kin-wah)
Assistant Legal Adviser