

LEGISLATIVE COUNCIL BRIEF

Protection of Children and Juveniles Ordinance (Cap. 213)

**PROTECTION OF CHILDREN AND JUVENILES (PLACES OF REFUGE)
(AMENDMENT) ORDER 2001**

Juvenile Offenders Ordinance (Cap. 226)

**PLACES OF DETENTION (JUVENILE OFFENDERS) APPOINTMENT
(CONSOLIDATION) (AMENDMENT) ORDER 2001**

REMAND HOME (AMENDMENT) RULES 2001

At the meeting of the Executive Council on 24 April 2001, the Council ADVISED and the Chief Executive ORDERED that the following Orders and Rules be made –

(a) the Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2001, at Annex A. This seeks to declare the Wing Lung Bank Golden Jubilee Sheltered Workshop and Hostel (WLBGJSW&H) as a place of refuge for children and juveniles;

(b) the Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2001, at Annex B. This seeks to appoint the Ma Tau Wai Girls' Home (MTWGH) to be a place of detention; and

- (c) the Remand Home (Amendment) Rules 2001, at Annex C. This seeks to make the Remand Home Rules apply to the remand section of the MTWGH.

BACKGROUND AND ARGUMENT

The Protection of Children and Juveniles Ordinance

2. A place of refuge provides temporary care for children (aged under 14) and juveniles (aged 14 to under 18) in need of care or protection under the Protection of Children and Juveniles Ordinance. These involve mainly children or juveniles who have been or are being assaulted, ill-treated, neglected, sexually abused, or whose health, development or welfare have been, are being or appears likely to be neglected or avoidably impaired, or who are beyond control.

3. Under section 2A of the Ordinance, the Chief Executive may by order declare any place to be a place of refuge. The institutions currently declared as places of refuge are listed in the Protection of Children and Juveniles (Places of Refuge Order) at Annex D. These include the Chuk Yuen Children's Reception Centre (CYCRC), the Pui Chi Boys' Home (PCBH) and the MTWGH.

Immigration Ordinance

4. Also, the CYCRC, the PCBH and the MTWGH are specified in Schedule 2 of the Immigration (Places of Detention) Order of the Immigration Ordinance (Cap. 115) as places of detention to provide the same treatment for illegal

immigrants (IIs) under 18 pending their repatriation.

Relocation of the Unit for the Disabled at the MTWGH to WLBGJSW&H

5. The CYCRC, the PCBH and the MTWGH serve both the able-bodied and the disabled. The MTWGH has a capacity of 90 places, with 80 places for the able-bodied and ten places for the disabled. Its Unit for the Disabled (UD) provides a refuge service for children (boys and girls) with physical and mental handicaps. 51 children, with varying degrees of disability, have been admitted to the UD since its establishment in 1996. The overall utilization rate of the UD is only 23%.

6. A Management Services Agency (MSA) review has concluded, inter alia, that the operation of the UD at the MTWGH is not cost effective and recommended that the UD be relocated to the WLBGJSW&H.

7. The WLBGJSW&H is operated by the Social Welfare Department and offers 140 sheltered workshop places and 100 residential places for moderately mentally handicapped adults. An Emergency Placement Service provides temporary residential care for homeless and destitute disabled adults. Given similarities in the nature of the services provided by the UD and the Emergency Placement Service, relocating the UD to the WLBGJSW&H will bring about more flexible deployment of staff resources and better use of the premises. The opportunity will also be taken to reduce the capacity of the UD from ten to six in view of the limited demand.

The Juvenile Offenders Ordinance

8. A place of detention under the Juvenile Offenders Ordinance provides temporary custody for children (aged under 14) and young persons (aged 14 to under 16), who are on remand pending police investigation or appearance before the Court or who are guilty and sentenced by the Court to be so detained. Those pending trial may be detained in a place of detention under sections 5 or 7 of the Ordinance, and those found guilty may be detained in a place of detention (for not more than six months) under sections 14 and 15 of the Ordinance.

9. Under section 16(1)(a) of the Ordinance, the Chief Executive may by order appoint any place to be a place of detention. Current places of detention are listed in the Places of Detention (Juvenile Offenders) Appointment ----- (Consolidation) Order at Annex E. Apart from police stations, the Begonia Road Juvenile Home (BRJH) is now the only place of detention for this group.

10. Under section 17 of the Ordinance, the Chief Executive has made the ----- Remand Home Rules, which apply to the remand sections of the appointed place of detention (the BRJH) at Annex F. The Remand Home Rules provide for the inspection of places of detention, as well as the classification, treatment, employment, and control of children and young persons detained therein.

Relocation of the girls' remand section of the BRJH to the MTWGH

11. The MTWGH now serves local girls under the Protection of Children and Juveniles Ordinance and II girls under the Immigration Ordinance, including disabled children (boys and girls). As regards the able-bodied, the average monthly intake is 112 local and 8 II girls. As regards the disabled, the average

monthly intake is 0.9 local and 0.06 II children. In future, we propose that disabled local children should be transferred to the WLBGJSW&H upon relocation of the UD whilst disabled II children will remain in the MTWGH having regard to operational requirements. As such, there is a need to consider how to make better use of the MTWGH (including the space vacated by the UD).

12. The BRJH now serves as a place of detention under the Juvenile Offenders Ordinance for both boys and girls, with a capacity of 50 places and 20 places respectively. The average monthly intake is 78 boys (with 57 local and 21 II boys) and 17 girls (10 local and 7 II girls). The space vacated by the girls' remand section will facilitate appropriate programmes to be arranged for the remaining categories of inmates at the BRJH.

13. Following the creation of teaching posts in the BRJH, the MTWGH and the PCBH, additional space is required in these individual homes for organizing educational programmes.

14. In future, we propose that the BRJH should remain a place of detention for boys while the MTWGH should become a place of detention for girls in addition to its existing functions.

15. The proposal will bring about better use of the space, more specialized service for the same gender, flexible deployment of staff resources and enhanced management. Also, the proposal will enable us to further explore long-term options on further rationalization and redevelopment, in line with the thinking of the MSA and the Director of Audit.

THE ORDERS AND THE RULES

16. We propose to introduce subsidiary legislation to declare the WLBGJSW&H as a place of refuge, to appoint the MTWGH as a place of detention and to make the Remand Home Rules apply to the remand section of the MTWGH. Article 56 of the Basic Law requires the Chief Executive to consult the Executive Council before making subsidiary legislation.

17. The Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2001 amends the Schedule to the Protection of Children and Juveniles (Places of Refuge) Order to include the WLBGJSW&H.

18. The Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2001 amends the Schedule to the Places of Detention (Juvenile Offenders) Appointment (Consolidation) Order to include the MTWGH.

19. The Remand Home (Amendment) Rules 2001 amends the Schedule to the Remand Home Rules (“the principal Rules”) to include the MTWGH so as to make the principal Rules apply to the remand section of the MTWGH.

LEGISLATIVE TIMETABLE

20. We will gazette the two amendment Orders and the amendment Rules on 4 May 2001, and table them before the Legislative Council on 9 May 2001 in accordance with section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

BASIC LAW IMPLICATIONS

21. The Department of Justice advises that the proposed Orders and Rules do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

22. The Department of Justice advises that the proposed Orders and Rules are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

23. The proposed Orders and Rules will not affect the current binding effect of the Protection of Children and Juveniles Ordinance and the Juvenile Offenders Ordinance and their subsidiary legislation.

FINANCIAL AND STAFFING IMPLICATIONS

24. The relocation of the UD from the MTWGH to the WLBGJSW&H and the girls' remand section from the BRJH to the MTWGH will give rise to estimated net savings of \$4 million per annum, arising from a net reduction of 11 posts and the non-creation of one funded post.

25. No staff redundancies will arise as the Social Welfare Department will redeploy all the existing staff affected by the proposals.

PUBLIC CONSULTATION

26. We do not consider it necessary to consult the public on the proposals.

PUBLICITY

27. A press release will be issued. A spokesman will be available to answer media enquiries.

ENQUIRY

28. For enquiries, please contact Mr David Yip, Assistant Secretary for Health and Welfare, on 2987 8128.

Health and Welfare Bureau

May 2001

**Protection of Children and Juveniles (Places of Refuge)
(Amendment) Order 2001**

**Places of Detention (Juvenile Offenders) Appointment (Consolidation)
(Amendment) Order 2001**

Remand Home (Amendment) Rules 2001

Annexes

- Annex A- Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2001
- Annex B- Places of Detention (Juvenile Offenders) Appointment (Consolidation) (Amendment) Order 2001
- Annex C- Remand Home (Amendment) Rules 2001
- Annex D- Schedule to the Protection of Children and Juveniles (Places of Refuge) Order
- Annex E- Schedule to the Places of Detention (Juvenile Offenders) Appointment (Consolidation) Order
- Annex F- Schedule to the Remand Home Rules

**PROTECTION OF CHILDREN AND JUVENILES (PLACES OF REFUGE)
(AMENDMENT) ORDER 2001**

(Made under section 2A of the Protection of Children and
Juveniles Ordinance (Cap. 213) after consultation
with the Executive Council)

1. Places of refuge

The Schedule to the Protection of Children and Juveniles (Places of Refuge) Order
(Cap. 213 sub. leg.) is amended by adding -

"11. Wing Lung Bank Golden Jubilee Sheltered Workshop and Hostel."

Chief Executive

2001

Explanatory Note

This Order adds Wing Lung Bank Golden Jubilee Sheltered Workshop and Hostel to
the list of places of refuge specified for the purposes of the Protection of Children and
Juveniles Ordinance (Cap. 213).

**PLACES OF DETENTION (JUVENILE OFFENDERS)
APPOINTMENT (CONSOLIDATION)
(AMENDMENT) ORDER 2001**

(Made under section 16 of the Juvenile Offenders Ordinance (Cap. 226)
after consultation with the Executive Council)

1. Schedule amended

The Schedule to the Places of Detention (Juvenile Offenders) Appointment (Consolidation) Order (Cap. 226 sub. leg.) is amended by adding -

- "8. The Ma Tau Wai Girls' Home For all purposes of the
situate at 51 Sheung Shing Ordinance."
Street, Homantin, Kowloon.

Chief Executive

2001

Explanatory Note

This Order appoints the Ma Tau Wai Girls' Home at 51 Sheung Shing Street, Homantin, Kowloon, as a place of detention for the purposes of the Juvenile Offenders Ordinance (Cap. 226).

REMAND HOME (AMENDMENT) RULES 2001

(Made under section 17(3) of the Juvenile Offenders Ordinance (Cap. 226)
after consultation with the Executive Council)

1. Schedule amended

The Schedule to the Remand Home Rules (Cap. 226 sub. leg.) is amended by adding

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"5. Ma Tau Wai Girls' Home."

Chief Executive

2001

Explanatory Note

These Rules add the Ma Tau Wai Girls' Home to the Schedule to the Remand Home Rules (Cap. 226 sub. leg.) so as to make those Rules apply to the remand section of that Girls' Home.

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| Chapter: 213B | Title: PROTECTION OF CHILDREN AND JUVENILES (PLACES OF REFUGE) ORDER | Gazette Number: | L.N.244 of 1999 |
| Schedule: | Heading: SCHEDULE | Version Date: | 30/09/1999 |

[paragraph 2]

PLACES OF REFUGE

| Item | Place of refuge |
|------|--|
| 1. | The Po Leung Kuk. |
| 2. | (Repealed L.N. 557 of 1994) |
| 3. | The Chuk Yuen Children's Reception Centre. |
| 4. | The Ma Tau Wai Girls' Home. |
| 5. | (Repealed L.N. 244 of 1999) |
| 6. | (Repealed L.N. 557 of 1994) |
| 7. | (Repealed L.N. 530 of 1996) |
| 8. | Pui Chi Boys' Home. (L.N. 309 of 1984) |
| 9. | (Repealed L.N. 26 of 1986) |
| 10. | (Repealed L.N. 244 of 1999) |

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| Chapter: 226A | Title: PLACES OF DETENTION (JUVENILE OFFENDERS) APPOINTMENT (CONSOLIDATION) ORDER | Gazette Number: | L.N.243 1999 | of |
| Schedule: | Heading: SCHEDULE | Version Date: | 30/09/1999 | |

| | Place | Purpose |
|----|---|--|
| 1. | (Repealed L.N. 337 of 1983) | |
| 2. | All the police stations in Hong Kong. (G.N.A. 57 of 1955; 15 of 1999 s.3) | For the purposes of sections 5, 7 and 8 of the Ordinance. |
| 3. | The Begonia Road Juvenile Home situate at 62 Begonia Road, Yau Yat Chuen, Kowloon. (L.N. 36 of 1963; L.N. 243 of 1999) | For all purposes of the Ordinance. |
| 4. | (Repealed L.N. 337 of 1983) | |
| 5. | (Repealed L.N. 243 of 1999) | |
| 6. | (Repealed L.N. 24 of 1986) | |
| 7. | (Repealed L.N. 243 of 1999) | |

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|----------------------|--------------------------|-----------------|-----------------|
| Chapter: 226D | Title: REMAND HOME | Gazette Number: | L.N.245 of 1999 |
| Schedule: | Heading: SCHEDULE | Version Date: | 30/09/1999 |

[rule 1]

The remand sections of-

1. Begonia Road Juvenile Home. (L.N. 245 of 1999)
2. (Repealed L.N. 245 of 1999)
3. (Repealed L.N. 29 of 1986)
4. (Repealed L.N. 245 of 1999)

(L.N. 389 of 1983)