

**Bills Committee on
Juvenile Offenders (Amendment) Bill 2001**

**Committee Stage Amendments
proposed to be moved by the Administration**

Purpose

This paper seeks Members' views on two draft Committee Stage amendments (CSAs), at Annex A, to be introduced by the Administration to the Juvenile Offenders (Amendment) Bill 2001 (the Bill).

Transitional Arrangement

2. A transitional arrangement should be provided in the Bill to cater for cases in which children aged between 7 and the revised minimum age of criminal responsibility who were prosecuted for crimes before the raise of that age takes effect, but the proceedings have not yet been completed before then.

3. Since the objective of the Bill is to exclude children aged under 10 from the criminal justice system in view of their tender age, convicting such children after the commencement of the amendment is considered contrary to the policy intention of presuming children aged below 10 to be incapable of committing an offence. As such, the Administration proposes to move a CSA to the effect that a person who commits an offence under the existing law, but who cannot be held liable after the Bill has come into operation, should not be liable to prosecution for that offence if he is not convicted before the commencement of the Bill.

Repeal Section 19(2) of the Reformatory School Ordinance

4. Under the existing section 19(2) of the Reformatory School Ordinance (Cap 225) (the RSO), a young offender under the age of 10 who is sentenced to a Reformatory School may be boarded out of the School under specified conditions until he reaches the age of 10 years. An extract of the relevant provision is at Annex B.

5. Since the enactment of the Bill will irrebuttably presume children aged under 10 to be incapable of committing crime and therefore cannot be prosecuted, no children under the age of 10 will be admitted to the Reformatory School thereafter. It is considered that section 19(2) of the RSO will become superfluous when the enacted Bill comes into operation. The Administration therefore proposes to move a CSA to repeal the section as a consequential amendment.

Advice Sought

6. Members are invited to comment on the above and the draft CSAs at Annex A.

Security Bureau
February 2003

JUVENILE OFFENDERS (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

Clause

Amendment Proposed

New

By adding before the heading "**Consequential Amendments**" -

"2A. Section added

The following is added -

"23. Transitional provisions

As from the commencement of the Juvenile Offenders (Amendment) Ordinance 2003 (of 2003), no proceedings shall lie against a child in respect of an offence committed by him before that commencement if at the time the offence was committed the child was of an age that, had the offence been committed after that commencement, he would not be liable to proceedings for that offence by virtue of section 3."."

New

By adding -

"3A. Duties and powers of manager

Section 19(2) is repealed."

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Section of Enactment

Chapter : 225 Title : REFORMATORY SCHOOLS ORDINANCE Gazette Number : L.N. 106 of 2002

Section : 19 Heading : **Duties and powers of manager** Version Date : 01/07/2002

(1) It shall be the duty of the manager of a reformatory school to report to the Chief Executive immediately he considers it would be consistent with the welfare of a youthful offender for him to be discharged from the custody of the school.

(2) The manager of a reformatory school to which a youthful offender under the age of 10 years is sent, may, with the consent of the Chief Executive, board the offender out with any suitable person until he reaches the age of 10 years and thereafter for such longer period, with the consent of the Chief Executive, as the manager considers to be advisable in the interests of the offender, subject to the exercise by the manager of such powers as to supervision, recall and otherwise as may be prescribed by rules made by the Secretary for Health, Welfare and Food; and where an offender is so boarded out he shall nevertheless be deemed for the purposes of this Ordinance to be a youthful offender detained in the reformatory school, and the provisions of this Ordinance shall apply accordingly, subject to such necessary adaptations as may be made by order of the Secretary for Health, Welfare and Food. (Amended 80 of 1997 s. 13; L.N. 106 of 2002)

(Amended 21 of 1933 s. 7; 30 of 1977 s. 8; 17 of 1999 s. 3)