

(Revised)

立法會
Legislative Council

LC Paper No. LS10/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 26 October 2001**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 October 2001**

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Amendment to be made by : 14 November 2001 (or 21 November 2001 if
extended by resolution)

Part I ***Fugitive Offenders Ordinance***

Fugitive Offenders Ordinance (Cap. 503)

Fugitive Offenders (Sri Lanka) Order (L.N. 203)

This Order is made by the Chief Executive in Council under section 3 of the Fugitive Offenders Ordinance (Cap. 503) (the Ordinance). It sets out the limitations, restrictions, exceptions and qualifications applicable as between the Hong Kong Special Administrative Region and the Democratic Socialist Republic of Sri Lanka in relation to the procedures in the Ordinance for the surrender to one another of fugitive offenders.

This Order is made consequential upon the agreement (which is set out in the Schedule to the Order) in relation to the arrangements for the surrender of fugitive offenders signed by the Government and the Government of the Democratic Socialist Republic of Sri Lanka on 3 September 1999 (the Agreement). Members may refer to the LegCo Brief (Ref: SBCR 1/2716/89) dated 20 September 2001 and issued by the Security Bureau for background information.

This Order will come into operation on a date to be appointed by the Secretary for Security by notice in the Gazette.

It is observed that the Chinese version of the description of offences comprised in Article 2 of the Agreement deviates from the Chinese description of the same offences in the Schedule to the Ordinance (which has generally been followed in similar Agreements with other foreign countries). A list of the more significant deviations is attached as the Annex to this Report. This Division is seeking clarification from the Administration on this issue as well as other related matters. A further report may be prepared after the Administration's reply has been received. Members may wish to defer the decision whether to set up a sub-committee until the further report has been submitted.

Fugitive Offenders Ordinance (Cap. 503)

Fugitive Offenders (Portugal) Order (L.N. 204)

This Order is made by the Chief Executive in Council under section 3 of the Fugitive Offenders Ordinance (Cap. 503) (the Ordinance). It sets out the limitations, restrictions, exceptions and qualifications applicable as between the Hong Kong Special Administrative Region and the Portuguese Republic in relation to the procedures in the Ordinance for the surrender to one another of fugitive offenders.

This Order is made consequential upon the agreement (which is set out in the Schedule to the Order) in relation to the arrangements for the surrender of fugitive offenders signed by the Government and the Government of the Portuguese Republic on 24 May 2001. Members may refer to the LegCo Brief (Ref: SBCR 1/2716/89) dated 20 September 2001 and issued by the Security Bureau for background information.

This Order will come into operation on a date to be appointed by the Secretary for Security by notice in the Gazette.

Part II ***Electoral Regulations***

Chief Executive Election Ordinance (Cap. 569)

Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. 205)

The object of this Regulation is to provide for the number and qualifications of subscribers, the amount of election deposit required for nomination and the conditions for forfeiture of the election deposit, in respect of Election Committee ("EC") subsector elections. Basically, the new Regulation reproduces the relevant sections of the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg.) in respect of EC subsector elections.

The nomination paper of a candidate at a subsector election needs to be completed by a minimum of five subscribers. The amount of election deposit required for nomination is \$1,000. A candidate must receive not less than 2.5% of the valid votes in the relevant subsector in order to get back the paid deposit; otherwise, the deposit will be forfeited. These requirements are the same as those in the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation.

The Regulation will come into operation on 23 November 2001.

**Legislative Council Ordinance (Cap. 542)
Legislative Council (Subscribers and Election Deposit for Nomination)
(Amendment) Regulation 2001 (L.N. 206)**

This Regulation amends the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg.) ("the Principal Regulation") consequential to the Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. 205 of 2001) so that the Principal Regulation only deals with—

- (a) the amount of election deposit to be lodged for nomination;
- (b) the requirements for return or disposal of the election deposit for nomination; and
- (c) the number and qualifications of subscribers required for nomination,

of a nominee on a nomination list in respect of his nomination as a geographical constituency candidate, or a candidate nominated for an election in respect of a functional constituency or the EC.

The Regulation will come into operation on 23 November 2001.

For L.N.s 205 and 206, Members may refer to LegCo Brief: CAB C5/7/3 & C1/30/11 of 11 October 2001 from Constitutional Affairs Bureau for background information.

**Chief Executive Election Ordinance (Cap. 569)
Distribution of Number of Members Among Designated Bodies (Election
Committee) Order 2001 (L.N. 207)**

Under the Schedule to the Chief Executive Election Ordinance (Cap. 569) the religious subsector is to be represented on the EC by 40 members nominated by the bodies ("designated bodies") constituting that subsector, section 6(2)

of that Schedule states that the 40 members are to be distributed among the designated bodies as specified by an order made by the Chief Executive in Council. Accordingly, this Order specifies the number of members allocated to each designated body.

Members may refer to LegCo Brief : CAB C1/30/4 of 11 October 2001 from Constitutional Affairs Bureau for background information.

The Order will come into operation on 23 November 2001.

Electoral Affairs Commission Ordinance (Cap. 541)
Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (L.N. 208)

The purpose of this Regulation is to provide for the appointment by the Electoral Affairs Commission of one or more committees each to be known as a Nominations Advisory Committee ("NAC") to advise—

- (a) prospective candidates in respect of an EC subsector ordinary election or an EC sub-subsector ordinary election as to whether they are eligible to be or disqualified from being nominated in respect of an EC subsector or an EC sub-subsector, as may be appropriate;
- (b) prospective nominees for nomination for the religious subsector of the EC, and designated bodies selecting nominees for nomination for the religious subsector, as to whether the prospective nominees are eligible to be or disqualified from being nominated as members representing the religious subsector on the EC; and
- (c) Returning Officers as to whether—
 - (i) a candidate for an EC subsector ordinary election, EC subsector by-election, EC sub-subsector ordinary election or EC sub-subsector by-election who has submitted a nomination form is eligible to be or disqualified from being nominated in respect of an EC subsector or an EC sub-subsector, as may be appropriate; and
 - (ii) a nominee who has been nominated for the religious subsector of the EC by a designated body by submitting a nomination form is eligible to be or disqualified from being nominated as a member representing the religious subsector on the EC.

The Regulation is modelled on Schedules 1, 2 and 5 to the Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council) Regulation (Cap. 541 sub. leg.) with necessary modifications for the purposes mentioned in paragraphs (a) to (c).

The Regulation will come into operation on 23 November 2001.

**Electoral Affairs Commission Ordinance (Cap. 541)
Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) (Amendment) Regulation 2001 (L.N. 209)**

The Amendment Regulation amends the Electoral Affairs Committee (Nominations Advisory Committees (Legislative Council)) Regulation ("the Principal Regulation") consequential to the making of the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (L.N. 208) by repealing those provisions relating to the appointment of NACs for nominations for the EC subsectors. The Principal Regulation as amended will henceforth be applicable only to nominations for LegCo general elections and by-elections.

The Amendment Regulation will come into operation on 23 November 2001.

For L.N.s 208 and 209, Members may refer to LegCo Brief (without file reference on it) of 3 October 2001 from Registration and Electoral Office for background information.

**Electoral Affairs Commission Ordinance (Cap. 541)
Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (L.N. 210)**

This Regulation sets out the procedures for nominating members to represent the religious subsector on the EC and for conducting elections to elect the members of the EC who, under the Schedule to the Chief Executive Election Ordinance, are required to be elected by the relevant subsectors. Most of the provisions are adopted from Schedule 1 to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg.) and adjusted pursuant to the requirements set out in the Schedule to the Chief Executive Election Ordinance.

Members may refer to LegCo Brief (without file reference on it) of October 2001 from Registration and Electoral Office for background information.

The Legal Service Division is still scrutinising the legal and drafting aspects of L.N.s 205-210.

Encl

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ANNEX

Fugitive Offenders (Sri Lanka) Order

Item no.	Article 2 of the Schedule to the Order	Item no.	Schedule to the Ordinance
1	應受懲處的殺人罪	1	構成罪行的殺人
1	侵犯他人	1	襲擊
3	侵犯他人	3	襲擊
3	利用.....物品	3	不論是以.....方式
3	非法傷人	3	不法傷害
3	侵害	3	損害
4	犯與性有關的罪行	4	性罪行
4	非法對兒童作性行爲	4	對兒童作出不法的性方面的作爲
6	非法拘禁	6	非法禁錮
6	非法拘囚	6	非法關禁
6	扣押人質	6	劫持人質
8	包括毒品和精神藥物以及用於非法製造毒品和精神藥物的前體和主要化學物的罪行	8	包括麻醉藥、精神病科藥品，以在非法製造麻醉藥和精神病科藥品時所用的先質及必須的化學品的罪行
8	販毒收益	8	販毒得益
9	藉欺騙取得財物	9	以欺騙手段取得財產
9	使用武力進入他人房舍	9	破啓及進入
9	非法奪取	9	非法剝奪
10	無力償債	10	破產清盤法
11	創辦人	11	發起人
13	膺製	13	偽製
25	種族滅絕	25	危害種族
29	入境	29	出入境事宜
29	以訛騙手法	29	以欺詐方式
30	財務利益	30	經濟收益
33	偷取、拋棄、遺棄或非法扣押兒童；涉及剝削或虐待兒童	33	拐帶、遺棄、扔棄或非法羈留兒童；涉及利用兒童
42	妨礙逮捕	42	阻止逮捕