

立法會
Legislative Council

LC Paper No. CB(2)265/01-02

Ref : CB2/SS/2/01

**Paper for the House Committee meeting
on 9 November 2001**

**Report of the Subcommittee on
Rehabilitation Centres Regulation**

Purpose

This paper reports on the deliberations of the Subcommittee on Rehabilitation Centres Regulation (the Regulation).

The Regulation (Legal Notice No. 195 of 2001)

2. The Regulation is made under the Rehabilitation Centres Ordinance (Cap. 567) passed by the Legislative Council on 2 May 2001, the purpose of which is to set up rehabilitation centres (RCs) for young offenders from the age of 14 to below 21 under short-term custodial sentence.
3. The Regulation provides for the operation and management of RCs and treatment, employment, discipline, control and welfare of offenders detained therein. It also sets out conditions that may be imposed under a supervision order and the related procedures to be followed by officers of the Correctional Services Department (CSD) as well as the forms to be adopted for the purposes of the principal ordinance and the Regulation.

The Subcommittee

4. At the House Committee meeting on 12 October 2001, Members agreed to form a Subcommittee to study the Regulation. Under the chairmanship of Hon James TO, the Subcommittee held four meetings with the Administration. The membership list of the Subcommittee is in **Appendix I**.

Deliberations of the Subcommittee

Classification of offenders

5. Section 7 of the Regulation provides that the Commissioner of Correctional Services (the Commissioner) shall classify all offenders, having regard to their character, previous history and other relevant circumstances and shall arrange for each offender to receive his training at the RC which is, in the opinion of the Commissioner, most suitable.

6. Members note that at present, all newly convicted persons, upon admission to a CSD programme to which he was sentenced, will appear before a board (comprising a senior CSD officer, a medical officer and representatives of the relevant units, such as the aftercare and education units) for the purpose of classification as required by the relevant legislation. Having considered all factors including the offender's age, criminal history, nature of the offence, the risk he may pose to the community and criminal sophistication, the board will assign the offender to an institution the programme of which is considered most suitable for his or her custody.

7. The Administration explains that the purpose of the classification requirement for the RC programme is to ensure that CSD assigns all inmates to the most suitable RC. At present two RCs (one for male and one for female young offenders) have been planned for each of the two stages of the RC programme. More RCs may be established to meet the varied needs of offenders as the programme further develops.

The grading system

8. Section 8 provides that offenders shall be divided into such grades as the Commissioner may approve and the privileges of each grade shall be specified by the Commissioner.

9. Members note that the spirit of the grading system is to motivate inmates to exert efforts to make progress in the RC programme for their promotion to a higher grade and eventual release. Members also note that CSD is working on the grading system to be used in the RC programme and the necessary details. In the current Training Centre (TC) programme, there is a three-tier grading system comprising the Basic, Intermediate and Advanced Grades. All TC inmates are assigned to the Basic Grade on admission. Promotion to higher grades is considered on the basis of their progress made in the programme. Inmates in the different grades are entrusted with different responsibility, degree of autonomy and privileges. Starting from the Intermediate Grade, inmates may be selected to attend courses outside the institution, such as Outward Bound courses. Inmates of the Advanced Grade may be granted leave of absence to facilitate job/school interviews and family reunion.

Religious services and instruction

10. Section 11 provides that the Officer-in-charge may, if satisfied that an offender belongs to a religious denomination, if the offender so desires and it is reasonably practicable to do so, make arrangements for the offender to attend or receive appropriate religious services or instruction.

11. Both the Chairman and Hon Cyd HO have expressed reservation about the need for the Commissioner to be satisfied that an offender belongs to a religious denomination as it implies that proof of such is required. Members have asked the Administration to provide information on the current practice in other CSD institutions.

12. The Administration has pointed out that all persons under CSD's custody are free to attend evangelic meetings held inside CSD institutions. For those who are unable to join such activities due to their special circumstances, such as medical or security reasons, special arrangements will be made with the agencies concerned to make special services available to them. Moreover, rule 167 of the Prison Rules also provides that the chaplains of the various denominations appointed by the Chief Executive shall have access to the prisoners at all times. Visits by these prison chaplains and/or approved personnel of various religious denominations are frequent and in general, each institution is visited by such persons once a week. Thus inmates could make requests for religious instruction or counselling to the chaplains/religious personnel during their visits or to CSD officers of the institution concerned at any time and appropriate arrangements would be made if the Officer-in-charge is satisfied that there is a genuine need and that it is reasonably practicable to do so.

13. The Administration has also pointed out that in recent years, CSD has come across examples in which prisoners have used religious reasons to claim advantages and this has become a growing concern. The Administration therefore considers it appropriate and necessary to follow similar provisions in the Detention Centres Regulations and the Drug Addiction Treatment Centres Regulations and adopt section 11 in the Regulation to strike a balance between protection of religious freedom and maintenance of prison discipline.

14. After considering the above additional information, a majority of members share the view that section 11 should be amended to state that religious instruction may be made available to those inmates who do not yet belong to a religious denomination but have a genuine need for religious instruction. On review, the Administration has agreed to accept members' suggestion and will move an amendment to codify the current administrative arrangements for such inmates to receive appropriate religious instruction.

Board of Review

15. Section 12 provides for the appointment of a Board of Review for each

RC to make recommendations for an offender's promotion and discharge.

16. The Subcommittee has asked the Administration to reconsider whether the Chinese name of the Board of Review (覆檢委員會) is appropriate. The Administration has confirmed that since the function of the Board is to review the circumstances of an offender and his progress from time to time, the name serves the intended meaning and is in order.

Supervision order

17. Section 14 provides that a supervision order shall be read and explained to an offender by the Officer-in-charge before the release of the offender from the RC.

18. The Subcommittee has asked the Administration to consider -

- (a) whether the section should provide for the same procedure to be followed if a supervision order is varied after the release of an offender from a RC;
- (b) whether a supervision order should be read and explained to an offender in the presence of his guardian; and
- (c) whether the signature of the offender should be required.

19. In regard to the suggestion in paragraph 18(a) above, the Administration will amend the section to put the following administrative arrangements on a statutory footing -

- (a) The Officer-in-charge shall serve the supervision order on the offender upon his discharge from a RC; and
- (b) Upon variation of a supervision order, the revised order shall be served on the supervisee and its contents shall be read and explained to the supervisee by the Officer-in-charge.

20. As regards the suggestion in paragraph 18(b) above, the Administration has pointed out that the legal responsibility of abiding by the conditions of the supervision order rests with the supervisee. It would cause some practical difficulties to require the guardian's presence in every case when the supervision order is served on the supervisee upon his discharge. Since it is sometimes not easy to find a mutually convenient time for the guardian and the Officer-in-charge to complete such a procedure, the discharge of the offender might be delayed as a result. The Subcommittee notes that CSD has been putting a lot of emphasis on family support and the supervision conditions are amongst the issues on which CSD seeks to work closely with the guardians. Therefore in reality the guardians are in the majority of cases made aware of the supervision

conditions.

21. As to the need for signature, the Administration has pointed out that procedurally, in serving and explaining a supervision order to a supervisee, the Officer-in-charge will sign on the back of the order and the supervisee will then sign an acknowledgement receipt. Should there be any doubt as to whether the order has been served, the burden of proof that a supervision order has been served rests with the CSD officer concerned, not the supervisee.

Leave of absence

22. Under section 17, the Commissioner may grant to an offender permission to be absent from a RC for a period not exceeding five consecutive days at any one time. Members have asked the Administration to consider whether a longer period should be set to allow more flexibility. The Administration has explained that in view of the relatively short detention period for the RC programme (up to nine months only), it considers a maximum five-day period adequate for the purpose of the leave, e.g. to facilitate family reunion, job/school interviews and participation in residential activities/courses outside a RC.

Conditions of a supervision order

23. To ensure better protection of the supervisees, the Subcommittee has asked the Administration to consider extending the scope of paragraphs (j) and (k) of Schedule 1, which sets out the conditions of a supervision order, to cover previous offences of the supervisee.

24. The Administration has pointed out that in formulating the extent of the possible restrictions on association and movement which may be imposed on supervisees, it has had regard to the nature and purpose of the RC programme and the characteristics of the inmates concerned. Since the RC supervisees are not sophisticated in criminal disposition and their offences are usually not very serious in nature, their criminal connections are usually not deep-rooted. The Administration therefore considers that the scope of restrictions now contained in Schedule 1 already provides for sufficient control and monitoring of the behaviour of the supervisees on one hand while respecting their personal freedom and encouraging them to take independent responsibility of their own activities on the other.

25. Following discussion, the Subcommittee remains of the view that paragraphs (j) and (k) of Schedule 1 should be expanded to include any other convicted offences of the supervisee as it would further facilitate the supervisee to keep away from undesirable persons and places. Members note and agree that such restrictions would only be invoked in justifiable circumstances. On review, the Administration has agreed to amend the two paragraphs as requested by the Subcommittee to enable the Commissioner to impose such stricter restriction if necessary.

Proposed amendments

26. The proposed amendments to be moved by the Administration at the Council meeting on 14 November 2001 are in **Appendix II**. The Subcommittee supports the proposed amendments.

Recommendation

27. The Subcommittee recommends support of the Regulation and the Administration's proposed amendments.

Advice sought

28. Members are invited to support the Subcommittee's recommendation in paragraph 27 above.

Council Business Division 2
Legislative Council Secretariat
8 November 2001

Subcommittee on Rehabilitation Centres Regulation

Membership List

Chairman

Hon James TO Kun-sun

Members

Hon Cyd HO Sau-lan

Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Hon Ambrose LAU Hon-chuen, GBS, JP

Hon CHOY So-yuk

Hon Michael MAK Kwok-fung

Hon WONG Sing-chi

(Total : 7 Members)

Clerk

Ms Doris CHAN

Legal Adviser

Mr Arthur CHEUNG

Date

8 November 2001

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and
General Clauses Ordinance (Cap. 1))

REHABILITATION CENTRES REGULATION

RESOLVED that the Rehabilitation Centres Regulation, published in the Gazette as Legal Notice No. 195 of 2001 and laid on the table of the Legislative Council on 10 October 2001, be amended -

- (a) by repealing section 11 and substituting -

"11. Religious services and instruction

(1) The Officer-in-charge may, if satisfied that an offender belongs to a religious denomination, if the offender so desires and it is reasonably practicable to do so, make arrangements for the offender to attend appropriate religious services.

- (2) The Officer-in-charge may, if

satisfied that an offender belongs to a religious denomination or has a genuine need for religious instruction, if the offender so desires and it is reasonably practicable to do so, make arrangements for the offender to receive appropriate religious instruction.";

(b) by repealing section 14 and substituting -

"14. Supervision order

(1) A supervision order against an offender shall be read and explained to, and served on, the offender by the Officer-in-charge before the offender is released from a rehabilitation centre.

(2) Where a condition of a supervision order against an offender is varied, the varied order shall be read and explained to, and served on, the offender by the Officer-in-charge.";

(c) in Schedule 1 -

(i) in paragraph (j), by adding "or with any other offence of which he was convicted" after "sentenced";

(ii) in paragraph (k), by adding "or with any other offence of which he was convicted" after "sentenced".