

LEGISLATIVE COUNCIL BRIEF

FUGITIVE OFFENDERS ORDINANCE (Cap 503)

FUGITIVE OFFENDERS (SRI LANKA) ORDER

FUGITIVE OFFENDERS (PORTUGAL) ORDER

INTRODUCTION

At the meeting of the Executive Council on 18 September 2001, the Council ADVISED and the Chief Executive ORDERED that

- (a) the Fugitive Offenders (Sri Lanka) Order (at Annex A);
and
- (b) the Fugitive Offenders (Portugal) Order (at Annex B).

should be made under section 3 of the Fugitive Offenders Ordinance (“the Ordinance”), to implement the agreements signed with these countries concerning the surrender of fugitive offenders.

BACKGROUND AND ARGUMENT

The Fugitive Offenders Ordinance

2. Section 3 of the Ordinance provides that the Chief Executive in Council may, in relation to any surrender of fugitive offenders (SFO) arrangements, by order direct that the procedures in the Ordinance shall apply as between Hong Kong and the place outside Hong Kong to which the arrangements relate, subject to the limitations, restrictions, exceptions and qualifications contained in the order.

3. Eleven orders in relation to SFO bilateral arrangements (with the Netherlands, Canada, Australia, Malaysia, the Philippines, the USA, Indonesia, India, the UK, Singapore and New Zealand) have been made under the Ordinance.

The Orders

4. We have signed bilateral agreements with Sri Lanka and Portugal respectively. The two proposed Orders to be made under section 3 of the Ordinance will enable these agreements to be brought into force. Each of the Orders, which include the relevant agreement as a schedule, provides that the procedures in the Ordinance shall apply as between the HKSAR and the country concerned, subject to the terms of the agreement.

5. Section 3(9) of the Ordinance provides that the Chief Executive in Council shall not make an order under Section 3(1) of the Ordinance unless the arrangements for the surrender of fugitive offenders to which the order relates are substantially in conformity with the provisions of the Ordinance. These two agreements do so conform.

6. These Orders will come into operation on a day to be appointed by the Secretary for Security by notice in the Gazette. That day will coincide with the day on which the relevant agreement enters into force. This will be settled after consultation with the countries concerned and will depend upon when the necessary procedures in those countries have been completed.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows:-

Publication in the Gazette	12 October 2001
Tabling in the Legislative Council	17 October 2001
Commencement date	to be specified by the Secretary for Security

BASIC LAW IMPLICATIONS

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

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Orders are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE ORDERS

10. The Orders will not affect the current binding effect of the Fugitive Offenders Ordinance (Cap. 503).

FINANCIAL AND STAFFING IMPLICATIONS

11. The Orders will not have any additional financial or staffing implications.

PUBLIC CONSULTATION

12. The Orders will permit the arrangements to be brought into force in accordance with the existing legal framework. Public consultation is not, therefore, considered necessary.

ENQUIRIES

13. Enquiries on the contents of this paper should be directed to:-

Telephone No.

Mrs. Margaret Chan
Principal Assistant Secretary for Security

2810 2329

Ms. Angelina Kwan
Assistant Secretary for Security

2537 7171

Security Bureau
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