

LEGISLATIVE COUNCIL BRIEF

Security and Guarding Services Ordinance
(Chapter 460)

SECURITY AND GUARDING SERVICES ORDINANCE (AMENDMENT OF SCHEDULE 2) NOTICE 2003

INTRODUCTION

At the meeting of the Executive Council on 18 February 2003, the Council ADVISED and the Chief Executive ORDERED that the Security and Guarding Services Ordinance (Amendment of Schedule 2) Notice 2003, at Annex A, should be made under section 29 of the Security and Guarding Services Ordinance to amend Schedule 2 to the Ordinance so that the security personnel permit of an existing holder shall be revoked if the person is convicted of a sexual or related offence, irrespective of the level of penalty imposed for the offence.

BACKGROUND

2. The Security and Guarding Services Ordinance (the SGSO) was enacted in December 1994 to provide for a licensing scheme to regulate the security industry. The licensing scheme is administered by the Security and Guarding Services Industry Authority (the SGSIA) set up under the SGSO. Under the scheme, a person will require an SPP and a company will require a licence before they may provide security services in Hong Kong.

JUSTIFICATION

3. The existing Schedule 2 to the SGSO sets out the offences and the corresponding level of penalty for which an SPP shall be revoked by the Commissioner of Police (CP) in accordance with section 17 of the SGSO. The existing Schedule 2 and section 17 of the SGSO are at Annex B and Annex C respectively. If an SPP holder is convicted of a sexual or related offence, his SPP shall only be revoked if he is sentenced to imprisonment.

4. There has been feedback from the community that persons convicted of sexual or related offences are not suitable for security-related duties irrespective of the sentence imposed. All security personnel are placed in a position of trust. They are relied upon to discharge important functions of safeguarding lives and properties of others, and to prevent and detect occurrence of any offence. In the course of their work, they may also have access to sensitive information about their clients. The public generally expects their security guards to have a high standard of personal integrity and credibility.

5. After years of implementation of the SGSO since 1995, it is observed that imprisonment is usually not imposed for some common sexual offences. For example, persons convicted of indecent assault were often imposed with community service order, fined or bound over. In view of the general concern that persons convicted of sexual offences are not suitable for security-related duties, we propose to amend Schedule 2 to the SGSO so that the specified penalty for sexual and related offences will be changed from "imprisonment" to "any penalty". The effect of the amendment is that, the SPP of an existing holder shall be revoked by CP under section 17 of the SGSO if the person is convicted of sexual and related offences irrespective of the penalty imposed on him.

THE NOTICE

6. Section 29 of the SGSO empowers the Chief Executive in Council to amend Schedule 2 by notice in the Gazette. The Notice, at Annex A, specifies that the penalty for sexual and related offences set out in Schedule 2 to the SGSO will be amended from

"imprisonment" to "any penalty". It also specifies that the amendment will come into effect on 1 April 2003.

LEGISLATIVE TIMETABLE

7. The legislative timetable will be –

Publication in the Gazette	21 February 2003
Tabling in the Legislative Council	26 February 2003

IMPLICATIONS OF THE PROPOSALS

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial and civil service, economic, productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

9. During the SGSIA's consultation on the Review of Policy Governing the Issue of SPP to Persons with Criminal Convictions held in June to September 2001, some respondents, including members of the public, District Councils and District Fight Crime Committees, voiced their concern that some security guards with conviction records of sexual offences had been allowed to continue to do security work. The SGSIA then consulted the trade unions, trade associations and the Legislative Council Panel on Security in October and November 2002. They shared the SGSIA's view that persons convicted of sexual or related offences are indeed not suitable to hold SPP and perform security work.

PUBLICITY

10. A press release will be issued on 19 February 2003. A spokesman will be

available to handle media enquiries.

ENQUIRIES

11. For any enquiries on this brief, please contact Miss Eliza YAU, Principal Assistant Secretary for Security, at 2810 2632.

Security Bureau
19 February 2003

**AMENDMENT TO THE CONDITIONS LEADING TO
REVOCATION OF SECURITY PERSONNEL PERMITS: ANNEXES**

Annex A - Gazette Notice specifying the proposed amendment

Annex B - Schedule 2 of the Security and Guarding Services Ordinance

Annex C - Section 17 of the Security and Guarding Services Ordinance

**SECURITY AND GUARDING SERVICES ORDINANCE
(AMENDMENT OF SCHEDULE 2) NOTICE 2003**

(Made by the Chief Executive in Council under section 29 of the Security and Guarding Services Ordinance (Cap. 460))

1. Commencement

This Notice shall come into operation on 1 April 2003.

2. Offences for which permit to be revoked

Schedule 2 to the Security and Guarding Services Ordinance (Cap. 460) is amended, in item 4, in column 3, by repealing "Imprisonment" and substituting "Any penalty".

Clerk to the Executive Council

COUNCIL CHAMBER

2003

Explanatory Note

This Notice amends Schedule 2 to the Security and Guarding Services Ordinance (Cap. 460) to enable the revocation of a permit issued under the Ordinance where the holder of the permit is convicted of an offence under Part XII of the Crimes Ordinance (Cap. 200) irrespective of the penalty imposed.

Chapter:	460	Title:	SECURITY AND GUARDING SERVICES ORDINANCE	Gazette Number:	
Schedule:	2	Heading:	OFFENCES FOR WHICH PERMIT TO BE REVOKED	Version Date:	30/06/1997

[sections 17 & 29]

<u>Item</u>	<u>Offence</u>	<u>Penalty</u>
1.	Any offence against the Societies Ordinance (Cap 151) or the Dangerous Drugs Ordinance (Cap 134)	Any penalty
2.	Any offence involving fraud or dishonesty	Any penalty
3.	Any offence involving violence	Imprisonment
4.	Any offence against Part XII of the Crimes Ordinance (Cap 200)	Imprisonment

Chapter:	460	Title:	SECURITY AND GUARDING SERVICES ORDINANCE	Gazette Number:	
Section:	17	Heading:	Revocation of permit	Version Date:	30/06/1997

Where any holder of a permit is convicted of any offence specified in column 2 of Schedule 2 and the penalty imposed on him for that offence is the penalty specified in relation to that offence in column 3 of that Schedule, the Commissioner shall, by notice in writing to the holder of the permit, revoke the permit.