

**For discussion on  
5 January 2010**

**Legislative Council Panel on Security**

**Subsidiary Legislation relating to  
the Castle Peak Bay Immigration Centre**

**Purpose**

This paper briefs Members on four amendment orders that the Government plans to make for transferring of the management of the Castle Peak Bay Immigration Centre from Correctional Services Department (CSD) to Immigration Department (ImmD) and other related matters.

**Background**

2. The Castle Peak Bay Immigration Centre (CIC) commenced operation in 2005 and is used for the detention of adults provided for under the Immigration Ordinance (Cap. 115). A fact-sheet on CIC is at **Annex**. The daily average numbers of detainees at CIC in 2007, 2008 and 2009 (up to November) are 373, 323 and 235 respectively, with an average detention period of 17 days.

3. Owing to the then manpower situation of ImmD and CSD, the Government decided that CSD would take up the management of CIC until the second quarter of 2010. ImmD would take over the management of CIC in April 2010.

4. CIC is currently specified as a “prison” in the Prisons Order (Cap.

234 sub. leg. B)<sup>1</sup>, and the treatment of detainees there is subject to the relevant regulations under the Prison Rules (Cap. 234 sub. leg. A). This arrangement cannot continue after ImmD assumes the management of CIC, as members of the Immigration Service cannot exercise the powers provided under the Prison Rules. Arrangements have to be made for the continuous operation and management of CIC under the powers and provisions of the Immigration (Treatment of Detainees) Order (Cap. 115 sub. leg. E, “the Treatment Order”).

### **The Amendment Order**

5. A total of four amendment orders are required. The Chief Executive will make, under section 35(1) of the Immigration Ordinance (Cap. 115), the Immigration (Treatment of Detainees) (Amendment) Order 2010 after consulting the Executive Council. The amendment order will allow the rules relating to the treatment of detainees as set out in Schedule 1 of the Treatment Order (covering matters like possession of articles, accommodation, visits of detainees and complaint handling) to apply to CIC.

6. Furthermore, the Government would take the opportunity to delete the existing references to the places in Schedule 2 to the Treatment Order (including the New Horizons Vietnamese Refugee Departure Centre, which was closed in 1998, and the custodial wards of two hospitals, which are currently managed by CSD). The amendment order will also add two provisions in Schedule 1 to the Treatment Order. One is to enable the continuation of visits by Justices of the Peace (JPs) to CIC after it is no

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<sup>1</sup> As specified in the Prisons Order, all “prisons” are “places of detention” for the purpose of the Immigration (Places of Detention) Order. Immigration detainees can thus be detained in a “prison”.

longer listed as a “prison”<sup>2</sup>; and the other is about the smoking arrangements in CIC (see paragraphs 8 and 9 below).

7. The Secretary for Security will make two other amendment orders. One would be made under section 4 of the Prison Ordinance (Cap. 234), to discontinue the listing of CIC as a “prison”. The other would be made under section 35(1) of the Immigration Ordinance (Cap. 115) to specify CIC as a “place of detention”, thereby enabling CIC to continue to accommodate persons required or authorized to be detained by or under the Immigration Ordinance (Cap. 115).

8. Under the Smoking (Public Health) Ordinance (Cap. 371)<sup>3</sup>, some areas of CIC have been exempted from the smoking ban in indoor areas. Smokers currently detained in CIC are allowed to smoke inside specified smoking booths during daytime. During night-time, they are allowed to smoke in the toilets of the dormitories. It is considered that the current arrangement for smoking by detainees in CIC should continue. Re-instating a ban on smoking would cause management problems and may also be perceived as a deprivation of welfare currently enjoyed by detainees.

9. For the above reasons, the Secretary for Food and Health will make an amendment order under section 16A of the Smoking (Public Health) Ordinance (Cap. 371). This amendment order will exempt from the smoking prohibition an area set aside by the Director of Immigration in

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<sup>2</sup> Currently, JP visits to CIC are provided for in the Prison Rules.

<sup>3</sup> As a “prison”, CIC is a “correctional facility” for the purposes of the Smoking (Public Health) Ordinance (Cap. 371). Under Item 7 of Part 2 of Schedule 2 to Cap. 371, an area in a correctional facility that is set aside for smoking by prisoners who are allowed to do so in accordance with orders under the relevant Prison Rule is an exempt area from the smoking ban.

a place of detention specified in Schedule 2 to the Treatment Order, thereby enabling continued exemption from the smoking ban for the designated smoking areas in CIC.

### **Way Forward**

10. Subject to the approval of the Executive Council, we will table the four amendment orders before the Legislative Council in February 2010, in order to effect the scheduled transfer of the management of CIC to ImmD in April 2010.

**Security Bureau**

**December 2009**

### **Castle Peak Bay Immigration Centre**

- The Castle Peak Bay Immigration Centre (CIC), located at 84 Castle Peak Road, Castle Peak Bay, Tuen Mun, is a centre specifically set up for adults placed under custody and pending removal under the Immigration Ordinance. CIC commenced its operation in 2005.
- Before the setting up of CIC, such operation is carried out at the “Victoria Immigration Centre” of the ImmD inside the Victoria Prison. Since the Victoria Prison had to be closed, when the setting up of a permanent Immigration Training Institute at the Perowne Barracks in Tuen Mun was confirmed in 1997, the Government decided to build CIC adjacent to it.
- The modern design of CIC blends well with the surrounding environment. It is eleven-storey in height with a total area of 13, 215 square metres. The first floor is the loading and unloading bay for detainees in closed design, the offices are on the second and third floors, and the main areas for detainees’ activities are on the fourth to tenth floors. CIC has 400 detention places and ancillary facilities including sick bay, day rooms, visit rooms, laundry room and kitchen.