



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2524 3762)
5 November 2013

Secretary for Security
Security Bureau
10th Floor, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

(Attn: Mr Vic YAU
Prin AS (Security) A)

Dear Mr YAU,

Fugitive Offenders (Czech Republic) Order (L.N. 166)

Section 3(1) of the Fugitive Offenders Ordinance (Cap. 503) (the FO Ordinance) provides, among others, that "[t]he Chief Executive in Council may, in relation to any arrangements for the surrender of fugitive offenders, by order –

- (a) reciting or embodying the terms of the arrangements;
- (b) specifying the extent, if any, to which any relevant enactment specified in the order is to be repealed or amended,

direct that the procedures in [the FO] 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, if any, contained in the order."

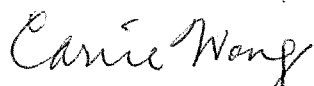
Under section 3(1) of the FO Ordinance, if the Chief Executive in Council decides to make a fugitive offenders order, the Order is to recite or embody the terms of the arrangements for the surrender of fugitive offenders, and to specify the extent, if any, to which any relevant enactment specified in the order is to be repealed or amended.

In accordance with section 3(1)(a) of the FO Ordinance, the terms of the agreement for the arrangements for the surrender of fugitive offenders have been "recited" in the Schedule to the Fugitive Offenders (Czech Republic) Order (the Order) and described in its section 2.

However, it is noted that despite section 3(1)(b) of the FO Ordinance, there is nothing in the Order or in any of the previous fugitive offenders orders that "specify" the extent to which any relevant enactment specified in the order is to be repealed or amended. In this connection, it may be useful to compare with similar requirements in the Mutual Legal Assistance in Criminal Matters Ordinance (Cap.525). Please clarify whether it is necessary to add to the Order provisions along the lines of Schedule 2 to the Mutual Legal Assistance in Criminal Matters (South Africa) Order in accordance with section 3(1)(b) of the Ordinance.

I would appreciate it if you could let us have the Administration's reply in both languages on or before the House Committee meeting on 8 November 2013.

Yours sincerely,


(Miss Carrie WONG)
Assistant Legal Adviser

c.c. Clerk to the House Committee