

**LEGISLATIVE COUNCIL BRIEF**  
**Probation of Offenders Ordinance**  
**(Chapter 298)**

**PROBATION OF OFFENDERS (APPROVED INSTITUTION)**  
**(CONSOLIDATION) (AMENDMENT) ORDER 1999**

At the meeting of the Executive Council on 19 January 1999, the Council ADVISED and the Chief Executive ORDERED that the Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 1999, at Annex A, should be made under section 11 of the Probation of Offenders Ordinance, to update the list of approved institutions for probationers.

**BACKGROUND AND ARGUMENT**

2. Under section 3 of the Probation of Offenders Ordinance, Cap 298, the Court may make a probation order requiring a convicted offender to be supervised by a probation officer for one to three years, and during this period to reside in an approved institution for up to one year. Under section 11 of this Ordinance, the Chief Executive may by order designate a premise to be an approved institution. Six institutions have been designated for this

purpose under the Probation of Offenders (Approved Institution) (Consolidation) Order (Annex B).

3. These approved institutions are generally known as “probation homes”. They provide counselling service and various kinds of programmes including academic studies, pre-vocational training and character training to assist the residents in rehabilitation and integration to the community.

4. In addition to probation homes, there are other types of facilities available for children or juveniles:

(a) Remand homes are places of detention under the Juvenile Offenders Ordinance, Cap. 226. Under section 14 of the Ordinance, where a child (aged under 14) or a young person (aged 14 to 16) is found guilty of an offence punishable in the case of an adult with imprisonment, or would be liable if he were an adult to be imprisoned in default of payment of any fine, damages or costs, the court may order that he be detained in a remand home. The period of detention will be determined by the Director of Social Welfare and will not exceed six months. Three institutions have been designated as remand homes under this Ordinance (Annex C);

(b) Reformatory schools accommodate youthful offenders (offenders between 7 and 16 years of age) under the

Reformatory Schools Ordinance, Cap. 225. Under section 17 of this Ordinance, where a youthful offender is convicted of an offence punishable, in the case of an adult, by a fine or by imprisonment, the court may order such offender to be detained in a reformatory school for one to three years. Two institutions have been designated as reformatory schools under this Ordinance (Annex D);

- (c) Places of refuge accommodate children or juveniles under Care or Protection Orders issued under section 34(1) of the Protection of Children and Juveniles Ordinance, Cap. 213. Such children or juveniles are those who have been assaulted, ill-treated, neglected, sexually abused, or whose health, development or welfare is being neglected or avoidably impaired. Six institutions have been designated as places of refuge under this Ordinance (Annex E).

5. The Begonia Road Boys' Home is used as a probation home (80 places) and a remand home (15 places). On 9 May 1997, the Finance Committee of the Legislative Council approved \$108 million for the construction of the Shatin Boys' Home to reprovise the probation section of Begonia Road Boys' Home. After the reprovise, the Begonia Road Boys' Home will become a remand home with 91 places by merging with the Pui Yin Juvenile Home, a remand home for boys. The Pui Yin Juvenile Home will then be closed down.

6. The Shatin Boys' Home will commence operation on 1 February 1999. The new facility will provide 120 places for male probationers aged between 7 and 16. The probation section of the Begonia Road Boys' Home will close in early February 1999, after the boys have been transferred to the Shatin Boys' Home.

7. The O Pui Shan Boys' Home has been designated as a probation home and as a reformatory school. Having reviewed the utilisation of other similar facilities for young offenders, Social Welfare Department (SWD) considers it appropriate to merge the probation section of the O Pui Shan Boys' Home with that of the Begonia Road Boys' Home for more effective use of resources. In September 1998, SWD transferred the probationers in the O Pui Shan Boys Home to the Begonia Road Boys' Home. O Pui Shan Boys' Home is now a reformatory school with 96 places.

8. The Ma Tau Wai Girls' Home used to provide residential services for various categories of female occupants. It served as a probation home, a remand home, a place of refuge, and a place of detention for illegal immigrants under the Immigration Ordinance, Cap. 115. Under Article 6(2) of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383), accused persons shall be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accordingly, children who are the subject of Care or Protection Orders should be kept separate from juvenile offenders. The Ma Tau Wai Girls' Home is now only a place of refuge for

girls under Care or Protection Orders and a place of detention for illegal immigrants. The total capacity is 130 places.

9. The Pui Chi Boys' Home served both as a probation home and a place of detention for illegal immigrants until 1994. Since then, for the reason stated in paragraph 8, it has been used as a place of refuge for boys under Care or Protection Orders and a place of detention for illegal immigrants. The total capacity is 60 places.

## **THE ORDER**

10. The Probation of Offenders (Approved Institution) (Consolidation) (Amendment) Order 1999 at Annex seeks to amend the list of approved institutions for the purpose of section 11 of the Probation of Offenders Ordinance. The Order includes the Shatin Boys' Home in the list with effect from 1 February 1999, and removes the Begonia Road Boys' Home, the O Pui Shan Boys' Home, the Pui Chi Boys' Home and the Ma Tau Wai Girls' Home from the list with effect from 4 February 1999.

## **LEGISLATIVE TIMETABLE**

11. We will gazette the order on 29 January 1999, and table the order in the Legislative Council on 5 February 1999 in accordance with section 34 of the Interpretation and General Clauses Ordinance, Cap. 1.

## **BASIC LAW IMPLICATIONS**

12. The Department of Justice advises that the proposed order does not conflict with those provisions of the Basic Law carrying no human rights implications.

## **HUMAN RIGHTS IMPLICATIONS**

13. The Department of Justice advises that the proposed order is consistent with the human rights provisions in the Basic Law.

## **BINDING EFFECT**

14. The Order does not bind the State by express provision. The provisions which are amended by this amending Order do not bind the State by express provision.

## **FINANCIAL AND STAFFING IMPLICATIONS**

15. The opening of the Shatin Boys' Home is part of a re-provisioning and service rationalisation exercise which will lead to an estimated net saving of approximately \$5 million arising from the deletion of 17 posts.

## **ENVIRONMENTAL IMPLICATIONS**

16. The Director of Environmental Protection completed an Environmental Review of the project in May 1997 and concluded that no adverse environmental impacts would be anticipated.

## **PUBLIC CONSULTATION**

17. The Shatin District Board was consulted on the project to construct the Shatin Boys' Home in December 1995 and raised no objection.

## **PUBLICITY**

18. A press release will be issued on 28 January 1999.

**Probation of Offenders (Approved Institution)  
(Consolidation) (Amendment) Order 1999 : Annexes**

- Annex A - Probation of Offenders (Approved Institution)  
(Consolidation) (Amendment) Order 1999
- Annex B - Section 11 of Probation of Offenders Ordinance; Probation of  
Offenders (Approved Institution) (Consolidation) Order
- Annex C - Schedule to the Remand Home Rules
- Annex D - Reformatory School (Establishment) (Consolidation) Order
- Annex E - Protection of Children and Juveniles (Place of Refuge) Order



**PROBATION OF OFFENDERS (APPROVED INSTITUTION)  
(CONSOLIDATION)(AMENDMENT) ORDER 1999**

(Made under section 11 of the Probation of Offenders  
Ordinance (Cap. 298) after consultation with  
the Executive Council)

**1. Commencement**

- (1) Section 2(a) of this Order shall come into operation on 4 February 1999.
- (2) Section 2(b) shall come into operation on 1 February 1999.

**2. Schedule amended**

The Schedule to the Probation of Offenders (Approved Institution)(Consolidation)  
Order (Cap. 298 sub. leg.) is amended -

- (a) by repealing -  
“The Begonia Road Boys Home The Ma Tau Wei Girls’ Home  
Pui Chi Boys’ Home O Pui Shan Boys’ Home”;
- (b) by adding “Shatin Boys’ Home”.

Chief Executive

Explanatory Note

This Order amends the Schedule to the Probation of Offenders (Approved Institution)(Consolidation) Order (Cap. 298 sub. leg.) by -

- (a) deleting 4 institutions which cease to serve as approved institutions; and
- (b) adding the new Shatin Boys' Home as one of the approved institutions for the reception of persons under a probation order.