

LEGISLATIVE COUNCIL BRIEF

Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326)

DRUG DEPENDENT PERSONS TREATMENT AND REHABILITATION CENTRES (LICENSING) BILL

Introduction

At the meeting of the Executive Council on 1 February 2000, the Council ADVISED and the Chief Executive ORDERED that the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill, at Annex A, should be introduced into the Legislative Council, to replace the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326) with a new ordinance in order to provide for uniform control through licensing of all voluntary residential drug dependent persons treatment and rehabilitation centres.

BACKGROUND AND ARGUMENT

2. The Government adopts a multi-modality approach to drug treatment and rehabilitation services in order to cater for the different needs of drug dependent persons. In 1997, the Government established an inter-departmental working group to review the existing treatment and rehabilitation policy and the Drug Addicts Treatment and Rehabilitation Ordinance (the Ordinance) (at Annex B) which provides statutory underpinning for that policy. The key findings were as follows:

(a) The Drug Addicts Treatment and Rehabilitation Ordinance is obsolete

Enacted in 1960, the Ordinance aims to facilitate the detention of drug dependent persons in “Addiction

Treatment Centres” for treatment. The provisions of the Ordinance were based on the drug treatment and rehabilitation philosophy at the time, which placed various restrictions on persons receiving treatment, including their personal freedom. The Schedule to the Declaration of Addiction Treatment Centre (Consolidation) Order provides that two treatment centres operated by SARDA are declared “Addiction Treatment Centres” to which the provisions of the Ordinance apply. At present, these two centres no longer operate on a ‘detention’ basis. Instead, they provide voluntary residential drug treatment and rehabilitation services which are essentially the same as those provided by other drug treatment and rehabilitation agencies not covered by the Ordinance.

(b) Lack of uniform control for centres providing voluntary residential treatment and rehabilitation services

As all other existing voluntary drug treatment and rehabilitation centres are not gazetted under the Ordinance, there is in fact no uniform control mechanism governing their operation. The service standard and environment of these centres vary. At present, there are about 12 such agencies, with facilities spread out in around 30 different locations. Most of these facilities are accommodated in stone or wooden structures in remote areas with minimum building or fire safety installations. Some do not have proper electricity and water supplies. They are therefore highly susceptible to structural, fire and environmental health hazards.

3. In view of this, the Government considers that the existing Drug Addicts Treatment and Rehabilitation Ordinance should be repealed and a new ordinance enacted to provide for a licensing scheme for voluntary residential drug treatment and rehabilitation centres in order to protect the well-being of persons undergoing treatment in these centres.

THE PROPOSAL

4. The Government consulted the public in 1998 on a proposed licensing scheme to regulate such centres. The objectives of the licensing scheme are to: -

- (a) ensure that drug dependent persons undergoing treatment and rehabilitation will receive services in a properly managed and physically secure environment, thereby protecting the well-being of these persons;
- (b) enable the Government to keep a register of all voluntary residential drug dependent persons treatment and rehabilitation centres; and
- (c) bring such centres under uniform control.

5. The licensing scheme will require a person/organization to apply to the Director of Social Welfare (the Director) for a licence to operate any drug treatment and rehabilitation centre which provides voluntary residential care for four or more persons. Subject to the applicant being able to satisfy the stipulated fit person criteria, fire services and building safety requirements, and other service conditions as stipulated by the Director, a licence will be granted and the applicant will be required to display the licence in a conspicuous place at his centre. The licence so granted will have to be renewed on an annual basis if the centre wishes to continue to operate beyond the licence period. The Director has the power to refuse to license a centre if the latter does not meet the stipulated requirements. He also has the power to cancel a licence where a centre is found to be in breach of the licensing requirements. To enforce such requirements, the Director will be given power to inspect licensed centres. The centres can appeal against any decision made by the Director in respect of licensing and cancellation of licence.

6. The licensing scheme is intended to cover all voluntary residential drug treatment and rehabilitation centres, irrespective of whether they adopt medical or non-medical approach. It is also intended to cover “half-way houses” offering voluntary residential and support services for rehabilitated drug dependent persons prior to their full integration into the community. It is noted that in accordance with the Hospitals, Nursing Homes and Maternity Homes Ordinance (Cap. 165), centres which fall within the definition of “hospital” in section 2 of Cap. 165 are also required to apply for registration under Cap. 165.

7. With regard to implementation, there will be a grace period for existing centres to prepare themselves for licensing whilst continuing with their operation, and new centres will have to comply with the requirements from the first day of operation. Existing operators will therefore be required to notify the Director of their operation within three

months of commencement of the legislation. They will be granted certificates which will provisionally exempt them from licensing until such certificates are cancelled or not renewed. Such exemption certificates may be renewable on application to the Director.

THE BILL

8. **Clause 2** sets out the definitions necessary for the interpretation of the Bill. **Clause 3** disapplies the Bill in relation to treatment centres maintained by the Hospital Authority, and provides that the licensing requirement is additional to any requirement to register under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165).

9. **Clause 4** provides that no person shall operate or exercise control over the management of a treatment centre unless he is specified as its operator in a licence or certificate of exemption issued in respect of the treatment centre. **Clause 5** deals with the offences in relation to licence and certificate of exemption.

10. **Clause 6** deals with the application for and issuance of licence. It also sets out certain circumstances where the Director may refuse to issue the licence. **Clause 7** states the circumstances in which the Director shall not, in relation to his determination of an application for a licence, consider a person as a fit person.

11. **Clauses 8 to 10** deal with the application for and issuance of certificate of exemption, renewal of licence and certificate of exemption and supply of false information by the applicant. **Clause 12** requires the specified operator to display in a conspicuous place in the centre the subsisting licence or certificate of exemption.

12. **Clauses 14 and 15** deal with the cancellation of licence or certificate of exemption and issuance of related notices.

13. **Clause 16** empowers the Director to give directions to a specified operator to secure the satisfactory operation and management of a treatment centre. **Clause 18** confers on the Director and authorized public officers certain powers for the purposes of the Bill, including the power to enter and inspect premises.

14. **Clause 22** provides that no statement or admission made by

a person for admission to a treatment centre or in the course of his undergoing treatment or rehabilitation at the centre shall be admissible in evidence in any proceedings against him under the Dangerous Drugs Ordinance (Cap. 134).

15. **Clause 23** empowers the Director to issue Codes of Practice setting out principles for the operation or management of treatment centres. **Clause 24** provides for appeals to the Administrative Appeals Board in relation to decisions of the Director made under Clauses 6(2)(b), 8(3)(b), 9(3)(b) and 14.

16. **Clause 26** provides that no fee is payable in respect of the application for, or the issue or renewal of, a licence or certificate of exemption. **Clauses 27** and **28** empower the Chief Executive in Council and the Secretary for Security to make regulations and amend the Schedule respectively.

17. **Clause 29** contains transitional provisions. A person who operates a treatment centre immediately before the commencement of Clause 4 is deemed to have been issued a certificate of exemption in respect of the treatment centre for the period as provided in Clause 29(2). **Clause 30** repeals the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326) and all subsidiary legislation made under it.

LEGISLATIVE TIMETABLE

18. The legislative timetable approved by the Chief Executive in Council is :-

Publication in the Gazette	11 February 2000
First Reading and commencement of Second Reading debate	23 February 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

COMMENCEMENT

19. The Bill when passed into law shall take effect on a date to

be appointed by the Secretary for Security.

BASIC LAW IMPLICATIONS

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

HUMAN RIGHTS IMPLICATIONS

21. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

22. The binding effect of the Bill is the same as that of the Ordinance it replaces.

FINANCIAL AND STAFFING IMPLICATIONS

23. A licensing office, comprising one Social Work Officer, one Assistant Social Work Officer and one Assistant Clerical Officer, will be set up in the Social Welfare Department to prepare and update the Codes of Practice under the new legislation, to process applications for issue and renewal of licences and certificates of exemption to operate drug dependent persons treatment and rehabilitation centres, to keep a central registry of such centres and to inspect such centres. The recurrent cost of around \$1.3 million per annum for operating the office will be met by redeployment of resources from within the existing global allocation of the Social Welfare Department.

24. There will be additional workload for the Fire Services Department and the Buildings Department in inspection of treatment centres and for the Buildings Department in checking plans of the centres including any upgrading proposals for compliance with the building safety requirements. Such additional workload is expected to spread over a long period of time and will be absorbed within the existing resources of the two departments.

25. It is estimated that the creation of statutory right of appeal against the Director's decision in respect of licensing to be lodged with the Administrative Appeals Board (AAB) will cause a very small increase in appeal cases to be handled by the AAB Secretariat each year. The proposal is unlikely to give rise to significant financial or staffing implications for the Secretariat, which can be absorbed within its existing resources.

26. To comply with the requirements of the new legislation, some existing treatment centres will need to upgrade their premises. In this regard, several major charitable funds have been approached and have preliminarily indicated that they would assist with the necessary funding.

ENVIRONMENTAL IMPLICATIONS

27. The Bill is unlikely to cause any environmental implications.

ECONOMIC IMPLICATIONS

28. The Bill will have no economic implications.

PUBLIC CONSULTATION

29. We had consulted the public for six months in 1998 on the proposed licensing scheme and met with the affected agencies, Provisional District Boards, the Legislative Council Panel on Security and the Action Committee Against Narcotics (ACAN). The scheme was supported by all these bodies. We have also consulted the agencies and ACAN again on the Bill and incorporated their views in the Bill.

PUBLICITY

30. A press release will be issued on 9 February 2000. A spokesman will be available for answering media enquiries.

ENQUIRIES

31. For any enquiries on the Bill, please contact Ms Mimi Lee, Principal Assistant Secretary for Security(Narcotics), at 2867 2748.

Security Bureau
9 February 2000
Ref: NCR 2/4/1 Pt. XI

LEGISLATIVE COUNCIL BRIEF

DRUG DEPENDENT PERSONS TREATMENT AND REHABILITATION CENTRES (LICENSING) BILL

ANNEXES

- Annex A - Drug Dependent Persons Treatment And
Rehabilitation Centres (Licensing) Bill

- Annex B - Drug Addicts Treatment and Rehabilitation Ordinance
(Cap.326) and its subsidiary legislation

**DRUG DEPENDENT PERSONS TREATMENT AND REHABILITATION
CENTRES (LICENSING) BILL**

CONTENTS

Clause		Page
1.	Short title and commencement	1
2.	Interpretation	1
3.	Application of this Ordinance	3
4.	Restriction on operating treatment centres	4
5.	Contravention of conditions of licence or certificate of exemption	5
6.	Application for and issue of licence	6
7.	Person not to be considered as fit person	9
8.	Application for and issue of certificate of exemption	10
9.	Renewal of licence or certificate of exemption	11
10.	False statement etc. furnished while making applications	13
11.	Form of licence and certificate of exemption	13
12.	Licence or certificate of exemption to be displayed	14
13.	Evidence of facts stated in licence or certificate of exemption	15
14.	Cancellation of licence or certificate of exemption	15

Clause		Page
15.	Notice of refusal or cancellation	17
16.	Power of Director to give directions	18
17.	Director may order cessation of use of any place as a treatment centre	19
18.	Inspection and other powers	20
19.	Offences in relation to section 18	23
20.	Exercise of Director's powers	24
21.	Offences by corporation or partners	24
22.	Confidentiality of information	25
23.	Codes of Practice relating to operation of treatment centres	25
24.	Appeals against decisions of Director	26
25.	Service of documents	27
26.	No fee payable in respect of licence or certificate of exemption	28
27.	Regulation	28
28.	Amendment of Schedule	31
29.	Transitional Provisions	31
30.	Repeal	32
Consequential Amendment		
Administrative Appeals Board Ordinance		
31.	Schedule amended	32
Schedule	Specified substances	32

A BILL

To

Provide for the licensing, control and inspection of drug dependence treatment centres which provide residential accommodation for persons voluntarily undergoing treatment for drug dependence or rehabilitation after the treatment; and provide for matters connected therewith and incidental thereto.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice in the Gazette.

2. Interpretation

In this Ordinance, unless the context otherwise requires -

"certificate of exemption"(豁免證明書)means a certificate of exemption issued under section 8(3), or renewed under section 9(3), in respect of a treatment centre;

"drug dependence" (藥物倚賴) means the psychophysical state referred to in paragraph (a) of the definition of "drug dependent person";

"drug dependent person" (藥物倚賴者) means a person who -

- (a) is suffering from the psychophysical state in which the usual or increasing doses of a dangerous drug (as defined in the Dangerous Drugs Ordinance (Cap. 134)) or a specified substance are required to prevent the onset of withdrawal symptoms; or
- (b) has completed treatment for drug dependence and is undergoing rehabilitation rendered at a treatment centre;

"Director" (署長) means the Director of Social Welfare;

"licence" (牌照、牌) means a licence issued under section 6(2), or renewed under section 9(3), in respect of a treatment centre;

"place" (地方) means any area on land or water and includes any building, structure, enclosure, vehicle or ship;

"rehabilitation" (復康服務) means care or services intended to facilitate the recovery of drug dependent persons or their reintegration into the community, after their treatment for drug dependence;

"specified operator" (指明經營者) means, in relation to a

treatment centre, the person specified as its operator in -

- (a) a licence; or
- (b) a certificate of exemption,

for the time being in force in respect of the treatment centre;

"specified substance" (指明物質) means a substance specified in the Schedule;

"treatment centre" (治療中心) means any place used or intended to be used -

- (a) for the treatment for drug dependence or rehabilitation of 4 or more drug dependent persons who undergo such treatment or rehabilitation on a voluntary basis; and
- (b) for providing residential accommodation for such persons while they undergo the treatment or rehabilitation.

3. Application of this Ordinance

(1) This Ordinance shall not apply to treatment centres maintained and controlled by the Hospital Authority.

(2) For the avoidance of doubt, it is declared that the requirement under this Ordinance for a licence or certificate of exemption is without derogation to any requirement to

register under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165).

4. Restriction on operating treatment centres

(1) No person shall operate or exercise control over the management of a treatment centre unless he is the specified operator of the treatment centre.

(2) No person shall take part in the management of a treatment centre unless -

- (a) a licence; or
- (b) a certificate of exemption,

in respect of the treatment centre is for the time being in force.

(3) A person who contravenes subsection (1) commits an offence and is liable -

- (a) on the first conviction, to a fine at level 6 and to imprisonment for 6 months, and to a fine of \$5,000 for each day during which the offence continues;
- (b) on subsequent conviction, to a fine at level 6 and to imprisonment for one year, and to a fine of \$10,000 for each day during which the offence continues.

(4) A person who contravenes subsection (2) commits an

offence and is liable to a fine at level 3.

5. Contravention of conditions of licence or certificate of exemption

(1) Where a treatment centre in respect of which a licence or certificate of exemption has been issued is operated in contravention of any condition of the licence or certificate of exemption, the specified operator and any other person taking part in the management of the treatment centre each commits an offence.

(2) Without prejudice to subsection (3), it shall be a defence for a person charged with an offence under subsection (1) to prove that -

- (a) he did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and
- (b) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented those circumstances arising.

(3) In any proceedings against a specified operator for an offence under this section, it shall not be necessary for the prosecution to prove that the specified operator has knowledge of the condition of the licence or certificate of exemption the contravention of which constituted the offence.

(4) A person who commits an offence under this section

is liable to a fine at level 6 and to imprisonment for 6 months and to a fine of \$5,000 for each day during which the offence continues.

6. Application for and issue of licence

(1) An application by a person for a licence in respect of a treatment centre shall be made to the Director in such form and manner as the Director may specify.

(2) The Director shall determine an application for a licence -

(a) by issuing to the applicant the licence, subject to such reasonable conditions as the Director may impose; or

(b) by refusing to issue the licence.

(3) If the Director intends to refuse to issue the licence, he shall comply with section 15.

(4) Without limiting the generality of subsection (2)(b), the Director may refuse to issue a licence to the applicant if it appears to him -

(a) (i) where the applicant is an individual, that the applicant is not a fit person;

(ii) where the applicant is a body corporate, that any director of the

body corporate is not a fit person;

(iii) where the applicant is a partnership, that any partner of the partnership is not a fit person;

(b) that for reasons connected with the size, staffing or equipment, the place to be used for the treatment centre is not fit to be used as such treatment centre;

(c) that the place to be used as the treatment centre does not comply with any requirements relating to construction, design, structure, fire precautions, health, sanitation and safety set out in -

(i) any provision of the Buildings Ordinance (Cap. 123);

(ii) any Code of Practice published by the Director of Fire Services under section 16(1)(b) of the Buildings Ordinance (Cap. 123);

(iii) any Code of Practice issued by the Director under section 23; or

(iv) any regulation made under section 27;

(d) that if the place were to be used as a treatment centre, there would be a breach of a

condition of the Government lease that restricts the use of the place;

(e) that the proposed name of the treatment centre is unsuitable or is the same as or similar to -

(i) the name of any treatment centre in respect of which a licence or certificate of exemption is for the time being in force; or

(ii) the name of a treatment centre in respect of which a licence or a certificate of exemption has been cancelled.

(5) A condition of a licence imposed under subsection (2)(a) may relate to, in particular, the accommodation, staffing and equipment of the treatment centre.

(6) The Director may require an applicant to furnish him with such information as he considers necessary for determining whether or not to issue the licence, and such information

-

(a) may include such particulars of the applicant as the Director may consider relevant and the name, address, plans and operational details of the treatment centre;

(b) shall be furnished in such form and within such

period as the Director may specify;

- (c) if required for considering whether a person is a fit person for the purposes of subsection (4)(a), shall be supported by a statutory declaration on such facts as the Director may require.

7. Person not to be considered as fit person

- (1) For the purposes of section 6(4)(a), a person is not a fit person if -
 - (a) he is or was (except where subsection (2) applies) a drug dependent person;
 - (b) he has been convicted in Hong Kong of any offence specified in Schedule 1 of the Organized and Serious Crimes Ordinance (Cap. 455) and sentenced to imprisonment within the 10 years immediately prior to the day on which the Director considers the matter ("the relevant period"); or
 - (c) he has been convicted elsewhere, within the relevant period, of any offence constituted by an act or omission that, if it had occurred in Hong Kong, would have constituted an offence specified in Schedule 1 of the Organized and

Serious Crimes Ordinance (Cap. 455), and sentenced to imprisonment on the conviction;

(2) Where a person was a drug dependent person, the Director may consider him a fit person if such person satisfies the Director that he has not been a drug dependent person continuously in the 10 years immediately prior to the day on which the Director considers the matter.

8. Application for and issue of certificate of exemption

(1) A person who operates a treatment centre immediately before the commencement of section 4 may apply, within 3 months of such commencement, for a certificate of exemption in respect of the treatment centre.

(2) An application for a certificate of exemption shall be made to the Director in such form and manner as the Director may specify.

(3) The Director shall determine an application for a certificate of exemption -

(a) by issuing to the applicant the certificate of exemption, subject to such reasonable conditions as the Director may impose; or

(b) by refusing to issue the certificate of exemption.

(4) If the Director intends to refuse to issue a

certificate of exemption, he shall comply with section 15.

(5) The Director may require an applicant to furnish him with such information as he considers necessary for determining whether or not to issue the certificate of exemption, and such information -

- (a) may include such particulars of the applicant as the Director may consider relevant and the name, address, plans and operational details of the treatment centre; and
- (b) shall be furnished in such form and within such period as the Director may specify.

9. Renewal of licence or certificate of exemption

(1) The specified operator of a treatment centre may, before the expiration of the licence or certificate of exemption in respect of the treatment centre, apply for renewal of the licence or certificate of exemption.

(2) An application under subsection (1) shall be made to the Director -

- (a) not more than 4 months and not less than 2 months prior to the expiration of the licence or certificate or exemption, or within such other period prior to the expiration as the Director may in writing permit; and

- (b) in such form and manner as the Director may specify.
- (3) The Director shall determine an application under subsection (1) -
 - (a) by granting the renewal, subject to any reasonable variation of the conditions of the licence or certificate of exemption (as the case may be), as the Director may think fit; or
 - (b) by refusing to grant the renewal.
- (4) If the Director intends to refuse to grant the renewal, he shall comply with section 15.
- (5) A licence or certificate of exemption in respect of which an application for renewal is made under this section and which expires prior to the determination of such application shall, unless such application is withdrawn or the licence or certificate is cancelled under section 14, remain in effect until the determination by the Director of such application.
- (6) A renewal granted under this section shall have effect on the day following -

- (a) the expiration of the licence or certificate of exemption; or
- (b) where subsection (5) applies, the day upon which the licence or certificate of exemption would have expired but for subsection (5),

for a period of 12 months or such lesser period as may be specified.

10. False statement etc. furnished while making applications

A person who, in or in connection with an application made under this Ordinance, makes any statement (whether such statement be oral or written), or furnishes any information, which -

- (a) is false in any material particular; and
- (b) he knows or reasonably ought to know is false in such particular,

commits an offence, and is liable to a fine at level 6 and to imprisonment for 6 months and to a fine of \$5,000 for each day during which the offence continues.

11. Form of licence and certificate of exemption

(1) A licence shall -

- (a) be in such form as the Director may specify;
- (b) be endorsed with any subsisting conditions of

the licence imposed under section 6(2)(a) or as varied under section 9(3)(a);

- (c) specify the applicant as the operator of the treatment centre to which the licence relates; and
- (d) specify the period in which the licence remains in force, being a period not exceeding 12 months.

(2) A certificate of exemption shall -

- (a) be in such form as the Director may specify;
- (b) be endorsed with any subsisting conditions of the certificate of exemption imposed under section 8(3)(a) or as varied under section 9(3)(a);
- (c) specify the applicant as the operator of the treatment centre to which the certificate relates; and
- (d) specify the period for which the certificate remains in force, being a period not exceeding 12 months.

12. Licence or certificate of exemption to be displayed

The specified operator of a treatment centre shall display or cause to be displayed the licence or certificate of exemption for the time being in force in respect of the

treatment centre in a conspicuous place at the treatment centre.

13. Evidence of facts stated in licence or certificate of exemption

(1) A licence or certificate of exemption purporting to be issued by the Director, or its copy purporting to be signed and certified by the Director as a true copy, shall be evidence of the facts stated in it as at the date of such licence or certificate of exemption, and shall be received in evidence without further proof.

(2) A certificate purporting to be signed by the Director and certifying that -

(a) a licence; or

(b) a certificate of exemption,

has or has not been issued in respect of the treatment centre shall be evidence of the facts stated in it as at the date of the certificate so signed, and shall be received in evidence without further proof.

14. Cancellation of licence or certificate of exemption

The Director may at any time by notice in writing served on the specified operator of a treatment centre cancel the licence or certificate of exemption (as the case may be) in

respect of the centre -

- (a) on the ground that the specified operator or any other person has been convicted of an offence under section 4, 5, 10, 16, 17 or 19 in respect of the treatment centre;
- (b) on the ground that, in respect of the treatment centre or the drug dependent persons residing in the treatment centre, any requirement, order or direction made or given under this Ordinance has not been complied with;
- (c) on the ground that any condition of the licence or certificate of exemption has not been or is not being complied with;
- (d) if it appears to him that -
 - (i) the treatment centre has ceased to be operated as such or to exist;
 - (ii) that the specified operator has ceased to operate the treatment centre; or
 - (iii) that on any occasion the treatment centre has been operated in a manner contrary to the public interest;
- (e) in the case of a licence only, on any ground specified in section 6(4)(a), (b), (c) or (d)

which would entitle him to refuse an application for the licensing of the treatment centre,

but before serving the notice of cancellation, he shall comply with section 15.

15. Notice of refusal or cancellation

(1) The Director shall, before -

- (a) refusing an application for, or application for renewal of, a licence or certificate of exemption; or
- (b) serving a notice under section 14,

give to the applicant or the specified operator of the treatment centre, as the case may be, notice of his intention to do so, which shall -

- (i) state the grounds on which he intends to refuse the application or serve a notice under section 14 (as the case may be); and
- (ii) contain a statement that such applicant or such specified operator may make written representations to him within 21 days after the date of the Director's notice.

(2) The Director may, after 21 days from the date of the notice under subsection (1) and after considering the written

representations (if any) received from the applicant or specified operator, serve on the applicant or specified operator -

- (a) a notice of the Director's refusal of the application; or
- (b) the notice under section 14,

as the case may be, but a notice under paragraph (a) or (b) shall not have effect earlier than 21 days from the date of the notice.

16. Power of Director to give directions

(1) The Director may, in respect of a treatment centre, by notice in writing, give such directions as appear to him to be required to secure that -

- (a) the treatment centre is operated and managed satisfactorily;
- (b) the well being of the drug dependent persons residing in the treatment centre is safeguarded in a proper manner;
- (c) adequate apparatus and equipment required as safeguards against fire or other hazard likely to endanger the lives or health of the residents are provided in the treatment centre; and

(d) the provisions of this Ordinance are complied with.

(2) A notice under subsection (1) -

(a) shall be served on the specified operator of the treatment centre; and

(b) shall indicate a period within which the directions shall be complied with.

(3) A person who fails to comply with the requirements of a direction given under this section within the period indicated in the notice served on him under subsection (2) commits an offence, and is liable to a fine at level 6 and to imprisonment for 6 months and to a fine of \$5,000 for each day during which the offence continues.

17. Director may order cessation of use of any place as a treatment centre

(1) The Director may -

(a) if it appears to him that there is any danger or risk of danger to persons in residence in a treatment centre; or

(b) if, in respect of any such treatment centre, the requirements of a direction given under section 16(1) are not complied with within the period indicated in the notice served under that section,

by order in writing require that the place or any part of such place used as the treatment centre shall cease to be so used for such period as he thinks fit or until further notice.

(2) An order under this section shall be served on the specified operator of the treatment centre and shall take effect from the date of service.

(3) A person who fails to comply with any requirement of an order served on him under this section commits an offence, and is liable to a fine at level 6 and to imprisonment for 6 months and to a fine of \$5,000 for each day during which the offence continues.

18. Inspection and other powers

(1) The Director or any public officer authorized by him in writing may, in relation to a treatment centre in respect of which a licence or a certificate of exemption has been issued -

- (a) at all reasonable times enter and inspect the treatment centre, with such assistants as may be necessary;
- (b) require the production of, examine or take copies of any book, document or other article relating to the operation or management of the treatment centre or to any other activity

related to the treatment centre;

- (c) require any information relating to such operation, management or activity to be furnished;
- (d) remove for further examination any book, document or other article which he has reason to suspect is or contains -
 - (i) evidence of the commission of an offence against this Ordinance; or
 - (ii) evidence of a ground for the cancellation of the licence or certificate of exemption; and
- (e) do such other things as are necessary for the inspection of the treatment centre or for the inspection or testing of any equipment, works or system used for or in connection with the operation, keeping, management or other control of the treatment centre.

(2) For the purposes of this Ordinance, the Director or any public officer authorized by a warrant issued under subsection (4) may, with such assistants as may be necessary, enter and inspect any place which he has reason to suspect is being used as a treatment centre without a licence or certificate of exemption.

(3) Where pursuant to subsection (2), the Director or a public officer has entered any place, he may -

- (a) require any person apparently in charge of the place to produce for his examination any book, document or other article relating to the management of any business being carried on in the place or to furnish any information relating to such management or business, and to take copies; and
- (b) remove for further examination any book, document or other article which he has reason to suspect is or contains evidence of the commission of an offence against this Ordinance.

(4) If a magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that a place is being used as a treatment centre without a licence or certificate of exemption, he may issue a warrant authorizing the Director or any public officer, with such assistants as may be necessary, to enter and inspect that place for the purposes of this Ordinance, and may authorize the use of such force as may be necessary in effecting the entry.

(5) Any book, document or other article removed under subsection (1) or (3) shall, as soon as practicable after such removal, be delivered to the Commissioner of Police, or to

some person nominated by the Commissioner in that behalf, by the person who removed them.

(6) Where any book, document or other article removed under subsection (1) or (3) is delivered in accordance with subsection (5) to the Commissioner of Police, or to some person nominated by the Commissioner in that behalf, the Commissioner of Police or that person, as the case may be, shall, if no prosecution is instituted within 6 months after such delivery in respect of the suspected offence to which they relate, return or arrange for the return of such book, document or other article -

- (a) if removed under subsection (1), to the specified operator;
- (b) if removed under subsection (3), to the person from whom it was so seized.

19. Offences in relation to section 18

- (1) A person who -
 - (a) fails to produce without reasonable excuse any book, document or other article upon being so required under section 18;
 - (b) fails to furnish without reasonable excuse any information upon being so required under section 18, or in complying with the

requirement, furnishes any information which is false in a material particular and which he knows or reasonable ought to know is false in such particular;

- (c) obstructs any person in the exercise of any of that person's powers under section 18 of this Ordinance,

commits an offence.

(2) A person who commits an offence under this section is liable to a fine at level 6 and to imprisonment for 6 months and to a fine of \$5,000 for each day during which the offence continues.

20. Exercise of Director's powers

The Director may authorize any public officer to perform or exercise any function, duty or power imposed or conferred by this Ordinance on the Director under this Ordinance.

21. Offences by corporation or partners

(1) If -

- (a) a person convicted of an offence under this Ordinance is a body corporate; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, a

director of, or other person concerned in the management of, the body corporate,

the director or that other person also commits the offence.

(2) If -

(a) a person convicted of an offence under this Ordinance is a partner of a partnership; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any other partner or other person concerned in the management of the partnership,

that other partner or person also commits the offence.

22. Confidentiality of information

No statement or admission made by a person -

(a) for the purpose of being admitted to a treatment centre for treatment or rehabilitation; or

(b) while he is undergoing treatment or rehabilitation at a treatment centre,

shall be admissible as evidence in any proceedings against him under the Dangerous Drugs Ordinance (Cap. 134).

23. Codes of Practice relating to operation of treatment centres

(1) The Director may issue from time to time Codes of

Practice -

- (a) setting out principles, procedures or guidelines for the operation, management or other control of treatment centres;
- (b) providing practical guidance in respect of any one or more of the requirements of this Ordinance.

(2) A copy of any Code of Practice issued under subsection (1) shall be made available by the Director during the hours of business for inspection by the public free of charge at such offices of the Government as the Director may direct.

24. Appeals against decisions of Director

(1) A person who is aggrieved by a decision of the Director made in respect of him under any of the following provisions may appeal to the Administrative Appeals Board -

- (a) section 6(2)(b) (refusing to issue a licence);
- (b) section 8(3)(b) (refusing to issue a certificate of exemption);
- (c) section 9(3)(b) (refusing to renew a licence or certificate of exemption);
- (d) section 14 (cancelling a licence or certificate of exemption).

(2) An appeal under subsection (1) shall be made within 21 days after the person aggrieved has received notice of the decision.

(3) A decision that is appealed against under subsection (1) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless -

- (a) such suspension would, in the opinion of the Director, be contrary to the public interest; and
- (b) the notice of the decision contains a statement to that effect.

25. Service of documents

A notice or other document (howsoever described) authorized or required to be served under this Ordinance on a person shall be deemed to be so served if -

- (a) in the case of an individual, it is -
 - (i) delivered to him;
 - (ii) left at his last known address; or
 - (iii) sent by post to him at such address;
- (b) in the case of a body corporate, it is -
 - (i) given to or served on a director of the body corporate;

- (ii) left at the body corporate's last known address; or
 - (iii) sent by post to the body corporate at such address; and
- (c) in the case of a partnership, it is -
- (i) delivered, left or sent in accordance with paragraph (a) on any partner who is an individual; or
 - (ii) given, served, left or sent in accordance with paragraph (b) on any partner which is a body corporate.

26. No fee payable in respect of licence or certificate of exemption

No fee shall be payable -

- (a) on an application for the issue or renewal of a licence or certificate of exemption; or
- (b) for the issue or renewal of a licence or certificate of exemption.

27. Regulation

- (1) The Chief Executive in Council may by regulation provide for -
- (a) the operation, management, supervision and inspection of treatment centres;

- (b) the duties and responsibilities of specified operators;
 - (c) the keeping of books of accounts, records or other information in respect of the operation or activities of, or drug dependent persons admitted to, treatment centres;
 - (d) the reports and information to be supplied to the Director in respect of treatment centres;
 - (e) the design, structure, hygiene and sanitation of treatment centres;
 - (f) the precautions to be taken against fire or other peril likely to endanger the lives or health of drug dependent persons undergoing treatment or rehabilitation at treatment centres;
 - (g) subject to section 26, the fees to be charged for any matter prescribed or permitted by this Ordinance;
 - (h) generally, carrying into effect the provisions of this Ordinance.
- (2) Any regulation made under this section may -
- (a) provide for exemptions of any treatment centres from the application of the regulation or any provision of the regulation;

- (b) empower the Director to grant exemptions, with or without conditions, from the application of the regulation or any provision of the regulation;
- (c) prohibit the performance of particular acts without the consent of the Director;
- (d) authorize the Director to require or prohibit the performance of particular acts;
and
- (e) require particular acts to be performed to the satisfaction of the Director.

(3) Any regulation made under this section may provide that a contravention of any provision thereof shall be an offence punishable by a fine at level 4 and to imprisonment for 3 months.

(4) The amount of fees provided for under subsection (1)(g) needs not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred by the Director in the discharge of his functions under this Ordinance.

(5) Without affecting the generality of subsection (4), any regulation made under subsection (1)(g) may provide for the waiver, remission, reduction or refund of any fee.

28. Amendment of Schedule

The Secretary for Security may by order amend the Schedule.

29. Transitional Provisions

(1) Where a person operates a treatment centre immediately before the commencement of section 4, it shall be deemed that a certificate of exemption has been issued unconditionally in respect of the treatment centre specifying the person as the specified operator.

(2) A certificate of exemption deemed to have been issued under subsection (1) shall have effect -

- (a) until the expiration of 3 months from the date of that commencement; or
- (b) if the person has made an application in respect of the treatment centre in accordance with section 6 or 8 within 3 months before that expiration -
 - (i) until the issue of the licence or certificate of exemption (as the case may be) so applied for; or
 - (ii) (in the case of the application being refused) until 21 days after he has received notice of the decision or, if an appeal is made against the

decision under section 24, until such appeal is disposed of, withdrawn or abandoned.

30. Repeal

The Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326) and all subsidiary legislation made under it are repealed.

Consequential Amendments

Administrative Appeals Board Ordinance

31. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

- | | | |
|--|----------|--|
| "48. Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (| of 2000) | A decision of the Director of Social Welfare under section 6(2)(b), 8(3)(b), 9(3)(b) or 14." |
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SCHEDULE

[ss. 2 & 28]

SPECIFIED SUBSTANCES

1. Zopiclone

2. Ketamine
3. Volatile Solvents and Inhalants
 - (i) Amylnitrite
 - (ii) Butylnitrite
 - (iii) Butane
 - (iv) Ether
 - (v) Ethyl Acetate
 - (vi) Halocarbons
 - (vii) Hexane
 - (viii) Ketones
 - (ix) Nitrous Oxide
 - (x) Toluene
4. Ephedrine

Explanatory Memorandum

The purpose of this Bill is to establish a scheme for the regulatory control of treatment centres providing residential accommodation for the treatment and rehabilitation of drug dependent persons who undergo such treatment and rehabilitation voluntarily.

2. Clause 2 sets out the definitions necessary for the interpretation of the Bill. The definitions of "drug dependent person" and "treatment centre" are of particular importance in construing the scope of application of the Bill.

3. Clause 3(1) disapplies the Bill in relation to treatment centres maintained by the Hospital Authority. Clause 3(2) provides that the requirement for a licence or certificate of exemption under the Bill is additional to any requirement to register under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165).
4. (a) Clause 4(1) provides that no person shall operate or exercise control over the management of a treatment centre unless he is specified as its operator in a licence or certificate of exemption issued in respect of the treatment centre.

(b) Clause 4(2) prohibits any person from taking part in the management of a treatment centre unless a licence or certificate of exemption has been issued in respect of the treatment centre and is for the time being in force.
5. Clause 5 deals with the offences in relation to licence and certificate of exemption. If a treatment centre is operated in contravention of the conditions of its licence or certificate of exemption, the specified operator and any other person taking part in its management each commits an offence. Clause 5(2) provides a defence for the offence. Clause 5(3) provides that in any proceedings against a specified operator, the prosecutor needs not prove the operator's knowledge of the condition that is contravened (while he would have to do so in relation to other persons committing the offence).

6. Clause 6 deals with the application for and issuance of licence. It also sets out certain circumstances where the Director may refuse to issue the licence.
7. Clause 7 states the circumstances in which the Director shall not, in relation to his determination of an application for a licence, consider a person as a fit person.
8. Clause 8 deals with the application for and issuance of certificate of exemption.
9. Clause 9 deals with renewal of a licence and certificate of exemption. The Director may vary the conditions of the licence or the certificate of exemption upon its renewal.
10. Clause 10 provides that the supply of false information etc. in or in connection with an application made under the Bill is an offence.
11. Clause 11 deals with the form of the licence and certificate of exemption. The licence or certificate must specify the period for which it remains in force, being a period not exceeding 12 months, and shall be endorsed with any conditions for its issue.
12. Clause 12 provides that the specified operator of a treatment centre shall display or cause to be displayed in a conspicuous place in the centre the subsisting licence or certificate of exemption.
13. Clause 13 provides for aids in proof.
14. Clause 14 deals with the cancellation of licence or certificate of exemption.

15. Clause 15 deals with the notice of refusal or cancellation. Before the Director refuses an application for issuance or renewal of, or cancels, a licence or certificate of exemption, he must give written notice of his intention to do so and allow 21 days thereafter for written representation to be made to him. Any decision for such refusal or cancellation shall not take effect earlier than 21 days from the date of the notice of such decision.

16. Clause 16 empowers the Director to give directions in writing to a specified operator to secure the satisfactory operation and management of a treatment centre. Such directions shall be complied with within the period indicated in the notice. Failure to do so is an offence.

17. Clause 17 empowers the Director to order the use of any place as a treatment centre to cease when it appears to him that there is danger or risk of danger to the persons in residence in a treatment centre or that the directions given under Clause 16 have not been complied with. Failure to comply with the requirements of an order is an offence.

18. Clause 18 confers on the Director and authorized public officers certain powers for the purposes of the Bill, including the power to enter and inspect, with or (in certain cases) without, a warrant.

19. Clause 19 provides for offences in relation to clause 18.

20. Clause 20 provides that the Director may authorize any public officer to perform or exercise any function or duty

imposed on the Director under the Bill.

21. Clause 21 deals with offences committed by corporation or partners of a partnership.

22. Clause 22 provides that no statement or admission made by a person for admission to a treatment centre or in the course of his undergoing treatment or rehabilitation at the centre shall be admissible in evidence in any proceedings against him under the Dangerous Drugs Ordinance (Cap. 134).

23. Clause 23 empowers the Director to issue Codes of Practice setting out principles for the operation or management of treatment centres.

24. Clause 24 provides for appeals to the Administrative Appeals Board in relation to decisions of the Director made under Clauses 6(2)(b), 8(3)(b), 9(3)(b) and 14.

25. Clause 25 deals with the mode of service of documents on individual, body corporate and partnership.

26. Clause 26 provides that no fee is payable in respect of the application for, or the issue or renewal of, a licence or certificate of exemption.

27. Clause 27 empowers the Chief Executive in Council to make regulations.

28. Clause 28 empowers the Secretary for Security to amend the Schedule of the Ordinance by order.

29. Clause 29 contains transitional provisions. A person who operates a treatment centre immediately before the commencement of Clause 4 is deemed to have been issued a

certificate of exemption in respect of the treatment centre for the period as provided in Clause 29(2).

30. Clause 30 repeals the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326) and all subsidiary legislation made under it.

31. Clause 31 is a consequential amendment.

32. The Schedule lists the specified substances, which are relevant for determining whether a person is a drug dependent person for the purposes of the Bill.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
		Heading:	Long title	Version Date:	30/06/1997

To establish centres for the treatment and rehabilitation of addicts of drugs and of intoxicants and for purposes connected therewith.

[3 February 1961] *G.N.A. 10 of 1961*

(Originally 34 of 1960)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	1	Heading:	Short title	Version Date:	30/06/1997

This Ordinance may be cited as the Drug Addicts Treatment and Rehabilitation Ordinance.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	2	Heading:	Interpretation	Version Date:	30/06/1997

In this Ordinance, unless the context otherwise requires-

"addict" (有癮者) means a person who, by reason of his addiction to drugs or to intoxicants, is dangerous either to himself or to others or is incapable of managing himself or his affairs or of ordinary proper conduct or is in serious danger of physical or mental disorder;

"Board" (委員會) means the Addiction Treatment Centre Appeal Board appointed in accordance with the provisions of section 14;

"centre" (中心) means any institution declared to be an Addiction treatment centre accordance with the provisions of section 3;

"patient" (病人) means a person who is undergoing treatment in a centre or who has left the centre but is still legally liable to be detained in such centre;

"prescribed" (訂明) means prescribed by regulations made in accordance with the provisions of section 21;

"superintendent" (院長) means the superintendent or an assistant superintendent of a centre appointed in accordance with the provisions of section 4;

"visitor" (視察人) means an Addiction Treatment Centre Visitor appointed in accordance with the provisions of section 5;

"young person" (青少年) means a person who has not attained the age of 18 years. (Added 19 of 1972 s.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	15 of 1999
Section:	3	Heading:	Declaration of centres	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) The Chief Executive may by order declare any place which is the property of the Government to be an Addiction Treatment Centre for the detention, custody, treatment, care and rehabilitation of addicts, and may amend, alter or cancel any such order.

(2) The Chief Executive, on the application of the owner thereof, may by order declare any place which is not the property of the Government to be an Addiction Treatment Centre for the detention, custody, treatment, care and rehabilitation of addicts upon such conditions as may be prescribed or as he may consider necessary and may amend, alter or cancel any such order.

(3) Notification of every such order and of any amendment or alteration thereto or cancellation thereof shall be published in the Gazette.

(Amended 15 of 1999 s. 3)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	15 of 1999
Section:	4	Heading:	Appointment of superintendents, etc.	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

- (1) The Chief Executive may appoint- (Amended 15 of 1999 s. 3)
- (a) a medical practitioner; or
 - (b) if he is satisfied that adequate arrangements have been made for the treatment of the patients in a centre by a medical practitioner, any other person,
- to be the superintendent or an assistant superintendent of a centre. (Replaced 76 of 1970 s. 3)
- (2) Notification of every such appointment shall be published in the Gazette.
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Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	15 of 1999
Section:	5	Heading:	Appointment and duties of visitors	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) The Chief Executive may appoint Addiction Treatment Centre Visitors for each centre. (Amended 15 of 1999 s. 3)

(2) (Repealed 28 of 1986 s. 3)

(3) Two or more visitors appointed in accordance with the provisions of subsection (1) shall once at least in every month, together, inspect every part of the centre of which they are visitors and shall see so far as circumstances permit, every patient therein and the application or the transfer order for the admission of every patient admitted since the last visitation of visitors and shall see, if they so require, the application or the transfer order for the admission of every other patient and shall enter in a book to be kept for that purpose any comment which they may deem proper on the management and condition of the centre and of the patients therein. (Amended 65 of 1967 s. 2)

(4) A copy of every comment entered in accordance with the provisions of subsection (3) in respect of a centre which was declared in accordance with the provisions of section 3(2) shall be sent by the superintendent to the Director of Health within 48 hours of the entry thereof in the book. (Amended L.N. 76 of 1989)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	15 of 1999
Section:	6	Heading:	Delegation	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

A superintendent may delegate any of his powers and functions under this Ordinance to-

(a) a medical practitioner; or

(b) any other person approved by the Chief Executive. (Amended 15 of 1999 s. 3)

(Replaced 76 of 1970 s. 4)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	7	Heading:	Admission for treatment	Version Date:	30/06/1997

(1) If any person, or in the case of a young person, his parent or guardian, is of the opinion that he,

or such person, as the case may be, is an addict and should be receiving treatment for his addiction, and if he, or in the case of a young person, his parent or guardian on his behalf, completes and lodges with the superintendent of a centre an application for admission to the centre in the prescribed form the superintendent may admit to the centre as a patient the person named in the application form.

- (2) An application shall contain-
 - (a) an undertaking by the person completing the application form that the person named in the application form-
 - (i) if required by the superintendent shall remain and may be detained in the centre or in any other centre to which he may be transferred, for a period not exceeding 6 months or, in the case of a young person, 12 months from the date of his first admission to a centre in accordance with such application form;
 - (ii) shall submit himself to such treatment as may be prescribed by the superintendent of the centre in which he is detained;
 - (iii) shall obey all lawful orders given to him by the superintendent or by any person authorized by the superintendent; and
 - (iv) may be visited only by such persons and at such times as are permitted by the superintendent; and
 - (b) an acknowledgement by the person completing the application form that the person named in the application form may be detained against his will in the centre named in the application form or in any other centre to which he may be transferred for a period not exceeding 6 months or, in the case of a young person, for a period not exceeding 12 months from the date of his first admission to a centre in accordance with such application form and may be forcibly retaken by the superintendent or by any police officer if he absents himself from the centre without the permission of the superintendent,

and may contain such other matters as may be prescribed.

(Amended 65 of 1967 s. 3; 19 of 1972 s. 3)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Section:	8	Heading:	Transfer	Version Date: 30/06/1997

If it appears to a superintendent that it would be for the benefit of a patient in a centre or of other patients in the centre that he should be transferred to another centre, the superintendent by order may transfer the patient to another centre and, on such transfer, the patient may be detained in the centre to which he was transferred for the remainder of the period of 6 months or, in the case of a patient who is a young person, for the remainder of the period of 12 months from his first admission as if he had been first admitted to that centre.

(Amended 19 of 1972 s. 4)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
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(1) A superintendent may from time to time permit a patient to be absent from a centre on trial or for any other reason which he may consider necessary for such period as the superintendent may think proper.

(2) Any absence in accordance with this section shall be subject to such conditions as the superintendent may prescribe. (Amended 65 of 1967 s. 4)

(3) The superintendent may require a patient who has been permitted to be absent from a centre to return to the centre at any time within the period of 6 months from the date of his first admission to a centre; and in case he fails to return to the centre when so required he may be retaken by the superintendent or by any police officer and conveyed to and received and detained in such centre. (Amended 65 of 1967 s. 4)

Chapter: 326	Title: DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Section: 10	Heading: Detention and recapture	Version Date: 30/06/1997

Every person admitted into a centre in accordance with the provisions of this Ordinance may be detained therein for a period of 6 months or, in the case of a young person, 12 months from the date of his first admission to a centre in accordance with an application made under section 7 until he be removed or discharged in accordance with the provisions of this Ordinance and in case of escape may be retaken within 90 days of such escape by the superintendent or by any police officer and conveyed to and received and detained in the centre from which he escaped.

(Amended 19 of 1972 s. 5)

Chapter: 326	Title: DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number: 25 of 1998 s.2
Section: 11	Heading: Enforcement of costs	Version Date: 01/07/1997

Remarks:

Amendments retroactively made - see 25 of 1998 s. 2

(1) As a condition to his reception in a centre, the superintendent, if he is satisfied that the person completing an application form in accordance with the provisions of section 7 has sufficient means to enable him to pay the costs of treatment of the person named in the application form, may require the person completing the application form to enter into a bond to pay to the Government or to such other person as may be entitled thereto the proper costs of maintenance and treatment of the person named in the application form so long as he is detained in the centre.

(2) The Court of First Instance or the District Court, on the application by or on behalf of such person as may be entitled to recover the costs of the maintenance and treatment of a patient and on being satisfied that the patient has property which may be applied towards his maintenance and treatment or

that any person is legally bound to maintain the patient and has sufficient means to enable him to do so, may make an order for the recovery of the cost of the maintenance and treatment of the patient, together with the cost of the application, out of the property of the patient or from such other person. (Amended 35 of 1969 Schedule; 25 of 1998 s. 2)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	12	Heading:	Bond	Version Date:	30/06/1997

In addition to and not in derogation from the undertakings required by section 7(2), a superintendent may require that a person completing an application form in accordance with the provisions of section 7 shall enter into a bond in a sum not exceeding \$5000 to secure the continued presence in the centre, or in any other centre to which he may be transferred, of the person named in the application form.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	13	Heading:	Discharge	Version Date:	30/06/1997

(1) A superintendent in his absolute discretion may discharge any patient from a centre and, on such discharge, the liability of the patient to be detained in the centre shall thereupon wholly cease and determine.

(2) A notice of discharge shall be served on the patient or, in the case of a patient who is a young person on his parent or guardian. (Amended 65 of 1967 s. 5; 19 of 1972 s. 6)

(3) A patient on whom a notice is served under subsection (2) shall leave the centre forthwith or, where a notice is served under that subsection on the parent or guardian of a patient who is a young person, the parent or guardian shall remove the patient from the centre within 48 hours of such service. (Added 65 of 1967 s. 5. Amended 19 of 1972 s. 6)

(4) If a patient has escaped from a centre and has not been retaken and conveyed to and detained in the centre from which he escaped within a period of 90 days from the date on which he escaped, he shall be deemed to have been discharged in accordance with the provisions of subsection (1) on the expiry of such period of 90 days save and except that any bond entered into in respect of the patient in accordance with the provisions of section 12 may be forfeited in such event. (Amended 19 of 1972 s. 6)

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Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	L.N. 362 of 1997; 15 of 1999
Section:	14	Heading:	Addiction Treatment Centre Appeal Board	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) For the purpose of hearing and determining appeals under section 16, there shall be a Board to be known as the Addiction Treatment Centre Appeal Board.

(2) The Board shall consist of-

- (a) the Director of Health or the Deputy Director of Health as Chairman; (Amended L.N. 76 of 1989)
- (b) the Secretary for Security or his representative and the Director of Social Welfare or his representative as ex officio members; (Amended 28 of 1986 s. 4)
- (c) not more than 4 members to be appointed by the Chief Executive. (Amended 15 of 1999 s. 3)

(3) A member appointed by the Chief Executive shall hold office for such period as may be specified in the letter of appointment and may be reappointed or removed by the Chief Executive at his discretion. (Amended 15 of 1999 s. 3)

(4) The quorum necessary for the transaction of business by the Board may be fixed by standing orders made by the Board and, unless so fixed, shall be 3 members.

(5) The Board may make standing orders governing its procedure in the transaction of business, for the maintenance of good order at meetings of the Board and generally for matters relating to the administration and management of its business and the discharge of its duties.

(6) A copy of any standing order made by the Board in accordance with the provisions of subsection (5) shall be furnished to the Chief Secretary for Administration and such standing order shall be subject to disallowance, alteration and amendment by the Chief Executive. (Amended L.N. 362 of 1997; 15 of 1999 s. 3)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	15	Heading:	Powers of Board	Version Date:	30/06/1997

(1) For the purposes of an appeal under section 16, the Board shall have the following powers-

- (a) to hear, receive and examine evidence on oath; and
- (b) to summon any person to attend the hearing of any appeal to give evidence and to produce any document or any other thing in his possession and to examine him as a witness or to require him to produce any book, document or other thing in his possession, subject to all just exceptions.

(2) A summons to a witness shall be in such form as may be prescribed and shall be signed by the Chairman of the Board.

(3) Any person who, being summoned to attend as a witness or to produce a book, document or other thing at the hearing of any appeal, refuses or neglects to do so or to answer any question put to him by or with the concurrence of the Chairman of the Board shall be guilty of an offence and shall be liable on summary conviction to a fine of \$5000 and to imprisonment for 6 months: (Amended 28 of 1986 s. 5)

Provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	16	Heading:	Appeal	Version Date:	30/06/1997

(1) If a patient, or in the case of a patient who is a young person his parent or guardian, is aggrieved by his detention or the detention of the young person, as the case may be, in a centre in accordance with the provisions of this Ordinance, the patient or the parent or guardian of the patient who is a young person may appeal in writing to the Board against such detention and, on such appeal, the Board may dismiss the appeal or may allow the appeal upon such conditions, if any, as the Board may consider necessary and if the Board shall allow the appeal, the Board shall order that the patient be discharged from the centre and thereupon the superintendent shall discharge the patient. (Amended 19 of 1972 s. 7)

(2) Any visitor may appeal to the Board on behalf of any patient and on such appeal, the Board shall be empowered to deal with the appeal as if it were an appeal by a patient.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	17	Heading:	Supplying drugs, etc. to patients	Version Date:	30/06/1997

(1) Any person who, without the permission of the superintendent, sends to or brings or throws into a centre any dangerous drug to which the Dangerous Drugs Ordinance (Cap 134) applies or any alcoholic liquor, tobacco or tool shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 2 years. (Amended 28 of 1986 s. 6)

(2) Any person who, without the permission of the superintendent, sends or delivers to any patient in a centre, or deposits in a centre with a view to its coming into the possession of any patient, any money, clothing, food, drink, paper, book, letter or other thing shall be guilty of an offence and shall be liable on conviction to a fine of \$5000. (Amended 28 of 1986 s. 6)

(3) The superintendent may confiscate any thing in respect of which subsection (1) or (2) is contravened.

(4) Subject to subsection (5), the superintendent, or any person authorized by the superintendent, may search any person, and the property of any person, who is in a centre and who is suspected by the superintendent, or such authorized person, of committing or having committed an offence against subsection (1) or (2).

(5) A person shall not be searched under subsection (4) except by a person of the same sex, and no person shall be searched thereunder in public if he objects to being so searched. (Amended 67 of 1995 s. 91(2))

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	18	Heading:	Offence against a patient	Version Date:	30/06/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

Any attendant, nurse, servant or other person employed in a centre who ill-treats or wilfully neglects any patient in the centre shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000 and to imprisonment for 2 years.

(Amended 28 of 1986 s. 7)

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	19	Heading:	Protection of addicts, etc.	Version Date:	30/06/1997

No statement or admission made by an addict for the purpose of being admitted to a centre and no statement or admission made by a patient in a centre shall be admissible as evidence against the maker of the statement or admission in any proceedings against him under the Dangerous Drugs Ordinance (Cap 134).

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Section:	20	Heading:	Protection of persons carrying out the provisions of this Ordinance	Version Date:	30/06/1997

(1) No superintendent or other person employed in a centre who has purported to act in accordance with the provisions of this Ordinance shall be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, unless he has acted in bad faith or without reasonable care.

(2) No proceedings, civil or criminal, shall be brought against any person in any court in respect of any action by such person purported to be in accordance with the provisions of this Ordinance, without the leave of the court and leave shall not be given unless the court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) shall be given to the person against whom it is sought to bring the proceedings and that person shall be entitled to be heard against the application.

Chapter:	326	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	15 of 1999
Section:	21	Heading:	Power of Chief Executive in Council to make regulations	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) The Chief Executive in Council may by regulation provide for- (Amended 15 of 1999 s. 3)

- (a) any matter which by this Ordinance is required or permitted to be prescribed;
- (b) the manner in which application for admission into a centre shall be made and the form to be used in connection therewith;
- (c) the duties of a superintendent;
- (d) the duties of a visitor;
- (e) the amount to be paid by any person in respect of the maintenance of patient in a centre;
- (f) the books and records to be kept in a centre;
- (g) the manner in which appeals may be made to the Board;
- (h) generally, the carrying into effect of the provisions of this Ordinance.

(2) Any such regulation may provide that the contravention thereof shall constitute an offence and may prescribe penalties for any offence not exceeding a fine of \$5000 and imprisonment for 6 months. (Amended 28 of 1986 s. 8)

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
		Heading:	Empowering section	Version Date: 30/06/1997

(Cap 326 section 21)

[3 February 1961]

(G.N.A. 93 of 1960)

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	1	Heading:	Citation	Version Date: 30/06/1997

These regulations may be cited as the Drug Addicts Treatment and Rehabilitation Regulations.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	2	Heading:	Application for admission to a centre	Version Date: 30/06/1997

An application in accordance with the provisions of section 7(1) of the Ordinance shall be made in either Form 1 or Form 2 in the Schedule.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	3	Heading:	Bond	Version Date: 30/06/1997

A bond to pay to the Government or to such other person as may be entitled thereto, the proper costs of maintenance and treatment in a centre of a patient, in accordance with the provisions of section 11(1) of the Ordinance shall be in Form 3 in the Schedule.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	4	Heading:	Bond	Version Date: 30/06/1997

A bond to secure the continued presence in a centre of a patient made in accordance with section 12 of the Ordinance shall be in Form 4 in the Schedule.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	5	Heading:	Summons to witness	Version Date: 30/06/1997

A summons to a witness issued in accordance with the provision of section 15 of the Ordinance shall be in Form 5 in the Schedule.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	6	Heading:	Responsibility for treatment and care	Version Date: 30/06/1997

A superintendent shall be responsible for, the treatment and care of all patients in a centre and for the maintenance of good order in the centre.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	7	Heading:	Visitors and telephone calls	Version Date: 30/06/1997

A superintendent may refuse to permit any person other than a visitor to visit a patient in a centre or to permit a patient in a centre to make or to receive any telephone call at the centre. Censorship of letters, etc.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	8	Heading:	Censorship of letters, etc.	Version Date: 30/06/1997

A superintendent may open and examine any letter, postal packet, parcel or other matter which is delivered or left at a centre addressed to a patient in the centre and may refuse to permit any such letter, postal packet, parcel or other matter to be delivered to a patient and may return to the sender, if known, any such letter, postal packet, parcel or other matter and may delete in any letter any part thereof.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	9	Heading:	Employment of patients	Version Date: 30/06/1997

A patient in a centre may be employed on such work in the centre as the superintendent may consider necessary or desirable.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	10	Heading:	Possession of articles without authority	Version Date: 30/06/1997

No patient in a centre shall have in his possession, without the authority of the superintendent, any article and any such article found in his possession may be confiscated by the superintendent.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:
Regulation:	11	Heading:	Prohibition of entry to a centre	Version Date: 30/06/1997

Any person who enters a centre without lawful authority or excuse shall be guilty of an offence and on summary conviction shall be liable to a fine of \$2000.

(28 of 1986 s. 9)

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Regulation:	12	Heading:	Appeal to Board	Version Date:	30/06/1997

If a notice of appeal in writing, made by a patient or by a visitor is handed to or comes into the possession of a superintendent or of any other person employed in a centre, the superintendent shall forthwith cause such notice of appeal to be transmitted to the Chairman of the Board.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
Regulation:	13	Heading:	Hearing of appeal	Version Date:	30/06/1997

(1) When the Chairman of the Board receives a notice of appeal in writing from a patient, from a visitor, or from a superintendent, he shall cause a meeting of the Board to be summoned for a date not more than fourteen days after the receipt of such appeal and shall cause such appeal to be heard at such meeting.

(2) Any meeting of the Board may be adjourned for any period or periods not exceeding in all twenty-eight days from the date when an appeal was first brought before the Board.

Chapter:	326A	Title:	DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE	Gazette Number:	
		Heading:	SCHEDULE	Version Date:	30/06/1997

FORM 1

[rule 2]

DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE

(Chapter 326)

Application for Admission to an Addiction Treatment Centre

The Superintendent of
the Addiction Treatment Centre at
Hong Kong.

I (Name in English). (Name in Chinese Characters, if any).
of
(Address).

hereby apply, in accordance with the provisions of section 7 of the Drug Addicts Treatment and Rehabilitation Ordinance (Cap 326), for admission to the above-mentioned Addiction Treatment Centre.

2. I undertake that-

- (i) I shall remain and may be detained in the said centre or in any other centre to which I may be transferred if required by the superintendent of the centre, for a period not exceeding six months from the date of my first admission to the said centre in accordance with this application;
- (ii) I shall submit myself to such treatment as may from time to time be prescribed by the superintendent of the centre in which I am detained;
- (iii) I shall obey all lawful orders given to me by the superintendent or by any person authorized by the superintendent;
- (iv) if required by the superintendent, I shall leave the centre in which I am detained forthwith; and
- (v) I may be visited only by such persons as are permitted by the superintendent.

3. I acknowledge that I may be detained against my will in the said centre or in any such centre to which I may be transferred, for a period not exceeding six months from the date of my first admission to a centre in accordance with this application and that I may be forcibly retaken by the superintendent or by any police officer if I absent myself from the centre in which I am detained, without the permission of the superintendent of the centre.

4. If required, I undertake to repay to* the cost of my maintenance and treatment in such centre as I may be detained, in accordance with such scale as has been shown to me before I completed this application or on such scale as may be prescribed from time to time.

Dated this day of 19
Signed by the said } (Signature of Applicant).
in the presence of- }

* The Hong Kong Government or such other person as may be entitled thereto.

FORM 2

[rule 2]

DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE

(Chapter 326)

Application for Admission to an Addiction Treatment Centre

The Superintendent of

the Addiction Treatment Centre at
Hong Kong.

I (.....)
(Name in English). (Name in Chinese Characters, if any).
of
(Address).

hereby apply, in accordance with the provisions of section 7 of the Drug Addicts Treatment and Rehabilitation Ordinance (Cap 326), for the admission of
(Name in English).

(.....) of
(Name in Chinese Characters, if any). (Address)

a young person, of whom I am a parent/the guardian, to the above-mentioned Addiction Treatment Centre.

2. I undertake that the said -

- (i) will remain and may be detained in the said centre or in any other centre to which he may be transferred if required by the superintendent of the centre, for a period not exceeding twelve months from the date of his first admission to the said centre in accordance with this application;
- (ii) will submit himself to such treatment as may from time to time be prescribed by the superintendent of the centre in which he is detained;
- (iii) will obey all lawful orders given to him by the superintendent or by any person authorized by the superintendent;
- (iv) if required by the superintendent, will leave the centre in which he is detained, within forty-eight hours of being so required; and
- (v) may be visited only by such persons as are permitted by the superintendent.

3. I acknowledge that he may be detained against his will in the said centre or in any such centre to which he may be transferred, for a period not exceeding twelve months from the date of his first admission to a centre in accordance with this application and that he may be forcibly retaken by the superintendent or by any police officer if he absents himself from the centre in which he is detained, without the permission of the superintendent of the centre.

4. If required, I undertake to repay to*
the cost of his maintenance and treatment in such centre as he may be detained, in accordance with such scale as has been shown to me before I completed this application or on such scale as may be prescribed from time to time.

Dated this day of 19

Signed by the said } (Signature of Applicant).
..... }
in the presence of- }

* The Hong Kong Government or such other person as may be entitled thereto.

FORM 3

[rule 3]

DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE

(Chapter 326)

Bond to pay Cost of Treatment

BY THIS BOND I

(Name in English).

(.....) of

(Name in Chinese Characters, if any).

(Address).

acknowledge myself bound to *
in accordance with the provisions of section 11 of the Drug Addicts Treatment and
Rehabilitation Ordinance (Cap 326), in the sum of \$.....

(..... Hong Kong Dollars)

to be paid to the said*

Sealed with my seal this day of 19

NOW THE ABOVE WRITTEN BOND is conditioned to be void in case the above-
bounden, his
personal representative or any person acting for or on behalf of him shall within one month of
the lawful demand therefor, from time to time, pay to*
all sums due in respect of the proper cost of maintenance and treatment of.....

(Name in English).

(.....) of

(Name in Chinese Characters, if any).

(Address).

..... in the drug addiction treatment
centre at or in any other centre to
which he may be transferred but in the event of the above-bounden

..... or his personal representative failing to
pay the said sums whenever due, the above written bond shall remain in full force and effect
notwithstanding that no demand has been made for the same by the said *

Signed, sealed and
delivered by the said

}

(Signature of Applicant).



.....

in the presence of-

* The Hong Kong Government or such other person as may be entitled thereto.

FORM 4

[rule 4]

DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE

(Chapter 326)

Bond Secure the Continued Presence of a Patient in a Centre

BY THIS BOND I

(Name in English).

(.....) of

(Name in Chinese Characters, if any).

(Address).

acknowledge myself bound to* in accordance
with the provisions of section 12 of the Drug Addicts Treatment and Rehabilitation Ordinance
(Cap 326), in the sum of \$

(..... Hong Kong Dollars) to

be paid to the said*

Sealed with my seal this day of 19

NOW THE ABOVE WRITTEN BOND is conditioned to be void in case

(Name in English). (Name in Chinese Characters, if any).

during the period of six months/twelve months from his first admission to an addiction treatment centre, in accordance with the provisions of section 7 of the said Ordinance remains in that centre or in any other centre to which he may be lawfully transferred, if so required by the superintendent of the centre and if, on any occasion in which he has been permitted to be absent from a centre on trial or for any other reasons which the superintendent may consider necessary, during such period of six months/twelve months returns to the centre on the expiry of the period of lawful absence, if so required by the superintendent of the centre.

Signed, sealed and delivered by the said



(Signature of Applicant).



in the presence of-

* The Hong Kong Government or such other person as may be entitled thereto.

FORM 5

[rule 5]

DRUG ADDICTS TREATMENT AND REHABILITATION ORDINANCE

(Chapter 326)

Summons to Witness

In the matter of an appeal under section 16 of the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326);

And in the matter(1) T(2)

You are hereby summoned to appear before the Addiction Treatment Centre Appeal Board at upon the day of at o'clock in thenoon to give evidence touching the appeal and also to bring with you and produce (4)

Given under my hand this day of 19

Chairman, Addiction Treatment Centre Appeal Board.

- (1) Insert name of patient who is appealing.
(2) Insert name and address of witness.
(3) Delete if not required.
(4) Specify any books, documents or other things required to be produced.

Chapter:	326B	Title:	DECLARATION OF ADDICTION TREATMENT CENTRE (CONSOLIDATION) ORDER	Gazette Number:	
		Heading:	Empowering section	Version Date:	30/06/1997

(Cap 326 section 3(1) & (2))

[17 May 1963]

(G.N. 866 of 1963; G.N. 2579 of 1968; L.N. 173 of 1978; L.N. 224 of 1979; L.N. 177 of 1986)

Chapter:	326B	Title:	DECLARATION OF ADDICTION TREATMENT CENTRE (CONSOLIDATION) ORDER	Gazette Number:	
Regulation:	1	Heading:	Citation	Version Date:	30/06/1997

This order may be cited as the Declaration of Addiction Treatment Centre (Consolidation) Order.

Chapter:	326B	Title:	DECLARATION OF ADDICTION TREATMENT CENTRE (CONSOLIDATION) ORDER	Gazette Number:	
Regulation:	2	Heading:	Declaration of Addiction Treatment Centres	Version Date:	30/06/1997

The places specified in the Schedule are declared to be Addiction Treatment Centres.

Chapter:	326B	Title:	DECLARATION OF ADDICTION TREATMENT CENTRE (CONSOLIDATION) ORDER	Gazette Number:	
		Heading:	SCHEDULE	Version Date:	30/06/1997

1. The island of Shek Kwu Chau.
2. The Society for the Aid and Rehabilitation of Drug Abusers Sister Aquinas Memorial Women's Treatment Centre at Sun Ming House, units 2 and 3 and 5 to 8, ground floor and units 1 to 8, 2nd floor, Sun Chui Estate, Sha Tin, New Territories. (L.N. 73 of 1990)