

Information Paper for LegCo Panel on
Administration of Justice and Legal Services

Policy and practice on removal and deportation

This note sets out the policy and practice in making summary removal, removal under a removal order, and deportation under a deportation order.

Summary Removal

2. Under section 18(1)(a) of the Immigration Ordinance, Cap. 115, an immigration officer or immigration assistant may remove from Hong Kong a person who is refused permission to land in Hong Kong under section 11(1) of the same ordinance. This provides a speedy mechanism for removing illegal immigrants intercepted on the streets as well as refused landing passengers who are refused entry on arrival at control points.

Illegal Immigrants

3. When an illegal immigrant is apprehended, he will be detained under section 26 of the Immigration Ordinance for enquiries. As soon as the illegal immigrant is in custody, he will be informed of the reason and the provision under which he is so detained. A copy of such notification is at **Annex A**.

4. Before commencement of the interview for the purpose of making enquiries under section 26, a notice entitled “Notice to persons in custody or under immigration enquiries” will be served on the II, informing him his rights (under paragraph 3B of the Immigration (Places of Detention) Order) to, among other

things, make telephone call to a friend or relative, to contact his legal representative and to request for a list of solicitors provided by the Law Society. A copy of such notice is at **Annex B**. Such notices are also displayed prominently in all interview rooms and detention cells.

5. The purpose of the interview is to establish:
- a) whether the person is a person under section 7 of the Immigration Ordinance who may not land in Hong Kong without the permission of an immigration officer or an immigrant assistant (in other words, to ascertain that he does not enjoy the right of abode or does not have the right to land in Hong Kong by virtue of section 2AAA of the Immigration Ordinance);
 - b) whether the person has landed in Hong Kong without lawful authority in contravention of section 38(1);
 - c) the mode of his entry (for statistical purpose); and
 - d) any reasons or humanitarian grounds for non-removal.

Illegal immigrants brought to San Uk Ling for repatriation by the Police are generally those who have neither statutory rights nor strong humanitarian grounds for non-removal. Those who cannot be removed summarily because they have been in Hong Kong for more than 2 months will be brought to the Victoria Immigration Centre for processing of removal under removal order. They will be asked to declare if they are willing to leave voluntarily. A copy of such declaration is at **Annex C**.

6. In the case of those who fall to be dealt with summarily under section 18(1)(a), after record checks and upon confirming that the person is an illegal immigrant having no claim or strong humanitarian grounds for stay, a “Refusal Notice” (copy at **Annex D**) will be served on him informing him that he is refused permission to land in Hong Kong under section 11 and detained under section 32(1) pending removal.

Refused landing passengers

7. An arriving passenger who, for one reason or another, is refused permission to land in Hong Kong is also served with a refusal notice mentioned in paragraph 6 above. If such passenger is required to be detained pending examination or removal, a “Notice to Detainee” (**Annex E**) will be served on him informing him, among other things, his rights to telephone his consul, solicitor or relatives. Notices mentioned in paragraph 4 above are also displayed prominently in all interview rooms and detention rooms. Refused landing passengers are normally removed on the first available flight.

Removal under a removal order

8. Section 18(2) of the Immigration Ordinance provides that a person may not be removed under subsection (1)(a) after the expiry of 2 months beginning with the date on which he landed. This applies to illegal immigrants as well as refused landing passengers.

9. Section 19(1)(b) provides that a removal order may be made against a person requiring him to leave Hong Kong by the Director if it appears to him that that person

- (a) might have been removed from Hong Kong under section 18(1) if the time limited by section 18(2) had not passed; or
- (b) has landed in Hong Kong unlawfully or is contravening or has contravened a condition of stay in respect of him; or
- (c) not being a person who enjoys the right of abode in Hong Kong or has the right to land in Hong Kong by virtue of section 2AAA, has contravened section 42; or
- (d) being a person who by virtue of section 7(2) may not remain in Hong Kong without the permission of an immigration officer or immigration assistant, has remained in Hong Kong without such permission.

10. A person may be detained under section 26 for enquiries in connection with the making of a removal order or he may be detained after the making of a removal order. Such a person will be served with a notification of the reason and the provision under which he is so detained as mentioned in paragraph 3 and a “Notice to persons in custody or under immigration enquiries” as mentioned in paragraph 4.

11. For a person against whom a removal order has been issued under section 19(1) of the Immigration Ordinance, section 19(5) stipulates that the Director of Immigration shall cause written notice to be served as soon as practicable on the person against who it is made informing him

- (a) of the ground on which the order is made; and

- (b) that if he wishes to appeal he must do so by giving to an immigration officer or immigration assistant written notice of his grounds of appeal and the facts upon which he relies within 24 hours of receiving the notice of the order.

A copy of “Notice of Removal Order and Right of Appeal” is at **Annex F** and a copy of “Notice of Appeal Against Removal Order” is at **Annex G**.

Deportation

12. Section 20(1)(a) further provides that the Chief Executive may make a deportation order against an immigrant if the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than 2 years.

13. The power of making a deportation order under section 20(1)(a) has been delegated to the Secretary for Security since December 1993.

14. For a person whom the Director of Immigration is considering applying to the Secretary for Security for his deportation under section 20(1)(a) of the Immigration Ordinance, a “Notice of Consideration of Deportation” (specimens at **Annex H**) is served upon such person notifying him, among other things, such intention, its reasons, the effect of a deportation order, and inviting such person to make representations if he so wishes. A potential deportee is normally serving an imprisonment sentence in jail when the deportation enquiries are made. His rights of access to relatives and lawyers are safeguarded by the relevant prison rules.

香港法例第115章入境條例
IMMIGRATION ORDINANCE, CHAPTER 115

Annex A

根據第26(a)條所作的羈留
Detention under Section 26(a)

本人

I, _____

(職銜及姓名) (Name & Rank)

認為
being satisfied:

(i) 為執行入境條例的規定 (有關遞解離境的規定除外) 必須查訊
that inquiry for the purposes of Immigration Ordinance, other than the provisions relating to deportation, is
; 及
necessary in the case of _____ ; and

(ii) 倘不羈留
that the said _____

他/她可能潛逃;
may abscond if he/she is not detained;

因此現按照入境條例第26(a)條發出指示, 將
hereby direct, pursuant to Section 26(a) of the Immigration Ordinance, that the said

羈留不超過四十八小時, 由 _____ 年 _____ 月 _____ 日 _____ 時開始。
be detained for a maximum period of 48 hours from _____ hours on _____

關於 (i) 項, 本人所持理由為: _____
The grounds for my being satisfied as to (i) are: -

關於 (ii) 項, 本人所持理由為: _____
The grounds for my being satisfied as to (ii) are: -

簽署 : _____
Signature :

日期: _____
Date: _____

職級 : _____
Rank :

註 : 根據第26(a)條所作的羈留, 須由屬總入境事務主任或以上職級入境事務人員, 或任何屬警司或以上職級的警務人員授權。
Note : Detention under Section 26(a) may be authorized only by an officer of or above the rank of Chief Immigration Officer; or by any Police Officer of or above the rank of Superintendent.

本人現收到此文件的副本一份，其內容已用

I acknowledge receipts of a copy of this document which has been explained to me in

向本人解釋清楚，本人亦完全明白其中內容。
and which I understand.

簽署 : _____
 Signed : _____
 日期 : _____
 Date : _____
 時間 : _____
 Time : _____

本人已將此編雷令的內容向背頁所載當事人解釋清楚，並將副本交給其本人簽收如上。

I have explained the contents of this authorization to the subject named overleaf and I have given him/her the copy of which has been acknowledged above.

簽署 : _____
 Signed : _____
 姓名及職級 : _____
 Name and Rank : _____
 日期 : _____
 Date : _____
 時間 : _____
 Time : _____

給在羈留人士或正接受入境事務處調查人士的**通告**

如果你是**被入境事務處羈留或正在入境事務處接受調查的人士**，對調查過程或法律執行不會構成不合理的延誤或妨礙的情況下，你可以：

- (1) 打電話給朋友；
- (2) 打私人電話、以書面或見面方式，聯絡你的律師或大律師；
- (3) 要求給予一份由律師公會提供的律師名單；
- (4) 獲准在與入境事務人員會面時有你的律師或大律師在場；
- (5) 在你的同意下，與一個自稱由第三者代你聘請的律師或大律師私人接觸；
- (6) 拒絕與一個並非你自己要求會見的律師或大律師接觸；
- (7) 要求盡快寄出或遞送你的信件；
- (8) 在接受入境事務人員問話後，盡快獲得一份你自己在警誡後所作的口供或所回答問題的副本；
- (9) 在未得到上述副本之前，拒絕回答其他問題；及
- (10) 要求給予書寫文具。

我 _____，明白在接受調查或羈留期間的權利及所能獲得的方便。

簽署 _____

見證人簽署 _____

傳譯員簽署 _____

日期 / 時間 _____

聲明書

Annex C

本人 _____ 歲，原

籍 _____ 省 _____ 縣 _____ 鎮 / 區

_____ 村，在 _____ 管區，於一九九_____年

_____月 _____日非法進入香港，現謹聲明本人放棄上訴權

利，並自願接受安排返回深圳。

簽署： _____

日期： _____

時間： _____

見證人： (10) ICC _____

Annex D

香港特別行政區政府
入境事務處

Immigration Department
The Government of the Hong Kong
Special Administrative Region

Reference No.

Control Section Reference No.



拒予入境通知書
REFUSAL NOTICE

日期
Date

*先生/女士/小姐
*Mr/Mrs/Miss/Ms
國籍/籍貫
Nationality/Native
旅行證件號碼
Travel document no.
抵港時所乘搭之船隻/飛機的名稱
Arrived by *ship/aircraft
抵港日期
On (date) 時間
來自(國家名稱)
From (country) at (hour)

上述人士(個人資料如上)已被當局根據入境條例第 11 條拒絕入境, 並被當局根據同一條例第 32(1) 條加以拘留。

The person whose particulars are described above has been refused permission to land in the Hong Kong Special Administrative Region under section 11 of the Immigration Ordinance and detained under section 32(1) of the same Ordinance.

為
being

- * (甲) 運載該人抵港之船隻/飛機的船長/機長
*(a) The captain of the *ship/aircraft in which that person arrived in the Hong Kong Special Administrative Region
- * (乙) 運載該人抵港之船隻/飛機的擁有人、代理人或承租人
*(b) The owners, agents or charterers of the *ship/aircraft in which that person arrived in the Hong Kong Special Administrative Region
- * (丙) 下列之船隻/飛機的擁有人、代理人或承租人
*(c) The owners, agents or charterers of the *ship/aircraft specified below

*現必須遵照入境條例第 24 條的規定, 以下開方式檢獲或安排該人離港:
*is/are hereby directed under section 24 of the Immigration Ordinance to *remove that person/make arrangements for the removal of that person from the Hong Kong Special Administrative Region by:

*船隻/飛機的名稱
*Vessel/aircraft
日期
On (date) 時間
前往(國家名稱)
To (country)

又根據入境條例第 33 條的規定, 在上文最後指明的船長/機長須採取必要的步驟以防止該人在船隻/飛機離港前進入香港境內。為達到此目的, 該船隻/飛機的船長/機長可將他關留在船隻/飛機上。
The captain of the *ship/aircraft specified immediately above is hereby required under section 33 of the Immigration Ordinance to take such steps as may be necessary for preventing that person from landing from the *ship/aircraft before it leaves the Hong Kong Special Administrative Region. For this purpose the captain of the *ship/aircraft may detain that person in custody on board the *ship/aircraft.

被拒入境者簽名
Signature of person refused permission to land
船長、機長或擁有人、代理人或承租人的代表簽名
Signature of captain or representative of owners, agents or charterers
入境事務人員簽名
Signature of immigration officer

(Name in capitals)

* 請不用寫明姓。 Delete as appropriate.

正本——白色——給被拒入境者
Original—White—for person refused permission to land.
第一副本——黃色——給船長、機長或擁有人、代理人或承租人的代表
Duplicate—Yellow—for captain/representative of owners, agents or charterers.
第二副本——藍色——給管制處備查
Triplet—Blue—for retention in Control Section.

被羈留人士通知書

Annex E

Name of Detainee:

被羈留人士姓名:

Nationality:

國籍:

Sex:

性別:

Date of Birth:

出生日期:

Part A**甲部**

You are detained under section _____ of the immigration Ordinance pending *enquiry / examination / repatriation / removal / deportation from Hong Kong. You may be permitted to telephone your consul, solicitor or relatives if you desire. You may also consult privately with your consul or solicitor. Short visits by relatives or close friends may be allowed at the discretion of the duty officer. You may, at your own expense, send telegrams or make international telephone calls. Meals or refreshments will be provided during normal meal hours. Drinking water will be available upon request. Please ask for medical attention if you feel ill. You are responsible for the safe custody of your personal property/valuables. There is a security locker inside your room and you may approach the duty officer for the locker key, if necessary.

當局現根據入境條例第_____條將你羈留，等候*研訊/訊問/遣返/遣送離境/遞解離境。如你要求，可獲准打電話聯絡你的領事、律師或親屬。你也可以單獨與領事或律師商量。你的親屬或好朋友可獲准前來探訪片刻，但必須先經值日主任批准。你可以自費發電報或打國際電話。在正常用膳時間，你會獲得膳食或茶點供應。你可隨時要求獲得飲用水供應。若你感到不適，請要求醫生診治。你的私人財物/貴重物品由你自行保管。你的房間內有儲物箱，若有需要，你可向值日主任索取儲物箱的鑰匙。

The above notice has been explained to the detainee.

本人已就上述內容向被羈留人士解釋。

Officers name and rank:

入境處人員姓名及職級:

Signature

簽署:

Detainees signature:

被羈留人士簽署:

Date:

日期:

Time:

時間:

Note:

- 1 This log sheet should be used when a detainee (other than those who have been served with ID 785) is admitted into the Detention Quarter.
- 2 Occurrence, such as telephone calls made, meals served, visits by relatives, etc. should be recorded in Part B
- 3 File this log sheet with the case report.

SF/DA/1091 (Revised 02/99)

Part B - Record of Occurrence for Person under Detention

Date	Time	Occurrence & Remark	Action Officer		Inspection By Duty SIO	
			Name & Rank	Initial	Name	Initial

Part C - Comments by detainee
 丙部 - 被羈留人士意見

I have * the following comments about the treatment I received.

no comments

本人對所受的待遇* 有以下意見

沒有意見 .

Signature of detainee:

被羈留人士簽署 :

Date:

日期:

Time:

時間 :

*Delete if inappropriate

*請刪去不適用者

IMMIGRATION ORDINANCE

Annex F

入境條例

(Chapter 115)

(香港法例第一一五章)

Section 19(5)

第十九條第(5)款

NOTICE OF REMOVAL ORDER AND RIGHT OF APPEAL

遣送離境令及上訴權利通知書

To : * Master/Miss

致 : * 先生/小姐

TAKE NOTICE that pursuant to Section 19(1)(b)(ii) of the Immigration Ordinance the Assistant Director of Immigration has on the ... days of 19 ... made a removal order against you on the grounds that you

- (i) have landed in the Hong Kong Special Administrative Region unlawfully
(ii) are contravening/have contravened a condition of stay

The Assistant Director of Immigration has also authorised your detention in custody pending your removal from the Hong Kong Special Administrative Region to the Mainland of China.

TAKE FURTHER NOTICE that you may, if you wish, appeal to a Tribunal under Section 53A of the Immigration Ordinance against the decision to make the removal order. If you wish to appeal you must do so by giving to an immigration officer or an immigration assistant written notice of your grounds of appeal and the facts upon which you rely within twenty four hours of receiving this Notice...

A form for your use in setting out your appeal is attached. An officer of the Correctional Services Department is available to assist you in writing out your appeal if you so wish.

日期：一九 年 月 日
Dated: 19.....

for Director of Immigration
入境事務處處長
() 代行

* Delete whichever is inappropriate
將不適當者劃去

Annex G

(入境條例)
IMMIGRATION ORDINANCE

(香港法例第115章)

(Chapter 115)

第19(1)(b)條

第19(5)(b)條

第53(A)條

Sections 19(1)(b), 19(5)(b) and 53(A)

上訴反對遣送離境令通知書

NOTICE OF APPEAL AGAINST REMOVAL ORDER

本人 _____, 擬根據下述理由, 上訴反對
 I _____ wish to appeal against the removal order, notice of
 在 _____ 年 _____ 月 _____ 日 上/下午 _____ 時 _____ 分向本人通知發出
 which was served on me at _____ hours on _____
 之遣送離境令: (注意: 上訴理由及事實根據, 必須詳細
 on the following grounds: (NB: The grounds of appeal and the facts upon which you wish to rely must
 列明)
 be fully stated here).

簽署: _____
 Signed: _____
 日期: _____
 Date: _____
 時間: _____
 Time: _____



Annex H

電話 Tel 2829 3372 圖文傳真 Fax. No. 2511 5241

香港特別行政區政府
入境事務處

覆函請註明本處檔號 In reply please quote this ref. As below

Immigration Department
The Government of the Hong Kong
Special Administrative Region

Notice of Consideration of Deportation

<u>Imm. Ref.</u>	<u>Name</u>	<u>Sex</u>	<u>Date of Birth</u>
RBPD			

The Director is considering applying for your deportation under section 20 (1) (a) of the Immigration Ordinance to _____ in respect of your criminal conviction(s) in Hong Kong as listed below :

<u>Date</u>	<u>Offence(s)</u>	<u>Sentence(s)</u>
	Immigration offence	

This/These conviction(s) has/have led the Director to conclude that your continued presence in Hong Kong is undesirable .

If you wish to make any representations in respect of the Director's conclusion, the proposed application for a deportation order and/or the effect of such a deportation order (if made) on you or your family members, please do so on the attached sheet within 7 days on receipt of this notice. If you make no comment, your case will be considered on the information available.

for Director of Immigration

Receipt acknowledged : _____

Date and time : _____

Please see the attached explanation notes



電話 Tel 2829 3372 國文傳真 Fax No. 2511 5241

香港特別行政區政府
入境事務處

覆函請註明本處檔號 In reply please quote this ref. As below

Immigration Department
The Government of the Hong Kong
Special Administrative Region

Notice of Consideration of Deportation

<u>Imm. Ref.</u>	<u>Name</u>	<u>Sex</u>	<u>Date of Birth</u>
RBPD			

The Director is considering applying for your deportation under section 20 (1) (a) of the Immigration Ordinance to _____ in respect of your criminal conviction(s) in Hong Kong as listed below :

<u>Date</u>	<u>Offence(s)</u>	<u>Sentence(s)</u>
	Other than Immigration offence	

This/These conviction(s) has/have led the Director to conclude that your continued presence in Hong Kong poses a threat to law and order .

If you wish to make any representations in respect of the Director's conclusion, the proposed application for a deportation order and/or the effect of such a deportation order (if made) on you or your family members, please do so on the attached sheet within 7 days* on receipt of this notice. If you make no comment, your case will be considered on the information available.

for Director of Immigration

Receipt acknowledged : _____

Date and time : _____

Please see the attached explanation notes

*14 days in case of resident

香港灣仔雲士打道七號入境事務大樓 Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong

國文傳真 Fax 2824 1133 • 專用電訊 Telex 69996 • 電報掛號 Telegrams MIGRATION HONG KONG

電郵地址 E-mail Address: enquiry@immd.gov.hk • 國際網絡本頁地址 Internet Home Page Address: <http://www.info.gov.hk/immd/>

Explanatory Note

Section 20 of the Immigration Ordinance provides that :-

" the Chief Executive of Hong Kong may make a deportation order against an immigrant, if the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than 2 years." and

" a deportation order shall require the person against whom it is made to leave Hong Kong and shall prohibit him from being in Hong Kong at any time thereafter or during such period as may be specified in the order. "

Section 43 of the Immigration Ordinance states :

" any person in respect of whom a deportation order is in force is in Hong Kong in contravention of the order shall be liable on conviction to imprisonment for 7 years."

You may leave your grounds against deportation with the Welfare Officer of the Correctional Services Department who would then forward to the Director of Immigration at Room 1306, 13/F Immigration Tower, 7 Gloucester Road, Wanchai, Hong Kong.

I hereby certify that at _____ hours on _____ at _____ I served a copy of this explanatory note and explained the contents to Mr/Ms _____ (through an interpreter, Mr/Miss/Mrs/Ms _____) and satisfy he understood.

Signed : _____
Name / Rank : _____
Date : _____

Signed : _____
(_____)
Name of the interpreter (if any)

I _____ certify that at _____ hours on _____ at _____ I received a copy of this explanatory note and that I understood its contents.

Signed : _____
(_____)

Grounds Against Deportation

Imm Ref. :RBPD

Date of birth:

Sex :

Name: _____

Please state your grounds against deportation

Signed : _____

Date : _____

Time : _____