

立法會
Legislative Council

(issued by email only)
LC Paper No. CB(3) 691/18-19

Ref : CB(3)/B/S/2 (18-19)

Tel : 3919 3300

Date : 11 June 2019

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 12 June 2019

**Debate arrangement for
Fugitive Offenders and Mutual Legal Assistance in Criminal Matters
Legislation (Amendment) Bill 2019**

Further to LC Paper Nos. CB(3) 660/18-19, CB(3) 678/18-19 and CB(3) 690/18-19 issued on 4, 10 and 11 June 2019 respectively, I attach a table on the debate arrangement for the captioned Bill for Members' information.

2. Given the small number of provisions in the Bill and the interdependence among most of those provisions and the proposed amendments to the Bill, the President has decided to order a joint debate on all the provisions and amendments to allow greater flexibility for Members to debate the various issues covered by the Bill and avoid tedious repetition of arguments, thus facilitating more effective use of the Council's time.

3. Hard copy of the table (i.e. the Appendix to Part IA of the Script for the meeting) will be placed on Members' desks in the Chamber before the start of the meeting.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

**Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation
(Amendment) Bill 2019
Debate arrangement**

- Object of the Bill :**
- (a) To amend the Fugitive Offenders Ordinance (Cap. 503):**
 - (i) so that Cap. 503 applies to special surrender arrangements once they are made between Hong Kong and any other place in relation to particular circumstances not covered by surrender arrangements of a general nature;
 - (ii) to provide that in relation to special surrender arrangements, the scope of the offences covered for a surrender from Hong Kong is limited to 37 items of offences, on the basis of their existing descriptions in Cap. 503 only, that currently apply in relation to surrender arrangements of a general nature; and
 - (iii) to provide that documents authenticated in accordance with surrender arrangements that are prescribed arrangements are deemed as duly authenticated; and
 - (b) To amend the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525):**
 - (i) so that Cap. 525 applies to requests for assistance between Hong Kong and any other place; and
 - (ii) to provide that a request for assistance in a criminal matter covered by bilateral arrangements for mutual legal assistance made between Hong Kong and any other place that are prescribed arrangements may only be made pursuant to the arrangements.

Debate : Clause with no amendment and clauses with amendments proposed by the Secretary for Security (“S for S”) and 22 Members - Clauses 1 to 10, and new clauses 4A, 4B, 5A, 6A and 7A

Joint debate on the original clauses and the amendments thereto.

The gists of the **amendment** proposed by S for S and the **153 amendments** proposed by 22 Members is in the **Annex**, covering the following matters:

- (a) commencement and expiry dates of the enacted Ordinance or special surrender arrangements (“SSAs”);
- (b) definition of SSAs and their scope of application;
- (c) offences applicable to SSAs, threshold to offences punishable with imprisonment and retrospective period for such offences, with S for S and six members proposing the amendments set out in the following table concerning the threshold to offences punishable with imprisonment;

	Proposal of the Bill	S for S (1 amendment)	Hon James TO (1 amendment)	Hon KWONG Chun-yu (1 amendment)	Hon HUI Chi-fung (1 amendment)	Dr Hon CHENG Chung-tai (1 amendment)	Prof Hon Joseph LEE (1 amendment)	Hon CHAN Chi-chuen (2 amendments)		
Threshold to offences	More than 3 years, or any greater punishment*	Not less than 7 years, or any greater punishment*	More than 14 years, or any greater punishment [#]	More than 20 years, or any greater punishment [#]	More than 30 years, or any greater punishment [#]	More than 10 years, or any greater punishment*	Life imprisonment, or any greater punishment*	Proposed type A offence: More than 10 years, or any greater punishment*	Proposed type B offence: More than 15 years, or any greater punishment*	Life imprisonment*

* Applicable to both the prescribed place and Hong Kong

Applicable only to the prescribed place

- (d) procedures for activating SSAs, and restrictions/conditions/safeguards on SSAs;
(e) proceedings for committal and authentication of documents; and
(f) definition and scope of application of mutual legal assistance arrangements.

22 Members : **Hon James TO** **Dr Hon Helena WONG** **Hon LAM Cheuk-ting**
proposing **Hon KWONG Chun-yu** **Hon HUI Chi-fung** **Hon Dennis KWOK**
amendments **Dr Hon Fernando CHEUNG** **Hon Charles Peter MOK** **Hon IP Kin-yuen**
Dr Hon CHENG Chung-tai **Hon Gary FAN** **Prof Hon Joseph LEE**
Dr Hon KWOK Ka-ki **Hon Alvin YEUNG** **Hon Jeremy TAM**
Hon CHAN Chi-chuen **Hon Kenneth LEUNG** **Hon Claudia MO**
Hon Andrew WAN **Hon WU Chi-wai** **Hon AU Nok-hin**
Hon CHU Hoi-dick

S for S's amendment

(set out in LC Paper No. CB(3) 660/18-19 issued on 4 June 2019)

22 Members' amendments

(set out in LC Paper No. CB(3) 678/18-19 issued on 10 June 2019)

Council Business Division 3
Legislative Council Secretariat
11 June 2019

Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019

154 admissible amendments

(1 amendment by the Secretary for Security and 153 amendments respectively proposed by 22 Members)

The 154 admissible amendments are divided into the following **6 categories**:

- (A)** 5 amendments : Commencement and expiry dates of the enacted Ordinance or special surrender arrangements (“SSAs”)
- (B)** 19 amendments : Definition of SSAs and their scope of application
- (C)** 26 amendments : Offences applicable to SSAs, threshold to offences punishable with imprisonment and retrospective period for such offences (including 1 amendment proposed by the Secretary for Security on the threshold to offences punishable with imprisonment)
- (D)** 72 amendments : Procedures for activating SSAs, and restrictions/conditions/safeguards on SSAs
- (E)** 13 amendments : Proceedings for committal and authentication of documents
- (F)** 19 amendments : Definition and scope of application of mutual legal assistance (“MLA”) arrangements

The gist of amendments (which is based on the contents of the amendments submitted by Members) is provided in the ensuing pages.

(A) 5 amendments : Commencement and expiry dates of the enacted Ordinance or SSAs

Member	Gist of amendments	Amendment(s)
Hon Jeremy TAM (1 amendment)	To amend clause 1 to stipulate that the enacted Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Ordinance 2019 (“the enacted Ordinance”) comes into operation on the day on which the enacted Ordinance is published in the Gazette and expires at midnight on 1 July 2020.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon CHAN Chi-chuen (1 amendment)	To add a new clause after clause 6 to stipulate that relevant provisions of SSAs are to expire on 1 July 2020.	
Hon CHAN Chi-chuen (1 amendment)	To add a new clause after clause 6 to stipulate that relevant provisions of SSAs are to expire on 31 December 2019.	
Hon WU Chi-wai (1 amendment)	To amend clause 1 to stipulate that the enacted Ordinance comes into operation on the following day to be appointed by the Secretary for Security by notice published in the Gazette: the day on which the National People’s Congress of the People’s Republic of China (“PRC”) incorporates the provisions of the International Covenant on Civil and Political Rights (“ICCPR”) into the national law as applied to the Mainland of China.	
Hon WU Chi-wai (1 amendment)	To amend clause 1 to stipulate that the enacted Ordinance comes into operation on a day to be appointed by the Secretary for Security by notice published in Gazette.	

(B) 19 amendments : Definition of SSAs and their scope of application

Member	Gist of amendments	Amendment(s)
Hon James TO (1 amendment)	To amend clause 3(3) to stipulate that SSAs are not applicable to aliens who also have Chinese nationality.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon James TO (3 amendments)	To amend clause 3 to substitute “special surrender arrangements” with “special Taiwan surrender arrangements”.	
	To amend clause 3 to substitute the definition of SSAs with the definition of “special Taiwan surrender arrangements”.	
	To amend clause 4 to provide for special arrangements for surrender of Taiwan fugitive offenders.	
Dr Hon Helena WONG (1 amendment)	To amend clause 3 to stipulate that SSAs are not applicable to permanent residents of the Hong Kong Special Administrative Region (“HKSAR”) and any alien.	

Member	Gist of amendments	Amendment(s)	
Dr Hon Fernando CHEUNG (1 amendment)	To amend clause 3 to the effect that SSAs are not applicable to the Central People's Government, the Government of Macao Special Administrative Region, the Mainland or Macau.	LC Paper No. <u>CB(3) 678/18-19</u>	
Hon Charles MOK (2 amendments)	To amend clause 3(3) to stipulate that SSAs are applicable to the Government of Taiwan and Taiwan but not applicable to the Central People's Government, the government of any other part of PRC or any other part of PRC.		
	In view of Mr MOK's amendment to clause 3(3), to make corresponding amendments to the long title.		
Hon Gary FAN (1 amendment)	To delete clause 3 on the definition of SSAs.		
Hon Gary FAN (1 amendment)	To amend clause 3(3) to the effect that SSAs are applicable to the government of Taiwan and Taiwan but not applicable to the Central People's Government, the government of any other part of PRC or any other part of PRC.		
Hon CHAN Chi-chuen (1 amendment)	To amend clause 3(3) to stipulate that SSAs are not applicable to the surrender of a person who transits through Hong Kong.		
Hon CHAN Chi-chuen (1 amendment)	To amend clause 3(3) to stipulate that SSAs are not applicable to the surrender of a permanent resident of HKSAR.		
Hon Kenneth LEUNG (4 amendments)	To amend clause 3 to stipulate that SSAs are applicable to the government of places outside Hong Kong listed in the proposed new Schedule 4 to the Fugitives Offenders Ordinance (Cap. 503) ("FOO").		
	To amend clause 3 to stipulate that SSAs are applicable to the places outside Hong Kong listed in the proposed new Schedule 5 to FOO.		
	In view of Mr LEUNG's amendments to clause 3, to add the proposed new Schedule 4 to FOO (which includes the government of Taiwan only) and the proposed new Schedule 5 (which includes Taiwan only).		
	To add new clause 6A to stipulate that the Chief Executive ("CE") in Council may, subject to the Legislative Council ("LegCo")'s approval, amend the proposed new Schedules 4 and 5 by notice published in the Gazette.		
Hon Andrew WAN (1 amendment)	To delete clause 3 on the definition of SSAs.		
Hon Andrew WAN (1 amendment)	To amend clause 3 to the effect that SSAs are not applicable to the Central People's Government, Macao Government, and the Mainland and Macao of PRC.		
Hon Andrew WAN (1 amendment)	To amend clause 3 to provide the definition of "Mainland" which means any parts of PRC other than Hong Kong, Macau and Taiwan.		

(C) 26 amendments : Offences applicable to SSAs, threshold to offences punishable with imprisonment and retrospective period for such offences

Member	Gist of amendments	Amendment(s)
Hon James TO (1 amendment)	To amend clause 4 to stipulate that the relevant offence covered by SSAs is punishable with imprisonment for more than 14 years or any greater punishment.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon James TO (1 amendment)	To amend clause 4 to the effect that SSAs only cover item 1 (i.e. murder or manslaughter) of the offences described in Schedule 1 to FOO.	
Hon James TO (1 amendment)	To amend clause 4 to the effect that SSAs only cover item 1 (i.e. murder or manslaughter) of the offences described in Schedule 1 to FOO and an offence described in items 41, 42, 45 or 46 of that Schedule to the extent it relates to item 1 above.	
Hon James TO (1 amendment)	To add a new clause after the proposed section 3A to stipulate that SSA must not be exercised with retrospective effect, and SSA is not applicable to any offences committed before the commencement of the proposed section 3A.	
Hon KWONG Chun-yu (1 amendment)	To amend clause 4 to stipulate that the relevant offence covered by SSAs is punishable with imprisonment for more than 20 years or any greater punishment.	
Hon KWONG Chun-yu (1 amendment)	To amend clause 4 to stipulate that SSAs are only applicable to offences committed within two years immediately before the commencement of the procedure of issuance of a certificate by or under the authority of CE.	
Hon KWONG Chun-yu (1 amendment)	To amend clause 4 to specify that the following offences are not applicable to SSAs: (a) an offence described in item 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 or 44 of Schedule 1 to FOO; or (b) an offence described in item 41, 42, 45 or 46 of Schedule 1 to FOO to the extent it relates to an offence mentioned in (a) above.	
Hon HUI Chi-fung (1 amendment)	To amend clause 4 to stipulate that the relevant offence covered by SSAs is punishable with imprisonment for more than 30 years or any greater punishment.	
Hon HUI Chi-fung (1 amendment)	To amend clause 4 to specify that the following offences are not applicable to SSAs: (a) an offence described in item 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 or 44 of Schedule 1 to FOO; or (b) an offence described in item 41, 42, 45 or 46 of Schedule 1 to FOO to the extent it relates to an offence mentioned in (a) above.	

Member	Gist of amendments	Amendment(s)
Dr Hon CHENG Chung-tai (1 amendment)	To amend clause 4 to stipulate that: (a) the certificate issued by CE to a request under SSAs must be approved by LegCo; and (b) SSAs cover offences punishable with imprisonment for more than 10 years or any greater punishment.	LC Paper No. <u>CB(3) 678/18-19</u>
Secretary for Security (1 amendment)	To amend clause 4 to stipulate that the relevant offence covered by SSAs is punishable with imprisonment for not less than 7 years or any greater punishment.	LC Paper No. <u>CB(3) 660/18-19</u>
Prof Hon Joseph LEE (1 amendment)	To amend clause 4 to stipulate that the relevant offence covered by SSAs is punishable with imprisonment for life or any greater punishment.	LC Paper No. <u>CB(3) 678/18-19</u>
Dr Hon KWOK Ka-ki (2 amendments)	To amend clause 4 to stipulate that the offences described in the proposed new Schedule 4 to FOO are not applicable to SSAs.	
	In view of Dr KWOK's amendment to clause 4 concerning restriction on surrender, to add the proposed new Schedule 4 on description of offences not applicable under SSAs to FOO.	
Hon Alvin YEUNG (1 amendment)	To amend clause 4 to stipulate that SSAs are applicable to offences within the past two years from the date the request for surrender is made.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that SSAs are applicable to offences committed within three years before a request for surrender is made by a prescribed place.	

Member	Gist of amendments	Amendment(s)
Hon CHAN Chi-chuen (1 amendment)	<p>To amend clause 4 to:</p> <p>(a) divide the offences described in Schedule 1 to FOO into two types (specified Schedule 1 Type A offence and specified Schedule Type B offence) which, except the following specified offences, are applicable to SSAs:</p> <p><u>Schedule 1 Type A offence not applicable to SSAs</u></p> <p>(i) an offence described in item 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 35, 36, 38, 40 or 44 of Schedule 1 to FOO, or</p> <p>(ii) an offence described in item 41, 42, 45 or 46 of Schedule 1 to FOO to the extent it relates to an offence mentioned in (i) above.</p> <p><u>Schedule 1 Type B offence not applicable to SSAs</u></p> <p>(iii) an offence described in item 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 14, 19, 20, 21, 25, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40 or 43 of Schedule 1 to FOO; or</p> <p>(iv) an offence described in item 41, 42, 45 or 46 of Schedule 1 to FOO to the extent it relates to an offence mentioned in (iii) above.</p> <p>(b) raise the threshold to offences punishable with imprisonment for more than 10 years or any greater punishment (in respect of a specified Schedule 1 Type A offence) or punishable with imprisonment for more than 15 years or any greater punishment (in respect of a specified Schedule 1 Type B offence).</p>	<p>LC Paper No. <u>CB(3) 678/18-19</u></p>
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that SSAs are applicable to offences punishable with life imprisonment.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to exclude item 38 (Bigamy) of offences described in Schedule 1 to FOO from the offences covered by SSAs.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to exclude item 41 (Offences relating to the possession or laundering of proceeds obtained from the commission of any offence described in Schedule 1 to FOO) of offences described in Schedule 1 to FOO from the offences covered by SSAs.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to exclude item 15 (Offences against the law relating to bribery, corruption, secret commissions and breach of trust) of offences described in Schedule 1 to FOO from the offences covered by SSAs.	

Member	Gist of amendments	Amendment(s)
Hon Kenneth LEUNG (3 amendments)	To amend clause 4 to exclude item 16 (perjury and subornation of perjury) and item 17 (offence relating to the perversion or obstruction of the course of justice) of offences described in Schedule 1 to FOO from the offences covered by SAAs.	LC Paper No. <u>CB(3) 678/18-19</u>
	To amend clause 4 to exclude item 31 (offence relating to gambling or lotteries) of offences described in Schedule 1 to FOO from the offences covered by SAAs.	
	In view of Mr LEUNG's two amendments to clause 4 on items of offences applicable to SAAs, to substitute "37 items" with "34 items" in the long title.	
Hon Claudia MO (1 amendment)	To amend clause 4 to the effect that SSAs only cover item 1 (i.e. murder or manslaughter) of offences described in Schedule 1 to FOO and an offence described in items 41, 42, 45 or 46 of that Schedule to the extent it relates to item 1 above.	
Hon Andrew WAN (1 amendment)	To amend clause 4 to the effect that SSAs are not applicable to the following offences described in Schedule 1 to FOO: (a) an offence described in item 9, 10, 11, 12, 13, 14, 15, 16, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 or 44 of Schedule 1 to FOO; or (b) an offence described in item 41, 42, 45 or 46 of Schedule 1 to FOO to the extent it relates to an offence mentioned in (a) above.	

(D) 72 amendments: Procedures for activating SSAs, and restrictions/conditions/safeguards on SSAs

Member	Gist of amendments	Amendment(s)
Hon James TO (1 amendment)	To amend clause 4 to stipulate that SSAs in respect of a person stated in the certificate issued by or under the authority of CE is requested by the Supreme People's Procuratorate of PRC.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon James TO (1 amendment)	To amend clause 4 to stipulate that SSAs in respect of a person stated in the certificate issued by or under the authority of CE is requested by the Central People's Government of PRC.	
Hon James TO (1 amendment)	To amend clause 4 to require CE to state in the certificate issued by or under the authority of CE that, in respect of SSAs, CE is satisfied that it is in compliance with Article 2 or Article 3 of section 8 of the Hong Kong Bill of Rights Ordinance (Cap. 383) to surrender the person concerned to the prescribed place to which SSAs relate.	
Hon James TO (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate in relation to a request for surrender of the person if it would be a breach of Article 2 or Article 3 of section 8 of Cap. 383 to surrender the person to the prescribed place to which SSAs relate.	

Member	Gist of amendments	Amendment(s)
Hon James TO (1 amendment)	To amend the long title of the Bill stating that the provision of additional human rights and judicial procedure protection is a condition for the application of FOO to SSAs.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon James TO (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate to a request for surrender of the person if satisfied that the person was not present when the offence was committed.	
Hon James TO (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender if the appropriate authority is satisfied that the time limit for prosecuting the offence in that prescribed place has expired; and (b) provide the definition of “appropriate authority”.	
Hon James TO (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender, if that person obtains admission, registration or other forms of approval to his profession under any law in Hong Kong, and the appropriate authority is satisfied that the act or omission of that person is only in relation to professional misconduct or negligence, and not related to the offences under the proposed section 3A(4); and (b) provide the definition of “appropriate authority”.	
Hon James TO (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person wanted for prosecution, CE must not issue a certificate in relation to a request for surrender of the person if satisfied that the principal act of the relevant offence was committed in Hong Kong.	
Hon James TO (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate in relation to a request for surrender of the person if satisfied that the time limit for prosecuting the offence in the prescribed place has expired.	
Hon James TO (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender if an appropriate authority is satisfied that the time limit for prosecuting the offence in that prescribed place when counted from the date of commission of the offence has expired; and (b) provide the definition of “appropriate authority”.	
Hon James TO (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person wanted for prosecution, CE must not issue a certificate in relation to a request for the surrender of the person if satisfied that the time limit for prosecuting the offence in that prescribed place when counted from the date of commission of the offence has expired.	

Member	Gist of amendments	Amendment(s)
Dr Hon Helena WONG (1 amendment)	To amend clause 4 to stipulate that if the offence in respect of which the surrender is sought is an offence of obstruction of freedom of publication character, irrespective of how the offence is described in the prescribed arrangements concerned, CE must not issue a certificate in relation to the request for surrender from the prescribed place.	LC Paper No. <u>CB(3) 678/18-19</u>
Dr Hon Helena WONG (1 amendment)	To amend clause 4 to stipulate that if the prescribed place is not one of the top 50 performers in the latest report released by the World Justice Project Rule of Law Index when a request for surrender is made by the prescribed place, CE must not issue a certificate in relation to the request.	
Dr Hon Helena WONG (1 amendment)	To amend clause 4 to stipulate that if the prescribed place is not one of the top 50 performers in the latest corruption perceptions index report released by the Transparency International when a request for surrender is made by the prescribed place, CE must not issue a certificate in relation to the request.	
Dr Hon Helena WONG (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender, if the appropriate authority is satisfied that it would obstruct his freedom of publication to surrender him to the prescribed place; and (b) provide the definition of “appropriate authority”.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to require CE to state in the certificate issued by or under the authority of CE that, in respect of SSAs, CE is satisfied that a person, if surrendered, would be entitled to a fair trial.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate in relation to a request for the surrender of the person if satisfied that it is likely to cause the person to be denied a fair trial to surrender the person to the prescribed place to which SSAs relate.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to require CE to state in the certificate issued by or under the authority of CE that, in respect of SSAs, CE is satisfied that the person would be entitled to a fair trial to surrender him to the prescribed place to which SSAs relate.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate in relation to a request for the surrender of the person if satisfied that it is likely to cause the person to be denied a fair trial to surrender the person to the prescribed place to which SSAs relate.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to stipulate that if the offence in respect of which a surrender is sought is an offence of obstruction of freedom of the press character, irrespective of how the offence is described in the prescribed arrangements concerned, CE must not issue a certificate in relation to the request for surrender from the prescribed place.	

Member	Gist of amendments	Amendment(s)
Hon LAM Cheuk-ting (1 amendment)	To add a new clause on additional restrictions on SSA after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender if the appropriate authority is satisfied that the person, if surrendered, is likely to be denied a fair trial; and (b) provide the definition of “appropriate authority”.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person, CE must not issue a certificate if satisfied that it would cause the person to be on trial without a legal representative to surrender him to the prescribed place to which SAAs relate.	
Hon LAM Cheuk-ting (1 amendment)	To amend clause 4 to require CE to state in the certificate issued by or under the authority of CE that, in respect of SSAs, CE is satisfied that it would not cause the person to be on trial without a legal representative to surrender him to the prescribed place, and the procedures in the enacted Ordinance apply in the case of the place outside Hong Kong to which SAAs relate and the application of the procedures is subject to the provisions contained in the arrangements that further limit the circumstances in which the person may be surrendered.	
Hon KWONG Chun-yu (1 amendment)	To amend clause 4 to require CE to state in the certificate issued by or under the authority of CE that, in respect of SSAs, CE is satisfied that it is in compliance with Cap. 383 to surrender the person to the prescribed place to which SSAs relate.	
Hon KWONG Chun-yu (1 amendment)	To amend clause 4 to stipulate that if there are SAAs in respect of a person, CE must not issue a certificate if it would be a breach of Cap. 383 to surrender the person to the prescribed place to which SSAs relate.	
Hon KWONG Chun-yu (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender if the appropriate authority is satisfied that that it would be a breach of Cap. 383 to surrender him to the prescribed place to which SSAs relate; and (b) provide the definition of “appropriate authority”.	
Hon HUI Chi-fung (1 amendment)	To amend clause 4 to stipulate that any property seized under section 8 of FOO must not be sent to any prescribed place outside Hong Kong during the procedures subsequent to the commencement of SAAs.	
Hon HUI Chi-fung (1 amendment)	To amend clause 4 to stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender, if it appears to the courts that if the person is convicted of an offence in the prescribed place and will need to serve a term of imprisonment, the treatment of the person during imprisonment is worse than that of a Hong Kong prisoner serving his sentence.	

Member	Gist of amendments	Amendment(s)
Hon Dennis KWOK (1 amendment)	To amend clause 4 to stipulate that the decision to issue a certificate by or under the authority of CE in relation to SSAs is subject to judicial review.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon Dennis KWOK (1 amendment)	To amend clause 4 to stipulate that section 37X(5) of the Immigration Ordinance (Cap. 115) (which provides that a torture claim may be made only in respect of a person's removal or surrender to a place outside China) does not apply to a person subject to surrender pursuant to SSAs.	
Hon Dennis KWOK (1 amendment)	To amend clause 4 to provide that any SSAs must be consistent with Article 19 of the Basic Law which provides that the courts of HKSAR shall have jurisdiction over all offences committed in HKSAR.	
Hon Dennis KWOK (1 amendment)	To amend clause 5 to stipulate that the court of committal must discharge the person arrested if not satisfied that the person's surrender would be compatible with the rights enshrined within Cap. 383, ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	
Hon Dennis KWOK (1 amendment)	To amend clause 5 to stipulate that the court of committal must discharge the person arrested if not satisfied that the person's surrender would be compatible with the rights enshrined within Cap. 383.	
Hon Dennis KWOK (1 amendment)	To amend clause 5 to stipulate that the court of committal may stay the proceedings to give a reasonable chance for the person arrested pursuant to SSAs to make application for legal aid.	
Dr Hon Fernando CHEUNG (1 amendment)	To add a new clause after section 10 of FOO stipulating that: (a) if there are SAAs in respect of a person, the court must, before making an order of committal of a person, decide whether the surrender would be compatible with the rights and freedoms recognized in the Hong Kong Bill of Rights set out in Cap. 383; and (b) if the court decides that the surrender is not compatible with Cap. 383, it must order the person's discharge.	
Dr Hon Fernando CHEUNG (1 amendment)	To add a new clause after section 5 of FOO providing for general restrictions on SSAs.	
Hon IP Kin-yuen (1 amendment)	To amend clause 4 to stipulate that, in relation to SAAs, the certificate is issued by or under the authority of CE in Council.	
Hon Gary FAN (1 amendment)	To delete clause 4 on SSAs.	
Hon Gary FAN (1 amendment)	To delete clause 7 on applicability of offences described in Schedule 1 to FOO to SAAs.	

Member	Gist of amendments	Amendment(s)
Hon Gary FAN (1 amendment)	To amend clause 4 to provide for LegCo's scrutiny of the certificate issued by or under the authority of CE in relation to SAAs, and to set the expiry date of SSAs at 31 December 2019.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon Alvin YEUNG (1 amendment)	To amend clause 4 to stipulate that a person who is a Hong Kong permanent resident or ordinarily resides in Hong Kong must not be surrendered under SSAs, but that person may be inquired of, tried, determined and punished in Hong Kong for his acts or omissions constituting the conduct in respect of which the surrender of that person to the prescribed place is sought in the same manner in all respects as if such acts or omissions had been wholly committed in Hong Kong.	
Hon Alvin YEUNG (1 amendment)	To amend clause 4 to stipulate that if the surrender of a person under SSAs is prohibited under FOO, that person may be inquired of, tried, determined and punished for his acts or omissions constituting the conduct in respect of which the surrender of that person to the prescribed place is sought in the same manner in all respects as if such acts omissions had been wholly committed in Hong Kong.	
Hon Alvin YEUNG (1 amendment)	To add new clauses 4A and 4B to set general restrictions on SSAs.	
Hon Jeremy TAM (1 amendment)	To amend clause 4 to stipulate that a copy of SSAs must be published by notice in the Gazette within 28 days after issuance of the certificate by or under the authority of CE.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that if a person did not enjoy the right listed in SSAs after surrendered to the prescribed place, CE must not issue any further certificate to any request for surrender made by that place.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must publish the certificate in relation to SSAs in respect of a person in the Gazette within seven days after that person is arrested pursuant to a warrant issued under section 7 of FOO.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender made by a place which has not acceded to, succeeded to or ratified Article 14 of ICCPR (other than a common law jurisdiction).	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender from a place if: (a) the operating rules and procedures of the court or tribunal of that place have departed from internationally recognized principles of law; or (b) the court or tribunal of that place has failed to conduct trials in accordance with internationally recognized principles of law within five years before the request was made by that place.	

Member	Gist of amendments	Amendment(s)
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender made by a place if the offence relating to the request is an offence under military law which is also not an offence under ordinary criminal law.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue any further certificate in relation to any request for surrender made by a place if the person had not been tried in open courts in that place within six months after CE surrendered the person to that place.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue any further certificate in relation to any request for surrender made by a place if the person surrendered to that place did not receive the minimum guarantees in criminal proceedings under Article 14 of ICCPR.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender made by a place which has not ratified ICCPR.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that: (a) SSAs must contain the provisions which can ensure that the person surrendered to the place which made the request for surrender can examine the prosecution witness during the relevant trial in that place; and (b) CE must not issue further certificates in relation to any request for surrender from that place which cannot fulfill the requirements in (a) above.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender from a place if the judicial system of that place has to act in accordance with the instructions of a political party of that place within five years before the request is made by that place.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that SSAs in respect of a person must contain a written certification issued by a registered medical practitioner employed by the Government or the Hospital Authority to ensure that the health condition of the person to be surrendered is fit for surrender.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that if a registered medical practitioner employed by the Government or the Hospital Authority provides a written certification that the person is not fit for surrender within a certain period of time, CE must set out provisions in SSAs that the arrangements must not come into effect before the expiry of that period specified in the written certification.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE may only issue a certificate in relation to a request for surrender made by a place which has acceded to, succeeded to or ratified ICCPR or is a common law jurisdiction.	

Member	Gist of amendments	Amendment(s)
Hon CHAN Chi-chuen (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request for surrender made by a place if, within five year before the request was made, that place did not try any person publicly for more than one year after that person was arrested in that place.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon Kenneth LEUNG (1 amendment)	To amend clause 4 to stipulate that: (a) CE must submit a certificate and the annexed SSAs to a standing committee of LegCo within two days beginning from the date of issuance of the certificate; (b) the standing committee may repeal, by resolution, the certificate and the annexed SSAs within three days beginning from the date of submission of the certificate issued; and (c) if the certificate and the annexed SSAs are repealed, the certificate becomes null and void and the relevant SSAs cease to exist.	
Hon Andrew WAN (1 amendment)	To delete clause 4 on SSAs	
Hon Andrew WAN (1 amendment)	To delete clause 7 on applicability of offences described in Schedule 1 to FOO to SSAs.	
Hon Andrew WAN (1 amendment)	To amend clause 4 to stipulate that CE must not issue a certificate in relation to a request made by a prescribed place for surrender of a person, if the place cannot provide proof that the person will not be subjected to inhuman treatment during arrest, detention and trial under the jurisdiction of the place.	
Hon Andrew WAN (1 amendment)	To amend clause 4 to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender unless the appropriate authority is satisfied that the surrender of the person will be compatible with the basic rights protected by the Basic Law; and (b) provide the definition of “appropriate authority”.	
Hon Andrew WAN (1 amendment)	To amend clause 4 to: (a) stipulate that, if there are SSAs in respect of a person from the Supreme People’s Court of PRC or the Supreme People’s Procuratorate of PRC and the relevant offence to which SAAs relate was committed in places outside Mainland, the person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender, if the appropriate authority is satisfied that the person not only has right of abode in Mainland at the time when the relevant SSAs are made; and (b) provide the definition of “appropriate authority”.	

Member	Gist of amendments	Amendment(s)
Hon Andrew WAN (1 amendment)	To amend clause 4 to stipulate that if there are SSAs in respect of a person from the Supreme People's Court of PRC or the Supreme People's Procuratorate of PRC and the relevant offence was committed outside Mainland, CE must not issue a certificate in relation to a request for surrender of the person unless the person only has right of abode in Mainland at the time when the relevant SSA was made.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon Andrew WAN (1 amendment)	To amend clause 4 to stipulate that a relevant offence in relation to SSAs must be an offence committed in Mainland if there are SSAs from the Supreme People's Court of PRC or the Supreme People's Procuratorate of PRC.	
Hon WU Chi-wai (1 amendment)	To amend clause 4 to stipulate that if a prescribed place has not ratified or acceded to ICCPR and taken measures to implement the rights therein when a request for surrender is made by the prescribed place, CE must not issue the certificate in relation to the request.	
Hon WU Chi-wai (1 amendment)	To add a new clause on additional restrictions on SSAs after the proposed section 3A to: (a) stipulate that a person must not be surrendered to a prescribed place or committed to or kept in custody for the purposes of such surrender if the appropriate authority is satisfied that the person was not present when the offence was committed; and (b) provide the definition of "appropriate authority".	
Hon WU Chi-wai (1 amendment)	To amend clause 4 to stipulate that any request to surrender of a person to the Mainland of China through SSAs must be made by the Supreme People's Court of PRC, otherwise CE cannot issue a certificate in relation to the request.	
Hon WU Chi-wai (1 amendment)	To amend clause 4 to stipulate that if the offence in respect of which a request for surrender is sought by a prescribed place is an offence of obstruction of freedom of artistic expression and creativity character, irrespective of how it is described in the prescribed arrangement concerned, CE must not issue a certificate in relation to the request.	
Hon AU Nok-hin (1 amendment)	To delete clause 4 on SSAs.	

(E) 13 amendments : Proceedings for committal and authentication of documents

Member	Gist of amendments	Amendment(s)
Hon Dennis KWOK (1 amendment)	To amend clause 4 to stipulate that a certificate issued by or under the authority of CE in relation to SSAs is subject to authentication by the court of committal.	LC Paper No. <u>CB(3) 678/18-19</u>

Member	Gist of amendments	Amendment(s)
Hon Dennis KWOK (1 amendment)	To amend clause 5 to stipulate that section 10(5) of FOO does not apply to a person arrested pursuant to SSAs.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon Dennis KWOK (1 amendment)	To amend clause 6 to provide that a person whose surrender was requested pursuant to SSAs may apply to the court to cross-examine a witness who gave evidence in support of the request, and the court must deal with such applications as it thinks fit and in accordance with the need to ensure fairness to the applicant.	
Hon Dennis KWOK (1 amendment)	To amend clause 6 to provide that the evidence presented in any proceedings pursuant to SSAs must be admissible evidence according to Hong Kong law.	
Dr Hon Fernando CHEUNG (2 amendments)	To delete clause 6 on amendment relating to authentication of documents.	
	In view of Dr CHEUNG's deletion of clause 6, to amend the long title.	
Dr Hon CHENG Chung-tai (1 amendment)	To delete clause 5 on amendment relating to proceedings for committal.	
Dr Hon CHENG Chung-tai (1 amendment)	To delete clause 6 on amendment relating to authentication of documents.	
Hon Gary FAN (1 amendment)	To delete clause 6 on amendment relating to authentication of documents.	
Hon Alvin YEUNG (2 amendments)	To delete clause 6 on amendment relating to authentication of documents.	
	In view of Mr YEUNG's deletion of clause 6, to amend the long title.	
Hon Kenneth LEUNG (2 amendments)	To delete clause 6 on amendment relating to authentication of documents.	
	In view of Mr LEUNG's deletion of clause 6, to amend the long title.	

(F) 19 amendments : Definition and scope of application of MLA arrangements

Member	Gist of amendments	Amendment(s)
Hon James TO (1 amendment)	To amend clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of Mainland or Macau of PRC, and Mainland or Macau of PRC.	LC Paper No. <u>CB(3) 678/18-19</u>
Dr Hon Helena WONG (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, and any other part of PRC.	
Dr Hon Fernando CHEUNG (1 amendment)	To amend clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of Macau, Mainland and Macau.	
Hon Charles MOK (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, and any other part of PRC.	
Dr Hon CHENG Chung-tai (1 amendment)	To amend clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of Macau, the Mainland of China and Macau.	
Hon Gary FAN (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, and any other part of PRC.	
Hon Gary FAN (1 amendment)	To delete clause 9 to the effect that the exception for other parts of PRC for MLA arrangements will remain unchanged.	
Hon Gary FAN (1 amendment)	To delete clause 10 on amendment relating to requests for assistance to Hong Kong.	
Prof Hon Joseph LEE (1 amendment)	To amend clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of Macau, the Mainland of China and Macau.	
Dr Hon KWOK Ka-ki (1 amendment)	To amend clause 8 to the effect that MLA arrangements are applicable to Taiwan.	
Hon Jeremy TAM (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, and any other part of PRC.	
Hon Jeremy TAM (1 amendment)	To delete clause 9 to the effect that the exception for other parts of PRC for MLA arrangements remains unchanged.	
Hon Jeremy TAM (1 amendment)	In view of Mr TAM's amendments to clauses 8 and/or 9, to make corresponding amendment to the long title.	
Hon CHAN Chi-chuen (1 amendment)	To amend clause 8 to provide that MLA arrangements are not applicable to a place or the government of a place which has not acceded to, succeeded to or ratified ICCPR and is not a common law jurisdiction.	
Hon Claudia MO (1 amendment)	To amend clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of Macau, the Mainland of China and Macau.	

Member	Gist of amendments	Amendment(s)
Hon WU Chi-wai (1 amendment)	To delete clause 10 on amendment relating to requests for assistance to Hong Kong.	LC Paper No. <u>CB(3) 678/18-19</u>
Hon AU Nok-hin (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, or any other part of PRC.	
Hon CHU Hoi-dick (1 amendment)	To delete clause 8 to the effect that MLA arrangements are not applicable to the Central People's Government, the government of any other part of PRC, and any other part of PRC.	
Hon CHU Hoi-dick (1 amendment)	To delete clause 9 to the effect that the exception for other parts of PRC for MLA arrangements will remain unchanged.	