

關於遣送離境和遞解離境的政策和慣常做法

本摘要載列關於循簡易程序遣送離境、根據遣送離境令遣送離境，以及根據遞解離境令遞解離境的政策和慣常做法。

循簡易程序遣送離境

2. 根據《入境條例》(第 115 章)第 18(1)(a)條，入境事務主任或入境事務助理員可以把根據該條例第 11(1)條被拒入境的人遣送離境。這項條文使當局可以透過一個快速的機制，把在街上截獲的非法入境者，以及在各管制站被拒入境的旅客遣送離境。

非法入境者

3. 當局拘捕非法入境者後，會根據《入境條例》第 26 條把他羈留，以便進行研訊。非法入境者一經被羈留，當局會立即告訴他是根據哪一項條文把他羈留，以及他被羈留的原因。有關通知書的副本見附件 A。

4. 在根據第 26 條會見該非法入境者前，當局會向有關的非法入境者發出一份名為“給在羈留人士或正接受入境事務處調查人士”的通告，告訴他可享有多項權利(根據《入境(羈留地點)令》第 3B 段)，包括致電親友、聯絡律師，以及要求獲得香港律師會的律師名單。有

關通告的副本見附件 **B**。這些通告亦會張貼於所有接見室和羈留室的當眼位置。

5. 進行會見旨在確定：

- a) 該人是否《入境條例》第 7 條所指，未獲入境事務主任或入境事務助理員准許便不得在香港入境的人(換句話說，是要確定他並不享有居港權或憑藉該條例第 2AAA 條享有香港入境權)；
- b) 該人是否違反第 38(1)條的規定，在無合法准許下在香港入境；
- c) 他的入境方式(供統計用)；以及
- d) 是否有任何原因或人道理由不把他遣送離境。

被警方送到新屋嶺以便遣返的非法入境者，通常都是沒有法定權利或充分人道理由不被遣送離境的人。至於已在港逗留超過兩個月而不能即時遣送離境的，會被送到入境處域多利中心，以便發出遣送離境令遣送離境。當局會要求他們作出聲明，表明是否自願離港。有關聲明書副本見附件 **C**。

6. 就那些可根據簡易程序遣送離境的人士，當局查核記錄及確定有關人士是非法入境者，並不享有居港權或具有充分人道理由逗留後，會向他發出“拒予入境通知書”(副本見附件 **D**)，告訴他當局已

根據第 11 條拒絕他入境，以及根據第 32(1)條把他羈留以等候遣送離境。

被拒入境的旅客

7. 抵港旅客如果因某種原因被拒入境，亦會獲發上文第 6 段所述的拒予入境通知書。如果須把該名旅客羈留以等候訊問或遣送離境，當局會向他發出“被羈留人士通知書”(見附件 E)，告訴他可享有多項權利，包括致電大律師、律師或親屬。上文第 4 段所述的通告亦會張貼於所有接見室和羈留室的當眼位置。被拒入境的旅客通常會被遣送乘搭第一班可使用的航機離境。

根據遣送離境令遣送離境

8. 《入境條例》第 18(2)條規定，某人如果從入境當日起計已經入境滿兩個月，當局便不可根據第(1)(a)節把他遣送離境。這項規定適用於非法入境者和被拒入境的旅客。

9. 第 19(1)(b)條規定，處長可以向某人發出遣送離境令，着令他離開香港，只要處長認為該人：

a) 如非第 18(2)條規定的時限已過，理應已根據第 18(1)條被遣送離港；或

b) 已在香港非法入境，或正違反或已經違反向他施加的逗留條件；或

- c) 並不享有居港權而亦未憑藉第 2AAA 條享有香港入境權，但已違反第 42 條的規定；或
- d) 是第 7(2)條所指，倘無入境事務主任或入境事務助理員的准許不得留在香港，而該人卻在未獲准許的情況下留在香港。

10. 當局可以根據第 26 條把某人羈留，以便就發出遣送離境令進行研訊，或在發出該令後把他羈留。當局會向他發出第 3 段所述的通知書，列明他被羈留的原因及當局是根據哪項條文把他羈留，以及向他發出第 4 段所述的“給在羈留人士或正接受入境事務處調查人士通告”。

11. 至於當局根據《入境條例》第 19(1)條發出遣送離境令的人，第 19(5)條訂明，入境事務處處長須盡快向他發出通知書，告訴他：

- a) 發出該令的理由；以及
- b) 如果他希望提出上訴，必須在接獲該令的通知書後 24 小時內，向入境事務主任或入境事務助理員發出通知書，列明上訴理由及所憑藉的事實。

“遣送離境令及上訴權利通知書” 副本載於**附件 F**，“上訴反對遣送離境令通知書” 副本則載於**附件 G**。

遞解離境

12. 第 20(1)(a)條規定，如果某入境者在香港被裁定觸犯可以判處不少於兩年監禁刑罰的罪行，則行政長官可以向他發出遞解離境令。

13. 自一九九三年十二月起，保安局局長已獲授權根據第 20(1)(a)條發出遞解離境令。

14. 入境事務處處長如果正考慮提請保安局局長根據《入境條例》第 20(1)(a)條向某人發出遞解離境令，當局會向該人發出“考慮遞解離境通知書”(樣本見附件 **H**)，告訴他這個意圖和理由、遞解離境令的效力，以及如果他希望提交呈請，可以這樣做等。遞解離境研訊進行時，將會被遞解離境者通常正在監獄服刑，他與親屬和律師聯絡的權利，會受到有關的監獄規則保障。

保安局

二零零零年一月十二日

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，須由屬地入境事務主任或以上職級的入境事務人員，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 :

本人已將此鑄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 _____ 省 _____ 出生，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。

簽名：_____

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.

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，以下列方式接載或安排該人離港：

*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)

* 請不應用舊制。 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——給當局保留

Triplicate—Blue—for retention in Control Section.

L.D. 122 (9/97)

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 - 被羈留人士惹見

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:

被編留人士簽署：

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
 請注意入境事務處助理處長已於一九 年 月 日按照入境條例
 Director of Immigration has on the days of 19 made a removal order
 第十九條第(1)款(b)段(ii)節的規定，向你發出遣送離境令，理由為你
 against you on the grounds that you

- (i) have landed in the Hong Kong Special Administrative Region unlawfully
- (i) 非法進入香港特別行政區
- (ii) are contravening/have contravened a condition of stay
- (ii) 正違犯/已違犯居留條件

The Assistant Director of Immigration has also authorised your detention in custody pending your
 入境事務處助理處長並已授權將你拘留，等候將你遣離香港特別行政區送往 中國內地
 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
 又請注意，根據入境條例第五十三 A 條的規定，你可向入境事務審裁處提出上訴，反對
 Immigration Ordinance against the decision to make the removal order. If you wish to appeal you must
 須要遣送離境令的決定。如你想提出上訴，必須在接到本通知書二十四小時內
 do so by giving to an immigration officer or an immigration assistant written notice of your grounds of appeal
 (即在 年 月 日 * 上午/下午 時 分之前) 用書面通知入
 and the facts upon which you rely within twenty four hours of receiving this Notice (that is by
 境事務主任或入境事務助理員，列明上訴理由及事實根據。
 on).

A form for your use in setting out your appeal is attached. An officer of the Correctional Services
 現隨本信附上上訴表格壹份。你可請來應教署人員協助填寫該表格。
 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

() (代印)

* Delete whichever is inappropriate

將不適宜者劃去

SF/TM 2162

(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)

Annex G

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

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

圖文傳真 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/imm/>



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

Immigration Department

The Government of the Hong Kong

Special Administrative Region

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

Notice of Consideration of Deportation

Imm. Ref.

Name

Sex

Date of Birth

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 :

Date

Offence(s)

Sentence(s)

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

香港灣仔告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 : _____
(_____)

13-JAN-2000 11:24

FROM SECURITY BUREAU(C DIU)

TO 25099055

P.20/20

Grounds Against Deportation

Imm Ref. :RBPD

Date of birth:

Sex :

Name: _____

Please state your grounds against deportation

Signed : _____

Date : _____

Time : _____