

LCQ3: Government's efforts in explaining Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019

Following is a question by the Dr Hon Fernando Cheung and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 5):

Question:

On the 15th of last month, the Director of the Hong Kong and Macao Affairs Office (HKMAO) of the State Council said that the work of the Special Administrative Region (SAR) Government on amending "two pieces" of ordinances regarding the transfer of fugitive offenders was necessary, appropriate, reasonable and lawful, and the worries about it were unwarranted. On the 17th of last month, the Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office) met with dozens of Hong Kong deputies to the National People's Congress and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, notifying them that the Central Authorities supported the SAR Government's effort to amend the ordinances in accordance with the law, and requesting them to support the SAR Government in accomplishing its work on amending the ordinances. On the 21st of last month, a Vice-Premier of the State Council said that the SAR Government's amending the ordinances was constitutional and a manifestation of the rule of law, and that the Central Authorities fully supported the work of amending the ordinances. On the same day, the Chief Executive (CE) said that both HKMAO and the Liaison Office had expressed their stances on amending the ordinances because external forces were intervening, and the issues concerning the amendment of the ordinances had been elevated to the level of "one country, two systems". In this connection, will the Government inform this Council:

(1) whether the expression of views by the foreign governments in respect of the personal safety of their nationals in Hong Kong is tantamount to an intervention by external forces referred to by CE; if so, of the justifications for that, and whether it has assessed if CE's remarks have seriously undermined the status of Hong Kong as an international financial centre; if it has assessed and the outcome is in the affirmative, of the remedial measures; if the assessment outcome is in the negative, the justifications for that;

(2) of the details of the Government's efforts in explaining the amendment of the ordinances to representatives of foreign chambers of commerce and foreign

government officials and listening to their views (including the number and dates of meetings, as well as the names of the chambers of commerce and the post titles of the foreign government officials); if the targets to which the explanations were given did not include foreign government officials, of the reasons for that; and

(3) as Article 22 of the Basic Law provides that "[n]o department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law...", whether it has assessed if Mainland officials' expression of the aforesaid stances constituted a violation of the provision; if it has assessed and the outcome is in the affirmative, how the Government will pursue the matter; if the assessment outcome is in the negative, of the justifications for that?

Reply:

President,

Surrender of fugitive offenders (SFO) is an international consensus to co-operate on combating organised and cross-boundary crimes. The existing Fugitive Offenders Ordinance (FOO) (Cap 503) has drawn reference from the United Nation's Model Treaty on Extradition and is in line with the common international practice. It has in place adequate human rights and legal procedural safeguards, which balance the needs to apprehend fugitive offenders and protect human rights. The subject persons have the right to appeal, apply for habeas corpus and appeal to the Court of Final Appeal; and can also apply for a judicial review of any decision and procedure and appeal to the Court of Final Appeal.

The Hong Kong Special Administrative Region (HKSAR) Government proposes to amend the FOO and the Mutual Legal Assistance in Criminal Matters Ordinance (MLAO) (Cap 525), and the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the Bill) was submitted to the Legislative Council (LegCo) on April 3, 2019. The objectives are to form a legal basis on which the HKSAR Government can make necessary preparation for bringing the suspect of the Taiwan homicide case happened in early 2018 to face due legal sanction; and, at the same time, to plug the loopholes in the existing regimes of SFO and mutual legal assistance in criminal matters, including the geographical restrictions and some impractical operational procedures therein.

My consolidated reply to the three parts of Dr Hon Fernando Cheung's question is as follows:

Some jurisdictions in the international community have expressed concerns over the amendment of FOO by the HKSAR Government. We realise that more explanations of the Bill will help people better understand its provisions, objectives and safeguards. The Bill targets fugitive offenders of serious crimes, definitely not ordinary people who are law-abiding. The case-

based surrender proposed by the Bill helps to ensure that offenders of serious crimes punishable with imprisonment for seven years or more cannot elude liability by taking advantage of a legal vacuum while protecting the safety of the general public and the community. The legislative amendments proposed, if passed, will protect the whole society (including business activities) from the threat of offenders. It also had positive effect on and is necessary for the performance of international obligation in maintaining public security and combating serious crimes.

Some places which have entered into a long-term SFO agreement with Hong Kong expressed concerns about whether amending FOO would affect the current long-term agreement. I would like to point out clearly that the proposed amendments will not affect the existing long-term SFO arrangements already in place between Hong Kong and other jurisdictions, nor will it affect the long-term arrangements to be signed between Hong Kong and other jurisdictions in the future. Case-based surrender arrangements only apply to jurisdictions which have not entered into a long-term SFO agreement with Hong Kong. Case-based surrender is only a supplementary measure before long-term co-operation arrangements come into effect and will be adopted only when an applicable long-term agreement is not available. Entering into long-term agreements with other jurisdictions remains our major and principal policy objective. Jurisdictions with a long-term agreement will not and cannot make any case-based surrender arrangements.

The HKSAR Government attaches importance to the views of all social sectors. In respect of the public, since consulting with the LegCo Panel on Security on February 15, the Government team comprising different Principal Officials has kept explaining the proposed legislative amendments to various sectors and listening to their views, and elaborated on the proposal to the public many times through different means. Without stopping their efforts, the Principal Officials met with different sectors and local communities on numerous occasions to have face-to-face dialogues and exchanges. In respect of organisations, the Government has also worked hard on providing extensive explanations.

As at end-May, the Security Bureau and other policy bureaux of the HKSAR Government have met with more than 50 organisations regarding the proposed legislative amendments. In March, the Secretary for Security had a meeting with the European Union Office to Hong Kong and Macao and the related Consuls-General or their representatives at the Central Government Offices for the purpose of briefing and explaining on the aim and contents of the Bill. In March and April, meetings were held with Consuls-General of some countries with a long-term agreement in place for the same purpose. During the meetings, the Secretary for Security stressed that the Bill would not affect long-term agreements already signed and to be signed, and that case-based surrender would not be applicable to jurisdictions with a long-term agreement. The Bill sought only the removal of the geographical restrictions for case-based surrender and the activation of surrender by a certificate issued by the Chief Executive (CE), while fully maintaining the legal regime, court procedures and human rights safeguards. Additional limitations might also be imposed. Furthermore, the Government team attended meetings of the

LegCo Panel on Security for a total of 20 hours on five consecutive days in the recent week to discuss the policy objective and contents of the Bill and respond to Members' questions, so that the Government team could explain more about the Bill's contents.

Regarding the remarks made by the Central Government on the amendments to F00 and MLA0, as pointed out by CE earlier, the HKSAR Government has assumed the leading role in and been responsible for taking forward the legislative amendments all along. Under the provisions of the Basic Law, CE, being the head of the HKSAR, is accountable to the Central People's Government and the HKSAR. CE has reflected the concerns of Hong Kong's society on the legislative amendments to the Central Authorities. Regarding the need to take further measures to allay public concerns, the Central Authorities have expressed understanding and respect and support the HKSAR Government's various Mainland-related measures for enhancing protection, hoping that the HKSAR Government's consolidated response can promote rational discussions in the local community and ease worries. Besides, there have been many views in society about the Central Authorities and the HKSAR as well as "one country, two systems". The Basic Law is the law for implementing "one country, two systems". As such, it is fairly normal for the Central Government to speak on the legislative amendments.

Thank you, President.

Effective Exchange Rate Index

The effective exchange rate index for the Hong Kong dollar on Wednesday, June 5, 2019 is 105.2 (same as yesterday's index).

LCQ16: Monitoring financial situation of airlines

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (June 5):

Question:

It is learnt that since December last year, there has been a spate of personnel changes to the board of directors of and financial difficulties

encountered by the Hong Kong Airlines Limited (HKA). Since then, the Air Transport Licensing Authority (ATLA) has requested, on several occasions and under the law, HKA to give an account of the situation and report the progress in a timely manner. In this connection, will the Government inform this Council:

(1) as ATLA has requested HKA, on a number of occasions, to give an account of its financial situation and submit a specific plan for improving its financial situation in the short run, whether it knows if ATLA will make public HKA's replies; if ATLA will not, whether ATLA can disclose the causes for the financial difficulties encountered by HKA, as well as the specific solutions;

(2) whether it knows, on each occasion after HKA had given an account, the mechanism based on which ATLA determined if there was a need to take further actions; and

(3) as it is reported that recently, some management staff members of HKA have resigned, and an accounting firm which served as its auditor has also resigned, whether it knows if ATLA (i) has assessed whether those incidents will affect the operations of HKA, its passengers and flight services, and (ii) will request HKA to give an account to ATLA in this regard?

Reply:

President,

The Air Transport Licensing Authority (ATLA) is an independent statutory body set up under the Air Transport (Licensing of Air Services) Regulations (Cap. 448 Subsidiary Legislation A) (the Regulations). ATLA is responsible for considering licence applications to operate scheduled air services, and at the same time monitors and reviews the financial situation of licence holders (viz. airlines) on a continuous basis.

Our reply to the various parts of the Hon Kenneth Leung's question is as follows:

(1) As stated in ATLA's press releases issued in the past with regard to the financial situation of the Hong Kong Airlines Limited (HKA), ATLA is highly concerned about the financial situation of HKA. In accordance with the Regulations, ATLA requested HKA to submit a concrete plan for improving its financial situation shortly and, in light of the latest developments, continues to request for clarifications and supplementary information from HKA for ATLA's review. ATLA will take appropriate actions as and when necessary in accordance with the Regulations, and will make public the particulars of its decisions as appropriate pursuant to the Regulations.

As the financial information submitted to ATLA by HKA is subject to the confidentiality requirement under regulation 28(2) of the Regulations, ATLA is unable to disclose the details in this regard. According to information that HKA has announced to the public, the airline is making adjustments to its business strategy, and is implementing a series of changes to its fleet

and operation in order to cope with the changes in the market and operating environment. These include scaling down its long-haul flight services to and from North America during certain periods, deferring the introduction of Airbus A350 and A330 planes, offering its pilots with opportunities of transferring to other airlines, and launching a voluntary separation scheme.

(2) According to the Regulations, if the holder of a licence is a body corporate, it must provide its annual audited financial statements for scrutiny by ATLA. If necessary, ATLA may, under regulation 15D of the Regulations, at any time require the holder of a licence to provide other relevant information for ATLA to assess its financial situation in detail.

Regulation 15E of the Regulations stipulates that on an assessment of the financial situation of the holder of a licence under regulation 15D, if ATLA is no longer satisfied that the holder of a licence concerned is able to meet at any time its actual and potential obligations for a period of 12 months beginning on the date of the assessment; or insolvency or similar proceedings are commenced against the holder; or the holder is wound up voluntarily, ATLA may suspend or revoke the licence, attach any new conditions to the licence, or vary any existing conditions of the licence.

ATLA will consider the actual circumstances of individual cases and make appropriate decisions in respect of the licences issued by ATLA in accordance with the Regulations.

(3) As understood, ATLA is aware of the recent key changes in HKA's management team. HKA has provided written assurance to ATLA that its daily operation has not been and will not be affected by the changes in its management team. ATLA has also been following up on the annual audited financial statements that HKA is required to submit under the Regulations and relevant matters. ATLA has been and will continue monitoring the situation of HKA closely in accordance with the Regulations.

LCQ5: Healthcare services for Hong Kong people living in Greater Bay Area

Following is a question by the Hon Chan Han-pan and a reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 5):

Question:

It is learnt that in recent years, quite a number of Hong Kong people have moved to live in the Mainland cities within the Guangdong-Hong Kong-Macao Greater Bay Area (Bay Area). As the healthcare protection regime on the Mainland does not cover Hong Kong people, quite a number of such Hong Kong

people have opted for returning to Hong Kong to seek medical treatment. Among them, some need to be transferred by Mainland ambulances to a Port and then, after crossing the boundary, by a Hong Kong ambulance to a nearby public hospital. As this transfer process is indirect and time-consuming, the conditions of the patients may be aggravated as a result. In this connection, will the Government inform this Council:

(1) whether it knows the number of cases, in each of the past three years, in which non-emergency and non-critically ill Hong Kong people were transferred by an ambulance from an immigration control point to a public hospital and, among such cases, the number of those in which the conditions of the patients were aggravated during the transfer; whether it will discuss with the University of Hong Kong-Shenzhen Hospital (HKU-SZ Hospital) the deployment of ambulances by the Hospital to provide cross-boundary direct transfer of Hong Kong people to public hospitals for treatment;

(2) whether it will open up the electronic health record sharing system for use by HKU-SZ Hospital and, in future, other mainland hospitals recognised by Hong Kong, so as to facilitate Hong Kong people living on the Mainland to seek medical treatment in such hospitals; if so, of the details and timetable; if not, the reasons for that; and

(3) whether it will extend the scope of application of the elderly health care vouchers to cover hospitals of Tier 3 Class A in the Bay Area; if so, of the details and implementation timetable; if not, the reasons for that?

Reply:

President,

The Government of the Hong Kong Special Administrative Region maintains liaison with the relevant institutions in the Greater Bay Area and takes account of the views of members of the public, and provides suitable health-related measures for Hong Kong people working and living in the Greater Bay Area where appropriate.

My reply to the three parts of the question is as follows:

(1) According to the information provided by the Security Bureau, under normal circumstances, upon receipt of a call for emergency ambulance services, the Fire Services Department (FSD) will dispatch ambulance(s) in accordance with the established arrangements to transport patient(s) from the Hong Kong ports of land control points to a nearby Accident and Emergency Department under the Hospital Authority to receive the services required. The number of calls for emergency ambulance services handled by FSD at the Hong Kong ports of various land control points averaged about 6 200 per year over the past three years. FSD did not keep separate statistics on whether the patients concerned were non-critical Hong Kong patients or whether they were transferred from the Mainland to Hong Kong.

If Hong Kong residents choose to return to Hong Kong for treatment or

recuperation, we in principle support cross-boundary transfer of non-critical Hong Kong patients with stable conditions using ordinary passenger vehicles by designated institutions in the Greater Bay Area, and the application of necessary licences from the governments of Hong Kong and Guangdong, without needing to use ambulances for the transfer.

(2) According to the Electronic Health Record Sharing System Ordinance (Cap. 625) (the Ordinance), healthcare providers (HCPs) (such as hospitals or clinics) joining the Electronic Health Record Sharing System (eHRSS) must provide healthcare at one or more service locations in Hong Kong. After joining the eHRSS, HCPs can open accounts for their healthcare professionals so that they, with the consent of healthcare recipients (patients) and for the purpose of providing healthcare, can access and share the patients' electronic health records on the eHRSS, in accordance with the "need-to-know" principle. According to the Ordinance, only the 13 types of healthcare professionals specified in the Schedule to the Ordinance, who are registered under the relevant local laws, can access patients' health data on the eHRSS. As regards patients who join the eHRSS, they should have received, be receiving, or be likely to receive healthcare performed in Hong Kong. According to the above requirements, if a medical institution does not have any service locations in Hong Kong, it is not eligible for registration as an HCP under the eHRSS. If a patient has never received or has no plans to receive healthcare performed in Hong Kong, he/she also should not join the eHRSS.

We have adopted more stringent arrangements and measures on the participation and use of the eHRSS with a view to protecting patient privacy, security of the eHRSS and integrity of records. Like other Hong Kong laws, the Ordinance cannot be enforced in places outside of Hong Kong. We are concerned that if there are cases where the HCP(s) or healthcare professional(s) do not abide by the legislation and requirements in relation to the eHRSS, and they do not have operations or are not registered in Hong Kong, it would be very difficult for the Government to follow-up. In view of the above considerations, the Government has no plans at this stage to allow HCPs without operations in Hong Kong or healthcare professionals who are not registered in Hong Kong to join or use the eHRSS.

(3) The Department of Health (DH) collaborated with the University of Hong Kong – Shenzhen Hospital (HKU-SZH) to launch a Pilot Scheme in October 2015 to allow eligible Hong Kong elders to use Elderly Health Care Vouchers to pay for designated outpatient services at the HKU-SZH. We noted from a survey conducted by HKU-SZH last October, which successfully interviewed some 380 Hong Kong elders, 92 per cent indicated that they were satisfied or very satisfied with the services received at HKU-SZH paid for by the vouchers. The DH completed a review of the Elderly Health Care Voucher Scheme earlier this year. Considering the smooth operation and popularity of the Pilot Scheme, the Government will regularise it on June 26, 2019 so as to provide greater certainty for Hong Kong elders to continue using the vouchers at HKU-SZH.

We have considered whether there are suitable medical institutions for

extending the use of vouchers in the Greater Bay Area. In addition to the quality of healthcare, we also need to consider the clinical governance structure, administrative procedures, financial arrangement, operating environment and employee skills of the institution concerned, as well as the views of other stakeholders (including healthcare professionals and patients in Hong Kong). We are also particularly concerned about how to monitor voucher use. Since the relevant laws and codes of practice of Hong Kong are not applicable to medical institutions and healthcare professionals in places outside of Hong Kong, if there is non-compliance with the requirements of the Elderly Health Care Voucher Scheme and the institution(s) or individual(s) concerned have no connection with Hong Kong, it would be very difficult for the DH to follow-up and assist the elders. At this stage, the Government has no concrete arrangements in relation to further extending the use of vouchers in the Greater Bay Area.

Employers and employees should take precautions against heat stroke

As the Hong Kong Observatory has issued the Very Hot Weather Warning, the Labour Department (LD) reminds employers and employees to take appropriate precautions to prevent heat stroke when working in a hot or humid environment.

Heat stroke could occur if an employee works in a hot or humid environment for prolonged periods of time, as the body may fail to regulate its temperature by effective heat dissipation through sweating.

Symptoms of heat-related illnesses include feeling thirsty, fatigue, nausea, headache, dizziness, muscle spasm and even confusion, loss of consciousness and convulsion in severe cases.

For example, construction workers, cleaning workers, kitchen workers and porters are more prone to heat stroke as they may be working for long hours in such an environment, especially if appropriate preventive measures have not been taken.

The LD reminds employers to arrange for a suitable assessment of the risk of heat stress in the work environment and take appropriate preventive measures. The LD has produced two leaflets entitled "Checklist for Heat Stress Assessment at Construction Sites" and "Checklist for Heat Stress Assessment at Outdoor Cleansing Workplaces" respectively. Employers engaged in construction or outdoor cleaning work are advised to refer to these checklists in assessing the risk of heat stress at their workplaces. As for heat stress assessment at a workplace in general, employers can refer to a booklet entitled "Risk Assessment for the Prevention of Heat Stroke at Work"

published by the LD.

The LD also reminds employers and employees to take the following precautions to prevent heat stroke:

Employers

- (1) Take heed of the weather report and adopt shift work arrangements for employees to reduce their exposure to the hot environment, or arrange appropriate rest breaks for them during very hot periods;
- (2) Avoid working under direct sunlight and set up temporary sunshade wherever possible;
- (3) Provide cool potable water for employees at all times during work. If necessary, provide drinks containing minerals for employees to replenish loss of electrolytes during profuse sweating;
- (4) Minimise physical demands by using tools or mechanical aids at work;
- (5) Increase air flow by enhancing ventilation or air-conditioning as appropriate;
- (6) Isolate heat-generating facilities at the workplace and use insulating materials to minimise heat dissipation to the other work areas; and
- (7) Provide relevant information and training for employees on heat stroke such as preventive measures and first aid treatment.

Employees

- (1) Wear clothing made of suitable materials (for example, cotton) that is loose-fitting and light-coloured to help heat dissipation, minimise heat absorption and allow sweat evaporation;
- (2) Wear a wide-brimmed hat when working outdoors;
- (3) Drink plenty of water or other appropriate beverages to replenish the fluids and electrolytes lost through sweating; and
- (4) Whenever there are any symptoms of heat-related illnesses, inform supervisors and take appropriate actions immediately.

Some employees may have difficulty in adapting to a hot working environment owing to their own health condition. Employers should take this into account and consider the recommendations of their doctors when assigning work to these employees.

In addition to the publications on risk assessment, the LD has produced a leaflet entitled "Prevention of Heat Stroke at Work in a Hot Environment" for the public. The publications can be obtained free of charge from the offices of the Occupational Health Service of the LD, or downloaded from the department's webpage at www.labour.gov.hk/eng/public/content2_9.htm.

The LD organises occupational health talks in public places and at its own training venues regularly to raise employers' and employees' awareness of occupational health. Details of health talks on the prevention of heat stroke at work in a hot environment in June to September are as follows:

(A)

Dates: June 13, July 5, 18 and 29, August 13, 15 and 26, September 5, 17 and 27(am);
June 18 and 26, July 2, 11 and 24, August 5, 20 and 29, September 9 and 24(pm)

Time: Half-day

Venue: Occupational Safety and Health Training Centre of the Labour Department, 13/F, KOLOUR·Tsuen Wan I, 68 Chung On Street, Tsuen Wan, New Territories

(B)

Dates: June 12, July 15 and 26, August 9 and 27

Time: Half-day, morning

Venue: Occupational Safety and Health Centre of the Labour Department, G/F, Kwun Tong Community Health Centre Building, 60 Hip Wo Street, Kwun Tong (MTR Kwun Tong Station Exit A1)

(C)

Date: June 19

Time: 3pm to 4.30pm

Venue: Activity Room I, Hong Kong Central Library, 66 Causeway Road, Causeway Bay, Hong Kong
(Opposite Victoria Park, MTR Tin Hau Station Exit B)

(D)

Date: July 24 and August 26

Time: 3pm to 4.30pm

Venue: Lecture Hall, Hong Kong Space Museum, 10 Salisbury Road, Tsim Sha Tsui, Kowloon (MTR Tsim Sha Tsui Station Exit E)

For enrolment or enquiries about these occupational health talks, please call 2852 4040 or 2361 8240 (for talks organised at the Occupational Safety and Health Centre). Moreover, the LD also provides an outreach health education service and occupational health nurses will, on invitation, disseminate occupational health information at workplaces at a convenient time. Please contact the nursing officer at 2852 4062 for details. All these health talks are free of charge.