

Immigration (Treatment of Detainees) (Amendment) Order 2023 to be gazetted on Friday

A spokesperson for the Security Bureau said today (June 21) that the Government will gazette the Immigration (Treatment of Detainees) (Amendment) Order 2023 (the Amendment Order) on Friday (June 23) to strengthen various treatments of immigration detainees at the Castle Peak Bay Immigration Centre (CIC) to further uphold discipline and order.

The CIC is a detention facility managed by the Immigration Department (ImmD) and is mainly used for detaining adult immigration offenders awaiting removal, deportation or final determination of their torture claims in accordance with the Immigration Ordinance (Cap. 115). The treatments of detainees at the CIC are governed by the Immigration (Treatment of Detainees) Order (Cap. 115E) (the Order).

In the past decade, there has been a drastic change in the profile and composition of detainees at the CIC, as well as in the entire landscape of detention. For example, the detainees concerned have a higher propensity to unco-operative behaviour; the number of detainees with criminal background (including serious crimes such as murder, trafficking in dangerous drugs, robbery, burglary, wounding, blackmail and rape) has increased; the indiscipline or unco-operative cases at the CIC are getting more prevalent and complex. All these have posed severe challenges to the ImmD's work in managing the CIC.

The spokesperson said, "In view of the severe challenges in managing the CIC, in addition to the ImmD's efforts on various fronts to enhance the ability to handle emergencies at the CIC, the Government has also reviewed the Order and considered it necessary to make amendments to strengthen various treatments of detainees to further uphold discipline and order at the CIC. When formulating the relevant amendments, we have struck an appropriate balance between the need to maintain proper order and discipline at the CIC, and the fundamental rights and welfare of the detainees."

The amendments under the Amendment Order mainly include: for the purpose of assisting in the detection of drug possession and trafficking among the detainees, empowering the relevant officers at the CIC to conduct body cavity search on a detainee (generally through X-ray scan) where reasonable and necessary in the interests of the discipline of the CIC, and to require a detainee to submit urine specimen for examination and analysis; providing for more comprehensive offences against discipline; increasing the punishment for committing an offence against discipline; and putting in an appeal mechanism against the punishment order.

The Amendment Order will be tabled at the Legislative Council for negative vetting on June 28 and is expected to commence on November 1. In

line with the existing practice, the ImmD will, when using the above proposed powers, consider the individual circumstances of detainees and make reasonable and proportionate arrangements.

Smart Traffic Fund approves three projects

The Transport Department (TD) today (June 21) announced that the ninth batch of three projects has been approved by the Management Committee on Smart Traffic Fund, involving a total grant of around \$12.7 million.

The three approved projects in the latest batch cover key technology for the intelligent collaboration of 5G network connected vehicles, an intelligent information-based transport system, and an artificial intelligence computer vision solution to facilitate commuting for the visually impaired. Details of the projects are available on the Fund's website (www.stf.hkpc.org).

The Fund accepts applications year-round to provide funding support to local organisations and enterprises for conducting research and application of innovation and technology with the objectives of enhancing commuting convenience, enhancing efficiency of the road network or road space, and improving driving safety. All applications are considered and assessed in batches by the Management Committee, which is chaired by the Deputy Commissioner for Transport (Planning and Technical Services) and comprises representatives from the Government, experts in the industry and relevant stakeholders.

The TD appeals to interested organisations and enterprises for participation to help make the Fund a success, and to build Hong Kong into a liveable and sustainable city by driving Hong Kong toward a new era of transportation.

Application details are available on the Fund's website. For enquiries, please contact the Hong Kong Productivity Council, the Secretariat of the Fund, on 2788 5536 or stf_sec@hkpc.org.

LCQ10: Combating crimes of deception

Following is a question by the Hon Starry Lee and a written reply by the

Acting Secretary for Security, Mr Michael Cheuk, in the Legislative Council today (June 21):

Question:

It has been reported that there has been a significant increase in the number of deception cases in Hong Kong in recent years. According to a questionnaire survey conducted by the Democratic Alliance for the Betterment and Progress of Hong Kong, over 30 per cent of the respondents claimed that they received five or more suspected fraudulent messages every week while over 10 per cent of the respondents claimed that they had fallen prey to fraud and suffered losses. There are views that the continual substantial increase in the number of fraud cases has reflected that the current measures are inadequate to fend off the increasingly serious attacks launched by fraudsters. In this connection, will the Government inform this Council:

- (1) of the respective numbers of persons arrested, prosecuted and convicted on suspicion of fraud as well as the penalties imposed on the convicted persons, in each of the past five years, with a breakdown by nature of the fraud cases;
- (2) whether it knows if the Hong Kong Monetary Authority (HKMA) will hold discussions with banks about simplifying the procedure for freezing the money involved in suspicious transactions and more actively examining suspicious accounts suspected to be fraudulent; if the HKMA will, of the details; if not, the reasons for that;
- (3) as it is learnt that the Police have set up different task forces to address various types of fraud cases in a targeted manner, whether the Police will invite representatives of the banking industry to join such task forces with a view to enhancing the procedure for identifying suspicious accounts, thereby raising the chance of thwarting fraudsters' attempts to commit fraud; if so, of the details; if not, the reasons for that;
- (4) whether it will formulate more stringent requirements and guidelines for the Real-name Registration Programme for Subscriber Identification Module (SIM) Cards in order to plug the existing loophole whereby lawbreakers can use false identity card information to register a large number of SIM cards; if so, of the details; if not, the reasons for that;
- (5) whether it will strengthen intelligence exchanges with Mainland and overseas law enforcement agencies with a view to keeping abreast of the latest situation of fraud cases and conducting joint law enforcement operations if necessary; if so, of the details; if not, the reasons for that;
- (6) whether it will, in the light of the frequency, organised nature and seriousness of fraud cases in recent years, collect sufficient information and relay it to the Judiciary, so as to facilitate the court to consider aggravating factors in sentencing and even laying down sentencing guidelines, thereby achieving a deterrent effect; if so, of the details; if not, the reasons for that; and

(7) as the Government indicated in reply to a question raised by a Member of this Council on March 15 this year that the Police planned to organise another "Anti-Deception Month", of the progress and details of the relevant work?

Reply:

President,

Deception is a serious offence. Regardless of how it is committed, stern enforcement actions will be taken as long as there are illegal activities involved. Any person who commits the offence of "fraud" under section 16A of the Theft Ordinance (Cap. 210) is liable to imprisonment for up to 14 years, while any person charged with "obtaining property by deception" under section 17 of the same Ordinance is liable to imprisonment for up to 10 years. In addition, any person charged with "dealing with property known or believed to represent proceeds of indictable offences" under section 25 of the Organized and Serious Crimes Ordinance (Cap. 455) for proceeds of deception is liable to maximum penalties of 14 years' imprisonment and a fine of \$5 million. With the global trend of Internet proliferation, many countries and regions have seen a significant increase in deception cases in recent years. The Police will continue to enhance public awareness and combat all types of deception through stepped-up law enforcement measures, publicity and education, multi-agency co-operation, intelligence analysis and cross-boundary collaboration.

In consultation with the Department of Justice (DoJ), the Commerce and Economic Development Bureau, the Financial Services and the Treasury Bureau, the Judiciary and the Police, the consolidated reply to the Member's question is as follows:

(1) The numbers of persons arrested, prosecuted and convicted and the penalties imposed in relation to deception cases in the past five years are at Annex. We do not have a breakdown of figures by nature of the fraud cases.

(2) and (3) The Hong Kong Monetary Authority (HKMA) is responsible for providing guidance and supervising banks' compliance with legal and regulatory requirements such as those related to bank operation and anti-money laundering, and has worked closely with the Police and the banking industry through public-private partnerships to proactively detect and disrupt deception.

In 2017, the Police, the HKMA, the Independent Commission Against Corruption and the Customs and Excise Department established a financial intelligence exchange platform, namely the Fraud and Money Laundering Intelligence Taskforce (Taskforce). Ten retail banks participated in the Taskforce initially, which will increase to 28 by end-June 2023. Besides holding regular meetings and exchanging intelligence on deception and money laundering activities, the Taskforce provides training to the banking sector on identification of suspicious bank transactions and victims of suspected deception cases. Since the Taskforce's establishment, banks have identified

over 21 000 previously unknown mule accounts through sharing information and applying data analytics, and taken prompt actions in support of law enforcement investigations. In 2022, the number of intelligence-led suspicious transaction reports increased by 319 per cent as compared to 2021, and the amount of criminal proceeds restrained or confiscated increased by 113 per cent.

In addition, in 2017, the Police established the Anti-Deception Coordination Centre (ADCC) that operates in a round-the-clock manner and set up a Stop-Payment Mechanism with the banking sector to render timely assistance to the general public in handling suspected deception cases. With the assistance of banks, the Mechanism successfully intercepted nearly \$1.3 billion in 2022, minimising losses to victims.

The Police have been enhancing and deepening co-operation with the banking sector, and have been working out various new strategies with the HKMA and the banking sector to combat deception activities. These include providing immediate assistance to the Police regarding deception cases, strengthening analysis and exchange of intelligence, enhancing the capability to identify suspicious accounts and to trace and intercept crime proceeds, and taking immediate anti-deception actions in a targeted manner to promptly identify and assist victims, with a view to combatting deception activities and criminal groups more effectively through concerted efforts. The Police are planning to work jointly with the major banks to set up a new platform to render immediate assistance to the Police regarding deception cases.

(4) The Telecommunications (Registration of SIM Cards) Regulation (Cap 106AI) (the Regulation) has stipulated various requirements of the Real-name Registration Programme for SIM Cards (RNR Programme). The Communications Authority has also issued guidelines (Guidelines) to provide specific operational details and requirements of the RNR Programme for telecommunications service providers (telecommunications operators). The Guidelines has mandated that the telecommunications operators should adopt different measures to verify information of the users, including face-to-face registration, making use of optical character recognition to automatically extract information from identity documents, manual verification of information, etc, so as to effectively verify identity documents of users and to ensure that the registration systems comply with the requirements of the Regulation and the Guidelines.

In addition, the Regulation and the Guidelines have stipulated that if a telecommunications operator finds that the registration information of the relevant SIM card is incomplete or irregular, it shall take reasonable steps to request the relevant user to provide further information for verification and rectification if necessary. Otherwise, the SIM card will be deregistered. Since the full implementation of the RNR Programme on February 24 this year, the Office of Communications Authority (OFCA) has been carrying out a series of monitoring and enforcement actions to ensure the effective implementation of the RNR Programme and that telecommunications operators have implemented the RNR Programme in compliance with the law and the Guidelines.

To prevent unlawful use of false information to complete real-name registration for the SIM cards, the OFCA has requested telecommunications operators to continue to enhance the registration platforms taking into account the operational experiences since the implementation of the RNR Programme, and to conduct regular sample checks on the registration information. If the users subject to sample checks are unable to verify the registration information pursuant to the instructions of the respective telecommunications operators, the relevant pre-paid SIM (PPS) cards will be deregistered and cannot be used afterwards. The OFCA will continue to maintain close contact with telecommunications operators. If any suspicious cases are identified, telecommunications operators will promptly refer them to the law enforcement agencies for follow-up actions. In April 2023, the Police carried out an arrest operation with various intelligence, including suspicious cases reported by telecommunications operators, and neutralised a criminal group suspected of using false identity documents to register real name PPS cards online and reselling them to deception syndicates for defrauding. The Police arrested four persons suspected of "conspiracy to use false instruments" and "obtaining property by deception" and seized over 60 000 SIM cards. Two of the persons were charged with "conspiracy to use false instruments" and the other two were released on bail pending further investigation.

Besides the offences mentioned above, anyone who registers and transfers SIM cards for illicit purpose may have committed the offence in relation to "aiders, abettors and accessories" under section 89 of the Criminal Procedure Ordinance (Cap. 221).

The Police will continue to rigorously monitor the situation, maintain close liaison with the OFCA and telecommunications operators and take follow-up and enforcement actions as appropriate.

The OFCA will also continue to conduct market surveillance and publicity activities to enhance public understanding of the requirements of the RNR Programme. Members of the public and traders are reminded to complete the real-name registration with their own identity documents and not to purchase or sell PPS cards from unknown sources in the market or that have allegedly completed registration, so as to protect their own interests and avoid any loss or criminal liability.

(5) Deception cases and technology crimes are usually of cross-territorial nature, for example, involving overseas criminal syndicates or with payment transferred overseas. Through a close police co-operation mechanism, the Police Force has been sharing with overseas law enforcement agencies the latest *modi operandi* and information about crimes, so as to enable them to take prompt corresponding and law enforcement actions. To strengthen intelligence exchange with the International Criminal Police Organisation (INTERPOL) and law enforcement agencies of other countries in combating various cross-border crimes, including deception cases and technology crimes, the Police has seconded a Superintendent to the INTERPOL General Secretariat in Lyon, France, as well as one Superintendent and one Chief Inspector to the INTERPOL Global Complex for Innovation in Singapore.

Moreover, the ADCC has built up collaborations with the Mainland and overseas law enforcement agencies in intercepting crime proceeds. To further enhance the capability, the ADCC established the International Stop-Payment Mechanism with the "Financial Crimes Unit" of the INTERPOL in October 2019 to enable most member states to make mutual stop-payment requests, thereby facilitating the police forces across the world to combat cross-border deception cases more effectively.

The Police will continue to strengthen liaison and intelligence exchange with law enforcement agencies across the world so as to combat various types of fraud cases more effectively.

(6) Regarding the sentencing of deception cases, the prosecution will consider the circumstances of the case, including the nature, gravity and prevalence of the offence involved, and decide whether to furnish information to the Court of First Instance or the District Court under section 27 of the Organized and Serious Crimes Ordinance (Cap. 455) to prove the prevalence of the offence, the nature and extent of any benefit accrued or intended to accrue, directly or indirectly, by the defendant from the act, the nature and extent of any harm caused to the community and the victim, as well as other relevant aggravating factors. Having considered such information, the Court of First Instance or the District Court will decide whether to impose a heavier sentence. However, such sentence shall not exceed the maximum statutory penalty for the offence.

Sentencing is an essential part in the process of administration of criminal justice. It is an exercise of the courts' independent judicial power. The main objectives of sentencing are retribution, deterrence, prevention and rehabilitation. All four objectives serve the public interest. When setting sentencing levels, the courts take into account all relevant factors. These include the prevalence of certain types of offences. For certain types of crime, the Court of Appeal would also lay down guidelines for sentencing for reference of the court at sentencing.

In addition, after the court has imposed a sentence in respect of a criminal case, the prosecutors of the DoJ will carefully consider the court's sentence and relevant information. If it is found that the sentence is not authorised by law, is wrong in principle, or is manifestly excessive or manifestly inadequate, the DoJ may take the case further under appropriate circumstances. For example, the Secretary for Justice may, under section 81A of the Criminal Procedure Ordinance (Cap. 221), apply to the Court of Appeal for review of the sentence.

In a recent deception case involving online solicitation of investment, the Court of Appeal accepted the DoJ's application for review of sentence and imposed a higher sentence on the defendant (Secretary for Justice v Kong Chi Kiu [2023] 1 HKLRD 72, [2022] HKCA 1745). The Court of Appeal pointed out in the case that the online nature of the fraud is one of the aggravating factors owing to its extensive impact. Online fraud is relatively easy to perpetrate but difficult to detect and recover losses. Therefore, the

sentencing should carry a deterrent effect.

(7) The Police are committed to combating all types of fraud and will actively enhance collaboration with stakeholders through a multi-agency approach. A multi-channel, extensive publicity strategy is adopted to heighten public awareness of different types of fraud as well as the risks associated with computers, cyber security, use of the Internet and social media.

The Police will continue to mobilise various resources to organise anti-deception publicity campaigns, including the "All-round CyberDefence" campaign, the "Anti-money Laundering Month" campaign and the special television series "All-round CyberDefence" jointly produced with the television station on the themes of cyber security and technology crimes, etc, to promote digital literacy and awareness of anti-deception among the general public. In February, the Police launched a mobile application "Scameter+" as a one-stop scam and pitfall search engine, held a large-scale seminar "How to Strengthen Students' Resilience Against Cyber Pitfalls" in collaboration with the Education Bureau for more than 290 principals and teachers across the territory, and launched an account called "Smart Hong Kong Drifters" on Xiaohongshu to further expand the coverage of anti-deception publicity work.

The Police are planning to organise the "Anti Deception Month" again this year, and are producing a simulation game on online deception. At the end of this year, an anti-deception fun run cum carnival will be held to further raise the public's anti deception awareness.

LCQ8: Promoting development of standards in Guangdong-Hong Kong-Macao Greater Bay Area

Following is a question by the Hon Chan Han-pan and a written reply by the Acting Secretary for Commerce and Economic Development, Dr Bernard Chan, in the Legislative Council today (June 21):

Question:

It has been reported that the authorities of Guangdong, Hong Kong and Macao have earlier signed a Memorandum of Understanding (MOU) on jointly promoting the development of standards in the Guangdong-Hong Kong-Macao Greater Bay Area (GBA Standards), and the relevant list of GBA Standards covers a total of 110 items in 25 fields including Chinese medicine and logistics. There are views that the signing of the MOU is part of the "soft

connectivity" of the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) and will help promote commodity circulation and integrated development among the various cities in the GBA. In this connection, will the Government inform this Council:

(1) whether the authorities have set up a dedicated organisation to deal with matters relating to the GBA Standards; if so, of its functions and composition, and the timetable; if not, the reasons for that;

(2) of the Government's role in setting the GBA Standards; whether industries can proactively propose the setting of the GBA Standards for certain types of goods or services; if they can, of the responsible government department and the procedure, and whether it has formulated performance pledges for the work concerned; if they cannot, the reasons for that; and

(3) given that the Guangdong Province has streamlined the vetting and approval process for the registration of Hong Kong registered traditional proprietary Chinese medicines for external use in the Mainland cities of the GBA, whether the authorities have plans to assist the industry in striving for the Mainland authorities' streamlining of the vetting and approval process for the registration of Hong Kong registered traditional medicines for internal application on the Mainland through the relevant GBA Standards; if so, of the details and timetable; if not, the reasons for that?

Reply:

President,

Having consulted the Health Bureau, the consolidated reply to the question raised by the Hon Chan is as follows:

The development of the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) Standards can promote the interconnectivity and integrated development of the three places, deepening Hong Kong's economic and trade exchanges and co-operation with the Mainland and Macao. In this connection, the governments of Guangdong, Hong Kong and Macao signed a Memorandum of Understanding (MOU) on jointly promoting the development of the GBA Standards on April 24, 2023, to promote the harmonisation of rules in relevant sectors in the region, and improve product and service quality.

The list of GBA Standards announced on the same day of signing the MOU covers a total of 110 items in the fields of food quality and safety, Cantonese cuisine, transportation, mechanical and electrical products, as well as medical care, nursing care, education, e-sports, etc. These 110 items are drawn up after the Guangdong authorities' liaison with various relevant groups and enterprises from the trade, related government departments and organisations, universities and experts in Guangdong, Hong Kong and Macao, and are formulated after public consultations.

The GBA Standards and related information are available on the GBA Standard Information Public Service Platform (GBA Standard Platform)

(www.gbsrc.org.cn) for public access and voluntary adoption by the trade. The Platform is managed by the Standardization Research Center for the Guangdong-Hong Kong-Macao Greater Bay Area (GBA Standardization Research Center), which was established jointly by the People's Government of Guangdong Province and the nation's Standardization Administration.

The GBA Standardization Research Center plans to issue guidelines later this year regarding the formulation of a new round of the GBA Standards, and invite applications from the trade in the three places. Interested organisations and enterprises should submit applications through the GBA Standard Platform in accordance with the specific requirements set out in the guidelines, for the GBA Standardization Research Center's assessment and examination.

The formulation of the GBA Standards involves many sectors, as well as relevant technical and professional knowledge. The Trade and Industry Department (TID) is responsible for co-ordinating the participation of relevant bureaux/departments of the Government of the Hong Kong Special Administrative Region (HKSARG) in the work on the GBA Standards, and maintaining close contacts with relevant authorities of Guangdong Province and Macao. The TID will continue to liaise with relevant authorities of Guangdong Province and Macao with regard to the formulation of the new round of the GBA Standards, and co-ordinate within the HKSARG to jointly take the relevant work forward. Upon issuance of the new guidelines, the TID will issue a Commercial Information Circular promptly to encourage the trade to submit applications for the GBA Standards, and will also invite the relevant bureaux/departments to encourage industrial, commercial and professional organisations and enterprises under their respective purviews to submit applications. The co-ordination work on the GBA Standards is handled with the TID's existing resources.

With regard to proprietary Chinese medicines (pCms), the Guangdong Provincial Medical Products Administration (GDMPA) announced in August 2021 the arrangement of streamlining the approval procedures for Hong Kong registered traditional pCms for external use to be registered and sold on the Mainland, and officially began accepting registration applications in September 2021. A total of nine pCms for external use registered in Hong Kong have been approved to be sold on the Mainland through streamlined procedures so far. It is understood that the GDMPA is processing more applications gradually, and more Hong Kong registered traditional pCms for external use are expected to be able to be registered and sold in the GBA through the relevant measure, thereby greatly reducing the processing time and simplifying the procedures. The relevant measure enables Hong Kong pCm manufacturers to expand their markets, as well as creates favourable conditions for Hong Kong pCms to "go global" in the long run. The Health Bureau will continue to closely monitor the implementation of the aforementioned measure, and maintain close liaison with the relevant Mainland authorities to explore the possibility of further enhancing the aforementioned measure (including further expanding its coverage), with a view to assisting the Chinese medicine drug industry of Hong Kong in expanding its market.

Reshuffling of service areas of two Mainland offices

The Government of the Hong Kong Special Administrative Region announced the reshuffling of service areas of two Mainland offices as follows. With effect from July 1 this year, Yunnan Province, which was previously under the service coverage of the Hong Kong Economic and Trade Office in Guangdong (GDET0), will be put under the service coverage of the Hong Kong Economic and Trade Office in Chengdu (CDET0). The service areas of the CDET0 will then cover Sichuan, Chongqing, Shaanxi, Guizhou, Yunnan, Tibet and Qinghai, and that of the GDET0 will cover Guangdong, Fujian, Guangxi and Hainan. The above arrangement will help consolidate resources of the relevant offices to better grasp development opportunities in the Guangdong-Hong Kong-Macao Greater Bay Area and the Western region, and to provide better support services to the Hong Kong people and enterprises there.

For enquiries related to the above arrangement, please contact the GDET0 (Tel: (8620) 3891 1220; email: general@gdeto.gov.hk) or the CDET0 (Tel: (8628) 8208 6660; email: general@cdeto.gov.hk).