

LEGISLATIVE COUNCIL BRIEF

Fugitive Offenders Ordinance (Chapter 503)
Mutual Legal Assistance in Criminal Matters Ordinance (Chapter 525)

FUGITIVE OFFENDERS AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS LEGISLATION (AMENDMENT) (No. 2) BILL 2019

INTRODUCTION

1. Legislative Council Member Fernando Cheung Chiu-hung intends to introduce the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) (No. 2) Bill to the Legislative Council (LegCo), to make Hong Kong able to have the arrangements for the surrender of fugitive offenders and mutual legal assistance in criminal matters with any place other than the Mainland or Macau.

JUSTIFICATIONS

Current regime

2. In February 2018, a Hong Kong woman travelled to Taiwan accompanied by a Hong Kong man, during her trip she was murdered by the said man. He escaped to Hong Kong after the incident.
3. Since Hong Kong and Taiwan have not signed any extradition and/or mutual legal assistance in criminal matters agreement, the SAR government was unable to transfer the suspect under the Fugitive Offenders Ordinance (Cap. 503) and the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) to Taiwan for investigation and trial by Taiwanese law enforcement agencies and judiciary.
4. On 26 March 2019, the Chief Executive in Council passed the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Ordinance (Amendment) Bill 2019 (the “government bill”), introduced the bill at the LegCo Meeting on 3 April for first and second reading, and planned to resume the bill's second reading on 12 June.

5. However, the government bill has led to huge controversy and disputes, include a large public procession on June 9, and the serious conflicts broke out in the protests on June 12. On June 15, the Government withdrew the notice of resumption for the bill's second reading.
6. To handle the Taiwan homicide case, amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance, to remove the geographical restriction on Taiwan in the two ordinances. Hong Kong citizens, chambers of commerce both local and foreign, and foreign governments are more likely to accept this solution.

Proposals

7. I suggest making amendments to the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance, to make Hong Kong able to have the arrangements for the surrender of fugitive offenders and mutual legal assistance in criminal matters with any place other than the Mainland or Macau.
8. My key proposals are as follows –

In the Fugitive Offenders Ordinance

- (a) to amend the definition of arrangements for the surrender of fugitive offenders, to make Hong Kong able to have the arrangements for the surrender of fugitive offenders with any place other than the Mainland or Macau.

In the the Mutual Legal Assistance in Criminal Matters Ordinance

- (b) to amend the definition of arrangements for mutual legal assistance and the scope of application of the Ordinance, so that the ordinance applies to requests for assistance between Hong Kong and any place other than the Mainland or Macau.

THE AMENDMENT BILL

9. The main provisions of the Amendment Bill are set out below —
 - (a) Clause 3 amends section 2(1) of the FOO so that arrangements for the

surrender of fugitive offenders made between Hong Kong and any place other than the Mainland or Macau may be given effect.

- (b) Clause 4 amends section 2(1) of the MLAO (see the amended definition of arrangements for mutual legal assistance), and clause 5 amends section 3(1) of the MLAO, so that arrangements for mutual legal assistance made between Hong Kong and any place other than the Mainland or Macau may be given effect.

Enquiries

For enquiries concerning this brief, please contact Legislative Council Member Fernando Cheung Chiu-hung.

Legislative Council Member
Fernando Cheung Chiu-hung.
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