

Notice on Detention Authority
Section 29 of the Immigration Ordinance (Cap. 115)

Pursuant to section 29 of the Immigration Ordinance (Cap.115), a person may be detained for the following purpose(s) and period(s).

Section	Detention Period	Authority	Purpose of Detention
29(1)	14 days	Secretary for Security	Pending the decision of the Chief Executive as to whether or not a deportation order should be made under section 20 of Immigration Ordinance.
29(2)	1 st 7 days		
	2 nd 7 days		

Security Bureau

Hong Kong Special Administrative Region Government

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Notice on Detention Policy
Section 29 of the Immigration Ordinance (Cap. 115)

Detention must be justified with sufficient reasons and for a period which is reasonable in all circumstances. Reasonable alternatives will be considered before detention is authorized. No one shall be subject to arbitrary detention. The power to detain must only be used for the specific purpose for which it is authorized and its exercise must be justified on proper grounds. Each case is to be considered on its own facts and merits. Detention will be kept under regular review and will be reviewed when there is a material change of circumstances. The factors listed below are factors which the Secretary for Security (“Secretary”) will generally take into account in determining whether a person should be detained or released, and are not meant to be exhaustive (in that each case will be considered on its individual merits and there may be other facts and circumstances relevant to any particular individual case) or in any order of priority/weight. The mere presence of a particular factor does not automatically lead to detention or release. The factors will be considered in the context of all the circumstances of the case. The Secretary will give due consideration to any representation made against detention.

The detention power under section 29 of the Immigration Ordinance (Cap. 115) is for the purpose of making inquiry as to whether a person ought to be deported under section 20 of the Ordinance. In determining whether a person should be released or detained under section 29, the Secretary will take into consideration all the relevant circumstances of the case, including: (i) whether the inquiry as to whether the person ought to be deported is going to be concluded in a near future; (ii) whether that person concerned constitutes a threat/security risk to the community; (iii) whether there is any risk of that person’s absconding and/or (re)offending; (iv) whether that person’s identity is resolved or satisfied to be genuine; (v) whether that person has close connection or fixed abode in Hong Kong; and (vi) whether there are other circumstances in favour of release. Within these criteria, the following matters are or may be relevant:

For detention

- λ the inquiry as to whether that person ought to be deported is to be commenced/underway and will be concluded in the near future.

- λ There is no sufficient reason to believe that the potential detainee's case cannot be finalized in the near future.
- λ The potential detainee is likely to pose a threat/security risk to local community e.g. suspected to have connection with terrorist activities.
- λ The potential detainee has conviction(s) associated with crime(s) of serious or violent nature.
- λ The potential detainee has records of violent behaviour during detention/imprisonment.
- λ The potential detainee has previously absconded or escaped from custody.
- λ The potential detainee has a record of jumping bail.
- λ The potential detainee had failed to comply with the terms/conditions of recognizance.
- λ The potential detainee failed to attend appointment(s)/scheduled interviews without reasonable excuse, in response to call-up by the immigration offices/sections e.g. investigation sections/Extension Section.
- λ The potential detainee is re-arrested during release/recognizance.
- λ The potential detainee has a series of previous convictions of criminal and/or immigration offences and/or adverse immigration records, or re-committed the same offence in respect of his/her previous arrest.
- λ The potential detainee has not produced satisfactory evidence or any proof of identity and there are no relevant documents to establish his/her identity/nationality.
- λ There is doubt on the potential detainee's true identity (e.g. false/forged/different identities travel documents).
- λ The potential detainee is non-cooperative or has failed to give satisfactory or reliable answers to an immigration officer's enquiries/investigation on his/her identity.
- λ The potential detainee does not have fixed abode or close connection (e.g. family or friends) in Hong Kong to make it likely that he/she will be easily located.

Against detention

- λ The potential detainee is a person under the age of 18.
- λ The potential detainee is an elderly requiring close supervision/medical care.
- λ The potential detainee is a pregnant woman and there is no clear prospect of concluding the inquiry in the near future.
- λ The potential detainee is in serious medical/mentally ill-health condition.
- λ The potential detainee is physically disabled requiring constant nursing care.
- λ There is satisfactory evidence that the potential detainee has been tortured.

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