



CUSTOMS AND EXCISE SERVICE

ARREST AND DETENTION

ARREST

1. Under section 17A of the Customs and Excise Service Ordinance, Cap. 342 (“the Ordinance”), a member of Customs and Excise Service (“C&E Service”) may, without warrant, arrest any person whom he may reasonably suspect of having committed an offence against the Ordinance or an ordinance specified in Schedule 2 of the Ordinance.
2. A member of C&E Service may arrest a person, by virtue of an authorization under an ordinance other than those mentioned in paragraph 1 above, whom he may reasonably suspect of having committed an offence.
3. A person arrested by a member of C&E Service shall be informed of the arrest and the reason(s) for his arrest.
4. The arrested person shall be interrogated in regard to the offence he is suspected of having committed.

DETENTION

5. No person shall be subject to arbitrary detention.
6. A detained person shall be informed of his rights during his detention.
7. A person detained by a member of C&E Service without arrest may be handed over at the earliest instance to the appropriate law enforcement agency for investigation into an offence of which the person is suspected of having committed.
8. Under section 17C of the Ordinance, a person arrested by a member of C&E Service under the Ordinance or any other enabling power may be detained at an office of C&E Service for further inquiries. Thereafter, the person may be -
 - brought to a police station for formal charging. He may be detained in police custody and, as soon as practicable, brought before a Magistrate, or he may be released on bail until such date that the person shall appear before a Magistrate; or
 - released on bail with the condition that he shall report to the designated police station on a specific date and may attend an interview at such time as specified by C&E Service for further inquiries; or
 - released unconditionally if evidence does not support a criminal charge against the person.
9. No person shall be detained for more than 48 hours from the time he is arrested without being charged and brought before a Magistrate.
10. The general principle on detention is that, other than a case of insufficient evidence in which the arrested person will be released unconditionally, he will be released on bail by entering into a recognizance with or without sureties for a reasonable sum, or on cash bail for a specified sum as soon as possible following his arrest unless the offence is of a serious nature or it is reasonably considered that he ought to be detained pending appearance before a Magistrate.
11. Any such detention must be justified having regard to the particular circumstances of a case. In this respect, except under the following circumstances which warrant detention, bail will normally be granted to the arrested person being charged:
 - when the offence is of a serious nature;
 - when he is wanted under a Court warrant which does not allow bail or contains no instructions regarding bail;
 - where there is a likelihood that he may abscond or repeat the offence;
 - where there is a likelihood that he may interfere with the witnesses, impede the investigation or attempt to pervert the course of justice;
 - when his name is unknown and cannot be readily ascertained;
 - when he cannot provide a satisfactory address; or
 - when he cannot produce a reasonable amount of bail money in circumstances where entering into recognizance with or without sureties is not appropriate.