

**Bills Committee on
Independent Police Complaints Council Bill**

**Comparison between the Independent Police Complaints Council (IPCC) Bill
introduced in 2007
and the IPCC Bill introduced in 1996**

At the Bills Committee meeting on 18 October 2007, the Administration was requested to provide a comparison of the Independent Police Complaints Council Bill under consideration and the Independent Police Complaints Council Bill introduced into the Legislative Council in 1996.

2. A table setting out a comparison of the two Bills is at the Annex for Members' reference.

Security Bureau
November 2007

Bills Committee on Independent Police Complaints Council Bill

**Comparison between the Independent Police Complaints Council (IPCC) Bill introduced in 2007
and the IPCC Bill introduced in 1996**

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
1	<p><u>Clause 2 – Interpretation</u></p> <p>In this Ordinance, unless the context otherwise requires –</p> <p>“Commissioner” (處長) means the Commissioner of Police;</p> <p>“complaint” (投訴) means a complaint in respect of –</p> <p>(a) the conduct of any member of the police force in the execution or purported execution of his duties; or</p> <p>(b) any practice or procedure adopted by the police force, made by a person who is aggrieved thereby (otherwise than in an official capacity as a member of the police force), but does not include any complaint in respect of an alleged contravention of any Ordinance relating to road traffic which carries a fixed penalty for such contravention;</p> <p>“Council” (委員會) means the Independent Police Complaints Council referred to in section 3;</p>	<p><u>Clause 2 – Interpretation</u></p> <p>(1) In this Ordinance, unless the context otherwise requires –</p> <p>“appointed member” (委任成員) means a member of the Council referred to in section 4(1)(c), and includes a person appointed under section 4 of Schedule 1 to act as an appointed member;</p> <p>“categorization” (歸類) means the categorization by the Commissioner of a complaint as –</p> <p>(a) a reportable complaint; or</p> <p>(b) a non-reportable complaint;</p> <p>“Chairman” (主席) means the Chairman of the Council referred to in section 4(1)(a), and includes a person appointed under section 4 of Schedule 1 to act as the Chairman;</p> <p>“classification” (分類) means the classification after investigation by the Commissioner of a reportable complaint as one that is –</p> <p>(a) for informal resolution;</p>	<p>The definitions of “Commissioner”, “Council”, “member of the police force” and “police force” are substantially the same in the two Bills.</p> <p>The definition of “complaint” in the 1996 Bill is expanded into clauses 9, 10 and 13 of the 2007 Bill. Under clauses 10 and 13 of the 2007 Bill, complaints are categorized as “reportable complaints” and “non-reportable complaints”. Incorporating the comments of the Bills Committee on the 1996 Bill, clause 10(a)(ii) of the 2007 Bill includes a complaint relating to the conduct of a member of the police force who identified himself as such a member while off duty as a “reportable complaint”. Complaints not to be categorized, as they are dealt with in accordance with other existing established complaints systems, are specified under clause 9 of the 2007 Bill.</p> <p>The definition of “witness” in the 1996 Bill is incorporated into clause 19(1) and (2) of the 2007 Bill.</p>

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	<p>“member of the police force” (警隊成員) includes a public officer attached to the police force;</p> <p>“police force”(警隊) means the Royal Hong Kong Police Force and also the Royal Hong Kong Auxiliary Police Force established under the Royal Hong Kong Auxiliary Police Force Ordinance (Cap. 233);</p> <p>“witness” (證人) means a person who has provided or might be able to provide information or other assistance in connection with the investigation of a complaint.</p>	<p>(b) substantiated;</p> <p>(c) unsubstantiated;</p> <p>(d) withdrawn; or</p> <p>(e) of such other description as agreed between the Council and the Commissioner;</p> <p>“Commissioner” (處長) means the Commissioner of Police;</p> <p>“committee” (委員會) includes any panel or sub-group established by the Council under section 13 of Schedule 1;</p> <p>“complainant” (投訴人) means a person who makes a complaint or a request for review or, where the complaint or request for review is made on behalf of another person, the person on whose behalf the complaint or request for review is made;</p> <p>“Council” (警監會) means the body corporate incorporated by section 3 and known by the names referred to in section 3(1)(b);</p> <p>“function” (職能) includes a power and a duty;</p> <p>“Legal Adviser” (法律顧問) means the Legal Adviser to the Council appointed under section 5(1);</p> <p>“member of the police force” (警隊成員) includes a public officer attached to the police force;</p> <p>“mentally incapacitated person” (精神上無行</p>	<p>The definitions of “appointed member”, “categorization”, “Chairman”, “classification”, “committee”, “complainant”, “function”, “Legal Adviser”, “mentally incapacitated person”, “non-reportable complaint”, “observer”, “police conduct”, “reportable complaint”, “request for review”, “Secretary” and “Vice-Chairman” in the 2007 Bill are drawn up for the purposes of the relevant provisions in the 2007 Bill.</p>

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		<p>為能力的人) means a person who is mentally disordered or mentally handicapped within the meaning of the Mental Health Ordinance (Cap. 136);</p> <p>“non-reportable complaint” (無須具報投訴) means a complaint that must be categorized, in accordance with Division 1 of Part 3, as a non-reportable complaint;</p> <p>“observer” (觀察員) means a person appointed to be an observer under section 31;</p> <p>“police conduct” (警方行爲) means the conduct, practice or procedure referred to in section 10(a);</p> <p>“police force” (警隊) means the Hong Kong Police Force or the Hong Kong Auxiliary Police Force established under the Hong Kong Auxiliary Police Force Ordinance (Cap. 233);</p> <p>“reportable complaint” (須具報投訴) means a complaint that must be categorized, in accordance with Division 1 of Part 3, as a reportable complaint;</p> <p>“request for review” (覆核要求) means a request for reviewing the classification of a reportable complaint referred to in section 12;</p> <p>“Secretary” (秘書) means the Secretary to the Council appointed under section 5(1);</p>	

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		<p>“Vice-Chairman” (副主席) means a Vice-Chairman of the Council referred to in section 4(1)(b), and includes a person appointed under section 4 of Schedule 1 to act as a Vice-Chairman.</p> <p>(2) In this Ordinance, a reference to the performance of a function includes the exercise of a power and the discharge of a duty.</p> <p><u>Clause 9 – Complaints not to be categorized</u></p> <p>In compiling a list under section 8(1)(a) or (b), the Commissioner must not take into account any complaint that –</p> <ul style="list-style-type: none">(a) a person makes in his official capacity as a member of the police force;(b) arises from the issue of a summons and does not relate to police conduct;(c) arises from the issue of any notice for the imposition of a fixed penalty under any enactment and does not relate to police conduct; or(d) a person is empowered to investigate pursuant to any function conferred on the person by any other Ordinance, except where the complaint relates to police conduct	

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		<p>and the power of investigation does not extend to the investigation of that police conduct.</p> <p><u>Clause 10 – Complaints categorized as reportable complaints</u></p> <p>Subject to sections 9, 11 and 12, a complaint received by the Commissioner must be categorized as a reportable complaint if the complaint –</p> <ul style="list-style-type: none">(a) relates to –<ul style="list-style-type: none">(i) the conduct of a member of the police force while on duty or in the execution or purported execution of his duties;(ii) the conduct of a member of the police force who identified himself as such a member while off duty; or(iii) any practice or procedure adopted by the police force;(b) in the opinion of the Commissioner, is not vexatious or frivolous and is made in good faith;(c) is made by or on behalf of a complainant directly affected by the police conduct;(d) is made by a person (whether on his own behalf or on behalf of a complainant) who has properly identified himself and provided the	

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		<p>Commissioner with a means of contacting him; and</p> <p>(e) (if made by a person on behalf of a complainant) is made in accordance with section 14.</p> <p><u>Clause 13 – Complaints categorized as non-reportable complaints</u></p> <p>Subject to section 9, a complaint received by the Commissioner is a non-reportable complaint if it is not a reportable complaint.</p>	
2	<p><u>Clause 3 – Continuance of the Council</u></p> <p>The Independent Police Complaints Council existing immediately before the commencement of this Ordinance shall continue to exist as a body known as the Independent Police Complaints Council.</p>	<p><u>Clause 3 – Incorporation of the Council</u></p> <p>(1) The Independent Police Complaints Council existing immediately before the commencement of this Ordinance –</p> <p>(a) is hereby incorporated as a body corporate; and</p> <p>(b) continues to be known in the English language as "Independent Police Complaints Council" and in the Chinese language as “投訴警方獨立監察委員會”.</p> <p>(2) The Council has perpetual succession and may sue and be sued in its English or Chinese name.</p> <p>(3) The Council is neither a servant nor an</p>	<p>Clause 3 of the 1996 Bill is expanded into clauses 3 and 41 of the 2007 Bill.</p> <p>Similar to other existing statutory bodies such as the Consumer Council, The Ombudsman, the Equal Opportunities Commission and the Privacy Commissioner for Personal Data, the status of the incorporated IPCC is elaborated in Clause 3(2) and (3) of the 2007 Bill.</p>

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		<p>agent of the Government and does not enjoy any status, immunity or privilege of the Government.</p> <p><u>Clause 41 – Continuance of appointment</u></p> <p>(1) Subject to subsection (2), a person who, immediately before the commencement date –</p> <ul style="list-style-type: none">(a) holds an appointment as the Chairman, a Vice-Chairman or any other member of the former Council;or(b) is a former observer, <p>continues to be, as from that date, the Chairman, a Vice-Chairman or such other member of the Council or an observer (as the case may be) as if he were appointed under this Ordinance.</p> <p>(2) The person in subsection (1) continues to hold his appointment only for the unexpired term under his previous appointment, but is eligible for reappointment under section 1(b) of Schedule 1 or section 1(b) of Schedule 2 (as the case may be).</p> <p>(3) A person who, immediately before the commencement date, is an officer (including the Secretary and the Legal Adviser) of the former Council continues to be, as from that date, such officer of the Council on the same terms and conditions as those applicable to</p>	

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		that person immediately before that date.	
3	<p><u>Clause 4 – Membership of the Council</u></p> <p>(1) The Council shall consist of –</p> <p>(a) (i) a Chairman;</p> <p>(ii) 3 Vice-Chairmen; and</p> <p>(iii) not less than 8 other members,</p> <p>each of whom shall be appointed by the Governor for a term of 2 years; and</p> <p>(b) the Commissioner for Administrative Complaints appointed under the Commissioner for Administrative Complaints Ordinance (Cap. 397) (who shall be an ex officio member thereof), or a person nominated by him as his representative.</p> <p>(2) The Chairman, any Vice-Chairman and any other member appointed under subsection (1)(a) –</p> <p>(a) may be reappointed upon expiry of their respective terms of office; and</p> <p>(b) may resign his office by notice in writing to the Governor.</p> <p>(3) If, for any period –</p> <p>(a) the Chairman, any Vice-Chairman or any other member appointed under</p>	<p><u>Clause 4 – Membership of the Council</u></p> <p>(1) The Council consists of the following members –</p> <p>(a) a Chairman appointed by the Chief Executive;</p> <p>(b) 3 Vice-Chairmen appointed by the Chief Executive; and</p> <p>(c) not less than 8 other members appointed by the Chief Executive.</p> <p>(2) A person who is a civil servant of the Government, or who was a member of the police force, is not eligible for appointment under subsection (1).</p> <p><u>Clause 6 – Schedule 1 applicable to Council</u></p> <p>Schedule 1 has effect with respect to the members, proceedings, committees and finances of, and the execution of documents by, and other miscellaneous matters of, the Council.</p> <p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and Finances of, and Execution of Documents by, and other Miscellaneous Matters of, Council</u></p> <p>1. Term of office of Chairman,</p>	<p>Clause 4(1) and clauses 1, 2 and 4 of Schedule 1 to the 2007 Bill correspond to clause 4 of the 1996 Bill.</p> <p>Incorporating the comments of the Bills Committee on the 1996 Bill, clause 4(2) of the 2007 Bill is added to exclude civil servants and ex-police force members from being appointed to the IPCC.</p> <p>The ex officio membership of The Ombudsman is removed in the 2007 Bill, but this does not preclude the appointment of The Ombudsman or her representative to the IPCC.</p> <p>Similar to other existing statutory bodies such as the Consumer Council, the Hong Kong Trade Development Council and the Urban Renewal Authority, the term of office, resignation, removal, etc. of IPCC members are included in Schedule 1 to the 2007 Bill.</p>

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	<p>subsection (1)(a) is precluded by illness, absence from Hong Kong or any other cause from exercising his functions; or</p> <p>(b) the office of any one of them is vacant pending a new appointment or reappointment,</p> <p>the Governor may appoint another person to act in his place during that period and as such to exercise and perform all the functions, powers and duties of the Chairman, Vice-Chairman or member, as the case may be.</p>	<p>Vice-Chairmen and appointed members</p> <p>The Chairman, a Vice-Chairman or an appointed member (other than a person appointed under section 4) –</p> <p>(a) is to be appointed for a term not exceeding 2 years; and</p> <p>(b) is eligible for reappointment for a further term or terms not exceeding 2 years each.</p> <p>2. Resignation of Chairman, Vice-Chairmen and appointed members</p> <p>(1) The Chairman, Vice-Chairmen or appointed members may resign from office by giving notice in writing to the Chief Executive.</p> <p>(2) The resignation in subsection (1) takes effect on the date the Chief Executive receives the notice or the date specified in the notice (whichever is the later).</p> <p>3. Removal of Chairman, Vice-Chairmen and appointed members</p> <p>The Chief Executive may by notice in writing remove the Chairman, a Vice-Chairman or an appointed member from office if the Chief</p>	

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		<p>Executive is satisfied that the Chairman, Vice-Chairman or appointed member (as the case may be) is unable or unfit to perform his functions due to permanent incapacity or other sufficient cause.</p> <p>4. Acting appointment</p> <p>The Chief Executive may appoint any person to act as the Chairman, a Vice-Chairman or an appointed member if –</p> <ul style="list-style-type: none"> (a) the Chairman, a Vice-Chairman or an appointed member (as the case may be) is precluded by illness, absence from Hong Kong or any other cause from performing his functions; or (b) the office of the Chairman, a Vice-Chairman or an appointed member (as the case may be) is vacant pending a new appointment or reappointment. 	
4	<p><u>Clause 5 – Meetings of the Council</u></p> <p>(1) The Council shall meet as often as is necessary, and at such times and places as the Chairman or in his absence, one of the Vice-Chairmen may appoint from time to time for the purpose of exercising its functions.</p> <p>(2) The following provisions shall apply to</p>	<p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and Finances of, and Execution of Documents by, and other Miscellaneous Matters of, Council</u></p> <p>7. Council meetings</p> <p>(1) The Council is to meet as often as is necessary for the purpose of performing its</p>	<p>Clauses 7, 8, 9, 11(1) to (4) and 12 of Schedule 1 to the 2007 Bill correspond to clause 5 of the 1996 Bill.</p> <p>To facilitate the effective operation of the IPCC, further operational details are added as clause 11(5) to (7) of Schedule 1 to the 2007 Bill. Similar provisions are found in the Construction Industry Council Ordinance</p>

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	<p>every meeting of the Council and subject thereto the Council may regulate its own procedure –</p> <ul style="list-style-type: none"> (a) at any meeting of the Council, 5 members or 1/3 of the number of members, whichever is the lesser, shall form a quorum; (b) the Chairman shall preside or in his absence, the members present shall appoint one of the Vice-Chairmen to preside or, if both the Chairman and the 3 Vice-Chairmen are absent, the members present shall appoint one of themselves to preside; (c) every question shall be determined by a majority of votes of the members present and voting thereon; (d) in the event of an equality of votes the member presiding shall have a casting vote in addition to his ordinary vote; (e) anything which may be done at a meeting of the Council may be done by the circulation of papers for the consideration of members; and a resolution signed by a majority of the members shall be as valid and effectual as if it had been passed at a meeting by the votes of the members so signing. 	<p>functions.</p> <p>(2) The Chairman may appoint the time and place for the Council to meet.</p> <p>8. Quorum for Council meetings</p> <p>The quorum for a meeting of the Council is 6 members of the Council.</p> <p>9. Chairman to preside at Council meetings</p> <p>(1) The Chairman must preside at a meeting of the Council.</p> <p>(2) If the Chairman is absent or vacates the chair, a Vice-Chairman elected by the appointed members present must preside at the meeting.</p> <p>(3) If neither the Chairman nor the 3 Vice-Chairmen can preside at the meeting, an appointed member elected from amongst the appointed members present must preside at the meeting.</p> <p>11. Determination of matters at Council meetings</p> <p>(1) A matter for determination at a meeting of the Council must be decided by a majority</p>	<p>(Cap. 587), the Security and Guarding Services Ordinance (Cap. 460) and the Mandatory Provident Fund Schemes Ordinance (Cap. 485).</p>

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		<p>of the votes of the members of the Council present and voting on that matter.</p> <p>(2) If there is an equality of votes, the person presiding at the meeting has a casting vote in addition to his original vote.</p> <p>(3) Subject to subsection (5), anything that may be done at a meeting of the Council may be done by circulation of papers to all members of the Council without a meeting.</p> <p>(4) Subject to subsection (5), a written resolution that is approved by a majority of all members of the Council is as valid and effectual as if it had been passed at a meeting of the Council by the votes of the members so approving.</p> <p>(5) If any member of the Council requests by notice in writing addressed to the Secretary that a matter referred to in the papers circulated under subsection (3) be determined at a meeting of the Council, the matter must be so determined.</p> <p>(6) In the case of a written resolution, if a member of the Council has an interest in the matter, he must state his interest in the papers being circulated.</p> <p>(7) For the avoidance of doubt, a reference to</p>	

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		<p>circulation of papers in this section includes circulation of information by electronic means, and a reference to the papers in this section must be construed accordingly.</p> <p>12. Council may determine its own procedure</p> <p>Subject to the other provisions of this Ordinance, the Council may determine its own procedure, including who may appoint the time and place for the Council to meet in the absence of the Chairman.</p>	
5	<p><u>Clause 6 – Appointment of Secretary</u></p> <p>(1) The Governor shall appoint a public officer to act as the Secretary of the Council who shall not be a member of the Council.</p> <p>(2) The Council shall determine the duties of the Secretary, and may delegate to him such authority as may from time to time be required.</p>	<p><u>Clause 5 – Appointment of Secretary, Legal Adviser and other employees</u></p> <p>(1) The Council must appoint a Secretary and a Legal Adviser on terms approved by the Chief Executive on the advice of the Council.</p> <p>(2) The Council may appoint, on terms determined by the Council, such other employees as the Council requires to assist it in performing its functions.</p> <p>(3) The Council may engage any person for his technical or professional services in such manner and on such terms as it thinks fit.</p> <p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and</u></p>	<p>Provisions in clause 6 of the 1996 Bill are incorporated into clause 5 and clause 25 of Schedule 1 to the 2007 Bill.</p> <p>Incorporating the comments of the Bills Committee on the 1996 Bill, clause 5 of the 2007 Bill empowers the IPCC to appoint its own Secretary, Legal Adviser and employees, and engage any person for his technical or professional services to assist it in performing its functions.</p> <p>In addition, under clause 25 of Schedule 1 to the 2007 Bill, IPCC may delegate its functions to its Secretary, Legal Adviser or other employees.</p>

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		<p data-bbox="862 245 1460 312"><u>Finances of, and Execution of Documents by, and other Miscellaneous Matters of, Council</u></p> <p data-bbox="862 357 1236 386">25. Delegation of functions</p> <p data-bbox="862 430 1447 683">(1) The Council may delegate in writing any of its functions under this Ordinance to a committee, a member of the Council, the Secretary, the Legal Adviser or any other employee of the Council, but a function specified in subsection (6) may not be so delegated.</p> <p data-bbox="862 727 1420 826">(2) A delegation under this section may be general or limited and may be subject to conditions.</p> <p data-bbox="862 871 1435 938">(3) The Council may, at any time, amend or revoke a delegation made under this section.</p> <p data-bbox="862 983 1460 1123">(4) A delegate of the Council under this section is presumed to be acting in accordance with the terms of the relevant delegation in the absence of evidence to the contrary.</p> <p data-bbox="862 1168 1431 1235">(5) A delegated function may be performed by the Council despite the delegation.</p> <p data-bbox="862 1279 1424 1420">(6) The functions that the Council may not delegate under subsection (1) are - (a) the power to delegate under that subsection;</p>	

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		<ul style="list-style-type: none"> (b) the duty to submit an annual report, statement of accounts and auditor's report to the Chief Executive under section 23(1); and (c) the power to make a report to the Chief Executive under section 28 of this Ordinance. 	
6	<p><u>Clause 7 – Functions of the Council</u></p> <p>The functions of the Council shall be –</p> <ul style="list-style-type: none"> (a) to monitor and, where it considers appropriate, review the manner in which complaints are handled by the police force; (b) to keep under review the statistics referred to in section 8(1)(e); (c) to identify any faults or deficiencies in the procedures adopted by the police force which lead to or might lead to complaints; (d) to make recommendations in respect of the handling of any complaint or the action taken or to be taken in connection with any complaint to the Commissioner or, if it considers appropriate, to the Governor. 	<p><u>Clause 7 – Functions of Council</u></p> <p>(1) The functions of the Council are –</p> <ul style="list-style-type: none"> (a) to observe, monitor and review the manner in which reportable complaints are handled or investigated by the Commissioner, and to make recommendations (as the Council considers appropriate) to the Commissioner or the Chief Executive or both of them in respect of the handling or investigation of reportable complaints; (b) to monitor actions taken or to be taken in respect of any member of the police force by the Commissioner in connection with reportable complaints, and to advise (as the Council considers appropriate) the Commissioner or the Chief Executive or both of them of its opinion on such actions; (c) to identify any fault or deficiency in any practice or procedure adopted 	<p>Clause 7(1)(a), (c) and (d) of the 2007 Bill corresponds to clause 7 of the 1996 Bill.</p> <p>Clause 7(1)(b) of the 2007 Bill corresponds to clause 8(1)(f) of the 1996 Bill.</p> <p>The IPCC's function to promote public awareness of its role is added as clause 7(1)(e) in the 2007 Bill. This reflects the discussion at the Bills Committee on the 1996 Bill that publicity of the police complaints system should be strengthened.</p> <p>Clause 7(2) of the 2007 Bill corresponds to clause 8(1)(g) of the 1996 Bill.</p>

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		<p>by the police force that has led to or might lead to reportable complaints, and to make recommendations (as the Council considers appropriate) to the Commissioner or the Chief Executive or both of them in respect of such practice or procedure;</p> <p>(d) to review anything submitted to it by the Commissioner pursuant to this Ordinance;</p> <p>(e) to promote public awareness of the role of the Council; and</p> <p>(f) (without limiting the generality of the foregoing) any function conferred on it by or under this or any other Ordinance.</p> <p>(2) The Council may do all such things that are reasonably necessary for, or incidental or conducive to, the performance of its functions under this Ordinance.</p>	
7	<p><u>Clause 8 – Powers of the Council</u></p> <p>(1) The Council may, where it considers appropriate –</p> <p>(a) require the Commissioner to submit to the Council a report on any complaint, to provide any information, file, document or material relating thereto or to clarify any fact or discrepancy pertaining</p>	<p><u>Clause 20 – Council may require Commissioner to provide information etc. relating to reportable complaints</u></p> <p>(1) The Council may require the Commissioner –</p> <p>(a) to provide any information or material relating to a reportable complaint, including any written statement taken from a person</p>	<p>Clause 20 of the 2007 Bill corresponds to clause 8(1)(a) of the 1996 Bill. Video recording of interviews conducted by the Police is explicitly covered in clause 20 of the 2007 Bill as information or material relating to a reportable complaint which the IPCC may require the Police to provide.</p> <p>Clause 21 of the 2007 Bill corresponds to clause 8(1)(b) of the 1996 Bill, with</p>

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	<p>thereto;</p> <p>(b) require the Commissioner to investigate or reinvestigate any complaint or any matter relating to a complaint;</p> <p>(c) interview any witness for the purpose of exercising its functions under this Ordinance;</p> <p>(d) require the Commissioner to provide an explanation in respect of any action that has been taken by the police force arising out of a complaint;</p> <p>(e) require the Commissioner to compile and submit to the Council statistics of the types of conduct of members of the police force that lead to complaints;</p> <p>(f) monitor, review or report on any action taken by the police force in respect of a complaint;</p> <p>(g) do all such other acts as are reasonably necessary for the exercise or performance of all or any of the powers or duties of the Council under this Ordinance or do any other things which is incidental or conducive to the exercise of the functions of the Council.</p> <p>(2) Notwithstanding section 4 of the Police Force Ordinance (Cap. 232), the</p>	<p>interviewed by a member of the police force in respect of a reportable complaint, and any video recording of the interview; and</p> <p>(b) to clarify any fact or discrepancy relating to a reportable complaint.</p> <p>(2) In this section, “video recording” (錄影紀錄) means a recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.</p> <p><u>Clause 21 – Council may require Commissioner to investigate reportable complaints</u></p> <p>(1) Subject to subsection (2), the Council may require the Commissioner to investigate (whether or not there has been any previous investigation) a reportable complaint.</p> <p>(2) If the reportable complaint is a request for review, then, the Council may require the Commissioner to investigate (whether or not there has been any previous investigation) any matter relating to the request for review only if –</p> <p>(a) in the case of the first request for review in respect of a reportable complaint, the request for review is</p>	<p>additional provisions on the IPCC’s power to require the Police to investigate any matter relating to requests for review in clause 21(2) and (3) in the 2007 Bill to reflect the existing practice.</p> <p>The IPCC’s power to conduct interviews as stipulated in clause 8(1)(c) of the 1996 Bill is consolidated with the detailed provisions concerning interviews in clause 19 of the 2007 Bill.</p> <p>Clauses 24 and 25 of the 2007 Bill correspond to clause 8(1)(d) and (e) of the 1996 Bill.</p> <p>Clause 7(1)(b) of the 2007 Bill corresponds to clause 8(1)(f) of the 1996 Bill.</p> <p>Clause 7(2) of the 2007 Bill corresponds to clause 8(1)(g) of the 1996 Bill.</p> <p>Clause 27 of the 2007 Bill corresponds to clause 8(2) of the 1996 Bill.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>Commissioner shall comply with any requirement under subsection (1)(a), (b), (d) or (e), unless he is satisfied that compliance with the requirement would likely prejudice the security of Hong Kong or the investigation of any crimes.</p>	<p>made within 30 days after –</p> <ul style="list-style-type: none">(i) the complainant; or(ii) (where the reportable complaint was made by a person on behalf of the complainant) the person who made the complaint, <p>was notified by the Commissioner of the classification of the reportable complaint;</p> <p>(b) in the case of a second or subsequent request for review in respect of a reportable complaint, the request for review is made within 30 days after –</p> <ul style="list-style-type: none">(i) the complainant; or(ii) (where the last request for review was made by a person on behalf of the complainant) the person who made the last request for review, <p>was notified by the Council of the outcome of the Commissioner’s last review of the classification of the reportable complaint; or</p> <p>(c) in the case of a request for review made after the expiry of the period applicable to the request for review under paragraph (a) or (b), the Council is of the opinion that exceptional circumstances exist in relation to the request for review.</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(3) In determining whether exceptional circumstances exist for the purposes of subsection (2)(c), the Council may take into account any factor including, but not limited to, the following –</p> <ul style="list-style-type: none">(a) whether there is any fresh evidence in respect of the reportable complaint; and(b) whether there are any justifiable reasons for making the request for review after the expiry of the period applicable to the request for review under subsection (2)(a) or (b). <p><u>Clause 24 – Council may require explanation in relation to actions taken etc. in connection with reportable complaints</u></p> <p>The Council may require the Commissioner to provide an explanation in relation to any action taken or to be taken in respect of a member of the police force by the Commissioner in connection with any reportable complaint.</p> <p><u>Clause 25 – Council may require Commissioner to submit statistics and reports</u></p> <p>The Council may require the Commissioner –</p> <ul style="list-style-type: none">(a) to compile and submit to the Council statistics of the types of conduct of	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>members of the police force that have led to reportable complaints; and</p> <p>(b) to submit to the Council a report on any action taken or to be taken by the Commissioner in respect of a recommendation of the Council made under section 7(1)(a) or (c).</p> <p><u>Clause 27 – Commissioner to comply with requirements of Council</u></p> <p>Notwithstanding section 4 of the Police Force Ordinance (Cap. 232), the Commissioner must comply with any requirement made by the Council under this Ordinance unless he is satisfied that compliance with the requirement would be likely to prejudice the security of Hong Kong or the investigation of any crime.</p>	
8	<p><u>Clause 9 – Procedure, etc.</u></p> <p>(1) Where the Commissioner has completed his investigation of a complaint, he shall as soon as practicable submit a report of the investigation to the Secretary of the Council which shall contain –</p> <p>(a) a summary of the investigation;</p> <p>(b) a finding of facts;</p> <p>(c) the action taken or to be taken in respect of the complaint; and</p> <p>(d) such other information as the</p>	<p><u>Clause 16 – Commissioner to submit investigation reports on reportable complaints</u></p> <p>(1) The Commissioner must, as soon as practicable after completing the investigation of a reportable complaint, submit to the Council an investigation report.</p> <p>(2) Subject to subsection (3), an investigation report submitted under subsection (1) must contain –</p> <p>(a) a summary of the investigation;</p>	<p>Clauses 16 and 18 of the 2007 Bill correspond to clause 9 of the 1996 Bill.</p> <p>Clause 17 of the 2007 Bill is added to oblige the Police to submit interim reports on investigations of reportable complaints to the IPCC on a regular basis.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>Commissioner thinks necessary.</p> <p>(2) The Council shall advise the Commissioner in writing of –</p> <p>(a) its opinion on the investigation report submitted under subsection (1);</p> <p>(b) its findings, if any, in respect of the complaint to which the investigation report relates; and</p> <p>(c) its recommendations, if any, in respect of the handling of the complaint or the action taken or to be taken in connection with the complaint.</p> <p>(3) The Council may, if it considers appropriate, submit any of its recommendations referred to in subsection 2(c) to the Governor.</p> <p>(4) The Council shall discuss from time to time with the Commissioner or his representatives nominated in that behalf any issue arising from the monitoring or review of any action taken by the police force in respect of a complaint.</p>	<p>(b) a finding of facts in relation to the complaint and the evidence in support of the finding;</p> <p>(c) the classification of the complaint, and the reasons for the classification;</p> <p>(d) an account of the action taken or to be taken by the Commissioner in connection with the complaint; and</p> <p>(e) such other information as the Commissioner thinks necessary.</p> <p>(3) Subsection (2)(a) and (b) does not apply to an investigation report on a reportable complaint classified as a complaint that is for informal resolution.</p> <p><u>Clause 17 – Commissioner to submit interim investigation reports on reportable complaints</u></p> <p>(1) If the investigation of a reportable complaint is not completed within –</p> <p>(a) 6 months from the date of receipt of the complaint; or</p> <p>(b) such shorter period as the Commissioner and the Council may agree,</p> <p>then, the Commissioner must, as soon as practicable after the expiry of those 6 months or that shorter period, submit to the Council an interim investigation report.</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(2) Until the completion of the investigation, the Commissioner must submit to the Council further interim investigation reports after the expiry of every successive period of –</p> <ul style="list-style-type: none"> (a) 6 months; or (b) such shorter period as the Commissioner and the Council may agree. <p>(3) An interim investigation report submitted under subsection (1) or (2) must explain –</p> <ul style="list-style-type: none"> (a) the progress of the investigation; and (b) the reasons for not being able to complete the investigation within the 6 months' period or such shorter period covered by the report. <p>(4) The Council may advise the Commissioner of its opinion on the explanation given under subsection (3).</p> <p><u>Clause 18 – Council may advise Commissioner of its opinion or recommendation on investigation report</u></p> <p>(1) The Council may, in relation to an investigation report submitted under section 16, advise the Commissioner of –</p> <ul style="list-style-type: none"> (a) its recommendation on the report; (b) its recommendation on the classification of the complaint; (c) its recommendation on the 	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>Commissioner's handling or investigation of the complaint;</p> <p>(d) its recommendation on any fault or deficiency identified in any practice or procedure adopted by the police force; or</p> <p>(e) its opinion on the action taken or to be taken in respect of a member of the police force by the Commissioner in connection with the complaint.</p> <p>(2) The Council may, if it considers appropriate, submit any part of its opinion or recommendation referred to in subsection (1) to the Chief Executive for consideration.</p>	
9	<p><u>Clause 10 – Interview with witness</u></p> <p>(1) At any time after the Commissioner has submitted an investigation report in respect of a complaint to the Council pursuant to section 9(1), the Council or any one or more of its members may interview any witness in connection with the complaint.</p> <p>(2) The Council may designate one or more of its members to conduct an interview and decide whether any other person shall be present at the interview.</p> <p>(3) Every interview shall be conducted in</p>	<p><u>Clause 19 – Council may conduct interview</u></p> <p>(1) At any time after an investigation report has been submitted to the Council under section 16, the Council may, for the purpose of considering the report, interview any person who is or may be able to provide information or other assistance to the Council in relation to the report.</p> <p>(2) At any time after an interim investigation report has been submitted to the Council under section 17, the Council may, with the consent of the Commissioner and for the purpose of considering the report, interview</p>	<p>Clause 19(1), (4) to (9) of the 2007 Bill corresponds to clause 10(1) to (6) of the 1996 Bill.</p> <p>Clause 12 of Schedule 1 to the 2007 Bill covers the IPCC's power to regulate the procedure of conducting interviews as set out in clause 10(7) of the 1996 Bill.</p> <p>Clause 19(2) and (3) is added in the 2007 Bill to empower the IPCC to conduct interviews after an interim investigation report has been submitted to it.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>private.</p> <p>(4) No barrister or solicitor shall have a right of audience before the Council unless he is acting on his own behalf as a witness, but he may accompany a witness during an interview if the Council or the member or members conducting the interview thinks or think fit.</p> <p>(5) Unless the Council decides otherwise, a witness under the age of 16 shall attend an interview with his parent or guardian or a person over the age of 18 who has an interest in the welfare of the witness and is in the opinion of the Council or the member or members conducting the interview an appropriate person to be present at the interview.</p> <p>(6) The Council shall keep a record of every interview and such record shall not be used other than for the purpose of exercising its functions under this Ordinance.</p> <p>(7) Subject to this Ordinance, the Council may regulate the procedure of conducting interviews.</p>	<p>any person who is or may be able to provide information or other assistance to the Council in relation to the report.</p> <p>(3) Unless the Commissioner is of the opinion that an interview under subsection (2) would be likely to prejudice the investigation of any crime or any complaint made to him, he must give his consent to the interview.</p> <p>(4) An interview under this section must be conducted in private.</p> <p>(5) Subject to subsection (7), the Council may decide who may be present at an interview.</p> <p>(6) A solicitor or counsel does not have a right of audience before the Council at an interview unless he is the person who is interviewed under this section.</p> <p>(7) Where a person who is interviewed under this section ("that person") is below the age of 16 years, or is known to the Council to be a mentally incapacitated person, that person must be interviewed in the presence of –</p> <ul style="list-style-type: none"> (a) his parent or guardian; (b) an adult who has an interest in the welfare of that person and is, in the opinion of the Council, an appropriate person to be present at 	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>the interview; or</p> <p>(c) such other person as the Council may decide in any particular case.</p> <p>(8) The Council must keep a record of every interview under this section, and such record must not be used for any purpose other than for performing the Council’s functions under this Ordinance.</p> <p>(9) For the purposes of subsection (8), disclosure of information for any purpose that is allowed under section 37 is not to be regarded as use of the record.</p> <p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and Finances of, and Execution of Documents by, and other Miscellaneous Matters of, Council</u></p> <p>12. Council may determine its own procedure</p> <p>Subject to the other provisions of this Ordinance, the Council may determine its own procedure, including who may appoint the time and place for the Council to meet in the absence of the Chairman.</p>	
10	<p><u>Clause 11 – Secrecy</u></p> <p>(1) Every member of the Council shall,</p>	<p><u>Clause 36 – Interpretation of Part 5</u></p> <p>In this Part –</p>	<p>Clauses 36 and 37 of the 2007 Bill correspond to clause 11 of the 1996 Bill, with the following modifications –</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>subject to subsections (2) and (3), maintain secrecy in respect of all matters that arise from any complaint and come to their actual knowledge in the exercise of their functions.</p> <p>(2) Subsection (1) shall not apply so as to prevent any member of the Council from –</p> <p>(a) disclosing in the course of any criminal, civil or disciplinary proceedings in respect of which a complaint is relevant, any matter relevant to those proceedings;</p> <p>(b) reporting evidence of any crime to such authority as he considers appropriate;</p> <p>(c) disclosing to a person any matter referred to in subsection (1) which, in the opinion of the member, may be ground for a complaint by that person.</p> <p>(3) The Council may disclose in any report made by it under this Ordinance any matter that in its opinion ought to be disclosed in order to establish grounds for its conclusions and recommendations, other than a matter in respect of which the Governor certifies that its disclosure might prejudice security, defence or international relations (including relations with any international organization) in respect of Hong Kong or would otherwise be contrary to the public interest.</p>	<p>“protected information” (受保護資料) means matters relating to any complaint that come to a specified person's actual knowledge in the performance of his functions under this Ordinance;</p> <p>“specified person” (指明人士) means –</p> <p>(a) the Council;</p> <p>(b) a member of the Council;</p> <p>(c) the Secretary, the Legal Adviser or any other employee of the Council;</p> <p>(d) a person engaged by the Council for his technical or professional services;</p> <p>(e) an observer; or</p> <p>(f) a person who at any time had any of the identities described in paragraphs (b), (c), (d) and (e).</p> <p><u>Clause 37 – Duty to keep confidence</u></p> <p>(1) Except in the circumstances provided for in subsection (2), a specified person must not disclose any protected information.</p> <p>(2) Subsection (1) does not prevent a specified person from disclosing any protected information if the disclosure is necessary –</p> <p>(a) for the performance of his functions under this Ordinance;</p> <p>(b) for the purpose of reporting</p>	<ul style="list-style-type: none"> ● the coverage of the duty to keep confidence is expanded to all “specified persons”, including the IPCC’s employees, technical persons or professionals engaged and observers; ● clause 37(2)(b) permits “specified persons” to make disclosures for the purpose of reporting evidence of any crime to the appropriate authority, thus addressing the suggestion of the Bills Committee on the 1996 Bill that the IPCC should be empowered to refer cases to the then Attorney General and ICAC; ● the circumstances permitting disclosure as specified in clause 11(2)(a) of the 1996 Bill is set out in clearer terms under clause 37(2)(c) of the 2007 Bill; ● the circumstances permitting disclosure as specified in clause 11(2)(c) and 11(3) of the 1996 Bill is expanded under clause 37(2)(a) of the 2007 Bill to cover circumstances where the disclosure is necessary for the performance of a “specified person”’s statutory functions; ● permission of disclosure for the purpose of complying with a data access request is added as clause 37(2)(d) of the 2007

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>(4) Any member of the Council who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.</p>	<p>evidence of any crime to such authority as the specified person considers appropriate;</p> <p>(c) for the purpose of complying with –</p> <p>(i) an order of a court; or</p> <p>(ii) a requirement in or made under an enactment or any other law, in relation to any criminal, civil or disciplinary proceedings; or</p> <p>(d) for the purpose of complying with a data access request made under section 18 of the Personal Data (Privacy) Ordinance (Cap. 486).</p> <p>(3) Subject to subsection (4), subsection (2)(a) does not authorize the disclosure of the identity of –</p> <p>(a) any complainant;</p> <p>(b) any member of the police force whose conduct is the subject of a complaint; or</p> <p>(c) any person who assists or has assisted the Commissioner in the handling or investigation of a complaint.</p> <p>(4) A disclosure of any identity referred to in subsection (3)(a), (b) or (c) may be made pursuant to subsection (2)(a) if the disclosure is made to –</p> <p>(a) a specified person within the meaning of paragraph (a), (b), (c),</p>	<p>Bill;</p> <ul style="list-style-type: none"> ● the identity of complainants, complainees and any persons who assist or have assisted the Police in the handling or investigation of a complaint is protected by the new provisions in clause 37(3) and (4) of the 2007 Bill to reflect the existing practice; ● the restriction on disclosure of a matter that might prejudice security, defence or international relations in respect of Hong Kong or would otherwise be contrary to the public interest is removed from the 2007 Bill; and ● monetary and imprisonment penalty for non-compliance with the duty to keep confidence is removed from the 2007 Bill.

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(d) or (e) of the definition of "specified person" in section 36;</p> <p>(b) the complainant;</p> <p>(c) the Commissioner;</p> <p>(d) a person who assists or has assisted the Commissioner in the handling or investigation of a complaint; or</p> <p>(e) a person interviewed by the Council pursuant to section 19.</p>	
11	<p><u>Clause 12 – Protection to members</u></p> <p>A member of the Council shall have such and the like protection and privileges in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duty as is by law given to any magistrate acting in the execution of his office.</p>	<p><u>Clause 38 – Protection of Council and its members, etc.</u></p> <p>(1) Any act done, or omitted to be done, by a specified person in good faith in the performance or purported performance of a function under this Ordinance will not render the specified person liable to any civil proceedings.</p> <p>(2) For the purposes of the law of defamation, if a specified person makes any comment or publishes any matter in relation to a complaint –</p> <p>(a) in any communication, report or statement, in writing or otherwise; and</p> <p>(b) for the performance of his functions under this Ordinance,</p> <p>that comment or publication is absolutely privileged.</p>	<p>The protection conferred on IPCC members is extended to the Secretary, the Legal Adviser, other employees of the IPCC and observers, and persons previously having such identities.</p> <p>The protection with respect to civil liabilities and the law of defamation is set out in clearer terms. Similar provisions can be found in The Ombudsman Ordinance (Cap. 397), the Electoral Affairs Commission Ordinance (Cap. 541), the Consumer Council Ordinance (Cap. 216) and the Sex Discrimination Ordinance (Cap. 480).</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(3) The protection given by subsection (1) or (2) does not apply to a specified person within the meaning of paragraph (d) of the definition of “specified person” in section 36.</p>	
12	<p><u>Clause 13 – Report</u></p> <p>(1) The Council shall in each year make a general report to the Governor concerning the exercise of the functions of the Council under this Ordinance during the previous year.</p> <p>(2) In addition to the report referred to in subsection (1), the Council may from time to time make such other reports to the Governor as it deems necessary.</p> <p>(3) The Governor shall cause the report referred to in subsection (1) to be laid before the Legislative Council.</p>	<p><u>Clause 28 – Report to Chief Executive</u></p> <p>The Council may from time to time make such reports to the Chief Executive as it thinks necessary.</p> <p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and Finances of, and Execution of Documents by, and other Miscellaneous Matters of, Council</u></p> <p>23. Annual reports of Council</p> <p>(1) As soon as practicable and in any case not later than 6 months after the end of a financial year of the Council, or such further period as the Chief Executive may allow, the Council must submit to the Chief Executive –</p> <ul style="list-style-type: none"> (a) a report on the performance of the Council’s functions under this Ordinance during that financial year; (b) a copy of the statement of accounts prepared by the Council for that financial year; and (c) a copy of the auditor's report on the statement of accounts prepared by the Council that is submitted to the 	<p>Clause 28 of the 2007 Bill corresponds to clause 13(2) of the 1996 Bill.</p> <p>Provisions on the timeframe for the IPCC to submit its annual report and the content of the annual report are added in clause 23(1) of Schedule 1 to the 2007 Bill. Similar provisions can be found in existing Ordinances governing the operations of statutory bodies, such as the Travel Agents Ordinance (Cap. 218), the Urban Renewal Authority Ordinance (Cap. 563) and the Mandatory Provident Fund Schemes Ordinance (Cap. 485).</p> <p>Under clause 23(2) of Schedule 1 to the 2007 Bill, it is the IPCC, instead of the then Governor as stipulated in clause 13(3) of the 1996 Bill, to cause the IPCC’s annual report to be tabled in the Legislative Council.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>Council under section 22(2).</p> <p>(2) The Council must cause the documents referred to in subsection (1) to be tabled in the Legislative Council as soon as practicable after receiving the Chief Executive's approval for tabling.</p>	
13	<p><u>Clause 14 – Power of Governor to make regulations</u></p> <p>The Governor may by regulation provide for –</p> <ul style="list-style-type: none"> (a) the discharge by the Council of additional functions and duties; (b) the time, place and manner, when, where and in which the Council shall exercise and perform its functions and duties; (c) the Council being assisted by such other persons and classes of persons as may be prescribed, in the exercise and performance of all or any of its functions and duties; (d) any other matters required by or under this Ordinance; (e) generally, the carrying out of the provisions of this Ordinance. 	- Nil -	No provision is included in the 2007 Bill on the making of regulations as all the provisions necessary for the establishment and operation of the IPCC have been incorporated into the 2007 Bill.
14	<p><u>Clause 15 – Transitional provisions</u></p> <p>(1) Where any matter or thing has been</p>	<p><u>Clause 39 – Interpretation of Part 6</u></p> <p>In this Part –</p>	Clauses 39 and 40 of the 2007 Bill, which correspond to clause 15 of the 1996 Bill, set out the transitional matters in a clearer

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
	<p>commenced by or under the authority of the Independent Police Complaints Council existing immediately before the commencement of this Ordinance, such matter or thing shall be carried on and completed by the Council after such commencement.</p> <p>(2) Every person who immediately before the commencement of this Ordinance holds an appointment as the Chairman, a Vice-Chairman, a member or the Secretary of the Independent Police Complaints Council shall continue, as from such commencement but subject to the terms of his appointment, to be the Chairman, a Vice-Chairman, a member or the Secretary of the Council, as the case may be, for the purpose of this Ordinance.</p>	<p>“commencement date” (生效日期) means the date of commencement of this Ordinance;</p> <p>“former Council” (前警監會) means the Independent Police Complaints Council existing immediately before the commencement date;</p> <p>“former observer” (前觀察員) means a person who was an observer under the scheme known as the Independent Police Complaints Council observers scheme existing immediately before the commencement date.</p> <p><u>Clause 40 – Continuance of things done by former Council</u></p> <p>(1) The enactment of this Ordinance does not affect the validity of anything done by, in relation to or on behalf of the former Council before the commencement date.</p> <p>(2) Anything done before the commencement date by, in relation to or on behalf of the former Council pursuant to or in connection with its functions has effect as from that date as if done by, in relation to or on behalf of the Council.</p> <p>(3) Anything that, immediately before the commencement date, is required to be done</p>	<p>manner to facilitate the transition of the existing IPCC into a statutory body.</p> <p>Clause 42 of the 2007 Bill is added to provide for continuance of the Police’s submission of lists of reportable complaints and non-reportable complaints stipulated in clause 8.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>and is in the process of being done by, in relation to or on behalf of the former Council pursuant to or in connection with its functions may, as from that date, be continued by, in relation to or on behalf of the Council to the extent that it is consistent with this Ordinance.</p> <p><u>Clause 42 – Lists submitted to former Council</u></p> <p>In relation to –</p> <ul style="list-style-type: none"> (a) the first list of reportable complaints submitted under section 8(1)(a); or (b) the first list of non-reportable complaints submitted under section 8(1)(b), <p>the last list containing the corresponding information that was submitted by the Commissioner to the former Council before the commencement date is to be regarded as –</p> <ul style="list-style-type: none"> (c) the last list of reportable complaints for the purposes of section 8(2); or (d) the last list of non-reportable complaints for the purposes of section 8(3), <p>as may be applicable.</p>	
15	- Nil -	<p><u>Clause 8 – Commissioner to submit lists of complaints</u></p> <p>(1) The Commissioner must submit to the Council at such intervals, and in such manner, as the Commissioner and the Council may</p>	<p>Clause 8 of the 2007 Bill is new. It obliges the Police to submit to the IPCC lists of “reportable complaints” and “non-reportable complaints”, and reflects the existing practice.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>agree –</p> <ul style="list-style-type: none"> (a) a list of reportable complaints; and (b) a list of non-reportable complaints. <p>(2) A list submitted under subsection (1)(a) must include a brief description of all reportable complaints that the Commissioner has received since the end of the period covered by the last list so submitted.</p> <p>(3) A list submitted under subsection (1)(b) must include –</p> <ul style="list-style-type: none"> (a) a brief description of all non-reportable complaints that the Commissioner has received since the end of the period covered by the last list so submitted; (b) the reasons for categorizing the complaints as non-reportable complaints; and (c) in relation to a complaint that is a non-reportable complaint only by virtue of section 11(a), the reason for the Commissioner's opinion that the complaint is not of a serious nature. 	
16	- Nil -	<p><u>Clause 11 – Belated complaints may be categorized as reportable complaints only if serious in nature</u></p> <p>A complaint may not be categorized as a reportable complaint unless –</p>	<p>Clause 11 of the 2007 Bill is new. It reflects the existing practice.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(a) the complaint is made to the Commissioner –</p> <p>(i) within a period of 24 months from the date of the incident giving rise to the complaint; or</p> <p>(ii) where proceedings relating to the subject matter of the complaint have been commenced in any court, magistracy or statutory tribunal within the period referred to in subparagraph (i), within a period of 12 months from the date of the final determination of such proceedings, whichever expires later; or</p> <p>(b) though made to the Commissioner after the expiry of the period that is applicable to it under paragraph (a)(i) or (ii), in the opinion of the Commissioner, the complaint is of a serious nature.</p>	
17	- Nil -	<p><u>Clause 12 – Requests for review treated as reportable complaints</u></p> <p>(1) A request for review made to the Commissioner for reviewing the classification of a reportable complaint ("the relevant classification") is to be treated as a reportable complaint only if the Commissioner is of the opinion that the request for review –</p>	<p>Clause 12 of the 2007 Bill is new. It reflects the existing practice.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(a) is not vexatious or frivolous; (b) is made in good faith; and (c) (if made by a person on behalf of a complainant) is made in accordance with section 14.</p> <p>(2) On such review, the Commissioner is not required to conduct a fresh or further investigation of any fact or evidence considered in the determination of the relevant classification unless the person who makes the request for review puts forward a point of view on the analysis of that fact or evidence and –</p> <p>(a) the Commissioner did not consider such a point of view in his determination of the relevant classification; (b) the point of view, if established after a fresh or further investigation of that fact or evidence, may result in a change of the relevant classification; and (c) the consideration of the point of view reasonably requires a fresh or further investigation of that fact or evidence.</p>	
18	- Nil -	<p><u>Clause 14 – Making complaint or request for review on behalf of complainant</u></p> <p>(1) For the purposes of this Ordinance, a</p>	<p>Clause 14 of the 2007 Bill is new. It provides for making complaints or requests for review on behalf of complainants, and reflects the existing practice.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>person ("the representative") may make a complaint or a request for review on behalf of a complainant only if –</p> <ul style="list-style-type: none">(a) the complainant is below the age of 16 years at the time when the complaint or request for review (as the case may be) is made and the representative is his parent or guardian;(b) the complainant is a mentally incapacitated person or is unable to make the complaint or request for review (as the case may be) himself due to death or illness, and the representative is –<ul style="list-style-type: none">(i) a relative of the complainant; or(ii) a guardian (as defined in section 2(1) of the Mental Health Ordinance (Cap. 136)) of the complainant; or(c) the representative has written authorization from the complainant to make the complaint or request for review (as the case may be) on behalf of the complainant. <p>(2) For the purposes of subsection (1)(b), "relative" (親屬) means –</p> <ul style="list-style-type: none">(a) a spouse, child, parent, grandparent or grandchild; or(b) a person who is, or is the issue of, a	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>brother, sister, uncle or aunt.</p> <p>(3) In deducing any relationship for the purposes of subsections (1)(b) and (2) –</p> <ul style="list-style-type: none"> (a) an adopted person is treated as the child of the person or persons by whom he was adopted; (b) any relationship by affinity is treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the step-child of a person as the child of that person; and (c) an illegitimate child is treated as a legitimate child of his mother and reputed father. 	
19	- Nil -	<p><u>Clause 15 – Reconsideration of categorization by Commissioner</u></p> <p>(1) If the Council considers that a complaint included in the list of non-reportable complaints under section 8 should be categorized as a reportable complaint, it may advise the Commissioner of its opinion, and the Commissioner must –</p> <ul style="list-style-type: none"> (a) have regard to such opinion; and (b) reconsider the categorization of the complaint. <p>(2) The Commissioner must, as soon as practicable after the completion of his</p>	<p>Clause 15 of the 2007 Bill is new. It empowers the IPCC to advise the Police to reconsider the categorization of “non-reportable complaints”, to require the Police to provide explanations to support the categorization of a complaint as a “non-reportable complaint”, and obliges the Police to inform the IPCC of the outcome of their reconsideration.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>reconsideration under subsection (1), inform the Council of the outcome of his reconsideration.</p> <p>(3) For the purpose of performing the Council's function under subsection (1), the Council may require the Commissioner to provide explanations to support –</p> <ul style="list-style-type: none"> (a) the categorization of a complaint as a non-reportable complaint; and (b) in relation to a complaint that is a non-reportable complaint only by virtue of section 11(a), the Commissioner's opinion that the complaint is not of a serious nature. 	
20	- Nil -	<p><u>Clause 22 – Council may require Commissioner to inform complainant of classification of reportable complaints</u></p> <p>The Council may require the Commissioner to inform –</p> <ul style="list-style-type: none"> (a) the complainant; or (b) (where the reportable complaint was made by a person on behalf of the complainant) the person who made the complaint, <p>of the classification of the reportable complaint and the reasons for the classification.</p>	<p>Clause 22 of the 2007 Bill is new. Incorporating the comments of the Bills Committee on the 1996 Bill and reflecting the existing practice, clause 22 empowers the IPCC to require the Police to inform complainants of the classification of reportable complaints and the reasons for the classification.</p>
21	- Nil -	<u>Clause 23 – Members of Council may attend</u>	Clause 23 of the 2007 Bill is new.

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p><u>interviews and observe collection of evidence</u></p> <p>(1) A member of the Council may at any time and without prior appointment –</p> <ul style="list-style-type: none"> (a) attend an interview conducted by the Commissioner in respect of a reportable complaint; and (b) observe the collection of evidence by the Commissioner in the investigation of a reportable complaint. <p>(2) Where a member of the Council attends the interview or observes the collection of evidence, sections 34 and 35 apply, with necessary modifications, to that member as if a reference to an observer in those sections were a reference to that member.</p>	<p>It empowers IPCC members to attend interviews and collection of evidence conducted by the Police in the investigation of reportable complaints. This reflects the arrangements implemented since 1996.</p>
22	- Nil -	<p><u>Clause 26 – Council may require Commissioner to consult Council on orders and manuals relating to handling or investigation of reportable complaints</u></p> <p>(1) To enable the Council to make such recommendations as the Council sees fit to the Commissioner, the Council may require the Commissioner to consult the Council on –</p> <ul style="list-style-type: none"> (a) any proposed new order or manual of the police force that relates to the handling or investigation of reportable complaints; or 	<p>Clause 26 of the 2007 Bill is new. It empowers the IPCC to require the Police to consult it on Police orders and manuals relating to the handling or investigation of reportable complaints and amendments thereto. This reflects the existing practice. It also addresses the suggestion of the Bills Committee on the 1996 Bill that the Police should consult the IPCC on amendments to police orders.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(b) any significant amendment proposed to be made to –</p> <ul style="list-style-type: none"> (i) the police general orders made under section 46 of the Police Force Ordinance (Cap. 232); (ii) the headquarter orders issued under section 47 of that Ordinance; (iii) the Hong Kong Police Force Procedures Manual; or (iv) any other orders or manuals of the police force, <p>in so far as the amendment relates to the handling or investigation of reportable complaints.</p> <p>(2) For the purposes of subsection (1)(b), an amendment is significant if it materially changes –</p> <ul style="list-style-type: none"> (a) the meaning or interpretation of; or (b) the procedures to be followed under, any provision of the order or manual of the police force. 	
23	- Nil -	<p><u>Clause 29 – Council may charge fees</u></p> <p>The Council may charge fees for providing copies of, or extracts from, documents or publications of the Council.</p> <p><u>Clause 30 – Council may hold property, enter into contracts and borrow money</u></p>	<p>Clauses 29 and 30 of the 2007 Bill are new. They provide for the IPCC’s powers relating to the administration of its affairs.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>For the purposes of this Ordinance, the Council may –</p> <ul style="list-style-type: none"> (a) acquire, hold and dispose of movable or immovable property; (b) enter into contracts or other agreements; and (c) with the approval of the Financial Secretary, borrow money on security or other conditions. 	
24	- Nil -	<p><u>Clause 31 – Appointment of observers</u></p> <p>(1) Subject to subsection (2), the Secretary for Security may appoint such person as he thinks fit to be an observer.</p> <p>(2) A person –</p> <ul style="list-style-type: none"> (a) who is a civil servant of the Government, the Secretary, the Legal Adviser or any other employee of the Council; or (b) who was a member of the police force, <p>is not eligible to be appointed as an observer.</p> <p><u>Clause 32 – Role of observers</u></p> <p>The role of an observer is to assist the Council to observe, in accordance with the provisions of this Part, the manner in which the Commissioner handles or investigates</p>	<p>Clauses 31 to 35 and Schedule 2 of the 2007 Bill are new. They reflect the existing arrangement of appointing lay observers to attend interviews and observe collection of evidence by the Police during investigations.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>reportable complaints.</p> <p><u>Clause 33 – Schedule 2 applicable to observers</u></p> <p>Schedule 2 has effect with respect to observers.</p> <p><u>Clause 34 – Observers may attend interviews and observe collection of evidence</u></p> <p>(1) For the purposes of section 32, an observer may at any time and without prior appointment –</p> <ul style="list-style-type: none">(a) attend an interview conducted by the Commissioner in respect of a reportable complaint; and(b) observe the collection of evidence by the Commissioner in the investigation of a reportable complaint. <p>(2) After having attended the interview or having observed the collection of evidence, the observer must submit a report to the Council stating –</p> <ul style="list-style-type: none">(a) whether, in his opinion, the interview or collection of evidence has been conducted in a fair and impartial manner; and(b) where applicable, the particulars of any irregularities detected by the	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>observer in respect of the interview or collection of evidence.</p> <p>(3) If, during the interview or collection of evidence, it comes to the knowledge of the observer that he has an interest in the reportable complaint, he must –</p> <ul style="list-style-type: none">(a) in the case of an interview, disclose the nature of his interest to –<ul style="list-style-type: none">(i) the police officer who is designated by the Commissioner to conduct the interview; and(ii) the person who is being interviewed;(b) in the case of collection of evidence, disclose the nature of his interest to –<ul style="list-style-type: none">(i) the police officer who is designated by the Commissioner to conduct the collection of evidence; and(ii) (if applicable) the person from whom evidence is being collected;(c) withdraw from the interview or observation of the collection of evidence (as the case may be); and(d) report the nature of his interest to the Council.	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p><u>Clause 35 – Council may determine procedures, duty roster, etc. relating to observers</u></p> <p>The Council may determine –</p> <ul style="list-style-type: none"> (a) the procedure that applies in relation to an observer's attendance at an interview conducted by the Commissioner in respect of a reportable complaint; (b) the procedure that applies in relation to an observer's observation of the collection of evidence by the Commissioner in the investigation of a reportable complaint; (c) the drawing up of a duty roster of the observers; and (d) any operational matter or arrangement that relates to the performance of the functions of observers under the provisions of this Part. <p><u>Schedule 2 – Provisions with respect to Observers</u></p> <p>1. Term of office of observers</p> <p>An observer –</p> <ul style="list-style-type: none"> (a) is to be appointed for a term not exceeding 2 years; and (b) is eligible for reappointment for a 	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>further term or terms not exceeding 2 years each.</p> <p>2. Resignation of observers</p> <p>(1) An observer may resign from office by giving notice in writing to the Secretary for Security.</p> <p>(2) The resignation in subsection (1) takes effect on the date the Secretary for Security receives the notice or the date specified in the notice (whichever is the later).</p> <p>3. Removal of observers</p> <p>The Secretary for Security may by notice in writing remove an observer from office if the Secretary for Security is satisfied that the observer is unable or unfit to perform his functions due to permanent incapacity or other sufficient cause.</p> <p>4. Fees and allowances to observers</p> <p>The Council may pay the observers such fees and allowances as the Secretary for Security approves.</p>	
25	- Nil -	<p><u>Clause 43 – Public bodies</u></p> <p>Schedule 1 to the Prevention of Bribery</p>	<p>Clauses 43 and 44 of the 2007 Bill are new. They set out the consequential amendments.</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>Ordinance (Cap. 201) is amended by adding – “109. Independent Police Complaints Council.”.</p> <p><u>Clause 44 – Organizations to which this Ordinance applies</u></p> <p>Part II of Schedule 1 to The Ombudsman Ordinance (Cap. 397) is amended by repealing “Secretariat of the Independent Police Complaints Council.”.</p>	
26	- Nil -	<p><u>Schedule 1 – Provisions with respect to Members, Proceedings, Committees and Finances of, and Execution of Documents by, and Other Miscellaneous Matters of, Council</u></p> <p>5. Fees and allowances to Chairman, Vice-Chairmen and appointed members</p> <p>The Council may pay the Chairman, Vice-Chairmen and appointed members such fees and allowances as the Chief Executive may determine.</p> <p>6. Seal and documents of Council</p> <p>(1) The Council is to have a common seal.</p> <p>(2) The common seal may be affixed to a document only if authorized by a resolution of</p>	<p>Clauses 5, 6, 10, 13 to 22, 24 and 26 of Schedule 1 to the 2007 Bill are new. They make provisions with respect to the fees and allowances to be paid to IPCC members, execution of documents, disclosure of interest, committees, finances and other miscellaneous matters of the IPCC. Similar provisions can be found in the Urban Renewal Authority Ordinance (Cap. 563), the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and The Ombudsman Ordinance (Cap. 397).</p>

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>the Council.</p> <p>(3) The affixing of the common seal is to be authenticated by the signatures of any 2 members of the Council authorized by the Council, either generally or specially in that behalf.</p> <p>(4) A document purporting to be duly executed under the common seal is to be regarded as having been duly executed unless the contrary is proved.</p> <p>(5) Any contract or instrument which, if entered into or executed by a natural person, would not be required to be entered into or executed under seal, may be entered into or executed on behalf of the Council by any of its members, the Secretary, the Legal Adviser or any other employee of the Council generally or specially authorized by the Council in that behalf.</p> <p>10. Disclosure of interest</p> <p>If a member of the Council has an interest in a matter being discussed or to be discussed at a meeting of the Council, he must disclose the nature of his interest at or before the meeting.</p> <p>13. Establishment of committees</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>The Council may establish committees, panels or sub-groups to assist the Council in the performance of any of its functions under this Ordinance.</p> <p>14. Disclosure of interest</p> <p>If a member of a committee has an interest in a matter being discussed or to be discussed at a meeting of the committee, he must disclose the nature of his interest at or before the meeting.</p> <p>15. Chairman of committee</p> <p>(1) The chairman of a committee must be elected from amongst its members.</p> <p>(2) The chairman of a committee must preside at a meeting of the committee.</p> <p>(3) If the chairman of a committee is absent or vacates the chair, a member of the committee elected from amongst the members of the committee present must preside at the meeting.</p> <p>16. Determination of matters at committee meetings</p> <p>(1) A matter for determination at a meeting of a committee must be decided by a majority</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>of the votes of the members of the committee present and voting on that matter.</p> <p>(2) If there is an equality of votes, the person presiding at the meeting has a casting vote in addition to his original vote.</p> <p>(3) Subject to subsection (5), anything that may be done at a meeting of a committee may be done by circulation of papers to all members of the committee without a meeting.</p> <p>(4) Subject to subsection (5), a written resolution that is approved by a majority of all members of a committee is as valid and effectual as if it had been passed at a meeting of the committee by the votes of the members so approving.</p> <p>(5) If any member of a committee requests by notice in writing addressed to the Secretary that a matter referred to in the papers circulated under subsection (3) be determined at a meeting of the committee, the matter must be so determined.</p> <p>(6) In the case of a written resolution, if a member of the committee has an interest in the matter, he must state his interest in the papers being circulated.</p> <p>(7) For the avoidance of doubt, a reference to</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>circulation of papers in this section includes circulation of information by electronic means, and a reference to the papers in this section must be construed accordingly.</p> <p>17. Committee may determine its own procedure</p> <p>Subject to the other provisions of this Ordinance, each committee may determine its own procedure.</p> <p>18. Resources of Council</p> <p>The resources of the Council consist of –</p> <ul style="list-style-type: none">(a) all money paid by the Government to the Council and appropriated for that purpose by the Legislative Council; and(b) all other money and property, including fees, gifts, donations, interest and accumulations of income, received by the Council. <p>19. Investment of funds</p> <p>(1) Subject to subsection (2), the Council may invest money that is not immediately required to be expended.</p> <p>(2) The Council must not invest money except in such form of investment as the</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>Financial Secretary approves.</p> <p>20. Financial year</p> <p>The financial year of the Council is –</p> <ul style="list-style-type: none">(a) the period beginning on the date of commencement of this Ordinance and ending on 31 March in the next following year; and(b) the period of 12 months ending on 31 March in each subsequent year. <p>21. Council to keep proper accounts</p> <p>(1) The Council must keep proper accounts of its financial transactions.</p> <p>(2) As soon as practicable after the end of a financial year of the Council, the Council must prepare –</p> <ul style="list-style-type: none">(a) a statement of accounts for that financial year containing an income and expenditure account and a cash flow statement; and(b) a balance sheet showing the financial position of the Council as at the end of that financial year. <p>22. Audit of statement of accounts</p> <p>(1) The Council must appoint as its auditor a person who is registered under the</p>	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>Professional Accountants Ordinance (Cap. 50) and holds a practising certificate within the meaning of that Ordinance.</p> <p>(2) As soon as practicable after the end of a financial year of the Council, the auditor must –</p> <ul style="list-style-type: none">(a) audit the accounts and the statement of accounts prepared by the Council for that financial year; and(b) submit to the Council a report on the statement of accounts. <p>24. Director of Audit's examination</p> <p>(1) The Director of Audit may, in respect of any financial year of the Council, conduct an examination into the economy, efficiency and effectiveness with which the Council has expended its resources in performing its functions.</p> <p>(2) The Director of Audit –</p> <ul style="list-style-type: none">(a) has a right of access at all reasonable times to all such records, books, vouchers, documents, cash, receipts, stamps, securities, stores and any other property in the custody or under the control of the Council as he may reasonably require for the purpose of conducting an examination under this section; and	

Item	Content of the 1996 Bill	Content of the 2007 Bill	Comparison
		<p>(b) is entitled to require from any person who holds or is accountable for any such document or materials such information and explanation as he considers reasonably necessary for that purpose.</p> <p>(3) The Director of Audit may report to the President of the Legislative Council the results of an examination conducted by him under this section.</p> <p>(4) Subsection (1) does not entitle the Director of Audit to question the merits of the policy objectives of the Council.</p> <p>26. Exemption from taxation</p> <p>The Council is exempt from taxation under the Inland Revenue Ordinance (Cap. 112).</p>	