

政府總部
香港下亞厘畢道



GOVERNMENT SECRETARIAT

LOWER ALBERT ROAD
HONG KONG

本函編號 OUR REF.:

SBCR 1/2801/77

來函編號 YOUR REF.:

立法會 CB(2)2469/07-08(01)號文件
LC Paper No. CB(2)2469/07-08(01)

電話號碼 Tel. No.: 2810 3523

傳真號碼 Fax. No.: 2524 3762

28 June 2008

Mrs Sharon Tong
Clerk to Bills Committee
Bills Committee on Independent Police Complaints Council Bill
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mrs Tong,

**Independent Police Complaints Council Bill –
Draft Committee Stage Amendments
to be moved by the Administration**

Further to the Bills Committee meeting held on 23 June 2008, we intend to move further Committee Stage Amendments (CSAs) to the Independent Police Complaints Council (IPCC) Bill. They are set out in the following paragraphs.

(a) Acronym for “獨立監察警方處理投訴委員會”

Following the revision of the Chinese name of the IPCC to “獨立監察警方處理投訴委員會”, the Bills Committee has suggested revising the acronym of the Council from “警監會” to “監警會”. We accept the suggestion and will move amendments to those clauses in the Bill containing a reference to “警監會”.

- 2 -

(b) Commissioner of Police to consult the IPCC on orders and manuals relating to handling or investigation of reportable complaints

Taking into account the comments of the Bills Committee, we will align the formulation of clause 26(1) with that of the revised clause 22(1) to the effect that the Commissioner of Police must consult the IPCC on any proposed new order or manual of the police force that relates to the handling or investigation of reportable complaints or any significant amendment proposed to be made to the order and manual of the police force in so far as the amendment relates to the handling or investigation of reportable complaints.

(c) Making a complaint or request for review on behalf of a complainant who is below the age of 16

We note that the Hon James To intends to move a CSA to clause 14 to generally allow relatives (apart from parents and guardians) of a complainant below the age of 16 to make a complaint or request for review on his behalf. We will incorporate the Hon James To's CSA by covering "relative" in clause 14(1)(a) and will apply the interpretation of "relative" and deduction of relationship in clause 14(2) and (3) to clause 14(1)(a).

(d) Declaration of interest by the IPCC members and observers

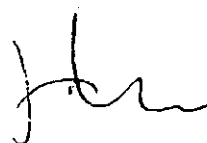
We note that the Hon James To intends to move CSAs to the effect that –

- (i) if an IPCC member has a direct or indirect interest in a matter being discussed or to be discussed by the IPCC or its committee, he must disclose the interest; and
- (ii) if it comes to the knowledge of an IPCC observer that he has a direct or indirect interest in an interview or collection of evidence under observation, he must disclose the interest.

The formulation of "has an interest" in the relevant provisions of the Bill is, in fact, intended to cover both direct and indirect interest. Thus, we will incorporate the Hon James To's CSAs by expressly referring to direct and indirect interest under clause 34 and the new clauses 11A – 11C and 16A – 16D in Schedule 1.

A full set of the Administration's CSAs incorporating the above further amendments is attached to this letter for Members' reference.

Yours sincerely,



(Miss Jane Lee)
for Secretary for Security

c.c.

D of J	(Attn: Ms Fanny Ip)
	(Attn: Ms Lonnie Ng)
C of P	(Attn: Mr Alfred Ma)
S, IPCC	(Attn: Mrs Philomena Leung)

INDEPENDENT POLICE COMPLAINTS COUNCIL BILL

COMMITTEE STAGE

Draft Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	(a) By deleting "of observing and" and substituting "in". (b) In the Chinese text, by deleting "須具報" where it twice appears and substituting "須匯報".
1	In the Chinese text, by deleting "投訴警方獨立監察" and substituting "獨立監察警方處理投訴".
New	By adding - "1A. Commencement This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette."
2(1)	(a) In the definition of "categorization" - (i) in the Chinese text, in paragraph (a), by deleting "須具報" and substituting "須匯報";

- (ii) in paragraph (b), by deleting "non-reportable" and substituting "notifiable".
- (b) In the definition of "classification" -
 - (i) by deleting paragraphs (a) to (e) and substituting -
 - "(a) substantiated;
 - (b) substantiated other than reported;
 - (c) not fully substantiated;
 - (d) unsubstantiated;
 - (e) false;
 - (f) no fault;
 - (g) withdrawn;
 - (h) not pursuable;
 - (i) curtailed;
 - (j) informally resolved; or
 - (k) of such other description as agreed between the Council and the Commissioner;"
 - (ii) in the Chinese text, by deleting "須具報" and substituting "須匯報".
- (c) In the definition of "Council", by deleting everything after "Council" and substituting "(監警會) means the body corporate established by section 3;"
- (d) By deleting the definition of "non-reportable complaint" and substituting -

"notifiable complaint" (須知會投訴) means a complaint categorized as a notifiable complaint in accordance with section 13;".

(e) By deleting the definition of "reportable complaint" and substituting -

"reportable complaint" (須匯報投訴) means -

(a) a complaint categorized as a reportable complaint in accordance with section 10; or

(b) a request for review treated as a reportable complaint in accordance with section 12;".

(f) In the definition of "Secretary" -

(i) by deleting "Secretary" where it twice appears and substituting "Secretary-General";

(ii) by deleting "(秘書)" and substituting "(秘書長)";

(iii) in the Chinese text, by deleting "警監會" and substituting "監警會".

(g) In the Chinese text, in the definition of "主席", by deleting "警監會" and substituting "監警會".

(h) In the Chinese text, in the definition of "委任成員", by deleting "警監會" and substituting "監警會".

- (i) In the Chinese text, in the definition of "委員
會", by deleting "警監會" and substituting "監警
會".
- (j) In the Chinese text, in the definition of "法律顧
問", by deleting "警監會" and substituting "監警
會".
- (k) In the Chinese text, in the definition of "副主
席", by deleting "警監會" and substituting "監警
會".
- (l) In the Chinese text, in the definition of "覆核要
求", by deleting "須具報" and substituting "須匯報".
- (m) By adding -
"
"material" (材料) includes any document or record
in any form and any article or substance;".

2 By adding -

"(3) In sections 7(1)(b), 18(1)(e), 24 and
37(2A)(b), a reference to any action taken or to
be taken in respect of a member of the police
force includes a decision that no action be taken
against that member."

Part 2 In the heading, in the Chinese text, by deleting "投訴
警方獨立監察" and substituting "獨立監察警方處理投訴".

3 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

3 By deleting subclause (1) and substituting -

"(1) There is hereby established a body corporate known as -

(a) "Independent Police Complaints Council" in English; and

(b) "獨立監察警方處理投訴委員會" in Chinese."

3(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

3(3) In the Chinese text, by deleting "警監會" and substituting "監警會".

4 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

4(1) In the Chinese text, by deleting "警監會" and substituting "監警會".

4 By deleting subclause (2) and substituting -

"(2) The following persons are not eligible for appointment under subsection (1) -

(a) a person who holds an office of emolument, whether permanent or temporary, in a Government bureau or department; and

(b) a person who was a member of the police force."

5 In the heading, by deleting "**Secretary**" and substituting "**Secretary-General**".

5(1) (a) By deleting "Secretary" and substituting "Secretary-General".

(b) By adding "of employment" after "terms".

(c) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

5(2) (a) By adding "of employment" after "terms".

(b) In the Chinese text, by deleting "警監會" and substituting "監警會".

5(3) In the Chinese text, by deleting "警監會" and substituting "監警會".

6 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

(b) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

Part 3 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

7 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

7(1) (a) In paragraph (a), by deleting "manner in which reportable complaints are handled or investigated" and substituting "handling and investigation of reportable complaints".

(b) In paragraph (b), in the Chinese text -
(i) by deleting "須具報" and substituting "須匯報";
(ii) by deleting "警監會" and substituting "監警會".

(c) In paragraph (c), in the Chinese text -
(i) by deleting "須具報" and substituting "須匯報";

(ii) by deleting "警監會" and substituting "監警會".

(d) In paragraph (e), in the Chinese text, by deleting "警監會" and substituting "監警會".

(e) In the Chinese text, by deleting "警監會的職能" and substituting "監警會的職能".

7(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

8(1) (a) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".

(b) In paragraph (b), by deleting "non-reportable" and substituting "notifiable".

(c) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

8(2) In the Chinese text, by deleting "須具報" and substituting "須匯報".

8(3) (a) In paragraph (a), by deleting "non-reportable" and substituting "notifiable".

(b) In paragraph (b), by deleting "non-reportable" and substituting "notifiable".

(c) By deleting paragraph (c) and substituting -
"(c) in relation to a belated complaint (as defined in section 11(3)) that is not categorized as a reportable complaint solely on the ground that the complaint is not of a serious nature, the reasons supporting that ground."

9 (a) By deleting everything before paragraph (a) and substituting -

"9. Certain complaints not to be included in lists under section 8(1)

A list under section 8(1)(a) or (b) must not include a complaint that -".

(b) In paragraph (b), by deleting "and does not relate to police conduct" and substituting "and solely relates to the question of whether the summons is validly issued".

(c) In paragraph (c), by deleting "and does not relate to police conduct" and substituting "and solely relates to the question of whether the notice is validly issued".

10 (a) In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".

(b) In paragraph (a)(i), by adding ", whether or not

he identified himself as such a member" after "duties".

(c) In paragraph (b), by deleting "in the opinion of the Commissioner,".

(d) In the Chinese text, by deleting "須具報" and substituting "須匯報".

11 By deleting the clause and substituting -

"11. Categorization of belated complaints

(1) Except as provided in subsection (2), a belated complaint must not be categorized as a reportable complaint.

(2) A belated complaint must be categorized as a reportable complaint if -

(a) it is serious in nature; and

(b) but for subsection (1), it would be categorized as a reportable complaint in accordance with section 10.

(3) In this section, "belated complaint" (逾期投訴) means a complaint that is made to the Commissioner after the expiration of -

(a) 24 months from the date of the incident giving rise to the complaint; or

- (b) (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 paragraph (a)) 12 months from the date of the final determination of such proceedings,

whichever is later."

12 In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".

- 12(1) (a) By deleting "A request" and substituting "Subject to subsection (1A), a request".
- (b) By deleting "the Commissioner is of the opinion that".
- (c) In the Chinese text, by deleting "須具報" where it twice appears and substituting "須匯報".

12 By adding -

"(1A) A request for review must not seek for the review of a reportable complaint that is classified as "informally resolved"."

13 By deleting the clause and substituting -

**"13. Complaints categorized
as notifiable complaints**

A complaint received by the Commissioner must be categorized as a notifiable complaint if it is neither a reportable complaint nor a complaint referred to in section 9."

- 14(1)(a) By deleting "parent" and substituting "relative".
- 14(2) By deleting "(1)(b)" and substituting "(1)".
- 14(3) By deleting "(1)(b)" and substituting "(1)".
- 15(1)
- (a) By deleting "the list of non-reportable" and substituting "a list of notifiable".
 - (b) In the Chinese text, by deleting "警監會" and substituting "監警會".
 - (c) In the Chinese text, by deleting "為須具報" and substituting "為須匯報".
- 15(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

15(3) By deleting everything after "the Commissioner to provide" and substituting -

"-

- (a) explanations to support the categorization of a complaint as a notifiable complaint;
- (b) in relation to a belated complaint (as defined in section 11(3)) that is not categorized as a reportable complaint solely on the ground that the complaint is not of a serious nature, explanations to support that ground; and
- (c) information or material in support of the explanations."

Part 3, Division 2 In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".

16 In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".

16(1) (a) In the Chinese text, by deleting "須具報" and substituting "須匯報".

(b) In the Chinese text, by deleting "警監會" and substituting "監警會".

16(2)

(a) In paragraph (d), by deleting "and".

(b) In paragraph (e) -

(i) by deleting "other";

(ii) by deleting the full stop and substituting "; and".

(c) By adding -

"(f) such other information as the Commissioner and the Council may agree.".

16

By deleting subclause (3) and substituting -

"(3) An investigation report on a reportable complaint classified as informally resolved must -

(a) contain -

(i) a summary of the process of informal resolution of the complaint;

(ii) an account of the incident giving rise to the complaint as described by the complainant;

- (iii) (if the complainee is identified) an account of the incident giving rise to the complaint as described by the complainee;
 - (iv) an account of the action taken or to be taken by the Commissioner in connection with the complaint;
 - (v) such information as the Commissioner thinks necessary; and
 - (vi) such other information as the Commissioner and the Council may agree; and
- (b) explain the reasons for resolving the complaint by informal resolution.

(4) In subsections (1) and (2), a reference to an investigation report includes an investigation report supplementary to a previous investigation report."

- 17 In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".
- 17(1) (a) In the Chinese text, by deleting "須具報" and substituting "須匯報".
- (b) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".
- 17(2) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".
- 17(3) (a) By deleting "explain".
- (b) In paragraph (a), by adding "contain a summary of" before "the progress".
- (c) In paragraph (b), by adding "explain" before "the reasons".
- 17(4) (a) By deleting "the explanation given under subsection (3)" and substituting "an interim investigation report".
- (b) In the Chinese text, by deleting "警監會" and substituting "監警會".

18 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

- 18(1)
- (a) By deleting paragraph (a).
 - (b) In paragraph (d), by deleting "or" at the end.
 - (c) In paragraph (e), by deleting the full stop and substituting "; or".
 - (d) By adding -
 - "(f) its recommendation on the report other than those mentioned in paragraphs (b), (c) and (d).".
 - (e) In the Chinese text, by deleting "警監會" and substituting "監警會".

18 By adding -

- "(1A) If an investigation report is amended in response to the Council's recommendations referred to in subsection (1), the Commissioner must submit the report as amended to the Council as soon as practicable.".

18(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

- 19 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
- 19(1) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".
- 19(2) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".
- 19(3) (a) By adding "reasonably" before "of the opinion".
(b) In the Chinese text, by deleting "有可能" and substituting "相當可能會".
- 19(5) In the Chinese text, by deleting "警監會" and substituting "監警會".
- 19(6) In the Chinese text, by deleting "警監會" and substituting "監警會".
- 19(7) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

19 By deleting subclause (8) and substituting -

"(8) Despite subsections (5) and (7)(c) but without prejudice to subsection (6), a person interviewed by the Council has the right to be accompanied by his solicitor or counsel at an interview under this section."

19 By deleting subclause (9).

New By adding immediately after clause 19 -

"19A. Record of interview

(1) The Council must make a record of every interview under section 19, and the record is to be kept for such period as may be necessary for the performance of its functions under this Ordinance.

(2) The record may be used in the circumstances provided for in section 37(2) but not otherwise."

Part 3,
Division 3

In the heading, in the Chinese text, by deleting "須具報" and substituting "須匯報".

20 In the heading, in the Chinese text, by deleting "警監會可要求處長提供關乎須具報" and substituting "監警會可要求處長提供關乎須匯報".

- 20(1) (a) In paragraph (a), by deleting everything after "relating to a reportable complaint," and before "video" and substituting -
- "including but not limited to -
- (i) any written statement taken from a person interviewed by a member of the police force in respect of a reportable complaint; and
 - (ii) any".
- (b) In paragraph (b), by deleting "or discrepancy" and substituting ", discrepancy or findings".
- (c) In the Chinese text, by deleting "警監會" and substituting "監警會".

21 In the heading, in the Chinese text, by deleting "警監會可要求處長調查須具報" and substituting "監警會可要求處長調查須匯報".

- 21(1) In the Chinese text, by deleting "警監會可要求處長調查某須具報" and substituting "監警會可要求處長調查某須匯報".
- 21(2)
- (a) By adding "subject to section 12(2)," after "then,".
 - (b) In the Chinese text, by deleting "如有關須具報" and substituting "如有關須匯報".
 - (c) In the Chinese text, by deleting "警監會方" and substituting "監警會方".
 - (d) In paragraph (a), in the Chinese text, by deleting "須具報" wherever it appears and substituting "須匯報".
 - (e) In paragraph (b), in the Chinese text -
 - (i) by deleting "須具報" where it twice appears and substituting "須匯報";
 - (ii) by deleting "警監會" and substituting "監警會".
 - (f) In paragraph (c), in the Chinese text, by deleting "警監會" and substituting "監警會".
- 21(3) In the Chinese text, by deleting "警監會" and substituting "監警會".

22 (a) By deleting the heading and substituting -

**"22. Notification of classification
of reportable complaint and
result of review".**

(b) By renumbering the clause as clause 22(1).

22(1) (a) By deleting "The Council may require the
Commissioner to inform" and substituting "In the
case of a reportable complaint that is not a
request for review, the Commissioner must
notify".

(b) In the Chinese text, by deleting "須具報" where it
twice appears and substituting "須匯報".

22 By adding -

"(2) In the case of a reportable complaint
that is a request for review, the Council must
notify -

(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,

of the result of the review and the reasons for
the result.

(3) Subsections (1) and (2) do not apply
where the complainant or the person has indicated

to the Commissioner or the Council that he does not wish to be so notified.

(4) In determining the time at which the complainant or the person is notified of such matters as required under subsection (1) or (2), the following provisions apply -

- (a) if the notification is left at his address, the notification is effected when it is so left;
- (b) if the notification is sent by post to his address, the notification is effected when it would in the ordinary course of post be delivered to that address;
- (c) if the notification is sent by facsimile transmission to his facsimile number, the notification is effected when it would in the ordinary course of such transmission be received at that number; or
- (d) if the notification is sent by electronic mail transmission to his electronic mail address, the notification is effected when it

would in the ordinary course of such transmission be received at that address.

(5) In subsection (4), references to his address, his facsimile number or his electronic mail address mean the address, facsimile number or electronic mail address (as the case may be) provided by the complainant or the person to the Commissioner or the Council as a means of contacting him in relation to the reportable complaint."

23 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

23(1) (a) In the Chinese text, by deleting "警監會" and substituting "監警會".

(b) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".

(c) In paragraph (b), in the Chinese text, by deleting "須具報" and substituting "須匯報".

23(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

- 24
- (a) In the heading, in the Chinese text, by deleting "警監會可就已經在與須具報" and substituting "監警會可就已經在與須匯報".
 - (b) In the Chinese text, by deleting "警監會" and substituting "監警會".
 - (c) In the Chinese text, by deleting "須具報" and substituting "須匯報".

- 25
- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".
 - (c) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".

26 In the heading, by deleting "**Council may require**".

- 26(1)
- (a) By deleting everything before "consult the Council" and substituting -
" (1) The Commissioner must".
 - (b) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".
 - (c) In paragraph (b), in the Chinese text, by deleting "須具報" and substituting "須匯報".

27 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

(b) By renumbering the clause as clause 27(1).

27(1) By deleting everything after "unless" and substituting -

"the Secretary for Security certifies that compliance with the requirement would be likely to prejudice -

(a) the security of Hong Kong; or

(b) the investigation of any crime.".

27 By adding -

"(2) A certificate signed by the Secretary for Security certifying the matter referred to in subsection (1)(a) or (b) is conclusive evidence as to the matter so certified.".

28 By deleting "from time to time".

Part 3, Division 4 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

29 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

- (b) By adding "reasonable" before "fees".
- (c) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".
- (d) In the Chinese text, by adding "複製本或" before "文本".

- 30
- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) In the Chinese text, by deleting "警監會" and substituting "監警會".

- 31
- By deleting subclause (2) and substituting -
- "(2) The following persons are not eligible for appointment as observers -
- (a) a person who holds an office of emolument, whether permanent or temporary, in a Government bureau or department;
 - (b) the Secretary-General, the Legal Adviser or any other employee of the Council; and
 - (c) a person who was a member of the police force."

- 32
- In the Chinese text, by deleting "警監會按照本部的條文觀察

處長處理或調查須具報" and substituting "監警會按照本部的條文
觀察處長處理或調查須匯報".

New

By adding -

**"33A. Prior notification of
interview and collection
of evidence**

(1) In so far as practicable, the

Commissioner must, before he conducts -

(a) an interview in respect of a
reportable complaint; or

(b) any collection of evidence in the
investigation of a reportable
complaint,

notify the Council of the interview or collection
of evidence.

(2) The notification must set out -

(a) the nature of the allegations
contained in the reportable
complaint;

(b) the date, time and place of the
interview or collection of
evidence and the form in which it
will be conducted; and

(c) the particulars of the interviewee
and the interviewer.

(3) If the Commissioner has conducted an

interview or any collection of evidence referred to in subsection (1) ("the incident") without prior notice to the Council, the Commissioner must, as soon as practicable after the incident and in writing -

- (a) notify the Council of the incident;
- (b) explain to the Council the reasons why such prior notice has not been given; and
- (c) provide to the Council information that would have been required to be set out, under subsection (2), in a notification in respect of the interview or collection of evidence if such prior notice had been given."

- 34(1) (a) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".
- (b) In paragraph (b), in the Chinese text, by deleting "須具報" and substituting "須匯報".

- 34(2) In the Chinese text, by deleting "警監會" and substituting "監警會".

34

By adding -

"(2A) If an observer has an interest (whether directly or indirectly) in a reportable complaint in respect of which an interview or collection of evidence is conducted by the Commissioner, the observer must not attend the interview or observe the collection of evidence."

34(3)

- (a) By adding "(whether directly or indirectly)" after "has an interest".
- (b) In the Chinese text, by deleting "須具報" and substituting "須匯報".
- (c) In paragraph (d), in the Chinese text, by deleting "警監會" and substituting "監警會".

35

- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (b) By renumbering the clause as clause 35(1).

35(1)

- (a) In the Chinese text, by deleting "警監會" and substituting "監警會".
- (b) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".
- (c) In paragraph (b), in the Chinese text, by deleting "須具報" and substituting "須匯報".

35 By adding -

"(2) For the avoidance of doubt, a duty roster under subsection (1)(c) does not affect an observer's right under section 34(1) to attend an interview or observe the collection of evidence at any time."

Part 5 In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

36 In the definition of "specified person" -

- (a) in the Chinese text, in paragraph (a), by deleting "警監會" and substituting "監警會";
- (b) in the Chinese text, in paragraph (b), by deleting "警監會" and substituting "監警會";
- (c) in paragraph (c), by deleting "Secretary" and substituting "Secretary-General";
- (d) in the Chinese text, in paragraph (d), by deleting "警監會" and substituting "監警會";
- (e) in the Chinese text, in paragraph (f), by adding "任何" before "身分".

37(2) (b) By adding "or any suspected crime" after "crime".

37

By adding -

"(2A) For the avoidance of doubt, in making a disclosure under subsection (2)(a), the Council may disclose to the public -

- (a) the facts of any disagreement between the Council and the Commissioner on the findings or classification of a reportable complaint; or
- (b) 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 a reportable complaint."

37(4)

(a) In paragraph (a), by deleting everything after "a specified person" and substituting "as defined in section 36 (other than paragraph (f) of that definition);".

(b) By adding -

"(ba) a person who has written authorization from the complainant -

- (i) to make a complaint or request for review on behalf of the complainant (as provided in section 14); or
- (ii) to handle in the complainant's stead

the complaint or request for review
made by the complainant;".

(c) In paragraph (d), by deleting "or" at the end.

(d) By deleting paragraph (e) and substituting -

"(e) a person whom the Council invites to an
interview pursuant to section 19 or any
person who is present at an interview in
accordance with that section; or".

(e) By adding -

"(f) the Chief Executive.".

38 In the heading, in the Chinese text, by deleting "警監
會" and substituting "監警會".

40(2) In the Chinese text, by deleting "由警監會" and
substituting "由監警會".

40(3) (a) By deleting "is required to be done and".

(b) In the Chinese text, by deleting "由警監會" and
substituting "由監警會".

New By adding -

"40A. Pre-existing legal claims

Without limiting section 40, a legal claim
(including any judicial and administrative

proceedings) -

(a) by or against the former
Council; and

(b) existing immediately before the
commencement date,

does not abate by reason of the commencement of
this Ordinance."

41(1) In the Chinese text, by deleting "任警監會" and
substituting "任監警會".

41(2) By adding "1A(b) or" after "under section".

41 By adding -

"(2A) A person who, immediately before the
commencement date, is the Secretary or the Legal
Adviser of the former Council continues to be, as
from that date until the Secretary-General or the
Legal Adviser (as the case may be) has been
appointed under section 5(1), the Secretary-
General or the Legal Adviser (as the case may be)
of the Council on the same terms and conditions
as those applicable to that person immediately
before that date."

41(3) (a) By deleting "including" and substituting "other

than".

(b) By adding "until such time as the Council and the Government may agree" after "as from that date".

42 (a) In paragraph (a), in the Chinese text, by deleting "須具報" and substituting "須匯報".

(b) In paragraph (b), by deleting "non-reportable" and substituting "notifiable".

(c) In paragraph (c), in the Chinese text, by deleting "須具報" and substituting "須匯報".

(d) In paragraph (d), by deleting "non-reportable" and substituting "notifiable".

43 In the Chinese text, by deleting "投訴警方獨立監察" and substituting "獨立監察警方處理投訴".

Schedule 1 (a) In the heading, in the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

(b) In the cross-heading immediately after the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

Schedule 1 By adding immediately before section 1 -
"1A. **Term of office of Chairman**

The Chairman (other than a person appointed under section 4) -

- (a) is to be appointed for a term not exceeding 3 years; and
- (b) is eligible for reappointment for a further term or terms not exceeding 3 years each."

Schedule 1, section 1

- (a) In the heading, by deleting "**Chairman**".
- (b) By deleting "The Chairman, a" and substituting "A".

Schedule 1, section 5

In the Chinese text, by deleting "警監會" and substituting "監警會".

Schedule 1, section 6

- (a) In the cross-heading immediately before the section, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (b) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (c) In subsection (1), in the Chinese text, by deleting "警監會" and substituting "監警會".
- (d) In subsection (2), in the Chinese text, by deleting "警監會" and substituting "監警會".
- (e) In subsection (3), in the Chinese text, by

deleting "警監會" where it twice appears and substituting "監警會".

- (f) In subsection (5) -
 - (i) by deleting "Secretary" and substituting "Secretary-General";
 - (ii) in the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

Schedule 1,
section 7

- (a) In the cross-heading immediately before the section, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (b) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (c) In subsection (1), in the Chinese text, by deleting "警監會" and substituting "監警會".
- (d) In subsection (2), in the Chinese text, by deleting "警監會" and substituting "監警會".
- (e) By adding -
 - "(3) The Council may, by its procedure determined under section 12, make provisions for a Vice-Chairman to appoint, in the absence of the Chairman, the time and place for the Council to meet."

Schedule 1, section 8 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

(b) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

Schedule 1, section 9 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

(b) In subsection (1), in the Chinese text, by deleting "警監會" and substituting "監警會".

Schedule 1 By deleting section 10.

Schedule 1, section 11 (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".

(b) In subsection (1), in the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

(c) In subsection (3), in the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

(d) In subsection (4), in the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

(e) In subsection (5) -

- (i) by deleting "Secretary" and substituting "Secretary-General";
 - (ii) in the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".
- (f) By deleting subsection (6).

Schedule 1 By adding -

"11A. Disclosure of interest in reportable complaints and notifiable complaints

- (1) If a member of the Council has an interest (whether directly or indirectly) in a reportable complaint or a notifiable complaint being discussed or to be discussed at a meeting of the Council, the member -
- (a) must disclose the nature of his interest at or before the meeting;
 - (b) must withdraw from the meeting during the discussion of the complaint;
 - (c) must not vote on a resolution concerning the complaint; and
 - (d) must not be counted for the purpose of forming a quorum.
- (2) If the disclosure is made by the member presiding at the meeting, the member must vacate

the chair during the discussion of the complaint.

(3) When the member vacates his chair under subsection (2), the other members present at the meeting must appoint, by a majority, one of their number to preside at the meeting when the chair is so vacated.

(4) In this section, a reference to a reportable complaint or a notifiable complaint includes any matter that is related to the complaint.

**11B. Disclosure of interest
in matters other than
reportable complaints
and notifiable
complaints**

(1) If a member of the Council has an interest (whether directly or indirectly) in a matter ("the Matter") being discussed or to be discussed at a meeting of the Council and the Matter is neither a reportable complaint (including related matter) nor a notifiable complaint (including related matter), then the member -

- (a) must disclose the nature of his interest at or before the meeting;
- (b) must withdraw from the meeting during the discussion of the

Matter if so required by a majority of the other members present at the meeting; and

(c) except as otherwise determined by a majority of the other members present at the meeting -

(i) must not vote on a resolution concerning the Matter; and

(ii) must not be counted for the purpose of forming a quorum.

(2) If the disclosure is made by the member presiding at the meeting, the member must, if so required by a majority of the other members present at the meeting, vacate the chair during the discussion of the Matter.

(3) If the member is required to vacate his chair under subsection (2), the other members present at the meeting must appoint, by a majority, one of their number to preside at the meeting when the chair is so vacated.

11C. Disclosure of interest in cases of written resolutions

In the case of a written resolution on a matter in which a member of the Council has an interest (whether directly or indirectly) -

- (a) the member -
 - (i) must state the nature of his interest in the papers being circulated; and
 - (ii) must return the papers with his interest so stated to the Secretary-General; and
- (b) the member -
 - (i) must not vote on the written resolution; and
 - (ii) must not be counted in calculating a majority for the approval of the written resolution.

**11D. Disclosure of interest
be recorded**

A disclosure made under section 11A(1) (a), 11B(1) (a) or 11C(a) must be recorded by the Council."

Schedule 1,
section 12

- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
- (b) By deleting everything after "own procedure" and substituting a full stop.
- (c) In the Chinese text, by deleting "警監會可" and substituting "監警會可".

- Schedule 1,
section 13
- (a) In the cross-heading immediately before the section, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) By adding "from amongst its members" before "establish".
 - (c) In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

Schedule 1 By deleting section 14.

- Schedule 1,
section 16
- (a) In subsection (5), by deleting "Secretary" and substituting "Secretary-General".
 - (b) By deleting subsection (6).

Schedule 1 By adding -

**"16A. Disclosure of interest in
reportable complaints and
notifiable complaints**

(1) If a member of a committee has an interest (whether directly or indirectly) in a reportable complaint or a notifiable complaint being discussed or to be discussed at a meeting of the committee, the member -

- (a) must disclose the nature of his interest at or before the meeting;
- (b) must withdraw from the meeting

during the discussion of the
complaint;

(c) must not vote on a resolution
concerning the complaint; and

(d) must not be counted for the
purpose of forming a quorum.

(2) If the disclosure is made by the member
presiding at the meeting, the member must vacate
the chair during the discussion of the complaint.

(3) When the member vacates his chair under
subsection (2), the other members present at the
meeting must appoint, by a majority, one of their
number to preside at the meeting when the chair
is so vacated.

(4) In this section, a reference to a
reportable complaint or a notifiable complaint
includes any matter that is related to the
complaint.

**16B. Disclosure of interest
in matters other than
reportable complaints
and notifiable
complaints**

(1) If a member of a committee has an
interest (whether directly or indirectly) in a
matter ("the Matter") being discussed or to be
discussed at a meeting of the committee and the

Matter is neither a reportable complaint (including related matter) nor a notifiable complaint (including related matter), then the member -

- (a) must disclose the nature of his interest at or before the meeting;
- (b) must withdraw from the meeting during the discussion of the Matter if so required by a majority of the other members present at the meeting; and
- (c) except as otherwise determined by a majority of the other members present at the meeting -
 - (i) must not vote on a resolution concerning the Matter; and
 - (ii) must not be counted for the purpose of forming a quorum.

(2) If the disclosure is made by the member presiding at the meeting, the member must, if so required by a majority of the other members present at the meeting, vacate the chair during the discussion of the Matter.

(3) If the member is required to vacate his chair under subsection (2), the other members

present at the meeting must appoint, by a majority, one of their number to preside at the meeting when the chair is so vacated.

**16C. Disclosure of interest
in cases of written
resolutions**

In the case of a written resolution on a matter in which a member of a committee has an interest (whether directly or indirectly) -

(a) the member -

(i) must state the nature of his interest in the papers being circulated; and

(ii) must return the papers with his interest so stated to the Secretary-General; and

(b) the member -

(i) must not vote on the written resolution; and

(ii) must not be counted in calculating a majority for the approval of the written resolution.

**16D. Disclosure of interest
be recorded**

A disclosure made under section 16A(1)(a),

16B(1)(a) or 16C(a) must be recorded by the committee."

- Schedule 1,
section 18
- (a) In the cross-heading immediately before the section, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (c) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

Schedule 1,
section 19

In the Chinese text, by deleting "警監會" where it twice appears and substituting "監警會".

Schedule 1,
section 20

In the Chinese text, by deleting "警監會" and substituting "監警會".

- Schedule 1,
section 21
- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

Schedule 1,
section 22

In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

- Schedule 1,
section 23
- (a) In the heading, in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (b) In subsection (1) -
 - (i) by adding "(as may be reasonable in the circumstances)" after "period";
 - (ii) in the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".
 - (c) In subsection (2), in the Chinese text, by deleting "警監會" and substituting "監警會".

Schedule 1,
section 24

In the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".

- Schedule 1,
section 25
- (a) In subsection (1) -
 - (i) by deleting "Secretary" and substituting "Secretary-General";
 - (ii) in the Chinese text, by deleting "警監會" wherever it appears and substituting "監警會".
 - (b) In subsection (3), in the Chinese text, by deleting "警監會" and substituting "監警會".
 - (c) In subsection (4), in the Chinese text, by

deleting "警監會" and substituting "監警會".

(d) In subsection (5), in the Chinese text, by deleting "警監會" and substituting "監警會".

(e) In subsection (6), in the Chinese text, by deleting "警監會" and substituting "監警會".

Schedule 1, In the Chinese text, by deleting "警監會" and
section 26 substituting "監警會".

Schedule 2, In the Chinese text, by deleting "警監會" and
section 4 substituting "監警會".