

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

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28 May 2012

Mrs Sharon Tong
Principal Council Secretary 2
Council Business Division
Legislative Council Secretariat
Legislative Council Complex
Central, Hong Kong

Dear Mrs Tong,

Immigration (Amendment) Bill 2011

Further to the discussion of the Bills Committee on 22 May 2012, I attach two additional CSAs by the Administration, amending the new section 43A (Disturbing proceedings of Torture Claims Appeal Board) and Schedule 4 (Transitional and Savings Provisions).

Yours sincerely,

(Billy Woo)

for Secretary for Security

Encls.

c.c. Senior Assistant Legal Advisor (Attn: Ms Connie Fung)
Department of Justice (Attn: Ms Fanny Ip)

10 By deleting the proposed section 43A and substituting—

“43A. Disrupting proceedings of Torture Claims Appeal Board

A person who, without reasonable excuse, disrupts the proceedings of the Torture Claims Appeal Board established by section 37ZO commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.”.

13 In the proposed Schedule 4, in section 1, by adding—

“(4) To avoid doubt, nothing in this Schedule is to be construed as giving validity to anything done otherwise than in the lawful exercise of a power or performance of a duty.”.

10. **Section 43A added**

After section 43—

Add

~~“43A. **Disturbing proceedings of Torture Claims Appeal Board**~~

~~A person who disturbs or otherwise interferes with the proceedings of the Torture Claims Appeal Board established by section 37ZO commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.~~

43A. Disrupting proceedings of Torture Claims Appeal Board

A person who, without reasonable excuse, disrupts the proceedings of the Torture Claims Appeal Board established by section 37ZO commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.”.

13. **Schedule 4 added**

After Schedule 3—

Add

“Schedule 4

[s. 37ZX]

**Transitional and Savings Provisions in respect of Immigration
(Amendment) Ordinance 2011 (Torture Claims)**

1. Interpretation

(1) In this Schedule—

adjudicator (審裁員) means an adjudicator appointed under the administrative scheme for determining petitions;

administrative scheme (行政機制) means the administrative measures for determining non-refoulement claims implemented by the Director between 24 December 2009 and the commencement date;

commencement date (生效日期) means the date of commencement of the Immigration (Amendment) Ordinance 2011 (of 2011);

established claim (已確認聲請) means a non-refoulement claim in respect of which—

(a) (for a claim determined under the administrative scheme) an immigration officer or an adjudicator; or

(b) (for a claim determined before 24 December 2009) the Director, has determined that there are substantial grounds for believing that the person making the claim would be in danger of being subjected to torture if the person were removed to the State to which the claim relates;

non-refoulement claim (免遣返聲請) means a claim for protection under Article 3 of the Convention—

(a) made under the administrative scheme;

(b) made before 24 December 2009 and in respect of which the Director has informed, in writing, the person making the claim that screening of claims for such protection has been resumed on 24 December 2009; or

(c) determined as an established claim by the Director before 24 December 2009;

petition (呈請) means a petition made to the Chief Executive against a determination made by an immigration officer that a non-refoulement claim is a rejected claim;

questionnaire (問卷) means a form entitled “Questionnaire for Persons who have made claims under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” issued by the Immigration Department, which is required to be completed and returned to the Immigration Department by a person making a non-refoulement claim;

rejected claim (遭駁回聲請) means a non-refoulement claim in respect of which an immigration officer has determined that there are no substantial grounds for believing that the person making the claim would be in danger of being subjected to torture if the person were removed to the State to which the claim relates;

Table (列表) means the Table of Transitional Provisions included in this Schedule;

transitional provision (過渡性條文) means any provision appearing under Part A, or under Part B, in column 3 of the Table.

- (2) In this Schedule, a reference to Part VIIC includes Schedule 1A and any subsidiary legislation made under section 37ZU.
- (3) An expression used in this Schedule has the same meaning as in Part VIIC.
- (4) To avoid doubt, nothing in this Schedule is to be construed as giving validity to anything done otherwise than in the lawful exercise of a power or performance of a duty.