

政府總部  
香港下亞厘畢道



LC Paper No. CB(2)396/11-12(01)

**GOVERNMENT SECRETARIAT**  
LOWER ALBERT ROAD  
HONG KONG

本函檔號 OUR REF.:

來函檔號 YOUR REF.:

Tel: 2810 2506

Fax: 2868 1552

23 November 2011

Mr Raymond Lam  
Clerk to Panel on Security  
Legislative Council Complex  
1 Legislative Council Road  
Central

Dear Mr Lam,

**Views of NGOs and Professional Bodies on  
Torture Claim Screening Mechanism and  
Proposals under the Immigration (Amendment) Bill 2011**

At the Panel on Security meeting on 5 July 2011, a Member asked how proposals under the Immigration (Amendment) Bill 2011 (“the Bill”) could reflect views previously expressed by NGOs and professional bodies on the torture claim screening mechanism. We set out our response in the ensuing paragraphs.

**Merits-based Decision**

2. Regarding the screening procedures, the general view is that case officers of the Immigration Department (ImmD) should make decisions based on merits of each case. It is now provided under the Bill that “a torture claim must be accepted as substantiated if there are substantial grounds for believing that there is a torture risk if the claimant is removed”.

**Setting up of an Appeal Board**

3. There are views that there should be an independent appeal mechanism for petitions. It is now provided under the Bill that a Torture Claims Appeal Board, comprising members from a legal background, will be formed to decide on appeals.

### **Permission to Take Work**

4. There are views that claimants whose torture claim is substantiated should be allowed to take up employment in Hong Kong. We have set out in the Bill that under exceptional circumstances, the Director of Immigration may grant approval for claimants of substantiated claims to take up employment.

### **Time for Completion of Questionnaire**

5. There are views that sufficient time should be provided for the completion of questionnaires. It is now provided under the Bill that the timeline for completion of claim forms is 28 days and that it may be extended if justified.

### **Medical Examination**

6. There are views that medical examinations in association with torture claims should be handled in an impartial and professional manner. Under current arrangements, medical examinations are conducted by Forensic Pathologists of the Department of Health with specialist registration with the Hong Kong Medical Council. The Immigration Department does not have any role to play in the selection of medical doctors. This will continue to be the practice under the Bill, which provides that a medical examination may be arranged if the relevant medical condition is relevant to the claim and is in dispute.

7. The Bill is now under scrutiny by the Bills Committee. Further to the meeting with the public deputations on 21 November 2011, we would continue to listen to the views of Members as well as members of the public on the matter.

Yours sincerely,



(W H CHOW)  
for Secretary for Security