



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2530 0986)

10 May 2012

Ms Ivy LAW  
Principal Assistant Secretary for the Civil Service  
(Conduct and Discipline)  
Civil Service Bureau  
Conduct and Discipline Division  
6/F, West Wing,  
Central Government Offices,  
2 Tim Mei Avenue,  
Tamar, Hong Kong

Dear Ms LAW,

**Amendments to subsidiary legislation on discipline made under Disciplined Services Ordinances (L.N. 58 to L.N. 63 of 2012)**

We are scrutinizing the legal and drafting aspects of the captioned subsidiary legislation and have the following questions for your clarification-

- (a) It is noted that the present amendment exercise does not cover the disciplinary procedures applicable to officers of the Immigration Service Department. As such, please clarify whether the disciplinary procedures governing the Immigration Service will be amended in a separate exercise and if so when this will be done.
- (b) While L.N. 59 and L.N. 62 contain provisions on transitional arrangements for disciplinary procedures in respect of police officers and traffic wardens, there are no similar provisions in L.N. 58, L.N. 60, L.N. 61 and L.N. 63. In the absence of

transitional provisions, please explain whether the amendments made by L.N. 58, L.N. 60, L.N. 61 and L.N. 63 would apply to proceedings conducted before the commencement of the above items of subsidiary legislation and whether it is necessary to make transitional provisions in the same as L.N. 59 and L.N. 62.

- (c) Regulation 26(4) of the Police (Discipline) Regulation (Cap. 232 sub. leg. A) (P(D)R) as amended by section 40 of L.N. 59 requires the Chief Executive's Office to communicate the Chief Executive's relevant decisions (made under regulations 26 and 27 of P(D)R) to the inspector concerned and the Commissioner of Police (the Commissioner). Since the Chief Executive's Office (the CE's Office) is not an entity or a person, it is unclear which person in the CE's Office should have the duty to perform the function under the amended regulation 26(4). Please consider if it would be more appropriate to impose the duty, which is originally performed by the Chief Secretary for Administration, on a specified officer of the CE's Office.
- (d) Under L.N. 59, the disciplinary proceedings against junior police officers are heard by a tribunal consisting of a single police officer or a board appointed by the Commissioner who in turn will hear an appeal against a decision of the tribunal. Has the Administration considered whether this arrangement could satisfy the requirement of procedural fairness? Will the Administration consider revising the arrangement by appointing an independent person to hear the appeal? It is noted that in relation to appeals by inspectors against decisions made by the appropriate tribunals appointed by the Commissioner, the appeals are to be lodged to the Chief Executive under the proposed regulation 26. Should the same approach be adopted for appeals made by junior police officers?
- (e) It is noted that under L.N. 61 and L.N. 63 a member of the Government Flying Service and an officer of the Customs and Excise Department may not choose a fellow member/officer who is also a barrister or solicitor to represent him/her in a disciplinary hearing. However, no similar restriction is found in L.N. 58, L.N. 59, L.N. 60 and L.N. 62. Please explain why the restriction only applies to the Government Flying Service and the Customs and Excise Department and whether the restriction is justifiable.

As the first meeting of the Subcommittee on the captioned subsidiary legislation will be held on 16 May 2012, it is appreciated that your reply in both languages could reach us before the meeting.

Yours sincerely,



(YICK Wing-kin)  
Assistant Legal Adviser

cc DoJ (Attn.: Mr Sunny CHAN, Sr Asst Law Draftsman  
Ms Carmen CHAN, Govt Counsel (By Fax: 2845 2215))

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