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> 立法會CB(2)280/15-16(03)號文件 LC Paper No. CB(2)280/15-16(03)

香港中區 立法會道一號 立法會 2015 年截取通訊及監察(修訂)條例草案委員會主席 葉國謙議員

葉主席:

#### 提出修訂涉及"任何進一步的授權或規定"的條文

在較早前的草案委員會會議上,委員會曾討論《截取通訊及監察(修訂)條例草案》 ("《條例草案》")的建議修訂,關於在相關新條文內所述及的"進一步的授權或規 定"的事宜(條例草案第6(2)、8(2)、9、16(10)、17(5)及18條)。

《條例草案》建議在提述關於"進一步的授權或規定"及"進一步的授權"時, 草擬方法參考現行第 32 條的寫法,即"不論是根據該授權的條款或本條例的任何條 文而批予或施加"的授權或規定。但當中的"本條例的任何條文"容易給人誤會以為 任何條文,但其實根據政府的解釋,卻是指根據本條例第 29(1)至(5)條所提述的條 款,以及根據第29(6)或(7)或第30條批予的任何進一步授權,所批予或施加的任何 授權或規定。

為免生疑,本人擬提出修訂,將政府的解釋清楚列明於《條例草案》相關的新條 文內,而為了法律條文的一致性,亦會作出相應修訂。修訂條文詳見附件一。

如有查詢,請聯絡鄭慕貞女士,電話:28699530。謝謝!

立法會議員涂謹申謹啟

2015年11月16日 附件:修訂建議

Interception of Communications and Surveillance (Amendment) Bill 2015

# **Committee Stage**

## Amendments to be moved by the Hon. James To Kun-sun

Clause	Amendment Proposed
6(2)	By deleting "any provision of this Ordinance" and substituting "under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance".
8(2)	By deleting "any provision of this Ordinance" and substituting "under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance".
9	By deleting "any provision of this Ordinance" and substituting "section 29(6) or (7) or section 30 of this Ordinance".
16(10)	By deleting "any provision of this Ordinance" and substituting "under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance".
17(5)	By deleting "any provision of this Ordinance" and substituting "under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance".
18	By deleting "any provision of this Ordinance" and substituting "under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance".

### 21 By adding the clause—

# **"21. Section 32 amended (Prescribed authorization may be issued or renewed subject to conditions)**

Section 32—

#### Repeal

"any provision of this Ordinance"

#### **Substitute**

"under those terms referred to in section 29(1) to (5) as well as any further authorization granted under section 29(6) or (7) or section 30 of this Ordinance"."

### 22 By adding the clause—

# **"22.** Section 38 amended (Device retrieval warrant may be issued subject to conditions)

Section 38—

#### Repeal

"any provision of this Ordinance"

#### **Substitute**

"section 29(6) or (7) or section 30 of this Ordinance"."

# 《2015年截取通訊及監察(修訂)條例草案》

# 委員會審議階段

## 由涂謹申議員動議的修訂

<u>條次</u>		建議修正案
6(2)		例的任何條文"而代以"本條例第 29(1)至(5)條款,以及根據第 29(6)或(7)條或第 30 條"。
8(2)		例的任何條文"而代以"本條例第 29(1)至(5)條 款,以及根據第 29(6)或(7)條或第 30 條"。
9	删去"本條 或第 30 條'	例的任何條文"而代以"本條例第 29(6)或(7)條
16(10)		例的任何條文"而代以"本條例第 29(1)至(5)條款,以及根據第 29(6)或(7)條或第 30 條"。
17(5)		例的任何條文"而代以"本條例第 29(1)至(5)條款,以及根據第 29(6)或(7)條或第 30 條"。
18		例的任何條文"而代以"本條例第 29(1)至(5)條款,以及根據第 29(6)或(7)條或第 30 條"。
21	加入——	
	"21.	修訂第32條(可有條件地發出訂明授權或將訂明授權續期)
		第 32 條—
		廢除
		"本條例的任何條文"
		代以
		"本條例第 29(1)至(5)條所提述的條款,以及根據 第 29(6)或(7)條或第 30 條"。"。

#### 22 加入——

# "22. 修訂第 38 條(可有條件地發出器材取出手令)

第38條—

### 廢除

"本條例的任何條文"

# 代以

"本條例第 29(6)或(7)條或第 30 條"。"