

SBCR 2/16/1476/74

電話號碼 Our Tel.: 2810 3523

傳真號碼 Our Fax.: 2524 3762

BY FAX
(Your Fax.: 2509 0775)

28 May 2010

Miss Mary So
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Miss So,

**Proposed Code of Practice under Section 12A of the
United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)**

At the Subcommittee meeting held on 6 May 2010, Members requested the Administration to provide supplementary information in respect of the availability of legal assistance for a person subject to a order made under section 12A of the United Nations (Anti-Terrorism Measures) Ordinance (“the Ordinance”). Our response to the issue raised is set out below.

According to the Legal Aid Ordinance (Cap. 91) (LAO), legal representation is provided to eligible applicants to take or defend civil or criminal proceedings in the District Court, the Court of First Instance, the Court of Appeal and the Court of Final Appeal. Legal aid is also available for committal proceedings in the Magistrates’ Courts, applications to the Mental Health Review Tribunal and Coroners inquests involving interests of public justice. Any person, whether or not resident in Hong Kong, who is involved in the above court proceedings may apply for legal aid.

An interview arranged for the purpose of an order, for which the Secretary for Justice applied under section 12A(1), does not involve the above court proceedings and thus legal aid under the LAO is not

applicable. That notwithstanding, the interviewee may apply to the Court of First Instance with justifications under section 12A(13) of the Ordinance for the revocation or variation of the order. As such application is required to be examined at the Court of First Instance and legal aid is applicable to proceedings in the Court of First Instance, legal aid will be granted if the interviewee is able to satisfy the statutory criteria as to the financial eligibility and the merits for taking or defending the legal proceedings.

Further, a person subject to a section 12A order under the Ordinance may also seek free preliminary legal advice from volunteer lawyers under the Free Legal Advice Scheme (the Scheme) operated by Duty Lawyer Service to understand his/her rights and responsibilities under the Ordinance. There is no means test under the Scheme. For those who wish to use the service of the Scheme, they may seek assistance through the Legal Advice Centres located in nine district offices. As a person subject to a section 12A order will be informed of the interview details in advance, he/she may consider seeking free legal advice under the Scheme prior to the interview.

(Ms Veronica Wong)
for Secretary for Security