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香港特別行政區政府
入境事務處

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Immigration Department
The Government of the Hong Kong
Special Administrative Region

25 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

Regarding issues raised by Members at the 14th Meeting of the Bills Committee on 22 May 2012, our response is set out as follows:

Prosecution Figures

2. The “Prosecution Policy towards Refugees, Asylum Seekers and Torture Claimants” issued by the Secretary of Justice in March 2007 states, inter alia, that a torture claimant who committed an immigration offence relating to his claim (e.g. overstaying, illegal remaining, etc.), the decision on whether to prosecute the offence will be deferred.

3. As at 30 April 2012, among the 1,717 determined cases, a total of 100 (5.8%) claimants were prosecuted for overstaying or illegal remaining after their claims were finally determined. The range of sentence is tabled below:

Offence	Sentence		No. of persons
Overstaying*	Suspended sentence	1 to 2 months' imprisonment suspended for 2 to 3 years	5
	Imprisonment	1 to 12 months	80
Illegal remaining	Imprisonment	9 to 15 months	15


*Claimants who were prosecuted for overstaying had overstayed in Hong Kong for 2 months or more at the time of arrest.

Medical Examination

4. If a claimant is required to undergo a medical examination, the Immigration Department ("ImmD") will directly refer the case to the Department of Health or the Hospital Authority for arrangement. Medical practitioners who conduct examination on claimants possess the relevant professional qualifications (forensic pathology or psychiatry etc) and are qualified to act as expert witnesses in court. If a claimant (or his Duty Lawyer) has any query on the report prepared by the expert and requests for a review, ImmD will seriously consider the relevant reasons and arrange another expert to re-assess.

5. Claimants may submit medical reports issued by private medical practitioners at their own cost or other qualified persons who provide the service voluntarily to support their claims.

Yours sincerely


(LEUNG Kwok-hung)
for Director of Immigration

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