



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

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Secretary for Security
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By Fax (2810 7702)

24 February 2015

Dear Mrs NG

**Interception of Communications and Surveillance
(Amendment) Bill 2015**

I am scrutinizing the captioned Bill with a view to advising Members of the Legislative Council on its legal and drafting aspects.

My observations are set out in the attached schedule for your consideration. I should be grateful if you would let me have the response of the Administration in writing in both English and Chinese version at your earliest convenience.

Yours sincerely

(KAU Kin-wah)

Senior Assistant Legal Adviser

Encl (2 pages)
cc LA

Schedule

Interception of Communications and Surveillance (Amendment) Bill 2015

Clause 6(2) – proposed section 24(3A)

Given that section 24 is dealing only with the determination of application for confirmation of emergency authorization, please clarify what the words "any further authorization or requirement under it" in subsection (3A) are meant to cover. The absence of those words would not bar the authorizing authority from applying the same conditions to any authorization under the Ordinance.

Clause 8(2) – proposed section 27(3A)(b)

Given that section 27 is dealing only with the determination of application for confirmation of prescribed authorization or renewal issued or granted upon oral application, please clarify what paragraph (b) of subsection (3) intends to cover.

Clause 9 – proposed section 38A(4)(b)

Given that section 38A deals only with the revocation of device retrieval warrant, please clarify how further authorization under the warrant may be made.

Clause 16(10) – proposed section 57(5A)(b)

Given that section 57 deals only with the revocation of prescribed authorization following discontinuance, please clarify how further authorization or requirement under it may be made.

Clause 17(5) – proposed section 58(3A)(b)

Given that section 58 deals only with the revocation of prescribed

authorization following arrest of subject of interception or covert surveillance, please clarify how further authorization or requirement under it may be made.

Clause 18- proposed section 58A(6)(b)

Given that section 58A deals only with the revocation of prescribed authorization in case of inaccurate information or change in circumstances, please clarify how further authorization or requirement under it may be made.

Clause 19 – proposed section 59(1)(c)

Since there is no time limit for the Commissioner to conduct a review under Division 2, or an examination under Division 3, of Part 4, it is not clear how it may be determined whether a protected product is required to be provided to the Commissioner in compliance with a requirement imposed under section 53(1)(a). The current drafting would allow destruction of protected product as soon as its retention is not necessary for the relevant purposes of a prescribed authorization before any requirement is imposed by the Commissioner under section 53(1)(a). Please consider whether there is any need to cover the time gap described above.