

香港特別行政區政府
保安局



The Government of the
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Security Bureau

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1 February 2018

Miss Betty MA
Clerk to Bills Committee on
United Nations (Anti-Terrorism Measures)
(Amendment) Bill 2017
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss MA,

**Re: Sixth Meeting of the Bills Committee on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017**

At the captioned meeting on 8 January 2018, members requested the Administration to provide supplementary information on some relevant issues. After consulting the Department of Justice, our reply is set out below.

New section 11K proposed in clause 6 of the Bill

2. The new section 11K proposed in the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017 (“the Bill”) is as follows –

“(1) *A Hong Kong permanent resident must not go on board a conveyance with the intention to leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.*

- (2) *A Hong Kong permanent resident must not leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.*”

3. A member suggested the Administration to make reference to the wording in section 11K(2) and amend section 11K(1) to “*A Hong Kong permanent resident must not go on board a conveyance ~~with the intention to leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.~~*” (suggested deletion marked by strikethrough line above). We have carefully considered the member’s suggestion and would like to set out our views as follows –

- (a) The objective of section 11K is to prohibit travel for a specified purpose. As section 11K(1) targets the act of “going on board a conveyance” by a person who has not yet travelled but has the intention of leaving HKSAR (or any other place) for a foreign state for a specified purpose, it is necessary to retain the term “with the intention”.
- (b) Our policy intent is to nip these travels in the bud as early as possible. According to the current wording proposed in the Bill, once a Hong Kong permanent resident goes on board a conveyance “with the intention to leave HKSAR for a foreign state for a specified purpose”, he will have committed the offence contrary to section 11K(1), regardless of whether that conveyance will, in fact, leave HKSAR for a foreign state. However, if the term “with the intention” is deleted, there will be an ambiguity which will open to the possible argument that section 11K(1) offence would only cover those people who go on board a conveyance “to leave HKSAR for a foreign state for a specified purpose”. In other words, if a Hong Kong permanent resident who goes on board a conveyance which will, in fact, not leave HKSAR for a foreign state, such person may not be caught by section 11K(1) offence even though he has the intention “to leave HKSAR for a foreign state for a specified purpose”.
- (c) As regards section 11K(2), it targets the act of “leaving for a foreign state” for a specified purpose, regardless of whether the travel has occurred. As section 11K(2) has already reflected that the person knows the connection of his act to the specified purpose and there is no ambiguity, it is not necessary to use the term “with the intention”. Sections 11K(1) and (2) have different coverages and cannot be directly compared.

4. Taking into account the above considerations, we consider that there is no need to amend section 11K(1).

Timing for resumption of second reading debate

5. We intend to resume second reading debate of the Bill at the Legislative Council meeting on 21 March 2018.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Iris LEE', written in a cursive style.

(Ms Iris LEE)
for Secretary for Security