



立法會
LEGISLATIVE COUNCIL

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郭榮鏗議員

郭議員：

**要求安排會議討論
修訂《防止賄賂條例》的議程**

多謝閣下於 2019 年 1 月 31 日就上述事宜致主席的函件。

謹遵主席指示，現附上政府當局於 2019 年 3 月 13 日就有關閣下所提出的《2017 年防止賄賂(修訂)條例草案》的覆函(下稱"該覆函")，供閣下參閱。

經考慮政府當局的意見，主席請閣下就下列事宜作書面回應，再決定是否安排上述私人條例草案提交事務委員會討論：

- (一) 政府當局在該覆函中表示"政府初步認為該草案會實質影響(因而「涉及」)《基本法》第七十四條所指的政治體制、公共開支、政府運作及現行政府政策"；及
- (二) 因應政府當局在該覆函末段的意見，閣下會否考慮待政府當局完成有關的研究後，再提交上述私人條例草案一併討論。

倘閣下有任何疑問，請致電本人聯絡。

事務委員會秘書

(譚桂玲代行)

連附件

副本致：張國鈞議員, JP (主席)

2019 年 3 月 14 日

香港特別行政區政府
政務司司長辦公室轄下行政署



The Government of
The Hong Kong Special Administrative Region
Administration Wing,
Chief Secretary for Administration's Office

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13 March 2019

Ms Joanne MAK
Clerk to Panel on Constitutional Affairs
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms MAK,

Panel on Constitutional Affairs

**Prevention of Bribery (Amendment) Bill 2017 proposed by
Hon Dennis KWOK and related correspondence**

Thank you for your letters dated 15 and 19 February 2019 to the Secretary for Constitutional and Mainland Affairs seeking the Government's written response to the Prevention of Bribery (Amendment) Bill 2017 proposed by Hon Dennis KWOK ("the Bill") and his letter dated 31 January 2019. Our comments are set out below.

As pointed out by the Chief Secretary for Administration in his reply to Hon Dennis KWOK at the meeting of the Legislative Council on 23 January 2019, extending the application of sections 3 and 8 of the

Prevention of Bribery Ordinance (Cap. 201) to the Chief Executive (“CE”) would give rise to implications from the angle of those Basic Law provisions concerning the political structure of the Hong Kong Special Administrative Region and CE’s constitutional status. The relevant constitutional, legal and operational issues must be studied in a holistic manner.

The Government is now studying carefully the relevant issues in light of the constitutional framework as set out in the Basic Law and the existing legal requirements. Since the study is still in progress, the Government is not in the position to give a definite view on the Bill.

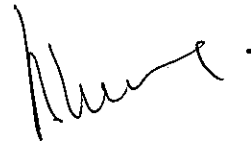
It is also relevant to note Article 74 of the Basic Law which provides:

“Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.”

The Bill would likely require the establishment of a new statutory body and a new set of administrative procedures. The administrative support to be rendered to the new statutory body would likely incur extra public expenditure. The Government is thus of the preliminary view that the Bill would have substantive effect on (and hence “relate to”) political structure, public expenditure, operation of the government and existing government policies within the meaning of Article 74 of the Basic Law.

Having regard to the above, we do not consider it appropriate putting Hon KWOK's Bill for discussion at the Panel at this stage.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bobby Cheng', with a small dot at the end.

(Bobby Cheng)
for Director of Administration

c.c. Secretary for Constitutional and Mainland Affairs