

By Email: pid@legco.gov.hk

12 March 2021

Members of the Legislative Council
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Sirs,

Immigration (Amendment) Bill 2020

It has come to our attention that Clause 3 of the above-mentioned (Amendment) Bill is drafted such that it contains ambiguity and will generate anxiety to the reader.

2. Clause 3 proposes to add a Section 6A to empower the Secretary for Security to make regulations:

(a) to provide for the supply to the Director of Immigration (“the Director”) of information or data relating to a carrier, its passengers or members of its crew, as may be specified in the regulations (section 6A(1)(a)); and

(b) to empower the Director to direct that a passenger or a member of the crew of a carrier may or may not be carried on board the carrier (section 6A(1)(b)).

3. The stated purpose of the Bill by the Administration is to implement the latest International Civil Aviation Organization’s requirement to airlines (the API system), as “quite a number of committees/regimes, have gradually implemented the API system” (to quote). Under the API system, airlines are required to provide passenger and crew information to immigration authorities of the destination port before flight departure.

.../page 1

Page 2

4. However, under Section 6A as drafted, the Secretary for Security will be given power much broader than necessary for the purpose. The API system refers to air carriers and inbound flights only and according to subsequent clarification from the Administration, it will not apply to Hong Kong residents, affecting their right to travel.

5. Hence, the above amendment proposals should be amended to the effect that (i) the amendment is for adoption of the API system, (ii) the requirement will apply to inbound carriers (iii) the right to travel of Hong Kong residents will not be affected. It is inadequate to explain all these in subsequent official press releases. Moreover, surprisingly these implications are neither in the Explanatory Memorandum of the Bill nor in the Legislative Council Brief.

6. We shall be grateful for your consideration of our submission.

Yours faithfully,



George Cautherley
Vice Chairman