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13 June 2024

By E-mail ([yfwoo@legco.gov.hk](mailto:yfwoo@legco.gov.hk))

Total No. of pages: 2 + Annex

Mr Lemuel WOO  
Clerk to Bills Committee  
Council Business Division 4  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr WOO,

**Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2024 (“Bill”)**

**Follow-up to the meeting on 11 June 2024**

Thank you for your letter dated 12 June 2024 (“Letter”).

2. In consultation with the following relevant bureaux and department, the Government’s response is set out at **Annex**:-

- (a) On Clause 20 of the Bill regarding the proposed amendment to section 14(m) of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233):  
Security Bureau and Hong Kong Police Force; and

(b) On Clause 41 of the Bill regarding the proposed addition of section 8A to the Private Healthcare Facilities Ordinance (Cap. 633): Health Bureau.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Hui", is written over the printed name.

( Jenny HUI )

Senior Government Counsel  
Constitutional and Policy Affairs Division

Encl.

#608642-v2

**Bills Committee on Statute Law (Miscellaneous Provisions)  
Bill 2024**

**Follow-up to the meeting on 11 June 2024**

**The Government's Response to Clerk to Bills Committee's  
letter dated 12 June 2024 ("Letter")**

On paragraph (a) of the Letter: Clause 20—section 14(m) of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233)

1. The offence of “conduct calculated to bring the public service into disrepute”<sup>1</sup> was previously one of the disciplinary offences for police officers under regulation 3(2)(m) of the Police (Discipline) Regulations (Cap. 232A) (“P(D)R”).
2. In 2008, the Court of Appeal ruled in *Chiu Hoi Po v. Commissioner of Police* (CACV 200/2006) that the English word “calculated” in the said offence meant “likely” in the context of the P(D)R; and that as a matter of purposive interpretation, the interpretation of the Chinese version of the offence could not have been intended to be confined to the limited situation of a subjective intention.
3. To put the matter beyond doubt, the Civil Service Bureau proposed to replace the word “calculated” by “likely” to make it clear that the offence may be established without a subjective intention on the part of the accused to bring the public service into disrepute.
4. The Secretary for the Civil Service published a notice in Gazette on 23 July 2021 to appoint 15 October 2021 as the commencement date of the amendments of the P(D)R.
5. It is proposed to align the wording of the relevant disciplinary offence in Section 14(m) of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233) with that in the P(D)R by replacing the word “calculated” with “likely”.

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<sup>1</sup> The regulation is now amended to “conduct likely to bring the public service into disrepute.”

On paragraph (b) of the Letter: Clause 41—proposed addition of section 8A to the Private Healthcare Facilities Ordinance (Cap. 633)

6. Under the existing section 82(1) of the Private Healthcare Facilities Ordinance (Cap. 633), the following persons may make a complaint to the Committee on Complaints against Private Healthcare Facilities (“**the Complaints Committee**”) against a private healthcare facility for which a licence is in force—

- (a) a patient of the facility;
- (b) a next of kin of the patient;
- (c) a substitute decision maker of the patient;
- (d) a person authorized by the patient in writing to make a complaint;
- (e) the personal representative of the patient.

7. The policy intent of section 82 of Cap. 633 is to stipulate that patients of private healthcare facilities and persons who may reasonably act on these patients’ behalf are all entitled to make a facility complaint in order to uphold patients’ legitimate rights. As for the proposed new section 8A of Cap. 633, it serves to provide for the interpretation of the term “substitute decision maker” mentioned in section 82(1)(c).

8. In the event that two or more persons mentioned in section 82(1) make complaints against a private healthcare facility on the same incident at the same time, the Complaints Committee would handle the complaint reasonably taking into account the actual circumstances of the case. In general –

- For a patient who is aged 16 or above with mental capacity, the Complaints Committee will handle the complaint according to the will of the patient or his/her authorized person with a view to better upholding patient’s interest.
- For a patient who is aged below 16, or who is aged 16 or above but mentally incapacitated as defined by section 2(1) of the Mental Health Ordinance (Cap. 136) or incapable of managing his or her own affairs, the Complaints Committee will handle the complaint made by a substitute decision maker of the patient.
- For a deceased patient, the Complaints Committee will handle the complaint made by the personal representative of the patient.

9. In this connection, section 82(1) of Cap. 633 does not particularly specify any priority among these five categories of persons. This serves to enable the Complaints Committee to make flexible arrangements based on the actual circumstances of specific cases.

**June 2024**