



## Notice of Detention under section 37ZK of the Immigration Ordinance

- Note:**
- (i) Detention must be justified with sufficient reasons and for a period which is reasonable in all circumstances. Reasonable alternatives will be considered before detention is authorized. No one shall be subject to arbitrary detention. The power to detain must only be used for the specific purpose for which it is authorized and its exercise must be justified on proper grounds. Each case is to be considered on its own facts and merits. Detention will be kept under regular review and will be reviewed when there is a material change of circumstances. The factors listed in Part C are factors which the Director of Immigration, Deputy Director of Immigration or any assistant director of immigration (“Director”) will generally take into account in determining whether a person should be detained or released, and are not meant to be exhaustive (in that each case will be considered on its individual merits and there may be other facts and circumstances relevant to any particular individual case) or in any order of priority / weight. The mere presence of a particular factor does not automatically lead to detention or release. The factors will be considered in the context of all the circumstances of the case. The Director will give due consideration to any representation made against detention.
  - (ii) The detention of a person pending final determination of his / her torture claim shall not be unlawful by reason of the period of the detention if that period is reasonable having regard to all the circumstances that justify its length, including circumstances stipulated in Section 37ZK(2) of the Immigration Ordinance, Chapter 115, Laws of Hong Kong<sup>1</sup>.
  - (iii) Relevant Notices in respect of the detention policy under section 37ZK of the Immigration Ordinance, Chapter 115, Laws of Hong Kong, have been posted up in detention centre. Should you wish to have a copy of the relevant notices in respect of the detention policy, you may make request to the interviewing officer.

### Part A Case Details

Case Ref:	Detainee's Name:
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### Part B Authority of Detention

Please note that you are detained under the Section 37ZK of the Immigration Ordinance, Chapter 115, Laws of Hong Kong commencing at \_\_\_\_\_ (time) on \_\_\_\_\_ (date) under the authority of \_\_\_\_\_ pending final determination of the torture claim.

<sup>1</sup> The circumstances stipulated in Section 37ZK(2) of the Ordinance include:

- (a) whether the number of other torture claims pending final determination is such that it is reasonable to take the time it is taking, or has taken, to have the claimant's torture claim finally determined;
- (b) whether the manpower and financial resources allocated for carrying out the work involved in making such final determinations are such that it is reasonable to take the time it is taking, or has taken, to have the claimant's torture claim finally determined;
- (c) whether the making of —
  - (i) a decision by an immigration officer under section 37ZI;
  - (ii) a revocation decision; or
  - (iii) a decision by the Appeal Board in relation to an appeal made under section 37ZR, is directly or indirectly prevented or delayed by any action or lack of action of the claimant;
- (d) whether the claimant poses, or is likely to pose, a threat or security risk to the community; and
- (e) factors that are not within the control of the Director.

## Part C Detailed Ground(s) for Detention

It has been decided that you should be detained / remain in detention because:\*

- |    |                          |   |
|----|--------------------------|---|
| a. | <input type="checkbox"/> | Your torture claim may be decided within a reasonable time in the foreseeable future.         |
| b. | <input type="checkbox"/> | The process of your torture claim is likely to be delayed on ground of your non-cooperation.  |
| c. | <input type="checkbox"/> | You pose, or are likely to pose, a threat or security risk to the community.                  |
| d. | <input type="checkbox"/> | You may abscond and / or commit an offence which is punishable with a term of imprisonment.   |
| e. | <input type="checkbox"/> | Your identity has not been resolved or is not satisfied to be genuine.                        |
| f. | <input type="checkbox"/> | You have expressed that you are not able to take care of yourself if released from detention. |
| g. | <input type="checkbox"/> | There are no justifying circumstances in favour of your release.                              |

\*Tick the box where applicable

The decision has been reached on the basis of the following factors:\*

- |     |                          |  |
|-----|--------------------------|--|
| 1.  | <input type="checkbox"/> | On preliminary vetting of available information, it appears that your claim may be one which can be decided within a reasonable time in the foreseeable future.  |
| 2.  | <input type="checkbox"/> | You, without reasonable excuse, had failed to notify the Director of Immigration the change of your correspondence address or residential address in Hong Kong.  |
| 3.  | <input type="checkbox"/> | You, without reasonable excuse, had failed to comply with the prescribed procedures and time limits in relation to determination of the claim.   |
| 4.  | <input type="checkbox"/> | You, without reasonable excuse, had failed to attend scheduled interview(s) for the purpose of assessing your torture claim.   |
| 5.  | <input type="checkbox"/> | You pose, or are likely to pose, a threat or security risk to the community.   |
| 6.  | <input type="checkbox"/> | You have conviction(s) associated with crime(s) of serious or violent nature.  |
| 7.  | <input type="checkbox"/> | You have records of violent behaviour during previous detention / imprisonment.  |
| 8.  | <input type="checkbox"/> | You had previously absconded, escaped from custody or have a record of jumping bail.   |
| 9.  | <input type="checkbox"/> | You had failed to comply with the terms / conditions of recognizance previously entered into by you.   |
| 10. | <input type="checkbox"/> | You had failed to attend appointment(s) / scheduled interview(s) without reasonable excuse, in response to call-up by the immigration offices / sections etc. in relation to immigration matter or decision on previous occasion(s). |
| 11. | <input type="checkbox"/> | You have a record of repeatedly breaching the immigration law or any condition of stay (including limit of stay) imposed on you on previous occasions.   |
| 12. | <input type="checkbox"/> | You have previous conviction(s) of immigration and / or other crimination offence(s) or re-committed the same offence in respect of which you had previously been convicted.   |
| 13. | <input type="checkbox"/> | You, without reasonable excuse, have not produced satisfactory evidence or any proof of identity and relevant documents to establish your identity /nationality.   |
| 14. | <input type="checkbox"/> | You are non-cooperative or have failed to give satisfactory or reliable answers to an immigration officer's enquiries / investigation on his/her identity.   |
| 15. | <input type="checkbox"/> | You do not have fixed abode or close connection (e.g. family or friends) in Hong Kong to make it likely that you will be easily located if released.   |
| 16. | <input type="checkbox"/> | Others (please specify):<br>_____<br>_____   |

\*Tick the box where applicable

## Part D Acknowledgment

Detention will be kept under regular review and will be reviewed when there is a material change of circumstances. You will be informed of the outcome of the review after one is made.

### 1. To be completed by the interviewing officer / interpreter

The contents of this notice have been explained to you in \_\_\_\_\_ (language) by \_\_\_\_\_  
(name of officer / interpreter).

\_\_\_\_\_  
Interviewing officer's  
signature

\_\_\_\_\_  
Interpreter's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Interviewing officer's  
name

\_\_\_\_\_  
Interpreter's name

\_\_\_\_\_  
Date

### 2. To be completed by the detainee / interpreter

I, \_\_\_\_\_ (name of the detainee) understand the contents of this notice.

\_\_\_\_\_  
Detainee's signature

\_\_\_\_\_  
Interpreter's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Detainee's name

\_\_\_\_\_  
Interpreter's name

\_\_\_\_\_  
Date



## 根據《入境條例》第 37ZK 條所發出的羈留通知書

- 注意：**
- (i) 在所有情況下，羈留的決定必須基於充分的理由及羈留的時間必須合理。在考慮是否有其他合理的選擇後，才授權作出羈留。任何人士不得無理被羈留。羈留權力只可在有合理理由下用於獲授權的指定目的。每一個案會就其事實和情況作出考慮。羈留個案會定期覆檢，及當個案的情況有具體的轉變時予以覆檢。入境事務處處長、入境事務處副處長或入境事務處助理處長（下稱“處長”）一般會就丙部所列因素作出考慮該人應否被羈留或釋放，但下述因素並非詳盡無遺（即按每一個案的個別情況予以考慮，並視乎有否其他相關的事實和情況可供考慮），各項因素亦非既有任何優先次序或比重。每宗個案不會因某項個別因素而自動導致被羈留或釋放，各項有關因素均會因應個案的所有情況予以考慮。處長會就任何反對羈留的陳述作出適當考慮。
  - (ii) 就被羈留以等候酷刑聲請的最終裁定的人，在顧及包括《香港法例》第 115 章《入境條例》第 37ZK(2)條所列<sup>1</sup>，令該項羈留為期的長短屬有理可據的所有情況下，該項羈留的為期屬合理，則該項羈留並不因為其為期的長短而屬不合法。
  - (iii) 有關香港法例第 115 章《入境條例》第 37ZK 條下的羈留政策的相關通知書已張貼在羈留中心。如欲索取有關通知書，請向負責主持會面的人員提出要求。

### 甲部 案件詳情

案件編號:	被羈留者的姓名:
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### 乙部 羈留的權限

請注意，根據香港法例第 115 章《入境條例》第 37ZK 條，你於\_\_\_\_\_（日期）由\_\_\_\_\_（時間）起，根據\_\_\_\_\_的權限而被羈留，以等候酷刑聲請的最終裁定。

### 丙部 羈留的詳細原因

本處決定你應被羈留／繼續被羈留，原因如下：\*

a.	<input type="checkbox"/>	你的酷刑聲請能在可見未來的合理時間內獲決定。
b.	<input type="checkbox"/>	因你採取不合作態度，令酷刑聲請的處理程序可能被拖延。
c.	<input type="checkbox"/>	你對(或相當可能對)社會造成威脅或安全風險。
d.	<input type="checkbox"/>	你有機會潛逃及／或干犯可判處監禁的罪行。
e.	<input type="checkbox"/>	你的身分未獲確定或未獲信納為真實。
f.	<input type="checkbox"/>	你曾表示若獲准擔保，你未能照顧自己的生活。
g.	<input type="checkbox"/>	沒有足以支持釋放你的情況。

\*請在適當的方格填上「✓」號

<sup>1</sup> 《香港法例》第 115 章《入境條例》第 37ZK(2)條所列的情況包括：

- (a) 其他有待最終裁定的酷刑聲請的數目，是否令為最終裁定該聲請人的酷刑聲請而正在或已經耗用的時間屬合理；
- (b) 調撥用於辦理作出上述最終裁定所涉工作的人力及財政資源，是否令為最終裁定該聲請人的酷刑聲請而正在或已經耗用的時間屬合理；
- (c) 作出以下決定，有否(不論直接或間接)受該聲請人的作為或不作為所阻礙或拖延——
  - (i) 入境事務主任根據第 37ZI 條作出的決定；
  - (ii) 撤銷決定；或
  - (iii) 上訴委員會對根據第 37ZR 條提出的上訴作出的決定；
- (d) 該聲請人是否對(或相當可能對)社會造成威脅或安全風險；及
- (e) 處長無法控制的因素。

作出羈留的決定是基於以下的因素：\*

1.  初步審核現存資料時，你的酷刑聲請似乎能在可見未來的合理時間內獲決定。
2.  你在沒有合理辯解下，未能通知入境事務處處長有關你在香港的通訊地址或住宅地址的更改。
3.  你在沒有合理辯解下，未能遵守有關裁定聲請所訂明的程序和時限。
4.  你在沒有合理辯解下，未有如期出席為審核你的酷刑聲請而安排的會面。
5.  你對(或相當可能對)社會造成威脅或安全風險。
6.  你以往或現時因涉及嚴重或暴力罪行而被定罪。
7.  你在先前羈留／監禁期間有暴力行為的記錄。
8.  你先前曾潛逃、從羈押中逃走或有棄保潛逃的記錄。
9.  你未能遵守先前作出擔保的條款／條件。
10.  你在沒有合理辯解下，不出席由入境事務處的組別／辦事處就入境事務或先前所作出決定而安排的預約／預定的會面。
11.  你有多次違反入境法例或先前對你施加的任何逗留條件（包括逗留期限）的記錄。
12.  你多次涉及違反入境法例及／或其他刑事罪行而被定罪，或被定罪後再犯同一罪行。
13.  你在沒有合理辯解下，未能出示令人信納的證據或任何身分證明文件及相關文件，以證明你的身分／國籍。
14.  你採取不合作態度，或未能在入境事務處人員查問／調查你的身分時，提供令人信納或可靠的答覆。
15.  你在香港沒有固定的住處或密切的聯繫（如家人或朋友），以便獲釋後易於與你聯絡。
16.  其他（請註明）：  
\_\_\_\_\_  
\_\_\_\_\_

\*請在適當的方格填上「✓」號

## 丁部 認收書

羈留個案會定期覆檢，以及當個案的情況有具體的轉變時予以覆檢。覆檢有結果後，本處會把有關結果通知你。

### 1. 由會見人員／傳譯員填寫

此通知書的內容已由\_\_\_\_\_（會見人員／傳譯員姓名）用\_\_\_\_\_（語言）向你解釋。

\_\_\_\_\_  
會見人員簽署

\_\_\_\_\_  
傳譯員簽署

\_\_\_\_\_  
日期

\_\_\_\_\_  
會見人員簽署

\_\_\_\_\_  
傳譯員簽署

\_\_\_\_\_  
日期

### 2. 由被羈留者／傳譯員填寫

我 \_\_\_\_\_（被羈留者姓名）明白此通知書的內容。

\_\_\_\_\_  
被羈留者簽署

\_\_\_\_\_  
傳譯員簽署

\_\_\_\_\_  
日期

\_\_\_\_\_  
被羈留者簽署

\_\_\_\_\_  
傳譯員簽署

\_\_\_\_\_  
日期