



Notice of Review 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 B 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 Kong¹.
- (iii) Relevant Notices in respect of the detention policy 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 Outcome of Review of Detention

The Director has conducted a review of detention of your case. Having carefully considered all available information and the relevant circumstances of your case, the Director decided on _____ (date) that:*

<ul style="list-style-type: none"><input type="checkbox"/> Release on recognizance is granted.<input type="checkbox"/> Release on recognizance is not granted on the following grounds:<ul style="list-style-type: none">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

¹ 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.

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

1. 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. You, without reasonable excuse, had failed to notify the Director the change of your correspondence address or residential address in Hong Kong.
3. You, without reasonable excuse, had failed to comply with the prescribed procedures and time limits in relation to determination of the claim.
4. You, without reasonable excuse, had failed to attend scheduled interview(s) for the purpose of assessing your torture claim.
5. You pose, or are likely to pose, a threat or security risk to the community.
6. You have conviction(s) associated with crime(s) of serious or violent nature.
7. You have records of violent behaviour during previous detention / imprisonment.
8. You had previously absconded, escaped from custody or have a record of jumping bail.
9. You had failed to comply with the terms / conditions of recognizance previously entered into by you.
10. 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. 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. You have previous conviction(s) of immigration and/or other criminal offence(s) or re-committed the same offence in respect of which you had previously been convicted.
13. You, without reasonable excuse, have not produced satisfactory evidence or any proof of identity and relevant documents to establish your identity /nationality.
14. You are non-cooperative or have failed to give satisfactory or reliable answers to an immigration officer's enquiries / investigation on your identity.
15. 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. Others (please specify):

* Tick the box where applicable

Part C 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
name and signature

Interpreter's
name and signature

Date

2. To be completed by the detainee / interpreter

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

Detainee's
name and signature

Interpreter's
name and signature

Date



根據《入境條例》第37ZK條 作出羈留的個案覆檢通知書

- 註： (i) 在所有情況下，羈留的決定必須基於充分的理由且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，並在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任何助理處長（統稱「處長」）在考慮某人應否被羈留或釋放時，一般會考慮乙部所列因素，但該等因素並非詳盡無遺（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），各項因素亦無任何既有的優先次序或比重。有關個案不會純粹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¹，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) 有關羈留政策的通知書已張貼於羈留中心。如欲索取有關通知書的複本，可向會見人員提出要求。

甲部 羈留個案資料

個案編號:	被羈留者的姓名:
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乙部 羈留個案覆檢結果

處長已就你的羈留個案作出覆檢。經審慎考慮所有現存資料和有關情況後，處長於
_____（日期）作出以下的決定：*

- 批准擔保。
- 擔保不獲批准，理由如下：
 - a. 你的酷刑聲請或可在可見未來的合理時間內獲決定。
 - b. 你的酷刑聲請處理程序可能會因你採取不合作態度而被拖延。
 - c. 你對(或相當可能對)社會造成威脅或安全風險。
 - d. 你可能會潛逃及 / 或干犯可判處監禁的罪行。
 - e. 你的身分未獲確定或未獲信納為真實。
 - f. 你曾表示若獲准擔保，你未能照顧自己的生活。
 - g. 沒有足以支持釋放你的情況。

*請在適當的方格內填上「✓」號

¹ 《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。

以上的決定是根據下列的因素而作出*：

1. 初步審核現存資料時，你的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，未能通知處長有關你的香港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. 你未能遵守你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 / 辦事處等就入境事務或先前所作決定而安排的預約 / 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，或未能在入境事務主任查問 / 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）：

*請在適當的方格內填上「✓」號

丙部 確認書

羈留個案會定期覆檢，並在個案的情況有具體的轉變時予以覆檢。覆檢完成後，你會獲通知有關結果。

1. 由會見人員 / 傳譯員填寫

本人 _____ (會見人員 / 傳譯員的姓名)已用 _____ (語言)向你解釋此通知書的內容。

會見人員的姓名及簽署

傳譯員的姓名及簽署

日期

2. 由被羈留者 / 傳譯員填寫

本人 _____ (被羈留者的姓名)明白此通知書的內容。

會見人士的姓名及簽署

傳譯員的姓名及簽署

日期