

第 VIIC 部

酷刑聲請

(第 VIIC 部由 2012 年第 23 號第 7 條增補)
(格式變更——2013 年第 1 號編輯修訂紀錄)

第 1 分部 —— 導言

37U. 第 VIIC 部的釋義

(1) 在本部中 ——

上訴 (appeal) 指根據第 37ZR 條提出的上訴；

上訴委員會 (Appeal Board) 指由第 37ZQ 條設立的酷刑聲請上訴委員會；

已確立聲請 (substantiated claim) 指符合以下說明的酷刑聲請 ——

- (a) 根據第 37ZI(1)(a) 條被接納為已確立聲請，且入境事務主任未有就該酷刑聲請作出撤銷決定；或
- (b) 就該酷刑聲請 ——
 - (i) 有根據第 37ZI(1)(b) 條作出的駁回該聲請的決定，但該決定已在向上訴委員會提出上訴後遭推翻，且並未有由上訴委員會作出的撤銷決定；或
 - (ii) 有由入境事務主任作出的撤銷決定，但該決定已在向上訴委員會提出上訴後遭推翻；

《公約》 (Convention) 指適用於香港的由聯合國大會在 1984 年 12 月 10 日通過的《禁止酷刑和其他殘忍、不人道或有辱人格的待遇或處罰公約》；

Part VIIC

Torture Claims

(Part VIIC added 23 of 2012 s. 7)
(Format changes—E.R. 1 of 2013)

Division 1—Preliminary

37U. Interpretation of Part VIIC

(1) In this Part—

appeal (上訴) means an appeal made under section 37ZR;

Appeal Board (上訴委員會) means the Torture Claims Appeal Board established by section 37ZQ;

claimant (聲請人) means a person whose torture claim (not being a torture claim that has been withdrawn)—

- (a) is not yet finally determined; or
- (b) is a substantiated claim;

Convention (《公約》) means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984 as applied to Hong Kong;

finally determined (最終裁定)—see section 37V;

non-refoulement protection (免遣返保護), in relation to a claimant, means protection under Article 3 of the Convention against expulsion, return or extradition of the claimant to a torture risk State;

存在酷刑風險國家 (torture risk State) 就聲請人而言，指符合以下說明的國家：該聲請人基於自己在該國家有遭受酷刑的危險，而就該國家提出酷刑聲請；

免遣返保護 (non-refoulement protection) 就聲請人而言，指根據《公約》第三條所訂的該聲請人免被驅逐、交回或引渡往存在酷刑風險國家的保護；

後繼聲請 (subsequent claim) 指先前曾提出酷刑聲請 (而該聲請已獲最終裁定或被撤回) 的人提出的酷刑聲請；

國家 (State) 指中國以外的國家；

移交 (surrender) 指根據《逃犯條例》(第 503 章) 將某人移交往香港以外地方，而**移交逃犯法律程序** (surrender proceedings) 指就上述移交而提起的法律程序；

最終裁定 (finally determined) —— 參閱第 37V 條；

遣離 (removal) 指根據第 18 條或根據遣送離境令或遞解離境令，將某人遣離香港；

酷刑 (torture) 指 ——

- (a) 為 ——
 - (i) 向某人或第三者取得情報或供狀；
 - (ii) 某人或第三者所作或被懷疑所作的行為，處罰該人；或
 - (iii) 恐嚇或威脅某人或第三者；或
- (b) 基於任何一種歧視的理由，

蓄意使該人在肉體或精神上遭受劇烈疼痛或痛苦的任何作為，而這種疼痛或痛苦是在公職人員或以官方身分行使職權的其他人所造成的，或是在其唆使、同意或默許下造成的 (純因法律制裁而引起或法律制裁所固有或隨附的疼痛或痛苦則不包括在內)；

酷刑風險 (torture risk) 指遭受酷刑的危險；

酷刑聲請 (torture claim) 指基於酷刑風險而根據第 37X 條在香港提出的 (或憑藉第 37ZP(2)(b) 條視為已在香港提出的)

removal (遣離) means the removal of a person from Hong Kong under section 18 or under a removal order or a deportation order;

revocation decision (撤銷決定) means—

- (a) a decision made by an immigration officer under section 37ZL(1); or
- (b) a decision made by the Appeal Board under section 37ZM(1);

State (國家) means a country other than China;

subsequent claim (後繼聲請) means a torture claim by a person who has previously made a torture claim that has been finally determined or withdrawn;

substantiated claim (已確立聲請) means a torture claim—

- (a) that is accepted as substantiated under section 37ZI(1)(a) and in respect of which no revocation decision has been made by an immigration officer; or
- (b) in respect of which—
 - (i) a decision rejecting the claim under section 37ZI(1)(b) was made but reversed on appeal to the Appeal Board and no revocation decision has been made by the Appeal Board; or
 - (ii) a revocation decision was made by an immigration officer but reversed on appeal to the Appeal Board;

surrender (移交) means the surrender of a person to a place outside Hong Kong under the Fugitive Offenders Ordinance (Cap. 503), and **surrender proceedings** (移交逃犯法律程序) means proceedings instituted for such surrender;

torture (酷刑) means an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person—

免遣返保護的聲請，包括根據第 37ZE(2) 或 37ZG(3) 條重新啟動的酷刑聲請；

酷刑聲請表格 (torture claim form) 指處長根據第 37Y(4) 條指明的酷刑聲請表格；

撤回 (withdrawn) 就聲請而言，指按照第 37ZE 條被撤回或根據第 37ZF 或 37ZG 條視為被撤回；

撤銷決定 (revocation decision) 指 ——

- (a) 入境事務主任根據第 37ZL(1) 條作出的決定；或
- (b) 上訴委員會根據第 37ZM(1) 條作出的決定；

聲請人 (claimant) 指所提出的酷刑聲請 (已被撤回的酷刑聲請除外) 符合以下說明的人 ——

- (a) 尚未獲最終裁定；或
 - (b) 屬已確立聲請。
- (2) 在本部中，凡提述本部，即包括附表 1A 及根據第 37ZW 條訂立的任何附屬法例。

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(a) for such purposes as—

- (i) obtaining from that person or a third person information or a confession;
- (ii) punishing that person for an act which that person or a third person has committed or is suspected of having committed; or
- (iii) intimidating or coercing that person or a third person; or

(b) for any reason based on discrimination of any kind,

when such pain or suffering is inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity, excluding pain or suffering arising only from, inherent in or incidental to lawful sanctions;

torture claim (酷刑聲請) means a claim for non-refoulement protection in Hong Kong on the ground of a torture risk made under section 37X or treated as having been made by virtue of section 37ZP(2)(b), including a torture claim re-opened under section 37ZE(2) or 37ZG(3);

torture claim form (酷刑聲請表格) means the torture claim form specified by the Director under section 37Y(4);

torture risk (酷刑風險) means the danger of being subjected to torture;

torture risk State (存在酷刑風險國家), in relation to a claimant, means a State in respect of which the claimant has made a torture claim on the ground that the claimant would be in danger of being subjected to torture in that State;

withdrawn (撤回), in relation to a claim, means withdrawn in accordance with section 37ZE or treated as withdrawn under section 37ZF or 37ZG.

37V. 酷刑聲請何時獲最終裁定

- (1) 除第 (2)、(3)、(4) 及 (5) 款另有規定外，入境事務主任一旦根據第 37ZI 條就某酷刑聲請作出決定，該聲請即屬獲最終裁定。
- (2) 如酷刑聲請被第 37ZI(1)(b) 條所指的決定駁回，該聲請在以下情況下，即屬獲最終裁定——
 - (a) 針對該決定提出上訴的限期已屆滿，而沒有針對該決定的上訴在該限期內提出；或
 - (b) (如該決定遭上訴) 上訴委員會收到根據第 37ZTA 條發出的、撤回該上訴的通知，或該上訴已獲處理。
(由 2021 年第 7 號第 7 條代替)
- (3) 如入境事務主任就某已確立聲請作出撤銷決定，該聲請自該決定作出起，須視為未獲最終裁定。
- (4) 第 (3) 款所涵蓋的酷刑聲請，在以下情況下即屬獲最終裁定——
 - (a) 針對該撤銷決定提出上訴的限期已屆滿，而沒有針對該撤銷決定的上訴在該限期內提出；或
 - (b) (如該撤銷決定遭上訴) 上訴委員會收到根據第 37ZTA 條發出的、撤回該上訴的通知，或該上訴已獲處理。
(由 2021 年第 7 號第 7 條代替)
- (5) 上訴委員會一旦就某已確立聲請作出撤銷決定，該聲請須視為獲最終裁定。

- (2) In this Part, a reference to this Part includes Schedule 1A and any subsidiary legislation made under section 37ZW.

37V. When torture claim is finally determined

- (1) Subject to subsections (2), (3), (4) and (5), a torture claim is finally determined once a decision on the claim is made by an immigration officer under section 37ZI.
- (2) For a torture claim rejected by a decision under section 37ZI(1)(b), the claim is finally determined—
 - (a) when the period within which an appeal may be lodged against the decision has expired (if an appeal against the decision has not been lodged within that period); or
 - (b) when a notice to withdraw the appeal under section 37ZTA is received by the Appeal Board or the appeal has been disposed of (if an appeal has been lodged against the decision). *(Amended 7 of 2021 s. 7)*
- (3) If a revocation decision is made by an immigration officer in respect of a substantiated claim, the claim must, on and from the making of that decision, be treated as not yet finally determined.
- (4) For a torture claim covered by subsection (3), the claim is finally determined—
 - (a) when the period within which an appeal may be lodged against the revocation decision has expired (if an appeal against the revocation decision has not been lodged within that period); or
 - (b) when a notice to withdraw the appeal under section 37ZTA is received by the Appeal Board or the appeal has been disposed of (if an appeal has been lodged against the revocation decision). *(Amended 7 of 2021 s. 7)*

第 2 分部 —— 關於酷刑聲請的程序

37W. 對在香港提出免遣返保護聲請的人的限制

- (1) 任何人只可在以下情況下，在香港提出免遣返保護的聲請 ——
 - (a) 該人須被或可被遣離；及
 - (b) 除存在酷刑風險國家外，該人沒有居留在、進入或返回符合以下說明的其他國家的權利：該人於該其他國家，享有免遣返保護的保障。
- (2) 在移交逃犯法律程序中被要求移交的人，即使並不符合第 (1) 款 (a) 及 (b) 段的描述，該人仍可在香港提出免遣返保護的聲請。

37X. 如何提出酷刑聲請

- (1) 如任何人基於酷刑風險，而在香港提出免遣返保護的聲請，該人須以書面向入境事務主任表示其尋求免遣返保護的意圖。
- (2) 有關書面表示須概括說明該人基於何種理由，在香港提出免遣返保護聲請，該等理由須關乎第 37U(1) 條所界定的 **酷刑** 所指的作為。
- (3) 在根據第 (1) 款表示意圖後，該人須容許入境事務主任或入境事務助理員為其套取指紋及拍照。
- (4) 當提出酷刑聲請的人已遵守第 (1)、(2) 及 (3) 款，該聲請即屬已提出。

- (5) If a revocation decision is made by the Appeal Board in respect of a substantiated claim, the claim must be treated as finally determined on the making of that decision.

Division 2—Procedure Relating to Torture Claims

37W. Restrictions on persons claiming non-refoulement protection in Hong Kong

- (1) A person may claim non-refoulement protection in Hong Kong only if—
 - (a) the person is subject or liable to removal; and
 - (b) apart from a torture risk State, the person does not have a right of abode or right to land in, or right to return to, any other State in which the person would be entitled to non-refoulement protection.
- (2) A person whose surrender is requested in surrender proceedings may claim non-refoulement protection in Hong Kong even if the person does not meet the descriptions in paragraphs (a) and (b) of subsection (1).

37X. How torture claim is made

- (1) A person who claims non-refoulement protection in Hong Kong on the ground of a torture risk must signify to an immigration officer in writing the person's intention to seek non-refoulement protection.
- (2) The written signification must give a general indication of the person's reasons for claiming non-refoulement protection in Hong Kong, being reasons that relate to an act falling within the meaning of **torture** as defined by section 37U(1).
- (3) On signifying an intention under subsection (1), the person must allow an immigration officer or an immigration assistant to take the person's fingerprints and photograph.

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- (5) 酷刑聲請只可就某人被遣往或移交往中國以外的地方而提出。

37Y. 提交酷刑聲請表格

- (1) 聲請人須應入境事務主任的書面要求 ——
- (a) 填妥酷刑聲請表格，而已填妥的表格須 ——
- (i) 述明提出聲請的理由，以及支持聲請的事實；及
- (ii) 載列表格內要求的其他資料；及
- (b) 將已如此填妥的酷刑聲請表格，連同該聲請人在交回該表格時可隨時取用的所有支持該聲請的文件，按該表格指明的地址，交回入境事務主任。
- (2) 聲請人須在以下期間內，按照第 (1)(b) 款交回已填妥的酷刑聲請表格 ——
- (a) 根據第 (1) 款向該聲請人發出書面要求後的 28 日期間；或
- (b) 入境事務主任根據第 (3) 款寬限的較長期間。
- (3) 凡 ——
- (a) 聲請人在就其酷刑聲請交回已填妥的酷刑聲請表格的限期屆滿前，以書面提出申請；而
- (b) 入境事務主任信納 ——
- (i) 聲請人已作出 (或曾作出) 一切應作出的努力，以在該限期內交回已填妥的酷刑聲請表格；但
- (ii) 聲請人由於其無法控制的情況，將會不能 (或沒有) 在該限期內，交回已填妥的表格，(由 2021 年第 7 號第 8 條代替)

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- (4) A torture claim is made when subsections (1), (2) and (3) have been complied with by the person making the claim.
- (5) A torture claim may be made only in respect of a person's removal or surrender to a place outside China.

37Y. Submission of torture claim form

- (1) A claimant must, on written request by an immigration officer—
- (a) complete a torture claim form, and the completed form must—
- (i) state the grounds of the claim and the facts supporting the claim; and
- (ii) include such other information as is required by the form; and
- (b) return the torture claim form so completed to an immigration officer at an address specified in the form, together with all documents supporting the claim that are readily available to the claimant when the form is returned.
- (2) The claimant must return the completed torture claim form in accordance with subsection (1)(b)—
- (a) within the period of 28 days after a written request under subsection (1) is given to the claimant; or
- (b) within any further period that an immigration officer allows under subsection (3).
- (3) An immigration officer may—
- (a) on an application made by a claimant in writing before the expiry of a period for returning a completed torture claim form in respect of the claimant's torture claim; and

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該主任可應有關申請，寬限其認為適當的較長期間，讓聲請人交回已填妥的表格。

- (4) 酷刑聲請表格須符合處長指明的格式。

37Z. 提出酷刑聲請的效果

- (1) 聲請人不得從香港被遣往存在酷刑風險國家。
- (2) 儘管有第 (1) 款的規定，聲請人提出酷刑聲請，並不 ——
 - (a) 影響任何已針對該聲請人作出的遣送離境令或遞解離境令的有效性；
 - (b) 阻止針對該聲請人作出遣送離境令或遞解離境令；或 (由 2021 年第 7 號第 9 條修訂)
 - (c) 阻止特區政府在有以下情況之後，為作出遣離該聲請人的安排，而與任何一方 (包括存在酷刑風險國家) 聯繫 —— (由 2024 年第 21 號第 78 條修訂)
 - (i) 該酷刑聲請已根據第 37ZI 條駁回；
 - (ii) 已根據第 37ZL(1) 條，作出關乎該酷刑聲請的撤銷決定；或
 - (iii) 該酷刑聲請已被撤回。(由 2021 年第 7 號第 9 條增補)
- (3) 為免生疑問，現宣布 ——

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- (b) on being satisfied that the claimant—
- (i) has exercised, or had exercised, all due diligence to return a completed torture claim form within the period; but
 - (ii) will not be able to, or failed to, return a completed form within the period because of circumstances beyond the claimant's control, (*Replaced 7 of 2021 s. 8*)

allow a further period that the immigration officer considers appropriate for the claimant to return the completed form.

- (4) The torture claim form is to be in a form specified by the Director.

37Z. Effect of making a torture claim

- (1) A claimant may not be removed from Hong Kong to a torture risk State.
 - (2) Despite subsection (1), the making of a torture claim does not—
 - (a) affect the validity of any removal order or deportation order that has been made against the claimant;
 - (b) preclude the making of a removal order or a deportation order against the claimant; or (*Amended 7 of 2021 s. 9*)
 - (c) preclude the Government from liaising with any party (including a torture risk State) after—
 - (i) the torture claim is rejected under section 37ZI;
 - (ii) a revocation decision under section 37ZL(1) is made in relation to the torture claim; or
 - (iii) the torture claim is withdrawn,
- for the purpose of making arrangements for the removal of the claimant. (*Added 7 of 2021 s. 9*)

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- (a) 聲請人可按照第 24 或 25 條，被遣往並非存在酷刑風險國家的指明地方；
- (b) 如任何人的酷刑聲請 ——
 - (i) 已被撤回；或
 - (ii) 獲最終裁定為並非已確立聲請，
該人可按照第 24 或 25 條，被遣往指明地方，不論該指明地方是否被指稱為存在酷刑風險國家。*(由 2025 年第 31 號第 26 條修訂)*

37ZA. 聲請人的責任

- (1) 聲請人有責任確立酷刑聲請，並須為此而 ——
 - (a) 向處長及 (如提出上訴) 上訴委員會提供所有關乎該聲請的資料，並迅速及全面地披露所有支持該聲請的具關鍵性事實，包括任何支持該等事實的文件；
 - (b) 遵守 ——
 - (i) 本部訂明的；或
 - (ii) 任何人根據本部要求或指明的，
每項規定、程序及條件 (包括時限)。
- (2) 聲請人須向處長及 (如提出上訴) 上訴委員會提供 ——
 - (a) 該聲請人在香港的住址；及
 - (b) 該聲請人在香港的通訊地址 (如有別於住址)，
並須在上述任何一個地址有所改變後，在切實可行的範圍內，盡快將該項改變以書面通知處長及 (如提出上訴) 上訴委員會。

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- (3) To avoid doubt, it is declared that—
 - (a) a claimant may be removed, in accordance with section 24 or 25, to a specified place that is not a torture risk State;
 - (b) a person whose torture claim—
 - (i) is withdrawn; or
 - (ii) is not a substantiated claim on final determination, may be removed, in accordance with section 24 or 25, to a specified place whether or not the specified place was alleged to be a torture risk State. *(Amended 31 of 2025 s. 26)*

37ZA. Duties of claimant

- (1) It is the duty of a claimant to substantiate a torture claim, and to this end, the claimant must—
 - (a) provide to the Director and (on an appeal) to the Appeal Board all information relevant to the claim and make prompt and full disclosure of all material facts in support of the claim, including any document supporting those facts;
 - (b) comply with every requirement, procedure and condition (including any time limit)—
 - (i) prescribed by this Part; or
 - (ii) required or specified by any person under this Part.
- (2) A claimant must provide to the Director and (on an appeal) to the Appeal Board—
 - (a) the claimant's residential address in Hong Kong; and
 - (b) the claimant's correspondence address in Hong Kong (if different from the residential address),

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37ZAB. 聲請人出席會面

- (1) 聲請人須於入境事務主任在第 37Y(1) 條提述的書面要求中指明的日期、時間及地點，出席會面，以提供關乎其酷刑聲請的資料，並回答關乎其酷刑聲請的問題。
- (2) 上述會面的日期，須在第 37Y(2)(a) 條所指的交回已填妥的酷刑聲請表格的限期屆滿之後。
- (3) 如 ——
 - (a) 入境事務主任根據第 37Y(3) 條，就交回已填妥的酷刑聲請表格，寬限一段較長期間；及
 - (b) 有關書面要求指明的原定會面日期，是在該段較長期間內，
 則該主任須將會面的日期，更改至該段較長期間屆滿後的日期。
- (4) 聲請人亦須於入境事務主任指明的日期、時間及地點，出席該主任要求的任何進一步會面。

(由 2021 年第 7 號第 10 條增補)

37ZAC. 用作溝通的語文

如入境事務主任合理地認為，某聲請人能理解某語文，並能以該語文溝通，則該主任可指示該聲請人以該語文溝通。

(由 2021 年第 7 號第 10 條增補)

and must notify the Director and (on an appeal) the Appeal Board in writing of any change in either of those addresses as soon as practicable after the change.

37ZAB. Claimant to attend interviews

- (1) A claimant must attend an interview at the date, time and place specified by an immigration officer in the written request referred to in section 37Y(1) to provide information and answer questions relating to the claimant's torture claim.
- (2) The date of the interview must be a date after the expiry of the period for returning the completed torture claim form under section 37Y(2)(a).
- (3) If—
 - (a) an immigration officer allows, under section 37Y(3), a further period for returning the completed torture claim form; and
 - (b) the date of the original interview specified in the written request is within the further period,
 the officer must change it to a date after the expiry of the further period.
- (4) A claimant must also attend any further interview required by an immigration officer at the date, time and place specified by the officer.

(Added 7 of 2021 s. 10)

37ZAC. Language used for communications

An immigration officer may direct a claimant to communicate in a language that the officer reasonably considers the claimant is able to understand and communicate in.

(Added 7 of 2021 s. 10)

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37ZB. 要求提供資料等的權力

- (1) 在聲請人交回已填妥的酷刑聲請表格後，入境事務主任可要求該聲請人，將該主任指明的、關乎該聲請人的酷刑聲請的任何資料或證據，提供予該主任。*(由 2021 年第 7 號第 11 條代替)*
- (2) 根據第 (1) 款須向入境事務主任提供的資料或證據，須在該主任指明的時間內提供。*(由 2021 年第 7 號第 11 條修訂)*

37ZC. 醫療檢驗

- (1) 如聲請人的身體或精神狀況受爭議，並關乎酷刑聲請的考慮 ——
 - (a) 入境事務主任或 (如提出上訴) 上訴委員會可要求該聲請人接受經入境事務主任安排由醫生進行的醫療檢驗；或
 - (b) 入境事務主任可應該聲請人的要求，安排由醫生對該聲請人進行醫療檢驗。
- (1A) 為施行第 (1) 款，聲請人須給予所需的同意，使醫療檢驗得以獲安排或進行。*(由 2021 年第 7 號第 12 條增補)*
- (2) 如已根據第 (1) 款安排進行醫療檢驗，聲請人須在入境事務主任指明並以書面通知該聲請人的日期、時間及地點，接受該項檢驗。*(由 2021 年第 7 號第 12 條修訂)*
- (3) 如入境事務主任或 (如有上訴) 上訴委員會對聲請人作出要求，要求披露根據本條為該聲請人安排的任何檢驗的整份醫學報告，則該聲請人須在該要求提出後的 3 個工作日內，向該主任及上訴委員會披露該份報告。*(由 2021 年第 7 號第 12 條代替)*
- (4) 如聲請人 ——

37ZB. Power to require information etc.

- (1) After a completed torture claim form is returned by a claimant, an immigration officer may require the claimant to provide the immigration officer with any information or evidence related to the claimant's torture claim that the immigration officer specifies. *(Replaced 7 of 2021 s. 11)*
- (2) Information or evidence required to be provided to an immigration officer under subsection (1) must be provided within the time specified by the immigration officer. *(Amended 7 of 2021 s. 11)*

37ZC. Medical examination

- (1) If the physical or mental condition of the claimant is in dispute and is relevant to the consideration of a torture claim—
 - (a) an immigration officer or (on an appeal) the Appeal Board may require the claimant to undergo a medical examination to be conducted by a medical practitioner as arranged by an immigration officer; or
 - (b) an immigration officer may, at the request of the claimant, arrange for a medical examination of the claimant to be conducted by a medical practitioner.
- (1A) For the purposes of subsection (1), the claimant must give any consent that is necessary to enable a medical examination to be arranged or conducted. *(Added 7 of 2021 s. 12)*
- (2) If a medical examination is arranged under subsection (1), the claimant must undergo the examination at the date, time and place specified by the immigration officer and notified to the claimant in writing.
- (3) A claimant must disclose to an immigration officer and (on an appeal) the Appeal Board the full medical report of any

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- (a) 沒有遵守第 (1A)、(2) 或 (3) 款；及
- (b) 沒有以書面提供充分證據，令入境事務主任或上訴委員會信納 ——
 - (i) 該聲請人曾作出一切應作出的努力，以遵守該款；但
 - (ii) 該聲請人由於其無法控制的情況，沒有遵守該款，

則該主任或上訴委員會可決定不考慮該聲請人的受爭議的身體或精神狀況。(由 2021 年第 7 號第 12 條增補)

37ZD. 聲請人的可信性

- (1) 入境事務主任或上訴委員會在考慮酷刑聲請時，可將聲請人的以下行為，作為損及該聲請人的可信性的因素而列入考慮 ——
 - (a) 入境事務主任或上訴委員會認為屬旨在或相當可能旨在 ——
 - (i) 隱藏資料；
 - (ii) 作出誤導；或
 - (iii) 妨礙或阻延對該聲請人的酷刑聲請的處理或裁定，
- 的行為；

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examination arranged for the claimant under this section within 3 working days after a request for the disclosure is made by the officer or the Board.

- (4) If a claimant—
 - (a) fails to comply with subsection (1A), (2) or (3); and
 - (b) fails to provide sufficient evidence in writing to satisfy an immigration officer or the Appeal Board that the claimant—
 - (i) had exercised all due diligence to comply with the subsection concerned; but
 - (ii) failed to comply with the subsection concerned because of circumstances beyond the claimant's control,

the officer or the Board may decide not to take into account the disputed physical or mental condition of the claimant.
(Added 7 of 2021 s. 12)

(Amended 7 of 2021 s. 12)

37ZD. Credibility of claimant

- (1) In considering a torture claim, an immigration officer or the Appeal Board may take into account, as damaging the claimant's credibility, the following behaviour of the claimant—
 - (a) any behaviour that the immigration officer or the Appeal Board considers is designed to, or is likely to be designed to—
 - (i) conceal information;
 - (ii) mislead; or
 - (iii) obstruct or delay the handling or determination of the claimant's torture claim;

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- (b) 在身處香港以外屬《公約》適用的地方 (存在酷刑風險國家除外) 時，沒有把握合理機會，就存在酷刑風險國家提出免遣返保護的聲請；
 - (c) (如該聲請人屬須被或可被遣離的人) 該聲請人沒有在以下情況出現時提出該聲請，或沒有在以下情況出現後，在切實可行範圍內盡快提出該聲請 ——
 - (i) 該聲請人已須被或已可被遣離；或
 - (ii) 該聲請所根據的事件已經發生，
 上述兩種情況，以較後出現者為準；
 - (d) (如該聲請人屬在移交逃犯法律程序中被要求移交的人) 該聲請人沒有在以下情況出現時提出該聲請，或沒有在以下情況出現後，在切實可行範圍內盡快提出該聲請 ——
 - (i) 該聲請人知悉移交逃犯法律程序已展開；或
 - (ii) 該聲請所根據的事件已經發生，
 上述兩種情況，以較後出現者為準；及
 - (e) 沒有在根據本條例的條文被逮捕或羈留前提出該聲請，但如屬以下情況則除外 ——
 - (i) 該聲請人在被逮捕或羈留前，並無合理機會提出該聲請；或
 - (ii) 該聲請完全倚據該聲請人被逮捕或羈留後發生的事宜。
- (2) 在不局限第 (1)(a) 款的原則下，以下各段中任何一段描述的行為，均屬該款所指的行為 ——
- (a) 出示虛假文件，以證明聲請人的身分；
 - (b) 無合理辯解而沒有應入境事務主任的要求出示文件，以證明聲請人的身分；
 - (c) 無合理辯解而毀掉、改動或處置載有關於聲請人前來香港的路線的資料的護照、客票或其他文件；

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- (b) a failure to take advantage of a reasonable opportunity to claim non-refoulement protection in respect of a torture risk State while in a place outside Hong Kong to which the Convention applies (other than a torture risk State);
 - (c) if the claimant is a person who is subject or liable to removal, a failure to make the claim when, or as soon as practicable after—
 - (i) the claimant has become subject or liable to removal; or
 - (ii) the events on which the claim is based have taken place,
 whichever is later;
 - (d) if the claimant is a person whose surrender is requested in surrender proceedings, a failure to make the claim when, or as soon as practicable after—
 - (i) it comes to the claimant's notice that the surrender proceedings have been commenced; or
 - (ii) the events on which the claim is based have taken place,
 whichever is later; and
 - (e) a failure to make the claim before being arrested or detained under a provision of this Ordinance, unless—
 - (i) the claimant had no reasonable opportunity to make the claim before the arrest or detention; or
 - (ii) the claim relies wholly on matters arising after the arrest or detention.
- (2) Without limiting subsection (1)(a), behaviour described in any of the following paragraphs is behaviour within the meaning of that subsection—

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- (d) 無合理辯解而沒有提供入境事務主任根據第 37ZB(1) 條要求的資料或證據；(由 2021 年第 7 號第 13 條修訂)
- (e) 無合理辯解而沒有 ——
 - (i) 按第 37ZAB 條的規定出席會面；或 (由 2021 年第 7 號第 13 條代替)
 - (ii) 於上述會面中，提供資料或回答入境事務主任提出的問題；(由 2021 年第 7 號第 13 條修訂)
- (f) 無合理辯解而沒有在第 37ZAB 條規定聲請人出席的首次會面的日期前，全面披露支持酷刑聲請的具關鍵性事實，包括支持該等事實的文件；(由 2021 年第 7 號第 13 條修訂)
- (g) 無合理辯解而沒有 ——
 - (i) 按第 37ZC(1A) 條的規定，給予同意；
 - (ii) 按第 37ZC(2) 條的規定，接受醫療檢驗；或
 - (iii) 按第 37ZC(3) 條的規定，向入境事務主任或 (如有上訴) 上訴委員會披露整份有關醫學報告；(由 2021 年第 7 號第 13 條代替)
- (h) 無合理辯解而沒有遵守 ——
 - (i) 本部訂明的；或
 - (ii) 任何人根據本部要求或指明的，任何規定、程序或條件 (包括時限)。
- (3) 本條並不阻止入境事務主任或上訴委員會將聲請人的任何其他行為，作為損及該聲請人的可信性的因素而列入考慮。

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- (a) the production of a false document as proof of the claimant's identity;
- (b) a failure, without reasonable excuse, to produce a document as proof of the claimant's identity on request by an immigration officer;
- (c) the destruction, alteration or disposal, without reasonable excuse, of a passport, ticket or other document containing information about the route of the claimant's travel to Hong Kong;
- (d) a failure, without reasonable excuse, to provide the information or evidence required by an immigration officer under section 37ZB(1); (*Amended 7 of 2021 s. 13*)
- (e) a failure, without reasonable excuse, to—
 - (i) attend an interview as required by section 37ZAB; or (*Replaced 7 of 2021 s. 13*)
 - (ii) provide information or answer any question put by an immigration officer at such an interview; (*Amended 7 of 2021 s. 13*)
- (f) a failure, without reasonable excuse, to make a full disclosure of the material facts in support of the torture claim, including any document supporting those facts, before the date of the first interview that the claimant is required by section 37ZAB to attend; (*Amended 7 of 2021 s. 13*)
- (g) a failure, without reasonable excuse, to—
 - (i) give consent as required by section 37ZC(1A);
 - (ii) undergo a medical examination as required by section 37ZC(2); or
 - (iii) disclose to an immigration officer or (on an appeal) the Appeal Board the full medical report as

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37ZE. 聲請人撤回酷刑聲請

- (1) 聲請人可在酷刑聲請獲根據第 37ZI 條決定前，以書面通知入境事務主任，撤回該聲請。
- (2) 除第 37ZF(3) 條另有規定外，在以下情況下，根據第 (1) 款被撤回的酷刑聲請可重新啟動：提出該聲請的人以書面提供充分證據，使入境事務主任信納 ——
 - (a) 在該聲請撤回後，情況有符合以下說明的改變 ——
 - (i) 在該人根據第 (1) 款給予通知時，該項改變是該人所不能合理預見的；及
 - (ii) 連同先前曾就該聲請提交的材料，該項改變可提高該聲請的成功機會；或
 - (b) 因特殊情況，不重新啟動該聲請屬不公平。
- (3) 入境事務主任如決定根據第 (2) 款重新啟動某人的酷刑聲請，即須以書面通知，將該決定告知該人。
- (4) 入境事務主任如決定不重新啟動有關的人的酷刑聲請，即須以書面通知，將以下事宜告知該人 ——
 - (a) 該決定；
 - (b) 該決定所基於的理由；及

required by section 37ZC(3); (*Replaced 7 of 2021 s. 13*)

- (h) a failure, without reasonable excuse, to comply with any requirement, procedure or condition (including any time limit)—
 - (i) prescribed by this Part; or
 - (ii) required or specified by any person under this Part.
- (3) This section does not prevent an immigration officer or the Appeal Board from taking into account any other behaviour of the claimant as damaging the claimant's credibility.

37ZE. Withdrawal of torture claim by claimant

- (1) A claimant may, before a torture claim is decided under section 37ZI, withdraw the claim by notifying an immigration officer in writing.
- (2) Subject to section 37ZF(3), a torture claim that has been withdrawn under subsection (1) may be re-opened if the person who made the claim provides sufficient evidence in writing to satisfy an immigration officer that—
 - (a) since the withdrawal, there has been a change of circumstances that—
 - (i) could not reasonably have been foreseen by the person when the person gave the notification under subsection (1); and
 - (ii) when taken together with the material previously submitted for the claim, could increase the prospect of success of the claim; or
 - (b) by reason of special circumstances, it would be unjust not to re-open the claim.

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- (c) 該人根據第 37ZR 條針對該決定提出上訴的權利。
- (5) 如某酷刑聲請根據第 (2) 款重新啟動，則在第 (6) 及 (7) 款的規限下，該聲請須繼續按照本部處理，猶如該聲請沒有被撤回一樣。
- (6) 如在根據第 (1) 款撤回酷刑聲請時，根據第 37Y(2) 條就該聲請交回已填妥的酷刑聲請表格的限期尚未屆滿，則第 37Y(2) 條適用於該聲請，猶如該條的 (a) 段已被以下詞句取代 ——
- “(a) 根據第 37ZE(3) 條向該聲請人發出通知後的 28 日期間；或”。
- (7) 如就酷刑聲請而填妥的酷刑聲請表格沒有按照與第 (6) 款一併理解的第 37Y(2) 條交回，該聲請在下述時間須視為已根據第 37ZG(1) 條被撤回 ——
- (a) 在 28 日限期完結時；或
- (b) 如根據第 37Y(3) 條獲寬限較長期間，在該期間完結時。

37ZF. 酷刑聲請在聲請人離境時當作已被撤回

- (1) 如酷刑聲請 (不論是否等候最終裁定的聲請或已確立聲請)

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- (3) If an immigration officer decides to re-open a person's torture claim under subsection (2), the immigration officer must, by written notice, inform the person of the decision.
- (4) If an immigration officer decides not to re-open the person's torture claim, the immigration officer must, by written notice, inform the person of—
- (a) the decision;
- (b) the reasons for the decision; and
- (c) the person's right under section 37ZR to appeal against the decision.
- (5) If a torture claim is re-opened under subsection (2), subject to subsections (6) and (7), processing of the claim is to continue in accordance with this Part as if the claim had not been withdrawn.
- (6) If the period for returning a completed torture claim form in respect of a torture claim under section 37Y(2) has not expired at the time the claim is withdrawn under subsection (1), section 37Y(2) applies to the claim as if for paragraph (a) of that section there were substituted—
- “(a) within the period of 28 days after the notice under section 37ZE(3) is given to the claimant; or”.
- (7) If a completed torture claim form in respect of the torture claim is not returned in accordance with section 37Y(2) as read with subsection (6), the claim is to be treated as withdrawn under section 37ZG(1)—
- (a) on the expiry of the 28-day period; or
- (b) if a further period is allowed under section 37Y(3), on the expiry of the further period.

37ZF. Deemed withdrawal of torture claim on claimant's departure

- (1) A torture claim (whether a claim pending final determination

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是由須被或可被遣離的聲請人提出的，而該聲請人因任何理由離開香港，則該聲請須視為已被撤回。

- (2) 根據第 (1) 款視為已被撤回的酷刑聲請，不得重新啟動。
- (3) 如任何人在根據第 37ZE(1) 條發出撤回酷刑聲請的通知後離開香港，該聲請須視為已根據第 (1) 款被撤回，且不得重新啟動。

37ZG. 在未能交回已填妥的酷刑聲請表格的情況下，酷刑聲請當作已被撤回

- (1) 如提出酷刑聲請的人沒有根據第 37Y(2) 條的規定交回已填妥的酷刑聲請表格，該聲請須視為已被撤回。
- (2) 入境事務主任須向提出酷刑聲請的人發出書面通知，述明 ——
 - (a) 該聲請已根據第 (1) 款視為已被撤回；及
 - (b) 該人可根據第 (3) 款，申請重新啟動該聲請。
- (3) 根據第 (1) 款視為已被撤回的酷刑聲請可在以下情況下重新啟動：提出該聲請的人以書面提供充分證據，使入境事務主任信納 —— (由 2021 年第 7 號第 14 條修訂)
 - (a) 該人曾作出一切應作出的努力，以按第 37Y(2) 條的規定，交回已填妥的酷刑聲請表格；但
 - (b) 該人由於其無法控制的情況，沒有按該條的規定，交回已填妥的表格。(由 2021 年第 7 號第 14 條修訂)
- (4) 入境事務主任如決定根據第 (3) 款重新啟動某人的酷刑聲請，即須以書面通知，將以下事宜告知該人 ——
 - (a) 該決定；及

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or a substantiated claim) made by a claimant who is subject or liable to removal must be treated as withdrawn if the claimant (for whatever reason) leaves Hong Kong.

- (2) A torture claim that is treated as withdrawn under subsection (1) must not be re-opened.
- (3) If a person leaves Hong Kong after the person has given notice to withdraw a torture claim under section 37ZE(1), the claim must be treated as having been withdrawn under subsection (1) and must not be re-opened.

37ZG. Deemed withdrawal of torture claim on failure to return completed torture claim form

- (1) A torture claim must be treated as withdrawn if the person who made the claim fails to return a completed torture claim form as required under section 37Y(2).
- (2) An immigration officer must give the person who made the claim a written notice stating that—
 - (a) the torture claim is treated as withdrawn under subsection (1); and
 - (b) the person may apply to re-open the claim under subsection (3).
- (3) A torture claim treated as withdrawn under subsection (1) may be re-opened if the person who made the claim provides sufficient evidence in writing to satisfy an immigration officer that the person— (Amended 7 of 2021 s. 14)
 - (a) had exercised all due diligence to return a completed torture claim form as required under section 37Y(2); but
 - (b) failed to return a completed form as required under the section because of circumstances beyond the person's control. (Amended 7 of 2021 s. 14)

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- (b) 在該通知發出後的 14 日內，該人須就該聲請，按酷刑聲請表格指明的地址，向入境事務主任交回已填妥的酷刑聲請表格。
- (5) 入境事務主任如決定不重新啟動有關的人的酷刑聲請，即須以書面通知，將以下事宜告知該人 ——
- (a) 該決定；
- (b) 該決定所基於的理由；及
- (c) 該人根據第 37ZR 條針對該決定提出上訴的權利。
- (6) 如某酷刑聲請根據第 (3) 款重新啟動，則在第 (7) 及 (8) 款的規限下，該聲請須繼續按照本部處理，猶如該聲請沒有被撤回一樣。
- (7) 第 37Y(2) 條適用於有關酷刑聲請，猶如該條的 (a) 段已被以下詞句取代 ——
- “(a) 根據第 37ZG(4) 條向該聲請人發出通知後的 14 日期間；或”。
- (8) 如就有關酷刑聲請而填妥的酷刑聲請表格沒有按照與第 (7) 款一併理解的第 37Y(2) 條交回，該聲請在下述期間須視為已根據第 (1) 款被撤回 ——
- (a) 在 14 日限期完結時；或
- (b) 如根據第 37Y(3) 條獲寬限較長期間，在該期間完結時。

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- (4) If an immigration officer decides to re-open a person's torture claim under subsection (3), the immigration officer must, by written notice, inform the person—
- (a) of the decision; and
- (b) that the person is required to return a completed torture claim form in respect of the claim to an immigration officer at an address specified in the form within 14 days after the notice is given.
- (5) If an immigration officer decides not to re-open the person's torture claim, the immigration officer must, by written notice, inform the person of—
- (a) the decision;
- (b) the reasons for the decision; and
- (c) the person's right under section 37ZR to appeal against the decision.
- (6) If a torture claim is re-opened under subsection (3), subject to subsections (7) and (8), processing of the claim is to continue in accordance with this Part as if the claim had not been withdrawn.
- (7) Section 37Y(2) applies to the torture claim as if for paragraph (a) of that section there were substituted—
- “(a) within the period of 14 days after the notice under section 37ZG(4) is given to the claimant; or”.
- (8) If a completed torture claim form in respect of the torture claim is not returned in accordance with section 37Y(2) as read with subsection (7), the claim is to be treated as withdrawn under subsection (1)—
- (a) on the expiry of the 14-day period; or
- (b) if a further period is allowed under section 37Y(3), on the expiry of the further period.

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37ZH. 處理聲請的次序

處長可決定處理酷刑聲請的次序，任何人不得基於某酷刑聲請應在早於或遲於任何其他酷刑聲請或類別的酷刑聲請的時間處理，而質疑對該聲請的裁定。

37ZI. 酷刑聲請的決定

- (1) 除非酷刑聲請已被撤回，否則入境事務主任須決定是否——
 - (a) 接納該聲請為已確立聲請；或
 - (b) 駁回該聲請。
- (2) 即使有以下情況，入境事務主任仍可根據第 (1) 款，作出決定——
 - (a) 聲請人沒有按第 37ZAB 條的規定，出席會面；
 - (b) 聲請人沒有遵守第 37ZC(1A)、(2) 或 (3) 條；或
 - (c) 聲請人在其他情況下沒有按照本部進行有關聲請。
(由 2021 年第 7 號第 15 條代替)
- (3) 若有充分理由相信，如將聲請人遣往或移交往存在酷刑風險國家，該聲請人將有遭受酷刑的危險，則酷刑聲請須獲接納為已確立聲請。
- (4) 如沒有第 (3) 款提述的令人相信的充分理由，則酷刑聲請須予駁回。
- (5) 在裁斷是否有第 (3) 款提述的令人相信的充分理由時，所有有關因素均須考慮，包括以下關乎在有關存在酷刑風險國家內的狀況的事宜 (如適用的話)——
 - (a) 在該存在酷刑風險國家內，是否存在一貫嚴重、公然、大規模侵犯人權的情況；及

37ZH. Order in which claims are processed

The Director may decide the order in which torture claims are to be processed, and no determination on a torture claim is to be called into question on the basis that it ought to have been processed earlier or later than any other torture claim or category of torture claims.

37ZI. Decision on torture claim

- (1) Unless a torture claim is withdrawn, an immigration officer is to decide whether to—
 - (a) accept the claim as substantiated; or
 - (b) reject the claim.
- (2) A decision may be made by an immigration officer under subsection (1) even if a claimant—
 - (a) has failed to attend an interview as required by section 37ZAB;
 - (b) has failed to comply with section 37ZC(1A), (2) or (3); or
 - (c) has otherwise failed to proceed with the claim in accordance with this Part. (*Replaced 7 of 2021 s. 15*)
- (3) A torture claim must be accepted as substantiated if there are substantial grounds for believing that the claimant would be in danger of being subjected to torture if the claimant were removed or surrendered to a torture risk State.
- (4) A torture claim must be rejected in the absence of substantial grounds for the belief referred to in subsection (3). (*Amended 7 of 2021 s. 15*)
- (5) In determining whether there are substantial grounds for the belief referred to in subsection (3), all relevant considerations are to be taken into account, including, where applicable, the

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- (b) 在該存在酷刑風險國家內，是否有任何符合以下說明的地區：在該地區，有關聲請人不會有遭受酷刑的危險。

37ZJ. 入境事務主任須將酷刑聲請的決定通知聲請人

- (1) 入境事務主任在根據第 37ZI(1)(a) 或 (b) 條決定接納或駁回酷刑聲請後，即須以書面通知，將該決定告知有關的聲請人。
- (2) 入境事務主任亦須在根據第 (1) 款就駁回酷刑聲請的決定發出的通知內，將以下事宜告知有關的聲請人 ——
 - (a) 該決定所基於的理由；及
 - (b) 該聲請人根據第 37ZR 條針對該決定提出上訴的權利。

37ZK. 羈留以等候最終裁定

- (1) 在不局限本條例賦予的任何其他權力的原則下，可根據入境事務處處長、入境事務處副處長或入境事務處任何助理處長的權限羈留聲請人，以等候其酷刑聲請的最終裁定。(由 2021 年第 7 號第 16 條修訂)
- (2) 如根據本條而羈留聲請人，而在顧及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。上述情況包括 ——

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following matters in relation to the conditions in the torture risk State—

- (a) whether there is a consistent pattern of gross, flagrant or mass violations of human rights in the torture risk State; and
- (b) whether there is any region within the torture risk State in which the claimant would not be in danger of being subjected to torture.

37ZJ. Immigration officer to notify decision on torture claim

- (1) After an immigration officer has decided to accept, or reject, a torture claim under section 37ZI(1)(a) or (b), the immigration officer must, by written notice, inform the claimant of the decision.
- (2) An immigration officer must, in a notice given under subsection (1) in respect of a decision rejecting a torture claim, also inform the claimant of—
 - (a) the reasons for the decision; and
 - (b) the claimant's right under section 37ZR to appeal against the decision.

37ZK. Detention pending final determination

- (1) Without limiting any other power conferred by this Ordinance, a claimant may be detained under the authority of the Director of Immigration, the Deputy Director of Immigration or any assistant director of immigration pending final determination of the claimant's torture claim. (*Amended 7 of 2021 s. 16*)
- (2) The detention of a claimant under this section is not 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—

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- (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。(由 2021 年第 7 號第 16 條增補)

37ZL. 撤銷入境事務主任接納酷刑聲請的決定

- (1) 入境事務主任可基於第 37ZN 條指明的撤銷決定的理由，撤銷入境事務主任根據第 37ZI(1)(a) 條接納某酷刑聲請為已確立聲請的決定。
- (2) 入境事務主任須就建議的撤銷，向有關聲請人發出書面通知，該通知須——
 - (a) 述明建議的撤銷所基於的理由；及

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- (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.
(Added 7 of 2021 s. 16)

37ZL. Revocation of immigration officer's decision to accept torture claim

- (1) An immigration officer may, on a ground for a revocation decision specified in section 37ZN, revoke a decision made by an immigration officer under section 37ZI(1)(a) accepting a torture claim as substantiated.
- (2) An immigration officer must give the claimant written notice of a proposed revocation, and the notice must—
 - (a) state the reasons for the proposed revocation; and

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- (b) 述明該聲請人可在該通知發出後的 14 日內，將其對建議的撤銷一事的反對及該反對所基於的理由，以書面通知 (**反對通知**) 告知該主任。
- (3) 如 ——
- (a) 有關聲請人沒有按照第 (2)(b) 款發出反對通知，而入境事務主任決定根據第 (1) 款，作出撤銷決定；或
- (b) 在考慮該聲請人的反對通知後，入境事務主任決定根據第 (1) 款，作出撤銷決定，
- 該主任須向該聲請人發出書面通知，將該撤銷決定、該撤銷決定所基於的理由及聲請人根據第 37ZR 條針對該撤銷決定提出上訴的權利，告知該聲請人。

37ZM. 撤銷上訴委員會推翻駁回酷刑聲請的決定

- (1) 凡入境事務主任根據第 37ZI(1)(b) 條，作出駁回某酷刑聲請的決定，而上訴委員會作出決定推翻入境事務主任的該決定，如入境事務主任提出申請，上訴委員會的該決定，可由上訴委員會基於第 37ZN 條指明的撤銷決定的理由而撤銷。
- (2) 入境事務主任須在提出第 (1) 款所指的申請前，向有關聲請人發出申請意向書面通知，而該通知須 ——
- (a) 述明擬提出申請所基於的理由；及
- (b) 述明該聲請人可在該通知發出後的 14 日內，將其對擬提出申請一事的反對及將該反對所基於的理由，以書面通知 (**反對通知**) 告知該主任。
- (3) 如 ——

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- (b) state that the claimant may, within 14 days after the notice is given, inform the immigration officer by written notice of the claimant's objection to the proposed revocation and the reasons for the objection (**objection notice**).
- (3) If—
- (a) the claimant has not given an objection notice in accordance with subsection (2)(b) and an immigration officer decides to make a revocation decision under subsection (1); or
- (b) after having considered the claimant's objection notice, an immigration officer decides to make a revocation decision under subsection (1),
- the immigration officer must give the claimant written notice of the revocation decision, reasons for the revocation decision and the claimant's right under section 37ZR to appeal against the revocation decision.

37ZM. Revocation of Appeal Board's decision to reverse decision rejecting torture claim

- (1) On an application made by an immigration officer, the Appeal Board may, on a ground for a revocation decision specified in section 37ZN, revoke its decision that reversed a decision made by an immigration officer under section 37ZI(1)(b) rejecting a torture claim.
- (2) Before making an application under subsection (1), an immigration officer must give the claimant written notice of the intended application, and the notice must—
- (a) state the reasons for the intended application; and
- (b) state that the claimant may, within 14 days after the notice is given, inform the immigration officer by written notice of the claimant's objection to the intended

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- (a) 有關聲請人沒有按照第 (2)(b) 款發出反對通知，而入境事務主任決定提出第 (1) 款所指的申請；或
- (b) 在考慮該聲請人的反對通知後，入境事務主任決定提出第 (1) 款所指的申請，
該主任須將一份申請通知送交上訴委員會存檔，藉以提出申請，而申請通知須符合上訴委員會主席指明的格式。
- (4) 入境事務主任須在申請通知送交存檔後，在切實可行的範圍內，盡快向有關聲請人送達該申請通知的副本。

37ZN. 撤銷決定的理由

以下各段中任何一段指明的理由，均屬第 37ZL(1) 或 37ZM(1) 條所述的撤銷決定的理由 ——

- (a) 為支持有關聲請而提交的資料或證據屬虛假或具誤導性，而該資料或證據對該聲請的確立事關重要；
(由 2021 年第 7 號第 17 條修訂)
- (b) 有資料並未向入境事務主任或 (如提出上訴) 上訴委員會披露，而該資料會在很大程度上削弱有關聲請的成功機會；
- (c) 導致有關聲請的酷刑風險，已不再存在；(由 2021 年第 7 號第 17 條代替)
- (d) 在顧及當下情況下，有關聲請不應獲接納為已確立聲請。(由 2021 年第 7 號第 17 條增補)

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- application and the reasons for the objection (**objection notice**).
- (3) If—
 - (a) the claimant has not given an objection notice in accordance with subsection (2)(b) and an immigration officer decides to make an application under subsection (1); or
 - (b) after having considered the claimant's objection notice, an immigration officer decides to make an application under subsection (1),
the immigration officer must make the application by filing with the Appeal Board a notice of application in a form specified by the Chairperson of the Appeal Board.
- (4) As soon as practicable after the filing of a notice of application, an immigration officer must serve on the claimant a copy of the notice of application.

37ZN. Grounds for revocation decision

A ground specified in any of the following paragraphs is a ground for a revocation decision mentioned in section 37ZL(1) or 37ZM(1)—

- (a) any information or evidence submitted in support of the claim is false or misleading and the false or misleading information or evidence is material to the substantiation of the claim;
- (b) information was not disclosed to an immigration officer or (on an appeal) the Appeal Board and the undisclosed information would undermine, to a material extent, the merits of the claim;
- (c) the torture risk giving rise to the claim has ceased to exist;

37ZO. 後繼聲請的限制

- (1) 除第 (2) 款另有規定外，先前曾提出酷刑聲請的人不得在其後提出另一項酷刑聲請。
- (2) 如任何人以書面提供充分證據，使入境事務主任信納以下事宜，則該人可提出後繼聲請——
 - (a) 在先前的聲請獲最終裁定或被撤回後，情況已有重大改變；及
 - (b) 該項改變在與先前曾為支持先前的聲請而提交的材料一併考慮下，會令後繼聲請有實際的成功機會。
- (3) 在決定某人可否根據第 (2) 款提出後繼聲請時，入境事務主任可考慮入境事務主任或上訴委員會就該人先前曾提出的酷刑聲請而作出的可信性裁斷或事實裁斷。
- (4) 入境事務主任如根據第 (2) 款決定某人可提出後繼聲請，即須向該人發出關於該決定的書面通知。
- (5) 入境事務主任如根據第 (2) 款決定某人不可提出後繼聲請，即須向該人發出關於該決定的書面通知，該通知亦須載列該決定所基於的理由。

- (d) having regard to the prevailing circumstances, the claim should not be accepted as substantiated. (*Added 7 of 2021 s. 17*)

(*Amended 7 of 2021 s. 17*)

37ZO. Limitation on subsequent claim

- (1) Except as provided in subsection (2), a person who has previously made a torture claim must not subsequently make another torture claim.
- (2) A person may make a subsequent claim if the person provides sufficient evidence in writing to satisfy an immigration officer that—
 - (a) there has been a significant change of circumstances since the previous claim was finally determined or withdrawn; and
 - (b) the change, when taken together with the material previously submitted in support of the previous claim, would give the subsequent claim a realistic prospect of success.
- (3) In deciding whether or not a person may make a subsequent claim under subsection (2), an immigration officer may take into account any finding of credibility or fact made by an immigration officer or the Appeal Board in relation to a torture claim previously made by the person.
- (4) If an immigration officer decides that a person may make a subsequent claim under subsection (2), the immigration officer must give the person written notice of the decision.
- (5) If an immigration officer decides that a person may not make a subsequent claim under subsection (2), the immigration officer must give the person written notice of the decision, and the notice must also include the reasons for the decision.

37ZP. 後繼聲請的處理

- (1) 除第 (2) 款另有規定外 ——
 - (a) 後繼聲請須按照第 37X 條提出，但儘管有第 37X(4) 條的規定，除非第 37ZO(2) 條獲遵守，否則後繼聲請並未提出；及
 - (b) 本部的所有其他條文適用於後繼聲請，一如該等條文適用於其他酷刑聲請。
- (2) 如某人提出後繼聲請，而在根據第 37ZI(1)(b) 條作出駁回該人先前的酷刑聲請的決定（包括在針對該決定提出上訴後經上訴委員會確認的該決定）後，或在作出關乎該人先前的酷刑聲請的撤銷決定後，該人正等待遣離，則 ——
 - (a) 第 37X(1)、(2)、(3) 及 (4) 條並不適用於該後繼聲請；
 - (b) 該後繼聲請須視為在根據第 37ZO(4) 條發出通知告知該人可提出後繼聲請的當日提出；及
 - (c) 就本部而言，第 37Y 條須視為已就該後繼聲請而獲遵守。
- (3) 在裁定後繼聲請時，入境事務主任及（如提出上訴）上訴委員會可考慮入境事務主任或上訴委員會就提出該後繼聲請的人先前曾提出的酷刑聲請而作出的可信性裁斷或事實裁斷。

第 3 分部 —— 酷刑聲請上訴委員會**37ZP. Processing of subsequent claim**

- (1) Subject to subsection (2)—
 - (a) a subsequent claim must be made in accordance with section 37X but despite section 37X(4), a subsequent claim is not made unless section 37ZO(2) is complied with; and
 - (b) all of the other provisions of this Part apply to a subsequent claim as they apply to any other torture claim.
- (2) If a subsequent claim is made by a person whose removal is pending following a decision under section 37ZI(1)(b) rejecting the person's previous torture claim (including such a decision confirmed by the Appeal Board on an appeal against the decision), or following a revocation decision in respect of the person's previous torture claim—
 - (a) section 37X(1), (2), (3) and (4) does not apply in relation to the subsequent claim;
 - (b) the subsequent claim is taken to be made on the day when a notice under section 37ZO(4) is given notifying the person the subsequent claim may be made; and
 - (c) for the purposes of this Part, section 37Y is taken to have been complied with in respect of the subsequent claim.
- (3) In determining a subsequent claim, an immigration officer and (on an appeal) the Appeal Board may take into account any finding of credibility or fact made by an immigration officer or the Appeal Board in relation to a torture claim previously made by the person making the subsequent claim.

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37ZQ. 設立上訴委員會

- (1) 現設立一個名為“酷刑聲請上訴委員會”的委員會。
- (2) 上訴委員會的職能，是聆訊和裁定——
 - (a) 根據第 37ZR 條提出的上訴；及
 - (b) 第 37ZM 條所指的要求撤銷決定的申請。

37ZR. 上訴

任何人因入境事務主任根據以下條文就該人作出的決定而感到受屈，可向上訴委員會提出上訴——

- (a) 第 37ZE(4) 或 37ZG(5) 條 (不重新啟動酷刑聲請的決定)；
- (b) 第 37ZI(1)(b) 條 (駁回酷刑聲請的決定)；或
- (c) 第 37ZL(1) 條 (由入境事務主任作出的撤銷決定)。

37ZS. 上訴通知

- (1) 任何人欲針對第 37ZR 條提述的決定提出上訴，須在關於該決定的通知給予該人後的 14 日內，將上訴通知送交上訴委員會存檔，但如委員會根據第 37ZT(3) 條容許將該通知作逾時送交存檔，則屬例外。
- (2) 上訴通知須——
 - (a) 符合上訴委員會主席指明的格式；(由 2021 年第 7 號第 18 條修訂)
 - (ab) 經填妥及簽署；及 (由 2021 年第 7 號第 18 條增補)
 - (b) 附隨上訴所針對的決定的通知的副本。

37ZQ. Appeal Board established

- (1) A board to be known as the “Torture Claims Appeal Board” is established.
- (2) The function of the Appeal Board is to hear and determine—
 - (a) an appeal made under section 37ZR; and
 - (b) an application for a revocation decision under section 37ZM.

37ZR. Appeal

A person aggrieved by a decision of an immigration officer may appeal to the Appeal Board if the decision is made in respect of the person under—

- (a) section 37ZE(4) or 37ZG(5) (decision not to re-open a torture claim);
- (b) section 37ZI(1)(b) (decision rejecting a torture claim); or
- (c) section 37ZL(1) (revocation decision made by an immigration officer).

37ZS. Notice of appeal

- (1) A person who wishes to appeal against a decision referred to in section 37ZR must file with the Appeal Board a notice of appeal within 14 days after notice of the decision is given to the person unless late filing of the notice is allowed by the Board under section 37ZT(3).
- (2) A notice of appeal must be—
 - (a) in a form specified by the Chairperson of the Appeal Board; (*Amended 7 of 2021 s. 18*)
 - (ab) duly completed and signed; and (*Added 7 of 2021 s. 18*)

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- (3) 如上訴通知不符合第 (2)(a) 或 (ab) 款，則不得就該通知作出任何行動。(由 2021 年第 7 號第 18 條增補)
- (4) 在收到第 (3) 款提述的上訴通知後，上訴委員會須以書面通知，將該上訴通知不符合第 (2)(a) 或 (ab) 款一事，以及不會就該上訴通知作出進一步行動，告知將該上訴通知送交存檔的人。(由 2021 年第 7 號第 18 條增補)

37ZT. 將上訴通知作逾時送交存檔

- (1) 如上訴通知在第 37ZS(1) 條提述的 14 日限期屆滿後送交存檔，該上訴通知須載列一項將該通知作逾時送交存檔的申請，而該申請 ——
 - (a) 須載列沒有在該限期內將該通知送交存檔的理由的陳述；及
 - (b) 須附隨賴以支持 (a) 段提述的理由的所有可取用證據。(由 2021 年第 7 號第 19 條修訂)
- (2) 上訴委員會須以不經聆訊的初步決定的方式，決定委員會是否根據第 (3) 款容許將上訴通知作逾時送交存檔，而在如此行事時，委員會只可考慮將上訴通知作逾時送交存檔的申請所述明的理由的陳述，及賴以支持該等理由的證據。(由 2021 年第 7 號第 19 條修訂)
- (3) 如將上訴通知送交存檔的人以書面提供充分證據，令上訴委員會信納 ——
 - (a) 該人曾作出一切應作出的努力，以在第 37ZS(1) 條指明的限期內，將該通知送交存檔；但
 - (b) 該人由於其無法控制的情況，沒有在該限期內將該通知送交存檔，

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- (b) accompanied by a copy of the notice of the decision being appealed against.

- (3) No action may be taken in relation to a notice of appeal that does not comply with subsection (2)(a) or (ab). *(Added 7 of 2021 s. 18)*
- (4) On receiving a notice of appeal referred to in subsection (3), the Appeal Board must, by written notice, inform the person filing the notice of the non-compliance and that no further action will be taken in relation to the notice. *(Added 7 of 2021 s. 18)*

37ZT. Late filing of notice of appeal

- (1) If a notice of appeal is filed after the expiry of the 14-day period referred to in section 37ZS(1), it must include an application for late filing of the notice, which—
 - (a) must include a statement of the reasons for failing to file the notice within that period; and
 - (b) must be accompanied by all available evidence relied on in support of the reasons referred to in paragraph (a). *(Amended 7 of 2021 s. 19)*
- (2) The Appeal Board must decide, as a preliminary decision without a hearing, whether the Board allows the late filing of the notice of appeal under subsection (3), and in doing so, the Board may only take account of the statement of reasons stated in the application for late filing of the notice of appeal and the evidence relied on in support of the reasons. *(Amended 7 of 2021 s. 19)*
- (3) The Appeal Board may allow the late filing of the notice of appeal if the person filing the notice provides sufficient evidence in writing to satisfy the Board that the person—
 - (a) had exercised all due diligence to file the notice within the period specified in section 37ZS(1); but

則上訴委員會可容許將該通知作逾時送交存檔。(由 2021 年第 7 號第 19 條代替)

- (4) 就第 (3) 款而言，凡某人 (不論是否在第 37ZS(1) 條指明的限期內) 已嘗試將一份或多於一份不符合第 37ZS(2)(a) 或 (ab) 條的上訴通知送交存檔，該項嘗試不得視為以下事宜的證據：該人曾作出一切應作出的努力，以在有關限期內，將上訴通知送交存檔。(由 2021 年第 7 號第 19 條代替)
- (5) 上訴委員會如容許將有關上訴通知作逾時送交存檔，則須以書面通知，將其決定告知將該上訴通知送交存檔的人。(由 2021 年第 7 號第 19 條增補)
- (6) 上訴委員會如不容許將有關上訴通知作逾時送交存檔，則須以書面通知——
 - (a) 告知將該上訴通知送交存檔的人，上訴委員會基於該上訴通知逾時送交存檔，拒絕該上訴通知；及
 - (b) 說明拒絕理由。(由 2021 年第 7 號第 19 條增補)

37ZTA.撤回上訴

- (1) 已根據第 37ZS 條 (或如獲容許作逾時送交存檔，則根據第 37ZT 條) 將上訴通知送交存檔的人，可在上訴委員會裁定有關上訴前的任何時間，藉將書面通知送交上訴委員會存檔，撤回該上訴。
- (2) 針對某決定提出的上訴，在上訴委員會收到撤回該上訴的通知時即告撤回，而就該決定而言，不得再有上訴通知送交存檔。

(由 2021 年第 7 號第 20 條增補)

(b) failed to file the notice within the period because of circumstances beyond the person's control. *(Replaced 7 of 2021 s. 19)*

- (4) For the purposes of subsection (3), the fact that a person attempted to file one or more notices of appeal that do not comply with section 37ZS(2)(a) or (ab), whether within the period specified in section 37ZS(1) or otherwise, must not be taken as evidence that the person had exercised all due diligence to file a notice of appeal within the period. *(Replaced 7 of 2021 s. 19)*
- (5) If the Appeal Board allows the late filing of the notice of appeal, it must, by written notice to the person filing the notice, inform the person of the Board's decision. *(Added 7 of 2021 s. 19)*
- (6) If the Appeal Board does not allow the late filing of the notice of appeal, it must, by written notice to the person filing the notice—
 - (a) inform the person that the Board refuses the notice as it is filed out of time; and
 - (b) give reasons for the refusal. *(Added 7 of 2021 s. 19)*

37ZTA.Withdrawal of appeal

- (1) A person who has filed a notice of appeal under section 37ZS (or section 37ZT if late filing is allowed) may, at any time before the Appeal Board determines the appeal, withdraw the appeal by filing a written notice with the Board.
- (2) An appeal against a decision is withdrawn once a notice to withdraw the appeal is received by the Appeal Board and no further notice of appeal may be filed in relation to the decision.

(Added 7 of 2021 s. 20)

37ZU. 上訴委員會的常規及程序

就上訴委員會及其委員，上訴委員會的法律程序，關乎上訴委員會的在程序及其他方面的事宜而言，附表 1A 具有效力。

37ZU. Practice and procedure of Appeal Board

Schedule 1A has effect with respect to the Appeal Board and its members and to the proceedings of, and procedural and other matters concerning, the Appeal Board.

第 4 分部 —— 雜項**Division 4—Miscellaneous****37ZV. 通知**

- (1) 根據本部須由處長、入境事務主任或上訴委員會向另一人送達或發出（不論如何描述）的通知或其他文件（不論如何描述），可藉以下方式向該人送達或發出——
 - (a) 當面向該人送達或發出該通知或文件；
 - (b) 在以下地址或地點將該通知或文件留交該人，或藉致予該人的郵件，將該通知或文件寄往以下地址或地點——
 - (i) （如該人是聲請人）聲請人根據第 37ZA(2) 條向處長或上訴委員會提供的最後為人所知的住址或通訊地址；或
 - (ii) （如該人並非聲請人）該人的慣常或最後為人所知的居住或營業地點；（由 2021 年第 7 號第 21 條修訂）
 - (ba) （如該人正於某地點受羈押、羈留或監禁）將該通知或文件在該地點留交該人，或藉致予該人的郵件，將該通知或文件寄往該地點；或（由 2021 年第 7 號第 21 條增補）
 - (c) （如該人透過法律代表行事）將該通知或文件在該代表的營業地點或通訊地址留交該代表，或藉致予該代表的郵件，將該通知或文件寄往該代表的營業地點或通訊地址。

37ZV. Notices

- (1) A notice or other document (howsoever described) required to be served or given (howsoever described) by the Director, an immigration officer or the Appeal Board on or to another person under this Part may be served on or given to that other person—
 - (a) personally;
 - (b) by leaving it for the person, or by sending it by post addressed to the person—
 - (i) if the person is a claimant, at the last known residential or correspondence address provided by the claimant to the Director or the Appeal Board under section 37ZA(2); or
 - (ii) if the person is not a claimant, at the person's usual or last known place of abode or business; (*Amended 7 of 2021 s. 21*)
 - (ba) if the person is held in custody, detained or imprisoned, by leaving it for the person, or by sending it by post addressed to the person, at the place where the person is held in custody, detained or imprisoned; or (*Added 7 of 2021 s. 21*)
 - (c) if the person is acting by a legal representative, by leaving it for the legal representative, or by sending it by post addressed to the legal representative, at the

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- (2) 以第 (1) 款描述的方式 (郵寄方式除外) 送達或發出的通知或其他文件須不可推翻地推定為已在以下時間送達或發出，並已在以下時間收到 ——
- (a) (如屬當面向該人送達或發出該通知或文件的情況) 在如此送達或發出之時；或
- (b) (如屬在某地點或地址留交的情況) 在如此留交後的第二個工作日。 (由 2021 年第 7 號第 21 條代替)
- (3) 在無相反證據的情況下，以第 (1) 款描述的郵寄方式送達或發出的通知或其他文件，須推定為已在如此郵寄後的第二個工作日送達或發出，並已在該工作日收到。

37ZW. 規例

保安局局長可訂立規例，就以下事宜訂定條文 ——

- (a) 關乎以下事項的事宜 ——
- (i) 酷刑聲請的提出或處理；
- (ii) 就酷刑聲請 (不論是否後繼聲請) 作出決定；
- (iii) 酷刑聲請的撤回或重新啟動；或
- (iv) 撤銷決定；
- (b) 在本條例容許下延展任何限期的程序；
- (c) 上訴委員會的常規及程序；及
- (d) 概括地更妥善施行本部的目的。

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place of business or correspondence address of the legal representative.

- (2) A notice or other document served or given in the manner described in subsection (1), other than by sending it by post, is conclusively presumed to have been served or given and received at the following time—
- (a) if it is served on or given to the person personally, when it is so served or given; or
- (b) if it is left at a place or an address, on the second working day after it was so left. *(Replaced 7 of 2021 s. 21)*
- (3) A notice or other document served or given by sending it by post in the manner described in subsection (1) is presumed, in the absence of evidence to the contrary, to have been served or given and received on the second working day after it was so sent.

37ZW. Regulations

The Secretary for Security may by regulation provide for—

- (a) any matter in relation to—
- (i) the making or processing of a torture claim;
- (ii) the making of a decision on a torture claim (whether or not a subsequent claim);
- (iii) the withdrawal or re-opening of a torture claim; or
- (iv) a revocation decision;
- (b) the procedure for the extension of any period allowed under this Ordinance;
- (c) the practice and procedure of the Appeal Board; and
- (d) generally for the better carrying out of the purposes of this Part.

37ZX. 具有已確立聲請的聲請人可申請接受僱傭工作的准許等

- (1) 處長可應具有已確立聲請的聲請人的申請，准許該聲請人接受僱傭工作或開辦或參與任何業務。
- (2) 除非處長信納有極其特殊的情況存在，令給予有關聲請人第 (1) 款的准許屬有理可據，否則不得給予該准許。
- (3) 根據本條給予的准許 ——
 - (a) 可在時限及任何其他處長認為適宜施加的條件的規限下給予；及
 - (b) 須以書面形式給予。
- (4) 根據本條給予的准許在以下情況出現時，即告失效 ——
 - (a) 規限該准許的時限 (如有的話) 屆滿；或
 - (b) 規限該准許的任何其他條件遭違反。
- (5) 在准許根據第 (4) 款失效之前，處長可更改根據第 (3) 款施加的時限或任何其他條件。
- (6) 為免生疑問，根據本條給予的准許並非及不得視為 ——
 - (a) 根據第 11 條施加或更改的逗留期限或其他逗留條件；或
 - (b) 處長根據第 13 條授權聲請人留在香港。

37ZY. 聲請人並非通常居於香港

在不局限第 2(4) 條的原則下，就本條例而言，任何人在只憑

37ZX. Claimant of substantiated claim may apply for permission to take employment etc.

- (1) The Director may, on an application of a claimant who has a substantiated claim, permit the claimant to take employment or establish or join in a business.
- (2) A permission must not be given under subsection (1) unless the Director is satisfied that exceptional circumstances exist that justify such a permission being given to the claimant.
- (3) A permission given under this section—
 - (a) may be given subject to a time limit and any other condition the Director thinks fit to impose; and
 - (b) must be given in writing.
- (4) A permission given under this section expires immediately on—
 - (a) the expiry of the time limit (if any); or
 - (b) the breach of any other condition, subject to which the permission is given.
- (5) The Director may, before a permission expires under subsection (4), vary any time limit or any other condition imposed under subsection (3).
- (6) To avoid doubt, a permission given under this section is not and must not be taken as—
 - (a) a limit of stay or other condition of stay imposed or varied under section 11; or
 - (b) the Director's authority under section 13 for the claimant to remain in Hong Kong.

37ZY. Claimant not ordinarily resident in Hong Kong

Without limiting section 2(4), a person must not be treated

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藉其酷刑聲請而留在香港的任何期間內，不得被視為通常居於香港，不論該人是否具有已確立聲請的聲請人，亦不論該人是否根據第 37ZX 條獲給予准許。

37ZZ. 保留條文及過渡性安排

- (1) 附表 4 訂定於《2012 年入境 (修訂) 條例》(2012 年第 23 號) 生效 * 時即適用或就該條例的生效而適用的保留條文及過渡性安排。(由 2021 年第 7 號第 22 條修訂)
- (2) 附表 5 訂定在《2021 年入境 (修訂) 條例》(2021 年第 7 號) 生效 # 時即適用的保留條文及過渡安排，或關乎該條例生效的保留條文及過渡安排。(由 2021 年第 7 號第 22 條增補)

編輯附註：

* 生效日期：2012 年 12 月 3 日。

生效日期：2021 年 8 月 1 日。

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as ordinarily resident in Hong Kong for the purposes of this Ordinance during any period in which the person remains in Hong Kong only by virtue of the person's torture claim (whether or not the person is a claimant who has a substantiated claim and whether or not permission has been given to the person under section 37ZX).

37ZZ. Savings and transitional arrangements

- (1) Schedule 4 provides for the savings and transitional arrangements that apply on, or relate to, the commencement* of the Immigration (Amendment) Ordinance 2012 (23 of 2012). (*Amended 7 of 2021 s. 22*)
- (2) Schedule 5 provides for the savings and transitional arrangements that apply on, or relate to, the commencement# of the Immigration (Amendment) Ordinance 2021 (7 of 2021). (*Added 7 of 2021 s. 22*)

Editorial Note:

* Commencement date: 3 December 2012.

Commencement date: 1 August 2021.