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附表 6 —— 第 1 部
第 1 條

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附表 6

[第 2 條]

關於進行截取及秘密監察的授權申請的細則

第 1 部 基本原則

1. **釋義**
本附表第 6 部，載有本附表的釋義條文。
2. **先決條件**
 - (1) 發出訂明授權、確認訂明授權、將訂明授權續期或讓訂明授權或其某部分持續有效，以進行截取或秘密監察，必須符合的先決條件為在有關個案中——
 - (a) 須藉進行截取或秘密監察達到的目的（*所謀求目的*）是——
 - (i) 防止或偵測危害國家安全罪行；或
 - (ii) 保障國家安全；
 - (b) 有合理懷疑，懷疑有任何人曾涉及、正涉及或相當可能涉及——
 - (i) （如屬 (a)(i) 段的情況）須予防止或偵測的有關危害國家安全罪行；或
 - (ii) （如屬 (a)(ii) 段的情況）構成或會構成對國家安全的有關威脅的活動；及

Schedule 6

[r. 2]

Rules on Application for Authorization to Conduct Interception and Covert Surveillance

Part 1 Basic Principles

1. **Interpretation**
Part 6 of this Schedule contains interpretation provisions of this Schedule.
2. **Conditions**
 - (1) The conditions for the issue, confirmation or renewal of a prescribed authorization, or the continuance of a prescribed authorization or a part of a prescribed authorization, to conduct interception or covert surveillance are that in the relevant case—
 - (a) the purpose sought to be furthered by conducting the interception or covert surveillance (*purpose sought*) is that of—
 - (i) preventing or detecting offences endangering national security; or
 - (ii) protecting national security;
 - (b) there is reasonable suspicion that any person has been, is, or is likely to be, involved in—

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- (c) 考量以下各項，該截取或秘密監察對所謀求目的是必要的，並且與該目的相稱——
- (i) 在有關因素與該截取或秘密監察對將會屬其目標人物或可能受該截取或秘密監察影響的人的侵擾程度之間，求取平衡；
 - (ii) 所謀求目的，是否能合理地藉侵擾程度較低的其他手段達到；及
 - (iii) 在有關情況下屬有關的其他事宜。
- (2) 在本條中——
- 有關因素** (relevant factors) 指——
- (a) 以下因素——
 - (i) 如屬第(1)(a)(i)款的情況——須予防止或偵測的有關危害國家安全罪行的逼切性及嚴重程度；或
 - (ii) 如屬第(1)(a)(ii)款的情況——對國家安全的有關威脅的逼切性及嚴重程度；及
 - (b) 相當可能藉進行有關截取或秘密監察而取得的資料，在所謀求目的方面相當可能具有的價值及相關程度。

- (i) (in the case of paragraph (a)(i)) the relevant offences endangering national security to be prevented or detected; or
 - (ii) (in the case of paragraph (a)(ii)) any activity which constitutes or would constitute the relevant threat to national security; and
- (c) the interception or covert surveillance is necessary for, and proportionate to, the purpose sought, on considering—
- (i) the balance between the relevant factors and the intrusiveness of the interception or covert surveillance on any person who is to be the subject of or may be affected by the interception or covert surveillance;
 - (ii) whether the purpose sought can reasonably be furthered by other less intrusive means; and
 - (iii) such other matters that are relevant in the circumstances.

(2) In this section—

relevant factors (有關因素) means—

- (a) the following factors—
 - (i) in the case of subsection (1)(a)(i)—the immediacy and gravity of the relevant offences endangering national security to be prevented or detected; or
 - (ii) in the case of subsection (1)(a)(ii)—the immediacy and gravity of the relevant threat to national security; and

3. 誰可申請訂明授權

根據本附表申請訂明授權的人，須是負責執行《中華人民共和國香港特別行政區維護國家安全法》的警務處人員。

第 2 部

訂明授權及保障

第 1 分部 —— 行政長官授權

4. 對截取或秘密監察的授權

- (1) 警務處人員可在獲首長級人員批准後，向行政長官以書面提出申請，並在申請人的書面陳述支持下（該陳述須符合本附表第 4 部第 1 或 2 分部（視何者適用而定）所指明的規定），尋求授權進行截取、第 1 類監察或第 2 類監察。
- (2) 行政長官可在考慮有關申請是否符合本附表第 2 條所指的先決條件後——
 - (a) （如信納該等條件已獲符合）在經更改或不經更改該申請下，以書面發出該申請所尋求的授權；或
 - (b) 拒絕發出該授權，並以書面說明拒絕理由。
- (3) 行政長官在發出授權時，須指明時限（該時限在任何情況下，均不得於發出該授權的時間之前開始），該授權於時限屆滿時失效，該時限不得超過自該授權生效之時起計

- (b) the likely value and relevance, in relation to the purpose sought, of the information likely to be obtained by conducting the interception or covert surveillance.

3. Who can apply for prescribed authorizations

A person who applies for a prescribed authorization under this Schedule must be an officer of the Police Force who is responsible for the enforcement of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region.

Part 2

Prescribed Authorizations and Safeguards

Division 1—Chief Executive's Authorization

4. Authorization for interception or covert surveillance

- (1) An officer of the Police Force may, with the approval of a directorate officer, make an application to the Chief Executive in writing, supported by a written statement by the applicant (which is to comply with the requirements specified in Division 1 or 2 of Part 4 of this Schedule as may be applicable), for an authorization for interception, Type 1 surveillance or Type 2 surveillance to be conducted.
- (2) The Chief Executive may, on considering whether the application has met the conditions under section 2 of this Schedule—
 - (a) (if satisfied that the conditions have been met) issue in writing the authorization sought under the application, with or without variations; or

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的 6 個月。但如該授權已根據本附表第 6 條續期，則不在此限。

5. 對第 2 類監察的授權

- (1) 行政長官可指定首長級人員擔任第 2 類監察的授權人員。
- (2) 警務處人員可向授權人員以書面提出申請，並在申請人的書面陳述支持下（該陳述須符合本附表第 4 部第 2 分部所指明的規定），尋求授權進行第 2 類監察。
- (3) 授權人員可在考慮有關申請是否符合本附表第 2 條所指的先決條件後——
 - (a) （如信納該等條件已獲符合）在經更改或不經更改該申請下，以書面發出該申請所尋求的授權；或
 - (b) 拒絕發出該授權，並以書面說明拒絕理由。
- (4) 授權人員在發出授權時，須指明時限（該時限在任何情況下，均不得於發出該授權的時間之前開始），該授權於時限屆滿時失效，該時限不得超過自該授權生效之時起計的 6 個月。但如該授權已根據本附表第 7 條續期，則不在此限。

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(b) refuse to issue the authorization, giving the reason for the refusal in writing.

- (3) When issuing the authorization, the Chief Executive must specify the duration (which in any case is not to begin at a time earlier than the time when the authorization is issued). Subject to any renewal under section 6 of this Schedule, the authorization ceases to have effect on the expiry of the duration (which is not to be longer than the period of 6 months beginning with the time when the authorization takes effect).

5. Authorization for Type 2 surveillance

- (1) The Chief Executive may designate a directorate officer to be an authorizing officer for Type 2 surveillance.
- (2) An officer of the Police Force may make an application to an authorizing officer in writing, supported by a written statement by the applicant (which is to comply with the requirements specified in Division 2 of Part 4 of this Schedule), for an authorization for Type 2 surveillance to be conducted.
- (3) The authorizing officer may, on considering whether the application has met the conditions under section 2 of this Schedule—
 - (a) (if satisfied that the conditions have been met) issue in writing the authorization sought under the application, with or without variations; or
 - (b) refuse to issue the authorization, giving the reason for the refusal in writing.
- (4) When issuing the authorization, the authorizing officer must specify the duration (which in any case is not to begin at a time earlier than the time when the authorization is issued).

6. 對截取或秘密監察的授權的續期

- (1) 在對截取、第 1 類監察或第 2 類監察的授權失效前，警務處人員可在獲首長級人員批准後，向行政長官以書面提出申請，並在申請人的書面陳述支持下（該陳述須符合本附表第 4 部第 3 分部所指明的規定），尋求將該授權續期。
- (2) 行政長官可在考慮有關申請是否符合本附表第 2 條所指的先決條件後，並在不局限前者的原則下，考慮自首次發出有關授權起計的該授權有效的期間後——
 - (a) （如信納該等條件已獲符合）在經更改或不經更改該申請下，以書面批予該申請所尋求的續期；或
 - (b) 拒絕批予該續期，並以書面說明拒絕理由。
- (3) 對截取、第 1 類監察或第 2 類監察的授權可根據本附表獲續期多於一次。
- (4) 對截取、第 1 類監察或第 2 類監察的授權的續期在行政長官批予該續期時指明的時限屆滿時失效，該時限不得超過自該續期生效之時起計的 6 個月。但如該授權已根據本條進一步續期，則不在此限。

6. Renewal of authorization for interception or covert surveillance

- (1) At any time before an authorization for interception, Type 1 surveillance or Type 2 surveillance ceases to have effect, an officer of the Police Force may, with the approval of a directorate officer, make an application to the Chief Executive in writing, supported by a written statement by the applicant (which is to comply with the requirements specified in Division 3 of Part 4 of this Schedule), for a renewal of the authorization.
- (2) The Chief Executive may, on considering whether the application has met the conditions under section 2 of this Schedule, and without limiting the foregoing, taking into consideration the duration for which the authorization has had effect since its first issue—
 - (a) (if satisfied that the conditions have been met) grant in writing the renewal sought under the application, with or without variations; or
 - (b) refuse to grant the renewal, giving the reason for the refusal in writing.
- (3) An authorization for interception, Type 1 surveillance or Type 2 surveillance may be renewed more than once under this Schedule.
- (4) A renewal of an authorization for interception, Type 1 surveillance or Type 2 surveillance, subject to any further renewal under this section, ceases to have effect on the

7. 對第 2 類監察的授權的續期

- (1) 在對第 2 類監察的授權失效前，警務處人員可向授權人員以書面提出申請，並在申請人的書面陳述支持下（該陳述須符合本附表第 4 部第 3 分部所指明的規定），尋求將該授權續期。
- (2) 授權人員可在考慮有關申請是否符合本附表第 2 條所指的先決條件後，並在不局限前者的原則下，考慮自首次發出有關授權起計的該授權有效的期間後——
 - (a) （如信納該等條件已獲符合）在經更改或不經更改該申請下，以書面批予該申請所尋求的續期；或
 - (b) 拒絕批予該續期，並以書面說明拒絕理由。
- (3) 對第 2 類監察的授權可根據本附表獲續期多於一次。
- (4) 對第 2 類監察的授權的續期在授權人員批予該續期時指明的時限屆滿時失效，該時限不得超過自該續期生效之時起計的 6 個月。但如該授權已根據本條進一步續期，則不在此限。

7. Renewal of authorization for Type 2 surveillance

- (1) At any time before an authorization for Type 2 surveillance ceases to have effect, an officer of the Police Force may make an application to an authorizing officer in writing, supported by a written statement by the applicant (which is to comply with the requirements specified in Division 3 of Part 4 of this Schedule), for a renewal of the authorization.
- (2) The authorizing officer may, on considering whether the application has met the conditions under section 2 of this Schedule, and without limiting the foregoing, taking into consideration the duration for which the authorization has had effect since its first issue—
 - (a) (if satisfied that the conditions have been met) grant in writing the renewal sought under the application, with or without variations; or
 - (b) refuse to grant the renewal, giving the reason for the refusal in writing.
- (3) An authorization for Type 2 surveillance may be renewed more than once under this Schedule.
- (4) A renewal of an authorization for Type 2 surveillance, subject to any further renewal under this section, ceases to have effect on the expiry of the duration specified by the authorizing officer when granting the renewal, which duration is not to be longer than the period of 6 months beginning with the time when the renewal takes effect.

8. 行政長官授權所授權或規定的事宜

- (1) 對截取的行政長官授權 ——
- (a) 如屬郵件截取的情況，可載有條款，授權作出以下一項或兩項作為 ——
- (i) 截取向該授權所指明的處所或地址發出或從該處所或地址發出的通訊；
- (ii) 截取向或由該授權所指明的人（不論是以姓名或以描述方式指明）發出的通訊；或
- (b) 如屬電訊截取的情況，可載有條款，授權作出以下一項或兩項作為 ——
- (i) 截取向該授權所指明的電訊服務發出或從該電訊服務發出的通訊；
- (ii) 截取向該授權所指明的任何人（不論是以姓名或以描述方式指明）正使用或按理可被預期會使用的電訊服務發出或從該電訊服務發出的通訊。
- (2) 對秘密監察的行政長官授權，可載有條款，授權作出以下一項或多於一項作為 ——
- (a) 於該授權所指明的處所之內或之上使用監察器材；
- (b) 於該授權所指明的物體或類別的物體之內或之上使用監察器材；
- (c) 就該授權所指明的任何人（不論是以姓名或以描述方式指明）的談話、活動或位置，使用監察器材。
- (3) 行政長官授權（對第 2 類監察的授權除外）可載有條款 ——
- (a) 授權作出合理地必要作出的事情，以掩飾根據該授權而授權進行或規定進行的行為；

8. Matters authorized or required by Chief Executive's authorizations

- (1) A Chief Executive's authorization for interception may—
- (a) in the case of a postal interception, contain terms that authorize one or both of the following—
- (i) the interception of communications made to or from any premises or address specified in the authorization;
- (ii) the interception of communications made to or by any person specified in the authorization (whether by name or by description); or
- (b) in the case of a telecommunications interception, contain terms that authorize one or both of the following—
- (i) the interception of communications made to or from telecommunications service specified in the authorization;
- (ii) the interception of communications made to or from telecommunications service that any person specified in the authorization (whether by name or by description) is using, or is reasonably expected to use.
- (2) A Chief Executive's authorization for covert surveillance may contain terms that authorize one or more of the following—
- (a) the use of surveillance devices in or on the premises specified in the authorization;
- (b) the use of surveillance devices in or on objects, or classes of objects, specified in the authorization;

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- (b) 授權在為執行該授權而有合理必要的情況下，干擾財產（不論是否屬有關截取或秘密監察的目標人物的任何人的財產）；及
 - (c) 規定該授權所指明的人（不論是以姓名或以描述方式指明），在該授權的文本向該人出示後，須向警務處人員提供該授權所指明的為執行該授權而提供的合理協助。
- (4) 對截取的行政長官授權亦同時 ——
- (a) 授權裝設、使用及維修須予使用以截取根據該授權而授權截取的通訊的器材；
 - (b) 授權進入（在有必要時可使用合理武力進入）處所，以進行根據該授權而授權進行或規定進行的行為；
 - (c) 授權截取因截取根據該授權而授權截取的通訊，而必然產生的連帶截取的通訊；及
 - (d) （凡第(1)(a)(ii)或(b)(ii)款適用）授權為執行該授權而向任何人提供將會用以識別以下通訊的地址、號碼、儀器或其他因素（或該等因素的組合）的詳情 ——
 - (i) 如屬第(1)(a)(ii)款所指的情況 —— 向或由該授權所指明的人發出的通訊；或
 - (ii) 如屬第(1)(b)(ii)款所指的情況 —— 向該授權所指明的人正使用或按理可被預期會使用的電訊服務發出或從該電訊服務發出的通訊。
- (5) 對秘密監察的行政長官授權亦同時 ——
- (a) （凡第(2)(a)款適用） ——
 - (i) 授權於該授權所指明的處所之內或之上，裝設、使用及維修根據該授權而授權使用的監察器材；及

- (c) the use of surveillance devices in respect of the conversations, activities or location of any person specified in the authorization (whether by name or by description).
- (3) A Chief Executive's authorization (except for an authorization for Type 2 surveillance) may contain terms that—
- (a) authorize the doing of anything reasonably necessary to conceal a conduct authorized or required to be carried out under the authorization;
 - (b) if it is reasonably necessary for the execution of the authorization, authorize the interference with properties (whether or not of any person who is the subject of the interception or covert surveillance concerned); and
 - (c) require a person specified in the authorization (whether by name or by description), on being shown a copy of the authorization, to provide to officers of the Police Force such reasonable assistance for the execution of the authorization.
- (4) A Chief Executive's authorization for interception also authorizes—
- (a) the installation, use and maintenance of devices required to be used in order to intercept any of the communications authorized to be intercepted under the authorization;
 - (b) the entry, by the use of reasonable force if necessary, into or onto any premises in order to carry out a conduct authorized or required to be carried out under the authorization;
 - (c) the incidental interception of communication which necessarily arises from the interception of

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- (ii) (就第 1 類監察而言) 授權進入 (在有必要時可使用合理武力進入) 上述處所及毗連該處所或可通往該處所的其他處所，以進行根據該授權而授權進行或規定進行的行為；
- (b) (凡第 (2)(b) 款適用) ——
 - (i) 授權於該授權所指明的物體或類別的物體之內或之上，裝設、使用及維修根據該授權而授權使用的監察器材；及
 - (ii) (就第 1 類監察而言) 授權進入 (在有必要時可使用合理武力進入) 合理地相信是或相當可能是上述物體或屬上述類別的物體所處的處所及毗連該處所或可通往該處所的其他處所，以進行根據該授權而授權進行或規定進行的行為；及
- (c) (凡第 (2)(c) 款適用) ——
 - (i) 授權於該授權所指明的人被合理地相信是或相當可能是身處的處所之內或之上，裝設、使用及維修根據該授權而授權使用的監察器材；及
 - (ii) (就第 1 類監察而言) 授權進入 (在有必要時可使用合理武力進入) 上述處所及毗連該處所或可通往該處所的其他處所，以進行根據該授權而授權進行或規定進行的行為。

- communications authorized to be conducted under the authorization; and
- (d) where subsection (1)(a)(ii) or (b)(ii) is applicable, the provision to any person, for the execution of the authorization, of particulars of the addresses, numbers, apparatus or other factors, or combination of factors, that are to be used for identifying—
 - (i) in the case of subsection (1)(a)(ii), the communications made to or by the person specified in the authorization; or
 - (ii) in the case of subsection (1)(b)(ii), the communications made to or from telecommunications service that the person specified in the authorization is using, or is reasonably expected to use.
- (5) A Chief Executive's authorization for covert surveillance also authorizes—
 - (a) where subsection (2)(a) is applicable—
 - (i) the installation, use and maintenance of the surveillance devices authorized to be used under the authorization in or on the premises specified in the authorization; and
 - (ii) in the case of Type 1 surveillance, the entry, by the use of reasonable force if necessary, into or onto the premises, and other premises adjoining or providing access to the premises, in order to carry out a conduct authorized or required to be carried out under the authorization;
 - (b) where subsection (2)(b) is applicable—

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- (i) the installation, use and maintenance of the surveillance devices authorized to be used under the authorization in or on the object, or an object of the class, specified in the authorization; and
 - (ii) in the case of Type 1 surveillance, the entry, by the use of reasonable force if necessary, into or onto any premises where the object, or an object of the class, is reasonably believed to be or likely to be, and other premises adjoining or providing access to the premises, in order to carry out a conduct authorized or required to be carried out under the authorization; and
- (c) where subsection (2)(c) is applicable—
- (i) the installation, use and maintenance of the surveillance devices authorized to be used under the authorization in or on the premises where the person specified in the authorization is reasonably believed to be or likely to be; and
 - (ii) in the case of Type 1 surveillance, the entry, by the use of reasonable force if necessary, into or onto the premises, and other premises adjoining or providing access to the premises, in order to carry out a conduct authorized or required to be carried out under the authorization.

第 2 分部 —— 緊急授權

9. 在緊急情況下對截取或第 1 類監察的緊急授權

- (1) 如符合以下條件，警務處人員可向警務處處長提出申請，尋求發出進行截取或第 1 類監察的緊急授權：該人員認為——

Division 2—Emergency Authorization

9. Emergency authorization for interception or Type 1 surveillance in case of emergency

- (1) An officer of the Police Force may apply to the Commissioner of Police for the issue of an emergency authorization for

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- (a) 由於存在 ——
- (i) 任何人死亡或蒙受嚴重身體傷害；
 - (ii) 財產蒙受重大損害；
 - (iii) 對國家安全的嚴重威脅；或
 - (iv) 損失關鍵證據，
的逼切風險，因而有即時需要進行該截取或第 1 類
監察；及
- (b) 在顧及有關個案的整體情況下，根據本附表第 4 條
申請行政長官授權，並非合理地切實可行。
- (2) 警務處處長可在考慮第 (1)(a) 及 (b) 款是否適用及有關申
請是否符合本附表第 2 條所指的先決條件後 ——
- (a) (如信納該款適用及該等條件已獲符合) 在經更改或
不經更改該申請下，發出該申請所尋求的緊急授權；
或
 - (b) 拒絕發出該緊急授權。
- (3) 警務處處長在發出緊急授權時，須指明時限 (該時限在任
何情況下，均不得於發出該授權的時間之前開始)，該授
權於時限屆滿時失效，該時限不得超過自發出該授權之
時起計的 48 小時。
- (4) 緊急授權不得根據本附表續期。

- interception or Type 1 surveillance to be conducted, if the
officer considers that—
- (a) there is immediate need for the interception or Type 1
surveillance to be conducted by reason of an imminent
risk of—
 - (i) death or serious bodily harm of any person;
 - (ii) substantial damage to property;
 - (iii) serious threat to national security; or
 - (iv) loss of vital evidence; and
 - (b) having regard to all the circumstances of the case, it is
not reasonably practicable to apply in writing for the
issue of a Chief Executive's authorization under section
4 of this Schedule.
- (2) The Commissioner of Police may, on considering whether
subsection (1)(a) and (b) applies, and whether the application
has met the conditions under section 2 of this Schedule—
- (a) (if satisfied that the subsection is applicable and
the conditions have been met) issue the emergency
authorization sought under the application, with or
without variations; or
 - (b) refuse to issue the emergency authorization.
- (3) When issuing the emergency authorization, the Commissioner
of Police must specify the duration (which in any case is not
to begin at a time earlier than the time when the authorization
is issued). The authorization ceases to have effect on the
expiry of the duration (which is not to be longer than
the period of 48 hours beginning with the time when the
authorization is issued).

10. 緊急授權的確認

- (1) 凡截取或第 1 類監察依據緊急授權進行，警務處處長須安排警務處人員在該授權發出後，於合理地切實可行範圍內，盡快（而無論如何須在自發出該授權之時起計的 48 小時內）向行政長官以書面提出申請，並在申請人的書面陳述支持下，尋求確認該授權。
- (2) 如沒有在第 (1) 款所提述的 48 小時限期內提出尋求確認緊急授權的申請，則警務處處長須安排將藉進行有關截取或第 1 類監察取得的資料即時銷毀。
- (3) 如有根據第 (1) 款提出的申請，行政長官可在考慮該申請是否符合本附表第 2 條所指的先決條件後——
 - (a) （如信納該等條件已獲符合）以書面確認該緊急授權（不論是否更改或附加新條件）；或
 - (b) 拒絕確認該緊急授權，並以書面說明拒絕理由。
- (4) 如行政長官根據第 (3)(a) 款更改或附加新條件，則自作出該決定時起，該緊急授權只在行政長官所指明的更改及新條件的規限下有效。
- (5) 如行政長官根據第 (3)(b) 款拒絕確認緊急授權，則儘管有本附表任何其他條文的規定，該緊急授權須在行政長官作出該決定時予以撤銷，而行政長官可命令警務處處長安排將藉進行有關截取或第 1 類監察取得的資料即時銷毀。

- (4) An emergency authorization may not be renewed under this Schedule.

10. Confirmation of emergency authorization

- (1) Where an interception or Type 1 surveillance is conducted pursuant to an emergency authorization, the Commissioner of Police must cause an officer of the Police Force to make an application to the Chief Executive in writing, supported by a written statement by the applicant, for confirmation of the authorization, as soon as reasonably practicable after, and in any event within the period of 48 hours beginning with, the time when the authorization is issued.
- (2) In default of any application being made for confirmation of the emergency authorization within the period of 48 hours referred to in subsection (1), the Commissioner of Police must cause the immediate destruction of any information obtained by conducting the interception or Type 1 surveillance concerned.
- (3) If there is an application under subsection (1), the Chief Executive may, on considering whether the application has met the conditions under section 2 of this Schedule—
 - (a) (if satisfied that the conditions have been met) confirm the emergency authorization in writing, with or without variations or new conditions; or
 - (b) refuse to confirm the emergency authorization, giving the reason for the refusal in writing.
- (4) Where the Chief Executive specifies variations or new conditions under subsection (3)(a), the emergency authorization is only to have effect subject to the variations, and any new conditions, specified by the Chief Executive, from the time of the determination.

11. 緊急授權所授權或規定的事宜

本附表第 8 條適用於緊急授權，猶如在該條中提述對截取或第 1 類監察的行政長官授權之處，是提述緊急授權一樣。

第 3 分部 —— 與訂明授權相關的其他條文

12. 訂明授權亦同時授權的事宜

訂明授權亦同時授權從事為進行根據該授權而授權進行或規定進行的事情而必要的及所連帶的行為，包括以下行為——

- (a) 取出根據該授權而授權使用的器材；
- (b) 裝設、使用、維修及取出該等器材的增強設備；
- (c) 為裝設、維修或取出該等器材或增強設備，而將運輸工具或物體暫時從處所移走，並將該運輸工具或物體置回該處所；
- (d) 為裝設、維修或取出該等器材或增強設備而破開物件；
- (e) 將該等器材或增強設備連接至電源，並使用來自該電源的電力操作該等器材或增強設備；

- (5) Where the Chief Executive refuses to confirm the emergency authorization under subsection (3)(b), the emergency authorization is, despite any other provision of this Schedule, to be revoked on the making of the determination. The Chief Executive may order the Commissioner of Police to cause the immediate destruction of any information obtained by conducting the interception or Type 1 surveillance concerned.

11. Matters authorized or required by emergency authorizations

Section 8 of this Schedule applies to an emergency authorization, as if references to a Chief Executive's authorization for interception or Type 1 surveillance in that section were references to an emergency authorization.

Division 3—Other Provisions Related to Prescribed Authorizations

12. What prescribed authorization also authorizes

A prescribed authorization also authorizes the undertaking of a conduct, including the following conduct, that is necessary for and incidental to the carrying out of what is authorized or required to be carried out under the authorization—

- (a) the retrieval of devices authorized to be used under the authorization;
- (b) the installation, use, maintenance and retrieval of an enhancement equipment for the devices;
- (c) the temporary removal of any conveyance or object from any premises for the installation, maintenance or retrieval of the devices or enhancement equipment and the return of the conveyance or object to the premises;

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- (f) 將該等器材或增強設備連接至可用以傳送任何形式的資料的物體或系統，並在與操作該等器材或增強設備有關連的情況下使用該物體或系統；及
- (g) 為執行該授權而提供協助。

- (d) the breaking open of anything for the installation, maintenance or retrieval of the devices or enhancement equipment;
- (e) the connection of the devices or enhancement equipment to a source of electricity and the use of electricity from that source to operate the devices or enhancement equipment;
- (f) the connection of the devices or enhancement equipment to an object or system that may be used to transmit information in any form and the use of that object or system in connection with the operation of the devices or enhancement equipment; and
- (g) the provision of assistance for the execution of the authorization.

13. 訂明授權不得在特殊情況以外作出的授權

- (1) 除非存在特殊情況，否則 ——
 - (a) 訂明授權不得授權在下述情況進行截取通訊 ——
 - (i) (就郵件截取而言) 涉及某律師的辦公室或其他有關處所或住所；或
 - (ii) (就電訊截取而言) 涉及於某律師的辦公室或其他有關處所或住所使用的電訊服務，或該訂明授權申請人知悉或按理可被預期知悉是通常由律師為向當事人提供法律意見而使用的電訊服務；及
 - (b) 訂明授權不得授權就於某律師的辦公室或其他有關處所或住所作出的口頭或書面通訊，進行秘密監察。
- (2) 就第 (1) 款而言，如有關當局信納 ——
 - (a) 有合理理由相信 ——

13. What prescribed authorization may not authorize other than in exceptional circumstances

- (1) Unless exceptional circumstances exist—
 - (a) no prescribed authorization may authorize the interception of communications in a situation that involves—
 - (i) (in the case of a postal interception) an office or other relevant premises, or a residence, of a lawyer; or
 - (ii) (in the case of a telecommunications interception) a telecommunications service used at an office or other relevant premises, or a residence, of a lawyer, or a telecommunications service known or reasonably expected to be known by the applicant for the prescribed authorization to be ordinarily

- (i) 有關律師；
 - (ii) 與該律師一同執業的其他律師，或在該律師的辦公室工作的其他人；或
 - (iii) 在該律師的住所居住的其他人，
是構成或會構成某項危害國家安全罪行或對國家安全的威脅的活動的參與者；或
- (b) 有合理理由相信有關通訊之中的任何一項是為達到某犯罪目的而作出的，
即屬存在特殊情況。
- (3) 為免生疑問，儘管享有法律專業保密權的資料是依據訂明授權被取得，該等資料繼續享有保密權。
- (4) 在本條中——
- 其他有關處所** (other relevant premises) 就某律師而言，指有關訂明授權申請人知悉或按理可被預期知悉是通常由該律師及其他律師為向當事人提供法律意見而使用的處所（該律師的辦公室除外），包括通常由律師在法院或到訪監獄、警署或有人被羈留的其他地方時為向其當事人提供法律意見而使用的處所；
- 律師** (lawyer) 指在《法律執業者條例》(第 159 章) 第 2(1) 條界定為以大律師、律師或外地律師身分執業的人，或根據《法律援助條例》(第 91 章) 第 3(1) 條獲委任的任何人。

- used by a lawyer for the purpose of providing legal advice to clients; and
- (b) no prescribed authorization may authorize covert surveillance to be conducted in respect of oral or written communications taking place at an office or other relevant premises, or a residence, of a lawyer.
- (2) For the purposes of subsection (1), exceptional circumstances exist if the relevant authority is satisfied that there are reasonable grounds to believe—
- (a) that—
 - (i) the lawyer concerned;
 - (ii) other lawyers practising with the lawyer concerned or other persons working in the office of the lawyer concerned; or
 - (iii) in the case of a residence of the lawyer, other persons residing in the residence,
are parties to any activity which constitutes or would constitute an offence endangering national security or a threat to national security; or
 - (b) that any of the communications concerned is for the furtherance of a criminal purpose.
- (3) To avoid doubt, information that is subject to legal professional privilege is to remain privileged despite that it has been obtained pursuant to a prescribed authorization.
- (4) In this section—
- lawyer** (律師) means a barrister, solicitor or foreign lawyer as defined by section 2(1) of the Legal Practitioners Ordinance (Cap. 159) who practises as such, or any person holding an

14. 在訂明授權失效後發出的器材取出手令

- (1) 凡訂明授權在任何情況下根據本附表失效，警務處人員可向行政長官以書面提出申請，並在申請人的書面陳述支持下（該陳述須符合本附表第 5 部所指明的規定），尋求發出器材取出手令，授權取出符合以下說明的、根據該授權而授權使用的器材——
 - (a) 已依據該授權裝設於處所或物體之內或之上；及
 - (b) 仍處於該處所或該物體之內或之上，或正處於其他處所或其他物體之內或之上。
- (2) 行政長官可——
 - (a) 在經更改或不經更改有關申請下，以書面發出該申請所尋求的器材取出手令；或
 - (b) 拒絕發出該器材取出手令，並以書面說明拒絕理由。
- (3) 行政長官在發出器材取出手令時，須指明時限（該時限在任何情況下，均不得於發出該手令的時間之前開始），該手令於時限屆滿時失效，該時限不得超過自該手令生效之時起計的 3 個月。

appointment under section 3(1) of the Legal Aid Ordinance (Cap. 91);

other relevant premises (其他有關處所), in relation to a lawyer, means any premises, other than an office of the lawyer, that are known or reasonably expected to be known by the applicant for the prescribed authorization to be ordinarily used by the lawyer and by other lawyers for the purpose of providing legal advice to clients (including any premises ordinarily used by lawyers for the purpose of providing legal advice to clients when in court or visiting a prison, police station or other place where any person is detained).

14. **Issue of device retrieval warrants after prescribed authorizations having ceased to have effect**

- (1) Where a prescribed authorization has in any way ceased to have effect under this Schedule, an officer of the Police Force may make an application to the Chief Executive in writing, supported by a written statement by the applicant (which is to comply with the requirements specified in Part 5 of this Schedule), for the issue of a device retrieval warrant authorizing the retrieval of the devices authorized to be used under the authorization if such devices—
 - (a) have been installed in or on any premises or object, pursuant to the authorization; and
 - (b) are still in or on such premises or object, or are in or on any other premises or object.
- (2) The Chief Executive may—
 - (a) issue in writing the device retrieval warrant sought under the application, with or without variations; or

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- (4) 器材取出手令可授權取出該手令所指明的任何器材，並可載有條款，授權作出以下一項或兩項事宜——
- (a) 作出合理地必要作出的事情，以掩飾根據該手令而授權進行的行為；
 - (b) 如為執行器材取出手令而有合理必要，干擾財產（不論是否屬有關截取或秘密監察的目標人物的任何人的財產）。
- (5) 器材取出手令亦同時授權從事為進行根據該手令而授權進行的事情的目的而必要的及所連帶的行為，包括以下行為——
- (a) 取出根據該手令而授權取出的器材的增強設備；
 - (b) 進入（在有必要時可使用合理武力進入）合理地相信是或相當可能是該等器材或增強設備所處的處所及毗連該處所或可通往該處所的其他處所，以取出該等器材或增強設備；
 - (c) 為取出該等器材或增強設備，而將運輸工具或物體暫時從處所移走，並將該運輸工具或物體置回該處所；
 - (d) 為取出該等器材或增強設備而破開物件；及
 - (e) 為執行該手令而提供協助。
- (6) 授權取出追蹤器材的器材取出手令，亦同時授權僅為尋找及取出該等器材或該等器材的增強設備的目的，而使用該等器材及增強設備。
- (7) 如在某器材取出手令有效但未完成執行的期間內，當其時負責執行該手令的警務處人員在——
- (a) 知悉第 (1)(a) 或 (b) 款不適用於有關器材或該手令所指明的器材；或
 - (b) 認為該手令或其某部分，因某原因（不論該原因為何）而不能執行，

- (b) refuse to issue the device retrieval warrant, giving the reason for the refusal in writing.
- (3) When issuing the device retrieval warrant, the Chief Executive must specify the duration (which in any case is not to begin at a time earlier than the time when the warrant is issued). The warrant ceases to have effect on the expiry of the duration (which is not to be longer than the period of 3 months beginning with the time when the warrant takes effect).
- (4) A device retrieval warrant may authorize the retrieval of a device specified in the warrant, and may contain terms that authorize the carrying out of one or both of the following—
- (a) the doing of anything reasonably necessary to conceal a conduct authorized to be carried out under the warrant;
 - (b) if it is reasonably necessary for the execution of the warrant, the interference with properties (whether or not of any person who is the subject of the interception or covert surveillance concerned).
- (5) A device retrieval warrant also authorizes the undertaking of a conduct, including the following conduct, that is necessary for and incidental to the carrying out of what is authorized to be carried out under the warrant—
- (a) the retrieval of an enhancement equipment for the devices authorized to be retrieved under the warrant;
 - (b) the entry, by the use of reasonable force if necessary, into or onto the premises where the devices or enhancement equipment is reasonably believed to be or likely to be, and other premises adjoining or providing access to the premises, in order to retrieve the devices or enhancement equipment;

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該人員須在知悉該事宜或得出該意見後，於合理地切實可行範圍內，盡快安排向行政長官提供一份關於該事宜或意見的報告。

- (c) the temporary removal of any conveyance or object from any premises for the retrieval of the devices or enhancement equipment and the return of the conveyance or object to the premises;
 - (d) the breaking open of anything for the retrieval of the devices or enhancement equipment; and
 - (e) the provision of assistance for the execution of the warrant.
- (6) A device retrieval warrant which authorizes the retrieval of tracking devices also authorizes the use of the devices and enhancement equipment for the devices solely for the purposes of the location and retrieval of the devices or enhancement equipment.
- (7) If, while a device retrieval warrant is in force but not yet completely executed, an officer of the Police Force who is for the time being in charge of the execution of the warrant—
- (a) becomes aware that subsection (1)(a) or (b) does not apply to the devices or any of the devices specified in the warrant; or
 - (b) is of the opinion that the warrant or a part of the warrant cannot for whatever reason be executed,
- the officer must, as soon as reasonably practicable after becoming aware of the matter or forming the opinion, cause a report on the matter or opinion to be provided to the Chief Executive.

15. 訂明授權及器材取出手令不受輕微缺失影響

- (1) 訂明授權或器材取出手令不受與其有關的輕微缺失影響。

15. Prescribed authorizations and device retrieval warrants not affected by minor defects

- (1) A prescribed authorization or device retrieval warrant is not affected by any minor defect relating to it.

- (2) 依據訂明授權取得的資料(包括受保護成果),不得僅因為與該授權有關的輕微缺失,而被致令不得於在法院進行的法律程序中獲接納為證據。

第 4 分部 —— 進一步保障

16. 對受保護成果的保障

- (1) 凡有依據訂明授權而取得的受保護成果,警務處處長須作出安排,以確保——
- (a) 以下事宜被限制於對該授權的有關目的屬必要的最小限度——
- (i) 受保護成果的披露範圍;
- (ii) 屬受保護成果披露對象的人的數目;
- (iii) 受保護成果被複製的程度;及
- (iv) 以受保護成果製成的文本的數目;
- (b) 已採取所有切實可行步驟,以確保受保護成果不會在未經授權下或在意外的情況下被取用、處理、刪除或用作其他用途;及
- (c) 在保留受保護成果對該授權的有關目的並非屬必要時,盡快銷毀該成果。
- (2) 儘管有本附表其他條文或其他法律的規定,行政長官如認為某人向任何其他人士提供或披露關於該人為執行訂明授權或器材取出手令而提供協助的資料、文件或其他事宜,會對防止或偵測危害國家安全罪行或保障國家安全造成損害,可以書面指示該人不得提供或披露該等資料、文件或其他事宜。
- (3) 在本條中——

- (2) Information (including any protected product) obtained pursuant to a prescribed authorization is not by reason only of minor defect relating to the prescribed authorization to be rendered inadmissible in evidence in any proceedings before a court.

Division 4—Further Safeguards

16. Safeguards for protected products

- (1) Where any protected product has been obtained pursuant to a prescribed authorization, the Commissioner of Police must make arrangements to ensure—
- (a) that the following are limited to the minimum that is necessary for the relevant purpose of the authorization—
- (i) the extent to which the protected product is disclosed;
- (ii) the number of persons to whom any of the protected product is disclosed;
- (iii) the extent to which the protected product is copied; and
- (iv) the number of copies made of the protected product;
- (b) that all practicable steps are taken to ensure that the protected product is protected against unauthorized or accidental access, processing, erasure or other use; and
- (c) that the protected product is destroyed as soon as its retention is not necessary for the relevant purpose of the authorization.
- (2) Despite any other provision of this Schedule or other laws, if the Chief Executive believes that the provision or disclosure

有關目的 (relevant purpose) 就某訂明授權而言，指屬發出該授權、確認該授權、將該授權續期，或讓該授權或其某部分持續有效的先決條件、並在本附表第 2(1)(a) 條描述的目的；

訂明授權 (prescribed authorization) 指本附表第 27(1) 條所界定的或《截取通訊及監察條例》(第 589 章) 第 2(1) 條所界定的訂明授權；

器材取出手令 (device retrieval warrant) 指本附表第 27(1) 條所界定的或《截取通訊及監察條例》(第 589 章) 第 2(1) 條所界定的器材取出手令。

17. 電訊截取成果不獲接納為證據

- (1) 在法院進行的法律程序中，電訊截取成果不得獲接納為證據，但用作證明有人已干犯某有關罪行則除外。
- (2) 基於公眾利益的考慮，電訊截取成果以及關於依據有關訂明授權進行的電訊截取的詳情，不得提供予在法院進行的法律程序（就有關罪行提起的該等法律程序除外）中的任何一方（包括檢控方）。

by a person to another person of information, document or other matter concerning the assistance provided by that person for the execution of a prescribed authorization or a device retrieval warrant would be prejudicial to the prevention or detection of offences endangering national security or protection of national security, the Chief Executive may by writing order that person not to provide or disclose such information, document or other matter.

(3) In this section—

device retrieval warrant (器材取出手令) means a device retrieval warrant as defined by section 27(1) of this Schedule or by section 2(1) of the Interception of Communications and Surveillance Ordinance (Cap. 589);

prescribed authorization (訂明授權) means a prescribed authorization as defined by section 27(1) of this Schedule or by section 2(1) of the Interception of Communications and Surveillance Ordinance (Cap. 589);

relevant purpose (有關目的), in respect of a prescribed authorization, means the purpose that is a condition for issuing, confirming or renewing that authorization, or continuing that authorization or a part of that authorization, and that is described in section 2(1)(a) of this Schedule.

17. Non-admissibility of telecommunications interception product

- (1) A telecommunications interception product is not admissible in evidence in any proceedings before a court other than to prove that a relevant offence has been committed.
- (2) Based on public interest considerations, a telecommunications interception product, and particulars as to a telecommunications interception conducted pursuant to a relevant prescribed authorization, must not be made available

- (3) 在法院進行的法律程序(就有關罪行提起的該等法律程序除外)中,不得舉出傾向顯示以下事宜的證據,亦不得發問傾向顯示以下事宜的問題——
- (a) 有人已提出申請,尋求根據本附表發出有關訂明授權或將有關訂明授權續期,或尋求根據本附表發出有關器材取出手令;
 - (b) 已根據本附表發出有關訂明授權或將有關訂明授權續期,或已根據本附表發出有關器材取出手令;
 - (c) 已對任何人施加規定,規定該人為執行有關訂明授權或有關器材取出手令而提供協助;或
 - (d) 已依據有關訂明授權取得資料。
- (4) 在本條中——
- 有關訂明授權** (relevant prescribed authorization) 指對電訊截取的訂明授權;
- 有關罪行** (relevant offence) 指由披露電訊截取成果或披露關乎取得電訊截取成果的資料所構成的罪行(不論該罪行是否有其他構成元素);
- 有關器材取出手令** (relevant device retrieval warrant) 指授權取出根據有關訂明授權而授權使用的任何器材的器材取出手令;
- 電訊截取成果** (telecommunications interception product) 凡截取成果屬——
- (a) 根據有關訂明授權而取得的通訊的任何內容;或
 - (b) 該等內容的文本,
- 指該等截取成果。

- to any party to proceedings before a court, including the prosecution (other than any such proceedings instituted for a relevant offence).
- (3) In any proceedings before a court (other than such proceedings instituted for a relevant offence), evidence or question which tends to suggest the following matters may not be adduced or asked—
- (a) that an application has been made for the issue or renewal of a relevant prescribed authorization, or the issue of a relevant device retrieval warrant, under this Schedule;
 - (b) that a relevant prescribed authorization has been issued or renewed, or a relevant device retrieval warrant has been issued, under this Schedule;
 - (c) that a requirement has been imposed on any person to provide assistance for the execution of a relevant prescribed authorization or a relevant device retrieval warrant; or
 - (d) that information has been obtained pursuant to a relevant prescribed authorization.
- (4) In this section—
- relevant device retrieval warrant** (有關器材取出手令) means a device retrieval warrant which authorizes the retrieval of any device authorized to be used under a relevant prescribed authorization;
- relevant offence** (有關罪行) means an offence constituted by the disclosure of a telecommunications interception product or of information relating to the obtaining of a telecommunications interception product (whether or not there are other constituent elements of the offence);

18. 向有關當局提供報告：資料不準確或情況出現變化

- (1) 本條在以下情況下適用：在某訂明授權有效的期間內，警務處在當其時負責有關截取或秘密監察的人員——
- (a) 知悉在為以下申請而提供的資料中，有具關鍵性的不準確之處——
- (i) 尋求發出行政長官授權或緊急授權的申請；
- (ii) 尋求將行政長官授權續期的申請；或
- (iii) 尋求確認緊急授權的申請；或
- (b) 知悉作為發出該授權、將該授權續期或確認該緊急授權的基礎的情況，出現關鍵性變化（包括有關截取或秘密監察的目標人物已被逮捕）。
- (2) 上述人員須在知悉第(1)(a)或(b)款描述的事宜後，於合理地切實可行範圍內，盡快安排向發出上述訂明授權或將該授權續期或確認上述緊急授權（視何者適用而定）的有關當局，提供一份關於該事宜的報告。
- (3) 凡有關當局接獲第(2)款所指的報告，如該當局認為本附表第2條所指的、讓有關訂明授權或其某部分持續有效的先決條件未獲符合，該當局須撤銷該授權或該部分。

- relevant prescribed authorization* (有關訂明授權) means a prescribed authorization in relation to a telecommunications interception;
- telecommunications interception product* (電訊截取成果), where the interception product is—
- (a) any content of a communication obtained under a relevant prescribed authorization; or
- (b) a copy of such content,
- means such interception product.
- 18. Report to relevant authority: inaccurate information or change in circumstances**
- (1) This section applies if, while a prescribed authorization is in force, an officer of the Police Force who is for the time being in charge of the interception or covert surveillance concerned—
- (a) becomes aware that there is a material inaccuracy in the information provided for the purposes of—
- (i) the application for the issue of a Chief Executive's authorization or emergency authorization;
- (ii) the application for the renewal of a Chief Executive's authorization; or
- (iii) the application for the confirmation of an emergency authorization; or
- (b) becomes aware that there has been a material change in the circumstances (including the arrest of the subject of the interception or covert surveillance) on the basis of which the authorization was issued or renewed, or the emergency authorization was confirmed.

- (4) 如訂明授權或其某部分根據第 (3) 款被撤銷，則儘管有有關時限條文的規定，該授權或該部分自被撤銷之時起失效。
- (5) 如訂明授權沒有被撤銷，或只有部分被撤銷，有關當局可行使以下一項或兩項權力——
 - (a) 更改該授權的條款或條件；
 - (b) 在該授權中指明適用於該授權本身或在該授權下的進一步的授權或規定（不論是根據該授權的條款或本附表的條文而批予或施加的）的新條件。
- (6) 如有關當局在根據第 (2) 款獲提供報告時，不再擔任其職位或不再執行其職位的有關職能，則在不影響《釋義及通則條例》（第 1 章）第 54 條的原則下，在該款中提述有關當局，包括在當其時合法地執行該當局的職位的有關職能的人。
- (7) 在本條中——

有關時限條文 (relevant duration provision) 指本附表第 4(3)、5(4)、6(4)、7(4) 或 9(3) 條（視何者適用而定）。

- (2) The officer must, as soon as reasonably practicable after becoming aware of the matter described in subsection (1)(a) or (b), cause a report on the matter to be provided to the relevant authority by whom the prescribed authorization has been issued or renewed, or the emergency authorization has been confirmed (as may be applicable).
- (3) Where the relevant authority receives a report under subsection (2), if the relevant authority considers that the conditions for the continuance of the prescribed authorization concerned or a part of the prescribed authorization concerned under section 2 of this Schedule are not met, the relevant authority must revoke the authorization or that part of the authorization.
- (4) If the prescribed authorization or a part of the prescribed authorization is revoked under subsection (3), the authorization or that part of the authorization, despite the relevant duration provision, ceases to have effect from the time of the revocation.
- (5) If the prescribed authorization is not revoked or only part of the prescribed authorization is revoked, the relevant authority may do one or both of the following—
 - (a) vary any terms or conditions in the authorization;
 - (b) specify any new conditions in the authorization that apply to the authorization itself or to any further authorization or requirement under it (whether granted or imposed under its terms or any provision of this Schedule).
- (6) If, at the time of the provision of a report to the relevant authority under subsection (2), the relevant authority is no longer holding his or her office or performing the relevant functions of that office, without affecting section 54 of the

第 3 部 其他相關安排

19. 監督責任

行政長官可委任一名獨立人士，協助香港特別行政區維護國家安全委員會履行《中華人民共和國香港特別行政區維護國家安全法》第四十三條所提述的監督責任。

20. 《運作原則及指引》

- (1) 保安局局長須為就本附表訂定的事宜向警務處人員提供運作原則及指引的目的，發出《運作原則及指引》*，並可不時修改整套《運作原則及指引》或其部分。
- (2) 警務處人員在根據本附表或為本附表任何條文的施行而執行任何職能時，須遵守《運作原則及指引》的條文。
- (3) 如任何人不遵守《運作原則及指引》的條文——
 - (a) 就所有目的而言，不得僅因該項不遵守而將該項不遵守視為有不遵守本附表條文的情況；及

Interpretation and General Clauses Ordinance (Cap. 1), the reference to the relevant authority in that subsection includes the person for the time being lawfully performing the relevant functions of the office of that relevant authority.

(7) In this section—

relevant duration provision (有關時限條文) means section 4(3), 5(4), 6(4), 7(4) or 9(3) of this Schedule (as may be applicable).

Part 3 Other Relevant Arrangements

19. Supervising responsibility

The Chief Executive may appoint an independent person to assist the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region in fulfilling its supervising responsibility stipulated under Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region.

20. Operating Principles and Guidelines

- (1) The Secretary for Security must issue Operating Principles and Guidelines* for the purpose of providing operating principles and guidance to officers of the Police Force in respect of matters provided for in this Schedule, and may from time to time revise the whole or any part of the Operating Principles and Guidelines.
- (2) Officers of the Police Force must, in performing any function under this Schedule or for the implementation of any

- (b) 在不損害 (a) 段的原則下，該項不遵守不影響訂明授權或器材取出手令的有效性。

編輯附註：

* 請參閱於 2020 年 7 月刊登的 2020 年第 74 號號外公告。

21. 豁免權

- (1) 在第 (2) 款的規限下，任何人不得僅因 ——
- (a) 依據訂明授權或器材取出手令進行的行為或所附帶的行為；
 - (b) 該人真誠地執行或看來是真誠地執行在本附表下的職能；或
 - (c) 該人遵從根據本附表作出的或看來是根據本附表作出的規定或要求，
- 而招致民事或刑事法律責任。
- (2) 第 (1) 款並不影響任何人僅因以下事宜而招致或可能招致的法律責任 ——
- (a) 未經准許而進入處所；或
 - (b) 未經准許而干擾財產。

22. 在訂明授權被撤銷後取得的受保護成果

provision of this Schedule, comply with the provisions of the Operating Principles and Guidelines.

- (3) A failure on the part of any person to comply with any provision of the Operating Principles and Guidelines—
- (a) is for all purposes not of itself to be regarded as a failure to comply with any provision of this Schedule; and
 - (b) without prejudice to paragraph (a), does not affect the validity of any prescribed authorization or device retrieval warrant.

Editorial Note:

* Please see G.N. (E.) 74 of 2020 published in July 2020.

21. Immunity

- (1) Subject to subsection (2), a person does not incur civil or criminal liability by reason only of—
- (a) a conduct carried out pursuant to a prescribed authorization or device retrieval warrant, or an incidental conduct;
 - (b) the person's performance or purported performance in good faith of any function under this Schedule; or
 - (c) the person's compliance with a requirement made or purportedly made under this Schedule.
- (2) Nothing in subsection (1) affects liability that is or may be incurred by any person by reason only of—
- (a) entry into or onto any premises without permission; or
 - (b) interference with any property without permission.

22. Protected products obtained after revocation of prescribed

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- (1) 如某訂明授權或其某部分根據本附表第 18(3) 條被撤銷，警務處處長須作出安排，以確保有關截取或秘密監察或其有關部分，於合理地切實可行範圍內，盡快終止。
- (2) 受保護成果，如在有關訂明授權或其有關部分被撤銷後，但在有關截取或秘密監察或其有關部分按照警務處處長根據第 (1) 款作出的安排而終止前取得，則就本附表而言，該成果須視為是依據訂明授權取得的。

authorization

- (1) If a prescribed authorization or a part of a prescribed authorization is revoked under section 18(3) of this Schedule, the Commissioner of Police must make arrangements to ensure that the interception or covert surveillance concerned or the relevant part of the interception or covert surveillance concerned is discontinued as soon as reasonably practicable.
- (2) Any protected product that is obtained after the prescribed authorization concerned or the relevant part of the prescribed authorization concerned is revoked and before the interception or covert surveillance concerned or the relevant part of the interception or covert surveillance concerned is discontinued in accordance with the arrangements made by the Commissioner of Police under subsection (1) is, for the purposes of this Schedule, to be regarded as having been obtained pursuant to a prescribed authorization.

第 4 部

適用於關於尋求發出對截取或秘密監察的訂明授權或將該等授權續期的申請的陳述的規定

Part 4

Requirements for Statement for Application for Issue or Renewal of Prescribed Authorization for Interception or Covert Surveillance

第 1 分部 —— 尋求發出對截取的行政長官授權的申請

Division 1—Application for Issue of Chief Executive's Authorization for Interception

23. 支持申請的陳述的內容 (截取)
用以支持尋求發出對截取的行政長官授權的申請的陳述，須 ——

23. Contents of statement supporting application (interception)
A statement supporting an application for the issue of a Chief Executive's authorization for interception is to—

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- (a) 述明謀求藉進行該截取達到的目的，是本附表第 2(1)(a)(i) 及 (ii) 條所指明的目的中的哪一項；
- (b) 列明 ——
- (i) 該截取的形式，以及謀求藉進行該截取而取得的資料；
 - (ii) (如知道的話) 將會屬該截取的目標人物的人的身分；
 - (iii) (如知道的話) 用以識別將會被截取的通訊的地址、號碼、儀器或其他因素的詳情；
 - (iv) 該截取的建議時限；
 - (v) 本附表第 2(1)(b) 條所指明的合理懷疑所基於的理由；
 - (vi) 以下資料 ——
 - (A) 凡屬本附表第 2(1)(a)(i) 條所指明的目的，須予防止或偵測的有關危害國家安全罪行，以及對該罪行的逼切性及嚴重程度的評估；或
 - (B) 凡屬本附表第 2(1)(a)(ii) 條所指明的目的，對國家安全的有關威脅，以及對該威脅的逼切性及嚴重程度的評估；
 - (vii) 相當可能會藉進行該截取而取得的利益；
 - (viii) 對該截取對目標人物以外的任何人的影響 (如有的話) 的評估；
 - (ix) 是否可能會藉進行該截取而取得以下資料：可能享有法律專業保密權的資料，或可能屬新聞材料的內容的資料；
 - (x) 謀求藉進行該截取達到的目的不能合理地藉侵擾程度較低的其他手段達到的原因；及

- (a) state which of the purposes specified in section 2(1)(a)(i) and (ii) of this Schedule is sought to be furthered by conducting the interception;
- (b) set out—
- (i) the form of the interception and the information sought to be obtained by conducting the interception;
 - (ii) if known, the identity of any person who is to be the subject of the interception;
 - (iii) if known, particulars of the addresses, numbers, apparatus or other factors that are to be used for identifying any communication that is to be intercepted;
 - (iv) the proposed duration of the interception;
 - (v) the grounds for the reasonable suspicion specified in section 2(1)(b) of this Schedule;
 - (vi) the following information—
 - (A) for the purpose specified in section 2(1)(a)(i) of this Schedule, the relevant offences endangering national security to be prevented or detected and an assessment of their immediacy and gravity; or
 - (B) for the purpose specified in section 2(1)(a)(ii) of this Schedule, the relevant threat to national security and an assessment of its immediacy and gravity;
 - (vii) the benefits likely to be obtained by conducting the interception;

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第 24 條

- (xi) (如知道的話) 是否有在過去 2 年期間根據本附表就第 (ii) 節所述的目標人物或 (如根據第 (iii) 節在陳述中列出任何電訊服務的詳情) 就該電訊服務提出尋求發出訂明授權或將訂明授權續期的申請, 及 (如有的話) 該申請的詳情; 及
- (c) 以姓名、職級及職位識別申請人及批准提出該申請的警務處人員。

第 2 分部 —— 尋求發出對秘密監察的行政長官授權的申請

24. 支持申請的陳述的內容 (第 1 類監察或第 2 類監察)

用以支持尋求發出對第 1 類監察或第 2 類監察的行政長官授權的申請的陳述, 須 ——

- (a) 述明謀求藉進行該監察達到的目的, 是本附表第 2(1)(a)(i) 及 (ii) 條所指明的目的中的哪一項;

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- (viii) an assessment of the impact (if any) of the interception on any person other than the subject;
 - (ix) whether it is likely that any information which may be subject to legal professional privilege, or may be the contents of any journalistic material, will be obtained by conducting the interception;
 - (x) the reason why the purpose sought to be furthered by conducting the interception cannot reasonably be furthered by other less intrusive means; and
 - (xi) if known, whether, during the preceding 2 years, there has been any application for the issue or renewal of a prescribed authorization under this Schedule in respect of the subject mentioned in subparagraph (ii) or (if the particulars of any telecommunications service have been set out in the statement under subparagraph (iii)) the telecommunications service, and if so, particulars of such application; and
- (c) identify by name, rank and post the applicant and the officer of the Police Force approving the making of the application.

Division 2—Application for Issue of Chief Executive's Authorization for Covert Surveillance

24. Contents of statement supporting application (Type 1 surveillance or Type 2 surveillance)

A statement supporting an application for the issue of a Chief Executive's authorization for Type 1 surveillance or Type 2 surveillance is to—

(b) 列明 ——

- (i) 該監察的形式 (包括將會使用的器材的種類), 以及謀求藉進行該監察而取得的資料;
- (ii) (如知道的話) 將會屬該監察的目標人物的人的身分;
- (iii) 可能受該監察影響而不屬第(ii)節所提述的任何人的身分, 或(如該人的身分不詳) 對可能受該監察影響的某人或某類別的人的描述;
- (iv) (如知道的話) 將會進行的該監察所在的處所或物體或類別物體的詳情;
- (v) 該監察的建議時限;
- (vi) 本附表第 2(1)(b) 條所指明的合理懷疑所基於的理由;
- (vii) 以下資料 ——
 - (A) 凡屬本附表第 2(1)(a)(i) 條所指明的目的, 須予防止或偵測的有關危害國家安全罪行, 以及對該罪行的逼切性及嚴重程度的評估; 或
 - (B) 凡屬本附表第 2(1)(a)(ii) 條所指明的目的, 對國家安全的有關威脅, 以及對該威脅的逼切性及嚴重程度的評估;
- (viii) 相當可能會藉進行該監察而取得的利益;
- (ix) 對該監察對目標人物以外的任何人的影響 (如有的話) 的評估;
- (x) 是否可能會藉進行該監察而取得以下資料: 可能享有法律專業保密權的資料, 或可能屬新聞材料的內容的資料;

- (a) state which of the purposes specified in section 2(1)(a)(i) and (ii) of this Schedule is sought to be furthered by conducting the surveillance;
- (b) set out—
 - (i) the form of the surveillance (including the kind or kinds of any devices to be used) and the information sought to be obtained by conducting the surveillance;
 - (ii) if known, the identity of any person who is to be the subject of the surveillance;
 - (iii) the identity of any person, other than that referred to in subparagraph (ii), who may be affected by the surveillance or, if the identity of such person is not known, the description of any such person or class of such persons who may be affected by the surveillance;
 - (iv) if known, particulars of any premises or any object or class of objects in or on which the surveillance is to be conducted;
 - (v) the proposed duration of the surveillance;
 - (vi) the grounds for the reasonable suspicion specified in section 2(1)(b) of this Schedule;
 - (vii) the following information—
 - (A) for the purpose specified in section 2(1)(a)(i) of this Schedule, the relevant offences endangering national security to be prevented or detected and an assessment of their immediacy and gravity; or

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- (xi) 謀求藉進行該監察達到的目的不能合理地藉侵擾程度較低的其他手段達到的原因；及
- (xii) (如知道的話) 是否有在過去 2 年期間根據本附表就第 (ii) 節所述的目標人物提出尋求發出訂明授權或將訂明授權續期的申請，及 (如有的話) 該申請的詳情；及
- (c) 以姓名、職級及職位識別申請人及批准提出該申請的警務處人員。

第 3 分部 —— 尋求將對截取或秘密監察的行政長官授權續期的申請

25. 支持申請的陳述的內容 (續期)

用以支持尋求將行政長官授權續期的申請的陳述，須 ——

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- (B) for the purpose specified in section 2(1)(a)(ii) of this Schedule, the relevant threat to national security and an assessment of its immediacy and gravity;
- (viii) the benefits likely to be obtained by conducting the surveillance;
- (ix) an assessment of the impact (if any) of the surveillance on any person other than the subject;
- (x) whether it is likely that any information which may be subject to legal professional privilege, or may be the contents of any journalistic material, will be obtained by conducting the surveillance;
- (xi) the reason why the purpose sought to be furthered by conducting the surveillance cannot reasonably be furthered by other less intrusive means; and
- (xii) if known, whether, during the preceding 2 years, there has been any application for the issue or renewal of a prescribed authorization under this Schedule in respect of the subject mentioned in subparagraph (ii), and if so, particulars of such application; and
- (c) identify by name, rank and post the applicant and the officer of the Police Force approving the making of the application.

Division 3—Application for Renewal of Chief Executive's Authorization for Interception or Covert Surveillance

25. Contents of statement supporting application (renewal)

A statement supporting an application for the renewal of a Chief

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- (a) 列明 ——
- (i) 所尋求的續期是否首次續期及(如否)該行政長官授權以往每次獲續期的情況，及每次的續期時限；
 - (ii) 下述資料的重大改變：為尋求發出該行政長官授權或將該行政長官授權續期的申請的目的，而在先前根據本附表在陳述內提供的資料；
 - (iii) 對直至提出該申請為止已依據該行政長官授權取得的資料的價值的評估；
 - (iv) 申請續期屬必要的理由；及
 - (v) 該截取、第 1 類監察或第 2 類監察(視屬何情況而定)的建議時限；及
- (b) 以姓名、職級及職位識別申請人及批准提出該申請的警務處人員。

Executive's authorization is to—

- (a) set out—
- (i) whether the renewal sought is the first renewal and, if not, each occasion on which the Chief Executive's authorization has been renewed previously and the duration of each renewal;
 - (ii) any significant change to any information previously provided in any statement under this Schedule for the purposes of any application for the issue or renewal of the Chief Executive's authorization;
 - (iii) an assessment of the value of the information so far obtained pursuant to the Chief Executive's authorization;
 - (iv) the reason why it is necessary to apply for the renewal; and
 - (v) the proposed duration of the interception, Type 1 surveillance or Type 2 surveillance (as the case may be); and
- (b) identify by name, rank and post the applicant and the officer of the Police Force approving the making of the application.

第 5 部

適用於關於尋求發出器材取出手令的申請的陳述的規定

26. 支持申請的陳述的內容(器材取出手令)

Part 5

Requirements for Statement for Application for Issue of Device Retrieval Warrant

26. Contents of statement supporting application (device retrieval warrant)

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凡某訂明授權授權使用器材，用以支持尋求就取出該器材發出器材取出手令的申請的陳述，須——

- (a) 列明——
- (i) 尋求取出的器材的種類；
 - (ii) 尋求取出的器材所處的處所或物體的詳情，以及申請人認為該器材是處於該處所或物體之內或之上的原因；
 - (iii) 預計完成該項取出所需的時間；
 - (iv) 對該項取出對任何人的影響（如有的話）的評估；及
 - (v) 進行該項取出的需要；及
- (b) 以姓名、職級及職位識別申請人。

A statement supporting an application for the issue of a device retrieval warrant for the retrieval of any of the devices authorized to be used under a prescribed authorization is to—

- (a) set out—
- (i) the kind or kinds of the devices sought to be retrieved;
 - (ii) particulars of the premises or object from which the devices are to be retrieved, and the reason why the applicant considers that the devices are in or on such premises or object;
 - (iii) the estimated time required to complete the retrieval;
 - (iv) an assessment of the impact (if any) of the retrieval on any person; and
 - (v) the need for the retrieval; and
- (b) identify by name, rank and post the applicant.

第 6 部

釋義條文

27. 釋義

(1) 在本附表中——

公眾地方 (public place) ——

- (a) 指公眾人士或部分公眾人士可以或獲准不時在繳費或不繳費下進入的處所；但
- (b) 不包括屬擬供公眾人士用作洗手間、沐浴地方或更衣地方的該等處所；

Part 6

Interpretation

27. Interpretation

(1) In this Schedule—

address (地址), in relation to a communication transmitted by a postal service, includes a postal box address;

authorizing officer (授權人員) means an officer of the Police Force designated under section 5(1) of this Schedule by the Chief Executive to be an authorizing officer;

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文本 (copy) ——

- (a) 就依據對截取的訂明授權取得的通訊的內容而言，指以下項目（不論是否屬文件形式）——
 - (i) 該等內容的文本、複本、副本、拷貝、摘錄或撮錄；
 - (ii) 提述該截取，並且是直接或間接顯示屬該通訊的傳送人或傳送對象的人的身分的紀錄的任何紀錄；或
- (b) 就依據對秘密監察的訂明授權取得材料而言，指以下項目（不論是否屬文件形式）——
 - (i) 該等材料之文本、複本、副本、拷貝、摘錄或撮錄；
 - (ii) 以該等材料製備的謄本或紀錄；

地址 (address) 就藉郵政服務傳送的通訊而言，包括郵箱地址；

有關當局 (relevant authority) ——

- (a) 就尋求發出對截取或第 1 類監察的行政長官授權或將該授權續期的申請而言，指行政長官；
- (b) 就尋求發出對第 2 類監察的行政長官授權或將該授權續期的申請而言，指行政長官或授權人員（視屬何情況而定）；
- (c) 就尋求發出緊急授權的申請而言，指警務處處長；或
- (d) 就尋求確認緊急授權的申請而言，指行政長官；

Chief Executive's authorization (行政長官授權) means an authorization for interception, Type 1 surveillance or Type 2 surveillance issued or renewed under Division 1 of Part 2 of this Schedule;

communication (通訊) means—

- (a) communication transmitted by a postal service; or
- (b) communication transmitted by a telecommunications system;

conduct (行為) includes any act or omission, and any series of acts or omissions or of acts and omissions;

conveyance (運輸工具) means any vehicle, vessel, aircraft, hovercraft or other conveyance;

copy (文本)—

- (a) in relation to any contents of a communication that have been obtained pursuant to a prescribed authorization for interception, means any of the following (whether or not in documentary form)—
 - (i) any copy, extract or summary of such contents;
 - (ii) any record referring to the interception which is a record showing, directly or indirectly, the identity of any person who is the sender or intended recipient of the communication; or
- (b) in relation to any material that has been obtained pursuant to a prescribed authorization for covert surveillance, means any of the following (whether or not in documentary form)—
 - (i) any copy, extract or summary of the material;

行政長官授權 (Chief Executive's authorization) 指根據本附表第 2 部第 1 分部發出或續期的對截取、第 1 類監察或第 2 類監察的授權；

行為 (conduct) 包括作為或不作為，以及連串的作為或不作為或連串的作為及不作為；

受保護成果 (protected product) 指截取成果或監察成果；

法院 (court) ——

- (a) 指《釋義及通則條例》(第 1 章) 第 3 條所界定的法院；及
- (b) 包括裁判官及審裁處；

查察 (inspect) 包括監聽、監測及記錄；

訂明授權 (prescribed authorization) 指行政長官授權或緊急授權；

首長級人員 (directorate officer) 指職級不低於總警司職級的警務處人員；

秘密監察 (covert surveillance) ——

- (a) 指為特定調查或行動的目的而使用監察器材進行的、符合以下說明的監察 ——
 - (i) 該等監察是在屬其目標人物的人有權對享有私隱有合理期望的情況下進行的；
 - (ii) 該等監察的進行方式，是旨在確保該人不察覺該等監察正在或可能正在進行；及
 - (iii) 該等監察相當可能導致取得關於該人的隱私資料；但

- (ii) any transcript or record made of the material;

court (法院) ——

- (a) means a court as defined by section 3 of the Interpretation and General Clauses Ordinance (Cap. 1); and
- (b) includes a magistrate and a tribunal;

covert surveillance (秘密監察) ——

- (a) means surveillance conducted with the use of surveillance device for the purposes of a specific investigation or operation, if the surveillance ——
 - (i) is conducted in circumstances where any person who is the subject of the surveillance is entitled to a reasonable expectation of privacy;
 - (ii) is conducted in a manner calculated to ensure that the person is unaware that the surveillance is or may be taking place; and
 - (iii) is likely to result in the obtaining of private information about the person; but
- (b) does not include ——
 - (i) any spontaneous reaction to unforeseen events or circumstances; or
 - (ii) any such surveillance that constitutes interception under this Schedule;

data surveillance device (數據監察器材) ——

- (a) means any device or program used to monitor or record the input of information into, or the output of information from, any information system by electronic means; but

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(b) 不包括 ——

- (i) 對沒有預見的事件或情況作出的當場反應；或
- (ii) 構成本附表所指的截取的該等監察；

追蹤器材 (tracking device) 指用以斷定或監測人或物體的位置，或斷定或監測物體的狀況的電子器材；

授權人員 (authorizing officer) 指行政長官根據本附表第 5(1) 條指定為授權人員的警務處人員；

視光監察器材 (optical surveillance device) ——

- (a) 指用以作視像記錄或觀察活動的器材；但
- (b) 不包括眼鏡、隱形眼鏡或視力受損的人用以克服該損害的相類器材；

第 1 類監察 (Type 1 surveillance) 指不屬第 2 類監察的秘密監察；

第 2 類監察 (Type 2 surveillance) 在第 (3) 及 (4) 款的規限下，指 ——

- (a) 由某人使用監聽器材或視光監察器材，為監聽、監測或記錄其他人所說的說話或所進行的活動的目的而進行的秘密監察，而使用該器材的人 ——
 - (i) 屬在該其他人的意向或應有的合理預期中是會聽見該說話或看見該活動的人；或
 - (ii) 是在第 (i) 節所描述的人明示或默示同意下監聽、監測或記錄該說話或活動的人；或
- (b) 使用視光監察器材或追蹤器材進行的秘密監察，而其使用不涉及 ——
 - (i) 未經准許而進入處所；或
 - (ii) 未經准許而干擾運輸工具或物體的內部，或未經准許而對該器材進行電子干擾；

(b) does not include an optical surveillance device;

device (器材) includes any instrument, apparatus and equipment;

device retrieval warrant (器材取出手令) means a device retrieval warrant issued or to be issued (as may be applicable) under section 14 of this Schedule;

directorate officer (首長級人員) means an officer of the Police Force not below the rank of chief superintendent of police;

emergency authorization (緊急授權) means an emergency authorization issued or to be issued (as may be applicable) under Division 2 of Part 2 of this Schedule;

enhancement equipment (增強設備), in relation to a device, means equipment used to enhance a signal, image or other information obtained by the use of the device;

function (職能) includes power and duty;

information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

inspect (查察) includes listen to, monitor and record;

install (裝設) includes attach;

intercepting act (截取作為), in relation to any communication, means the inspection of some or all of the contents of the communication, in the course of its transmission by a postal service or by a telecommunications system, by a person other than its sender or intended recipient;

interception (截取) means the carrying out of intercepting act in respect of a communication;

interception product (截取成果) means contents of a communication that have been obtained pursuant to a prescribed authorization for interception, and includes a copy of such contents;

處所 (premises) 包括地方，並尤其包括 ——

- (a) 土地或建築物；
- (b) 運輸工具；
- (c) 構築物 (不論是否屬可移動的或是否屬離岸的構築物)；及
- (d) (a)、(b) 或 (c) 段所描述的處所的部分；

通訊 (communication) 指 ——

- (a) 藉郵政服務傳送的通訊；或
- (b) 藉電訊系統傳送的通訊；

郵件截取 (postal interception) 指截取藉郵政服務傳送的通訊，包括郵遞品；

郵政服務 (postal service) 指《郵政署條例》(第 98 章) 適用的郵政服務；

郵遞品 (postal article) 具有《郵政署條例》(第 98 章) 第 2(1) 條所給予的涵義；

新聞材料 (journalistic material) 具有《釋義及通則條例》(第 1 章) 第 82 條所給予的涵義；

裝設 (install) 包括附加；

資訊系統 (information system) 具有《電子交易條例》(第 553 章) 第 2(1) 條所給予的涵義；

journalistic material (新聞材料) has the meaning given by section 82 of the Interpretation and General Clauses Ordinance (Cap. 1);

listening device (監聽器材) —

- (a) means any device used to overhear, listen to, monitor or record any conversation or words spoken to or by any person in conversation; but
- (b) does not include a hearing aid or similar device used by a person with impaired hearing to overcome the impairment;

maintain (維修), in relation to a device, includes—

- (a) adjust, reposition, repair or service the device; and
- (b) replace the device when it is faulty;

optical surveillance device (視光監察器材) —

- (a) means any device used to record visually or observe any activity; but
- (b) does not include spectacles, contact lenses or a similar device used by a person with impaired sight to overcome the impairment;

postal article (郵遞品) has the meaning given by section 2(1) of the Post Office Ordinance (Cap. 98);

postal interception (郵件截取) means interception of a communication transmitted by a postal service, including postal articles;

postal service (郵政服務) means a postal service to which the Post Office Ordinance (Cap. 98) applies;

premises (處所) includes any place and, in particular, includes—

運輸工具 (conveyance) 指車輛、船隻、航空器、氣墊船或其他運輸工具；

電訊系統 (telecommunications system) 具有《電訊條例》(第 106 章) 第 2(1) 條所給予的涵義；

電訊服務 (telecommunications service) 具有《電訊條例》(第 106 章) 第 2(1) 條所給予的涵義；

電訊截取 (telecommunications interception) 指截取藉電訊系統傳送的通訊；

截取 (interception) 指就通訊而進行截取作為；

截取成果 (interception product) 指依據對截取的訂明授權取得的通訊的內容，並包括該等內容的文本；

截取作為 (intercepting act) 就通訊而言，指在該通訊藉郵政服務或藉電訊系統傳送的過程中，由並非該通訊的傳送人或傳送對象的人查察該通訊的某些或所有內容；

監察成果 (surveillance product) 指依據對秘密監察的訂明授權取得的材料，並包括該等材料的文本；

監察器材 (surveillance device) 指 ——

- (a) 數據監察器材、監聽器材、視光監察器材或追蹤器材；或
- (b) 由任何 2 件或多於 2 件 (a) 段所提述的器材組成的器材；

- (a) any land or building;
- (b) any conveyance;
- (c) any structure (whether or not movable or offshore); and
- (d) any part of any of the premises described in paragraph (a), (b) or (c);

prescribed authorization (訂明授權) means a Chief Executive's authorization or an emergency authorization;

protected product (受保護成果) means any interception product or surveillance product;

public place (公眾地方) —

- (a) means any premises to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or otherwise; but
- (b) does not include any such premises that are intended for use by members of the public as a lavatory or as a place for taking a bath or changing clothes;

relevant authority (有關當局) —

- (a) in relation to an application for the issue or renewal of a Chief Executive's authorization for interception or Type 1 surveillance, means the Chief Executive;
- (b) in relation to an application for the issue or renewal of a Chief Executive's authorization for Type 2 surveillance, means the Chief Executive or an authorizing officer (as may be applicable);
- (c) in relation to an application for the issue of an emergency authorization, means the Commissioner of Police; or

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監聽器材 (listening device) ——

- (a) 指用以作出以下行為的器材：竊聽、監聽、監測或記錄談話或在談話中向任何人或由任何人所說的說話；但
- (b) 不包括助聽器或聽覺受損的人用以克服該損害的相關器材；

緊急授權 (emergency authorization) 指根據本附表第 2 部第 2 分部發出或將會發出 (視屬何情況而定) 的緊急授權；

維修 (maintain) 就某器材而言，包括 ——

- (a) 調校、修理或保養該器材，或轉移其位置；及
- (b) 在該器材發生故障時，替換該器材；

增強設備 (enhancement equipment) 就某器材而言，指用以增強藉使用該器材而取得的訊號、影像或其他資料的設備；

數據監察器材 (data surveillance device) ——

- (a) 指用作以下用途的器材或程式：監測或記錄藉電子方法向資訊系統輸入資料或自資訊系統輸出資料；但
- (b) 不包括視光監察器材；

器材 (device) 包括儀器、器具及設備；

器材取出手令 (device retrieval warrant) 指根據本附表第 14 條發出或將會發出 (視屬何情況而定) 的器材取出手令；

職能 (function) 包括權力及責任。

- (d) in relation to an application for the confirmation of an emergency authorization, means the Chief Executive;

surveillance device (監察器材) means—

- (a) a data surveillance device, a listening device, an optical surveillance device or a tracking device; or
- (b) a device that is a combination of any 2 or more of the devices referred to in paragraph (a);

surveillance product (監察成果) means material that has been obtained pursuant to a prescribed authorization for covert surveillance, and includes a copy of the material;

telecommunications interception (電訊截取) means interception of a communication transmitted by a telecommunications system;

telecommunications service (電訊服務) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

telecommunications system (電訊系統) has the meaning given by section 2(1) of the Telecommunications Ordinance (Cap. 106);

tracking device (追蹤器材) means any electronic device used to determine or monitor the location of any person or any object or the status of any object;

Type 1 surveillance (第 1 類監察) means covert surveillance other than Type 2 surveillance;

Type 2 surveillance (第 2 類監察), subject to subsections (3) and (4), means covert surveillance that—

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附表 6 —— 第 6 部
第 27 條

- (2) 就本附表而言，在公眾地方進行活動的人，不得就該活動而視為屬第(1)款中**秘密監察**的定義(a)(i)段所指的有權對享有私隱有合理期望；但本款並不影響該人就該人在公眾地方所說的說話或所寫或所讀的字句而享有的該等權利。
- (3) 就本附表而言，凡秘密監察屬第2類監察，而可能享有法律專業保密權的資料相當可能藉進行該監察而取得，則該監察即視為第1類監察。
- (4) 警務處人員可在猶如第2類監察是第1類監察的情況下，申請就該第2類監察發出訂明授權或將訂明授權續期；而本附表中關乎該申請及該訂明授權的條文適用於該第2類監察，猶如該第2類監察是第1類監察一樣。
- (5) 就本附表而言 ——
 - (a) 如藉郵政服務傳送的通訊根據《郵政署條例》(第98章)第2(2)條視為是在郵遞傳送過程中，該通訊即視為是在傳送過程中；及
 - (b) 如藉電訊系統傳送的通訊，已被該通訊的傳送對象接收，或被該傳送對象所管控或可取用的資訊系統或設施接收，則不論該傳送對象有否實際閱讀或聽見該通訊的內容，該通訊不得視為是在傳送過程中。
- (6) 就本附表而言，藉電訊系統傳送的通訊的內容，包括聯同該通訊一併產生的數據。

Schedule 6—Part 6
Section 27

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- (a) is conducted with the use of a listening device or an optical surveillance device by any person for the purpose of listening to, monitoring or recording words spoken or activity carried out by another person, if the person using the device—
 - (i) is a person by whom the other person intends, or should reasonably expect, the words or activity to be heard or seen; or
 - (ii) listens to, monitors or records the words or activity with the consent, express or implied, of a person described in subparagraph (i); or
- (b) is conducted with the use of an optical surveillance device or a tracking device, if the use of the device does not involve—
 - (i) entry into or onto any premises without permission; or
 - (ii) interference with the interior of any conveyance or object, or electronic interference with the device, without permission.
- (2) For the purposes of this Schedule, a person is not regarded as being entitled to a reasonable expectation of privacy within the meaning of paragraph (a)(i) of the definition of *covert surveillance* in subsection (1) in relation to any activity carried out by the person in a public place, but nothing in this subsection affects any such entitlement of the person in relation to words spoken, written or read by the person in a public place.

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- (3) For the purposes of this Schedule, any covert surveillance which is Type 2 surveillance is regarded as Type 1 surveillance if it is likely that any information which may be subject to legal professional privilege will be obtained by conducting it.
- (4) An officer of the Police Force may apply for the issue or renewal of a prescribed authorization for Type 2 surveillance as if the Type 2 surveillance were Type 1 surveillance, and the provisions of this Schedule relating to the application and the prescribed authorization apply to the Type 2 surveillance as if it were Type 1 surveillance.
- (5) For the purposes of this Schedule—
- (a) a communication transmitted by a postal service is regarded as being in the course of the transmission if it is regarded as being in course of transmission by post under section 2(2) of the Post Office Ordinance (Cap. 98); and
 - (b) a communication transmitted by a telecommunications system is not regarded as being in the course of the transmission if it has been received by the intended recipient of the communication or by an information system or facility under the intended recipient's control or to which the intended recipient may have access, whether or not the intended recipient has actually read or listened to the contents of the communication.
- (6) For the purposes of this Schedule, the contents of any communication transmitted by a telecommunications system include data produced in association with the communication.
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