

**Chemical Weapons (Convention) Bill -
Supplementary information on issues relating to
the status of permanent resident of the HKSAR**

At the Bills Committee meeting held on 19 November 2002, Members requested supplementary information on the following:

- (a) whether a permanent resident of HKSAR, who falls within a category in paragraph 2(d)¹, 2(e)² or 2(f)³ of Schedule 1 to the Immigration Ordinance and who has been absent from Hong Kong for a continuous period of not less than 36 months, will automatically lose his permanent resident status;
- (b) whether the Administration has the discretionary power to decide that the person mentioned in (a) above will not lose his permanent resident status;
- (c) whether a mechanism is in place to check regularly if there is any permanent resident of HKSAR who loses his permanent resident status under the circumstances mentioned in (a) above; and if yes, Members would like to have information on the mechanism;
- (d) whether a person who has lost his permanent resident status will be formally notified in writing; and
- (e) whether a person who has lost his permanent resident status may apply for reinstatement of the status.

In response to Members' request, the Security Bureau has provided the supplementary information below.

2. Under paragraph 7 of Schedule 1 to the Immigration Ordinance:

- (a) a permanent resident of the HKSAR who falls within the category

¹ Paragraph 2(d) refers to a person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than 7 years and has taken Hong Kong as his place of permanent residence before or after the establishment of the HKSAR.

² Paragraph 2(e) refers to a person under 21 years of age born in Hong Kong to a parent who is a permanent resident of the Hong Kong Special Administrative Region in category (d) before or after the establishment of the HKSAR if at the time of his birth or at any later time before he attains 21 years of age, one of his parents has the right of abode in Hong Kong.

³ Paragraph 2(f) refers to a person other than those residents in categories 2(a) to 2(e), who, before the establishment of the HKSAR, had the right of abode in Hong Kong only.

in paragraph 2(d) or (e) loses his permanent resident status, if he has been absent from Hong Kong for a continuous period of not less than 36 months since he ceased to have ordinarily resided in Hong Kong; and

- (b) a permanent resident of the HKSAR who falls within the category in paragraph 2(f) loses his permanent resident status, if he has been absent from Hong Kong for a continuous period of not less than 36 months after he obtained the right of abode in any place other than Hong Kong and has ceased to have ordinarily resided in Hong Kong.

Under the conditions specified above, the persons concerned lose their permanent resident status automatically. The Administration has no discretionary power to decide otherwise.

3. There is no mechanism to check regularly which and how many permanent residents of the HKSAR would have lost permanent resident status under the conditions specified in paragraph 7 of Schedule 1 to the Immigration Ordinance. However, when a person applies for any facility or exercises his right by virtue of his permanent resident status, e.g. applying for a permanent identity card, or requesting not to have a deportation order made against him etc, the Administration is obliged to verify whether he would have lost permanent resident status under paragraph 7 of Schedule 1.

4. A person who is found to have lost his permanent resident status will be informed in writing by the Immigration Department. If the person is in possession of a permanent identity card, the Director of Immigration, acting in the capacity of the Commissioner of Registration, will declare the card to be invalid under regulation 3D of the Registration of Persons Regulations. The person will be informed in writing of the decision, and be informed that he is entitled to appeal against the decision to the Registration of Persons Tribunal.

5. There is no statutory provision for a person who has lost his permanent resident status by virtue of paragraph 7 of Schedule 1 to apply for reinstatement of the status. However, if the person has returned to Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than 7 years, and has taken Hong Kong as his place of permanent residence, then by virtue of paragraph 2(d) of Schedule 1 to the Immigration Ordinance he will have the status of a permanent resident in the HKSAR. He is however required to apply to the Director of Immigration to establish that status in accordance with paragraph 3(2)⁴ of Schedule 1 to the

⁴ Paragraph 3(2) of Schedule 1 stipulates that a person claiming to have the status of a permanent

Immigration Ordinance.

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resident of the HKSAR under paragraph 2(d) does not have the status of a permanent resident in the HKSAR until he has applied to the Director of Immigration and the application has been approved by the Director.