

Information Paper on
7 January 2003

**Bills Committee on
Registration of Persons (Amendment) Bill 2001**

Provision of Registration of Persons Records

INTRODUCTION

At the Bills Committee meeting on 17 December 2002, Members enquired about the mechanism for processing requests for Registration of Persons (ROP) data under Regulation 24 of the Registration of Persons Regulations, the provision of ROP data to public utilities and the practice of the Police in making requests for ROP data and destroying such data after use. This paper provides the relevant information.

MECHANISM FOR PROCESSING REQUESTS FOR ROP DATA

2. All requests for disclosure of ROP data kept by the Immigration Department (ImmD) are dealt with in accordance with Regulation 24 (viz. the proposed new Section 10), under which a registration officer will only disclose ROP data with the written permission of the Chief Secretary for Administration (except where a request is covered by Regulation 23 - which pertains basically to situations where an identity card (ID card) holder requests his own ROP particulars).

3. As regards requests for ROP data by public officials, they must be made and signed by an authorized officer of an appropriate rank. Before making a request, the authorizing officer must be satisfied that the personal data to be requested is for a lawful purpose directly related to a function or activity of his department, that the collection of data is necessary, and that the data requested are adequate but not excessive. Where the data subject has not voluntarily given his express consent to the use of his personal data, as would be the case in many requests, the

authorizing officer will in general also specify the relevant exemption provision in the Personal Data (Privacy) Ordinance (PD(P)O) when giving justifications for the request. Requests by non-Government organizations and private individuals for ROP data under Regulation 24, whilst they are not subject to the same formalities, have likewise to be supported by adequate justifications, which will in general also include the specification of the relevant exemption provision in the PD(P)O.

4. Before a permission under Regulation 24 is given to a registration officer to disclose ROP data, every request for ROP data is carefully considered, having regard to factors such as whether the purpose for which the request is made is the same as, or directly related to, any of the purposes for which the personal data were to be used at the time of collection; whether the consent of the data subject has been obtained and, if not, whether the request is covered by any of the exemption provisions in the PD(P)O; and whether the data requested are adequate but not excessive. In case of doubt, the advice of the Department of Justice and the Privacy Commissioner for Personal Data may be sought. Under no circumstance will a permission be given without due consideration of the nature of the request and appropriateness of the ROP data to be disclosed.

5. As a further safeguard, when disclosing ROP data pursuant to Regulation 24, the registration officer will specify in writing to the recipient that such data should only be used for the purpose stated in the request and should be destroyed when it is no longer required.

PROVISION OF ROP DATA TO PUBLIC UTILITIES

6. At the Bills Committee meeting on 17 December 2002, Members enquired about the provision of the addresses of ID card holders to public utilities. In the first eleven months of 2002, disclosures of ROP particulars relating to 1,345 data subjects were made. Over 90% of such cases related to requests made by the Kowloon Canton Railway Corporation (KCRC) and the Mass Transit Railway (MTR). Under the KCRC and MTR by-laws, any person who is reasonably suspected of committing or attempting to commit any offence against any of the by-laws shall produce his ID card for inspection and give his name,

telephone number and address to a member of the staff or authorized person when required to do so. Any member of the staff or authorized person may then without warrant arrest that person and forthwith take him to a police station to be dealt with in accordance with the Police Force Ordinance, Cap 232. However, some offenders cannot subsequently be contacted at the reported addresses. In such cases, the two public utilities may seek to obtain their addresses from ImmD in an effort to serve summons on them. It should be noted that only the addresses of the data subjects as included in their ROP particulars will be disclosed to KCRC and MTR, and that the provision of ROP particulars in such situations are consistent with section 58 of the PD(P)O.

REQUESTS FOR ROP DATA AND THEIR DESTRUCTION AFTER USE BY THE POLICE

7. Police officers are required to follow clearly laid down procedures governing the making of requests for ROP data for investigation purposes and their subsequent destruction after use. Under the procedures, officers (normally the officer-in-charge of a case) requesting such data must apply to an authorizing officer and fully justify to the latter's satisfaction that the data requested is necessary to assist the investigation in question. The authorizing officers are invariably senior police officers at the rank of Superintendent or above, and before authorizing such applications must satisfy themselves that the ROP data requested is necessary to assist the investigation taking into account all circumstances surrounding the case, including whether the data are available through other sources which negate the need for a request for ROP data and whether the ROP data requested are vital for the prevention or detection of crime and/or the timely apprehension of criminal.

8. Furthermore, all police officers have been instructed to take all practical steps to ensure that all ROP data obtained are protected against unauthorized access. There are, for example, clear restrictions to ensure that such data are only made available to police officers on a "need to know" basis. ROP data which are no longer required for the purpose for which their collection is required will be destroyed.

STATISTICS ON PROVISION OF ROP DATA

9. Between January and November 2002, ROP data relating to 74,270 data subjects were disclosed pursuant to Regulation 24. Detailed statistics, broken down according to requesting parties and purposes of collection, are set out at **Annex**. The great majority of cases were requests from the Police and ICAC for the purposes of prevention and detection of crime. Others included requests for ROP data to assist in investigations of suspected tenancy abuses and doubtful housing subsidy cases, collection of tax, serving summons, and verification of ROP records to prevent fraud in property transactions.

10. During the same period, 561 requests for ROP data were refused (the number of data subjects involved in such requests were not recorded).

Security Bureau
6 January 2002

Statistics on Disclosure of ROP Records upon request - Summary for 2002 (Jan-Nov)*

		No. of data subject involved
1	Government Departments	46,900
2	Judiciary + REO	25,886
3	Public Bodies	1,345
	Sub-total	74,131
4	Consulates + Macau SAR Government	45
5	Private Law Firms	94
	Sub-total	139
	Grand Total	74,270

* Note: Detailed statistics on requests by (a) Government departments; (b) public bodies; (c) Consulates and private law firms; and (d) Judiciary and Registration & Electoral Office are shown in Tables I to IV.

Statistics on Disclosure of ROP Records for Requests from Government Departments
(for January - November 2002)

	Name of Department	No. of data subject involved	Purposes
1	Agriculture, Fisheries & Conservation Department	64	<ul style="list-style-type: none"> ● Prosecution of offenders
2	Buildings Department	58	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying of unlawful or seriously improper conduct
3	Companies Registry	51	<ul style="list-style-type: none"> ● Prosecution of offenders
4	Correctional Services Department	2	<ul style="list-style-type: none"> ● Detention of offenders
5	Department of Health	18	<ul style="list-style-type: none"> ● Prevention of serious harm to the physical or mental health of the data subject ● Prosecution of offenders
6	Department of Justice	126	<ul style="list-style-type: none"> ● Prosecution of offenders
7	Drainage Services Department	46	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice
8	Electrical & Mechanical Services Department	5	<ul style="list-style-type: none"> ● Remedying unlawful or seriously improper conduct of dishonesty
9	Environmental Protection Department	6	<ul style="list-style-type: none"> ● Prosecution of offenders
10	Fire Services Department	5	<ul style="list-style-type: none"> ● Prosecution of offenders
11	Food & Environmental Hygiene Department	952	<ul style="list-style-type: none"> ● Prosecution of offenders
12	Government Flying Service	1	<ul style="list-style-type: none"> ● Remedying unlawful or seriously improper conduct of dishonesty
13	Government Land Transport Agency	1	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice
14	Highways Department	56	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice ● Initiating legal proceedings against the data subject
15	Hong Kong Police Force	27,379	<ul style="list-style-type: none"> ● Prevention or detection of crime, the apprehension, prosecution or detention of offenders, including 3,107 cases relating to issue of summons for traffic offence.

Table I

Statistics on Disclosure of ROP Records for Requests from Government Departments
(for January - November 2002)

	Name of Department	No. of data subject involved	Purposes
16	Housing Department	3,713	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice ● Prevention or preclusion of significant financial loss arising from unlawful or seriously improper conduct, or dishonesty or malpractice
17	Independent Commission Against Corruption	8,546	<ul style="list-style-type: none"> ● Prevention or detection of crime, the apprehension, prosecution or detention of offenders
18	Inland Revenue Department	1,463	<ul style="list-style-type: none"> ● Assessment or collection of tax.
19	Labour Department	7	<ul style="list-style-type: none"> ● Prosecution of offenders
20	Lands Department	21	<ul style="list-style-type: none"> ● Prevention or preclusion of significant financial loss arising from unlawful or seriously improper conduct, or dishonesty or malpractice
21	Legal Aid Department	1,154	<ul style="list-style-type: none"> ● Initiating legal proceedings against the data subject
22	Leisure & Cultural Services Department	16	<ul style="list-style-type: none"> ● Prosecution of offenders
23	Marine Department	37	<ul style="list-style-type: none"> ● Prosecution of offenders
24	Official Receiver's Office	1,564	<ul style="list-style-type: none"> ● Prevention or detection of crime
25	Planning Department	201	<ul style="list-style-type: none"> ● Prosecution of offenders
26	Post Office	4	<ul style="list-style-type: none"> ● Remedying unlawful or seriously improper conduct of dishonesty
27	Social Welfare Department	62	<ul style="list-style-type: none"> ● Prosecution of offenders ● Prevention, preclusion or remedying of unlawful or seriously improper conduct, or dishonesty or malpractice ● Initiating legal proceedings against the data subject
28	Telecommunications Authority	5	<ul style="list-style-type: none"> ● Prosecution of offenders
29	Television & Entertainment Licensing Authority	4	<ul style="list-style-type: none"> ● Prosecution of offenders

Table I

Statistics on Disclosure of ROP Records for Requests from Government Departments
(for January - November 2002)

	Name of Department	No. of data subject involved	Purposes
30	Transport Department	630	● Prosecution of offenders
31	Water Supplies Department	703	● Prosecution of offenders

Total : 46,900

Statistics on Disclosure of ROP Records for Requests from Public Authorities

(January - November 2002)

	Name of Organisation	No. of data subject involved	Purposes
1	Securities & Futures Commission	78	● Prevention or preclusion of significant financial loss arising from unlawful or seriously improper conduct, or dishonesty or malpractice
2	Kowloon Canton Railway Corporation	498	● Prosecution of offenders of the KCRC By-laws
3	Mass Transit Railway	754	● Prosecution of offenders of the MTR By-laws
4	Mandatory Provident Fund Schemes Authority	14	● Prevention or preclusion of significant financial loss arising from unlawful or seriously improper conduct, or dishonesty or malpractice
5	Security & Guarding Service Industry Authority	1	● Prevention or preclusion of unlawful or seriously improper conduct, or dishonesty or malpractice

Total : 1,345

Statistics on Disclosure of ROP Records for Requests from other Organisations

(January - November 2002)

	Consulates / Macau SAR Government	No. of data subject involved	Purposes
1	Austria	1	<ul style="list-style-type: none"> ● Safeguarding international relationship
2	Australia	2	<ul style="list-style-type: none"> ● Safeguarding international relationship
3	Switzerland	1	<ul style="list-style-type: none"> ● Prevention or detection of crime
4	United Kingdom	2	<ul style="list-style-type: none"> ● Prevention or detection of crime
5	United States of America	5	<ul style="list-style-type: none"> ● Safeguarding international relationship ● Prevention or detection of crime
6	The Government of Macau SAR	34	Consent from data subject is obtained for: - <ul style="list-style-type: none"> ● Instructing cases concerning late birth registration of individuals (for Conservatoria do Registo de Nascimentos (Birth Registry) of Macau. ● Processing of applications for Macau documents (for Identification Department of Macau).

Total : 45

	Private Organisations	No. of data subject involved	Purposes
1	Private Law Firms	94	<ul style="list-style-type: none"> ● Prevention, preclusion or remedying (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice ● Initiating legal proceedings against the data subject ● Prevention or preclusion of significant financial loss arising from unlawful or seriously improper conduct, or dishonesty or malpractice

Total : 94

Statistics on Disclosure of ROP Records on Requests from Judiciary & Registration & Electoral Office
(January - November 2002)

	Name of Office	No. of data subject involved	Purposes
1	Judiciary (Registrar, High Court)	17,670	<ul style="list-style-type: none">● Assisting the Registrar of High Court in compilation of the list of Jurors.
2	Registration & Electoral Office	8,216	<ul style="list-style-type: none">● Updating of the voter register.

Total : 25,886