

Information paper on
11 February 2003

**Bills Committee of the Legislative Council
Registration of Persons (Amendment) Bill 2001**

Proposed Committee Stage Amendments

INTRODUCTION

At the Bills Committee meeting held on 28 January 2003, the Administration tabled draft Committee Stage Amendments (CSAs) to amend Clauses 2(a), 3(b), 4(a), 7, 8, 10, 13, 14(a), 17, 19, 21 and add a new Clause 20A. A copy of the draft CSAs is at **Annex**.

PURPOSE OF PROPOSED CSAs

2. The purpose of the proposed CSAs are explained below –
 - (a) Clause 2(a) – to introduce a minor amendment to the Chinese text to bring it fully in line with the English version;
 - (b) Clause 3(b) – to define “member of the Immigration Service” as that in the Immigration Service Ordinance (Cap. 331);
 - (c) Clause 4(a), new subparagraph (va) – to make it clear that “documents and records” referred to in section 7(n) of the Registration of Persons (ROP) Ordinance may be in tangible or digital form;

- (d) Clause 4(a), new subparagraph (vb) – to introduce a consequential amendment to section 7(p) of the ROP Ordinance relating to fees to reflect the move of regulation 23 to the principal ordinance to become the new proposed section 9A;
- (e) Clause 4(a), subparagraph (vi) – to extend Chief Executive in Council’s regulation-making power (as provided for in section 7 of the ROP Ordinance) to include the power of “viewing of information reproduced from data stored in the chips in identity card” by police officers and members of the Immigration Service. Such a power is introduced in the proposed new regulation 11A(1)(c);
- (f) Clause 7 – (item a) to limit the restriction on use of particulars in the proposed section 9 to records kept by the Commissioner on particulars furnished to a registration officer under the ROP Ordinance. As such, the use of particulars duly obtained from the Commissioner pursuant to a legitimate request (for example, applications for a Certificate of Registered Particulars) is not subject to the restriction in the proposed section 9 nor the penalty provision in the proposed section 11. Besides, the Chinese text of the proposed section 9 is amended (i.e. by replacing “除第 10 條另有規定外，根據本條例向登記主任提供的詳情” with “在符合第 10 條的規定下，處長就根據本條例向登記主任提供的詳情而備存的紀錄”) so as to reflect more accurately the meaning of the corresponding English text;
- (g) Clause 7 – (items b & c) to refine the proposed section 9(b) to make it clear that ROP particulars can be used for enabling verification of identity of individuals by public officers in discharge of their official duties or by others for

lawful purposes;

- (h) Clause 7 – (item d) to delete the word “other” in the proposed section 9(c) because the purposes referred to in this subparagraph can include the purposes referred to in other subparagraphs in the proposed section 9;
- (i) Clause 7 – (items e & f) to move regulation 23 of the ROP Regulations to the principal Ordinance as the new section 9A with minor consequential textual amendments to the proposed section 10;
- (j) Clause 7 – (items g to i) to introduce a new sub-section in the proposed section 10 to require the Chief Secretary for Administration to state the reason for giving permission to disclose records of ROP particulars kept by the Commissioner. Other amendments to section 10 are consequential textual amendments;
- (k) Clause 7 – (item j) to introduce an amendment in the proposed section 11 to prohibit unauthorized erasure, cancellation or alteration of ROP records and make it clear that such prohibition is in respect of records kept by the Commissioner;
- (l) Clause 8 – to delete the definition of “officer of the Immigration Department” as a more commonly used definition of “member of the Immigration Service” has been reinstated in Clause 3(b) and to define portable smartcard reader, including its functions and limitations for the purpose of regulations 11A and 11B;
- (m) Clause 10 – to redraft the proposed regulation 4A(1) to make it clear by express provisions that the inclusion of

non-immigration information, particulars and data on an identity card should require the consent of the card holder and to specify that the purpose of inclusion and the information, particulars and data to be included in an identity card will be set out in columns 1 and 2 of Schedule 5 respectively;

- (n) Clause 13 – to redraft the proposed regulation 11A to authorize only police officers and members of the Immigration Service to use portable smartcard readers to view ROP data in an identity card and to scan a person’s thumb-print for matching with his thumb-print template in his identity card, if they have reason to believe that the identity card produced is not issued under the ROP Ordinance to the person concerned. A new regulation 11B is also introduced requiring the Commissioner to publish in the Gazette the types of approved portable smartcard readers to be used;
- (o) Clause 14(a) – to expand the scope of the proposed regulation 12(1A) to cover hacking, i.e. it is an offence for any person to gain access to data stored in a chip of an identity card without any reasonable excuse;
- (p) Clause 17 – A consequential amendment to repeal regulation 23 which has been moved to the principal Ordinance;
- (q) Clause 19 – to introduce new savings and transitional provisions to cater for the introduction of smart identity cards, leaving the existing savings and transitional provisions intact;
- (r) New clause 20A – to introduce a consequential amendment to Schedule 2 so that it refers to the new section 9A instead

of regulation 23; and

- (s) Clause 21 – to provide for a more detailed Schedule 5 to clearly set out not only the purposes of including non-immigration information, particulars and data in an identity card, but also the information, particulars and data to be included.

3. Members are requested to comment on the proposed CSAs.

Security Bureau
7 February 2003

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REGISTRATION OF PERSONS (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

- | <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|---|
| 2(a) | By deleting "香港境內的人的" and substituting "其". |
| 3(b) | By adding after the proposed definition of "fingerprint" -
""member of the Immigration Service" (入境事務隊成員) means
the holder of a rank specified in Schedule 1 to
the Immigration Service Ordinance (Cap. 331);". |
| 4(a) | (a) By adding -
(va) in paragraph (n), by adding "(whether in
tangible or digital form)" after "records";
(vb) in paragraph (p), by adding "(including fee
prescribed for the purposes of section 9A)"
before the fullstop;".
(b) In subparagraph (vi), by adding ", viewing of
information reproduced from data stored in chips
in identity cards" before "and". |
| 7 | (a) In the proposed section 9, by adding "records kept by
the Commissioner on" before "particulars". |

- (b) In the proposed section 9(b), by deleting "identification of individuals; or" and substituting "verification of identity of individuals by public officers in discharge of their official duties;".
- (c) In the proposed section 9, by adding -
 - "(ba) enabling verification of identity of individuals for any other lawful purposes; or".
- (d) In the proposed section 9(c), by deleting "other".
- (e) by adding after the proposed section 9 -

"9A. Power to certify and furnish certified copies

A registration officer may, upon receipt of the written and signed request from the person to whom an identity card relates (accompanied, if such person is living outside Hong Kong, with a copy of his photograph and a copy of his left or right thumb-print or such other fingerprint as the registration officer may require, both properly authenticated by a notary public) and payment of the fee prescribed in Schedule 2 to the Registration of Persons Regulations (Cap. 177 sub. leg.) -

- (a) certify to the correctness or otherwise of such matters relating to such person contained in the written request which are within his knowledge; and

- (b) furnish a certified copy of the photograph of such person or relevant document in his custody."
- (f) In the proposed section 10 -
 - (i) by deleting "the provisions of regulation 23 of the Registration of Persons Regulations (Cap. 177 sub. leg.)" and substituting "section 9A";
 - (ii) by deleting "which may -" and substituting "which -".
- (g) In the proposed section 10(c) -
 - (i) by adding "may" before "refer";
 - (ii) by deleting "and".
- (h) In the proposed section 10(d) -
 - (i) by adding "may" before "contain";
 - (ii) by deleting the fullstop and substituting "; and".
- (i) In the proposed section 10, by adding -
 - "(e) must state the reason for giving such permission."
- (j) In the proposed section 11, by deleting "or discloses, any" and substituting ", discloses, erases, cancels or alters any record kept by the Commissioner on".

8 By deleting everything after "adding -" and substituting -
""portable smartcard reader" (便携式智能咭阅读器) means an
instrument which -

- (a) can reproduce, from the data stored in the chip in an identity card, any information specified in Schedule 1 but not other information;
- (b) can scan a person's fingerprint for the purposes of matching with the template included in an identity card referred to in paragraph 1 of Schedule 1;
- (c) cannot keep record of any fingerprint so scanned; and
- (d) is of a type approved under regulation 11B;".".

10 In the proposed regulation 4A(1), by repealing everything after "by the Commissioner" and substituting -

"may, for the purposes referred to in column 1 of Schedule 5 and with the consent of the applicant for an identity card or the person to whom an identity card relates -

- (a) include in the identity card the information or particulars; or
- (b) store in the chip embodied in the identity card the data,

referred to in column 2 of Schedule 5."

13 By deleting the clause and substituting -

"13. Regulations added

The following is added -

**"11A. Power to verify identity by
fingerprint match**

(1) If -

- (a) a person produces an identity card to a police officer or a member of the Immigration Service in compliance with a requirement made under any ordinance; and
- (b) the officer or member has reason to believe that the identity card is not issued under this Ordinance to the person,

the officer or member may, by using a portable smartcard reader -

- (c) view the information specified in Schedule 1 reproduced from the data stored in the chip in the identity card;
- (d) scan the person's thumb-print or other fingerprint; and
- (e) match the same with the template included in the identity card referred to in paragraph 1 of Schedule 1.

(2) Any person who, without reasonable excuse, fails to allow a police officer or a member of the Immigration Service to exercise the power conferred by subregulation (1) shall be guilty of

an offence and shall be liable to a fine at level 2.

11B. Approval of portable smartcard reader

The Commissioner may by notice in the Gazette approve types of instruments as portable smartcard reader for the purpose of regulation 11A."

- 14(a) In the proposed regulation 12(1A) -
(a) by adding "or reasonable excuse" after "authority";
(b) by adding -
 "(aa) gains access to any data stored in a chip;".
- 17 By deleting everything after "is" and substituting "repealed."
- 19 By deleting everything after "amended" and substituting -
 "by adding -
 "(3) An identity card that is valid immediately prior to the commencement of the Registration of Persons (Amendment) Ordinance 2003 (of 2003) shall remain so until it ceases to be valid in accordance with the Ordinance, and the regulations, as amended by the Registration of Person of Persons (Amendment) Ordinance 2003 (of 2003).
 (4) An identity card for which an application is made before the commencement of the Registration of

Persons (Amendment) Ordinance 2003 (of 2003) may be issued as if that Ordinance had not been enacted and -

(a) may be collected by the applicant, or sent to him by the registration officer, within 70 days of its commencement; or

(b) if not so collected or delivered, may be destroyed, and the applicant shall thereupon be deemed not to have applied for the identity card."."

New By adding -

"20A. Fees

Schedule 2 is amended, in item 8, by repealing "regulation 23" and substituting "section 9A of the Ordinance"."

21 In the proposed Schedule 5, by deleting item 1 and substituting -

	"Column 1	Column 2
1.	Storage of a certificate defined in section 2(1) of the Electronic Transactions Ordinance (Cap. 553) issued by the Postmaster General and recognized under	A certificate so issued and recognized."

section 22 of that
Ordinance.