

Information paper on
11 February 2003

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

Power to Demand Production of Identity Card

INTRODUCTION

At the Bills Committee meeting held on 21 January 2003, Members would like to ascertain whether there was other legislation, besides section 17C of the Immigration Ordinance, Cap. 115, that empowered law enforcement officers to require any person to produce his identity card on demand for inspection. This paper sets out the relevant information.

POLICE AND MEMBERS OF THE IMMIGRATION SERVICE

2. Under Regulation 11(2) of the Registration of Persons Regulations, Cap. 177, police officers and members of the Immigration Service can demand any person to produce **an identity card** for inspection during the currency of an order made under Regulation 11(1) of Cap. 177. There is one order made under Regulation 11(1) cited as the Carrying of Identity Cards (Frontier Closed Area and Mai Po Bird Sanctuary) Order 1980 that is still in operation. The effect is that, under Regulation 11(2), police officers and members of the Immigration Service can demand any person to produce his identity card for inspection in the above areas.

3 In other ordinances, police officers and members of the Immigration Service are empowered to demand **proof of identity**. Such proof includes but is not restricted to a valid identity card. Other proof includes a valid travel document. The following provisions provide for the inspection of proof of identity:

- (a) Under section 49(1) of the Public Order Ordinance, Cap. 245, a police officer may require any person to produce proof of identity for inspection if he reasonably believes that it is necessary for the purpose of preventing, detecting or investigating any offence for which the sentence is fixed by law or for which a person may (on a first conviction for that offence) be sentenced to imprisonment.
- (b) Section 54(1) of the Police Force Ordinance, Cap. 232 provides that it shall be lawful for the police officer to stop a person, who acts in a suspicious manner, for the purpose of demanding that he produce proof of his identity for inspection.
- (c) Section 54(2) of the Police Force Ordinance further stipulates that it shall be lawful for a police officer to stop a person whom he reasonably suspects of having committed or of being about to commit or of intending to commit any offence, for the purpose of demanding that he produce proof of his identity for inspection.
- (d) Under section 5(6) of the Immigration Ordinance (Cap. 115), an immigration officer or immigration assistant may require any person being examined under section 4 of the same Ordinance to produce any documents relevant for the examination. A person may be examined if an immigration officer has reasonable

cause to believe that he is contravening or has contravened a condition of stay or remains in Hong Kong without lawful permission.

- (e) Under section 12(1) of the Immigration Service Ordinance, Cap. 331, a member of the Immigration Service is empowered to stop a person, whom he may reasonably suspect of being guilty of a Part I offence stipulated under Schedule 2 to the same Ordinance, for the purpose of demanding him to produce proof of his identity for inspection
- (f) Section 14(1) of the Immigration Service Ordinance further stipulates that a member of the Immigration Service may require a person who has been arrested by such member to give his correct name and to produce evidence of identity.

OTHER LAW ENFORCEMENT OFFICERS

4. There are other ordinances concerning the enforcement of law in areas such as environmental protection, education, public health, urban renewal and town planning etc. Under these ordinances, an officer duly authorized is empowered to inspect an identity card of any person whom he has reason to believe that he is related to an offence which has been or is being committed. Some relevant examples are set out at **Annex**.

Security Bureau
7 February 2003

**Law enforcement officers empowered under existing legislation
to demand the production of identity card**

<p>Section 23(5)(a) Environmental Impact Assessment Ordinance, Cap. 499</p>	<p>- An authorized officer who enters a place under subsections (1), (3) or (4) may require any person at that place to give details of identity, name and address and produce his identity card issued under the Registration of Persons Ordinance (Cap. 177). An authorized officer could search a place if he reasonably believes that an offence against the Ordinance has been or is being committed.</p>
<p>Section 31(5)(a) Urban Renewal Authority Ordinance, Cap. 563</p>	<p>- Where the Authority or any person authorized in writing by the Secretary or the Authority under delegated authority enters any land or premises situated within the boundary of a development scheme or a development project, he shall produce his authorization and may require any person present on that land or in those premises to give details of his identity, name and address and produce his identity card issued under the Registration of Persons Ordinance (Cap. 177) for inspection.</p>
<p>Section 61(1)(f) Merchant Shipping (Local Vessels) Ordinance, Cap. 548</p>	<p>- For the purpose of any investigation by an inspector under section 40 or by an authorized officer under</p>

	<p>section 60, an inspector or authorized officer may require the production of, inspect, and take copies of any document (including an identity card) which it is necessary for him to see for the purposes of the investigation.</p>
<p>Section 38(ba) Water Pollution Control Ordinance, Cap. 358</p>	<p>- An authorized officer who has pursuant to section 37 or any warrant issued thereunder, entered any place or premises or boarded any vessel, or who has been admitted to any place, premises or vessel in the course of his duties, may if there are any reasonable ground for believing that it is necessary for the purpose of carrying his duties or for the effective enforcement of the Ordinance, require a person present to produce his identity card for inspection.</p>
<p>Section 24(4)(b)(ii) Non-local Higher and Professional Education (Regulation) Ordinance, Cap. 493</p>	<p>- For the purposes of ascertaining whether the provisions of the Ordinance is being complied with, an inspection officer may at all reasonable times enter any premises and require any person on such premises to produce his identity card.</p>
<p>Section 23(1)(h) Occupational Safety and Health Ordinance, Cap. 509</p>	<p>- An occupational safety officer who has entered premises under section 22 may require any person found on the premises to produce for inspection the person's identity card if the officer</p>

	reasonably suspects that the person has committed an offence against the Ordinance or is able to provide evidence of the commission of such an offence.
Section 22(5)(a) Town Planning Ordinance, Cap. 131	- Where the Authority or any person authorized by him enters any place under this section, he may require a person present at that place to give details of his identity, name and address and produce his identity card issued under the Registration of Persons Ordinance (Cap. 177).
Section 25(5)(a) Noise Control Ordinance, Cap. 400	- An authorized officer who enters any place under subsection (1), (3) or (4) may require any person present at that place to give details of his identity, name, address and produce his identity card issued under the Registration of Persons Ordinance (Cap. 177) for inspection by the authorized officer.
By-law 104 (1) Kowloon-Canton Railway Corporation By-laws, Cap. 372B	- Any person who is reasonably suspected of committing or attempting to commit any offence against this by-law shall produce his identity card issued to him under the Registration of Persons Ordinance (Cap. 177) for inspection to a member of the staff or authorized person.
By-law 42 Mass Transit Railway By-laws,	- Any person who is reasonably suspected by an official of

Cap. 556B	committing or attempting to commit any breach of these by-laws shall, when required to do so, produce to the official proof of his identity for inspection.
By-law 40 North-west Railway By-laws, Cap. 372E	- Any person who is reasonably suspected of committing or attempting to commit any offence against any of these by-laws shall produce proof of his identity to an official of the Corporation when required to do so.
Section 17L(1) Immigration Ordinance, Cap. 115	- A senior labour inspector or labour inspector of the Labour Department may require an employee of any premises or place of employment which the inspector has authority to enter to produce on demand for inspection any proof of identity which the employee is required by section 17C of the Immigration Ordinance, Cap. 115 to have with him.