

Information paper on
11 February 2003

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

Possession of a valid identity card and
Entitlement to right

INTRODUCTION

This paper explains whether the possession of an invalid identity card would affect a person's right of abode (ROA), including the acquiring, exercising or proof of ROA, and whether it would affect his right to medical, health, education and welfare services and that, in case of retired civil servants, right to pension.

INVALIDATION OF AN IDENTITY CARD

2. In the context of the identity card replacement exercise, the Secretary for Security is empowered under section 7C of the Registration of Persons (ROP) Ordinance (Cap 177) to issue orders published in the Gazette to declare any identity cards not replaced during the span of the exercise to be invalid.

3. The invalidation of an identity card does not, however, has the effect of invalidating a person's ROA in Hong Kong. Under section 2A of the Immigration Ordinance (Cap.115), a Hong Kong permanent resident enjoys the ROA in Hong Kong and subject to section 2AA(2) he has the right:

- (a) to land in Hong Kong;
- (b) not to have imposed upon him any condition of stay in

Hong Kong, and any condition of stay that is imposed shall have no effect;

- (c) not to have a deportation order made against him; and
- (d) not to have a removal order made against him.

The categories of persons who are permanent residents are defined in paragraph 2 of Schedule 1 to the Immigration Ordinance (see **Annex A**). The conditions under which a permanent resident will lose his status, which are unrelated to the possession of a valid or an invalid identity card, is specified in paragraph 7 of Schedule 1 (see **Annex B**). It should be pointed out that if a person has been issued with a permanent identity card but subsequently ceases to have that status, the possession of a valid permanent identity card will not give him the right of abode.

4. A returning resident who has the ROA in Hong Kong but whose permanent identity card has been declared invalid can apply for replacement of his identity card within 30 days of his return to Hong Kong.

PROOF OF RIGHT OF ABODE

5. Possession of a permanent identity card is one of the proofs that a person has the ROA in Hong Kong,. However, it is by no means the only acceptable or conclusive evidence. There are other means in which a person's status as a permanent resident of Hong Kong can be established, for instance, by his holding of -

- (a) a valid travel document bearing a valid certificate of entitlement;
- (b) a valid HKSAR passport; or
- (c) a valid passport bearing an endorsement made by the Immigration Department to the effect that the holder's eligibility to hold a permanent identity card has been established.

ENTITLEMENT TO OTHER RIGHTS

6. Having consulted the relevant Bureaux, we can confirm that the possession of an invalid identity card will not affect a person's right to medical, health and education and that, in case of retired civil servants, right to pension.

7. For access to education, it is the residential status that determines whether a person is eligible for accessing to public sector schools. Children holding one of the following documents can be admitted to public sector schools: a Hong Kong birth certificate, a Hong Kong identity card, or a valid travel document with the appropriate endorsement.

8. For a civil servant, as his entitlement to pension benefits is governed by the pension legislation, the possession of an invalid identity card will not affect his right to pension. Nevertheless, it is essential that he possesses some valid and acceptable documents for the proof of identity whenever required.

9. For health services, it is the Government's policy that no one should be denied adequate medical treatment through lack of means. Whether a person is a Hong Kong resident or not determines his eligibility for subsidised public health care services. Proof of residence status includes but is not restricted to the Hong Kong identity card.

10. We will provide the information on welfare services once available information from relevant Bureau is available

Security Bureau

11 February 2003

Paragraph 2 of Schedule 1 to the Immigration Ordinance
Permanent Residents of the Hong Kong Special Administrative Region

x x x

2. Permanent resident of the Hong Kong Special Administrative Region

A person who is within one of the following categories is a permanent resident of the Hong Kong Special Administrative Region-

- (a) A Chinese citizen born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region.
- (b) A Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than 7 years before or after the establishment of the Hong Kong Special Administrative Region.
- (c) A person of Chinese nationality born outside Hong Kong before or after the establishment of the Hong Kong Special Administrative Region to a parent who, at the time of birth of that person, was a Chinese citizen falling within category (a) or (b).
- (d) 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 Hong Kong Special Administrative Region.
- (e) 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 Hong Kong Special Administrative Region 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.
- (f) A person other than those residents in categories (a) to (e), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

Paragraph 7 of Schedule 1 to the Immigration Ordinance
Permanent Residents of the Hong Kong Special Administrative Region

x x x

7. Loss of the status as a permanent resident

A permanent resident of the Hong Kong Special Administrative Region loses the status of such resident only if-

- (a) being a person falling within the category in paragraph 2(d) or (e) above, 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; or
- (b) being a person falling within the category in paragraph 2(f) above, 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.