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By Fax (2147 3263) and By Post

Secretary for Security
Security Bureau
(Attn. : Mr Michael WONG,
Deputy Secretary)
6/F, Main Wing
Central Government Offices
HONG KONG

17 February 2003

Dear Mr WONG,

Registration of Persons (Amendment) Bill 2001

Subsequent to and superseding my letter of 10 February 2003, I would like to set out my updated queries as follows -

- (a) what are the differences and relationship between "records kept by the Commissioner on particulars furnished to a registration officer under this Ordinance", "a register of persons" and "particulars furnished under regulation 4(1)(b)" in the proposed sections 9, 10 and 11?
- (b) what is the need for adding in particular a reference to the "fee prescribed for the purposes of section 9A" in section 7(2)(p) of the principal ordinance?
- (c) under what legislative authority (section 9 or 10 or other legislative provisions) is the legitimate request referred to as an example in paragraph 2(f) of your Bureau's paper issued on 7 February 2003 on the Proposed Committee Stage Amendments made? What are the other legitimate requests? What makes such requests legitimate - the existence of a statutory authority for the requested particulars to be granted e.g. section 9(c)?
- (d) in the proposed section 10, what persons are intended to be referred to in the written permission, registration officer(s) or person(s) whose photograph or particulars are to be disclosed or both?

- (e) in the proposed definition of "portable smartcard reader", should paragraph (a) be restricted to proposed paragraph 1(h) of Schedule 1 and what about the additional information in the proposed Schedule 5?
- (f) is the newly proposed regulation 4A(a) intended to cover information that will not be stored in the chip? If so, would it affect the content of forms in Schedule 1 or regulation 5(1)(a), which requires such content to be in a form approved by the Chief Executive in Council? Would the information or data referred to in column 2 of Schedule 5 be furnished by the "applicant" or if not, be regarded as furnished by him? Can a holder of an identity card apply for the inclusion or storage or withdraw his consent at any time?
- (g) would the amended regulation 12(2) apply or not apply to an identity card which has been tampered with other than by unlawful alteration?
- (h) what is the consequence of a failure to discharge the burden in the amended regulation 21? What is the relevance of the burden to regulations 9 and 19? Will the Commissioner be regarded as alleging the truth of the contents of the identity card by virtue of issuing it? If not, why is it necessary to clarify the burden for the purpose of the example given in LC Paper No. CB(2)1150/02-03(02)?
- (i) how would the proposal, if implemented, to provide self-service kiosks with smart card readers to facilitate use by the public (discussion paper CB(1)666/01-02(01) for the LegCo Panel on Security issued by the Information Technology and Broadcasting Bureau in December 2001 and page 6 of LC Paper No. CB(2)1150/02-03(02)) affect what appears to be a general prohibition against free access to data stored in a chip as proposed to be added to regulation 12(1A)? Would there be any safeguard to ensure that only the card holder can read the data on the card at such a kiosk?

Yours sincerely,

(Arthur CHEUNG)
Senior Assistant Legal Adviser

c.c. Clerk to Bills Committee