

Information paper on
28 February 2003

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

**Proposed Committee Stage Amendments
(with further revisions)**

INTRODUCTION

Further to the draft Committee Stage Amendments (CSAs) tabled at the Bills Committee meeting held on 11 February 2003 (CB(2)1114/02-03(01)), the Administration proposes revisions to the draft CSAs to further amend the long title, Clauses 1(2), 4(a), 7, 8, 9, 10, 13, 14(a), 19, 20(b), 21 and 23(B). For easy reference, this note provides brief explanations for **all** proposed CSAs (Clauses with further amendments are marked with an asterisk). A full set of the revised draft CSAs is at **Annex**.

PURPOSE OF PROPOSED CSAs

2. The purpose of the proposed CSAs are explained below –
 - (a) *Long title – to reflect the latest amendments to the Bill;
 - (b) *Clause 1(2) – to appoint a specific date (i.e. 12 May 2003) for the commencement of the Registration of Persons (ROP) (Amendment) Ordinance;

- (c) Clause 2(a) – to introduce a minor amendment to the Chinese text to bring it fully in line with the English version;
- (d) Clause 3(b) – to define “member of the Immigration Service” as that in the Immigration Service Ordinance (Cap. 331);
- (e) *Clause 4(a) (item a) – to delete the proposed paragraph (haa) under section 7(2) since the inclusion of information and particulars in identity cards or data in chips will be dealt with separately under the new section 7(2A); (see paragraph 2(h) below)
- (f) *Clause 4(a) (item b) – 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 embodied in identity cards” by police officers and members of the Immigration Service. Such a power is introduced in the proposed new regulation 11A(1)(c);
- (g) Clause 4(a) (item c) – to make it clear in new subparagraph (va) that “documents and records” referred to in section 7(n) of the ROP Ordinance may be in tangible or digital form, and 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;
- (h) *Clause 4(a) (item d) – to introduce a new section 7(2A) to set out the information, particulars or data which are related to ROP purposes (i.e. “prescribed information, particulars or data”) and the principle that information, particulars or data

other than those prescribed for ROP purposes could only be included in identity cards or stored in chips with the consent of the applicants for or holders of identity cards;

- (i) *Clause 7 (item a) – to set out that particulars furnished to a registration officer may only be used to enable the Commissioner of Registration to issue identity cards and to keep records on such particulars. For the records kept by the Commissioner on particulars furnished to a registration officer, they may only be used for enabling verification of identity of individuals by public officers in discharge of their official duties or by others for lawful purposes. The word “other” which appears in the previously proposed section 9(c) is now deleted and renumbered as the proposed section 9(b)(iii) because the purposes referred to in this subparagraph can include the purposes referred to in subparagraphs (i) and (ii) under the proposed section 9 (b). Besides, the Chinese text of the proposed section 9 is amended (i.e. by replacing “除第 10 條另有規定外，” with “在符合第 10 條的規定下，”) so as to reflect more accurately the meaning of the corresponding English text;
- (j) Clause 7 (items b and c) – 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;
- (k) *Clause 7 (item d) – to clarify that any act of disclosure in relation to the “records kept by the Commissioner on particulars furnished to a registration officer under this Ordinance” is not permitted except and unless with the written permission of the Chief Secretary for Administration. Such records include particulars furnished under regulation 4

and subsequent updating provided by registrants or holders of identity cards pursuant to regulation 18;

- (l) Clause 7 (items e to g) - 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 the records kept by the Commissioner. Other amendments to section 10 are consequential textual amendments;
- (m) Clause 7 (item h) – to introduce an amendment in the proposed section 11 to prohibit unauthorized erasure, cancellation or alteration of any record kept by the Commissioner;
- (n) *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 identity card reader”, including its functions and limitations for the purpose of regulations 11A and 11B. For avoidance of doubt, we propose to clearly state in subparagraph (b) that the template used for matching with a person’s live fingerprint is “stored in the chip embodied in an identity card”;
- (o) *Clause 9 – to repeal regulations 4(1)(b)(vii) and (ix) so that information on previous country or place of residence and particulars of children of a registrant will no longer be collected. The requirement to furnish any travel document under regulation 4(1)(b)(xi) is limited to any travel document bearing an endorsement to the effect that he is authorized under the Immigration Ordinance to remain in

Hong Kong or document issued under that Ordinance authorizing him to remain in Hong Kong;

- (p) *Clause 10 (item a) – to redraft the proposed regulation 4A(1) to make it clear by express provisions that the inclusion of non-ROP information, particulars and data in an identity card should require the consent of the person to whom an identity card relates 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;
- (q) *Clause 10 (item b) – to add a new subregulation (1A) under Regulation 4A to govern the removal of non-ROP data in a chip upon request from the person to whom an identity card relates;
- (r) *Clause 13 – to redraft the proposed regulation 11A to authorize only police officers and members of the Immigration Service to use portable identity card 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 readers to be used;
- (s) Clause 14(a) (item 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;

- (t) *Clause 14(a) (item b) – to introduce a new subregulation (1B) under regulation 12 to specify that a person to whom an identity card relates has lawful authority to gain access to ROP data (specified in Schedule 1) stored in the chip if he gains such access by using facilities provided by or with the approval of the Government; or non-ROP data (specified in Schedule 5) stored in the chip if he gains such access only for the purpose for which the data are stored;
- (u) Clause 17 – a consequential amendment to repeal regulation 23 which has been moved to the principal Ordinance;
- (v) *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. The cut-off date for transitional arrangement will be the “specified date” when the Smart Identity Card Computer System comes into operation rather than the date for the commencement of the Registration of Persons (Amendment) Ordinance;
- (w) *Clause 20(item b) – to restrict the scope of “data, symbols, letters or numbers” to be determined by the Commissioner under paragraph 1(g) of Schedule 1 to those information, particulars or data within the meaning of the new section 7(2A)(b);
- (x) New clause 20A – to introduce a consequential amendment to Schedule 2 so that it refers to the new section 9A instead of regulation 23;
- (y) *Clause 21 – to provide for a more detailed Schedule 5 to clearly set out not only the purposes of including non-ROP

information, particulars and data in an identity card, but also the information, particulars and data to be included; and

- (z) *Clause 23(B) – to introduce a consequential amendment to Part I of Schedule 2 to the Immigration Service Ordinance to reflect the offence in the proposed regulation 11A(2).

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

Security Bureau
27 February 2003

1st working draft : 18.11.2002
 2nd working draft : 10.1.2003
 1st draft : 25.1.2003
 2nd draft : 28.1.2003
 3rd draft : 7.2.2003
 4th draft : 20.2.2003
 5th draft : 21.2.2003
 revised 5th draft : 24.2.2003
 6th draft : 27.2.2003

REGISTRATION OF PERSONS (AMENDMENT) BILL 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
Long Title	By deleting everything after "re-enact" and before "to verify" and substituting - <p style="margin-left: 40px;">"regulations 23 and 24 of the Registration of Persons Regulations as provisions of that Ordinance, to dispense with the requirement to furnish certain particulars to a registration officer in an application for identity card, to confer a power".</p>
1(2)	By deleting everything after "on" and substituting "12 May 2003.".
2(a)	By deleting "香港境內的人的" and substituting "其".
3(b)	By adding after the proposed definition of "fingerprint" - <p style="margin-left: 40px;">"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);".</p>

- 4(a)
- (a) In subparagraph (v), by deleting the proposed paragraph (haa).
 - (b) In subparagraph (vi), by adding ", viewing of information reproduced from data stored in chips embodied in identity cards" before "and".
 - (c) By adding -
 - "(vii) in paragraph (n), by adding "(whether in tangible or digital form)" after "records";
 - (viii) in paragraph (p), by adding "(including any fee prescribed for the purposes of section 9A)" before the full stop;".
 - (d) By adding -
 - "(aa) by adding -
 - "(2A) (a) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under that subsection may provide for -
 - (i) prescribed information or particulars to be included in identity cards;
 - (ii) prescribed data to be stored in chips;
 - (iii) information or particulars other

than prescribed information or particulars that may be included in identity cards with the consent of applicants for or holders of identity cards;

(iv) data other than prescribed data that may be stored in chips with the consent of applicants for or holders of identity cards.

(b) For the purposes of paragraph (a), information, particulars or data are prescribed information, particulars or data, as the case may be, if they are or relate to -

(i) the name,
address,
nationality,
place of birth,
date of birth,

- sex, marital
status or
occupation of a
person;
- (ii) any photograph or
fingerprint of a
person;
- (iii) the name, age, sex
or number of proof
of identity of the
spouse of a
person;
- (iv) any travel
document held by a
person;
- (v) the right of abode
or right to land
of a person;
- (vi) any condition of
stay to which a
person is
subject;
- (vii) issue of identity
card to a person;
or
- (viii) the number of the
identity card
issued to a
person."."

7 (a) By deleting the proposed section 9 and substituting -

**"9. Restriction on use of particulars
and record kept on particulars**

Subject to section 10 -

- (a) particulars furnished to a registration officer under this Ordinance may be used for and only for the purpose of enabling the Commissioner to issue identity cards and to keep records on such particulars;
- (b) the records referred to in paragraph (a) may be used for and only for the following purposes -
 - (i) enabling verification of identity of individuals by public officers in discharge of their official duties;
 - (ii) enabling verification of identity of individuals for any other lawful purposes;
or
 - (iii) such purposes as may be authorized, permitted

or required by or under
any Ordinance.".

(b) 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 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.".

(c) 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 -".

(d) In the proposed section 10(b), by deleting everything
after "copy of the" and substituting "records kept by
the Commissioner on particulars furnished to a
registration officer under this Ordinance,".

(e) In the proposed section 10(c) -

(i) by adding "may" before "refer";

(ii) by deleting "and".

(f) In the proposed section 10(d) -

(i) by adding "may" before "contain";

(ii) by deleting the full stop and substituting
"; and".

(g) In the proposed section 10, by adding -

"(e) must state the reason for giving such
permission.".

(h) 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 identity card reader" (便攜式身分證閱讀器)

means an instrument which -

(a) can reproduce, from the data stored in
the chip embodied 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 referred to in paragraph 1 of Schedule 1 and stored in the chip embodied in an identity card;
- (c) cannot keep record of any fingerprint so scanned; and
- (d) is of a type approved under regulation 11B;".".

9 By adding -

"(aa) by repealing subregulation (1)(b)(vii) and (ix);

(ab) by repealing subregulation (1)(b)(xi) and

substituting -

"(xi) any -

(A) travel document bearing an endorsement to the effect that he is authorized under the Immigration Ordinance (Cap. 115) to remain in Hong Kong; or

(B) document issued under that Ordinance authorizing him to remain in Hong Kong,

held by him;";".

10 (a) In the proposed regulation 4A, by deleting everything before subregulation (2) and substituting -

"4A. Inclusion of certain particulars and data with consent

(1) Without prejudice to regulation 5(1)(a), the Commissioner or any person acting pursuant to a permission given by the Commissioner 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; and

(b) store in the chip embodied in the identity card the data,

referred to in column 2 of Schedule 5 which are not information, particulars or data specified in regulation 4(1) or Schedule 1."

(b) In the proposed regulation 4A, by adding -

"(1A) If -

(a) a person ("first-mentioned person") stored any data in a chip embodied in an identity card under subregulation (1) with the consent of the person to whom the identity card relates; and

(b) the person to whom the identity card relates presents the identity card to the first-mentioned person and requests the removal of such data from the chip,

the first-mentioned person shall as soon as practicable remove the data from the chip.”.

13 By deleting the clause and substituting -

“13. Regulations added

The following are 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 the Ordinance to the person,

the officer or member may, by using a portable identify card 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 referred to in paragraph 1 of

Schedule 1 and stored in the chip embodied in an identity card.

(2) Any person who, without reasonable excuse, refuses to allow a police officer or a member of the Immigration Service to view any information or scan any fingerprint under subregulation (1) shall be guilty of an offence and shall be liable to a fine at level 2.

11B. Approval of portable identity card reader

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

- 14(a) (a) In paragraph (a), in the proposed regulation 12(1A) -
- (i) by adding "or reasonable excuse" after "authority";
 - (ii) by adding -
 - "(aa) gains access to any data stored in a chip;"
 - (iii) in paragraph (b), by deleting "adds to, erases, cancels or alters" and substituting "erases, cancels, alters or adds to".
- (b) By adding after the proposed regulation 12(1A) -
- "(1B) For the purposes of subregulation (1A), a person to whom an identity card relates has lawful authority to gain access to -

- (a) data specified in Schedule 1 which are stored in the chip embodied in the identity card if he gains such access by using facilities provided by or with the approval of the Government; or
- (b) data specified in Schedule 5 which are stored in the chip embodied in the identity card if he gains such access only for the purpose for which the data are stored."

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 specified date shall remain so until it ceases to be valid in accordance with the Ordinance, and the regulations, as amended by the Registration of Persons (Amendment) Ordinance 2003 (of 2003).

(4) An identity card for which an application is made before the specified date may be issued as if the Registration of Persons (Amendment) Ordinance 2003 (of 2003) had not been enacted and -

- (a) may be collected by the applicant, or sent to him by the registration officer, within 70 days of the specified date; 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."."

20

- (a) In paragraph (a), by repealing "5 & 11A" and substituting "2(1), 4A, 5, 11A & 12(1B)".
- (b) In paragraph (b), by deleting subparagraph (ii) and substituting -
 - "(ii) by repealing paragraph (g) and substituting -
 - "(g) such data, symbols, letters or numbers representing prescribed information, particulars or data within the meaning of section 7(2A)(b) of the Ordinance as the Commissioner may determine; and";"

New

By adding -

"20A. Fees

Schedule 2 is amended -

- (a) within the square brackets, by repealing "reg. 5, 13, 14, 23" and substituting "s. 9A; reg. 5, 13, 14";
- (b) in item 8, by repealing "regulation 23" and substituting "section 9A of the Ordinance".

21 By deleting the proposed Schedule 5 and substituting -
 "SCHEDULE 5 [reg. 4A & 12(1B)]

PURPOSES, INFORMATION, PARTICULARS AND
 DATA REFERRED TO IN REGULATION 4A

Column 1	Column 2
Purposes	Information, Particulars and Data
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 section 22 of that Ordinance.	A certificate defined in section 2(1) of the Electronic Transactions Ordinance (Cap. 553) issued by the Postmaster General and recognized under section 22 of that Ordinance."

23(B) By adding -
 "regulation 11A(2) obstructing public officers
 in verification of

identity"

before -

"regulation 12(1)

making alteration to
identity card or
documents".