

Information paper on
4 October 2002

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

INTRODUCTION

As requested by Members at the meeting on 10 July 2002, this paper groups the provisions of the Registration of Persons (ROP) (Amendment) Bill 2001 into the following four major areas and provides justifications for each provision-

- (a) provisions relating to changes brought about by the smart element of the new identity (ID) card and revised work processes;
- (b) provisions relating to the inclusion of non-immigration applications in the new ID card;
- (c) provisions relating to the protection of data privacy; and
- (d) provisions relating to the launching of an ID card replacement exercise.

BACKGROUND

2. Since the announcement of the implementation of the smart ID card project in October 2000, the LegCo Panel on Security and the Privacy Commissioner for Personal Data have been fully briefed of this project and consulted on the data privacy issues. A consultant has been commissioned by Immigration Department to conduct a Privacy Impact Assessment on the ID card system.

3. To address Panel Members' concerns about legislative amendments required to provide for the project, we have submitted three papers to the LegCo Panel on Security to explain the scope, coverage and content of the proposed amendments (LC Paper No. CB(2)217/00-01(03),

LC Paper No. CB(2)677/00-01(03) and LC Paper No. CB(2)802/00-01(01)). The ROP (Amendment) Bill 2001, which was introduced into LegCo on 9 January 2002, has taken into account the views of Members, the advice of Privacy Commissioner for Personal Data and the recommendations of the data privacy consultant as appropriate.

LEGISLATIVE AMENDMENT

4. We have grouped the provisions in the ROP (Amendment) Bill under each of the four major areas of amendments as follows :-

(a) Provisions relating to changes brought about by the smart element of the new ID card and revised work processes

<u>The Bill</u>	<u>ROP Ordinance (Cap 177)</u>
Clause 3(a) and (b)	s.1A and 1A(1)
Clause 4(a)(i)(A) and (B)	s.7(2)(c)
Clause 4(a)(ii)	s.7(2)(e)
Clause 4(a)(iv)	s.7(2)(gb)
Clause 4(a)(v)	s.7(2)(h)
Clause 4(a)(vi)	s.7(2)(j)
Clause 4(b)	s.7(3)

<u>The Bill</u>	<u>ROP Regulation (Cap 177 Subsidiary Legislation)</u>
Clause 8	reg.2(1)
Clause 9(a), (b) and (c)	reg.4(1)(a)(ii), 4(1)(b)(xia) and 4(4)
Clause 11	reg.8(2)
Clause 12(a), (b) and (c)	reg.11(3)
Clause 13	reg.11A
Clause 15	reg.18(1)(b)
Clause 16	reg.21(1)
Clause 17	reg.23
Clause 19(a) and (b)	reg.27(1) and 27(2)
Clause 20(a) and (b)	Schedule 1

(b) Provisions relating to the inclusion of non-immigration applications in the new ID card

<u>The Bill</u>	<u>ROP Ordinance (Cap 177)</u>
Clause 2(a) and (b)	The long title
Clause 4(a)(v)	s.7(2)(haa)

<u>The Bill</u>	<u>ROP Regulation (Cap 177 Sub. Leg.)</u>
Clause 10	reg.4A
Clause 21	Schedule 5

(c) Provisions relating to the protection of data privacy

<u>The Bill</u>	<u>ROP Ordinance (Cap 177)</u>
Clause 4(a)(iii)	s.7(2)(f) (repealed)
Clause 7	s.9, s.10 and s.11

<u>The Bill</u>	<u>ROP Regulation (Cap 177 Sub. Leg.)</u>
Clause 14(a), (b), (c) and (d)	reg.12(1A), 12(2), 12(2A) and 12(4)
Clause 18	reg.24 (repealed)

<u>The Bill</u>	<u>Specification of Public Offices (Cap 1 Sub. Leg.)</u>
Clause 22	Schedule

<u>The Bill</u>	<u>Immigration Service Ordinance (Cap 331)</u>
Clause 23(a) and (b)	Schedule 2

(d) Provisions relating to the launching of region-wide ID card replacement exercise

<u>The Bill</u>	<u>ROP Ordinance (Cap 177)</u>
Clause 3(c)	s.1A(2) and s.1A(3)
Clause 5	s.7B(1)
Clause 6	s.7C(1)

5. Detailed justifications for the proposed legislative amendments in the Bill are shown in the table at Annex.

Security Bureau
25 September 2002

Registration of Persons (Amendment) Bill 2001

ANNEX

(a) Changes brought about by the smart element of the new ID card and revised work processes

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Ordinance (Cap. 177)					
3(a)	Interpretation	Amendment	s.1A	Renumbering section 1A as section 1A(1)	To pave way for the addition of new section 1A(2) and 1A(3).
3(b)	Interpretation	Addition	s.1A(1)	<p>“chip” means a chip –</p> <p style="margin-left: 20px;">(a) which forms a component part of an identity card issued on or after the specified date; and</p> <p style="margin-left: 20px;">(b) is capable of –</p> <p style="margin-left: 40px;">(i) recording, storing and processing data; and</p> <p style="margin-left: 40px;">(ii) transmitting data to or receiving data from any device electronically;</p> <p>“fingerprint” includes a thumb-print;</p> <p>“specified date” means the date specified under subsection (2);</p>	<p>To define the meaning of “chip” under the Registration of Persons (ROP) Ordinance so as to cover the ‘smart’ element of the new identity (ID) card.</p> <p>For avoidance of doubt, the interpretation of fingerprint should include a thumb-print.</p> <p>To cater for the addition of new subsection (2).</p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
					<i><Clause 3(c) on P.28 refers></i>
4(a)(i)(A)	Power to make regulations	Amendment	s.7(2)(c)	“the taking and recording of photographs and fingerprints of persons requiring registration under section 3 or the issue or renewal of identity cards under this Ordinance and the destruction of such photographs and the facsimiles <i>records</i> of all such fingerprints on the expiration of this Ordinance;”	To better reflect the mode of record keeping, as facsimiles will no longer be used after implementation of the new computer system.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
4(a)(i)(B)	Power to make regulations	Amendment	s.7(2)(c)	repealing “印取(指紋)” and substituting “ <i>套取(指紋)</i> ”	At present, the ROP offices use portrait cameras to take photographs and ink-plates to obtain the thumbprint impressions of the applicants. Under the Smart Identity Card System (SMARTICS), these processes will be automated. A registration officer will capture the applicants' photographs with a digital camera while the fingerprints and other information/supporting documents will be captured into the computer system through the image scanning processes, without any paper record.
4(a)(ii)	Power to make regulations	Amendment	s.7(2)(e)	“the photographing, <i>scanning or image capturing</i> of fingerprints, information and documents furnished or made for the purposes of registration under section 3 or the issue or renewal of identity cards and the destruction of their originals;”	To reflect clearly the future mode of operation as mentioned in Clause 4(a)(i)(B) above.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
4(a)(iv)	Power to make regulations	Addition	s.7(2)(gb)	“the use of digital images and the reproduction of such digital images in relation to identity cards;”	<p>To cater for the future record capturing and keeping processes as the image scanning technology will be used to replace the conventional mode of microfilming under the new system.</p> <p>The current section 7(2)(g) should be retained to cater for contingent use of films until the new computer system is running smoothly and a decision is taken to destroy all the microfilm rolls.</p>
4(a)(v)	Power to make regulations	Amendment	s.7(2)(h)	“the issue of identity cards, (including the issue of permanent identity cards to persons with the right of abode in Hong Kong wherever resident,) <i>and</i> their form;” and particulars to be entered thereon;	<p>Particulars to be entered into an ID card will be catered under a new section 7(2)(haa).</p> <p><i><Clause 4(a)(v) on P.17 refers></i></p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
4(a)(vi)	Power to make regulations	Amendment	s.7(2)(j)	“the inspection of identity cards <i>and matching of fingerprints for verification of identity</i> ;”	To cater for the addition of a new ROP regulation 11A and to make it clear that the matching of fingerprints is limited to the purpose of identity verification. <Clause 13 on P.9 refers>
4(b)	Power to make regulations	Amendment	s.7(3)	“Any regulation made under this Ordinance may provide that a contravention thereof shall be an offence and may prescribe penalties for such offence not exceeding a fine of \$20,000 <i>at level 5</i> and imprisonment for 2 years.”	To align the level of maximum penalty in accordance with those prescribed under regulations 19(2B)(c), 19(2C) and 19(4) of the ROP Regulations. The first two regulations are subject to a fine at level 5 (with maximum fine at \$50,000) while the last one is liable to a fine at level 4 (with maximum fine at \$25,000).

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Regulations (Cap. 177 Subsidiary Legislation)					
8	Interpretation	Addition	reg.2(1)	“officer of the Immigration Department” means an immigration officer or an immigration assistant within the meaning of the Immigration Ordinance (Cap. 115);	To define the meaning of “officer of the Immigration Department” under the ROP Regulations.
9(a)	Registration, issue and renewal requirements	Amendment	reg.4(1)(a)(ii)	<p>“the taking and recording of his left thumbprint or alternatively, if it is not possible, of such other single fingerprint;</p> <p><i>(A) his left and right thumb-prints;</i></p> <p><i>(B) where it is only possible to take one thumb-print from him, his only thumb-print and one other fingerprint;</i></p> <p><i>(C) where it is not possible to take any thumb-print from him, his fingerprints of 2 other fingers;”</i></p>	To cater for the taking and recording of the applicants’ left and right thumb-prints or alternatively, if that is not possible, of two other fingerprints. Currently, we only take an applicant's left thumb-print or such other single fingerprint. The proposed amendment will empower a registration officer to take an additional thumb-print or an additional fingerprint to guard against false or negative reading in the verification process.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
9(b)	Registration, issue and renewal requirements	Addition	reg.4(1)(b)(xia)	“(where the applicant does not have a right of abode in Hong Kong) the conditions of stay (including a limit of stay) imposed in relation to him under section 11 of the Immigration Ordinance (Cap. 115);”	To allow for the collection of additional information (condition of stay including a limit of stay) to be furnished by an applicant (who does not have a right of abode in Hong Kong) for embedding into the chip of a smart ID card and to require the ID card holder to report corrections of particulars if there are subsequent changes after registration.
9(c)	Registration, issue and renewal requirements	Amendment	reg.4(4)	“Notwithstanding sub-regulations (1) and (2), an applicant who is a consul may furnish, and the registration officer may accept, suitable passport size photographs of the consul, the spouse and dependent children of the age of 11 years and above of the consul and of the consular staff of the consul, their spouses and their dependent children of the age of 11 years or above, and the recording of their left thumbprints or other single fingerprints shall not be required.”	Corresponding amendment to the new interpretation of fingerprint as defined under section 1A(1) of the ROP Ordinance. <Clause 3(b) on P.1 refers>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
11	Duty to keep and maintain records	Amendment	reg.8(2)	<p>“For the purposes of such records or for such other purposes as a registration officer may consider necessary, he may photograph <i>record</i> fingerprints, information and documents furnished or made for the purposes of registration or for the issue or renewal of an identity card <i>by -</i></p> <p style="margin-left: 40px;"><i>(a) photographing;</i> <i>(b) scanning; or</i> <i>(c) image capturing.”</i></p>	To tie in with the usage of state-of-the-art technology, the proposed amendment expands the means of record collection from photographing to scanning and image capturing.
12(a)	Duty to carry and produce identity card	Amendment	reg.11(3)	<p>“For the purpose of identification any police officer or person or persons so authorized may, during the currency of an order made under sub-regulation (1), at any time take the left thumb print, or, if this is not possible, such other fingerprint <i>2 fingerprints</i> and written signature (if such person is able to write) of any person who he believes to be of 11 years of age or over and any person whose fingerprint and written signature are required under this</p>	Corresponding amendment to regulation 4(1)(a)(ii). <Clause 9(a) on P.6 refers>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
				regulation shall submit to all such steps as may be reasonably necessary for the taking thereof.”	
12(b)	Duty to carry and produce identity card	Amendment	reg.11(3)	by repealing “(隨時印(取))” and substituting “(隨時套取)”;	Corresponding amendment in Chinese version.
12(c)	Duty to carry and produce identity card	Amendment	reg.11(3)	by repealing “及印(取指紋))” and substituting “及套取指紋”.	Corresponding amendment in Chinese version.
13	Regulation added	Addition	reg.11A	<p><u>“Power to verify identity by fingerprint match</u></p> <p>(1) If a police officer, an officer of the Immigration Department or an authorized person has reason to doubt the identity of any person who holds an identity card, the officer or authorized person may-</p>	To facilitate the secure authentication of an ID card holder’s identity where such is in doubt, it is necessary to add new provisions to empower members of the Immigration Service, police officers and other authorized persons to direct a card holder to provide his thumbprint(s) for matching with the template of his thumbprints in the chip, and to make it an offence if the card holder fails to do so without reasonable excuse.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
				<p>(a) require the person to produce his identity card; or</p> <p>(b) scan the person's thumb-print or other fingerprint and match the same with the template included in the identity card referred to in paragraph 1 of Schedule 1.</p> <p>(2) Any person who, without reasonable excuse –</p> <p>(a) fails to produce his identity card when required to do so under subregulation (1)(a); or</p> <p>(b) fails to allow a police officer, an officer of the Immigration Department or an authorized person to scan his thumb-print or fingerprint under subregulation (1)(b), shall be guilty of an offence and shall be liable to a fine at level 2.</p>	

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
				<p>(3) In this regulation, “authorized person” means any person or member of a class of persons authorized for the purposes of this regulation by the Chief Executive by notice published in the Gazette.</p> <p>(4) A notice referred to in subregulation (3) is not subsidiary legislation.”</p>	To cater for emergency situations (such as sudden influx of illegal immigrants from elsewhere), it is proposed to give the Chief Executive the flexibility to order other “authorized persons” to do the job if the need arises. The term “authorized person” is intended to mean law-enforcement officers. Private sector will not be given any such power.
15	Duty to report corrections	Amendment	reg.18(1)(b)	“(Any person who) has in his possession an identity card which shows <i>or includes</i> particulars which differ from those previously submitted to a registration officer,”	To extend the coverage of particulars, which require an ID card holder to report corrections after registration, to include data contained in the chip of a smart ID card.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
16	Burden of proof	Amendment	reg.21(1)	<p>Subject to regulation 22, the burden of proving the truth of -</p> <ul style="list-style-type: none"> (a) the contents of any written application for an identity card; or (b) the contents of the identity card itself, <i>which are particulars furnished under regulation 4(1)(b) by the applicant for the identity card,</i> <p>shall lie on -</p> <ul style="list-style-type: none"> (c) the applicant for such identity card, or; (d) the person to whom such <i>the</i> identity card has been issued; or (e) on any other person alleging the truth of such contents. 	To specify that the burden of proving the truth of particulars stored in the chip of a smart ID card is limited to those which are furnished by the applicant.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
17	Power to certify and furnish certified copies	Amendment	reg.23	<p>“A registration officer in his absolute discretion 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 faecsimile of his left <i>record of his left or right</i> thumb-print or such other fingerprint as the registration officer may require, both properly authenticated by a notary public) and payment of the appropriate fee (if any) prescribed in Schedule 2 –”</p>	<p>Corresponding amendment to Regulation 4(1)(a)(ii). <Clause 9(a) on P.6 refers></p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
19(a)(i) & 19(a)(ii)	Savings and transitional	Amendment	reg.27(1)	<p>“An identity card that is valid immediately prior to the commencement of the Registration of Persons (Amendment) Regulations 1987 <i>section 5 of the Registration of Persons (Amendment) Ordinance 2001 (of 2001)</i> shall remain so until it ceases to be valid in accordance with the Ordinance, and the regulations, as amended by those regulations <i>that section.</i>”</p>	<p>Transitional arrangement to cater for ID cards issued before implementation of the SMARTICS. It is a corresponding amendment to section 1A(2) of the ROP Ordinance for the purpose of introducing a cut off date to tie in with the date of commencement for issuing new smart ID cards.</p> <p><Clause 3(c) on P.28 refers></p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
19(b)(i) & 19(b)(ii)	Savings and transitional	Amendment	reg.27(2)	<p>“An identity card for which an application is made before the commencement of the Registration of Persons (Amendment) Regulations 1987 <i>section 5 of the Registration of Persons (Amendment) Ordinance 2001 (of 2001)</i> may be issued as if those regulations <i>that section</i> had not been made, and –</p> <p>(a) may be collected by the applicant, or sent to him by the registration officer, within 70 days of their commencement <i>the commencement of that section</i>; or</p>	<p>Transitional arrangement to cater for ID card applications submitted before implementation of the SMARTICS. It is a corresponding amendment to section 1A(2) of the ROP Ordinance for the purpose of introducing a cut off date to tie in with the date of commencement for issuing new smart ID cards.</p> <p><Clause 3(c) on P.28 refers></p>
20(a)	Contents of Forms of Identity Card	Amendment	Sch. 1	Repealing [regs. 5] and substituting [<i>regs. 5 & 11A</i>]	Consequential amendment to reference made in the new regulation 11A.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
20(b)(i)	Contents of Forms of Identity Card	Amendment	Sch. 1 1(f)	“a photograph of the applicant, unless the applicant is under the age of 11 year; and ”	Consequential amendment to the addition of paragraph 1(h).
20(b)(ii)	Contents of Forms of Identity Card	Amendment	Sch. 1 1(g)	“such <i>data</i> , symbols, letters or numbers (if any) as the Commissioner may determine; <i>and</i> ”	Consequential amendment to the inclusion of data in a smart ID card.
20(b)(iii)	Contents of Forms of Identity Card	Addition	Sch. 1 1(h)	“in the form of data stored in the chip in the identity card – (i) template of the applicant’s thumb-prints or other fingerprints taken under regulation 4(1)(a); and (ii) (where the applicant does not have a right of abode in Hong Kong) the conditions of stay (including a limit of stay) imposed in relation to him under section 11 of the Immigration Ordinance (Cap. 115).”	To cater for the embedding of immigration-related ‘smart element’ of the new ID card, it is necessary to specify clearly the data items to be stored in the chip of a smart ID card.

Registration of Persons (Amendment) Bill 2001

(b) The inclusion of non-immigration applications in the new ID card

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Ordinance (Cap. 177)					
2(a) & 2(b)	Long Title	Amendment	The long title	“To provide for the registration of persons in Hong Kong, and of <i>and recording of particulars relating to persons in Hong Kong and</i> persons elsewhere who have the right of abode in Hong Kong, for the issue, carrying and production, <i>production and application</i> of identity cards and for purposes connected therewith.”	The main purpose of the ROP (Amendment) Bill 2001 is, among others, to provide for the changes arising from the introduction of the smart ID card, and the inclusion of value-added, immigration-related and non-immigration applications in the new smart ID card.
4(a)(v)	Power to make regulations	Addition	s.7(2)(haa)	“information or particulars to be included in identity cards and data to be stored in chips;”	To empower the Chief Executive in Council to make regulations for specifying clearly the particulars or data to be printed on the card face and the storage of data in the chip of a smart ID card under Schedule 1 (for immigration related data) or the new Schedule 5 (for non-immigration applications) of the ROP Regulations.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Regulations (Cap. 177 Subsidiary Legislation)					
10	Regulation added	Addition	reg.4A	<p><u>“Inclusion of particulars and data</u></p> <p>(1) Without prejudice to regulation 5(1)(a), the Commissioner or any person acting pursuant to a permission given by the Commissioner may -</p> <p style="padding-left: 20px;">(a) include in an identity card such information or particulars; or</p> <p style="padding-left: 20px;">(b) store in a chip such data, as may be necessary for the identity card to be applied for such purposes -</p> <p style="padding-left: 20px;">(c) which-</p> <p style="padding-left: 40px;">(i) require inclusion of information or particulars or storage of data other than the particulars referred to in regulation 4(1) in the chip; and</p> <p style="padding-left: 40px;">(ii) are provided for in any Ordinance; or</p> <p style="padding-left: 20px;">(d) which require inclusion of such information or particulars or storage of such data other than</p>	<p>Among the value-added non-immigration applications to be introduced, i.e. e-Cert, library card and driving licence, only the e-Cert application requires the storage of data in the chip. The e-Cert application will therefore have to be specified in the new Schedule 5 to the ROP Regulations.</p> <p>Details of implementation of these non-immigration applications will be provided for in the relevant underlying legislation, where appropriate.</p> <p>Regarding the e-Cert application, there are already rigorous safeguards in the Electronic Transactions Ordinance and the Code of Practice issued under it to protect the e-Cert data against hacking or leakage of data.</p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/Regulation/Schedule	Proposed New Version	Reasons for Amendment/Remarks
				the particulars referred to in regulation 4(1) in the chip, as may be prescribed in Schedule 5.	
				(2) A permission referred to in subregulation (1) may be - (a) given by the Commissioner - (i) to any person or any class of persons; or (ii) generally or in a particular case, in such manner; and (b) subject to such condition, as the Commissioner thinks fit.”	

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendments	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
21	Schedule 5 added	Addition	Schedule 5	<p>“SCHEDULE 5 [reg.4A] PURPOSES REFERRED TO IN REGULATION 4A</p> <p>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.”</p>	<p>To provide for the inclusion of non-immigration applications in the chip of a smart ID card after obtaining endorsement from the Chief Executive in Council under the new section 7(2)(haa) of the ROP Ordinance. <Clause 4(a)(v) on P.17 refers></p>

Registration of Persons (Amendment) Bill 2001

(c) The protection of data privacy

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Ordinance (Cap. 177)					
4(a)(iii)	Power to make regulations	Repealing	s.7(2)(f)	Repealing section 7(2)(f).	The removal of section 7(2)(f) means that the disclosure of personal data will have to comply with the requirements of the new section 10. <Clause 7 on P.22 refers>
7	Sections added	Addition	s.9	<p><u>“Restriction on use of particulars</u></p> <p>Subject to section 10, particulars furnished to a registration officer under this Ordinance may be used for and only for the following purposes -</p> <ul style="list-style-type: none"> (a) enabling the Commissioner to keep a register of persons; (b) enabling identification of individuals; or (c) such other purposes as may be authorized, permitted or required by or under any Ordinance.” 	This provision is to restrict the purposes for which the particulars furnished to a registration officer may be used.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
7	Sections added	Addition	s.10	<p><u>“Duty not to disclose photographs, fingerprints and particulars</u></p> <p>Subject to the provisions of regulation 23 of the Registration of Persons Regulations (Cap. 177 sub. leg.), a registration officer shall not -</p> <ul style="list-style-type: none"> (a) produce for inspection, or supply a copy of, the photograph of a person registered under the provisions of the Registration of Persons Regulations (Cap. 177 sub. leg.) or his fingerprint; or (b) disclose or supply a copy of the particulars furnished under regulation 4(1)(b) of the Registration of Persons Regulations (Cap. 177 sub. leg.), <p>except and unless with the written permission of the Chief Secretary for Administration which may -</p> <ul style="list-style-type: none"> (c) refer to a person or class or category of persons by name, office or description; and 	<p>The new section is a replica of regulation 24 of the ROP Regulations for prohibiting the disclosure of ROP data. To raise its status from regulation to ordinance is to comply with the recommendations of the PIA consultant so that it will not be overridden by provisions in ordinances, if any, giving a power to obtain ROP information.</p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
				(d) contain such terms and conditions as the Chief Secretary for Administration may deem fit to impose.”	
7	Sections added	Addition	s.11	<p><u>“Prohibition of unauthorized handling of particulars</u></p> <p>Any person who, without lawful authority or reasonable excuse, gains access to, stores, uses or discloses, any particulars furnished to a registration officer under this Ordinance shall be guilty of an offence and shall be liable to a fine at level 5 and to imprisonment for 2 years.”</p>	Under the existing ROP Ordinance/regulations, there is no specific provision to penalize any unauthorized access, use, storage and disclosure of ROP information. The addition of this new section is to make it an offence for any person to handle ROP data without lawful authority or reasonable excuse.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Regulations (Cap. 177 Subsidiary Legislation)					
14(a)	Prohibition against making alteration to identity card	Addition	reg.12(1A)	<p>“Any person who, without lawful authority -</p> <p style="margin-left: 20px;">(a) stores data in a chip;</p> <p style="margin-left: 20px;">(b) adds to, erases, cancels or alters any data stored in a chip; or</p> <p style="margin-left: 20px;">(c) renders a chip ineffective, shall be guilty of an offence.”</p>	To prohibit against making unlawful alterations to the chip of a smart ID card as well as the data stored in the chip.
14(b)	Prohibition against making alteration to identity card	Amendment	reg.12(2)	<p>“Any person who, without the authority of the Commissioner, <i>lawful authority or reasonable excuse, uses or</i> has in his possession an identity card, or other document issued or required for the purposes of the Ordinance or of these regulations, which is defaced or unlawfully altered shall be guilty of an offence.”</p>	<p>To make it clear that using an unlawfully altered identity card is an offence and to align the wordings with similar provisions, i.e. section 7A(1) and 7A(1A), in the ROP Ordinance.</p> <p>To remove the offence of holding a defaced identity card. It is considered too harsh to prosecute someone for holding a defaced identity card which is not false in material particulars.</p>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
14(c)	Prohibition against making alteration to identity card	Addition	reg.12(2A)	“Any person who, without lawful authority or reasonable excuse, uses or has in his possession an identity card embodying a chip in respect of which an offence under subregulation (1A) has been committed shall be guilty of an offence.”	To make it an offence for a person to use or possess an identity card with unlawfully altered data in the chip. It is a consequential amendment arising from the addition of regulation 12(1A). <Clause 14(a) on P.24 refers>
14(d)	Prohibition against making alteration to identity card	Amendment	reg.12(4)	“Any person who commits an offence under subregulation (1) or (2) , (1A), (2) or (2A) shall be liable to a fine at level 4 and to imprisonment for 2 years.”	Consequential amendments to the subregulations of regulation 12.
18	Duty not to disclose photographs, fingerprints and particulars	Repealing	reg.24	Repealing regulation 24.	This regulation is to be upgraded to become the new section 10 of the ROP Ordinance. <Clause 7 on P.22 refers>

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Specification of Public Offices (Cap. 1 Subsidiary Legislation)					
22	Schedule amended	Amendment	Schedule, Cap.1 sub.leg.	Registration of Persons Regulations- <i>Ordinance</i> (Chapter 177- subsidiary- legislation), regulation 24. <i>section 10.</i>	To make consequential amendments to the Specification of Public Offices (Cap. 1 sub. leg.) arising from the removal of regulation 24 to become the new section 10 of the ROP Ordinance.
Immigration Service Ordinance (Cap. 331)					
23(a)	Scheduled Offences	Addition	Schedule 2, Cap. 331 Part I, item1	“section 11 unauthorized handling of particulars”	To make consequential amendments to the Immigration Service Ordinance (Cap. 331) in view of newly added and amended offence provisions.

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version		Reasons for Amendment/Remarks
23(b)	Scheduled Offences	Amendment	Schedule 2, Cap. 331 Part I, item2	regulation 12(4)	making alteration to identity card	To make consequential amendments to the Immigration Service Ordinance (Cap. 331) in view of newly added and amended offence provisions.
				regulation 12(1)	making alteration to identity card or documents	
				regulation 12(1A)	tampering with chip in identity card	
				regulation 12(2)	possession of altered identity card or documents	
				regulation 12(2A)	possession of identity card embodying chip tampered with	

Registration of Persons (Amendment) Bill 2001

(d) The launching of region-wide ID card replacement exercise

Clause No.	Contents	Nature of Amendment	Section/ Regulation/ Schedule	Proposed New Version	Reasons for Amendment/Remarks
Registration of Persons Ordinance (Cap. 177)					
3(c)	Interpretation	Addition	s.1A(2)	“The Commissioner of Registration may, by notice published in the Gazette, specify a date for the purposes of the definition of “specified date” in subsection (1).”	The “specified date” is a cut off date when the new smart ID card is introduced. This new section provides flexibility for the Administration as the actual implementation date (tentatively on 26 May 2003) may subject to change, depending on the progress of the development of the computer system.
3(c)	Interpretation	Addition	s.1A(3)	“A notice referred to in subsection (2) is not subsidiary legislation.”	

Registration of Persons (Amendment) Bill 2001

Clause No.	Contents	Nature of Amendment	Section/Regulation/Schedule	Proposed New Version	Reasons for Amendment/Remarks
5	Requirement to apply for new identity cards	Amendment	s.7B(1)	All persons who are holders of identity cards issued before 1 July 1987, or issued <i>the specified date, or issued on or</i> after that date as a result of an application made before that date, shall apply in accordance with regulations made under section 7 for identity cards at such places, in such sequence and within such periods as the Secretary for Security may direct by order published in the Gazette.	To substitute a new cut off date. This is a corresponding amendment to section 1A(2). <Clause 3(c) on P.28 refers>
6	Power to declare old identity cards invalid	Amendment	s.7C(1)	The Secretary for Security may by order published in the Gazette declare all identity cards issued before 1 July 1987, or issued <i>the specified date, or issued on or</i> after that date as a result of an application made before that date, or such of those identity cards as he may specify by reference to their numbers or description or category of their holders, to be invalid.	To substitute a new cut off date. This is a corresponding amendment to section 1A(2). <Clause 3(c) on P.28 refers>