

Information paper on  
14 November 2002

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

**Existing Legislation empowering Members of the  
Immigration Service or Police Officers to take Fingerprints**

**INTRODUCTION**

At the Bills Committee meeting held on 28 October 2002, Members enquired about the existing legal provisions under which members of the Immigration Service or police officers are empowered to take fingerprints of a person. This paper provides the relevant information.

**PROVISIONS UNDER THE REGISTRATION OF PERSONS (ROP)  
ORDINANCE AND ROP REGULATIONS**

**Taking of fingerprints for the purpose of registration or the issue or renewal of identity cards**

2. Under section 3 of the Registration of Persons (ROP) Ordinance (Cap. 177), every person in Hong Kong is required to be registered under the Ordinance, unless exempted or excluded from its provisions by regulations made under section 7. Under section 7(2)(c), the Chief Executive in Council may make regulations to provide for the taking and recording of photographs and fingerprints of persons requiring registration under section 3 or the issue or renewal of identity cards under the Ordinance.

3. Regulation 4(1)(a) of the ROP Regulations (Cap. 177, sub. leg.) specifies that every person who applies for registration under section 3 of the ROP Ordinance or for an identity card shall submit to all such steps as may be reasonably necessary for the taking of photographs, and the taking and recording of his left thumbprint or alternatively, if that is not possible, of such other single fingerprint.

## **Taking of fingerprints for verification of identity**

4. The ROP Regulations also specify the circumstances under which a person is obliged to carry and produce identity card. Under regulation 11(1), the Chief Executive in Council may, by order published in the Gazette, require that every person, or every person of such class or such description as may be specified in the order, shall carry his identity card when in such area or place, on such occasion, for such purpose or in such circumstance as may be specified in the order.

5. During the currency of an order made under regulation 11(1), any police officer or member of the Immigration Service, in uniform or on production of his authority if required, is empowered under regulation 11(2) to require any person to whom the order relates to produce his identity card on demand for inspection.

6. For the purposes of identification, regulation 11(3) empowers any police officer or person or persons so authorized to take, at any time during the currency of an order made under regulation 11(1), the fingerprint 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. It also specifies that any person whose fingerprint and written signature are required under this regulation shall submit to all such steps as may be reasonably necessary for the taking thereof.

7. Since the enactment of regulation 11(1), an order cited as the Carrying of Identity Cards (Frontier Closed Area and Mai Po Bird Sanctuary) Order (Cap. 177 sub. leg. B) was issued by the then Governor in Council on 30 October 1980. Under the order, every person who is the holder of an identity card shall carry his identity card with him when entering or leaving, or while in the area declared to be a closed area by the Frontier Closed Area Order (Cap. 245 sub. leg.) or the area commonly known as the Mai Po Bird Sanctuary and more particularly described in Area B in Schedule 6 to the Wild Animals Protection Ordinance (Cap. 170).

## **PROVISION UNDER THE IMMIGRATION SERVICE ORDINANCE**

8. Any member of the Immigration Service or any police officer is empowered under section 14(2) of the Immigration Service Ordinance (Cap. 331) to take the photograph, fingerprints, weight and measurements of any person who has been arrested by any such member, whether under the provisions of this Ordinance or any other enactment; provided that, if any such person who has not previously been convicted is subsequently discharged or acquitted, any photograph (both negative and copies), fingerprint impressions and records of weight or measurements so taken shall as soon as reasonably practicable be destroyed or, if the person prefers, delivered to that person.

## **PROVISION UNDER THE POLICE FORCE ORDINANCE**

9. Under section 59(1) of the Police Force Ordinance (Cap. 232), where a person has been arrested under the powers conferred by the same ordinance or any other law, any police officer may take, or cause to be taken under the supervision of a police officer -

- (a) photographs, fingerprints, palm-prints and the weight and height measurements of that person; and
- (b) sole-prints and toe-prints of that person if the officer has reason to believe that such prints would help the investigation of any offence.

10. The Police Force Ordinance also empowers a police officer under section 59(5) to take or cause to be taken all or any of the identifying particulars, including fingerprints, of a person who is convicted of an offence and may retain any identifying particulars so taken unless and until the conviction is set aside on appeal.

Security Bureau  
11 November 2002