

Bills Committee on Registration of Persons (Amendment) Bill 2001

Summary of amendments proposed by organisations/individuals to specific clauses in the Bill

Clause	Amendment proposed	Administration's response
7	<p><u>Proposed new section 9</u></p> <p>The phrase "enabling identification of individuals" in the proposed section 9(b) should be revised as follow to set out that the identification was for purposes specified in law (proposed by Professor Matthew LEE) -</p> <p>“9. “Restriction on use of particulars</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 <u>as may be authorized, permitted or required by or under any Ordinance</u>; or (c) such other purposes as may be authorized, permitted or required by or under any Ordinance.” <p><u>Proposed new section 10</u></p> <p>The proposed section 10 should be revised as follows to the effect that the permission given by the Chief Secretary for</p>	

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	<p>Administration in respect of disclosure of information would be subject to some reasonable checks and balances (proposed by Professor Matthew LEE) -</p> <p>“10. Duty not to disclose photographs, fingerprints and particulars</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) <u>may</u> refer to a person or class or category of persons by name, office or description; and(d) <u>may</u> contain such terms and conditions as the Chief Secretary for Administration may deem fit to impose; ; <u>and</u>	

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	<p style="text-align: center;"><u>(e) must state the reason or reasons for making such written permission.”</u></p> <p>There might be a need to make provision in clause 7 for digital/electronic transfer of data. (proposed by Hong Kong Computer Society)</p> <p><u>Proposed new section 11</u></p> <p>The penalty proposed for unauthorised storage or tampering of data in the chip of a smart identity card should be increased as far as possible to strengthen the deterrent effect. (proposed by Professor Matthew LEE)</p>	<p>Clause 7 (the proposed new section 10) placed restriction against disclosure or transfer of ROP data. What the new section prohibited was the act of disclosing, i.e. making known ROP data to third parties, and the prohibition was capable of covering disclosure or transfer by whatever means.</p> <p>The proposed penalty for any person who committed an offence under the new section 11 would be a fine at level 5 and imprisonment for two years. This penalty had already been set to the maximum level as stipulated in the proposed amended section 7(3) of the Registration of Persons Ordinance (ROPO).</p>
13	<p>Further thought should be given to spelling out the precise circumstances under which a citizen might be compelled to provide his thumb-print or finger-print to a Police officer, an officer of the Immigration Department or an authorised person who had reason to doubt the identity of the cardholder. (proposed by Office of the Privacy Commissioner for Personal Data)</p>	<p>The proposed new Regulation 11A had already specified the only circumstance in which fingerprint verification could be effected, namely, that the Police officer, officer of the Immigration Department or an authorised person had reason to doubt the identity of a person. The provision would make it clear that identity card checks could not be conducted for other unrelated purposes.</p>

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14	<p>Regulation 12(1A) should be amended as follow to criminalise the unauthorised access to and use of data stored in the chip of a smart identity card (proposed by Professor Matthew LEE) -</p> <p>“(1A) Any person who, without lawful authority – <u>(a1) gains access to data in a chip;</u> (a) stores data in a chip; (b) adds to, erases, cancels or alters any data stored in a chip; or (c) renders a chip ineffective, shall be guilty of an offence.”</p> <p>Regulation 12(1A) might need to include unlawful or unauthorised retrieval, alteration or manipulation of data stored in a chip. (proposed by Hong Kong Computer Society)</p>	<p>A new section 11 had been proposed for ROPO so that any person who, without lawful authority or reasonable excuse, gained access to, stored, used or disclosed any particulars (including data in the card face and the chip) furnished to a registration officer would commit an offence under ROPO.</p> <p>The new Regulation 12(1A) of ROP Regulations would make it an offence for any person who, without lawful authority, stored, added to, erased, cancelled or altered any data stored in a chip and rendered a chip ineffective.</p>
15	<p>Unless justification could be given by the Immigration Department on the collection of personal data of citizens, such as residence, place of business, employment, the reporting requirement under Regulation 18 (1) should be revised to bring it consistent with actual need (if any) and with Data Protection Principle 1(1) of the Personal Data (Privacy) Ordinance (PDPO). (proposed by Office of the Privacy Commissioner for Personal Data)</p>	<p>For the purpose of registration of persons, it was necessary to require an applicant to furnish the particulars stipulated in Regulation 4 of the ROP Regulations. Such particulars would be useful if there were doubts on the identity of a person. It also assisted in tracing the whereabouts of a person, should this become necessary.</p> <p>It was the legislative intent of Regulation 18(1) of the ROP Regulations for identity card holders to</p>

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		report correction of particulars. The onus must rest on the cardholders themselves as they were the ones who know which particulars had become incorrect. This was also in line with Principle 2 of Schedule 1 to PDPO in that all practical steps should be taken to ensure the accuracy of personal data.

Council Business Division 2
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