

LEGISLATIVE COUNCIL BRIEF

**PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE
(CAP. 132)**

**LIBRARIES (AMENDMENT) REGULATION 2003
(CAP. 132 sub. leg. AL)**

INTRODUCTION

The Immigration Department of Hong Kong is geared up to launch the new smart identity (ID) card in May 2003. The Registration of Persons (Amendment) Bill 2001, which provides the legislative basis for the introduction of the smart ID card, was passed at the Legislative Council meeting on 19 March 2003. To cater for the use of the smart ID card for library purposes, the Libraries Regulation (“Regulation”), a subsidiary legislation made under the Public Health and Municipal Services (PHMS) Ordinance has to be amended.

BACKGROUND AND ARGUMENT

General Background

2. The Administration briefed Members in December 2001 that the major advantage of the new smart ID card is that, in addition to immigration functions, the chip embedded in the new ID card will have multi-application capability which will bring much more convenience to residents. The library card application is one of the initial non-immigration applications that residents will be free to choose. Residents will have the options to: (i) continue using (or be issued with) the existing library cards; (ii) use the smart ID card for library purposes and thus obviate the need for them to carry a separate library card; or (iii) use both the library card and smart ID card for library purposes.

3. To cater for the use of the smart ID card for library purposes, the Leisure and Cultural Services Department (LCSD) will upgrade their Library Automation System (LAS) by mid-May 2003. There is no need to store library card data in the chip as, in order to support that use, what LCSD needs is just the access to personal data already in the ID card face/chip (namely, Chinese and English names, ID card number, date of birth and date of issue), but not any additional data. LCSD’s upgraded system will be able to read these “card face data” stored in the chip of the smart ID card to check

against the library records in the system. Residents will be invited to apply for using their smart ID card for library purposes before LCSD reads the “card face data” from the chip.

4. To cater for the use of the smart ID card for library purposes, the Regulation made under the PHMS Ordinance has to be amended.

5. The Secretary for Home Affairs is empowered under section 105L of the PHMS Ordinance to amend the Regulation. The Amendment Regulation is at Annex.

Legislative Amendments

6. The Regulation is amended to: (i) widen the definition of “borrower” to include holders of smart ID cards to be used for library purposes; (ii) introduce new provisions relating to smart ID cards to be used for library purposes; and (iii) introduce consequential and miscellaneous amendments. We have identified seven areas of amendments. They are:

- (a) amending the definition of "borrower", adding new definitions of "identity card with embodied chip" and "identity card allowed for library purposes", and consequential amendments;
- (b) amending provisions relating to applications for and approval of library cards;
- (c) new provisions relating to applications for and approval of using smart ID cards and replacement smart ID cards for library purposes;
- (d) amending provisions relating to suspending or canceling library cards;
- (e) new provisions relating to applications for canceling library cards and discontinuing the use of smart ID cards for library purposes;
- (f) amending provisions relating to guarantor; and
- (g) miscellaneous amendments.

(a) Amending the definition of “borrower”, adding new definitions of “identity card with embodied chip” and “identity card allowed for library purposes”, and consequential amendments

7. In section 3, in order to incorporate the use of the smart ID cards for library purposes, the definition of “borrower” is widened and new definitions of “identity card with embodied chip” and “identity card allowed for library purposes” are introduced.

8. Consequentially, references to smart ID cards used for library purposes (in appropriate wording) are added to section 6, section 9, section 10, section 12, section 13, section 21 and section 27 respectively.

(b) Amending provisions relating to applications for and approval of library cards

9. Section 7 is slightly amended to be subject to section 22 so that a person may not apply for a library card as of right if his library card has been suspended or cancelled by the Librarian. Section 7(2) which incorporates the repealed section 14 is added. Section 8 about approval of section 7 applications remains the same.

(c) New provisions relating to applications for and approval of using smart ID cards and replacement smart ID cards for library purposes

10. A new section 7A is introduced to enable smart ID card holders to apply for using the smart ID cards for library purposes.

11. A new section 8A is introduced for the Librarian to approve applications for smart ID cards to be used for library purposes based on similar criteria applicable to applications for library cards.

(d) Amending provisions relating to suspending or canceling library cards

12. Section 22 is re-written to empower the Librarian to suspend or cancel a library card upon a borrower's breach of the Regulation and give corresponding power for the Librarian to prohibit the use of a smart ID card used for library purposes.

(e) New provisions relating to applications for canceling library cards and discontinuing the use of smart ID cards for library purposes

13. A new section 22A is added to enable a borrower to apply for cancellation of his library card on his own motion and gives the Librarian discretion in approving or refusing such application.

14. The new section 22B corresponds with section 22A and relates to smart ID cards used for library purposes.

(f) Amending provisions relating to guarantor

15. Section 11 is amended mainly to specify the circumstances under which a guarantor is liable upon the default of a borrower, taking into account the possibility that the borrower may provide different guarantors for his library card and smart ID card used for library purposes.

(g) Miscellaneous amendments

16. Section 37 is amended to prohibit a borrower from giving false information in an application for library card or using smart ID card for library purposes, and an application for canceling a library card or discontinuing the use of smart ID card for library purposes.

BINDING EFFECT

17. The proposed amendments will not affect the current binding effect of the Regulation and PHMS Ordinance.

IMPLICATIONS OF THE PROPOSAL

18. The project of introducing the use of the smart ID card for library purposes will entail a total non-recurrent expenditure of about \$8.2 million for enhancement of the existing LAS including the provision for 4 temporary posts lasting for 9 months. In addition, the new service will entail an annual recurrent expenditure of about \$0.355 million from 2003-04 onwards. The cost of the project will be partly offset by an annual saving of about \$0.24 million to be arising from the expected reduction in the issue of library cards.

19. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

20. The Administration has briefed the LegCo Panel on Security and LegCo Panel on Information Technology and Broadcasting on the smart ID card project since October 2000, which included the library card application. A public consultation campaign was conducted between November 2000 and February 2001 including briefings to 18 District Councils, roving exhibitions in shopping malls and universities and launching of a dedicated web page to inform the public of details of the new smart ID card project. The feedback reflected strong public support for using a multi-application smart ID card and specifically support for using it as a library card. Although there were some concerns on data privacy, the public is in general content with the data protection measures proposed by the Government.

LEGISLATIVE TIMETABLE

21. The Amendment Regulation will be published in the Gazette on 28 March 2003 and tabled at the Legislative Council on 2 April 2003 for negative vetting under section 34 of the Interpretation and General Clauses Ordinance. Subject to Members' negative vetting, the Amendment Regulation will become effective on 26 May 2003.

PUBLICITY

22. The Regulation will be published in the Gazette on 28 March 2003. The Administration will launch a promotional campaign nearer the launch of the smart ID card, i.e. around May 2003, to educate the public about the smart ID card, its uses and potentials, and the related security and privacy safeguards, which will include how residents may choose to use their smart ID cards for library purposes.

ENQUIRY

23. For enquiries on this brief, please contact Mr Y. T. LAM, Principal Assistant Secretary of the Home Affairs Bureau at Tel: 2594 6608 or Mr Michael MAK, Assistant Director of Leisure and Cultural Services Department at Tel: 2601 8844.

Home Affairs Bureau
March 2003

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LIBRARIES (AMENDMENT) REGULATION 2003

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LIBRARIES (AMENDMENT) REGULATION 2003

(Made under section 105L of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Regulation shall come into operation on 26 May 2003.

2. Interpretation

Section 3 of the Libraries Regulation (Cap. 132 sub. leg. AL) is amended –

- (a) in the definition of "borrower", by adding "or an identity card allowed for library purposes" after "card";
- (b) by adding –

""identity card allowed for library purposes" (圖書館適用身分證) means an identity card with embodied chip that is allowed under section 8A to be used as an identity card allowed for library purposes;

"identity card with embodied chip" (內置晶片身分證) means an identity card that –

- (a) is issued under the Registration of Persons Ordinance (Cap. 177); and
- (b) embodies a chip within the meaning of that Ordinance;"

3. Borrower may borrow library material

Section 6 is amended by repealing everything from "The" and before "use library" and substituting "A borrower may".

4. Application for library cards

Section 7 is amended –

(a) by repealing "A" and substituting –

"(1) Subject to section 22(2) and (3), a";

(b) by adding –

"(2) Subject to section 22(2) and (3), a person whose library card is lost and who wishes to obtain a new library card shall –

(a) apply under subsection (1);
and

(b) accompany the application by such fee, if any, as determined under section 124K of the Ordinance."

5. Section added

The following is added –

"7A. Application for using identity card with embodied chip as identity card allowed for library purposes

Subject to section 22(2) and (3), a person who wishes to use his identity card with embodied chip as an identity card allowed for library purposes shall complete an application form supplied by the librarian."

6. Section added

The following is added –

"8A. Librarian may allow use of identity card with embodied chip as identity card allowed for library purposes

On receiving an application made under section 7A, the librarian may allow the applicant to use his identity card with embodied chip as an identity card allowed for library purposes –

- (a) if the applicant satisfies the librarian that he is resident in Hong Kong and that he holds an identity card with embodied chip; or
- (b) at the discretion of the librarian."

7. Cases where person may be required to deposit a sum of money or to have a guarantor

Section 9 is amended –

- (a) by adding "or allowing an identity card with embodied chip to be used as an identity card allowed for library purposes" after "card";
- (b) by repealing "some" and substituting "a".

8. Applicant under 18 years of age

Section 10(1) is amended –

- (a) by repealing everything before "resident" and substituting –

"(1) The librarian shall not –

- (a) issue a library card to an applicant who makes an application under section 7; or
- (b) allow an applicant who makes an application under section 7A to use his identity card with embodied chip as an identity card allowed for library purposes,

if the applicant is under 18 years of age unless a person who is";

- (b) by adding "the" before "guarantor".

9. Guarantor

Section 11 is amended –

- (a) in subsection (1), by repealing "guarantor" and substituting "person who wishes to become a guarantor for the purposes of section 9 or 10";
- (b) by adding –
 - "(1A) The librarian may accept or refuse to accept a person as a guarantor.";
- (c) by repealing subsection (2) and substituting –
 - "(2) A person shall, in default of the borrower, be liable for all liabilities incurred by the borrower under section 21, 27 or 28 beginning on or after the day on which the person is accepted by the librarian as the guarantor for the borrower until –
 - (a) subject to subsection (3), the librarian in writing releases the guarantor from his obligations under the guarantee;
 - (b) another person is subsequently accepted by the librarian to be the guarantor for the borrower;
 - or
 - (c) the borrower reaches 18 years of age,whichever occurs first.";
- (d) by repealing subsection (4).

10. Section substituted

Section 12 is repealed and the following substituted –

"12. Library card or identity card allowed for library purposes not to be lent or transferred

A borrower shall not lend or transfer his library card or identity card allowed for library purposes to any other person."

11. Section substituted

Section 13 is repealed and the following substituted –

"13. Borrower to report loss of library card or identity card allowed for library purposes

A borrower shall forthwith report to the librarian in writing loss of his library card or identity card allowed for library purposes."

12. New library card may be issued if card lost

Section 14(1) is repealed.

13. Charge for library material overdue

Section 21(3) is amended by adding "of the borrower who is referred to in subsection (1), or prohibit the borrower from using his identity card with embodied chip as an identity card allowed for library purposes," after "card".

14. Section substituted

Section 22 is repealed and the following substituted –

"22. Librarian may cancel or suspend library card, or prohibit identity card allowed for library purposes

(1) If the librarian is of the opinion that the holder of a library card or an identity card allowed for library purposes has contravened this Regulation, he may –

- (a) cancel the library card, or suspend the library card for such period as he may specify; and
 - (b) prohibit the holder from using his identity card with embodied chip as an identity card allowed for library purposes, either permanently or for such period as he may specify.
- (2) A person –
- (a) whose library card is cancelled under subsection (1);
or
 - (b) who is permanently prohibited from using his identity card with embodied chip as an identity card allowed for library purposes,

shall not make an application under section 7 or 7A without the permission of the librarian.

- (3) A person –
- (a) whose library card has been suspended for a specified period; or
 - (b) who has been prohibited from using his identity card with embodied chip as an identity card allowed for library purposes for a specified period,

shall not, within that period, make an application under section 7 or 7A without the permission of the librarian."

15. Sections added

The following are added immediately after section 22 –

"22A. Application to cancel library card

- (1) A borrower who wishes to cancel his library card shall complete an application form supplied by the librarian.
- (2) The librarian may approve or refuse an application made under subsection (1).

22B. Application to discontinue the use of identity card with embodied chip as identity card allowed for library purposes

(1) A borrower who wishes to discontinue the use of his identity card with embodied chip as an identity card allowed for library purposes shall complete an application form supplied by the librarian.

(2) The librarian may approve or refuse an application made under subsection (1)."

16. Liability for library material not returned or damaged

Section 27 is amended –

- (a) in subsection (2), by adding "or the identity card allowed for library purposes" after "card";
- (b) in subsection (4) –
 - (i) by adding a comma after "a library";
 - (ii) by adding "or the identity card allowed for library purposes" after "card";
- (c) in subsection (5) –
 - (i) by repealing everything before "shall" and substituting –
 - "(5) A person who has reported to the librarian in writing the loss of his library card or identity card allowed for library purposes";
 - (ii) by adding "or identity card" before "after".

17. False information

Section 37(b) is amended by repealing "for a library card" and substituting "made under section 7, 7A, 22A or 22B".

Secretary for Home Affairs

20033

Explanatory Note

This Regulation amends the Libraries Regulation (Cap. 132 sub. leg. AL) –

- (a) to cater for the use of a multi-application identity card with embodied chip as a means of access to library facilities; and
- (b) to make minor technical amendments to the English text.