

**For discussion  
16 March 2004**

## **LegCo Panel on Security**

### **Follow-up on Issues Relating to Right of Abode**

#### **Introduction**

This paper responds to a number of questions by Members regarding the number of persons with the right of abode in Hong Kong under Article 24(2)(3) of the Basic Law (BL24(2)(3)).

#### **Details**

#### ***Estimates of the number of Mainland persons with right of abode in Hong Kong before and after the interpretation of the Standing Committee of the National People's Congress on 26 June 1999***

2. In 1999, the Census and Statistics Department conducted a Special Topic Enquiry through the General Household Survey<sup>1</sup> to estimate the number of Mainland children of Hong Kong residents, regardless of whether at least one of their parents was a Hong Kong permanent resident at the time of their birth. According to the interim results published in May 1999, it was estimated that some 1.67 million children (including those born within and out of registered marriage<sup>2</sup>) were living in the Mainland at the time of the study. The estimate was subsequently revised to 1.6 million based on the final results of the study published in July 1999. This comprised some 518 000 children born within registered marriage and 1 086 000 children born out of registered

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<sup>1</sup> Special Topics Report No. 22, "Hong Kong residents with spouses/children in the Mainland of China", Census and Statistics Department, July 1999

<sup>2</sup> Persons are classified as being born within registered marriage if their parent(s) has/have proof of marriage that is recognized by the relevant authorities. For example, the following categories of persons are classified as being "born within registered marriage" –

- (a) The parents had formally registered their marriage with the relevant authorities (in Hong Kong, in the Mainland, or in some other places); or
- (b) The parents had, either in Hong Kong or in the Mainland, undergone Chinese customary marriages many years ago and had post-registered their marriage in Hong Kong after the enactment of the Marriage Reform Ordinance in 1971. Chinese customary marriages refer to marriages contracted according to traditional Chinese customs, e.g. ceremony carried out in the village hall in the presence of witnesses both within and outside the family.

marriage. The estimate, broken down into children by generations, comprised 694 000<sup>3</sup> first generation children and 910 000 second generation children who were living in the Mainland.

3. Pursuant to the interpretation of the relevant articles of the Basic Law by the Standing Committee of the National People's Congress (NPCSC) on 26 June 1999, the majority of Mainland persons included in the estimates referred to above were not eligible for the right of abode in Hong Kong as neither of their parents was a Hong Kong permanent resident at the time of their birth. In accordance with estimates made on the basis of the study referred to above, it was estimated that around 270 000 persons, including about 100 000 born within registered marriage and about 170 000 born out of registered marriage, were eligible for the right of abode in Hong Kong pursuant to the NPCSC interpretation.

4. These figures were estimates that represented a snapshot of the situation prevailing at the time of the study, which is the only large scale study based on well established statistical methodology that has been undertaken on the subject thus far. The Government is therefore not in a position to provide further updates on the estimates of the number of Mainland persons with the right of abode in Hong Kong by virtue of BL24(2)(3).

***Number of eligible persons (in terms of those born within or out of registered marriage) who have been issued with Certificate of Entitlement***

5. Persons who claim to have the right of abode in Hong Kong by virtue of BL24(2)(3) have to apply for a Certificate of Entitlement (CoE). From the introduction of the CoE Scheme in July 1997 to the end of January 2004, ImmD has issued 155 773 CoEs to persons verified to have the right of abode in Hong Kong. Since all persons of Chinese nationality born outside Hong Kong to a parent who, at the time of the person's birth, was a Hong Kong permanent resident have the

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<sup>3</sup> This figure does not include some 100 000 first generation Mainland children born within registered marriage with at least one of their parents being a Hong Kong permanent resident at the time of their birth. The eligibility to right of abode for this category of persons was not in dispute.

right of abode disregarding whether they are born within or out of registered marriage, the Immigration Department has not compiled any statistics that is based on this distinction. In the light of Members' request for information, Immigration Department has started to compile the statistics for CoEs issued since February 2004.

***Impact of the estimated figures on the Administration's population policy and planning***

6. As Mainland residents verified to have the right of abode are subject to the One-way Permit (OWP) Scheme in line with the NPCSC interpretation, the planning of infrastructure and public services has been done on the basis of an annual intake of about 54 000 OWP holders.

***Specified Genetic Test***

7. All CoE applicants, whether born within or out of registered marriage, are required to submit evidence to prove their claim of being born to a Hong Kong permanent resident parent. Only where the Director of Immigration is not satisfied with the claimed parent and child relationship on the basis of the materials before him, he may request the applicant and his claimed parents to undergo a specified genetic test.

8. From the introduction of the specified genetic test in July 2001 to the end of February 2004, a total of 6 003 of CoE applicants were requested to undergo the test. So far, 3 606 applicants have completed the test. The tests of 3 552 applicants were found to be in support of the claimed parental relationship and those of 54 applicants were found otherwise. From July 2001 to the end of February 2004, 35 758 CoE applicants have been issued with CoE without the need of undergoing the specified genetic test.

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