

立法會
Legislative Council

LC Paper No. LS53/04-05

**Paper for the House Committee Meeting
on 29 April 2005**

**Legal Service Division Report on
Immigration (Amendment) Bill 2005**

I. SUMMARY

- 1. Objects of the Bill** The main purposes of this Bill are :-

 - (a) to empower the Director of Immigration to verify the identity of certain persons by automated means; and
 - (b) to provide that permission to land in Hong Kong given, or the limit of stay and conditions of stay imposed, by automated means are deemed to be given or imposed by an immigration officer or immigration assistant.

- 2. Comments** At present, Hong Kong permanent residents aged 11 or above holding a smart identity card may opt for verification of their identity by automated means on a voluntary basis. The Administration intends to extend the scheme to other persons such as frequent visitors and non-permanent residents. The Bill provides the statutory framework for such extension.

- 3. Public Consultation** The Administration has consulted the cross-boundary drivers' associations, and they indicated support to the proposal.

- 4. Consultation with LegCo Panel** The Administration consulted the Panel on Security on 1 March 2005. Members supported the Administration's proposal in principle. A member expressed the view that as the proposal would involve automated clearance of non-residents, there should be stringent control in the granting of permission to land so that immigration control in Hong Kong would not be compromised.

- 5. Conclusion** No legal or drafting difficulties have been detected in the Bill. Members may wish to consider if a Bills Committee is necessary to consider policy aspects.

II. REPORT

Objects of the Bill

The main objects of this Bill are:-

- (a) to empower the Director of Immigration to verify the identity of certain persons by automated means; and
- (b) to provide that the permission to land in Hong Kong given, or the limit of stay and the conditions of stay imposed, by automated means are deemed to be given or imposed by an immigration officer or immigration assistant.

LegCo Brief Reference

- 2. SBCR 1/2098/98 dated 13 April 2005 issued by the Security Bureau.

Date of First Reading

- 3. 27 April 2005.

Comments

4. Under the Immigration Ordinance (Cap. 115) (“the Ordinance”), a person may not land in Hong Kong without the permission of an immigration officer or immigration assistant unless he is one of the persons specified in the Ordinance (section 7). An immigration officer or immigration assistant may examine any person (except servicemen) on his arrival or landing in or prior to his departure from Hong Kong (section 4). On such examination of a person an immigration officer or immigration assistant may give such person permission to land and remain in Hong Kong, and may impose a limit of stay and such other conditions of stay as he thinks fit, being conditions authorized by the Director either generally or in a particular case.

5. According to the LegCo Brief, the Immigration Department has introduced Automated Passenger Clearance Channels (e-Channels), and plans to introduce Automated Vehicle Clearance kiosks in phases by the first half of 2005. At this stage, Hong Kong permanent residents aged 11 or above holding a smart identity card may, instead of going through immigration clearance at traditional counters, opt for verification of their identity by automated means on a voluntary basis. The Immigration Department intends to extend verification of identity by automated means to other persons such as frequent visitors and non-permanent residents.

6. The Bill seeks to provide the statutory framework to enable the Director of Immigration to provide automated means of immigration clearance for those persons who are approved by the Director to use automated means of immigration clearance and who voluntarily submit to such clearance. Under the proposed new section 4A, verification of identity, giving of permission to land in Hong Kong, and imposing limit and other conditions of stay could be carried out by the automated means provided by the Director. Under the proposed new section 4B, a permission to land given, and limit of stay and other conditions of stay imposed, by automated means are deemed to be imposed by an immigration officer or immigration assistant. Notwithstanding a person has submitted himself for verification of identity by automated means, an immigration officer or immigration assistant may still examine the person (proposed new section 4C).

Public Consultation

7. According to the LegCo Brief, the Administration has consulted the cross-boundary drivers' associations, and they indicated support to the proposal.

Consultation with LegCo Panel

8. At its meeting on 1 March 2005, the Panel on Security was consulted on the Administration's proposal to amend the Immigration Ordinance to allow non-permanent residents and frequent visitors, e.g. travel pass holders, to opt for self-service immigration clearance by automated means.

9. Members supported the Administration's proposal in principle. A member expressed the view that as the proposal would involve automated clearance of non-residents, e.g. visitors, there should be stringent control in the granting of permission to land to such persons who opted for self-service immigration clearance, so that the integrity of immigration control in Hong Kong would not be compromised.

Conclusion

10. No legal or drafting difficulties have been detected in the Bill so far. Members may wish to consider if a Bills Committee is necessary to consider policy aspects.

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