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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 10 January 2012**

**Application for One Way Permit by
Mainland "Overage Children" of Hong Kong residents**

Purpose

This paper provides background information and gives an account of the discussions of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families ("the Subcommittee") on the application of and arrangements for Mainland "overage children" of Hong Kong residents to enter Hong Kong for reunion with their parents under the One Way Permit ("OWP") Scheme.

Background

2. Article 22 of the Basic Law stipulates that "For entry into the Hong Kong Special Administrative Region ("HKSAR"), people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region."

3. Mainland residents who wish to settle in Hong Kong must apply for a OWP from the Public Security Bureau Offices of the Mainland ("PSB") where their household registrations are kept. The existing OWP quota are 150 places per day, of which 60 are allocated to persons holding Certificates of Entitlement¹ ("CoE"), and the rest for application by other Mainland residents for family reunion in Hong Kong, including separated spouses and their

¹ Persons claiming right of abode under paragraph 2(c) of Schedule 1 to the Immigration Ordinance (Cap. 115) have to apply for a CoE from the Immigration Department ("ImmD"). Mainland residents holding a CoE issued by ImmD and affixed onto an OWP issued by the Mainland authorities can enter Hong Kong to exercise their right of abode.

accompanying children, unsupported children who need to join their relatives in Hong Kong (unsupported children), persons coming to Hong Kong to take care of their unsupported aged parents, and unsupported elderly people coming to join their relatives in Hong Kong. The number of new arrivals of OWP holders in the past 10 years is in **Appendix I**.

4. The Mainland authorities have since May 1997 applied the "Points System" to assess and determine the eligibility of applicants and the order in which they may settle in Hong Kong. Except for CoE holders, the main considerations in examining and approving OWP applications include the separation time and the age of the applicants or their Hong Kong relatives.

5. Before 1 November 2001, under the rules of the Mainland authorities, eligible Mainland children of Hong Kong residents aged below 14 might apply for OWP to come to Hong Kong for settlement. Approval would not be granted to those who attained the age of 14 while awaiting approval by the Mainland authorities. The term "overage children" refers to those persons who (a) were below the age of 14 when their natural fathers or mothers, before 1 November 2001, obtained their Hong Kong identity card; and (b) turned 14 while awaiting approval and hence lost their approval status.

6. The Administration announced in January 2011 that the Central Government decided that with effect from 1 April 2011, Mainland "overage children" of Hong Kong residents may apply for OWP to come to Hong Kong for reunion with their natural parents. The application, approval and issue of permits to "overage children" largely follow that of OWP applications.

Deliberations by the Subcommittee

7. In the course of deliberations on the immigration arrangements for families with members from the Mainland, members have put forward some proposals to refine the OWP Scheme, including opening a channel for adult children to reunite with their parents in Hong Kong.

Application for OWP by Mainland "overage children" of Hong Kong residents

8. At its meeting on 5 November 2009, the Subcommittee was advised by the Administration that the Central Government had announced that a new policy initiative would be implemented to cater for Mainland adult children of Macao residents to settle in the Macao Special Administrative Region ("MSAR"). The Central Government had indicated that the policy, in general, would be applicable to Hong Kong. According to the Administration, the arrangements had yet to be finalised and announced, and it was actively discussing with the Mainland authorities on the arrangements.

9. At its meeting on 26 April 2010, the Subcommittee was advised that the Central Government had already made clear to the HKSAR Government that the arrangements to cater for Mainland "overage children" of Macao residents to settle in MSAR would also be applicable to Hong Kong. Noting that the Administration was discussing with the relevant Mainland authorities the implementation arrangements, members urged the Administration to expedite the discussion and make public announcement of the new arrangements. Some members took the view that applications should be vetted and approved based on objective criteria, such as separation time and the special circumstances of each case.

10. According to the Administration, it had held a number of meetings with the relevant Mainland authorities regarding the implementation arrangements and exchanged views on certain principles, including no deadline being set for application, vetting of applications in order of priority based on objective criteria (such as the date when the father or mother was issued with his/her Hong Kong identity card), etc. The Administration assured members that once there were more concrete developments in respect of the OWP application of Mainland "overage children" of Hong Kong residents, it would promptly inform the Subcommittee and make a public announcement.

11. At its meeting on 29 June 2010, the Subcommittee noted with concern that the Administration was still in discussion with the Mainland authorities on the implementation arrangements, despite the fact that the Central Government had announced the arrangements. Members took a strong view that it was the HKSAR Government's responsibility to honour and implement the Central Government's policy. The Administration should actively follow up the matter with the Mainland authorities. The Administration advised that given that tens of thousands of Mainland adult children of Hong Kong residents were involved, both the HKSAR Government and the Mainland authorities had to work out the arrangements to help ensure their orderly arrival.

12. Pursuant to the Subcommittee meeting on 29 June 2010, the Chairman wrote to the Secretary for Security ("S for S") to convey the Subcommittee's views on the matter, and requested the Administration to provide a concrete implementation timetable. In his reply dated 4 August 2010, S for S assured members that the Government would spare no effort in continuing with the on-going discussions with a view to finalising the arrangements and promulgating such arrangements as soon as possible.

13. The Subcommittee discussed the progress again at its meeting on 26 October 2010. According to the Administration, although it was not in a position to pre-empt the Mainland authorities in committing to any detailed application arrangements or timetable, it believed that the discussions on the

relevant arrangements were already at the final stage. Subject to the Mainland authorities' confirmation of the concrete details, eligible Mainland "overage children" of Hong Kong residents could start applying for OWP for settlement in Hong Kong in accordance with the arrangements to be promulgated by the Mainland public security authorities.

14. Members were dissatisfied at the slow progress made in respect of the implementation arrangements for eligible Mainland "overage children" to apply for OWP. Members strongly urged the Administration to actively follow up the matter with the relevant Mainland authorities and make available the new arrangements as early as practicable. To expedite the ongoing discussions between the HKSAR Government and the relevant Mainland authorities, members agreed that the Chairman should on behalf of the Subcommittee write to the Hong Kong and Macao Affairs Office of the State Council requesting it to assist in expediting the discussions on the matter, with a view to commencing the OWP application procedure by 1 January 2011.

Implementation details of OWP application by "overage children"

15. The Administration subsequently advised the Subcommittee at its meeting on 15 January 2011 that the Central Government agreed that with effect from 1 April 2011, Mainland "overage children" of Hong Kong residents might apply for OWP to come to Hong Kong for reunion with their natural parents. The application, approval and issue of OWP applicable to "overage children" would largely follow those of OWP applications. Eligible applicants might submit OWP applications by phases at the Exit and Entry Administration Offices of PSB at the county or above level of their household registration. The Mainland authorities decided that the phased submission of applications by "overage children" should follow the order of when their natural father or mother obtained their Hong Kong identity cards. The first batch would be those whose parents had obtained their Hong Kong identity cards before 1980, i.e. on or before 31 December 1979.

16. While welcoming and appreciating the Administration's efforts in working out the new arrangement, members and the deputations attending the meeting were concerned about the detailed application arrangements, the lead time for processing the first batch of applications, and the timetable for subsequent batches of OWP application of Mainland "overage children", as well as the estimated number of eligible "overage children" applicants. They called on the Administration and the Mainland authorities to promulgate the detailed arrangements as early as practicable. The deputations and some members also urged the extension of the new arrangement to those Mainland "overage children" whose Hong Kong parents were deceased.

17. In the view of the Administration, the new arrangement was premised on the policy objective to facilitate family reunion in an orderly manner based on objective and transparent criteria. Eligible Mainland "overage children" could submit applications according to their own settlement plan, and there was no closing date for submitting applications. The detailed arrangements regarding OWP application of overage children, being within the remit of the relevant Mainland authorities, would be promulgated shortly given that the new arrangement would commence with effect from 1 April 2011.

18. As for the estimated number of eligible "overage children" applicants, the Administration advised that the exact number of eligible applicants dispersed throughout the Mainland was not available, but the number was estimated to be tens of thousands. It stressed that the HKSAR Government and the Mainland authorities had been actively discussing the implementation details, with the objective of working out a sound and fair arrangement to facilitate the orderly and early entry of eligible applicants for family reunion based on objective and transparent criteria. It was expected that around 80 000 accumulated unused OWP quotas over the past 10 years would help effectively address the needs of "overage children". The Administration would be in a better position to assess the actual number of applications and processing time after the commencement of OWP application procedure.

19. At the Subcommittee meeting on 14 June 2011, members were given to understand that on 15 March 2011, the Exit and Entry Administration Office of PSB had released the application details of OWP by "overage children", including the application procedures and required document. In short, the application, approval and issue of permits to "overage children" largely followed that of OWP applications. According to the Administration, as at end of May 2011, about 170 "overage children" were issued with OWPs and had entered Hong Kong. Members held the view that to facilitate early reunion of the eligible applicants with their families, the processing of OWP applications by "overage children" should be expedited. They were particularly concerned about the timetable for subsequent phases of applications and the transparency of the processing of OWP applications by "overage children".

20. The Administration advised members that to its understanding, most of the applications were still being processed as the arrangement had just started for about two months. There was no deadline for the submission of the applications or prescribed quota for the applications. It was expected that around 80 000 accumulated unused OWP quotas over the past 10 years would address the needs of overage children. Information relating to the eligibility criteria for OWP applications by "overage children" and the status of applications was available at the PSB website. The Administration further advised that the phased submission of applications by "overage children" to the Exit and Entry Administration Offices of PSB would be scheduled

chronologically according to the order in which the applicants' natural fathers or mothers obtained their Hong Kong identity cards. The Administration assured members that it would continue to exchange views with the relevant Mainland authorities on application and related matters.

Support services for newly arrived "overage children"

21. Some members raised concern as to whether the Administration would study the profile of and conduct a longitudinal study on the newly arrived "overage children" in order to better understand their service needs and to facilitate their smooth integration into the community. The Administration advised that the Home Affairs Department ("HAD") and the Immigration Department ("ImmD") compiled and published on a quarterly basis the information concerning OWP entrants. The data on demographic and social characteristics was collected by ImmD when the OWP holders first entered Hong Kong via the Lo Wu control point. HAD conducted a survey on new arrivals from the Mainland when they applied for the Hong Kong identity cards. The survey focused on the service needs and current situation of the new arrivals from the Mainland. The combined statistical report was disseminated to relevant Government departments and non-governmental organisations for service planning, and was uploaded onto the HAD website. The Administration further advised that HAD started to collect information on the service needs of overage children OWP holders amongst other new arrivals. This apart, the Administration had put in place a range of corresponding support services, including retraining and employment services, to facilitate their early integration into the community.

Relevant papers

22. A list of the relevant papers on the Legislative Council website is in **Appendix II**.

Number of New Arrivals of OWP Holders *

Appendix I

Categories		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010 (Jan-Sep)
Certificates of Entitlement Holders (60 places per day)		26 275 (72)	29 296 (80)	16 731 (46)	13 350 (37)	10 314 (28)	7 062 (19)	5 325 (15)	4 487 (12)	4 490 (12)	5 025 (14)	3 799 (14)
Spouses separated for 10 years or above and their accompanying children (30 places per day)	Spouses	13 093 (36)	3 129 (9)	2 846 (8)	4 149 (11)	2 909 (8)	1 497 (4)	684 (2)	582 (2)	731 (2)	589 (2)	368 (1)
	Children	371 (1)	200 (1)	264 (1)	818 (2)	773 (2)	489 (1)	261 (1)	241 (1)	310 (1)	240 (1)	155 (1)
Other Categories (60 places per day)												
(a) Spouses separated for less than 10 years and their accompanying children	Spouses	12 349 (34)	14 914 (41)	17 420 (48)	25 507 (70)	17 486 (48)	31 487 (86)	27 739 (76)	17 541 (48)	22 571 (62)	30 548 (84)	20 237 (74)
	Children	443 (1)	931 (3)	1 426 (4)	2 757 (8)	1 723 (5)	9 864 (27)	15 260 (42)	6 387 (17)	8 413 (23)	8 044 (22)	5 472 (20)
(b) Others ^		4 999 (14)	5 185 (14)	6 547 (18)	6 926 (19)	4 867 (13)	4 707 (13)	4 901 (13)	4 627 (13)	5 095 (14)	4 141 (11)	2 995 (11)
Total of the Year		57 530 (157)	53 655 (147)	45 234 (124)	53 507 (147)	38 072 (104)	55 106 (151)	54 170 (148)	33 865 (93)	41 610 (114)	48 587 (133)	33 026 (121)

Remark :

* The above statistics were compiled from the information collected by the Immigration Department from all OWP holders when they first entered Hong Kong via the Lo Wu Control Point.

() Average figure per day; less than one is counted as one.

^ Including unsupported children who need to join their relatives in Hong Kong, persons coming to Hong Kong to take care of their unsupported aged parents, and unsupported elderly people coming to join their relatives in Hong Kong.

**Relevant papers on
application for One Way Permit by
Mainland "Overage Children" of Hong Kong residents**

Committee	Date of meeting	Paper
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	5 November 2009 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	26 April 2010 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	29 June 2010 (Item I)	Agenda Minutes CB(2)2167/09-10(01)
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	26 October 2010 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	15 January 2011 (Item II)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	14 June 2011 (Item I)	Agenda