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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

**Paper prepared by the Legislative Council Secretariat
for the meeting on 29 May 2009**

Immigration policy relating to Mainland-HKSAR families

Purpose

This paper summarizes members' views and concerns on the impact of the immigration arrangements on families with members from the Mainland as well as members' proposals to refine the One Way Permit (OWP) and the Two Way Permit (TWP) Schemes.

Background

2. Since its appointment in January 2009, the Subcommittee has held three meetings to discuss with the Administration the immigration policy and measures which have impact on families with members from the Mainland. The Subcommittee also received views from 13 deputations on the subject.

3. At the meeting on 17 April 2009, members agreed that the Subcommittee should draw up specific recommendations to refine the OWP and TWP Schemes to facilitate the reunion of Mainland residents with their families in Hong Kong for the Administration's consideration and response.

Immigration arrangements for entry of Mainland residents

4. Article 22(4) 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."

5. Mainland residents who wish to settle in Hong Kong must apply for a OWP from the Public Security Bureau Offices of the Mainland where their household registrations are kept. The existing OWP quota is 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 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.

6. The Mainland authorities have since May 1997 applied the "Points System" to access 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.

7. Apart from entering Hong Kong for settlement on the strength of OWP, Mainland residents can apply for an Exit-Entry Permit (EEP) (commonly known as TWP) from the Exit and Entry Administration Offices of the Public Security Bureau of the Mainland for entering Hong Kong. Their limits of stay in Hong Kong depend on the type of exit endorsements they hold.

Members' major views and concerns

8. Most members took the view that the reunion of family members should be a priority area in the Administration's population policy. Given that the OWP Scheme had been in place for more than a decade, the Administration should liaise with the Mainland authorities to refine the mechanism for allocation and distribution of the 150 daily places for OWP to expedite the reunion of those families with members from the Mainland and earlier arrival of Mainland children born to Hong Kong residents so that these children could integrate into the community and the education system at a young age.

9. The Administration advised that the OWP Scheme aimed to facilitate the reunion of Mainland residents with their families in Hong Kong in an orderly manner. The Mainland authorities had from time to time refined the system. For instance, the "eligibility points" for OWP applications of separated spouses were further relaxed in 2009, thereby shortening the waiting time from five years in 2005 to four years. In addition, the unused places under the sub-quota for long-separated spouses had since 2001 been allocated to spouses

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.

separated for a shorter period and their accompanying children. In 2003, the age limit for OWP applications of accompanying children of separated spouses was relaxed from 14 to 18; the restriction of only one accompanying child was also discarded.

10. In the light of the under-utilization of the overall daily OWP places in the past few years, in particular the sub-quota for CoE holders and spouses separated for 10 years or above and their accompanying children, members generally considered that the unused places should be allocated to applications of other categories. Consideration could be given to allocating the unused places for Mainland adult children born to Hong Kong residents and further shortening the waiting time for separated spouses.

11. The Administration advised that the processing and assessment of applications for the issue of OWPs were governed by the respective Mainland authorities. The Security Bureau (SB) had on occasions reflected the views of the public to the Mainland authorities for them to consider a channel for Mainland adult children under the OWP Scheme. In the meantime, Mainland adult children could, under the existing mechanism, apply for OWPs for the reasons of taking care of their unsupported aged parents in Hong Kong, or apply for TWPs to visit their relatives in Hong Kong. On the suggestion to further shorten the waiting time for separated spouses under the OWP Scheme to facilitate family reunion, the Administration pointed out that it was equally important to uphold effective immigration control, for instance, measures to prevent Mainland residents from enter Hong Kong by means of bogus marriages.

12. Pointing out that some Mainland mothers were coming to Hong Kong on strength of a TWP with "visiting relatives" exit endorsement to take care of their young children in Hong Kong, some members expressed grave concern about the difficulties faced by these families. As the holders could only stay in Hong Kong for up to 90 days, they had to return to the Mainland and re-apply for a fresh TWP for visiting Hong Kong. The young family members who were attending schools would be left unattended in Hong Kong upon their mothers' return to the Mainland. These members took the view that Mainland mothers visiting Hong Kong on the strength of a TWP should be allowed to stay for a longer period of time to take care of their young children in Hong Kong.

13. The Administration responded that it was essential to strike a balance between travel facilitation and effective immigration control in considering the proposal to allow TWP holders to stay for a longer period of time. The Exit and Entry Administration Offices of some provinces had offered facilitation to applicants applying for visiting Hong Kong. Those applying for the same type of exit endorsement might authorize another person to apply on their behalf, and they might also opt to collect the TWP by means of speed post. With

these facilitations, the applicants did not have to return to their place of household registration to make applications in person. Nonetheless, the Administration would conduct further study, with a view to exploring the further facilitations which could be provided to those with genuine difficulties, having regard to the facilitations currently in place and the need to uphold effective immigration control.

14. The Administration further advised that to facilitate its consideration of the way forward, it welcomed specific recommendations from the Subcommittee. It would study the suggestions and its implications, and exchange views with the Mainland authorities as appropriate.

Recommendations

15. On the basis of discussions and views made by the Subcommittee, members may wish to consider making the following recommendations for the Administration's consideration –

- (a) further shortening the waiting time for the issue of OWPs to separated spouses from four years to three years or less;
- (b) opening channels for Mainland adult children and Mainland parents of Hong Kong residents under the OWP Scheme;
- (c) allocating the unused sub-quota to Mainland single mothers who became ineligible for applying for OWPs due to the passing away of their spouses (who were Hong Kong residents) or divorce;
- (d) lifting the restriction for only one Mainland adult child was allowed to come to Hong Kong to take care of their unsupported parent(s) aged 60 or above;
- (e) relaxing the "eligibility points" for OWP applications of -
 - (i) separated spouses with young children aged below 12 in Hong Kong; and
 - (ii) Mainland adult children with unsupported parents aged 60 or above/frail parents in Hong Kong; and
- (f) allowing Mainland mothers visiting Hong Kong on the strength of a TWP with "visiting relatives" exit endorsement to stay for a longer period of time, say, from three months to six months or to tie in with the school term breaks, so as to enable them to take care of their children attending school in Hong Kong.

Advice sought

16. Members' advice is sought on whether the recommendations as set out in paragraph 15 above should be adopted and forwarded to the Administration for consideration on the way forward.

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