

LC Paper No. CB(4)996/12-13(01)

香港特別行政區政府
保安局The Government of the
Hong Kong Special Administrative Region
Security Bureau

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19 September 2013

Clerk to Panel on Administration of
Justice and Legal Services
Legislative Council,
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong
(Attn: Ms Mary So)

By Fax
(Fax: 2840 0716)

Dear Ms So,

**Panel on Administration of Justice and Legal Services
Right of abode issues of children born in Hong Kong to Mainland parents
both of whom are not Hong Kong permanent residents**

At the meeting of the Panel on Administration of Justice and Legal Services on 28 May 2013, Members considered the Administration's paper entitled "Right of abode issues of children born in Hong Kong to Mainland parents both of whom are not Hong Kong permanent residents" (LC paper no. CB(4)679/12-13(03)), and requested the Administration to provide further information. The Administration's reply is as follows.

Bogus Marriage

Members asked for the number of cases of Mainland pregnant women ("MPW") seeking entry into Hong Kong through bogus marriage with Hong Kong residents in the past three years, and the measures that have been or would be put in place to tackle the problem.

Under the existing special arrangements, MPW whose husbands are Hong Kong permanent residents or holders of Permit for Proceeding to Hong Kong and Macao (commonly known as "One-way Permit") may make bookings at local private hospitals for delivery. Such couples are required to submit the originals of the following documents to the private hospital concerned –

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- (i) A Hong Kong certificate of marriage, or a certificate of marriage notarised by a notary public office in the Mainland; and
- (ii) The husband's Hong Kong permanent identity card, or the husband's Hong Kong identity card and One-way Permit; and
- (iii) Oaths taken by the husband and the wife separately on their marital and parent-child relationships.

Each couple will also be required to sign a consent form authorising the authority to conduct checks with the relevant Hong Kong and Mainland departments and organisations on their marriage certificate, proof of their identity and other documents.

The Department of Health (DH) will closely monitor and conduct checks on the documents. It will also refer suspicious cases to law enforcement agencies for follow-up actions in accordance with the law.

The Immigration Department (ImmD) has formed a special task group since November 2012 to conduct intensive research and intelligence analysis on these delivery bookings. The Birth Registries have also stepped up vigilance on doubtful cases. All suspicious cases would be further investigated. 103 doubtful cases have been detected by ImmD so far. Six persons, including three Mainland pregnant women, have been convicted of offences related to fraud or deception, and all of them were convicted to imprisonment from 4 weeks to 12 months.

Means of Entering Hong Kong by MPW

Members also enquired the types of means of entering Hong Kong by MPW to circumvent the policy and the number of MPW involved since the implementation of the zero delivery quota policy from 2013 for obstetric services, and the measures that have been or would be put in place to tackle the problem.

Since the implementation of the zero quota policy, majority of the MPW still tried to circumvent immigration control upon entry by posing as genuine visitors not coming for delivery, while some arrived at an early stage of pregnancy and overstayed in Hong Kong until delivery. From January to June 2013, there were 114 MPW who had entered Hong Kong and gate-crashed

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hospitals for deliveries. Among them, 32 are spouses of Hong Kong permanent residents or holders of one-way permit.

To complement the implementation of the zero quota policy, the Administration has enhanced the administrative measures against MPW, including the following –

- (i) The DH has deployed Health Surveillance Assistants (HSAs) at various control points to assist in identifying MPW and referring them to suitable immigration kiosks. The DH has also set up medical teams composing doctors and nurses to provide necessary support and advice to the ImmD upon secondary examination of the MPW;
- (ii) The ImmD has stepped up immigration control of MPW at control points. MPW who are pregnant for 28 weeks or more must hold and produce a Confirmation Certificate issued by hospitals in Hong Kong for checking by immigration officers when they enter Hong Kong or else they may be refused entry. Car search operations have also been strengthened to intercept MPW attempting to enter Hong Kong on board cross-boundary private cars at vehicular control points;
- (iii) The ImmD has strengthened analysis of the tactics and trend of “gate-crashing” by MPW through collection of intelligence and data, taken corresponding surveillance measures, and conducted joint raids with other departments;
- (iv) The ImmD has stepped up enforcement and removal actions against MPW overstayers and maintained close liaison with the Mainland authorities to deter MPW from taking the risk of seeking emergency deliveries at hospitals;
- (v) From February 2012 to June 2013, the Office of the Licensing Authority (OLA) of the Home Affairs Department, together with the Hong Kong Police Force and/or the ImmD, has carried out more than 60 inter-departmental blitz operations and conducted over 1 900 inspections at unlicensed guesthouses. The OLA has instituted a total of 115 prosecutions against unlicensed guesthouses suspected of contravening the Hotel and Guesthouse

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Accommodation Ordinance, with 99 persons being convicted by the court. Moreover, the OLA is now examining the evidence collected for 39 cases. Prosecutions will be initiated if it is established that there is sufficient evidence to support the prosecutions.

Yours sincerely,



(Leo LI)

for Secretary for Security

c.c.	Secretary for Justice	(Attn: Mr Gary Poon)
	Secretary for Food and Health	(Attn: Ms Estrella Cheung)
	Director of Home Affairs	(Attn: Mr Franco Kwok)
	Director of Immigration	(Attn: Mr Erick Tsang)