

# 立法會 *Legislative Council*

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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 23 October 2015**

#### **Issues Relating to Mainland-HKSAR Families**

#### **Purpose**

This paper provides background information and summarizes discussions on issues relating to Mainland-HKSAR families at the meetings of the Council and its Committees.

#### **Background**

##### Subcommittee to Study Issues Relating to Mainland-HKSAR Families under House Committee of the Fourth Legislative Council

2. The House Committee ("HC") of the Fourth Legislative Council ("LegCo") appointed a subcommittee to study issues relating to Mainland-Hong Kong families ("the former Subcommittee") at its meeting on 2 January 2009. The former Subcommittee focused its work on the related population and immigration policy, procedures and waiting time in the vetting and approving of applications for One Way Permit ("OWP")<sup>1</sup> as well as the rights for the use of public services

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<sup>1</sup> Mainland residents who wish to settle in Hong Kong for family reunion must apply for OWPs from the Exit and Entry Administrative Offices of the Public Security Bureau ("PSB") of the Mainland at the places of their household registration. The OWP scheme allows Mainland residents to come to Hong Kong for family reunion in an orderly manner. The existing daily quota of OWP is 150. Of these 150 places, 60 are allocated to persons holding Certificates of Entitlement ("CoE"), and the rest for application by other Mainland residents for family reunion in Hong Kong. Mainland residents under one of the following situations may apply for OWP to settle in Hong Kong -

- (a) his/her spouse is settled in Hong Kong (may bring along children aged under 18); or
- (b) he/she is aged above 18 and under 60 and needs to come to Hong Kong to take care of his/her parents settled in Hong Kong both of whom are aged above 60 and have no children in Hong Kong; or
- (c) he/she is aged above 60 and has no children in the Mainland, and has to depend on his/her children aged above 18 settled in Hong Kong; or
- (d) he/she is aged under 18 and has to depend on his/her parents settled in Hong Kong; or
- (e) he/she is a child of a Hong Kong permanent resident and holds a CoE.

and facilities. The former Subcommittee completed its work in June 2012, a summary of its recommendations is in **Appendix I**.

Subcommittee to Study Issues Relating to Mainland-HKSAR Families under HC of the Fifth LegCo

3. At its meeting on 16 January 2015, HC of the Fifth LegCo agreed in principle to the proposed appointment of a subcommittee under HC to study issues relating to Mainland-HKSAR families ("the Subcommittee"). The proposal was put forward by Hon Emily LAU and Hon LEUNG Yiu-chung following their meeting with a deputation on 16 December 2014 at the Public Complaints Office of the LegCo Secretariat. The deputation had expressed that given the effectiveness of the former Subcommittee in monitoring the Government's work on relevant issues, a subcommittee should likewise be appointed in the Fifth LegCo to continue to follow up the related matters.

4. According to the work plan approved by HC, the Subcommittee will focus its work on the following areas –

- (a) the population policy, in particular the immigration arrangements, in respect of Mainlanders whose family members are Hong Kong residents, and the impact of the policy on Mainland-HKSAR families;
- (b) progress of the implementation of the measure for Mainland "overage children"<sup>2</sup> of Hong Kong residents to apply for OWP to settle in Hong Kong, including the timetable and processing time of various phases of applications;
- (c) the immigration and administrative arrangements for entry of Mainlanders whose family members are Hong Kong residents, particularly in respect of Mainland single parents with minor Hong Kong resident children, and Mainland adult children of Hong Kong residents who are ineligible for "overage children" OWP applications as they were above the age of 14 when their natural fathers or mothers obtained Hong Kong Identity cards; and
- (d) provision of public services for new arrivals from the Mainland.

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<sup>2</sup> According to the Administration, before 1 November 2001, eligible Mainland children of Hong Kong residents aged below 14 might apply to the Mainland authorities 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.

## **Members' deliberations**

### Population policy having impact on Mainland-HKSAR families

5. Having regard to the increasing number of cross-boundary marriages and the fact that separation of family would give rise to multi-faceted social problems, some Members considered that family reunion should be a priority area covered in the population policy. In their view, the Administration had placed too much emphasis on attracting talents and quality immigrants in formulating the population policy. These Members had called for a review of the population policy.

6. According to the Administration, the population policy aimed at optimizing Hong Kong's demographic structure by securing and nurturing a quality population. A wide range of policy initiatives were involved in order to achieve the aim of the population policy. The Administration would take into account the population changes in pursuing the objectives of the population policy and observe closely the number of Mainland residents who would be settling in Hong Kong in planning ahead the resources to meet the service needs of these families. The Administration recognized the importance of family reunion and social harmony. It provided support services for new arrivals from the Mainland and families with new arrivals from the Mainland and had put in place various measures to help them integrate into the community.

### Issuance of OWP

7. Some Members stressed 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, these Members took the view that 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.

8. According to the Administration, the Mainland authorities implemented a point-based system since May 1997, setting out open and transparent approval criteria. The Mainland authorities assessed the eligibility and priority of applicants with reference to these criteria. "Eligibility points" required for approval of OWP applications were updated annually and announced through media and the Internet. Except for CoE holders, the main considerations in examining and approving OWP applications included the separation time and the

age of the applicants and their Hong Kong relatives. The Mainland authorities had adjusted and refined the OWP Scheme from time to time having considered suggestions from the HKSAR Government and various sectors of the society. Major adjustments made in recent years included -

- (a) Since 2001, the unused places under the sub-quota for long-separated spouses were allocated to spouses separated for a shorter period and their accompanying children. In addition, Mainland children adopted by Hong Kong residents could apply for OWP and the age limit for OWP applications of unsupported children was relaxed from 14 to 18;
- (b) Since 2003, the age limit for OWP applications of accompanying children of separated spouses was relaxed from 14 to 18. The restriction that only one accompanying child was allowed was also removed; and
- (c) In 2009, the "eligibility points" for OWP applications of separated spouses were relaxed, thereby shortening their waiting time to four years.

9. 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, to prevent Mainland residents from entering Hong Kong by means of bogus marriages.

10. Some Members also suggested opening a channel for Mainland parents of Hong Kong residents (including children born to Mainland parents in Hong Kong) under the OWP Scheme, and allowing Hong Kong children born to Mainland residents to apply for household registration so that the former could choose to return to and live with their parents in the Mainland. The Administration was of the view that the proposal would have profound long-term effects on numerous fronts and required thorough deliberations. These included whether this would induce more Mainland pregnant women to enter Hong Kong through various channels for delivery and whether this would impact on the waiting time of other eligible OWP applicants, etc.

#### OWP applications by "overage children"

11. According to the Administration, the Central Government had decided in January 2011 that with effect from 1 April 2011, Mainland "overage children" of Hong Kong residents could apply for OWP to come to Hong Kong for reunion with their natural parents as long as their natural fathers or mothers still resided in Hong Kong on 1 April 2011. The application, approval and issuance of

permits to "overage children" largely follow that of OWP applications. The phased submission of applications by "overage children" to the Exit and Entry Administration Offices of PSB was scheduled chronologically according to the order in which their natural fathers or mothers obtained their Hong Kong identity cards and there was no deadline for submission of applications. Applicants whose parents obtained their first Hong Kong identity cards on or before 31 December 1979 may submit applications for OWPs starting from 1 April 2011. From 20 January 2015, Mainland authorities accepted a new round of applications for OWPs from Mainland "overage children" whose natural fathers or mothers obtained their first Hong Kong identity cards on or before 31 December 1986.

12. While welcoming and appreciating the Administration's effort in working out this arrangement, some Members expressed concern about the detailed application arrangements and the lead time for processing the applications. They had called on the Administration to convey to the Mainland authorities to expedite the processing of OWP applications by "overage children" as far as practicable and announce the concrete timetable for the subsequent phases of application, in order to facilitate early reunion of these "overage children" to take care of their ageing parents in Hong Kong.

13. According to the Administration, around 80 000 accumulated unused OWP quotas would help effectively address the needs of "overage children". The exact number of eligible "overage children" applicants dispersed throughout the Mainland was not available but estimated to be tens of thousands. It would be in a better position to assess the actual number of applications and processing time after the commencement of the OWP application procedure.

14. Members noted that some Mainland adult children of Hong Kong resident parents were not eligible for "overage children" OWP applications as they were above the age of 14 when their natural fathers or mothers obtained the Hong Kong identity cards. Some Members appealed to the Administration to discuss with the Mainland authorities the viability of opening a channel under the OWP Scheme for these adult children. The Administration advised that the present priority of both the HKSAR Government and the Mainland authorities was to ensure the smooth implementation of the OWP applications by eligible Mainland "overage children". Nonetheless, it would convey the suggestion to the relevant Mainland authorities.

Visiting Hong Kong on the strength of Exit Entry Permits (commonly known as "Two-way permits")

15. Some Members expressed grave concern about the difficulties faced by certain Mainland mothers who came to Hong Kong on the strength of a Two

Way Permit ("TWP")<sup>3</sup> with "visiting relatives" exit endorsement to take care of their young children in Hong Kong. As TWP holders could only stay in Hong Kong for up to 90 days, they had to return to the Mainland to re-apply for a fresh TWP for visiting Hong Kong during which their young family members who were attending schools would be left unattended in Hong Kong. These Members took the view that Mainland mothers visiting Hong Kong on the strength of TWPs should be allowed to stay for a longer period of time to take care of their young children in Hong Kong, preferably to tie in with the school term.

16. The Administration stressed 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 special arrangement to facilitate applicants applying for the same type of exit endorsement, they could authorise another person to apply on their behalf and opt to collect the TWP by means of speed post. With this facilitation, the applicants did not have to return to their place of household registration to make applications in person. The Administration undertook to conduct further study, with a view to exploring other facilitation which could be provided to those with genuine difficulties.

17. Some Members suggested that one-year multiple exit endorsement for visiting relatives be issued to Mainland adult children, who were born to Hong Kong residents and wished to visit their relatives in Hong Kong but had no intention to apply for OWPs. The Administration agreed to follow up the suggestion.

### Role of HKSAR Government in approving applications

18. Some Members expressed concern about the increasing number of persons prosecuted in connection with seeking entry into Hong Kong for settlement by bogus marriage and the lack of transparency in the processing of OWP, TWP and

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<sup>3</sup> Mainland residents who wish to visit relatives in Hong Kong could apply for TWPs with endorsement for "visiting relatives" from the Exit and Entry Administration Offices of PSB at the places of their household registration. Similar to OWPs, the application, approval and issuance of TWPs fall within the remit of the Mainland authorities. The endorsement for "visiting relatives" allows the applicant to visit relatives (including spouse, parents or spouse's parents, children, siblings) who are settled, studying or working in Hong Kong. There are two categories of TWP –

- (a) Multiple journeys within three months: holders may make multiple trips between Hong Kong and the Mainland within 90 days from the date of their first landing; and
- (b) Single journey within three months: holders may stay for up to 14 days in a single journey within the three-month validity period of the endorsement.

A one-year multiple exit endorsement for visiting relatives was introduced by the Mainland authorities in December 2009. Mainland residents who applied for OWPs under the category of separated spouses and have minor children with their Hong Kong spouses may apply to stay in Hong Kong temporarily pending issuance of their OWPs. Those with special family difficulties may also apply for one-year multiple exit endorsements for visiting relatives. Holders of the endorsement can make multiple visits to Hong Kong of up to 90 days each within the one-year validity period.

exit endorsement applications. These Members suggested that the HKSAR Government should be responsible for the screening and approval of OWP applications. The Administration pointed out that the HKSAR Government and the Mainland authorities were taking firm actions to combat corruption. Persons who entered Hong Kong with OWP, TWP or exit endorsement obtained with the submission of false information were in breach of the laws of Hong Kong and laws of the Mainland. They would be repatriated to the Mainland.

19. Some Members urged the Administration to actively discuss with the Mainland authorities the setting up of a joint liaison working group to review the immigration arrangements and to deal with complaints and appeals relating to the issuance of OWP, TWP and exit endorsement. The Administration reiterated that as stipulated under the Basic Law, the assessment of applications for and the issuance of OWP, TWP and exit endorsement was within the remit of the relevant Mainland authorities. On this basis, the HKSAR Government would continue to exchange views with the Mainland authorities through the existing channels. Where necessary, the HKSAR Government would communicate and follow up with the Mainland authorities on individual cases. The proposed setting up of a joint liaison group outside the current framework to review or handle individual cases or the assessment of applications was considered not feasible.

20. According to the Administration, for individual cases with special family difficulties but did not meet the eligibility criteria (including Mainland single mothers of minor children in Hong Kong whose husbands had passed away, or who were divorced or had other special difficulties), the Immigration Department ("ImmD") would reflect such cases to and liaise with the Mainland authorities having regard to the requests of the applicants and circumstances of the cases. The Mainland authorities had responded positively by exercising discretion and issuing OWPs or one-year multiple exit endorsements for visiting relatives to some of these applicants.

#### Public services for new arrivals from the Mainland

21. Members have sought information on the support services provided for families with new arrivals from Mainland. According to the Administration, various bureaux (and their departments) including the Home Affairs Bureau, Labour and Welfare Bureau, Education Bureau, Transport and Housing Bureau, Food and Health Bureau and Security Bureau were involved in the provision of services to new arrivals from Mainland. The Home Affairs Department ("HAD") coordinated the service provision for new arrivals. It published and regularly updated the "Service Handbook for New Arrivals" to inform the new arrivals of essential information about living in Hong Kong. In addition, HAD had provided resources to district organizations and local non-governmental organizations to organize programmes to assist those newly arrived in Hong Kong to integrate into the local community.

22. Members considered that the Administration should understand the needs of Mainland-HKSAR families and plan comprehensively for the support services for these families. To this end, members had called upon the Administration to collate statistics on the demographic characteristics of these families, including the number of family members on TWPs and the number of Mainland single mothers on TWPs as well as conduct a longitudinal study on new arrivals from the Mainland to better understand their service needs and to facilitate their smooth integration into the community.

23. The Administration advised that Mainland people visiting Hong Kong on TWP were visitors by nature and they were therefore not covered under the "resident population" approach under the 2011 Population Census. However, in view of the growing needs of statistics relating to cross-boundary families, it would enhance the 2011 Population Census so that trial estimates on the number of TWP holders who were living with some other family members in Hong Kong during the census period as well as some basic demographic information (e.g. relationship to household head and sex) of these TWP holders could be obtained from the census data.

24. Members were also advised that HAD and ImmD compiled and published on a quarterly basis 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, focusing on the service needs and current situation of the new arrivals from the Mainland when they applied for the Hong Kong identity cards. The combined statistical report was disseminated to relevant Government departments and non-governmental organizations for service planning, and was uploaded onto the HAD website. HAD had started to collect information on the service needs of "overage children" OWP holders amongst other new arrivals.

25. On 17 December 2013, the Court of Final Appeal ("CFA") held that the residence requirement under the Comprehensive Social Security Assistance ("CSSA") Scheme should be lowered from seven years to one year, i.e. restoring the "one-year residence requirement" implemented before 1 January 2004. Persons under the age of 18 would continue to be exempted from the residence requirement under the CSSA Scheme.

26. According to the Administration, from the date of judgment up to 27 June 2014, the Social Welfare Department had received 5 567 applications for CSSA from persons having resided in Hong Kong for less than seven years. The number of applications had fallen sharply from 170 per working day in late December 2013 to 20-30 per working day in mid-2014. It was pointed out that a longer time would be required to observe the trend in order to ascertain the financial implications more accurately. The CSSA Scheme had built in flexibility for the



Director of Social Welfare to exercise discretion to grant CSSA to persons not meeting the residence requirement in cases of genuine hardship. The discretion would normally be exercised when a new arrival worked to support his/her family members, in recognition of his/her efforts to become self-reliant. Some Members were of the view that the Administration should explain clearly the CSSA Scheme and disseminate statistics on different categories of CSSA cases to minimize misunderstanding and negative impressions of the general public about CSSA recipients.

### **Relevant papers**

27. A list of the relevant papers on the LegCo website is in **Appendix II**.

Council Business Division 2  
Legislative Council Secretariat  
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**Recommendations of the Subcommittee to  
Study Issues Relating to Mainland-HKSAR Families  
formed under the House Committee of the Fourth Legislative Council**

The Subcommittee to Study Issues Relating to Mainland-HKSAR families formed under the House Committee of the Fourth Legislative Council recommended that the Administration should consider the following –

Population policy

- (a) conducting a comprehensive review of the population policy with a view to facilitating family reunion of Mainland-HKSAR families and smooth integration of new arrivals from the Mainland into the community;
- (b) reviewing the existing policies which are discriminatory to the Mainland-HKSAR families, in particular the principle of seven-year residence requirement for subsidised social benefits which are applicable to new arrivals from the Mainland and TWP holders who are members of Hong Kong families;

Use of subsidised obstetric service

- (c) reviewing the eligibility of Mainland spouses of Hong Kong residents for subsidised obstetric service;
- (d) adopting a two-tier obstetric service charges for NEPs with no marital ties in Hong Kong and NEPs whose spouses are Hong Kong residents;
- (e) accepting bookings for obstetric services in public hospitals from Mainland pregnant women whose husbands are Hong Kong residents, irrespective of whether their husbands are permanent residents;

Immigration arrangements

- (f) setting up a joint liaison working group comprising representatives of the HKSAR Government and the Mainland authorities to review the immigration arrangements and deal with complaints and appeals relating to the issue of OWP and exit endorsement;
- (g) conveying to the Mainland authorities members' view on expediting the processing of OWP applications by "overage children" of the first two phases and announcing the concrete timetable for the subsequent phases of applications;
- (h) discussing with the Mainland authorities the viability of opening a channel for Mainland adult children of Hong Kong resident parents who are not eligible for "overage children" OWP application as they were above the

age of 14 when their natural fathers or mothers obtained the Hong Kong identity cards;

- (i) opening a channel for Mainland single mothers with minor Hong Kong resident children to settle in Hong Kong under the OWP Scheme;
- (j) 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 to tie in with the school term breaks, so as to enable them to take care of their children attending school in Hong Kong;
- (k) recommending to the Mainland authorities for compassionate consideration of applications for "one-year multiple" exit endorsement from Mainland single mothers who have young Hong Kong resident children under the category of special family difficulty;

#### Support services for new arrivals from the Mainland

- (l) collating statistics on the demographic characteristics of Mainland-HKSAR families and conducting a longitudinal study on the newly arrived Mainlanders to better understand their service needs and to facilitate their smooth integration into the community;

and

#### Cross-boundary students

- (m) studying the profiles of cross-boundary students with a view to formulating long-term measures to cope with the increasing service demand of these students for various services, such as cross-boundary transportation services, school places and other support services, in a holistic manner.

*Source: Report of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families formed under the House Committee of the Fourth Legislative Council (LC Paper No. CB(2) 2457/11-12, pages 25 – 27)*

**Relevant papers on  
Issues Relating to Mainland-HKSAR Families**

Committee	Date of meeting	Paper
House Committee	29.6.2012	<a href="#">Report of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families</a>
Legislative Council	18.1.2012	<a href="#">Official Records of Proceedings Pages 86 to 88</a>
	5.12.2012	<a href="#">Official Records of Proceedings Pages 135 to 138</a>
	20.3.2013	<a href="#">Official Records of Proceedings Pages 19 to 28</a>
	24.4.2013	<a href="#">Official Records of Proceedings Pages 11 to 14 and Pages 96 to 106</a>
	9.10.2013	<a href="#">Official Records of Proceedings Pages 105 to 113</a>
	23.10.2013	<a href="#">Official Records of Proceedings Pages 104 to 107</a>
	8.1.2014	<a href="#">Official Records of Proceedings Pages 70 to 81</a>
	22.1.2014	<a href="#">Official Records of Proceedings Pages 46 to 55 and Pages 79 to 81</a>
Panel on Security	7.2.2014 (Item IV)	<a href="#">Agenda Minutes</a>
Legislative Council	12.2.2014	<a href="#">Official Records of Proceedings Pages 27 to 29</a>
	26.2.2014	<a href="#">Official Records of Proceedings Pages 99 to 102</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Subcommittee on Poverty	7.7.2014 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	29.10.2014	<a href="#">Official Records of Proceedings Pages 48 to 61 and Page 315</a>
House Committee	16.1.2015 (Item VIII)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	23.1.2015 (Item VIII)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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