

# 立法會

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

#### **Updated background brief prepared by the Legislative Council Secretariat for the meeting on 31 March 2016**

#### **Policies and measures adopted by the Administration relating to Mainland-HKSAR families**

#### **Purpose**

This paper provides background information and summarizes Members' discussions on the policies and measures adopted by the Administration regarding the immigration arrangements relating to Mainland-HKSAR families.

#### **Background**

2. At the meeting of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families ("the Subcommittee") on 23 November 2015, Members discussed with the Administration its progress report (LC Paper No. CB(2) 292/15-16(02)) on implementation of the recommendations of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families formed under the House Committee of the Fourth Legislative Council ("LegCo"). The Subcommittee held another meeting on 23 December 2015 to receive views from the public on the policies and measures adopted by the Administration in five subject areas relating to Mainland-HKSAR families which include, inter alia, the immigration arrangements (including One Way Permit<sup>1</sup> ("OWP"))

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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 Administration Offices of the Public Security Bureau 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.

system, overage children and Mainland single mothers). Another meeting has been scheduled to be held on 31 March 2016 to further discuss the subject matter.

## **Members' deliberations**

### OWP Scheme

3. Some Members stressed that the reunion of family members should be a priority area in the Administration's population policy. 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.

4. 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 Certificates of Entitlement 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 ("the 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.

5. 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.

6. Some Members 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.

7. Noting that the daily OWP quota was under-utilized, some Members were of the view that additional categories of Mainland residents should be allowed to apply for OWP to come to Hong Kong for family reunion. According to the Administration, the relaxation of the approval criteria to cater for additional categories of OWP applicants should be considered in a holistic manner having regard to its implications on a number of concerns, including the potential OWP applications by the spouse and children (who were Mainland residents) of these new arrivals after they had settled in Hong Kong as well as the provision of public services for these new arrivals.

#### Overage children

8. According to the Administration, the Central Government had decided in January 2011 that with effect from 1 April 2011, Mainland "overage children"<sup>2</sup> 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 the Public Security Bureau ("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

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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.

Kong identity cards on or before 31 December 1979 may submit applications for OWPs starting from 1 April 2011 (phase one). From 18 January 2016, Mainland authorities accepted a new round (phase six) 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 1991.

9. Members had called on the Administration to convey to the Mainland authorities to expedite the processing of OWP applications by "overage children" 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. Some Members suggested expanding the range of date on which the applicants' fathers or mothers obtained their first Hong Kong Identity Cards so that more applications could be processed in each round of applications. These Members also enquired if the Mainland authorities would consider accepting applications from all remaining eligible "overage children" in one go. According to the Administration, it had relayed to the Mainland authorities time and again the expectations of Mainland-HKSAR families for early family reunion. To this end, both the Government and the Mainland authorities had continued to review possible room for expediting the processing of OWP applications by Mainland "overage children". For example, in respect of phase six of applications for OWP by Mainland "overage children", the range of date on which the applicants' natural fathers or mothers obtained their first Hong Kong identity cards was extended to five years (i.e. on or before 31 December 1986 – on or before 31 December 1991) against three years in the previous phase (i.e. on or before 31 December 1983 – on or before 31 December 1986).

10. Some Members suggested relaxing the age limit of "overage children" under the OWP Scheme. The Administration explained that such relaxation would probably impose much uncertainty to the Scheme and deviate from the established principle of pragmatic, smooth and orderly arrival of Mainland residents.

11. According to the Administration, for individual cases with special family difficulties but not eligible for application for OWPs, the Immigration Department ("ImmD") would convey such cases to and liaise with the Mainland authorities having regard to the requests of the applicants and circumstances of the cases. Some Members considered that the assistance granted by the Government on a case level was not entirely effective or sufficient in addressing the immigration problems faced by Mainland-HKSAR families.

12. Some Members suggested that one-year multiple exit endorsement for visiting relatives<sup>3</sup> 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.

13. In response to Members' enquiry, the Administration advised that as at the end of October 2015, the Government had completed the verification of about 51 000 applications for OWP by Mainland "overage children"; of which, some 47 000 applicants had been issued OWPs and with around 41 000 already settled in Hong Kong. The average age of those "overage children" who had settled in Hong Kong was 42, roughly comparable to the local population. Nevertheless, both the Mainland authorities and the Government did not have the estimated number of eligible "overage children" remaining to be processed under the OWP Scheme.

#### Mainland single mothers

14. 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") 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.

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<sup>3</sup> Mainland residents who wish to visit relatives in Hong Kong could apply for Two Way Permits ("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.

15. 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 authorize 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.

16. Regarding Members' suggestion of opening a channel for Mainland single mothers under the OWP Scheme, the Administration stressed that it involved complicated issues, for example, the possibility of inducing more pregnant Mainland women to enter Hong Kong through various channels for delivery and the problem of bogus marriage. These issues must be carefully deliberated.

17. 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), 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. ImmD would actively follow up with the Mainland authorities on a regular basis through various channels (including meetings and exchange of correspondences) and discuss with them any practical assistance that could be rendered to the persons seeking help. 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. As at 31 December 2015, ImmD had received a total of 145 requests for assistance from Mainland single mothers, among which over 70 (including four who claimed to be divorced or pending divorce) had been issued OWPs and about 40 others had been issued one-year multiple exit endorsements for visiting relatives in Hong Kong.

18. Expressing concern that some Mainland women might have tolerated abuse by their husbands in fear of losing their eligibility for OWPs, some Members asked whether the Administration would consider the granting of OWPs to Mainland single mothers from the perspective of preventing family violence. The Administration advised that victims of domestic violence should report to the Government regardless of their residence status in Hong Kong, ImmD would reflect all pertinent information to the Mainland authorities and it was believed that the Mainland authorities would give due regard to the circumstances in considering their applications for OWP.

19. In response to Members' enquiry about the criteria adopted by the Mainland authorities in according priority to cases seeking approval of OWPs on compassionate grounds. The Administration advised that as the arrangement was not within the established policy framework, the Mainland authorities would consider each case having regard to the merits of individual circumstances. Some Members held the view that a mechanism for vetting and approving OWP applications by Mainland single mothers should be established to make the process more transparent and systematic.

#### Role of the Government in approving applications

20. 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 exit endorsement applications. These Members suggested that the Government should be responsible for the screening and approval of OWP applications. The Administration pointed out that the 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.

21. 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 Government would continue to exchange views with the Mainland authorities through the existing channels. Where necessary, the 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.

#### **Relevant papers**

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

**Relevant papers on  
Policies and measures adopted by the Administration 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>
	9.10.2013	<a href="#">Official Records of Proceedings Pages 105 to 113</a>
	22.1.2014	<a href="#">Official Records of Proceedings Pages 46 to 55</a>
Panel on Security	7.2.2014 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	12.2.2014	<a href="#">Official Records of Proceedings Pages 27 to 29</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>
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	23.11.2015 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	23.12.2015 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>