

**For discussion on  
4 May 2018**

**Legislative Council Panel on Security  
Combating “bogus marriage”**

**Introduction**

This paper briefs Members on Immigration Department’s measures to combat offences relating to “bogus marriage” and the latest development.

**Background**

2. The Government has always been very concerned about “bogus marriages”. The Immigration Department (ImmD) set up a special task force in 2006 to step up enforcement action against persons seeking entry into Hong Kong through “bogus marriages” and intermediaries facilitating others to seek entry into Hong Kong through such means. When suspicious cases are identified, ImmD will collect evidence from various sources through different channels, conduct in-depth investigation on parties to the suspected “bogus marriage” and the relevant intermediaries, and prosecute the persons involved upon gathering sufficient evidence.

3. As seen from past cases, non-local residents involved in “bogus marriages” are mainly Mainland residents. On the basis of bogus marital relationship with Hong Kong residents, they apply for exit endorsements for visiting relatives to enter Hong Kong for longer stay in order to participate in illegal activities such as illegal employment. It cannot be ruled out that in some cases the ultimate purpose is to settle in Hong Kong. Moreover, since the introduction of the “zero quota policy” in 2013, ImmD has identified cases where Mainland pregnant women obtained quotas to deliver in Hong Kong through bogus marital relationship with Hong Kong residents.

4. ImmD will also conduct investigation through various sources and different channels into cases where other non-local residents seek

entry into Hong Kong or have obtained their residence in Hong Kong by means of “bogus marriages”. ImmD will institute prosecution against the persons upon gathering sufficient evidence.

### **Investigation and prosecution**

5. Any person who makes use of “bogus marriages”, or facilitates other persons to obtain the requisite documents by aiding them in contracting “bogus marriages” for the purpose of entering Hong Kong commits an offence. Any person who committed the offence of making false statement to immigration officers under section 42 of the Immigration Ordinance (Cap.115) in relation to “bogus marriages” and applying for entry into Hong Kong through such marriages is liable to imprisonment for up to 14 years and to a maximum fine of \$150,000; aiders and abettors are also liable to prosecution and the same penalties. Any person who for the purpose of procuring a marriage, or a certificate or license for marriage, knowingly and wilfully makes a false oath or makes or signs a false declaration, charged with making false statements related to marriage under section 34 of the Crimes Ordinance (Cap. 200), is liable to imprisonment for up to 7 years and to a fine; aiders and abettors are also liable to prosecution and the same penalties; any person charged with conspiracy to defraud is punishable under section 159C of the same Ordinance and sections 2(3) and 4(2) of the Criminal Jurisdiction Ordinance (Cap. 461) and is liable to imprisonment for up to 14 years. Any person charged with incitement to commit conspiracy is punishable under section 101I of the Criminal Procedure Ordinance (Cap. 221) and is liable to imprisonment for up to 14 years and to a maximum fine of \$150,000. In addition, any person who, being married, marries any other person during the life of the former husband or wife, charged with bigamy under section 45 of the Offences against the Person Ordinance (Cap. 212) is liable to imprisonment to 7 years.

6. In handling each suspected “bogus marriage” case, officers of ImmD will verify the genuineness of a marriage between the parties involved by collecting evidence through various channels, including conducting spot checks by home visits, collecting circumstantial evidence and statements, and conducting separate interviews with the persons involved, etc. As legal advice should be sought in light of complex legal

issues involved in these cases, ImmD has to conduct careful analyses and investigation in handling each case, and the time required for conducting investigation varies from case to case depending on its complexity.

7. Regarding prosecution, it is difficult to establish a case as a bogus matrimonial relationship is not easy to substantiate. As the court requires the prosecution to prove "beyond reasonable doubt" in criminal cases, not every case will end up with successful prosecution. However, ImmD will lay charge for relevant offences based on other corroborative evidence such as exit-entry records of the couples, as well as testimonies by other witnesses and persons involved.

### **Measures to combat “bogus marriage”**

#### *To step up immigration examination*

8. ImmD will strengthen immigration examination at all control points and critically scrutinise suspicious visitors coming to visit their spouses in Hong Kong on the strength of “exit endorsements for visiting relatives”. Should there be any doubt on their purpose of visit, ImmD will refuse their entry. Any person, who is found to be in breach of the laws of Hong Kong, for example, making false statement to ImmD, will be subject to thorough investigation by ImmD’s enforcement officers and will be handled in accordance with the law.

#### *To combat illegal workers*

9. Since those entering Hong Kong by means of “bogus marriages” mainly aim to take up illegal employment in Hong Kong, ImmD will pay particular attention to Mainland residents holding “exit endorsements for visiting relatives” during anti-illegal worker operations.

#### *To step up enforcement against intermediaries*

10. ImmD has noticed that some people have, through the arrangement of marriage intermediaries, obtained travel documents to enter Hong Kong by contracting “bogus marriages” with Hong Kong residents. These intermediaries may have committed the offence of

conspiracy to defraud or aiding and abetting others to make false statements to immigration officers. ImmD will continue to step up investigations into these intermediaries.

11. Furthermore, the special task force of ImmD gathers intelligence through various avenues and steps up enforcement against the related crimes by maintaining very close liaison with the Mainland law enforcement agencies, strengthening intelligence sharing and targeting marriage intermediaries for in-depth investigations. ImmD has been aware that criminal syndicates publish advertisements with wordings such as “making quick cash” and “intermediary for Mainland-Hong Kong marriages” to allure people to engage in “bogus marriage” on social networking and instant messaging mobile applications, as well as newspapers and web pages. Therefore, taking into account the individual circumstances of each case, ImmD will deploy officers in disguise to meet with a “bogus marriage” intermediary to deter such illegal activities.

*To step up checking of suspicious marriage registration cases*

12. Currently, a Hong Kong resident must submit a “Certificate of Absence of Marriage Record” issued by the Hong Kong Marriage Registry, and a “Declaration of absence of spouse and marriage partner not having immediate blood relationship and affinity within the three generations of the family” (“the declaration”) processed in a law firm of the China-appointed attesting officers, to an authorised checking company<sup>1</sup> which is the only one approved by the Chinese Ministry of Justice in Hong Kong. The authorised checking company will check and stamp on the declaration, and transfer the above two documents to the home affairs offices in the Mainland before the resident can get married with a Mainland resident on the Mainland.

---

<sup>1</sup> The authorised checking company refers to the China Legal Service (Hong Kong) Limited which is approved by the Chinese Ministry of Justice to be opened in Hong Kong. One of the purposes of the company is to screen and transfer notarised documents. The company will screen and stamp on the documents attested by China-appointed attesting officers, and will transfer the documents to the relevant Mainland authorities. The company will determine whether the notarised documents are in compliance with the application procedures and whether they are issued in accordance with the prescribed format, whether the contents of the documents do not violate the laws of Hong Kong and the laws of the Mainland. Documents met with the requirements will be stamped and transferred to the Mainland authorities, while those failing to comply with the requirements will not be transferred.

13. To facilitate effective identification of suspected cases of contracting bigamous marriages on the Mainland and in Hong Kong, the Enforcement Division of ImmD established a standing checking mechanism against bigamy with the authorised checking company in 2008. Besides, Marriage Registries have stepped up examination on suspicious marriage registrations by checking information with the authorised checking company. In handling suspicious marriage cases, the Registries will conduct immediate assessment and expedite the checking procedure, and pass the information to the Enforcement Division for analysis at the same time. In addition, the Registries will identify suspicious cases and refer them to the Enforcement Division for intelligence analysis. Investigating officers will carry out in-depth investigation into suspected cases. These measures help ImmD swiftly detect suspected cases for investigation and follow up.

*To exchange intelligence and cooperate with Mainland authorities*

14. ImmD will notify Mainland authorities of information on Mainland residents who have committed offences relating to “bogus marriage”, enabling strict scrutiny of their applications for exit endorsements in future. Mainland residents who have committed criminal offence related to “bogus marriage” in Hong Kong will normally be barred by the Mainland authorities from obtaining exit endorsements and travel documents for a period of two to five years, depending on the circumstances. This prevents them from revisiting Hong Kong for illegal activities. Mainland authorities will also refer cases of suspected “bogus marriage” to ImmD for follow-up actions. Mainland and Hong Kong authorities will conduct joint enforcement operations as necessary.

15. For people who are found to have obtained their residence in Hong Kong by fraudulent means, whether they are holders of Hong Kong permanent identity card or Hong Kong identity card, their Hong Kong identity cards and residence status will be invalidated according to the laws of Hong Kong. They will also be subject to removal to their places of origin.

*To prevent people from giving birth in Hong Kong through “bogus marriage”*

16. ImmD set up a task force in November 2012 to collect the delivery booking records of Mainland pregnant women from private hospitals for analysis and investigation to deter their attempts to give birth in Hong Kong by obtaining the Confirmation Certificate on Delivery Booking through “bogus marriage”. As in March 2018, a total of 452 suspected cases were investigated from about 29 300 delivery bookings with 49 persons successfully prosecuted. Among them, there were 15 Mainland pregnant women, 28 Hong Kong resident husbands and 6 intermediaries. The task force also forwards information of suspected cases to immigration control points for reference, so that the relevant pregnant women will be closely scrutinised when they arrive in Hong Kong.

*To step up publicity*

17. To remind members of the public including young people of the possible consequences of participating in “bogus marriages” and the serious implications of committing related offences, ImmD has from time to time disseminated information on crackdowns on “bogus marriage” syndicates and successful prosecutions of intermediaries and participants through press conferences, press releases, media interviews, etc. In addition, ImmD will continue to disseminate information from different and popular publicity channels. For example, a video clip was produced and uploaded to the Hong Kong Immigration Department YouTube channel last year.

**Trend of the cases**

18. In the past, ImmD found that it was not uncommon for Hong Kong residents participating in “bogus marriages” to secure a “Certificate of Absence of Marriage Record” in Hong Kong via the arrangement of intermediaries and, shortly afterwards, contracted one or more “bogus marriages” on the Mainland before contracting another in Hong Kong. Generally, they aimed to obtain more financial rewards within the shortest period of time. In individual cases, they took part in as many as four

“bogus marriages” registered on the Mainland and in Hong Kong within several months.

19. Since 2010, people engaged in “bogus marriage” have rarely committed bigamy. This is believed to be attributed to the establishment of the task force by ImmD in 2006 for gathering intelligence through various channels and combating offences in relation to “bogus marriage”. Once there is a suspected “bogus marriage” case, ImmD will approach the authorised checking company mentioned in paragraph 12 above for verification and notifying Mainland authorities in a bid to prevent syndicates from making arrangement for contracting two or more “bogus marriages” between Mainland residents and Hong Kong people in either place.

20. Moreover, ImmD has noticed an increasing number of young people involved in “bogus marriage”. Syndicates usually persuade young people with lower academic qualifications and those who have just entered the workforce to commit the offence for monetary rewards, claiming that contracting such marriage is not an offence.

21. ImmD has been aware that some criminal syndicates have recently published advertisement to induce people to engage in “bogus marriage”, not only on newspapers, but also via instant messaging software and social networking mobile applications. Taking into account individual circumstances of each case, ImmD will deploy its officer in disguise to meet with a “bogus marriage” intermediary to collect evidence, so as to combat the illegal activities more effectively.

### **Smashing bogus marriage syndicates**

#### *Operation "Flashspear 2016"*

22. In 2016, ImmD identified a syndicate which made arrangement for cross-boundary “bogus marriages”. Investigation suggested that members of the syndicate used a social media website and social networking mobile applications as means of communication to recruit young Hong Kong residents to contract “bogus marriages” in the Mainland. ImmD smashed the syndicate in a series of operations

codenamed "Flashspear 2016" which had been conducted since March 2016. In the operations, a total of 158 Hong Kong and Mainland residents, including three core members who were Hong Kong residents, were arrested. Among the 158 arrestees, 63 were charged and the majority of them pleaded guilty in court to the offence of conspiracy to defraud and were sentenced to 6 to 21 months' imprisonment.

### *Operation "Snare 1205"*

23. To combat intermediaries and syndicates which allure young people to engage in "bogus marriages" for claimed huge remuneration through newspapers, instant messaging software and social networking mobile applications, the special task force of ImmD conducted a sting operation codenamed "Snare 1205" in December 2017 by deploying an officer in disguise to meet with a "bogus marriage" intermediary. During the operation, a mastermind and 3 core syndicate members were arrested and they were all Hong Kong residents. After in-depth investigation, the syndicate was believed to have arranged around 100 bogus marriages. Further investigation revealed that Hong Kong residents who engaged in "bogus marriage" could be rewarded several thousand to thirty thousand Hong Kong dollars. As at April 2018, a total of 42 (22 males and 20 females aged 20 to 65) Hong Kong and Mainland residents suspected of engaging in "bogus marriages" were arrested.

### **Effectiveness of enforcement actions**

24. From 2008 to March 2018, ImmD investigated 7 112 suspected cases of "bogus marriage". A total of 10 880 persons were arrested as a result, of which 1 745 persons were successfully convicted. Relevant statistics breakdown by year is at **Annex**.

25. Among the 1 745 persons successfully convicted, 991 were male and 754 were female, while 1 290 were Hong Kong residents and 445 were non-Hong Kong residents. The above persons included intermediaries and parties engaged in the "bogus marriages". Apart from a small number of cases where the convicted were sentenced to Community Service Orders of 80 hours or above, the majority of the



convicted were sentenced to imprisonment from 4 to 24 months. In one such case, the head of a syndicate was sentenced to imprisonment for 48 months.

26. ImmD is very concerned about non-Hong Kong residents staying in Hong Kong by means of “bogus marriage”. The Enforcement Branch of ImmD will continue to combat offences relating to “bogus marriage” relentlessly through strengthening law enforcement, publicity and education, intelligence analysis and cross-boundary collaboration, and will bring offenders to justice.

**Security Bureau**  
**Immigration Department**  
**April 2018**

**Annex**

**Number of suspected “bogus marriage” cases**

	Number of cases	Number of arrestees	Number of persons successfully prosecuted
2008	874	908	259
2009	1 033	728	180
2010	1 283	1 504	185
2011	605	1 242	263
2012	432	1 059	240
2013	515	1 102	188
2014	687	1 096	122
2015	461	1 016	113
2016	507	979	98
2017	574	1 015	85
2018 (As at 31 March 2018)	141	231	12
Total	7 112	10 880	1 745