

政府總部的信頭

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5 July 1999

Clerk to Subcommittee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

(Attn: Mrs Sharon Tong)

Dear Mrs Tong,

**Subcommittee on
Resolution under the Immigration Ordinance**

Meeting on 8 July 1999

Thank you for your letter dated 5 July 1999.

I attach the following documents (in both Chinese and English) for your distribution to Members of the Subcommittee on Resolution under the Immigration Ordinance -

- (a) the documents on which the proposed amendments set out in the Resolution are based (the list of documents is not necessarily an exhaustive one). They include -
 - (i) the Opinions of the Preparatory Committee (PC) on Article 24(2) of the Basic Law given in August 1996 (Annex A);
 - (ii) the NPC Resolution of 14 March 1997 endorsing the Report of the Chairman of the PC on the work of the PC, which mentions the PC's Opinions (Annex B);
 - (iii) the press statement dated 13 April 1997 issued by the Hong Kong & Macau Affairs Office on the right of abode issue (Annex C);

- (iv) the statement of the Director of Immigration made at the Lego Security Panel meeting dated 14 April 1997 on the consensus that was reached in the JLG on the right of abode issue (Annex D);
 - (v) the Immigration Department's booklet on right of abode issued in 1997 recording its understanding of the census of the Joint Liaison Group on the right of abode issue (Annex E);
 - (vi) the interpretation of Articles 22(4) and 24(2)(3) of the Basic Law given by the Standing Committee of the National People's Congress on 26 June 1999 (Annex F).
- (b) a background note on arrangements for Hong Kong born Chinese nationals to acquire Hong Kong permanent residents status and right of abode in Hong Kong (Annex G) (its Chinese version to follow); and
 - (c) an information note on the application and verification procedures for a Certificate of Entitlement (Annex H).

Please be informed that there will be no changes to the attendance list for the Subcommittee's committee to be held on 6 July 1999.

Yours sincerely

(Miss Cathy Chu)
for Secretary for Security

Encl.

(Translation)

Opinions of the Preparatory Committee for the Hong Kong Special
Administrative Region of the National People's Congress on the Implementation
of ~~Paragraph 2 of Article 24~~ ^{Article 24 (2)} of the Basic Law of the
Hong Kong Special Administrative Region of the People's Republic of China

Adopted at the Fourth Plenary Meeting of the Preparatory Committee for
the Hong Kong Special Administrative Region of the National People's Congress
on 10 August 1996

Paragraph 2
~~Paragraph 2 of Article 24~~ of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China provides for issues
concerning permanent residents of the Hong Kong Special Administrative Region
(HKSAR). For the purpose of implementing the provisions, the following opinions
are hereby provided for the HKSAR to ~~make~~ ^{formulate the details of the} implementation rules.

Paragraph 2 of Article 24
1. Chinese citizens born in Hong Kong as provided in Category (1) of
~~Paragraph 2 of Article 24~~ of the Basic Law refer to people who are born during ~~the~~
~~time in~~ which either one or both of their parents ^{were lawfully residing} ~~have legally settled~~ in Hong Kong,
^{but} excluding those who are born to illegal immigrants, overstayers or people residing
temporarily in Hong Kong.

Paragraph 2 of Article 24
2. People shall not be considered as "ordinarily resided" in Hong Kong as
provided in Categories (2) and (4) of ~~Paragraph 2 of Article 24~~ of the Basic Law if
they are :

- (1) illegal immigrants or illegal immigrants who have been permitted by the
Director of Immigration to stay in Hong Kong;

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Certified Translator

- (2) staying in Hong Kong in violation of the limit of stay or other conditions;
- (3) staying in Hong Kong as a refugee;
- (4) legally detained or sentenced to imprisonment in Hong Kong; ~~and~~
- (5) permitted to stay in Hong Kong under specific government policies.

3. For Chinese citizens who have ordinarily resided in Hong Kong for "a continuous period of seven years" as provided in Category (2) of Paragraph 2 of Article 24 of the *Basic Law*, this continuous period of seven years may fall on any time. For persons not of Chinese nationality who have ordinarily resided in Hong Kong for "a continuous period of seven years" as provided in Category (4) of Paragraph 2 of Article 24 of the *Basic Law*, this continuous period of seven years shall immediately precede their application for being a permanent resident of the HKSAR.

4. Persons of Chinese nationality born outside Hong Kong as provided in Category (3) of Paragraph 2 of Article 24 of the *Basic Law* refer to those who are born when either one or both of their parents have already attained the Hong Kong permanent resident status under Category (1) or (2) of Paragraph 2 of Article 24 of the *Basic Law*.

5. The specific requirements for persons not of Chinese nationality to take Hong Kong as their place of permanent residence as provided in Category (4) of Paragraph 2 of Article 24 of the *Basic Law* are as follows:

- (1) When applying for being a permanent resident of the HKSAR, they shall sign a declaration in accordance with the law, acknowledging that they are willing to take Hong Kong as their place of permanent residence;
- (2) For the HKSAR Government to consider their permanent resident status, they shall honestly state in the declaration whether:
 - (a) they have a dwelling place (a habitual residence) in Hong Kong;

- ✓ (b) whether their main family members (spouse and minor siblings) ordinarily reside in Hong Kong;
~~they~~ ordinarily reside in Hong Kong;
(c) they have a proper job or a stable source of income; and
(d) they have paid tax in Hong Kong in accordance with the law.

(3) They are held legally responsible for the truth of the above information provided in their declaration. The Government of the HKSAR has the right to demand necessary supporting documents and information from the applicants when necessary. If the information declared is found to be untrue, the applicants will be subjected to punishment according to the laws, including cancellation of their permanent identity cards.

(4) For persons not of Chinese nationality, if they have obtained the status of Hong Kong permanent residents but do not ordinarily reside in Hong Kong for a continuous period of time as prescribed (the time stretch shall be prescribed by the Government of the HKSAR), they will, except with special reasons, fail to meet the requirement of taking Hong Kong as their permanent residence. Their permanent identity cards shall be revoked and they no longer have the right of abode in Hong Kong. However, they can freely enter Hong Kong in accordance with the laws, reside or work in Hong Kong without restrictions and have the right to become permanent residents of the HKSAR when they fulfil the relevant requirements as stipulated in paragraph 2 of Article 24 of the *Basic Law*.

6. Persons under 21 years of age who were born in Hong Kong to parents not of Chinese nationality as stated in Category (5), Paragraph 2 of Article 24 of the *Basic Law* must be, during or after their birth, the children of parent or parents who have obtained Hong Kong permanent residence in accordance with Category (4), Paragraph 2 of Article 24 of the *Basic Law*. After these persons, whose parents have Hong Kong permanent residence as stated above, reach 21 years of age, they can have Hong Kong permanent residence if they meet the other relevant requirements prescribed in Paragraph 2 of Article 24 of the *Basic Law*.

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~~Paragraph 2 of Article 24 of the Basic Law~~

7. The following arrangements shall be applicable to persons who are Hong Kong permanent identity card holders and have the right of abode in Hong Kong before the establishment of the HKSAR:

- (1) For Chinese citizens who were born in Hong Kong or have ordinarily resided in Hong Kong for a continuous period of seven years, the permanent identity cards they hold shall continue to be valid after 1 July 1997 and they shall have the right of abode in the HKSAR.
- (2) For persons who have Hong Kong permanent residence before the establishment of the HKSAR, have emigrated overseas but have returned to settle in Hong Kong before 30 June 1997 as foreign nationals, the permanent identity cards they hold shall continue to be valid after 1 July 1997 and they shall have the right of abode in the HKSAR.
- (3) For persons who have the status of Hong Kong permanent residents before the establishment of the HKSAR, whose absence from Hong Kong has exceeded the prescribed period and who return to settle in Hong Kong after 1 July 1997 as foreign nationals, the permanent identity cards they hold shall be cancelled in accordance with the law and they shall no longer have the right of abode in Hong Kong. However, they can enter Hong Kong in accordance with the law and ^{reside} ~~live~~ and work in Hong Kong under no restrictions. Upon meeting the relevant requirements of Article 24 of the *Basic Law*, they can become permanent residents of the HKSAR.

Lily Kwan of the Judiciary,
appointed in writing by the Honourable
the Chief Justice under Rule 2(1) of the
Official Languages Ordinance (Cap. 5),
hereby certify that the foregoing is a true
translation of a Chinese/English document
marked *6126 (b)*
Dated

9 SEP 1997

Lily Kwan
COURT TRANSLATOR

Annex B

**Resolution of the Eighth National People's Congress at its Fifth Session
on the Working Report of the Preparatory Committee
for the Hong Kong Special Administrative Region
of the National People's Congress**

(Adopted by the Eighth National People's Congress at its Fifth Session on 14
March 1997)

The Eighth National People's Congress examined at its Fifth Session the
Working Report of the Preparatory Committee for the HKSAR of the NPC
presented by Mr. Qian Qichen, Chairman of the Preparatory Committee for the
HKSAR of the NPC. The Session hereby approves the Report.

The Session recognises that the Preparatory Committee for the HKSAR of
the NPC has been very effective since its formation a year ago in its work
relating to the preparation for the establishment of the HKSAR. ~~The Preparatory~~
~~Committee has adopted~~, in accordance with the *Basic Law of the HKSAR of the*
PRC and the principles of "one country, two systems", "high degree of
autonomy" and "Hong Kong People ruling Hong Kong" as reflected in the
relevant Decisions made by the NPC and its Standing Committee, ^{the Preparatory Committee has} a series of
decisions, resolutions and proposals including the *Resolution on the Proposed*
Principles of the Method for the Formation of the Selection Committee, the
Decision on the Establishment of the Provisional Legislative Council of the

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Court Translator

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to make Explanation about
 HKSAR, the Proposal ~~on the Interpretation for~~ the Implementation of the
 Nationality Law of the PRC in the HKSAR, the Proposal ~~on the Issue of~~ *How to Deal with*
 Treatment of the Laws Presently in Force in Hong Kong, the Decision on the
 Commencement of Work by the first Chief Executive and the Provisional
 Legislative Council of the HKSAR before 30 June 1997; has formed the
 Selection Committee for the First Government of the HKSAR; presided over the
 election by which the Selection Committee has elected the first Chief Executive
 and the members of the Provisional Legislative Council of the HKSAR; and
 also put forward proposals and advice on major economic and legal issues
 relating to the transfer of political power of Hong Kong and the smooth
 transition as well as the celebration arrangements for the reunification of Hong
 Kong [with China]. All these laid down a foundation for the establishment of
 the HKSAR and the smooth transition of Hong Kong and have facilitated the
 long-term stability and prosperity of Hong Kong.

~~The Session hopes that members of the Preparatory Committee for the
 HKSAR will make persistent efforts to continue their support to the work of the
 first Chief Executive of the HKSAR and to strive for the accomplishment of the
 tasks delegated to them by the NPC.~~

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LEE Chung-ming of the Judiciary,
 appointed in writing by the Honourable the Chief
 Justice under Rule 20(1) of the Official Languages
 Ordinance (Cap. 62) to certify that the
 foregoing is a true and correct copy of a
 Chinese document.
 Dated 31/12

COURT TRANSLATOR

(Translation)

Statement from the spokesman for the Hong Kong and Macao Affairs Office of the State Council on the nationality and right of abode of Hong Kong residents.

New China News Agency Beijing 13 April; Wang Fengchao, Deputy Director of The Hong Kong and Macao Affairs Office, made a statement earlier on in Hong Kong concerning the principles for resolving the questions about the nationality and right of abode of Hong Kong residents after 1st July 1997. The Hong Kong community welcomed the policies formulated by the state in this regard and raised questions on certain areas of doubt. The spokesman for the Hong Kong and Macao Affairs Office therefore gives a comprehensive explanation today about the policies on the nationality and right of abode of Hong Kong residents.

The spokesman said that the PRC Nationality Law and HKSAR basic Law would be implemented in Hong Kong on 1 July 1997. In May last year, the Standing Committee of the National people's Congress had given interpretation concerning the implementation of the PRC Nationality Law in HK. Subsequently, the HKSAR Preparatory Committee of the National People's congress put forward its concrete opinions on the implementation of the provisions of Article 24 of the Basic Law concerning the right of abode in Hong^{Kong}. These provided the basis for the HKSAR Government to enact immigration laws in this respect.

According to the interpretation of the PRC Nationality Law by the Standing Committee of the NPC, Hong Kong residents of Chinese descent, people who were born in Chinese territories including Hong Kong, and those who met the requirements for obtaining Chinese nationality under the PRC Nationality Law are Chinese citizens. Those who have right of abode in a foreign country but do not

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declare their foreign nationality can use relevant documents issued by the foreign country when they travel to other countries or territories, but they could not enjoy the consular protection of a foreign country in HKSAR or other Chinese territories. If they would like to reside in Hong Kong as citizens of a foreign country, they can apply to the SAR immigration authorities with valid papers for a change of nationality.

They will lose their Chinese nationality upon approval of their applications. ~~Consider~~ *consider themselves as*

~~themselves as~~ these arrangements fulfill the wish of HK compatriots to Chinese people on the one hand, and on the other hand, give them a chance to choose voluntarily the identity under which they will reside in Hong Kong. Chinese citizens ~~obtain~~ *must* the right of abode in Hong Kong according to the BL provisions applicable to Chinese citizens.

Non-Chinese citizens including those who have been given approval to change their nationality ~~should~~ *have to* obtain the right of abode in Hong Kong according to the BL provisions applicable to ~~Non-Chinese nationals~~ *persons not of Chinese nationality*. People in the following 6 categories are permanent residents of the HKSAR who have the right of abode in Hong Kong:

1. A Chinese citizen born in Hong Kong before or after the establishment of the HKSAR, whose father or mother has settled in Hong Kong when he was born or after he was born will have the right of abode in Hong Kong. Where only the father has settled in Hong Kong, the person has to be the legitimate child or the legitimated child of his father. An abandoned new born baby of Chinese descent found in Hong Kong can, without proof to the contrary, be regarded as ^a legitimate child of a Chinese citizen who has settled in Hong Kong, and will have the right of abode in Hong Kong.

The spokesman pointed out that "settle" means those who ordinarily reside in Hong Kong and ~~we~~ *are* not subject to any limit to

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the period of stay, including those who have the right of abode and those who are not subject to any condition of stay.

2. Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR. A continuous period of seven years during which a Chinese citizen ordinarily reside in HK refers to a continuous period of seven years at any time before or after the establishment of the HKSAR.

As for the definition of 'ordinarily reside', the spokesman said that a Hong Kong resident who stayed out of Hong Kong for a certain period of time due to study or overseas work assignments would be considered to be ordinarily residing in Hong Kong during that period of time. However, in certain cases, some people staying in Hong Kong were not considered to be ordinarily residing in the territory, for example, illegal immigrants, people serving custodial court sentence or being detained in Hong Kong, foreign workers and foreign domestic helpers.

3. Persons of Chinese nationality born outside Hong Kong of those residents listed in categories 1 and 2. Children of Chinese nationality born outside Hong Kong both before or after the establishment of the HKSAR will have the right of abode in Hong Kong if their father or mother has the right of abode in Hong Kong when they were born. Where only the father has the right of abode in Hong Kong, the children must be the legitimate children or legitimated children of the father.

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4. Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the HKSAR. Persons not of ~~Chinese~~ ^{Chinese} nationality will be considered to have ordinarily resided in Hong Kong for a continuous period of not less than 7 years for this purpose if he has resided in Hong Kong for a continuous period of 7 years immediately before the date he applies to become permanent resident of Hong Kong. Persons not of Chinese nationality ^{must} ~~should~~ also make a declaration that they have taken Hong Kong as their place of permanent residence according to statutory procedures, and honestly fill in the declaration form personal information which can prove that they have taken Hong Kong as their place of permanent residence, for example, whether he has a residence (habitual dwelling) in Hong Kong, whether his lineal family members (spouse and underage children) are ordinarily residing in Hong Kong, whether he has a proper job or stable means of living in Hong Kong, whether he pays tax in Hong Kong according to the law, and any other relevant information. The Director of Immigration will examine such information on a case by case basis and has the power to ^{demand} necessary information and documentary proofs from the declarant if the circumstances required. The declarant is responsible for the truth of the information which he provides.

5. Persons under 21 years of age born in Hong Kong before or after the establishment of the HKSAR of Hong Kong permanent residents who are not of Chinese nationality. Persons under 21 years of age born in Hong Kong who are not of Chinese nationality will have the right of abode in Hong Kong if, at the time when they were born or after they were born, their father and mother have obtained the right of abode in Hong Kong, set out in category 4 above. Where only the father has obtained the right of abode in Hong Kong as set out in category 4 above, that person must be the legitimate child or legitimated child of the father. An abandoned new born baby not of Chinese descent found in Hong Kong can, without proof to the contrary, be regarded to have satisfied the above conditions. Persons who have obtained the status of Hong Kong permanent residents according to ^{the} conditions in this category ^{must} ~~should~~, upon reaching the age of 21, complete the procedures set out in category 4 above to become permanent residents of HKSAR, otherwise they will lose their status of permanent residents of the HKSAR.

6. ^Persons other than those residents listed in categories 1 to 5, who, before the establishment of the HKSAR, have the right of abode in Hong Kong only. These people ^{must} ~~should~~ make a declaration according to the statutory procedures, declaring that ~~they have the~~ ^{before the establishment of the} ~~right of abode in Hong Kong only before the establishment of the~~ ^{HKSAR, they have the} ~~HKSAR~~. They will be responsible for the truth of the declaration. If there are reasons to believe that the declarant has the right of abode in another country or territory, the burden of proof is on the declarant.

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When asked about the transitional arrangements for people holding Hong Kong Permanent Identity Cards before 30 June 1997, the spokesman outlined the general ideas on the transitional arrangements :-

1. Chinese citizens who are permanent residents of Hong Kong before the establishment of the HKSAR, including ^{those} ~~there~~ ^{have} ~~lost~~ emigrated abroad but have returned to settle in Hong Kong after 1 July 1997 and have ~~not~~ declared that they have any foreign nationality;
2. Persons not of Chinese nationality but are permanent residents of Hong Kong before the establishment of the HKSAR; if they have settled in Hong Kong or have returned to settle in Hong Kong immediately before 30 June 1997; or return to settle in Hong Kong during the 18 months beginning from 1 July 1997, or have not lived in Hong Kong for a continuous period of not more than 36 months immediately before the date ^{returned} ~~he~~ to settle in Hong Kong, will retain the status of permanent residents of HKSAR.

In the above transitional arrangements the point of settling in Hong Kong on 1 July 1997 is mentioned. The spokesman said that a ^{person} ~~period~~ had the duty to convince the Immigration Department that he was settled in Hong Kong on 1 July 1997, but he did not have to be in Hong Kong physically on that day.

The spokesman added that in order not to jeopardise the living and work of persons not of Chinese nationality who lost their status of permanent residents as a result of the above provisions or transitional arrangements, they would have the right

to enter Hong Kong. They could enter and leave Hong Kong freely and could live and work in Hong Kong without being subject to any condition of stay.

The spokesman said that nationality and the right of abode of Hong Kong residents were matters which would affect the personal interests of every Hong Kong resident. Now we already have the basic legislation and policies. It was hoped that the SAR would enact detailed legislation as soon as possible. The spokesman also indicated that the Chinese government had all along listened to the views of the British side in formulating the policies on the right of abode of Hong Kong residents, and would continue to welcome the British side to give its opinions on the issue.

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LEE Chung-ming of the Judiciary,
appointed in writing by the Honourable the Chief
Justice under Rule 2(1) of the Official Languages
Ordinance (Cap. 5), hereby certify that the
foregoing is a true translation of a
Chinese/English document marked .
Dated 11/4

LEE Chung-ming
COURT TRANSLATOR

**Statement by Director of Immigration
To the LegCo Security Panel at its meeting dated 14.4.97**

In past discussions with the Chinese side, we have reached a large measure of consensus on the interpretation of Article 24 of the Basic Law and the implementation arrangements.

2. The consensus is summarised as follows -

With regard to Chinese citizens:

- (a) Under Article 24(2)(1) of the Basic Law, Chinese citizens born in Hong Kong before or after the establishment of the HKSAR will qualify for right of abode. This means that in order to qualify for this right, those Chinese citizens should be born in Hong Kong to parents (both or either one of them) who had the right of abode or unconditional stay in Hong Kong at the time of their birth or any time thereafter;
- (b) Under Article 24(2)(2), Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR will qualify for right of abode. This means Chinese citizens who have, at any time before or after 1 July 1997, ordinarily resided in Hong Kong continuously for not less than 7 years. Persons employed as contract workers under any Government Importation of Labour Schemes, illegal immigrants, detainees and refugees will not be regarded as ordinarily resident in Hong Kong;
- (c) Under Article 24(2)(3), persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2) will qualify for right of abode. This means Chinese citizens born outside Hong Kong to parents (both or either one of them) who are Chinese citizens and had the right of abode in Hong Kong at the time of their birth.

With regard to persons not of Chinese nationality :-

(d) Under Article 24(2)(4), persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the HKSAR will qualify for right of abode. This means:-

- (i) the 7-year continuous ordinary residence must be “immediately before” the date on which such persons apply for the right of abode;
- (ii) persons in this category will be required to make a declaration to demonstrate that they have taken Hong Kong as their place of permanent residence. The criteria used in determining whether a person has taken Hong Kong as his place of permanent residence include, for example, whether he has a habitual residence in Hong Kong; whether his principal family members (spouse and minor children) are in Hong Kong; whether he is able to support himself without assistance from public funds; whether he has any outstanding tax liabilities or such other grounds as may be relevant to the declaration;
- (iii) persons making the declaration will have to provide the required information to the Immigration Department for assessment. If the information is subsequently found to be untrue, the HKSAR Government shall, in accordance with the law, revoke their right of abode and cancel their permanent identity cards;

- (iv) persons who have acquired the right of abode under Article 24(2)(4) but have subsequently been continuously absent from Hong Kong beyond the prescribed period will lose their right of abode. However, they will be given the right to land enabling them to enter Hong Kong and to live, study or work in Hong Kong freely without any restrictions. After they have completed 7 years' residence in Hong Kong, they can re-acquire the right of abode if they are able to satisfy the requirements in Article 24(2)(4);
- (v) apart from contract workers under the Government Importation of Labour schemes, illegal immigrants, detainees and refugees, imported domestic helpers will also not be regarded as ordinarily resident in Hong Kong;
- (vi) In respect of the prescribed period of absence, an announcement made by the Hong Kong and Macao Affairs Office of the State Council said that the length should be 3 years. Persons who are temporarily overseas for study or work etc. will be regarded as ordinarily resident in Hong Kong and hence will not be considered as absent from Hong Kong for the purpose of counting the prescribed period of absence;
- (e) Under Article 24(2)(5), persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the HKSAR will qualify for right of abode. This means persons under 21 who are not of Chinese nationality and both or one of whose parents had the right of abode under paragraph (d) above. In a statement made by the Hong Kong and Macao Affairs Office of the State Council, it was said that this category of persons would have to requalify for the right of abode under Article 24(2)(4) of the Basic Law when they reach the age of 21;

- (f) Under Article 24(2)(6), persons other than those residents listed in categories (1) to (5), who, before the establishment of the HKSAR, had the right of abode in Hong Kong only will qualify for right of abode. This means persons who, immediately before 1 July 1997, had the right of abode in Hong Kong but not elsewhere. They will be required to make a declaration to this effect. We note that the Hong Kong and Macao Affairs Office's announcement has said that if such persons have acquired the right of abode in another country, they would lose their right of abode in Hong Kong if they have been continuously absent from Hong Kong for 3 years.

With regard to returning emigrants (i.e. ethnic Chinese Hong Kong residents who have emigrated and held foreign passports),

- (i) The Standing Committee of the Chinese National People's Congress passed an important piece of legislation, known as the "Interpretation of Chinese Nationality Law when applied in the HKSAR" (the Interpretation), on 15 May 1996. Under the Interpretation, all Hong Kong residents of Chinese descent who were born in the mainland of China or Hong Kong, and others who fulfil the criteria for Chinese nationality laid down in the Chinese Nationality Law, are Chinese citizens. Those who have settled abroad and acquired a foreign nationality can apply to change their nationality by making a declaration of change of nationality to the Immigration Department after 30 June 1997. Those who have made that declaration will be treated as foreign nationals, and will enjoy consular protection while in Hong Kong or China. Those who choose not to make that declaration will be treated as Chinese citizens irrespective of whatever travel documents they used on entering Hong Kong, but they may use their foreign passports for travelling abroad.
- (ii) Returning emigrants who choose to remain as Chinese citizens will retain the right of abode in Hong Kong even if they are absent for long periods;

(iii) For returning emigrants who choose to be treated as foreign nationals:-

- Those who are settled or have returned to settle in Hong Kong before 1 July 1997 can retain the right of abode in Hong Kong;
- The Hong Kong and Macao Affairs Office of the State Council stated in the announcement made on yesterday that, those who return to settle in Hong Kong within 18 months from 1 July 1997 could retain their right of abode;
- The announcement also stated that an emigrant who returns to settle in Hong Kong after 30 June 1997 but has not been continuously absent from Hong Kong beyond a period of 3 years immediately before the date when he returns to settle in Hong Kong could also retain his right of abode;
- Those who lose their right of abode will be given the right to land enabling them to enter Hong Kong and to live, study or work in Hong Kong freely without any restrictions. (The same status as described under (d)(iv).)

3. It has also been agreed that a person will be regarded as “settled” in Hong Kong if he is ordinarily resident in Hong Kong and not subject to any restriction on the period of stay in Hong Kong. A person is not required to be physically present in Hong Kong on 30 June or 1 July 1997 to prove that he is settled in Hong Kong. If he is not settled in Hong Kong and has no plans to do so, there is little point in returning to Hong Kong a few days around the time of the handover. Persons who are temporarily overseas for study or work etc. will be regarded as ordinarily resident in Hong Kong and hence will not be considered as absent from Hong Kong for the purpose of counting the prescribed period of absence.

4. As S for S has just stated, most of the key substantive issues have now been resolved. Although a few issues remain outstanding, we believe that these issues are of technical nature and are not difficult to resolve. In a spirit of co-operation, we have put forward constructive proposals to the Chinese side. We hope that they will adopt the same positive attitude and revert as soon as possible. This will enable us to provide certainty to the people and those who are currently overseas.

Annex E

Right of Abode

THE HONG KONG BASIC LAW
GOVERNMENT ADMINISTRATION REGION



Hong Kong Immigration Department

- This booklet explains who can enjoy the right of abode (ROA) in the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China.
- It is compiled on the basis of the existing immigration regulations and practices and the common view of the British and Chinese sides in the Joint Liaison Group on a number of issues relating to the right of abode in Hong Kong after 30 June 1997.

What this booklet is about

- 1 Tells you the meanings of right of abode (ROA) and other related terms
page 3-6
- 2 Tells you the meanings of the symbols shown on a Hong Kong identity card relating to residential status
page 7
- 3 Tells you the nationality of persons of Chinese descent in the HKSAR
page 8
- 4 Tells you who can enjoy the ROA in the HKSAR
page 9-13
- 5 Tells you the position of Chinese citizens who do not hold foreign passports
page 14
- 6 Tells you the position of Hong Kong residents (including former residents) of Chinese descent who had the ROA before 1 July 1997 and hold foreign passports
page 15-19
- 7 Tells you the position of Non-Chinese citizens
page 20
- 8 Tells you the position of persons not of Chinese descent who are solely British Nationals (Overseas) or British Overseas Citizens on 1 July 1997
page 21
- 9 Provides you with the extracts from the Nationality Law of the People's Republic of China and the National People's Congress' Interpretation when applying in the HKSAR
page 22-24

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Right of abode and other related terms

Right of Abode

The right of abode (ROA) in the Hong Kong Special Administrative Region (HKSAR) means : -

The right

- to land in the HKSAR;
- to be free from any condition of stay (including a limit of stay) in the HKSAR;
- not to be deported from the HKSAR; and
- not to be removed from the HKSAR.

Chinese citizen

"Chinese citizen" means a person who has Chinese nationality under the Chinese Nationality Law (see page 22), as elaborated in 'The interpretation of Chinese Nationality Law (CNL) when applying in the HKSAR' ("The interpretation") passed by the Standing Committee of the National People's Congress of the Chinese Government on 15 May 1996 (see page 2-f).

In other words

- Persons who have Chinese nationality under the CNL include Hong Kong residents and former residents who are of Chinese descent and born in the mainland of China or Hong Kong, notwithstanding that they hold, or have held Hong Kong British Dependent Territories Citizen passports, British National (Overseas) passports; or (subject to Part 6 below) any other foreign passports.

Settled

A person is settled in Hong Kong if:

- he is ordinarily resident in Hong Kong; and
- he is not subject to any restriction on the period of stay in Hong Kong.

Ordinary residence

A person is ordinarily resident in Hong Kong if:

- he remains in Hong Kong legally, voluntarily and for a settled purpose (such as for education, business, employment or residence etc.), whether of short or long duration.

A person does not cease to be ordinarily resident in Hong Kong if:

- he is temporarily absent from Hong Kong for the purpose of study or while posted overseas etc. (The duration and/or frequency of any absences will be considered together with the surrounding facts such as ownership of property, employment with a Hong Kong based company, the whereabouts of close family members etc.).

A person shall not be treated as ordinarily resident in Hong Kong if:

- (a) he remains in Hong Kong –
 - (i) without the authority of the Director of Immigration, after landing unlawfully; or
 - (ii) in contravention of a condition of stay (including a limit of stay); or
 - (iii) as a refugee; or while in detention pending determination of refugee status or removal; or
 - (iv) during any period while employed as an imported domestic helper or a contract worker under any Government Importation of Labour Schemes; or
- (b) he is in prison or under detention pursuant to the sentence or order of any court.

Return to settle

Physical presence in Hong Kong on 1 July 1997 alone is unlikely to be the determining factor as to whether a person has returned to settle in Hong Kong. If a person is not settled in Hong Kong and has no plans to settle in Hong Kong before 1 July 1997, there is unlikely to be any point in returning to Hong Kong for a few days around the time of the handover.

Hong Kong residents studying overseas or posted overseas are not regarded as absent from Hong Kong and therefore they need not return to Hong Kong before 1 July 1997.

Parent and Child

The relationship of mother and child shall be taken to exist between a woman and any child born to her in or out of wedlock; but the relationship of father and child shall be taken to exist only between a man and a child born to him in wedlock. (Any child born out of wedlock and subsequently legitimised by the marriage of the child's parents shall be treated as if born in wedlock.)

2 Symbols shown on a Hong Kong identity card relating to residential status

(Front view)

Name	CHIM, Sin Ying 詹 倩 影
Name in Chinese	詹 倩 影
Commercial Code Number (if any)	6124 0241 1758
Date of Birth	05-12-1961
First alphabet denotes residential status (see note)	*** AFZYBN S1
Date of issue	07-09-1987 (02-76)
Photo	相片
Identity card number	J128128(B)

- Note:
- A - the holder has the right of abode in Hong Kong.
 - R - the holder has the right to land in Hong Kong.
 - U - the holder's stay in Hong Kong is not limited by the Immigration Department at the time of his registration of the card.
 - C - the holder's stay in Hong Kong is limited by the Immigration Department at the time of his registration of the card.

(The asterisk has nothing to do with the holder's residential status in Hong Kong. It signifies that the holder is eligible for the issue of a Hong Kong Re-entry Permit - *** for adults, * for minors.)



The nationality of persons of Chinese descent in the HKSAR

Under the CNL, Hong Kong residents and former residents who are of Chinese descent and born in the mainland of China or Hong Kong are Chinese citizens. They will not be entitled to consular protection in the HKSAR notwithstanding that they hold foreign passports.

Those citizens holding foreign passports will have the option to declare a change of nationality to the HKSAR Immigration Department. Valid documentation will need to be submitted. Upon registration, they will no longer be regarded as Chinese citizens and can enjoy consular protection from the country of their declared nationality.

The Hong Kong Immigration Department will in due course announce the arrangements on how to make declarations of change of nationality.



Who can enjoy the Right of Abode in the HKSAR?

Under paragraph 2 of Article 24 of the Basic Law, the following persons shall be permanent residents of the HKSAR and enjoy the ROA in the HKSAR :

- (1) Chinese citizens born in Hong Kong before or after the establishment of the HKSAR provided that at the time of their birth or any time thereafter one of their parents has settled in Hong Kong.
- (2) Chinese citizens who have at any time ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR.
- (3) Persons of Chinese nationality born outside Hong Kong to a parent listed in paragraph (1) or (2) who has the ROA at the time of their birth.

(4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the HKSAR.

- The seven years continuous ordinary residence must be "immediately before" the date when that person applies for the ROA under this paragraph.
- A person will be required to make a declaration to demonstrate that he has taken Hong Kong as his place of permanent residence. For this purpose, he will have to declare, e.g. whether he has a habitual residence in Hong Kong, whether his principal family members (spouse and minor children) are in Hong Kong, whether he is able to support himself without assistance from public funds, whether he has no outstanding tax liabilities or any other relevant grounds. He will have to provide the required information to the Immigration Department for assessment.
- A person will not be eligible to make a declaration unless he is settled in Hong Kong on the date the declaration is made.

The Hong Kong Immigration Department will in due course announce the detailed arrangements on how to make declarations of taking Hong Kong as place of permanent residence.

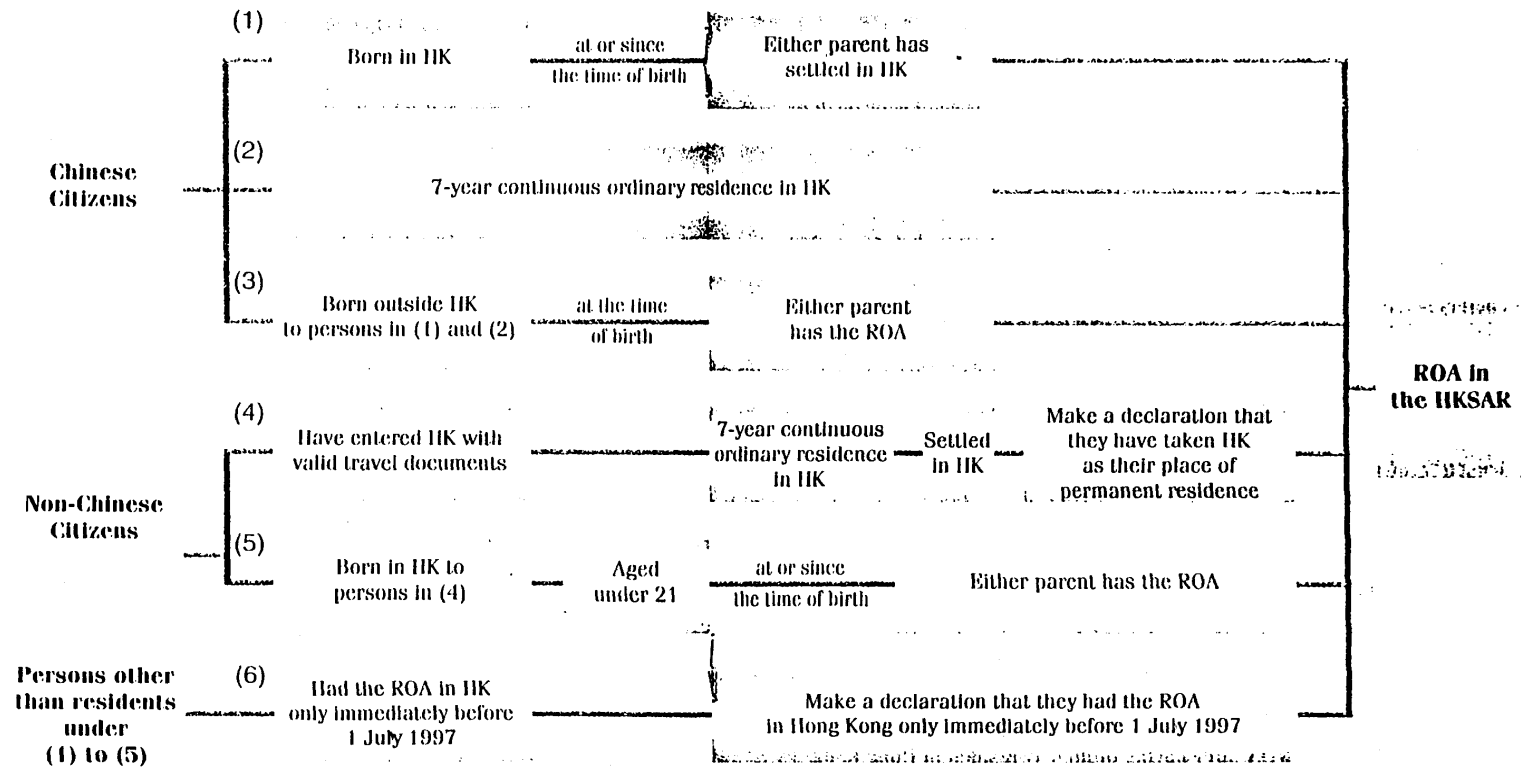
(5) Persons under 21 years of age and born in Hong Kong of those residents listed in paragraph (4) before or after the establishment of the HKSAR provided that at the time of their birth or any time thereafter before they attain the age of 21, one of their parents has the ROA in Hong Kong under paragraph (4).

(6) Persons other than those residents listed in paragraphs (1) to (5), who, immediately before the establishment of the HKSAR, had the ROA in Hong Kong only.

- A person will be required to make a declaration that he had the ROA in Hong Kong only immediately before the establishment of the HKSAR.

(Note: For the meaning of "Chinese citizen", "settled", "ordinary residence", "return to settle" and "parent", see Part 1.)

Eligibility for the ROA in the HKSAR



Notes: (1) Other than Chinese citizens, persons may lose the ROA in certain circumstances. See Parts 6 and 7.
 (2) See Part 1 for the meaning of "Chinese citizen", "settled", "ordinary residence", "return to settle" and "parent".

The position of Chinese citizens who do not hold foreign passports

If you are a Chinese citizen, you can enjoy the ROA in the HKSAR if :

- you had the ROA in Hong Kong before 1 July 1997; or
- you were born in Hong Kong and at the time of your birth or at any time thereafter, one of your parents has settled in Hong Kong; or
- you have at any time ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR; or
- you were born outside Hong Kong to a parent who was a Chinese citizen and had the ROA in Hong Kong at the time of your birth.

You will continue to enjoy the ROA in the HKSAR as long as you remain a Chinese citizen.

If you are out of Hong Kong for whatever reason, you need not return to Hong Kong before 1 July 1997.

You will not lose your ROA even if you are absent from Hong Kong for long periods.

Chinese citizens not born in Hong Kong will be able to acquire ROA after having ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the HKSAR. Illegal residence does not count.

The position of Hong Kong residents (including former residents) of Chinese descent who had the ROA before 1 July 1997 and hold foreign passport

Whether you are regarded as a Chinese citizen while you are staying in Hong Kong does not depend on what travel document you use in entering Hong Kong. It depends on whether you have made a declaration of change of nationality to the Immigration Department.

Remaining in the HKSAR as a Chinese citizen

If you choose to remain in Hong Kong on or after 1 July 1997 as a Chinese citizen, i.e., if you choose not to make a declaration of change of nationality, you will retain your ROA irrespective of whether you are physically present in Hong Kong on 1 July 1997 and, in the case of returning emigrants, irrespective of whether you return to settle on or after 1 July 1997.

If you are out of Hong Kong for whatever reason, you need not return to Hong Kong before 1 July 1997.

You will not lose your ROA even if you are absent from Hong Kong for long periods.

You can still use your foreign passport as a travel document but you will not enjoy consular protection in the HKSAR.

Remaining in the HKSAR as a foreign national

If you choose to remain in the HKSAR as a foreign national by making a declaration of change of nationality to the HKSAR Immigration Department and the declaration has been registered-

you can enjoy the ROA in the HKSAR if:

- you had the ROA in Hong Kong before 1 July 1997, and
 - you are settled or have returned to settle in Hong Kong before 1 July 1997 and remain settled thereafter; or
 - you return to settle in the HKSAR on or after 1 July 1997 and you have not been continuously absent from Hong Kong beyond the prescribed period; or
 - you are able to satisfy the requirements in Part 4, paragraph (4) of this booklet.

You can enjoy consular protection in the HKSAR from the country of your declared nationality.

You need not be physically present in Hong Kong on 1 July 1997 provided that you are still ordinarily resident in the HKSAR. (Please see page 5 for the meaning of ordinary residence.) If you are temporarily overseas (on holiday or for study, work or business etc.), you need not return before 1 July 1997.

If you have been absent from Hong Kong beyond the prescribed period and have not returned to settle before 1 July 1997, you will lose your ROA but will still be able to enter the HKSAR freely after that period to live, study and work without any restriction.

You will be able to re-acquire the ROA in the HKSAR after having ordinarily resided in the HKSAR for a continuous period of not less than seven years and having made a declaration that you have taken Hong Kong as your place of permanent residence.

Remaining overseas after 30 June 1997

You can enjoy the ROA in the HKSAR when you return if:

- you had the ROA in Hong Kong before 1 July 1997 and you choose not to make a declaration of change of nationality; *you will continue to enjoy the ROA in the HKSAR notwithstanding that you hold a foreign passport.*

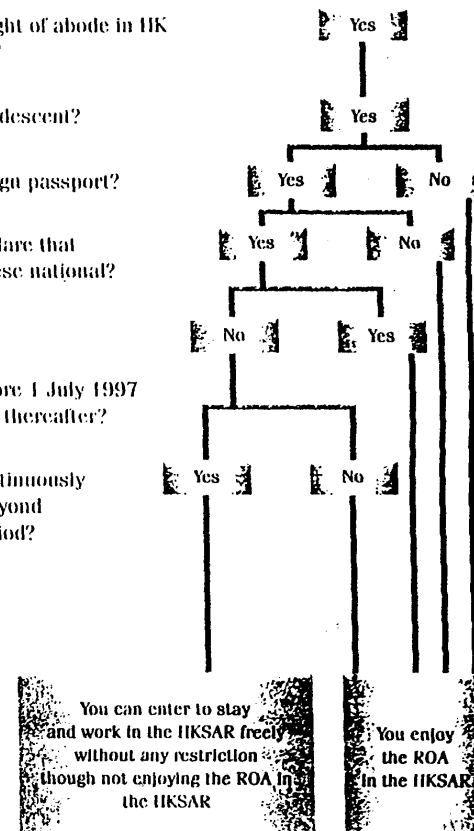
You need not return to Hong Kong before 1 July 1997.

You may however choose to be regarded as a foreign national when you return to the HKSAR after 30 June 1997 by making a declaration of change of nationality. When the declaration has been registered, you will enjoy consular protection in the HKSAR, but you may lose your ROA if you have been absent from Hong Kong beyond the prescribed period. If you lose your ROA, you will still be able to enter the HKSAR freely after 30 June 1997 to live, study and work, without any restriction.

(Note: "Prescribed period of absence" - According to a recent statement made by a senior Chinese official, the proposed period of absence will start to run only from 1 July 1997. Details of how long the period of absence shall be and the implementation arrangements are still under discussion.)

A checklist for Returning Emigrant of Chinese descent

1. Did you have the right of abode in HK before 1 July 1997?
2. Are you of Chinese descent?
3. Do you have a foreign passport?
4. Do you wish to declare that you are not a Chinese national?
5. Have you returned, or will you return, to settle in HK before 1 July 1997 and remain settled thereafter?
6. Have you been continuously absent from HK beyond the prescribed period?



7

The position of Non-Chinese citizens

You can enjoy the ROA in the HKSAR if:

- you have entered Hong Kong with a valid travel document and
 - 'immediately before' the date on which you apply for the ROA, you have ordinarily resided in Hong Kong or the HKSAR for a continuous period of not less than seven years; and
 - you have made a declaration and have provided the required information to demonstrate that you have taken Hong Kong as your place of permanent residence; and
 - you are settled in Hong Kong on the date you apply for the ROA; or
- you are under 21 years of age and born in Hong Kong to a parent who has the ROA in Hong Kong at the date of your birth or any time thereafter before you attain the age of 21.

You can continue to enjoy the ROA provided you are not absent from Hong Kong beyond the prescribed period (see Note to Part 6 of this booklet).

8

The position of persons not of Chinese descent who are solely British Nationals (Overseas) or British Overseas Citizens on 1 July 1997

You can enjoy the ROA in the HKSAR without satisfying the conditions in Part 7 if:

- Immediately before the establishment of the HKSAR, you had the ROA in Hong Kong **only**.

9
Extracts from the Nationality Law of the People's Republic of China and the National People's Congress' Interpretation when applying in the HK SAR

Extract from the Nationality Law of the People's Republic of China (Adopted at the Third Session of the Fifth National People's Congress on 10 September 1980)

- Article 4 Any person born in China whose parents are Chinese nationals or one of whose parents is a Chinese national has Chinese nationality.
- Article 5 Any person born abroad whose parents are Chinese nationals or one of whose parents is a Chinese national has Chinese nationality. But a person whose parents are Chinese nationals and have settled abroad or one of whose parents is a Chinese national and has settled abroad and who has acquired foreign nationality on birth does not have Chinese nationality.
- Article 6 Any person born in China whose parents are stateless or of uncertain nationality but have settled in China has Chinese nationality.
- Article 7 Aliens or stateless persons who are willing to abide by China's Constitution and laws may acquire Chinese nationality upon approval of their applications provided that:
- 1) they are close relatives of Chinese nationals; or
 - 2) they have settled in China; or
 - 3) they have other legitimate reasons.
- Article 8 Any person who applies for naturalization in China acquires Chinese nationality upon approval of his or her application; no person whose application for naturalization in China has been approved is permitted to retain foreign nationality.

- Article 9 Any Chinese national who has settled abroad and who has been naturalized there or has acquired foreign nationality of his own free will automatically loses Chinese nationality.
- Article 10 Chinese nationals may renounce Chinese nationality upon approval of their applications provided that:
- 1) they are close relatives of aliens; or
 - 2) they have settled abroad; or
 - 3) they have other legitimate reasons.
- Article 11 Any person whose application for renunciation of Chinese nationality has been approved loses Chinese nationality.
- Article 12 State functionaries and army men on active service shall not renounce Chinese nationality.
- Article 13 Aliens who were once of Chinese nationality may apply for restoration of Chinese nationality provided that they have legitimate reasons; those whose applications for restoration of Chinese nationality are approved shall not retain foreign nationality.
- Article 14 The acquisition, renunciation and restoration of Chinese nationality, with the exception of cases provided for in Article 9, shall go through the formalities of application. Applications for those under the age of 18 may be filed by the minors' parents or other legal representatives.

*Extract from the Standing Committee of the National People's Congress' Interpretation of Several Questions of the Nationality Law of the People's Republic of China when applying in the Hong Kong Special Administrative Region
(Passed at the 19th meeting of the Standing Committee at the 8th National People's Congress on 15 May 1996)*

1. For those Hong Kong residents who are of Chinese descent and born in Chinese territory (including Hong Kong), and others who satisfy conditions laid down in the Nationality Law of PRC to be eligible for Chinese nationality, they are Chinese nationals.
4. Chinese nationals in the HKSAR with right of abode in foreign countries can use relevant documents issued by foreign governments for the purpose of travelling to other states and regions. However, they will not be entitled to consular protection in the HKSAR and other parts of PRC on account of their holding the above mentioned documents.
5. In the case of nationality changes for the Chinese nationals in the HKSAR, those concerned can make a declaration with valid documentation to the appropriate authority of the HKSAR responsible for nationality applications.

Further information may be obtained from –

ROA Enquiry Hotline : (852) 2824 4055

Faxline : (852) 2598 8388

Internet Hong Kong Immigration Home Page :
<http://www.info.gov.hk/immd/>

E-mail : roa@immd.gov.hk

Booklet on 'Right of Abode in
the Hong Kong Special Administrative Region'

Addendum

1. After the printing of this booklet, the Hong Kong and Macao Affairs Office of the Chinese State Council issued a statement on 13 April 1997 regarding Hong Kong residents' nationality and right of abode in the Hong Kong Special Administrative Region (HKSAR). The statement announced, among other things, that:-

(a) Non-Chinese citizens (foreign nationals) who had the right of abode before the establishment of the HKSAR could continue to have the right of abode in the HKSAR if:-

(i) they are settled or have returned to settle in Hong Kong before 1 July 1997; or

(ii) they return to settle in Hong Kong within 18 months from 1 July 1997; or

(iii) on the date they return to settle in Hong Kong, they have not immediately before that date lived outside Hong Kong for a continuous period of more than 36 months;



(b) Non-Chinese citizens (foreign nationals) who have acquired the right of abode in the HKSAR but have subsequently lived outside the Region for a continuous period of more than 36 months will lose their right of abode. Exceptions are made for those who, before the establishment of the HKSAR, had the right of abode in Hong Kong only (subject to paragraph 1(c)) and those who have acceptable reasons (such as temporary absence for the purpose of study or work);

(c) A person who, before the establishment of the HKSAR, had the right of abode in Hong Kong only (i.e. persons who acquire the right of abode under Article 24(2)(6) of the Basic Law) and has subsequently obtained the right of abode in another country or territory will lose his right of abode if he has subsequently lived outside the HKSAR for a continuous period of more than 36 months;

(d) Non-Chinese citizens (foreign nationals) who lose their right of abode will be given the right to land enabling them to enter the HKSAR and to work or live in the Region freely; and

(e) Persons not of Chinese nationality under 21 years of age and born in Hong Kong to a parent who has the right of abode in the HKSAR at the date of their birth or any time thereafter before they attain the age of 21 will have the right of abode in the HKSAR, but they will have to re-qualify for the right of abode as other foreign nationals do when they reach the age of 21.

2. Readers are, therefore, advised to make reference to the above information when they read pages 16-21 of this booklet.

B1576 1999年第167號法律公告 1999年第10期憲報號外第三號法律副刊

1999年第167號法律公告

現刊登以下解釋，以廣週知。

全國人民代表大會常務委員會
關於《中華人民共和國香港特別行政區基本法》
第二十二條第四款和第二十四條第二款第(三)項的解釋

(1999年6月26日第九屆全國人民代表大會
常務委員會第十次會議通過)

第九屆全國人民代表大會常務委員會第十次會議審議了國務院《關於提請解釋〈中華人民共和國香港特別行政區基本法〉第二十二條第四款和第二十四條第二款第(三)項的議案》。國務院的議案是應香港特別行政區行政長官根據《中華人民共和國香港特別行政區基本法》第四十三條和第四十八條第(二)項的有關規定提交的報告提出的。鑒於議案中提出的問題涉及香港特別行政區終審法院1999年1月29日的判決對《中華人民共和國香港特別行政區基本法》有關條款的解釋，該有關條款涉及中央管理的事務和中央與香港特別行政區的關係，終審法院在判決前沒有依照《中華人民共和國香港特別行政區基本法》第一百五十八條第三款的規定請全國人民代表大會常務委員會作出解釋，而終審法院的解釋又不符合立法原意，經徵詢全國人民代表大會常務委員會香港特別行政區基本法委員會的意見，全國人民代表大會常務委員會決定，

L. S. NO. 2 TO GAZETTE EXT. NO. 10/1999

附件 F
Annex F

L.N. 167 of 1999

This is an English translation of the original instrument in Chinese, and is published for information.

THE INTERPRETATION BY THE STANDING COMMITTEE
OF THE NATIONAL PEOPLE'S CONGRESS OF
ARTICLES 22(4) AND 24(2)(3) OF THE BASIC LAW OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
OF THE PEOPLE'S REPUBLIC OF CHINA

(Adopted by the Standing Committee of the Ninth National
People's Congress at its Tenth Session on 26 June 1999)

The Standing Committee of the Ninth National People's Congress examined at its Tenth session the "Motion Regarding the Request for an Interpretation of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" submitted by the State Council. The motion of the State Council was submitted upon the report furnished by the Chief Executive of the Hong Kong Special Administrative Region under the relevant provisions of Articles 43 and 48(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. The issue raised in the Motion concerns the interpretation of the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Court of Final Appeal of the Hong Kong Special Administrative Region in its judgment dated 29 January 1999. Those relevant provisions concern affairs which are the responsibility of the Central People's Government and concern the relationship between the Central Authorities and the Hong Kong Special Administrative Region. Before making its judgment, the Court of Final Appeal had not sought an interpretation of the Standing Committee of the National People's Congress in compliance with the requirement of Article 158(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. Moreover, the interpretation of the Court of Final Appeal is not consistent with the legislative intent. Therefore, having consulted the Committee for the Basic Law of the Hong Kong Special Administrative Region under the Standing Committee of the National People's Congress, the Standing Committee of the National People's Congress has decided to make, under the provisions of Article 67(4) of the Constitution of the People's Republic of China and Article 158(1) of the Basic Law of the

根據《中華人民共和國憲法》第六十七條第(四)項和《中華人民共和國香港特別行政區基本法》第一百五十八條第一款的規定，對《中華人民共和國香港特別行政區基本法》第二十二條第四款和第二十四條第二款第(三)項的規定，作如下解釋：

一、《中華人民共和國香港特別行政區基本法》第二十二條第四款關於“中國其他地區的人進入香港特別行政區須辦理批准手續”的規定，是指各省、自治區、直轄市的人，包括香港永久性居民在內地所生的中國籍子女，不論以何種事由要求進入香港特別行政區，均須依照國家有關法律、行政法規的規定，向其所在地區的有關機關申請辦理批准手續，並須持有有關機關製發的有效證件方能進入香港特別行政區。各省、自治區、直轄市的人，包括香港永久性居民在內地所生的中國籍子女，進入香港特別行政區，如未按國家有關法律、行政法規的規定辦理相應的批准手續，是不合法的。

二、《中華人民共和國香港特別行政區基本法》第二十四條第二款前三項規定：“香港特別行政區永久性居民為：(一)在香港特別行政區成立以前或以後在香港出生的中國公民；(二)在香港特別行政區成立以前或以後在香港通常居住連續七年以上的中國公民；(三)第(一)、(二)兩項所列居民在香港以外所生的中國籍子女”。其中第(三)項關於“第(一)、(二)兩項所列居民在香港以外所生的中國籍子女”的規定，是指無論本人是在香港特別行政區成立以前或以後出生，在其出生時，其父母雙方或一方須是符合《中華人民共和國香港特別行政區基本法》第二十四條第二款第(一)項或第(二)項規定條件的人。本解釋所闡明的立法原意以及《中華人民共和國香港特別

Hong Kong Special Administrative Region of the People's Republic of China, an interpretation of the provisions of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China as follows:

1. The provisions of Article 22(4) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China regarding "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval" mean as follows: People from all provinces, autonomous regions, or municipalities directly under the Central Government, including those persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, who wish to enter the Hong Kong Special Administrative Region for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region. It is unlawful for people from all provinces, autonomous regions, or municipalities directly under the Central Government, including persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents, to enter the Hong Kong Special Administrative Region without complying with the appropriate approval procedure prescribed by the relevant national laws and administrative regulations.

2. It is stipulated in the first three categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China that the "permanent residents of the Hong Kong Special Administrative Region shall be:

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);".

The provisions of category (3) regarding the "persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)" mean both parents of such persons, whether born before or after the establishment of the Hong Kong Special Administrative Region, or either of such parents must have fulfilled the condition prescribed by category (1) or (2) of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China at the time of their birth. The

行政區基本法》第二十四條第二款其他各項的立法原意，已體現在 1996 年 8 月 10 日全國人民代表大會香港特別行政區籌備委員會第四次全體會議通過的《關於實施〈中華人民共和國香港特別行政區基本法〉第二十四條第二款的意見》中。

本解釋公布之後，香港特別行政區法院在引用《中華人民共和國香港特別行政區基本法》有關條款時，應以本解釋為準。本解釋不影響香港特別行政區終審法院 1999 年 1 月 29 日對有關案件判決的有關訴訟當事人所獲得的香港特別行政區居留權。此外，其他任何人是否符合《中華人民共和國香港特別行政區基本法》第二十四條第二款第（三）項規定的條件，均須以本解釋為準。

legislative intent as stated by this Interpretation, together with the legislative intent of all other categories of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, have been reflected in the "Opinions on the Implementation of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China" adopted at the Fourth Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People's Congress on 10 August 1996.

As from the promulgation of this Interpretation, the courts of the Hong Kong Special Administrative Region, when referring to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, shall adhere to this Interpretation. This Interpretation does not affect the right of abode in the Hong Kong Special Administrative Region which has been acquired under the judgment of the Court of Final Appeal on the relevant cases dated 29 January 1999 by the parties concerned in the relevant legal proceedings. Other than that, the question whether any other person fulfils the conditions prescribed by Article 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China shall be determined by reference to this Interpretation.

**Background Note on Arrangements
for Hong Kong Born Chinese Nationals
to acquire Hong Kong Permanent Resident Status
and Right of Abode in Hong Kong**

A Chinese national born in Hong Kong before 1 January 1983

He was a “British subject: citizen of the United Kingdom & Colonies” under section 4 of the British Nationality Act (BNA) 1948 by birth in Hong Kong.

Section 4 provided that “...every person born within the United Kingdom and Colonies after the commencement of this Act (i.e. 1 January 1949), shall be a citizen of the United Kingdom and Colonies by birth.....”.

He was a Hong Kong believer under section 2(1) of the then Immigration Ordinance (repealed on 1 July 1987) and, by virtue of section 8(1)(a) of the same Ordinance, had the right to land in Hong Kong.

A Hong Kong believer was then defined as “a British subject who was born in Hong Kong.....”.

On 1 January 1983, he became a British Dependent Territories citizen (BDTC) under section 23(1)(a) of the BNA Act 1981 that came into force on 1 January 1983. He retained his Hong Kong believer status under the First Schedule to the Immigration Ordinance (effective on 1 January 1983 to tie in with the coming into force of the BNA 1981).

On 19 December 1984, the Sino-British Joint Declaration on the Question of Hong Kong was signed. Under paragraph XIV of Annex I to the Joint Declaration, certain categories of Chinese nationals would acquire the status of Hong Kong permanent resident and have the right of abode in Hong Kong.

On 1 July 1987, the terms “right of abode” and “Hong Kong permanent resident” were introduced in the Immigration Ordinance.

He became a Hong Kong permanent resident under the amended First Schedule (later amended to read Schedule 1) to the then Immigration Ordinance and, by virtue of section 2A of the same Ordinance, had the right of abode in Hong Kong.

On 1 July 1997, the BNA 1981 ceased to have effect in Hong Kong.

On 1 July 1997, Schedule 1 to the Immigration Ordinance was amended by the Immigration (Amendment) (No.2) Ordinance 1997. He retained his Hong Kong permanent resident status.

A Chinese national born in Hong Kong between 1 January 1983 and 30 June 1987

He was a BDTC under section 15(1) of the BNA 1981 if at the time of birth, his father or mother was a BDTC or settled in Hong Kong.

Section 15(1) provided that “a person born in a dependent territory after commencement (i.e. 1 January 1983) shall be a BDTC if at the time of the birth, his father or mother is a BDTC or settled in a dependent territory”.

The term settled” was defined in section 50(2) of the BNA 1981 as “(references to this Act to a person being settled in a dependent territory are references to his being ordinarily resident in that territory without being subject under the immigration laws to any restriction on the period for which he may remain....”.

Section 50(9) of the BNA 1981 provided that “..for the purposes of this Act, the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her, but ... the relationship of father and child shall be taken to exist only between a man and any legitimate child born to him,”

If he did not acquire the BDTC status at the time of his birth, he was entitled to be registered as a BDTC, on or before 31 March 1996 (the last application date), under section 15(3) of the BNA 1981 before he attains the age of eighteen if his father or mother subsequently became settled in Hong Kong or a BDTC.

Section 15(3) provided that “a person born in a dependent territory after commencement (i.e. 1 January 1983) who [was] not a BDTC by virtue of [birth] shall be entitled to be registered as a [BDTC] if, while he is a minor, (i.e. under the age of eighteen), his father or mother becomes a [BDTC] or becomes settled in a dependent territory and an application is made for his registration as a [BDTC].”

As a BDTC born or registered in Hong Kong, he had the Hong Kong believer status under the First Schedule to the Immigration Ordinance (effective on 1 January 1983 to tie in with the coming into force of the BNA 1981) and had the right to land in Hong Kong.

On 1 July 1987, the terms “right of abode” and “Hong Kong permanent resident” were introduced in the Immigration Ordinance.

He became a Hong Kong permanent resident under the amended First Schedule (later amended to read Schedule 1) to the then Immigration Ordinance and had the right of abode in Hong Kong.

On 1 July 1997, the BNA 1981 ceased to have effect in Hong Kong.

On 1 July 1997, Schedule 1 to the Immigration Ordinance was amended by the Immigration (Amendment) No.2 Ordinance 1997. He retained his Hong Kong permanent resident status.

A Chinese national born in Hong Kong between 1 July 1987 and 30 June 1997

He was a BDTC under section 15(1) of the BNA 1981 if at the time of birth, his father or mother was a BDTC or settled in Hong Kong.

If he did not acquire the BDTC status at the time of his birth, he was entitled to be registered, on or before 31 March 1996 (the last application date), as a BDTC under section 15(3) of the BNA 1981 before he attained the age of eighteen if his father or mother subsequently became a BDTC or settled in Hong Kong.

He was a Hong Kong permanent resident under the amended First Schedule (later amended to read Schedule 1) to the Immigration Ordinance and had the right of abode in Hong Kong.

On 1 July 1997, the BNA 1981 ceased to have effect in Hong Kong.

On 1 July 1997, Schedule 1 to the Immigration Ordinance was amended by the Immigration (Amendment) No.2 Ordinance 1997. He retained his Hong Kong permanent resident status.

Annex

Definition of the term “Hong Kong believer” and the First Schedule to the Immigration Ordinance effective on 1 January 1983

Definition of the terms “Hong Kong permanent resident” and “right of abode” and the First Schedule (later amended as Schedule 1) to the Immigration Ordinance effective on 1 July 1987

The Hong Kong (British Nationality) Order 1986

Security Bureau

6 July 1999

1 of the Relevant Provisions in the Immigration Ordinance

"Chinese resident" means an immigrant who—

- (a) is wholly or partly of Chinese race; and
- (b) has at any time been ordinarily resident in Hong Kong for a continuous period of not less than 7 years;

"Hong Kong believer" means a person who—

- (a) immediately before 1 January 1983 was—
 - (i) a British subject who was born in Hong Kong;
 - (ii) a British subject by naturalization in Hong Kong;
 - (iii) a British subject by registration in Hong Kong under section 7(2) of the British Nationality Act 1948;
 - (iv) a British subject married or who had been married to, or was a child of, a person mentioned in sub-paragraph (i), (ii) or (iii);
- (b) on or after 1 January 1983 belongs to a class or description of persons mentioned in the First Schedule; (*Replaced. First Schedule. 78 of 1982, s. 2*)

"resident British citizen" means any person who—

- (a) is a British citizen; or
- (b) is or becomes a British citizen and who immediately before 1 January 1983 was a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom under the Immigration Act 1971,

(1971 c. 77.)

and has at any time been ordinarily resident in Hong Kong, either as a British citizen or partly as a United Kingdom believer and partly as a British citizen, for a continuous period of not less than 7 years; (*Added; 78 of 1982, s. 2*)

"resident United Kingdom believer" means a United Kingdom believer who has at any time been ordinarily resident in Hong Kong for a continuous period of not less than 7 years;

8. (1) The following persons shall have the right to land in Hong Kong, that is to say—

- (a) Hong Kong believers;
- (b) [*Deleted. 78 of 1982, s. 3*];
- (c) Chinese residents but subject to section 20(6);
- (d) resident British citizens but subject to section 20(6); and (*Added. 78 of 1982, s. 3*)
- (e) persons who immediately before 1 January 1983 were resident United Kingdom believers but subject to section 20(6). (*Added, 78 of 1982, s. 3*)

Right to land in Hong Kong and to remain free of conditions of stay.

(2) A condition of stay, whenever imposed, shall have no effect in respect of a person who has the right to land in Hong Kong by virtue of subsection (1).

FIRST SCHEDULE

[ss. 2(1) & 59A.]

PERSONS WHO ARE HONG KONG BELONGERS
UNDER SECTION 2(1)

(1981 c. 61.)

1. Any person who immediately before 1 January 1983 was a Hong Kong believer.
2. Any person who is or becomes a British Dependent Territories citizen—
 - (a) under section 15(1)(b) or (2) of the 1981 Act;
 - (b) by naturalization in Hong Kong under section 18 of, and Schedule 1 to, the 1981 Act;
 - (c) by registration in Hong Kong under section 15(3) or (4), 17, 19, 21, 22 or 24 of, or paragraph 3, 4 or 5 of Schedule 2 to, the 1981 Act;
 - (d) under section 23(1), (3) or (4) of the 1981 Act.
3. Any person who is or becomes a British Dependent Territories citizen—
 - (a) by birth in Hong Kong under section 15(1)(a) of the 1981 Act;
 - (b) by descent under section 16 of the 1981 Act;
 - (c) under section 23(2) of the 1981 Act; or
 - (d) under paragraph 1 of Schedule 2 to the 1981 Act,if that person's father or mother or grandfather or grandmother has an appropriate qualifying connexion with Hong Kong.
4. Any person who is or becomes a British Dependent Territories citizen—
 - (a) by birth in any of the British Dependent Territories mentioned in Schedule 6 to the 1981 Act (other than Hong Kong) under section 15(1) of the 1981 Act; or
 - (b) by registration in any of the British Dependent Territories mentioned in Schedule 6 to the 1981 Act (other than Hong Kong) under section 15(3) of the 1981 Act,if that person's father or mother has an appropriate qualifying connexion with Hong Kong or is or becomes settled in Hong Kong.
5. Any person who is or becomes a British Dependent Territories citizen by adoption in Hong Kong under section 15(5) of the 1981 Act if the adopter or, in the case of a joint adoption, one of the adopters, has an appropriate qualifying connexion with Hong Kong or is or becomes settled in Hong Kong on the date of the adoption order.
6. Any person who is or becomes a British Dependent Territories citizen by adoption in any of the British Dependent Territories mentioned in Schedule 6 to the 1981 Act (other than Hong Kong) under section 15(5) of the 1981 Act if the adopter or, in the case of a joint adoption, one of the adopters, has an appropriate qualifying connexion with Hong Kong or is or becomes settled in Hong Kong on the date of the adoption order.
7. Any woman who is or becomes a British Dependent Territories citizen by registration in Hong Kong under section 20 of the 1981 Act if that woman's husband has an appropriate qualifying connexion with Hong Kong.

8. Any person who is or becomes a British Dependent Territories citizen in any of the British Dependent Territories mentioned in Schedule 6 to the 1981 Act (other than Hong Kong) under any of the provisions of the 1981 Act and is or has been married to a person who has, or would if living have, an appropriate qualifying connexion with Hong Kong.

The references to—

- (1) "a dependent territory";
- (2) "a dependent territory (no matter which)";
- (3) "any dependent territory";
- (4) "the dependent territory";
- (5) "any particular dependent territory";
- (6) "one and the same dependent territory (no matter which)";
- (7) "that territory";
- (8) "the last mentioned territory";
- (9) "the relevant territory"; and
- (10) "the dependent territories";

in the provisions of the 1981 Act which apply for the purposes of paragraphs 2 to 8 shall, unless the context otherwise requires, be construed as references to "Hong Kong".

A person shall be taken to have an appropriate qualifying connexion with Hong Kong if that person is or becomes a British Dependent Territories citizen or would have become such a citizen at 1 January 1983 but for that person's death—

- (a) by birth in Hong Kong;
- (b) by adoption in Hong Kong;
- (c) by naturalization in Hong Kong; or
- (d) by registration in Hong Kong.

(First Schedule added, 78 of 1982, s. (4))

First Schedule.

"Hong Kong permanent resident" means a person who belongs to a class or description of persons specified in the First Schedule; (Added, 31 of 1987, s. 2)

PART 1A

RIGHT OF ABODE IN HONG KONG

2A. (1) A Hong Kong permanent resident enjoys the right of abode in Hong Kong, that is to say he has the right—

Hong Kong permanent residents enjoy right of abode in Hong Kong.

- (a) to land in Hong Kong;
- (b) not to have imposed upon him any condition of stay in Hong Kong, and any condition of stay that is imposed shall have no effect;
- (c) not to have a deportation order made against him; and
- (d) not to have a removal order made against him.

(2) Notwithstanding subsection (1)(c), no person against whom a deportation order was made prior to 1 July 1987 enjoys the right of abode in Hong Kong unless the deportation order has expired or been revoked.

(Part 1A added, 31 of 1987, s. 3)

FIRST SCHEDULE

[ss. 2(1) & 59A.]

HONG KONG PERMANENT RESIDENTS

1. Any person who is wholly or partly of Chinese race and has at any time been ordinarily resident in Hong Kong for a continuous period of not less than 7 years.
2. Any person who is a British Dependent Territories citizen and who—
 - (a) belongs to a class or description of persons specified in Article 2 of the Hong Kong (British Nationality) Order 1986 as having a connexion with Hong Kong; or
 - (b) is such a citizen by virtue of his having a connexion with any of the British Dependent Territories (other than Hong Kong) mentioned in Schedule 6 to the British Nationality Act 1981 and has at any time been married to a person specified in sub-paragraph (a).
- *3. Any person who is a Commonwealth citizen and who immediately before 1 January 1983 had the right to land in Hong Kong by virtue of section 3(1)(a) as then in force.

(First Schedule added, 78 of 1982, s. 14. Replaced, 31 of 1987, s. 2*)

(L.N. 213/86.)

(1981 c. 61.)

L. S. NO. 2 TO GAZETTE NO. 39/1986

L.N. 233/86

B623

L.N. 233 of 1986

The following order is published for general information:—

1986 No. 948

BRITISH NATIONALITY**THE HONG KONG (BRITISH NATIONALITY) ORDER 1986***Laid before Parliament in draft**Made* - - - - - *5th June 1986**Coming into Operation* - - - - - *1st July 1987***ARRANGEMENT OF ARTICLES**

<i>Article</i>	<i>Page</i>
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At the Court at Buckingham Palace, the 5th day of June 1986

Present.

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament and has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in pursuance of paragraph 2 of the Schedule to the Hong Kong Act 1985(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. (1) This Order may be cited as the Hong Kong (British Nationality) Order 1986 and shall come into operation on 1st July 1987.

(2) This Order extends to Northern Ireland.

(3) This Order extends to the Channel Islands and the Isle of Man and to all dependent territories.

(4) Section 50 of the British Nationality Act 1981(b) (interpretation) shall apply to the interpretation of this Order as it applies to the interpretation of that Act.

2. (1) For the purposes of this Order a person shall be taken to have a connection with Hong Kong if—

*Citation,
commencement,
extent and
interpretation.*

*Connections with
Hong Kong.*

(a) 1985 c. 15.

(b) 1981 c. 61.

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L.N. 233/86

L. S. NO. 2 TO GAZETTE NO. 39/1986

- (a) subject to paragraph (3) below, he, his father or his mother was born, naturalised or registered in Hong Kong or found abandoned there as a new-born infant; or
- (b) he, his father or his mother was adopted (whether or not in Hong Kong) and the adopter or, in the case of a joint adoption, one of the adopters was at the time of the adoption a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article; or
- (c) he, his father or his mother was registered outside Hong Kong on an application based (wholly or partly) on any of the following:—
 - (i) residence in Hong Kong;
 - (ii) descent from a person born in Hong Kong;
 - (iii) descent from a person naturalised, registered or settled in Hong Kong (whether before or after the birth of the person registered);
 - (iv) descent from a person adopted (whether or not in Hong Kong) in the circumstances specified in sub-paragraph (b) above;
 - (v) marriage to a person who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article or would have been so but for his death or renunciation of citizenship;
 - (vi) Crown service under the government of Hong Kong;
 - (vii) where citizenship has been renounced and subsequently resumed, birth, naturalisation or registration in Hong Kong; or
- (d) at the time of his birth his father or mother was settled in Hong Kong; or
- (e) his father or mother was born to a parent who at the time of the birth was a citizen of the United Kingdom and Colonies by virtue of his having a connection with Hong Kong as specified in this Article; or
- (f) being a woman, she was married before 1st January 1983 to a man who is a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article or would have been so but for his death.

(2) In paragraph (1) above "registered" means registered as a British Dependent Territories citizen or, before 1st January 1983, as a citizen of the United Kingdom and Colonies; and "registration" shall be construed accordingly.

(3) A person born in Hong Kong on or after 1st January 1983 shall not be taken to have a connection with Hong Kong under paragraph (1)(a) above by virtue of his birth there unless, at the time of his birth, one of his parents was—

- (a) settled in Hong Kong; or
- (b) a British Dependent Territories citizen by virtue of his having a connection with Hong Kong as specified in this Article.

Loss of British
Dependent
Territories
citizenship.

3. Any person who, immediately before 1st July 1997—

- (a) is a British Dependent Territories citizen by virtue (wholly or partly) of his having a connection with Hong Kong; and
- (b) but for his having a connection with Hong Kong would not be a British Dependent Territories citizen.

shall on that date cease to be such a citizen.

Right to acquire
new status of
British National
(Overseas).

4. (1) On and after 1st July 1987 there shall be a new form of British nationality the holders of which shall be known as British Nationals (Overseas).

(2) Any person who is a British Dependent Territories citizen by virtue (wholly or partly) of his having a connection with Hong Kong and who, but for his having a connection with Hong Kong, would not be such a citizen shall be entitled, before 1st July 1997 (or before the end of 1997 if born in that year before that date), to be registered as a British National (Overseas) and to hold or be included in a passport appropriate to that status.

**Information Note on Application
and Verification procedures for a Certificate of Entitlement**

The Director of Immigration and the relevant authorities of the Mainland have held discussions to settle the procedures of applying for a Certificate of Entitlement. It is expected that a consensus will be reached very soon. The main points of discussions on the application and verification procedures are as follows.

Submission of Application

Based on the re-linking of the Certificate of Entitlement and One-way Permit arrangements, an applicant who is residing in the Mainland has to submit his application to the relevant Public Security Bureau Office in the district where he is residing and has household registration. The applicant has to complete in duplicate the One-way permit application form which is specifically designed for persons of Chinese nationality born in the Mainland to parents who are permanent residents of the Hong Kong Special Administrative Region. One copy of the form will be used as the application form for a Certificate of Entitlement. It will be sent to the Hong Kong Immigration Department for processing. The Public Security Bureau Offices will accept applications from children born out of wedlock. When the applicant submits an application, he should furnish supporting documents which include his identification documents, proofs that one of his parents falls within the categories of persons under Article 24(2)(1) or 24(2)(2) of the Basic Law. Regarding the proof of parentage relationship of illegitimate children, undergoing a DNA test may be required. Because of the complications of the technical arrangement, experts from both sides will further discuss to work out the details.

Preliminary Verification and Referral of Application

As before, the Public Security Bureau Offices will continue to verify the personal particulars of the applicants, after confirmation of the applicants' identities and relationship with their parents, the duplicate "One-way Permit cum Certificate of Entitlement" application form will be sent to the Hong Kong Immigration Department by batches for processing through designated channels. The despatch will be handled by the Bureau

of Exit-Entry Administration in Beijing and Public Security Bureau Offices in Guangdong and Fujian Provinces. The Hong Kong Immigration Department will continue to maintain close contacts with the relevant Public Security Bureau Offices on the despatch of applications to Hong Kong for processing.

Verification and Assessment of Eligibility for Right of Abode

Upon receipt of the applications referred by the Public Security Bureau Offices, staff of the Hong Kong Immigration Department will verify the applications in an orderly manner. Based on the information provided by the Public Security Bureau Offices and the records being kept by the Hong Kong Immigration Department, the eligibility of the applicants will be assessed in accordance with Article 24(2)(3) of the Basic Law. If there is doubt or inconsistent information found in the application, the Hong Kong Immigration Department will seek assistance from the relevant Public Security Bureau Offices to conduct investigation and the applicant will also be requested to submit further supporting documents. When eligibility is confirmed, the Hong Kong Immigration Department will issue a Certificate of Entitlement.

Control and Record Maintenance

There are adequate control measures to ensure the security of the whole verification process. All application records are stored in a secured and computerised system. The Certificates of Entitlement which have security features will be printed. Photocopies of all printed Certificates of Entitlement will be kept by the Hong Kong Immigration Department for records purpose.

Issuing Procedures and Entry Arrangement

As the Certificate of Entitlement is an important document, the Hong Kong Immigration Department will despatch them to the Mainland authorities through the established channel. The certificates will be sealed and delivered to the Mainland authorities through the Border Liaison Channel. When the Public Security Bureau Office issues the One-way Permit to the applicant, the Certificate of Entitlement will also be affixed to the One-way Permit so that the applicant can come to Hong Kong for settlement with the two documents.

The staff of the Hong Kong Immigration Department will examine the One-way Permit and the Certificate of Entitlement when the holder arrives at Lowu Control Point. When the person is satisfied to be the rightful holder of the certificates and no irregularities are found, he will be allowed for entry.

Security Bureau

6 July 1999