

Information paper on  
1 June 2000

## **Panel on Security of the Legislative Council**

### **Verification of parentage of persons claiming right of abode – Genetic test arrangements**

#### **Purpose**

This paper informs Members of the genetic test arrangements to be adopted for verifying the parentage of persons claiming right of abode (ROA) under paragraph 2(c) of Schedule 1 to the Immigration Ordinance<sup>Note</sup>.

#### **Policy on application of genetic test**

2. Our policy is that persons claiming ROA under paragraph 2(c) of Schedule 1 to the Immigration Ordinance have to produce evidence to prove their claimed relationship with their Hong Kong permanent resident parent. This applies equally to ROA applicants who were born within or out of wedlock. However, where the Director of Immigration is not satisfied with the claimed parent and child relationship on the basis of the available documentary proof submitted by an applicant, the applicant will be required to undergo the genetic test specified by Immigration Department. Consent of the applicant concerned is necessary before carrying out the test.

#### **Genetic test arrangements for ROA claimants residing in the Mainland**

3. Following a series of discussions held between the Bureau of

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<sup>Note</sup> Paragraph 2(c) of Schedule 1 to the Immigration Ordinance implements Article 24(2)(3) of the Basic Law. The provision in the Schedule stipulates that a person of Chinese nationality born outside Hong Kong before or after the establishment of the HKSAR to a parent who, at the time of birth of that person, was a Chinese citizen falling within paragraph 2 (a) or 2 (b) of the Schedule, is a permanent resident and enjoys ROA. See relevant extract of the Schedule at *Annex A*.

Exit and Entry Administration (BEEA) of the Ministry of Public Security and Immigration Department, a consensus was reached in early May this year on the genetic test arrangements for ROA applicants. Like ROA applicants who were born within wedlock, those who were born out of wedlock will have to produce documentary proof of their identity and claimed parentage to the BEEA for initial verification. The BEEA will provide its assessment to Immigration Department which will make the final decision on whether the documentary evidence provided in an application is sufficient to establish the ROA claim. An indicative list of documentary evidence required by both sides is set out at *Annex B*.

4. For applicants whose parentage can be established from documentary proof, their applications will be processed in accordance with existing arrangements. For applicants whose parentage is in doubt, Immigration Department will request the BEEA to arrange for the genetic test to be carried out. Specifically, the Mainland authorities will be responsible for taking and testing the tissue specimens of an applicant and his/her mother residing in the Mainland. The applicant will need to attend an appointment at the Guangdong public security authorities for extracting the tissue specimens, while the Criminal Technology Division of the Guangdong Provincial Public Security Department will perform the test. In Hong Kong, Immigration Department will be responsible for taking the tissue specimens of the applicant's father in Hong Kong and the test will be conducted by the Government Laboratory, which is the sole internationally accredited laboratory in Hong Kong for the conduct of genetic test.

5. The testing results of the two sides will be exchanged for collaborative analysis independently. The Criminal Technology Division of the Guangdong Provincial Public Security Department will adopt the standards and quality assurance measures as presently in use by the Government Laboratory. Findings of the analysis will again be exchanged for cross checking before the testing reports are issued to Immigration Department and the BEEA. Based upon the reports, Immigration Department and the BEEA will process the application for a Certificate of Entitlement and a One-way Permit (OWP) respectively.

6. To ensure the accuracy and reliability of the genetic test results, a number of security measures and safeguards will be implemented by both sides, as follows –

- (a) the identity of the persons to be tested will be carefully verified before their tissue specimens are taken. They will need to provide photos and finger prints when submitting the applications for the subsequent checking of their identity in extracting the tissue specimens;
- (b) the officers responsible for taking the tissue specimens will be required to confirm by signature that the identity of the specimen providers has been verified;
- (c) the supervising officers will monitor the specimen taking process and confirm this by signature;
- (d) there will be random checks on the specimen taking process;
- (e) tamper-proof seals and bar-coded specimen envelopes will be used to protect the specimens collected; and
- (f) the tissue specimens will have bar-coded labels without the names and other personal particulars of the applicants. Neither the Criminal Technology Division of the Guangdong Provincial Public Security Department, nor the Government Laboratory will know the identity of the persons to be tested.

**Genetic test arrangements for ROA claimants  
residing outside Hong Kong other than the Mainland**

7. In respect of ROA claimants residing in Macau, Taiwan or overseas countries, likewise they will have to submit documentary evidence to prove their claimed relationship with their Hong Kong permanent resident parent. Those whose parentage is in doubt will be required to return to Hong Kong to have their tissue specimens taken by Immigration Department and tested by the Government Laboratory. This arrangement will ensure a tightly controlled chain of evidence collection procedures throughout the specimen taking and testing stages. Enlisting the assistance of overseas laboratories to perform the tasks is considered undesirable in part because not every territory has

internationally accredited laboratories and in part because it would be difficult to ensure that there would be no abuse in the extraction and transportation of tissue specimens.

### **Fees**

8. It is understood that the fees for conducting a genetic test for each person in the Mainland is about RMB\$1 100. The fee charged in Hong Kong would be around HK\$1 500. Different fee levels are envisaged mainly because of different price levels between the Mainland and Hong Kong. The fee charged by the Administration may be waived in specific cases where circumstances so justify.

### **Legislative amendments**

9. We will introduce legislative amendments to the Immigration Ordinance to empower the Director of Immigration to specify the test procedure by way of a gazette notice and to charge a fee for the test. The legislative amendments proposal will be submitted to the Legislative Council when the next legislative session commences.

### **Way forward**

10. Once the legislative amendments have been passed, we will be able to implement the genetic test procedures. In the meantime, simulated tests will be carried out by the Guangdong laboratory and the Government Laboratory to prepare for the operation technicalities of the genetic test arrangements.

Security Bureau

May 2000

**Annex A****Paragraphs 2(a) – 2(c) of Schedule 1  
to Immigration Ordinance****2. Permanent resident of the Hong Kong  
Special Administrative Region**

A person who is within one of the following categories is a permanent resident of the Hong Kong Special Administrative Region—

- (a) A Chinese citizen born in Hong Kong—
  - (i) before 1 July 1987; or
  - (ii) on or after 1 July 1987 if his father or mother was settled or had the right of abode in Hong Kong at the time of his birth or at any later time. (*Replaced L.N. 192 of 1999*)
- (b) A Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than 7 years before or after the establishment of the Hong Kong Special Administrative Region.
- (c) A person of Chinese nationality born outside Hong Kong before or after the establishment of the Hong Kong Special Administrative Region to a parent who, at the time of birth of that person, was a Chinese citizen falling within category (a) or (b). (*Replaced L.N. 192 of 1999*)

**Guidelines on documentary evidence to establish parentage**

**Persons born in wedlock**

Applicants are required to furnish the following documents :

- (1) the applicant's proof of identity (e.g. identity card, passport, travel document and census record book);
- (2) proof of identity of the parents of the applicant (e.g. identity card, passport, travel document and census record book);
- (3) the marriage certificate of the parents of the applicant ; and
- (4) the applicant's birth certificate (showing parents' names).

**Persons born out of wedlock**

Applicants are required to furnish the following documents :

- (1) the applicant's proof of identity (e.g. identity card, passport, travel document and census record book);
- (2) proof of identity of the parents of the applicant (e.g. identity card, passport, travel document and census record book);
- (3) the applicant's birth certificate ; and
- (4) other supporting documents : e.g. proof of father's presence in the Mainland at the estimated conception period of the mother, family photos and statements of neighbours in support of parents' cohabitation relationship, etc.