

Amend the Registration of Persons Ordinance to make provision for the issue and application of identity cards embodying chips, to re-enact regulation 24 of the Registration of Persons Regulations as a section of that Ordinance, to confer a power to require production of identity card and to verify identity by matching fingerprint, to prohibit tampering with identity cards or chips therein, to restrict use of particulars and handling of particulars as set out in the new sections 9 and 11 in section 7 of this Ordinance and to increase the maximum fine that may be imposed by regulation made under the Ordinance and to make consequential amendments to the Specification of Public Offices and the Immigration Service Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Registration of Persons (Amendment) Ordinance 2001.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Long title amended

The long title to the Registration of Persons Ordinance (Cap. 177) is amended---

(a) by repealing "persons in Hong Kong, and of" and substituting "and recording of particulars relating to persons in Hong Kong and";

(b) by repealing "and production" and substituting ", production and application".

3. Interpretation

Section 1A is amended---

(a) by renumbering it as section 1A(1);

(b) in subsection (1), by adding---

""chip" (晶片) means a chip---

(a) which forms a component part of an identity card issued on or after the specified date; and

(b) is capable of---

(i) recording, storing and processing data; and

(ii) transmitting data to or receiving data from any device electronically;

"fingerprint" (指紋) includes a thumb-print;

"specified date" (指明日期) means the date specified under subsection (2);";

(c) by adding---

"(2) The Commissioner of Registration may, by notice published in the Gazette, specify a date for the purposes of the definition of "specified date" in subsection (1).

(3) A notice referred to in subsection (2) is not subsidiary legislation."

4. Power to make regulations

Section 7 is amended---

(a) in subsection (2)---

(i) in paragraph (c)---

(A) by repealing "facsimiles" and substituting "records";

(B) by repealing "印取" and substituting "套取";

(ii) in paragraph (e), by adding ", scanning or image capturing" after "photographing";

(iii) by repealing paragraph (f);

(iv) by adding---

"(gb) the use of digital images and the reproduction of such digital images in relation to identity cards;"

(v) by repealing paragraph (h) and substituting---

"(h) the issue of identity cards (including the issue of permanent identity cards to persons with the right of abode in Hong Kong wherever resident) and their form;

(haa) information or particulars to be included in identity cards and data to be stored in chips;"

(vi) in paragraph (j), by adding "and matching of fingerprints for verification of identity" after "cards";

(b) in subsection (3), by repealing "of \$20,000" and substituting "at level 5".

5. Requirement to apply for new identity cards

Section 7B(1) is amended by repealing "1 July 1987, or issued" and substituting "the specified date, or issued on or".

6. Power to declare old identity cards invalid

Section 7C(1) is amended by repealing "1 July 1987, or issued" and substituting "the specified date, or issued on or".

7. Sections added

The following are added---

"9. Restriction on use of particulars

Subject to section 10, particulars furnished to a registration officer under this Ordinance may be used for and only for the following purposes---

(a) enabling the Commissioner to keep a register of persons;

(b) enabling identification of individuals; or

(c) such other purposes as may be authorized, permitted or required by or under any Ordinance.

10. Duty not to disclose photographs, fingerprints and particulars

Subject to the provisions of regulation 23 of the Registration of Persons Regulations (Cap. 177 sub. leg.), a registration officer shall not---

(a) produce for inspection, or supply a copy of, the photograph of a person registered under the provisions of the Registration of Persons Regulations (Cap. 177 sub. leg.) or his fingerprint; or

(b) disclose or supply a copy of the particulars furnished under regulation 4(1)(b) of the Registration of Persons Regulations (Cap. 177 sub. leg.), except and unless with the written permission of the Chief Secretary for Administration which may---

(c) refer to a person or class or category of persons by name, office or description; and

(d) contain such terms and conditions as the Chief Secretary for Administration may deem fit to impose.

#### 11. Prohibition of unauthorized handling of particulars

Any person who, without lawful authority or reasonable excuse, gains access to, stores, uses or discloses, any particulars furnished to a registration officer under this Ordinance shall be guilty of an offence and shall be liable to a fine at level 5 and to imprisonment for 2 years."

Registration of Persons Regulations

#### 8. Interpretation

Regulation 2(1) of the Registration of Persons Regulations (Cap. 177 sub. leg.) is amended by adding---

"'officer of the Immigration Department" (入境處人員) means an immigration officer or an immigration assistant within the meaning of the Immigration Ordinance (Cap. 115);"

#### 9. Registration, issue and renewal requirements

Regulation 4 is amended---

(a) by repealing subregulation (1)(a)(ii) and substituting---

"(ii) the taking and recording of---

(A) his left and right thumb-prints;

(B) where it is only possible to take one thumb-print from him, his only thumb-print and one other fingerprint;

(C) where it is not possible to take any thumb-print from him, his fingerprints of 2 other fingers;"

(b) in subregulation (1)(b), by adding---

"(xia) (where the applicant does not have a right of abode in Hong Kong) the conditions

of stay (including a limit of stay) imposed in relation to him under section 11 of the Immigration Ordinance (Cap. 115);";

(c) in subregulation (4), by repealing "left thumb-prints or other single".

#### 10. Regulation added

The following is added---

"4A. Inclusion of particulars and data

(1) Without prejudice to regulation 5(1)(a), the Commissioner or any person acting pursuant to a permission given by the Commissioner may---

(a) include in an identity card such information or particulars; or

(b) store in a chip such data,

as may be necessary for the identity card to be applied for such purposes---

(c) which---

(i) require inclusion of information or particulars or storage of data other than the particulars referred to in regulation 4(1) in the chip; and

(ii) are provided for in any Ordinance; or

(d) which require inclusion of such information or particulars or storage of such data other than the particulars referred to in regulation 4(1) in the chip, as may be prescribed in Schedule 5.

(2) A permission referred to in subregulation (1) may be---

(a) given by the Commissioner---

(i) to any person or any class of persons; or

(ii) generally or in a particular case,

in such manner; and

(b) subject to such condition,

as the Commissioner thinks fit."

#### 11. Duty to keep and maintain records

Regulation 8(2) is repealed and the following substituted---

"(2) For the purposes of such records or for such other purposes as a registration officer may consider necessary, he may record fingerprints, information and documents furnished or made for the purposes of registration or for the issue or renewal of an identity card by---

(a) photographing;

(b) scanning; or

(c) image capturing."

#### 12. Duty to carry and produce identity card

Regulation 11(3) is amended---

(a) by repealing "the left thumb-print, or, if this is not possible, such other single fingerprint" and substituting "2 fingerprints";

(b) by repealing "時印" and substituting "時套";

(c) by repealing "及印" and substituting "及套".

### 13. Regulation added

The following is added---

"11A. Power to verify identity by fingerprint match

(1) If a police officer, an officer of the Immigration Department or an authorized person has reason to doubt the identity of any person who holds an identity card, the officer or authorized person may---

(a) require the person to produce his identity card; or

(b) scan the person's thumb-print or other fingerprint and match the same with the template included in the identity card referred to in paragraph 1 of Schedule 1.

(2) Any person who, without reasonable excuse---

(a) fails to produce his identity card when required to do so under subregulation (1)(a); or

(b) fails to allow a police officer, an officer of the Immigration Department or an authorized person to scan his thumb-print or fingerprint under subregulation (1)(b), shall be guilty of an offence and shall be liable to a fine at level 2.

(3) In this regulation, "authorized person" (獲授權人士) means any person or member of a class of persons authorized for the purposes of this regulation by the Chief Executive by notice published in the Gazette.

(4) A notice referred to in subregulation (3) is not subsidiary legislation."

### 14. Prohibition against making alteration to identity card

Regulation 12 is amended---

(a) by adding---

"(1A) Any person who, without lawful authority---

(a) stores data in a chip;

(b) adds to, erases, cancels or alters any data stored in a chip; or

(c) renders a chip ineffective, shall be guilty of an offence.";

(b) in subregulation (2)---

(i) by repealing "the authority of the Commissioner," and substituting "lawful authority or reasonable excuse, uses or";

(ii) by repealing "defaced or";

(c) by adding---

"(2A) Any person who, without lawful authority or reasonable excuse, uses or has in his possession an identity card embodying a chip in respect of which an offence

under subregulation (1A) has been committed shall be guilty of an offence."; (d) in subregulation (4), by repealing "or (2)" and substituting ", (1A), (2) or (2A)".

15. Duty to report corrections

Regulation 18(1)(b) is amended by adding "or includes" after "shows".

16. Burden of proof

Regulation 21(1) is repealed and the following substituted---

"(1) Subject to regulation 22, the burden of proving the truth of---

(a) the contents of any written application for an identity card; or

(b) the contents of the identity card which are particulars furnished under regulation 4(1)(b) by the applicant for the identity card,

shall lie on---

(c) the applicant;

(d) the person to whom the identity card has been issued; or

(e) any other person alleging the truth of such contents.".

17. Power to certify and furnish

certified copies

Regulation 23 is amended by repealing "facsimile of his left" and substituting "record of his left or right".

18. Duty not to disclose photographs,

fingerprints and particulars

Regulation 24 is repealed.

19. Savings and transitional

Regulation 27 is amended---

(a) in subregulation (1)---

(i) by repealing "the Registration of Persons (Amendment) Regulations 1987 (L.N. 178 of 1987)" and substituting "section 5 of the Registration of Persons (Amendment) Ordinance 2001 ( of 2001)";

(ii) by repealing "those regulations" and substituting "that section";

(b) in subregulation (2)---

(i) by repealing "the commencement of the Registration of Persons (Amendment) Regulations 1987 (L.N. 178 of 1987) may be issued as if those regulations" and substituting "the commencement of section 5 of the Registration of Persons (Amendment) Ordinance 2001 ( of 2001) may be issued as if that section";

(ii) in paragraph (a), by repealing "their commencement" and substituting "the commencement of that section".

20. Contents of Forms of Identity Card

Schedule 1 is amended---

- (a) by repealing "[reg. 5]" and substituting "[regs. 5 & 11A]";
- (b) in paragraph 1---
  - (i) in subparagraph (f), by repealing "and";
  - (ii) in subparagraph (g)---
- (A) by adding "data," after "such";
- (B) by repealing the full stop and substituting "; and";
  - (iii) by adding---
- "(h) in the form of data stored in the chip in the identity card---
- (i) template of the applicant's thumb-prints or other fingerprints taken under regulation 4(1)(a); and
- (ii) (where the applicant does not have a right of abode in Hong Kong) the conditions of stay (including a limit of stay) imposed in relation to him under section 11 of the Immigration Ordinance (Cap. 115).".

#### 21. Schedule 5 added

The following is added---

“SCHEDULE 5 [reg. 4A]

#### Purposes Referred to in Regulation 4A

1. Storage of a certificate defined in section 2(1) of the Electronic Transactions Ordinance (Cap. 553) issued by the Postmaster General and recognized under section 22 of that Ordinance.".

#### Consequential Amendments

#### Specification of Public Offices

#### 22. Schedule amended

The Specification of Public Offices (Cap. 1 sub. leg.) is amended, in the Schedule where the Chief Secretary for Administration is the specified public office, by repealing "Registration of Persons Regulations (Chapter 177 subsidiary legislation), regulation 24." and substituting "Registration of Persons Ordinance (Chapter 177), section 10.".

#### Immigration Service Ordinance

#### 23. Scheduled Offences

Schedule 2 to the Immigration Service Ordinance (Cap. 331) is amended, in Part I---

- (a) in item 1, in columns 2 and 3, by adding---  
"section 11 unauthorized handling of particulars";
- (b) in item 2, in columns 2 and 3, by repealing---  
"regulation 12(4) making alteration to identity card"  
and substituting---  
"regulation 12(1) making alteration to identity card or documents

regulation 12(1A) tampering with chip in identity card  
regulation 12(2) possession of altered identity card or documents  
regulation 12(2A) possession of identity card embodying chip tampered with".

Explanatory Memorandum

The object of this Bill is to---

(a) amend the Registration of Persons Ordinance (Cap. 177) ("the Ordinance") and the Registration of Persons Regulations (Cap. 177 sub. leg.) ("the Regulation") for the limited purposes of---

(i) providing for the issue and application of new identity cards embodying chips in which data (including template of fingerprint) may be stored (clauses 2, 3, 4(a), 5, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 20 and 21);

(ii) prohibiting tampering with identity cards and chips in identity cards (clause 14);

(iii) re-enacting regulation 24 of the Regulation as a section of the Ordinance (clauses 7 and 18);

(iv) empowering certain persons to require production of identity card and to verify identity by matching fingerprints with the template of fingerprint included in identity cards (clauses 4(a) and 13);

(v) imposing restrictions on using and handling of particulars furnished to a registration officer under the Ordinance (clause 7);

(vi) increasing the maximum fine that may be imposed under regulation made under the Ordinance (clause 4(b));

(b) make consequential amendments to the Specification of Public Offices (Cap. 1 sub. leg.) (clause 22) and Immigration Service Ordinance (Cap. 331) (clause 23).