Introduction

This note sets out the Administration’s response to questions raised regarding Chinese nationality and HKSAR permanent residency. The questions are listed under items 6 to 9 of Part C of Appendix I of the background brief prepared by the Legislative Council Secretariat (LC Paper No. CB(2)1378/02-03(03)), and also raised during the meeting of the Bills Committee of the National Security (Legislative Provisions) Bill on 8 April 2003.

Nationality Law of the People’s Republic of China

2. The Nationality Law of the People’s Republic of China (PRC), which is applicable to the HKSAR by virtue of Article 18 and Annex III of the Basic Law, stipulates the acquisition, loss and restoration of the Chinese nationality (Annex I). The Nationality Law does not recognize dual nationality, and seeks to minimize situations in which people are made stateless.

3. Articles 4 and 5 provide that a person of Chinese descent (i.e. one or both of his parents is a Chinese national) is a Chinese national, unless he was born abroad, has acquired foreign nationality at birth, and his parents who are Chinese nationals have settled abroad (if only one of his parents is a Chinese national, such parent has settled abroad).

4. The Nationality Law provides for the acquisition of Chinese nationality by persons born in China whose parents are stateless or of uncertain nationality (Article 6), and provides for naturalisation of foreigners and stateless persons (Article 7).

5. The Nationality Law also provides for the loss of Chinese nationality by Chinese nationals, which is automatic if a Chinese national has settled abroad and has acquired a foreign nationality of his own free will (Article 9), or upon approval of an application (Articles 11 and 14) on any one of the grounds as set out in Article 10. It is also stipulated that state functionaries and military personnel on active service are not allowed to renounce their Chinese nationality (Article 12).
Implementation of the Nationality Law in the HKSAR

6. The implementation of the Nationality Law in the HKSAR is stipulated in the “Explanations of Some Questions by the Standing Committee of the National People’s Congress concerning the Implementation of the Nationality Law of the PRC in the HKSAR” (“Explanations”) which was adopted in May 1996 (Annex II).

7. The Explanations deal with the implementation issues relating to the status of Chinese nationality and foreign consular protection that are of particular relevance to the circumstances of Hong Kong. In particular, paragraphs 5 and 6 of the Explanations authorized the HKSAR Government to designate its Immigration Department as the authority responsible for nationality applications.

8. Whether a Hong Kong resident of Chinese nationality who has subsequently acquired, or is about to acquire, a foreign nationality may lose his Chinese nationality would need to be considered in accordance with the Nationality Law and the Explanations. Specifically, Paragraph 1 of the Explanations provides that where a Hong Kong resident is of Chinese descent and was born in the Chinese territories (including Hong Kong), or where a person satisfies the criteria laid down in the Nationality Law, he is a Chinese national. Consequently, his Chinese nationality would be lost only if his declaration of change of nationality made in accordance with Paragraph 5 of the Explanations has been approved by the Director of Immigration, or his application for renunciation of Chinese nationality made in accordance with Article 11 of the Nationality Law has been approved by the Director of Immigration.

Reference materials on the Nationality Law of the PRC

9. As requested by Members, selected reference materials on the dual nationality problem of Chinese nationals residing overseas (in particular those in the South Eastern Asian countries) is extracted at Annex III1(in Chinese only).

HKSAR permanent residency status

10. The specific facts of each case have to be taken into account in assessing a person’s permanent residency status. The principal legal provisions that are relevant are -

1 Li Shuangyuan, Jiang Xinmiao (ed.), Modern Nationality Law, (Changsha, Hunan ren min chu ban she 1999) at 128-132.
11. In accordance with the above, the circumstances under which an HKSAR permanent residency status would be lost can be summarized as follows -

(i) For a HKSAR permanent resident who acquired the permanent residency status by virtue of paragraphs 2(a) to 2(c) of Schedule 1 to the Immigration Ordinance, his permanent residency status would be lost if his declaration of change of nationality made in accordance with Paragraph 5 of the Explanations has been approved by the Director of Immigration, or if his application for renunciation of Chinese nationality made in accordance with Article 11 of the Nationality Law has been approved by the Director of Immigration.

(ii) For a HKSAR permanent resident who acquired the status by virtue of paragraph 2(d) of Schedule 1 to the Immigration Ordinance, his permanent residency status would be lost if he has been absent from Hong Kong for a continuous period of not less than 36 months since he ceased to have ordinarily resided in Hong Kong, as stipulated in paragraph 7(a) of Schedule 1 to the Immigration Ordinance.

(iii) For a HKSAR permanent resident who acquired the status by virtue of paragraph 2(e) of Schedule 1 to the Immigration Ordinance, his permanent residency status would be lost if he attains the age of 21 years unless his application made in accordance with paragraph 4(1) of Schedule 1 to the Immigration Ordinance has been approved by the Director of Immigration, or if he has been absent from Hong Kong for a continuous period of not less than 36 months since he ceased to have ordinarily resided in Hong Kong, as stipulated in paragraph 7(a) of Schedule 1 to the Immigration Ordinance, whichever is earlier.

(iv) For a HKSAR permanent resident who acquired the status by virtue of paragraph 2(f) of Schedule 1 to the Immigration Ordinance, his permanent residency status would be lost if he has been absent from Hong Kong for a continuous period of not less than 36 months after he obtained the right of abode in any place other than Hong Kong and has ceased to have ordinarily resided in Hong Kong, as stipulated in paragraph 7(b) of Schedule 1 to the Immigration Ordinance.
Coverage of the consultation exercise on implementation of Article 23 of the Basic Law

12. In line with general practice, the consultation exercise on the Implementation of Article 23 of the Basic Law was conducted in an open and transparent manner. The consultation documents and relevant materials were widely accessible to the general public, including HKSAR permanent residents overseas.

13. In fact, a number of submissions have been received from places outside Hong Kong. All submissions received by the Security Bureau during the consultation period have been included in the Compendium of Submissions published on 28 January 2003, of which 3,812 submissions have been received from places outside Hong Kong.

Security Bureau
April 2003
Nationality Law of the People's Republic of China and the National People's Congress' Explanations of how it is to be applied to the HKSAR
Nationality Law of the People's Republic of China

(Adopted at the Third Session of the Fifth National People's Congress, promulgated by Order No. 8 of the Chairman of the Standing Committee of the National People's Congress and effective as of September 10, 1980)

Article 1 This law is applicable to the acquisition, loss and restoration of nationality of the People's Republic of China.

Article 2 The People's Republic of China is a unitary multinational state; persons belonging to any of the nationalities in China shall have Chinese nationality.

Article 3 The People's Republic of China does not recognize dual nationality for any Chinese national.

Article 4 Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.

Article 5 Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality.

Article 6 Any person born in China whose parents are stateless or of uncertain nationality and have settled in China shall have Chinese nationality.

Article 7 Foreign nationals or stateless persons who are willing to abide by China's Constitution and laws and who meet one of the following conditions may be naturalized upon approval of their applications:

1. they are near relatives of Chinese nationals;
2. they have settled in China; or
3. they have other legitimate reasons.

Article 8 Any person who applies for naturalization as a Chinese national shall acquire Chinese nationality upon approval of his application; a person whose application for naturalization as a Chinese national has been approved shall not retain foreign nationality.
Article 9 Any Chinese national who has settled abroad and who has been naturalized as a foreign national or has acquired foreign nationality of his own free will shall automatically lose Chinese nationality.

Article 10 Chinese nationals who meet one of the following conditions may renounce Chinese nationality upon approval of their applications:

1. they are near relatives of foreign nationals;
2. they have settled abroad; or
3. they have other legitimate reasons.

Article 11 Any person who applies for renunciation of Chinese nationality shall lose Chinese nationality upon approval of his application.

Article 12 State functionaries and military personnel on active service shall not renounce Chinese nationality.

Article 13 Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

Article 14 Persons who wish to acquire, renounce or restore Chinese nationality, with the exception of cases provided for in Article 9, shall go through the formalities of application. Applications of persons under the age of 18 may be filed on their behalf by their parents or other legal representatives.

Article 15 Nationality applications at home shall be handled by the public security bureaus of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China's diplomatic representative agencies and consular offices.

Article 16 Applications for naturalization as Chinese nationals and for renunciation or restoration of Chinese nationality are subject to examination and approval by the Ministry of Public Security of the People's Republic of China. The Ministry of Public Security shall issue a certificate to any person whose application has been approved.

Article 17 The nationality status of persons who have acquired or lost Chinese nationality before the promulgation of this Law shall remain valid.

Article 18 This Law shall come into force as of the date of its promulgation.
Explanations of Some Questions by the Standing Committee of the National People’s Congress Concerning the Implementation of the Nationality Law of the People’s Republic of China in the Hong Kong Special Administrative Region

(Adopted at the Nineteenth Session of the Standing Committee of the Eighth National People’s Congress on 15 May 1996)

According to Article 18 of and Annex III to the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the Nationality Law of the People’s Republic of China shall be applied in the Hong Kong Special Administrative Region from 1 July 1997. Taking account of the historical background and the existing circumstances of Hong Kong, the Standing Committee gives the following explanations concerning the implementation in the Hong Kong Special Administrative Region of the Nationality Law of the People’s Republic of China -

1. Where a Hong Kong resident is of Chinese descent and was born in the Chinese territories (including Hong Kong), or where a person satisfies the criteria laid down in the Nationality Law of the People’s Republic of China for having Chinese nationality, he is a Chinese national.

2. All Hong Kong Chinese compatriots are Chinese nationals, whether or not they are holders of the "British Dependent Territories Citizens passport" or "British Nationals (Overseas) passport". With effect from 1 July 1997, Chinese nationals mentioned above may, for the purpose of travelling to other countries and territories, continue to use the valid travel documents issued by the Government of the United Kingdom. However, they shall not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People’s Republic of China on account of their holding the above mentioned British travel documents.

3. According to the Nationality Law of the People’s Republic of China, the British Citizenship acquired by Chinese nationals in Hong Kong through the "British Nationality Selection Scheme" will not be recognised. They are still Chinese nationals and will not be entitled to British consular protection in the Hong Kong Special Administrative Region and other parts of the People’s Republic of China.

4. Chinese nationals of the Hong Kong Special Administrative Region with right of abode in foreign countries may, for the purpose of travelling to other countries and territories, use the relevant documents issued by the foreign governments. However, they will not be entitled to consular protection in the Hong Kong Special Administrative Region and other parts of the People’s Republic of China on account of their holding the above mentioned documents.

5. If there is a change in the nationality of a Chinese national of the Hong Kong Special Administrative Region, he may, with valid documents in support, make a declaration at the authority of the Hong Kong Special Administrative Region responsible for nationality applications.

6. The Government of the Hong Kong Special Administrative Region is authorised to designate its Immigration Department as the authority of the Hong Kong Special Administrative Region responsible for nationality applications. The Immigration Department of the Hong Kong Special Administrative Region shall handle all nationality applications in accordance with the Nationality Law of the People’s Republic of China and the foregoing provisions.

Note: “This English translation text is prepared by Department of Justice, Government of the Hong Kong Special Administrative Region. It is for reference purposes and has no legislative effect.”
条。1914 年《修正国籍法》则规定，妻及其儿女依据夫之本国国籍，随夫在国内居住者，才丧失中国国籍（第 15 条）。1929 年国籍法对此作了修改，规定出国人之妻及未成年子女均应保留中国国籍。

4. 关于担任外国公职及参军者。

1914 年《修正国籍法》规定，无中国政府许可而担任外国官职或军职，在中国政府命令其辞职而不执行者，应丧失中国国籍（第 12 条第 1 款第 5 项）。1929 年国籍法将此款删去，允许中国公民到外国军队服务或行政部门工作。

5. 关于国籍的恢复。

中国妇女同外国人结婚而出籍者，在婚姻关系消灭后，可以申请恢复中国国籍。三部国籍法都有此规定。但 1914 年《修正国籍法》则附加了两个条件：即本人必须在中国有住所和依其现有国籍允许丧失其国籍（第 17 条第 1 款）。1929 年国籍法取消了这两个条件，规定只须经内政部批准即可恢复中国国籍（第 15 条）。

第二节 中华人民共和国处理自然人国籍问题的实践

中华人民共和国成立后，作为我国临时宪法的《共同纲领》，明确规定废除国民党政府的《六法全书》，这样，国民党政府的国籍法，和它的其他法律一样，在大陆不再有效。从 1949 年至 1980 年，在这三十多年期间，中华人民共和国虽然没有公布国籍法，但有一套明确的政策，正确地处理了各种复杂的国籍问题，特别是东南亚国家的华侨的双重国籍问题。

如前所述，血统主义是中国关于国籍的传扬观念，而外国华侨数在千万以上，遍布于全世界，其中绝大多数集中于东南亚地区。根据血统主义，国外华侨所生子女，无论生在何地，并且无论他们的父母是已经在国内或者其他任何地方的中国人，都应自动取得中国国籍。而同样采取血统主义的国家，如欧洲大陆的一些国家和日本，华侨一般说来只具有该国国籍，不会发生国籍的冲突问题。但是，在英美等国以及欧美殖民地的国家，如东南亚各国，由于它们采取出生地主义来赋予出生国籍，因而华侨在这些地方所生的儿童，中国根据血统主义认为具有中国国籍，其出生地国家则认为属于该国国籍，从而不可避免地产生双重国籍问题。

早在 1911 年，为了解决因华侨的双重国籍而产生的中国政府与华侨的国内政府对华侨的管辖和保护上的权限冲突问题，中国政府与荷兰政府在签订关于在荷兰殖民地的条约时，就曾对有关本国的双重国籍问题作出了处理。但由于它规定了对荷兰属地的华侨的双重国籍问题作出了处理。但规定了荷兰属地的华侨因两国国籍法不同而发生冲突时，依据荷兰属地的本地法律解决，因此在实质上对中国是不利的，是一项不平等的条约。如果这种作法推至东南亚各地，就等于中国大陆的出生的华侨的保护权。后来国民政府在 1930 年与荷兰《关于国籍冲突的若干问题的公约》时对该公约的第 4 条作了保留，其原因就在于该条对双重国籍的华侨的地位会产生很大的影响。

印度尼西亚独立后，曾企图片面解决出生在印度尼西亚的华侨（200 万华侨中的华侨约 120 万）的双重国籍问题。印度尼西亚政府规定华侨在两年中（自 1949 年 12 月 27 日至 1951 年 12 月 27 日止）若不在其住所地法庭声明拒签印尼籍，则一概被认为印尼公民。这就是所谓的“被动制”。但是印度尼西亚执行的这种“被动制”不但不能正确地表达华侨选择国籍的自由。
籍的自愿，并且也能够有效地根本解决双重国籍问题。印尼一方的法律的效果，并不能约束另一方国籍，因而那些按照
"被动制"认为是印尼公民的华侨，按照血统主义还是继续被
认为具有中国国籍。印尼政府的"被动制"方案一出台，就遭
到了中国政府的强烈谴责。最后两国政府经过多次谈判，于
1953 年 4 月 22 日签订了《中华人民共和国和印度尼西亚共和
国关于双重国籍问题的条约》，1955 年 6 月 23 日两国总理进
行了换文，1956 年又制定了《中华人民共和国和印度尼西亚
共和国政府关于双重国籍问题的条约的实施办法》。在上
述文件中，双方确认了双重国籍是一个历史遗留问题，这个问
题的解决是符合两国人民的利益的。

按照《中华人民共和国和印度尼西亚共和国关于双重国籍
问题的条约》（第 1 条）的规定，凡是同时具有中国国籍和印
度尼西亚国籍的人都应根据本人自愿的原则，就中国国籍和印尼国籍
中选择一种国籍。在这里有几点值得注意。第一是划定了本约
适用的范围，就是选择国籍限于华侨中侨居部分，因为只有
侨居才具有中国国籍和印尼国籍。第二是肯定了一人一国籍原
则：华侨要么做中国公民，要么做印尼公民。第三是采取了自
愿选择的原则，即每个人都有权利根据本人自愿就中国和印尼
国籍中任选一种。选择国籍的期限为本条约生效后两年内（第
2 条）。选择的方式为：如愿意保留中国国籍，必须向中華人
民共和国的有关当局宣告放弃印尼国籍，宣告后即被视为自愿
选择中国国籍；如愿意保留印尼国籍，必须向印尼有关当局宣
告放弃中国国籍，宣告后即被视为自愿选择印尼国籍（第 3
条）。选择的效果是：凡按照本条约规定选择了中国国籍即当
然丧失印尼国籍，选择了印尼国籍即当然丧失中国国籍（第 4
条）。具有中国、印尼两种国籍的人如果没有在规定的两年期
限内选择国籍，则按照以下规定解决：如果他们的父亲是中国
人的后裔，他们将被视为选择了中国国籍；如果他们的父亲是
印尼人的后裔，他们将被视为选择了印尼国籍。也就是说，国
籍的选择在原则上是采取主动制，但在特殊情况下也适用被动
制，因为不这样则不能完全消除华侨的双重国籍。在被动选
择制之下仍然适用血统主义，只不过这是血统主义，惟在本
人同其父亲没有法律上的关系或父亲的国籍不明的情况下则依
母亲的国籍来决定其国籍（第 5 条）。此外，按照公约第 8 条
的规定，在印尼境内出生的儿童（指本公约生效后），无论他
们的父母双方或仅父亲具有中国国籍，在出生后即具有中国国
籍；在中国境内出生的儿童，如果他们的父母双方或仅父亲一
方具有印尼国籍，在出生后即具有印尼国籍。这里也采用了父
系血统主义。不过，总的讲来，该条约基本上仍保证了男女平
等。如第 1 条就规定具有两种国籍的已婚妇女也应根据本人自
愿原则在两种国籍中选择其一，以没有采取斐耐维夫妇的作
法。又如公约第 10 条规定，中华人民共和国公民和印尼公民
结婚，婚后双方各自保留原来的国籍。

综上所述，我们可以作出如下结论，《中华人民共和国和
印度尼西亚共和国关于双重国籍问题的条约》是一个平等、互
利的条约。中国在传统的血统主义和男女平等原则的基础上，
采用自愿选择的原则和方式，保证彻底消除在印尼的华侨的既
存的双重国籍，并且避免以后侨生儿童的双重国籍的发生，解
决了中国和印尼两国之间关系上的一个历史遗留下来的、相当
困难的问题。这个条约后来成了中国同他国，特别是东南亚国
家解决华侨的双重国籍问题的典型协定。例如，1973 年 6 月 9
日《中华人民共和国政府和菲律宾共和国政府公报》指出：
"中华人民共和国和菲律宾共和国政府认为，凡已取得对方国
籍的本国公民都自动失去了原有国籍。"
联合公报指出："中华人民共和国政府和马来西亚政府声明，他们都不承认双重国籍。根据这一原则，中国政府认为，凡已自愿加入或已取得马来西亚国籍的中国血统的人，都自动失去中国国籍。至于那些自愿保留中国国籍的侨民，中国政府根据其一贯的政策，要求他们尊重马来西亚政府的法律，尊重当地人民的风俗习惯，与当地人民友好相处。他们的正当权利和利益将得到中国政府的保护，并将受到马来西亚政府的尊重。"

再如1975年7月1日《中华人民共和国政府和泰王国政府关于建立外交关系的联合公报》指出："中华人民共和国政府注意到，几个世纪以来侨居在泰国的中国人能遵循泰国的法律和泰国人民的风俗习惯，同泰国人民和解友好相处。中华人民共和国政府宣布他们不承认双重国籍。双方政府认为，任何中国籍或中国血统的人，在取得泰国国籍后都自动失去中国国籍。对自愿选择保留中国国籍的在泰国的中国侨民，中国政府按照其一贯政策，要求他们遵守泰国法律，尊重泰国人民的风俗习惯，并与泰国人民友好相处。他们的正当权利和利益将得到中国政府的保护，并将受到泰国政府的尊重。"

从我国的实践中可以明显看出，我国政府对于解决历史上遗留下来的华侨双重国籍问题的政策是符合公认的国际法准则的，是合情合理的，同时也不损害广大华侨和侨居国人民的利益，有利于改善和增进我国与有关国家之间的友好合作关系。
Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.

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);
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 Hong Kong Special Administrative Region;
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 Hong Kong Special Administrative Region; and
6. Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.
1. Interpretation

(1) In this Schedule, unless the context otherwise requires-
"Chinese citizen" (中國公民) means a person of Chinese nationality under the Nationality Law of the People's Republic of China, as implemented in the Hong Kong Special Administrative Region pursuant to Article 18 of and Annex III to the Basic Law and interpreted in accordance with the Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region adopted at the 19th meeting of the Standing Committee of the National People's Congress at the 8th National People's Congress on 15 May 1996; (Replaced 28 of 1998 s. 2(2))
"new born infant" (初生嬰兒) means a child under the age of 12 months or a child who appears to the Director to be under the age of 12 months.

(2) The relationship of parent and child is taken to exist as follows-
(a) of a parent and child, between a person and a child born to such person in or out of wedlock; (Replaced L.N. 192 of 1999)
(b) (Repealed L.N. 192 of 1999)
(c) of a parent and adopted child, between a parent and a child adopted only in Hong Kong under an order made by a Court in Hong Kong under the Adoption Ordinance (Cap 290).

(3) For an abandoned new born infant found within Hong Kong,-
(a) a new born infant, who appears to the Director to be of Chinese descent, is taken, in the absence of evidence to the contrary, to be the legitimate child of a Chinese citizen who was a permanent resident of the Hong Kong Special Administrative Region at the time of birth of the child;
(b) a new born infant, who appears to the Director to be not of Chinese descent, is taken, in the absence of evidence to the contrary, to be the legitimate child of a parent not of Chinese nationality who had the right of abode in Hong Kong under paragraph 2(d) at the time of birth of the child.

(4) For the purposes of calculating the continuous period of 7 years in which a person has ordinarily resided in Hong Kong, the period is reckoned to include a continuous period of 7 years-
(a) for a person under paragraph 2(b), at any time before or after the establishment of the Hong Kong Special Administrative Region; and
(b) for a person under paragraph 2(d), before or after the establishment of the Hong Kong Special Administrative Region but immediately before the date when the person applies to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region.

(5) A person is settled in Hong Kong if-
(a) he is ordinarily resident in Hong Kong; and
(b) he is not subject to any limit of stay in Hong Kong.

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 before or after the establishment of the Hong Kong Special Administrative Region. (Replaced L.N. 192 of 1999. Amended L.N. 84 of 2002)
(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)
(d) A person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than 7 years and has taken Hong Kong as his place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region.
(e) A person under 21 years of age born in Hong Kong to a parent who is a permanent resident of the Hong Kong Special Administrative Region in category (d) before or after the establishment of the Hong Kong Special Administrative Region if at the time of his birth or at any later time before he attains 21 years of age, one of his parents has the right of abode in Hong Kong.
(f) A person other than those residents in categories (a) to (e), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

3. Establishing permanent residence under paragraph 2(d)

(1) For the purposes of paragraph 2(d), the person is required-
(a) to furnish information that the Director reasonably requires to satisfy him that the person has taken Hong Kong as his place of permanent residence. The information may include the following-
(i) whether he has habitual residence in Hong Kong;
(ii) whether the principal members of his family (spouse and minor children) are in Hong Kong;
(iii) whether he has a reasonable means of income to support himself and his family;
(iv) whether he has paid his taxes in accordance with the law;
(b) to make a declaration in the form the Director stipulates that he has taken Hong Kong as his place of permanent residence; the declaration for a person under the age of 21 years must
be made by one of his parents or by a legal guardian; and 

c) to be settled in Hong Kong at the time of the declaration.

(2) A person claiming to have the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) does not have the status of a permanent resident in the Hong Kong Special Administrative Region until he has applied to the Director and the application has been approved by the Director.

(3) For the purposes of paragraph 2(d), a person is taken to have entered Hong Kong on a valid travel document-

a) if he entered Hong Kong before 1 July 1997 with an expired travel document or with a travel document that was not a valid travel document but was permitted to remain by an immigration officer or an immigration assistant; or 

b) if he was born in Hong Kong and was permitted to remain in Hong Kong by an immigration officer or an immigration assistant.

4. Establishing permanent residence under paragraph 2(e)

(1) For the purposes of paragraph 2(e), the person on attaining the age of 21 years ceases to be a permanent resident of the Hong Kong Special Administrative Region and may apply to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) at any time.

(2) Section 2AAA applies in relation to a person who ceases to have the status of a permanent resident of the Hong Kong Special Administrative Region under this paragraph. (Amended 28 of 1998 s. 2(2))

5. Establishing permanent residence under paragraph 2(f)

(1) For the purposes of paragraph 2(f), the person is required-

a) to furnish information that the Director may reasonably require to determine whether that person had the right of abode only in Hong Kong immediately before the establishment of the Hong Kong Special Administrative Region; and

b) to make a declaration that he had the right of abode only in Hong Kong immediately before the establishment of the Hong Kong Special Administrative Region; the declaration for a person under the age of 21 years must be made by one of his parents or by a legal guardian.

(2) If the person claims that he had no right of abode in a place that the Director reasonably believes that he had, the onus of proving that he did not have the right of abode in the place lies on the person.

(3) A person under 21 years of age born in Hong Kong on or after 1 July 1997 to a parent who is a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(f) at the time of the birth of the person is taken to have the status of a permanent
resident of the Hong Kong Special Administrative Region under paragraph 2(f) if, but for this subparagraph, the person has no right of abode in any place including Hong Kong.

(4) The person on attaining the age of 21 years ceases to be a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(f) and may apply to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) at any time.

(5) Section 2AAA applies in relation to a person who ceases to have the status of a permanent resident of the Hong Kong Special Administrative Region under this paragraph. (Amended 28 of 1998 s. 2(2))

6. Transitional

(1) A person who is not of Chinese nationality and who was a permanent resident of Hong Kong before 1 July 1997 is taken to be a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) and exempt from the requirements under paragraph 3 if-
(a) he was settled in Hong Kong immediately before 1 July 1997;
(b) after he ceased to be settled in Hong Kong immediately before 1 July 1997 he returns to settle in Hong Kong within the period of 18 months commencing on 1 July 1997; or
(c) after he ceased to be settled in Hong Kong immediately before 1 July 1997 he returns to settle in Hong Kong after the period of 18 months commencing on 1 July 1997 but only if he has not been absent from Hong Kong for a continuous period of not less than 36 months.

(2) A person who is a Chinese citizen and was a Hong Kong permanent resident immediately before 1 July 1997 under this Ordinance as then in force shall, as from 1 July 1997, be a permanent resident of the Hong Kong Special Administrative Region as long as he remains a Chinese citizen. (Replaced 28 of 1998 s. 2(2))

7. Loss of the status as a permanent resident

A permanent resident of the Hong Kong Special Administrative Region loses the status of such resident only if- (Amended 28 of 1998 s. 2(2))
(a) being a person falling within the category in paragraph 2(d) or (e) has been absent from Hong Kong for a continuous period of not less than 36 months since he ceased to have ordinarily resided in Hong Kong; or
(b) being a person falling within the category in paragraph 2(f), has been absent from Hong Kong for a continuous period of not less than 36 months after he obtained the right of abode in any place other than Hong Kong and has ceased to have ordinarily resided in Hong Kong.

(Replaced 122 of 1997 s. 5)