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**Paper for the House Committee meeting on
27 June 2003**

**Report of the Subcommittee on
Registration of Persons (Application for New Identity cards) Order and
Registration of Persons (Application for New Identity Cards)
(Repeal) Order 2003**

Purpose

This paper reports on the deliberations of the Subcommittee on the Registration of Persons (Application for New Identity Cards) Order and Registration of Persons (Application for New Identity Cards) (Repeal) Order 2003.

Background

2. The Registration of Persons (Amendment) Bill 2001 was introduced into the Legislative Council (LegCo) in January 2001. It aimed to provide the legislative framework for the introduction of a new smart identity card with multi-application capacity. The Bill also provided for the launching of a territory-wide identity card replacement exercise. After scrutiny by a Bills Committee, the Bill was passed with amendments by LegCo on 19 March 2003.

3. The Commissioner of Registration has appointed 23 June 2003 as the specified date on which the Smart Identity Card System starts operation. From this date onwards, applicants for new identity cards or applicants for replacement of lost, destroyed, damaged or defaced identity cards will be issued with new identity cards embodying chips. Holders of Hong Kong identity cards will be invited to come forward by age groups to replace their old identity cards which were applied or issued before 23 June 2003. The territory-wide identity card replacement exercise will commence on 18 August 2003, about two months after the System has started operation. The whole replacement exercise will last for about four years.

The Orders

4. The Registration of Persons (Application for New Identity Cards) Order (the ROP Order) was made by the Secretary for Security under section 7B(1) of the Registration of Persons Ordinance (Cap. 177) to announce details of the first cycle of the replacement exercise. The ROP Order has -

- (a) directed holders of identity cards born between 1964 to 1969, and members of the Immigration Service, police officers and labour inspectors to apply for identity cards within the specified periods; and
- (b) specified the names and locations of the smart identity card centres.

5. The ROP Order has also provided the Chief Executive, members of the Executive Council, LegCo Members, and principal officials with an option to apply for the new identity cards at an early stage.

6. The Secretary for Security has also made the Registration of Persons (Application for New Identity Cards) (Repeal) Order 2003 (the Repeal Order) to repeal previous orders issued for the last territory-wide replacement exercise held from July 1987 to October 1991.

The Subcommittee

7. At the House Committee meeting on 23 May 2003, Members formed a subcommittee to examine the Orders. Chaired by Hon IP Kwok-him, the Subcommittee has held one meeting with the Administration. The membership list of the Subcommittee is in **Appendix**.

Deliberations of the Subcommittee

Preparatory work for the issue of new identity cards

8. Hon James TO has enquired about the preparatory work for the implementation of the Smart Identity Card System. He is of the view that since the territory-wide identity card replacement exercise is mandatory, it is necessary to ascertain that the Smart Identity Card System and all ancillary measures are ready before implementation, to avoid causing confusion to the public. He considers that the Subcommittee's deliberation of the two Orders provides the last opportunity for Members to ensure that the Administration has completed all necessary preparatory work before launching the Smart Identity Card System.

9. The Administration has informed the Subcommittee that the original plan was to start issuing the new identity cards on 26 May 2003. However, as more time was required to rectify certain technical problems of the new system, the roll-out of the new identity cards has been deferred by a few weeks. Since the technical problems have been resolved, the system will start operation on 23 June 2003. The Administration has also advised that to prepare for the live-run of the Smart Identity Card System, the Immigration Department has conducted a series of tests and trial runs, and it is confident that the new system can commence live run as scheduled on 23 June 2003. The Subcommittee notes that a visit has been arranged for members of the Panel on Security and other interested Members to view a demonstration on the Smart Identity Card System in the real working environment on 17 June 2003.

10. In response to Hon James TO's further enquiry, the Administration has advised that -

- (a) demonstration and training on the features of the new identity cards have been organized for police officers and labour inspectors, and similar training will be provided to other law enforcement officers by phases ; and
- (b) territory-wide and overseas publicity on the identity card replacement exercise will be launched from August 2003.

11. Hon LAU Kong-wah and Hon James TO have suggested that publicity on the identity card replacement exercise should start earlier than August 2003, so that identity card holders, particularly those living abroad, can make arrangements for the replacement of identity cards during the specified periods. The Administration has responded that publicity will be launched in a timely manner.

12. Members note that the Administration informed the Panel on Security in May 2003 that a consultant had been engaged to conduct the third Privacy Impact Assessment. Apart from examining whether adequate data privacy safeguards have been incorporated into the operating procedure, the assessment also includes a pre-implementation review of the system controls and functionalities. The Administration envisages that the consultant will provide draft initial findings in a couple of days.

13. Hon James TO holds a strong view that it is necessary for Members to study the report of the third Privacy Impact Assessment before launching the Smart Identity Card System. He has requested the Administration to provide the report before 2 July 2003, i.e. the deadline for amending the Orders if the scrutiny period is extended to 9 July 2003. However, some other members of the Subcommittee have expressed reservations whether the report is of direct relevance to the examination of the two Orders. Nevertheless, the majority of

members agree that the Administration should try to provide the report to the Panel on Security as early as possible.

14. The Administration has explained that the Privacy Impact Assessment aims to assess the extent to which the information management processes of the Smart Identity Card System are implemented in accordance with stated privacy protection requirements, and to provide assurance on the level of privacy compliance. If rectification to the processes is considered necessary, it can be carried out before and after the implementation of the System. The Administration has stressed that the operation of the Smart Identity Card System is not dependent on the report. The Administration has further advised that the fourth Privacy Impact Assessment study will be conducted in around end 2003, and the Administration will then draw up the code of practice in consultation with the Privacy Commissioner who will also conduct a privacy compliance audit within 12 months after the implementation of the new system.

15. Regarding Hon James TO's request for providing the report of the third Privacy Impact Assessment before 2 July 2003, the Administration has explained that it will have to discuss the draft report with the consultant, and the consultant will only come to Hong Kong around mid-July 2003. Nevertheless, the Administration has undertaken to provide the third report of the Privacy Impact Assessment to the Panel on Security as soon as it is available.

Replacement schedule

16. Hon James TO has enquired about the rationale for certain categories of persons specified in the ROP Order to be given priority to replace their identity cards.

17. The Administration has advised that since the Automated Passenger Clearance System and the Automated Vehicle Clearance System to be introduced at the control points by phases at the end of 2004 will exploit the smart card technology, it will be necessary for frequent travellers, (i.e. those aged 34 and 55) to apply for new identity cards during the first four cycles of the exercise (from September 2003 to June 2005). Other age groups will replace their identity cards in the latter four cycles (from June 2005 to June 2007). The Administration has also advised that separate arrangements will be made for all cross-boundary drivers to apply for the new identity cards from September 2004 to November 2004 so that they may benefit from the Automated Vehicle Clearance System.

18. The Administration has also explained that persons holding important public office, i.e. the Chief Executive, members of the Executive Council, LegCo Members, and principal officials are in a unique position to promote the use of information technology in the community and Hong Kong as a leading

digital city in the region. The ROP Order provides an option for them to apply for the new identity cards at an early stage. However, they can still choose to replace their identity cards according to the period specified for their respective age groups.

19. Hon James TO has also asked why members of the Immigration Service, police officers and labour inspectors, and not other law enforcement officers, are included in the first phase of the replacement exercise (i.e. 18 August 2003 to 15 November 2003). The Administration has explained that there is a practical need for members of the Immigration Service, police officers and labour inspectors, to familiarise with the features of the new identity cards as early as possible, as they are required to enforce sections 17C and 17L of the Immigration Ordinance (Cap. 115).

20. As regards the reasons for not including members of the Customs and Excise Department and the Independent Commission Against Corruption in the first phase of replacement exercise, the Administration has advised that the duties of these law enforcement officers are less related to the checking of identity cards. Nevertheless, these officers will be given training to familiarise them with the features of the new identity cards.

Application for new identity cards by permanent residents living overseas

21. Hon James TO has sought clarification on whether a Hong Kong Special Administrative Region (HKSAR) permanent resident living overseas will be liable to an offence for not applying a new identity card within 30 days of his return to Hong Kong, if his actual period of stay in Hong Kong is less than 30 days.

22. The Administration has explained that under section 7B(4) of the Registration of Persons Ordinance, a HKSAR permanent resident living overseas will be liable to an offence for not applying for an identity card during his return to Hong Kong only if his period of stay in Hong Kong exceeds 30 days. In other words, if the resident living overseas stays in Hong Kong for less than 30 days, he will not be liable to an offence under section 7B(4) of the Registration of Persons Ordinance.

Durability of new identity cards

23. Hon LI Fung-ying has asked about the life span of the new smart identity cards and whether there is any device to protect the chips embodied in the cards. The Administration has advised that a smart identity card normally has a life span of more than 10 years. To enhance the durability of the new identity cards, a protective cover made of special material will be provided together with the new identity card.

Recommendations

24. The Subcommittee has completed scrutiny of the two Orders. The majority of members support these Orders.

25. The scrutiny period of these Orders has been extended to 9 July 2003 by resolution of the Council on 18 June 2003. The deadline for notice of amendments to these Orders is Wednesday, 2 July 2003.

Advice sought

26. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
26 June 2003

**Subcommittee on
Registration of Persons (Application for New Identity Cards) Order and
Registration of Persons (Application for New Identity Cards) (Repeal) Order
2003**

Membership list

Chairman Hon IP Kwok-him, JP

Members Hon James TO Kun-sun

Hon LAU Kong-wah

Hon Miriam LAU Kin-yee, JP

Hon Abraham SHEK Lai-him, JP

Hon LI Fung-ying, JP

Hon LEUNG Fu-wah, MH, JP

Hon Audrey EU Yuet-mee, SC, JP

(Total : 8 members)

Clerk Mrs Constance LI

Legal Adviser Miss Anita HO

Date 12 June 2003