

For information

Legislative Council Panel on Security

Processing of Entry Applications

Purpose

This paper provides information on the processing of entry applications.

Background

2. Hong Kong welcomes genuine visitors from around the world and adopts a liberal regime to facilitate their entry. As at 1 May 2008, the nationals/residents of 170 countries/regions may visit Hong Kong visa-free for a stay up to 7 to 180 days. In 2007, over 28 million visitors around the world came to Hong Kong for purposes ranging from sightseeing and business to cultural exposure and academic exchanges.

3. While the Immigration Department (ImmD) endeavours to facilitate the entry of genuine visitors, at the same time the Department has the responsibility to uphold effective immigration control so as to safeguard the public interest of Hong Kong.

The Legal Framework

4. Section 61(1) of the Immigration Ordinance (Cap. 115) provides that a travel document shall not be valid for the purposes of the Ordinance unless it bears a visa which was issued by or on behalf of the Director of Immigration and is in force on the date on which the person to whom the travel document relates arrives in Hong Kong. Section 61(2) of the Ordinance empowers the Director to exempt any person or any class or description of person from section 61(1). Possession of a visa/permit and visitors eligible for visa-free facilitation does not guarantee that a particular person will be automatically allowed to enter Hong Kong upon arrival. Section 4 of the Ordinance provides that immigration officers or immigration assistants may examine any person on his arrival in Hong Kong. Under sections 5(6)(b) and (7), the officer may require a person

being examined to produce such documents and furnish such information as the officer may require for the purposes of the Ordinance.

Processing of Entry Applications

5. During immigration examination on arrival, ImmD will consider whether the visitor meets normal immigration requirements, such as whether he possesses a valid travel document, sufficient re-entry facilities to his place of residence and sufficient funds for the proposed stay; whether he has any known adverse records; as well as his purpose of visit. ImmD will also consider whether his entry would not be conducive to the public interest. ImmD's procedures in processing entry applications are in line with the practices of the immigration authorities in many other places. In considering an entry application, ImmD will act in accordance with the law and prevailing policy, and take into account all relevant circumstances and factors on a case-by-case basis. For example, ImmD will take into account the risk/threat assessment in respect of any major international events to be hosted in Hong Kong or any scheduled arrival of state and foreign leaders.

6. From 2005 to 2007, the number of persons refused entry upon landing is set out in the following table:

	2005	2006	2007
Number of persons refused entry	39 874 (0.17%)	42 249 (0.17%)	39 508 (0.14%)

(): As a percentage of total number of arriving visitors

Detailed immigration examination¹ normally takes place in purpose-built interview rooms. Each application is determined on its individual merits. Entry may be refused in the following circumstances: use of forged travel document; not in possession of a valid travel document; not in possession of requisite entry visa/permit; purpose of entry in doubt; public health reasons; public safety reasons; etc. The refusal of entry of an applicant on a particular occasion does not preclude favourable consideration of a future application by the same applicant. Owing to the need to protect sensitive information and privacy, we do not consider it appropriate to disclose information relating to specific cases/individuals.

¹ Staff at immigration counters will refer certain passengers for more detailed examination at interview rooms in order to protect the privacy of the individuals and ensure smooth passenger flow at the immigration hall. Such more detailed examination is generally known as secondary examination.

7. In order to uphold effective immigration control, ImmD maintains a system to facilitate staff to gather and process intelligence and other relevant information. Under the monitoring system, ImmD staff will be notified of the applications from persons whose entry may be of concern. The monitoring mechanism enables ImmD staff to identify the relevant persons from the large number of passengers. To facilitate the monitoring, a “watchlist” is established. For example, when intelligence indicates that a person’s presence in Hong Kong may not be conducive to the public good of Hong Kong, his name may be put on the watchlist. A person whose name is on the watchlist does not mean that he would necessarily or automatically be refused entry. The watchlist is by no means a list of persons not allowed to enter Hong Kong; and is not a so-called “black-list”. There are occasions where persons on the watchlist were allowed entry into Hong Kong after immigration examination. Each case is considered by ImmD on its own merits.

8. A person who is refused entry will be sent back to his last place of embarkation as soon as practicable. Under the standards and recommended practices of the International Civil Aviation Organization, the airlines concerned have the obligation to carry inadmissible persons back to their last place of embarkation. ImmD will inform a person pending removal of his rights, such as making phone calls and contacting the local consulate or diplomatic representative. Food and beverage, as well as medical services, will be provided to persons in custody as necessary. In general, the person will be allowed to retain his personal items when waiting for the return transport, unless such items may be used for improper purposes like filming or surveying the restricted areas. In the latter scenario, ImmD will keep the relevant items on a temporary basis and return them to the person on his departure. When the return transport is ready for embarkation, the transport crew will receive the person from ImmD staff.

9. Immigration decisions must be made in strict compliance with the law and with good reasons. Any person who is aggrieved by the decision of ImmD to refuse his entry application may lodge an objection under section 53 of the Immigration Ordinance with the Chief Secretary for Administration against the decision. The person may also seek leave from the Court for a judicial review of the relevant decision.

Conclusion

10. As a co-host city of the 2008 Beijing Olympics, Hong Kong has the obligation to ensure that the relevant Olympic activities will proceed in a safe, peaceful and smooth manner. The torch relay is part and parcel of the Olympic Games. The Government does not welcome it if any person seeks to damage the solemnity of the Olympics or disrupt the smooth proceeding of the relevant Olympic activities in Hong Kong.

11. Under the One Country Two Systems principle, Hong Kong Special Administrative Region (HKSAR) enjoys a high degree of autonomy. The Basic Law also provides that Hong Kong residents shall have freedom of speech, of assembly, of procession, etc. It is the HKSAR Government's responsibility to uphold effective immigration control and maintain law and order in the Region. Immigration control and public order must be strengthened especially when major events are taking place in the Region. The power, and also the duty, by the immigration authority to refuse entry where circumstances so warrant are not unique to Hong Kong. In processing an entry application, ImmD will have due regard to the prevailing circumstances surrounding the application and make a decision on a case-by-case basis. Hong Kong is a free and open society which subscribes to the rule of law. We will continue to welcome genuine visitors and endeavour to facilitate their visits to Hong Kong.

Security Bureau
Immigration Department
May 2008