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Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 7 February 2014**

**Immigration arrangement for entry of Mainland residents
for family reunion**

Purpose

This paper summarizes the concerns of Members on issues related to the immigration arrangements for entry of Mainland residents for family reunion.

Immigration arrangements for entry of Mainland residents

2. Article 22(4) of the Basic Law stipulates that "For entry into the Hong Kong Special Administrative Region ("HKSAR"), people from other parts of China must apply for approval. Among them, the number of persons who enter the Region for the purpose of settlement shall be determined by the competent authorities of the Central People's Government after consulting the government of the Region."

3. Mainland residents who wish to settle in Hong Kong must apply for an One Way Permit ("OWP") from the Public Security Bureau Offices of the Mainland where their household registrations are kept. The existing OWP quota is 150 places per day, of which 60 are allocated to persons holding Certificates of Entitlement¹ ("CoE"), and the rest for application by other

¹ Persons claiming right of abode under paragraph 2(c) of Schedule 1 to the Immigration Ordinance (Cap. 115) have to apply for a CoE from the Immigration Department ("ImmD"). Mainland residents holding a CoE issued by ImmD and affixed onto an OWP issued by the Mainland authorities can enter Hong Kong to exercise their right of abode.

Mainland residents for family reunion in Hong Kong, including separated spouses and their accompanying children aged under 18, unsupported children who need to join their relatives in Hong Kong (unsupported children), persons coming to Hong Kong to take care of their unsupported parents aged above 60, and unsupported elderly people coming to join their relatives in Hong Kong.

4. Apart from entering Hong Kong for settlement on the strength of an OWP, Mainland residents can apply for an Exit-Entry Permit (commonly known as Two Way Permit ("TWP")) from the Exit and Entry Administration Offices of the Public Security Bureau of the Mainland for entering Hong Kong. Their limits of stay in Hong Kong depend on the type of exit endorsements they hold.

Deliberations on issues related to the immigration arrangements for entry of Mainland residents for family reunion

Issue of OWP

5. Members generally considered that reunion of family members should be a priority area in the Administration's population policy. Given that the OWP Scheme had been in place for more than a decade, some members took the view that the Administration should liaise with the Mainland authorities to refine the mechanism for allocation and distribution of the 150 daily places for OWP to expedite the reunion of those families with members from the Mainland.

6. The Administration advised that the Mainland authorities had since May 1997 applied the "Points System" to assess and determine the eligibility of applicants and the order in which they might settle in Hong Kong. Except for CoE holders, the main considerations in examining and approving OWP applications included the separation time and the age of the applicants or their Hong Kong relatives. The OWP Scheme aimed to facilitate the reunion of Mainland residents with their families in Hong Kong in an orderly manner. The Mainland authorities had from time to time refined the system. For instance, the "eligibility points" for OWP applications of separated spouses were further relaxed in 2009, thereby shortening the waiting time from five years in 2005 to four years. In addition, the unused places under the sub-quota for long-separated spouses had since 2001 been allocated to spouses separated for a shorter period and their accompanying children. In 2003, the age limit for OWP applications of accompanying children of separated spouses was relaxed from 14 to 18; the restriction of only one accompanying

child was also removed.

7. Pointing out that the overall daily OWP places were under-utilised in the past few years, in particular the sub-quota for CoE holders and spouses separated for 10 years or above and their accompanying children, some members considered that the unused places should be allocated to applications of other categories, such as Mainland adult children born to Hong Kong residents.

8. The Administration stressed that the policy objective of the OWP Scheme was to allow Mainland residents to come to Hong Kong for family reunion in an orderly manner through approval by the Mainland authorities in accordance with the laws and regulations of the Mainland. OWPs were documents issued by relevant authorities in the Mainland. The application, approval and issuance of OWPs fell within the remit of the Mainland authorities. The HKSAR Government facilitated at case level, including issuing CoEs to children of Hong Kong permanent residents, and when necessary, rendering assistance in verifying the supporting documents submitted by applicants and their claimed relationship with relatives in Hong Kong. The Administration pointed out that it had and would continue to exchange views with the Mainland authorities on the overall usage of OWP quota, and reflect to them the aspirations of the society.

OWP application by overage children²

9. Members were advised in 2010 that starting from 1 April 2011, Mainland "overage children" of Hong Kong residents could apply for OWP to come to Hong Kong for reunion with their natural parents. According to the Administration, the application, approval and issue of OWP applicable to "overage children" largely followed those of OWP applications. Eligible applicants might submit OWP applications by phases at the Exit and Entry Administration Offices of Public Security Bureau at the county or above level of their household registration, and the phased submission of applications by "overage children" should follow the order of when their natural father or mother obtained their Hong Kong identity cards. The first batch would be those whose parents had obtained their Hong Kong identity cards before 1980, i.e. on or before 31 December 1979.

10. While welcoming and appreciating the Administration's efforts in working out the new arrangement, member expressed concern about the

² The term "overage children" refers to those persons who (a) were below the age of 14 when their natural fathers or mothers, before 1 November 2001, obtained their Hong Kong identity card; and (b) turned 14 while awaiting approval and hence loss their approval status.

detailed application arrangements and the lead time for processing the applications, and the timetable for subsequent batches of OWP applications by Mainland "overage children". Members called on the Administration and the Mainland authorities to promulgate the detailed arrangements as early as practicable.

11. According to the Administration, tens of thousands of Mainland adult children of Hong Kong residents were involved. As there were around 80 000 accumulated unused OWP quotas over the past 10 years, it would help effectively address the needs of "overage children". Nonetheless, both the HKSAR Government and the Mainland authorities had to work out the arrangements to ensure their orderly arrival. The Administration advised that the new arrangement was premised on the policy objective to facilitate family reunion in an orderly manner based on objective and transparent criteria. Eligible Mainland "overage children" could submit applications according to their own settlement plan. There was no closing date for submitting applications.

12. In its reply to an oral question raised at the Council meeting of 20 March 2013, the Administration advised that the Mainland authorities were accepting applications from Mainland residents whose natural fathers or mothers first obtained their Hong Kong identity cards before 1982.

Opening a channel for Mainland mothers of Hong Kong children to apply for OWP

13. Pointing out that some Mainland mothers came to Hong Kong on the strength of a TWP with "visiting relatives" exit endorsement to take care of their young children in Hong Kong, some members expressed grave concern about the difficulties faced by these families, especially Mainland single mothers with children born in Hong Kong. These Mainland women were ineligible for OWP application due to the passing away of their spouses (who were Hong Kong residents) or divorce. Some members took the view that the Administration should discuss with the Mainland authorities to consider allocating the unused sub-quota to Mainland spouses of Hong Kong residents who had applied for OWP but became ineligible due to various reasons, with priority given to Mainland single mothers with children in Hong Kong.

14. Regarding the proposal of allowing Mainland residents who did not meet the eligibility criteria for "reunion with spouses" but who had young children in Hong Kong to apply for OWP, the Administration advised that the suggestion involved various considerations and must be handled very

carefully. For example, the suggestion might have negative impact on the waiting time of those currently eligible for application for OWP. ImmD would convey to the Mainland immigration authorities the exceptional circumstances of individual cases, such as OWP applicants whose Hong Kong spouses were deceased and who had young children, together with the relevant case details and background information for their active consideration. The Administration further advised that some applications from Mainland single mothers for "one-year multiple" exit endorsement for visiting relatives in Hong Kong had been approved.

Relevant papers

15. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Appendix

Relevant papers on immigration arrangement for entry of Mainland residents for family reunion

Committee	Date of meeting	Paper
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	26.4.2010	<u>Agenda</u> <u>Minutes</u>
	29.6.2010	<u>Agenda</u> <u>Minutes</u>
	26.10.2010	<u>Agenda</u> <u>Minutes</u>
	15.1.2011	<u>Agenda</u> <u>Minutes</u>
	14.6.2011	<u>Agenda</u> <u>Minutes</u>
House Committee	29.6.2012	<u>Report</u>
Legislative Council	20.3.2013	<u>Official Record of Proceedings</u> <u>(Question 2)</u>
	22.1.2014	Official Record of Proceedings (Question 4)