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Paper for the House Committee meeting on 27 November 2020

**Report of Subcommittee on
Registration of Persons (Application for New Identity Cards)
Order 2018 (Amendment) (No. 2) Order 2020**

Purpose

This paper reports on the deliberations of the Subcommittee on Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) (No. 2) Order 2020 ("the Subcommittee").

Background

2. In October 2018, the Secretary for Security ("S for S") made the Registration of Persons (Application for New Identity Cards) Order 2018 (Cap. 177J) ("the ROP Order 2018") under section 7B(1) of the Registration of Persons Ordinance (Cap. 177) ("the Ordinance") announcing the arrangement of the first cycle of the Territory-wide Identity Card Replacement Exercise ("the Replacement Exercise"). The ROP Order 2018 directs certain categories of persons including, inter alia, certain public officers¹ (i.e. members of the Immigration Service, police officers and labour inspectors) and holders of target HKICs² born in 1985 to 1986 or those in 1968 to 1969 to apply for new Hong Kong identity cards ("HKICs") at the Smart Identity Card Replacement Centres ("the Replacement Centres") during the first cycle of the Replacement Exercise. The first cycle of the Replacement Exercise commenced on 27 December 2018 and ended on 1 June 2019.

¹ According to the Legislative Council ("LegCo") Brief on the ROP Order 2018 issued by the Security Bureau in October 2018, such arrangement will allow these categories of public officers to get familiar with the new smart identity cards for execution of their duties in relation to fighting against illegal immigration and illegal employment.

² Target HKICs are those prepared under regulation 5(1)(a) of the Registration of Persons Regulations (Cap. 177A) and issued before 26 November 2018 (or issued on or after that date as a result of an application made before that date).

3. According to the Administration, the Replacement Exercise, subject to actual progress, is expected to last for about four years. Amendment orders would be made during the Replacement Exercise to direct holders of target HKICs to apply for new HKICs in the period specified for their age groups. To roll out the second cycle of the Replacement Exercise, S for S, in March 2019, made the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2019 under section 7B(1) of the Ordinance to specify the arrangement of the second cycle of the Replacement Exercise. This Amendment Order directs holders of target HKICs born in 1955 to 1959 or those in 1964 to 1967 to apply for new HKICs at a Replacement Centre within the specified periods from 3 June 2019 to 17 February 2020 (i.e. the second cycle of the Replacement Exercise).

4. In November 2019, S for S made the Registration of Persons (Application for New Identity Cards) (Amendment) (No. 2) Order 2019, pursuant to section 7B(1) of the Ordinance, to specify the arrangement of the third cycle of the Replacement Exercise. This Amendment Order directs holders of target HKICs born in 1960 to 1963 or those in 1970 to 1976 to apply for new HKICs within the specified periods from 18 February to 8 January 2021. This Amendment Order also provides that eligible members of the sixth-term District Council may apply for new HKICs from 18 February to 20 April 2020, in addition to replacing their HKICs in the periods specified for their age groups.

5. In the light of the coronavirus disease 2019 ("COVID-19") epidemic, the Immigration Department ("ImmD") suspended the replacement service for HKICs under the Replacement Exercise from 29 January to 1 March 2020 and from 23 March 2020 to 3 May 2020. In May 2020, S for S made the Registration of Persons (Application for New Identity Cards) (Amendment) Order 2020, pursuant to section 7B(1) of the Ordinance, to revise the implementation of the second and third cycles of the Replacement Exercise. This Amendment Order makes the following amendment -

- (a) extends the specified periods for holders of target HKICs born in 1957 to 1961 to apply for new HKICs as follows:

Year of birth	Original specified period	Revised specified period
1957 to 1959	From 16 November 2019 to 17 February 2020	From 16 November 2019 to 27 July 2020
1960 to 1961	From 18 February to 20 April 2020	From 18 February to 27 July 2020

- (b) revises the specified periods for holders of target HKICs born in 1962 to 1963 and in 1970 to 1976 to apply for new HKICs as follows:

Year of birth	Original specified period	Revised specified period
1962 to 1963	From 21 April to 24 June 2020	From 28 July to 22 September 2020
1970 to 1972	From 26 June to 16 September 2020	From 23 September to 7 December 2020
1973 to 1974	From 17 September to 13 November 2020	From 8 December 2020 to 28 January 2021
1975 to 1976	From 14 November 2020 to 8 January 2021	From 29 January to 19 March 2021

- (c) extends the specified period in which eligible members of District Councils may apply for new HKICs to 27 July 2020; and
- (d) provides that if none of the Replacement Centres is not in service for public health reasons for a period of 21 working days or more from 11 May to 27 July 2020, the substituted periods for applications of new HKICs would apply for the categories of persons in sub-paragraphs (b) to (d).

6. According to the Administration, due to the epidemic situation of COVID-19, the operation of all Replacement Centres was suspended again from 20 July to 23 August 2020. Having regard to the substantial number of persons who have not yet applied for new HKICs due to service suspension, the Administration considers it necessary to revise the arrangement of the Replacement Exercise again such that the Replacement Exercise will continue to be conducted in an orderly manner.

The subsidiary legislation

7. In the light of the circumstances mentioned in paragraph 6, the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) (No. 2) Order 2020 ("the ROP (No. 2) Order 2020") is made by S for S under section 7B of the Ordinance in September 2020. According to the LegCo Brief issued by the Security Bureau in September 2020, the ROP (No. 2) Order 2020 is made to:

- (a) extend the specified periods for holders of target HKICs born in 1957 to 1963 to apply for new HKICs as follows:

Year of birth	Revised specified period
1957 to 1959	From 16 November 2019 to 26 September 2020
1960 to 1961	From 18 February 2020 to 26 September 2020
1962 to 1963	From 28 July 2020 to 30 January 2021

- (b) amend the specified period for holders of target HKICs born in 1970 to 1972 to apply for new HKICs as follows:

Year of birth	Revised specified period
1970 to 1972	From 2 November 2020 to 30 April 2021

- (c) extend the specified period in which eligible members of the six-term District Council may apply for new HKICs to 26 September 2020;
- (d) repeal the specified periods for holders of target HKICs born in 1973 to 1976 to apply for new HKICs; and
- (e) repeal the provisions or references in provisions in the ROP Order 2018 which are no longer applicable.³

8. The ROP (No. 2) Order 2020 came into operation on the date of publication in the Gazette, i.e. 11 September 2020.

The Subcommittee

9. At the House Committee meeting on 16 October 2020, members agreed to form a subcommittee to study the ROP (No. 2) Order 2020. The

³ Section 8 of the ROP Order 2018 stipulates that the substituted application period in Column 3 of Schedule 2 would apply if none of the Replacement Centres is in service for public health reasons for 21 working days or more during 11 May 2020 to 27 July 2020. As the relevant period has lapsed, the provision is no longer applicable. The ROP (No. 2) Order 2020 repeals the relevant provisions and references in provisions in the ROP Order 2018.

membership list of the Subcommittee is in the **Appendix**. The Subcommittee has held one meeting with the Administration.

10. To allow more time for scrutiny, the Chairman of the Subcommittee gave notice to move a motion at the Council meeting of 11 November 2020 to extend the scrutiny period of the ROP (No. 2) Order 2020 to 2 December 2020. However, the motion was not dealt with before adjournment of the said Council meeting. As such, the period for amending the ROP (No. 2) Order 2020 expired at the Council meeting of 11 November 2020.

Deliberations of the Subcommittee

Implementation of the Replacement Exercise

11. Members have enquired about the implementation progress of the Replacement Exercise, in particular for holders of target HKICs born in 1957 to 1961. The Administration has advised that the Replacement Exercise commenced on 27 December 2018. As of 7 November 2020, ImmD processed about 2.5 million applications for replacement of HKICs. Specifically, about 84% of target HKIC holders born between 1957 and 1959, and about 78% of target HKIC holders born in 1960 and 1961 have applied for new HKICs by the extended deadline of 26 September 2020. As a point of reference, the average replacement rate of the last HKIC replacement exercise in 2003 was about 83%.

12. Some members have expressed concern that quite a number of HKIC holders have not applied for new HKICs within the specified replacement periods for their respective age groups. These members have enquired about the invalidation arrangement of the present generation of HKICs. The Administration has advised that S for S would make reference to the relevant factors and actual circumstances such as the replacement rates of individual age groups in deciding when to invalidate the present generation of HKICs by orders to be published in the Gazette. With reference to the last Replacement Exercise conducted between 2003 and 2007, the then S for S issued orders to invalidate the previous generation of HKICs in batches from 2006 to 2008 in light of the replacement progress.

Revised arrangement for the Replacement Exercise

13. Members note that under the ROP (No. 2) Order 2020, the specified period for holders of target HKICs born in 1960 or 1961 to apply for new HKICs has been extended from the original period between 18 February 2020 and 27 July 2020 to the period between 18 February 2020 and 26 September 2020. Some members have expressed concern that these target HKIC holders might not have sufficient time to apply for new HKICs by the extended deadline

of 26 September 2020, given that the revised deadline was announced on 11 September 2020, i.e. when the ROP (No. 2) Order 2020 was gazetted. These members have enquired whether the Administration would consider further extending the revised specified period for the relevant age groups, given that some target HKIC holders may wish to visit the Replacement Centres to apply for new HKICs when the epidemic situation of the COVID-19 stabilizes. Some members have also suggested that the Administration should disseminate specific information on the HKIC replacement arrangement to the target HKIC holders, say, by means of short message service.

14. The Administration has advised that in drawing up the revised specified period, relevant considerations, including the replacement progress of the respective age groups and the epidemic situation, have been taken into account. In the ROP (No. 2) Order 2020, the revised specified periods for holders of target HKICs born in 1962 to 1963 and those in 1970 to 1972 are longer than usual having regard to the epidemic situation. For holders of target HKICs born in 1957 to 1961, the specified periods for these age groups were extended to 27 July 2020 in May 2020, having regard to their replacement progress. In fact, the operation of the Replacement Centres was suspended on 20 July 2020, a week before expiration of the original extended period for these HKIC holders. Moreover, according to the Registration of Persons Ordinance (Cap. 177), any person who without reasonable excuse fails to comply with an order made by S for S in respect of replacement of HKICs commits an offence. These cases would be handled by ImmD on an individual basis. In general, being unable to replace HKICs due to the epidemic situation would be considered as a reasonable excuse.

15. The Administration has further advised that ImmD has put up relevant publicity in respect of the HKIC replacement arrangement through various channels, including broadcasting Announcement in the Public Interest on television and social media as well as placing posters in ImmD offices and through advertisements on public transport.

Facilitation measures in the Replacement Exercise

16. Members note that the ROP Order 2018 provides for on-site HKIC replacement service to residents of the residential care homes ("RCHs") for the elderly persons and persons with disabilities. These residents may choose to have their HKICs replaced on-site at RCHs, in addition to replacing HKICs at a Replacement Centre in the period specified for their age groups ("the on-site replacement service").

17. Some members have asked whether the Administration would consider extending the on-site replacement service to cover persons requiring long-term stay at hospitals for care and treatment. The Administration has advised that

the on-site replacement service covers residents of RCHs registered under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613), and 11 institutions registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap.165) which provide residential care services for elderly persons and persons with disabilities.⁴ The scope of RCHs have been drawn up by ImmD in consultation with the Social Welfare Department having regard to the nature of the institutions and the conditions of the patients therein. With regard to patients requiring long-term stay at hospitals for constant and/or higher-level medical treatment, if they can satisfy a registration officer that their personal attendance for registration of HKICs will injure their health or the health of others, they would not be required to register or apply for the issue or renewal of a HKIC pursuant to the Registration of Persons Regulations (Cap. 177A). They can apply to the Commissioner of Registration (i.e. Director of Immigration) for a Certificate of Exemption which is issued free of charge.

18. Some members have expressed concern about HKIC replacement arrangement for persons in custody ("PICs") at prisons. Noting that PICs at prisons who are holders of target HKICs would not have their HKICs replaced within the specified periods for their age groups, these members consider that it would create difficulties for discharged PICs to access public services and job searching. It is also pointed out that any persons who fail to replace their HKICs within the specified periods would be liable to commission of an offence. These members take the view that the Administration should consider providing on-site replacement service for PICs at prisons when their respective age groups are called up for HKIC replacement. This would be conducive to discharged PICs' rehabilitation and integration into the society.

19. The Administration has advised that in considering whether to introduce further facilitation measures in the Replacement Exercise, the Administration would adopt a pragmatic approach taking into account the relevant considerations, including the genuine need of the relevant category of persons, the urgency of having their HKICs replaced and possible difficulties that may be encountered by them, etc. As PICs who are serving their sentences may not have an imminent need to use or replace their HKICs, ImmD would accord priority in term of manpower and resources for providing on-site replacement service for residents of residential care homes who have a genuine need for such service.

20. The Administration has further explained that according to the Ordinance, any person who without reasonable excuse fails to comply with an order made

⁴ The 11 institutions are specified in Schedule 3 to the ROP Order 2018.

by S for S in respect of replacement of HKICs commits an offence.⁵ These cases would be handled by ImmD on an individual basis. In general, failure to replace HKICs due to serving sentences at prisons would be considered as a reasonable excuse. In the view of the Administration, PICs do not have an imminent need to replace their HKICs. Discharged PICs may proceed to replace their HKICs in the nine Replacement Centres if the Replacement Exercise is still on-going; or at the five existing Registration of Persons Offices upon completion of the Replacement Exercise. The Administration has advised that there is no correlation between the resident status of a Hong Kong resident and the validity of his/her HKIC. Even if the present generation of HKIC would be invalidated upon completion of the Replacement Exercise, it would not affect the resident status of those PICs who have not yet replaced new HKICs nor their entitlement to public services as a resident.

Recommendation

21. The Subcommittee raises no objection to the ROP (No.2) Order.

Advice sought

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

Council Business Division 2
Legislative Council Secretariat
25 November 2020

⁵ Please see section 7B(1) and (3) of the Ordinance.

**Subcommittee on Registration of Persons (Application for
New Identity Cards) Order 2018 (Amendment) (No. 2) Order 2020**

Membership list*

Chairman (Vacant)

Members Hon Abraham SHEK Lai-him, GBS, JP

(Total : 1 member)

Clerk Miss Betty MA

Legal adviser Miss Evelyn LEE

* Changes in membership are set out in Annex to Appendix

Annex to Appendix

Subcommittee on Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) (No. 2) Order 2020

Changes in membership

Member	Relevant date
Hon Claudia MO	Up to 4 November 2020
Prof Hon Joseph LEE Kok-long, SBS, JP	Up to 10 November 2020
Hon IP Kin-yuen	Up to 10 November 2020
Hon SHIU Ka-chun	Up to 11 November 2020
Hon HUI Chi-fung	Up to 11 November 2020
Hon Jeremy TAM Man-ho	Up to 11 November 2020
Hon James TO Kun-sun	Up to 12 November 2020
Hon WU Chi-wai, MH	Up to 12 November 2020
Dr Hon Helena WONG Pik-wan	Up to 12 November 2020
Hon Andrew WAN Siu-kin	Up to 12 November 2020
Hon LAM Cheuk-ting (Chairman)	Up to 12 November 2020
Hon KWONG Chun-yu	Up to 12 November 2020
Hon LEUNG Yiu-chung	Up to 15 November 2020
Dr Hon Fernando CHEUNG Chiu-hung	Up to 18 November 2020

Note 1 According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being a member of the Legislative Council ("LegCo") on 30 July 2020.

Note 2 Pursuant to section 15(1)(a) of the Legislative Council Ordinance (Cap. 542), HUI Chi-fung ceased to hold office as a member of LegCo upon his resignation on 12 November 2020.