

Information Paper for LegCo Panel on Security

Immigration policy and procedures in respect of applications for visit visas/entry permits

Purpose

This paper provides information on the Government's immigration policy and procedures in respect of applications for visit visas/entry permits.

Background

2. On 21 April 1999, the Director of Immigration refused the applications from 11 applicants, through their local sponsor, for visit visas/entry permits to enter HKSAR to attend a symposium to commemorate the May 4 Movement and the June 4 Incident. The applicants were holders of one or more of the following travel documents: Chinese passports, US Re-entry permits, US Refugee Travel Documents, Authorizations for Parole of an Alien into the United States or French Titres De Voyage. The refusal was on the ground that given the prevailing circumstances at the time of each application, the presence of each applicant in Hong Kong was not conducive to Hong Kong's interests.

3. In light of the Director's decision, some Members have expressed concern as to whether immigration policy of Hong Kong has changed since the reunification. At the meeting of the Legislative Council held on 5 May 1999, the Secretary for Security gave an oral reply to a question on this subject.

Legal position

4. Section 61(1) of the Immigration Ordinance provides that a travel document shall not be valid for the purposes of this 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 to whom the travel document relates arrives in Hong Kong.

5. Section 61(2) of the same Ordinance empowers the Director to exempt any person or any class or description of persons from section 61(1). As no exemption has been granted to holders of Chinese passports, US Re-entry permits, US Refugee Travel Documents, Authorizations for Parole of an Alien into the United States or French Titres De Voyage, persons holding these documents require visa/entry permits to visit Hong Kong.

Immigration policy

6. Under existing policy, an application for a visit visa/entry permit is determined on its individual merits and may be approved if the applicant satisfies normal immigration requirements including-

- (a) there is no security objection to and no known adverse record on the applicant;
- (b) the applicant is in possession of sufficient re-entry facilities to his place of residence;
- (c) the applicant is in possession of sufficient funds for the proposed

stay; and

- (d) the genuineness of the applicant's visit is not in doubt.

In considering an application, the Director also has regard to the public interest. For example, whether the applicant's presence in HKSAR is undesirable or whether his presence would prejudice the Region's interests or its relations with other Governments.

Application procedures

7. Applications for visit visas or entry permits can be submitted at the overseas Chinese Diplomatic and Consular Mission (CDCM) nearest to the place of the residence of the applicant. Alternatively, applications can be submitted to the Immigration Department direct or through a local referee. If the application is approved, a visit visa/entry permit will be issued to the applicant direct or through the relevant CDCM or local referee as appropriate.

Objections/petitions

8. An applicant for a visit visa or entry permit who is aggrieved by the decision of the Director of Immigration to refuse his/her application may lodge an objection under section 53 of the Immigration Ordinance with the Chief Secretary for Administration against the decision. The objection will be determined by the Chief Executive in Council.

9. Alternatively, the person may petition the Chief Executive, the Chief

Secretary for Administration or the Secretary for Security against the Director's decision. Normally the petition will be reviewed by the Secretary for Security in her own capacity or as the Chief Executive's or the Chief Secretary for Administration's delegate as appropriate.

10. Hong Kong has all along operated a liberal visa regime. As can be illustrated by the following statistics, the refusal rate of visitor visa/entry permit applications has been low:

<u>Year</u>	<u>No. of Applications Processed</u>	<u>No. of Applications Refused (%)</u>
1996	12 980	208 (1.6%)
1997	12 934	162 (1.25%)
1998	11 185	154 (1.38%)
1999 (up to Nov.)	14 605	77 (0.53%)

11. The Administration's records show that, in the three-year period before the reunification, there was no objection or petition against the Director's decision to refuse applications for visitor visas or entry permits. Since reunification, there has been one objection of this nature, namely the one lodged on behalf of the above-mentioned 11 applicants. There have been no petitions relating to refused visitor visa/entry permit applications.

Conclusion

12. The immigration policy set out in paragraph 6 above was adopted by the Administration long before the reunification, and it continues to be the HKSARG's policy for processing applications for visit visas or entry permits.

13. The exercise of discretionary powers by Immigration authorities to refuse a visitor visa/entry permit application where circumstances so warrant is not unique to Hong Kong. In processing an application, it is incumbent upon the Director to have regard to, among other things, the prevailing circumstances surrounding the application. The refusal of an application from an applicant on a particular occasion does not preclude favourable consideration of a future application by the same applicant. Different circumstances merit different consideration.

14. To conclude, immigration policy in Hong Kong has been applied consistently both before and after reunification.

Security Bureau
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