

Interim arrangement for applications from parties in a foreign legally recognised same-sex relationship for entry for residence as dependants in Hong Kong to continue

In view of the judgment handed down by the Court of Final Appeal (CFA) in QT v Director of Immigration (FACV No. 1 of 2018) on July 4, 2018, the Government is now reviewing the dependant immigration policy to give effect to the judgment. Pending completion of the said policy review, the Immigration Department (ImmD) will continue to implement its interim arrangement for applications from a party in a foreign legally recognised same-sex relationship with eligible sponsors for entry for residence as dependants in Hong Kong.

Under the prevailing dependant immigration policy, the Director of Immigration (Director) will favourably consider an application from the spouse of an eligible sponsor for entry for residence as a dependant in Hong Kong if the spouse meets the normal immigration requirements and the following specific eligibility criteria:

- (i) there is reasonable proof of a genuine relationship between the applicant and the sponsor;
- (ii) there is no known record to the detriment of the applicant; and
- (iii) the sponsor is able to support the applicant's living at a standard well above the subsistence level and provide him/her with suitable accommodation in Hong Kong.

The Director has all along adopted the meaning of "spouse" as a party to a marriage consisting of one man and one woman as recognised by the laws of Hong Kong.

Under the interim arrangement, subject to the meeting of normal immigration requirements and the above specific eligibility criteria, the Director will grant a party in a foreign legally recognised same-sex relationship with eligible sponsors permission to remain in Hong Kong for 12 months or in line with their sponsors' limit of stay (if applicable), whichever is shorter, subject to a time limitation only without other conditions of stay. During this period, the concerned party may take up employment, establish or join in business or study in Hong Kong without the need for prior permission from the Director.

The above interim measure has been put in place by ImmD after the Court of Appeal's judgment allowing the Applicant QT's appeal and pending the Director's then appeal to the CFA. It does not pre-empt the way forward of

the said policy review and should not be regarded as equivalent to giving legal recognition to same-sex relationships under the laws of Hong Kong. The Government respects the CFA's decision on the QT case and will strive to complete the policy review within reasonable time.

In *QT v Director of Immigration*, the Applicant, QT, lodged an application for judicial review against the Director's decision of refusing her application for entry for residence in Hong Kong as a dependant of her same-sex civil partner on the grounds that she was not a "spouse" under the prevailing dependant immigration policy. The Court of First Instance (CFI) dismissed the application for judicial review, but the Court of Appeal reversed the CFI's judgment on appeal. On July 4, 2018, the CFA dismissed the Director's appeal.