

LCQ13: Granting permanent resident status to personnel of offices of Central Authorities stationed in Hong Kong on long-term basis

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (July 10):

Question:

Under the existing laws and regulations, personnel of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (HKSAR) (Liaison Office), the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR, as well as other Mainland authorities in Hong Kong are not eligible to apply for Hong Kong permanent resident (HKPR) status. It has been reported that a former director of the Liaison Office and a former director of the Hong Kong and Macao Affairs Office of the State Council were moved to comment that Hong Kong was "a difficult book to read". There are views that allowing "Hong Kong gurus", i.e. those who have worked in Hong Kong for a long time and are familiar with the situation there, to stay in Hong Kong for a longer period after leaving their jobs, or even allowing them to be treated on an equal footing with other persons not of Chinese nationality and obtain the HKPR status in accordance with the law after having legally resided in Hong Kong for a continuous period of not less than seven years, will enable them to effectively play the role of a bridge between the Mainland and Hong Kong and carry out the relevant work. In this connection, will the Government inform this Council:

(1) whether it has approached the Central Government to gain an understanding as to why persons not of Chinese nationality who have legally resided in Hong Kong for a continuous period of not less than seven years can generally obtain the HKPR status in accordance with the law, while those who are Chinese nationals and "Hong Kong gurus" are not entitled to the same treatment; if so, of the details; if not, whether it can seek the Central Government's views on the matter;

(2) whether it has studied if granting the HKPR status to "Hong Kong gurus" and modelling on the practice of the Top Talent Pass Scheme to allow the "Hong Kong gurus" to bring along their spouses and children to settle in Hong Kong will help promote integration between the Mainland and Hong Kong; and

(3) it is understood that in the Mainland, the State allows public servants who are posted to work on a long-term basis in areas other than their original place of household registration or place of residence to choose to

apply for household registration in the area where they work and to bring along their spouses and children to live in that area, whether the HKSAR Government has explored or studied if the relevant requirements can be enforced in Hong Kong?

Reply:

President,

The management of officials deployed to the Hong Kong Special Administrative Region (HKSAR) by the Central People's Government (CPG), including the policy and arrangement for their accompanying dependants, is a matter within the purview of the Central Authorities. In consultation with the Constitutional and Mainland Affairs Bureau, the consolidated reply to the question raised by the Hon Paul Tse is as follows:

Officials deployed by the CPG to work in the CPG's offices in the HKSAR (including the Liaison Office of the CPG in the HKSAR and the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR) must enter Hong Kong on the strength of the Exit-entry Permit for Travelling to and from Hong Kong and Macao for Official Purposes (Permit) bearing an endorsement stating that "Holder of this document is a public official of the State directed to work in the Hong Kong/Macao Special Administrative Region". Pursuant to section 2(1) of the Immigration Ordinance (Cap. 115) (Ordinance), the Permit is a prescribed CPG travel document. Section 2(4)(a)(ix) of the Ordinance states that a person shall not be treated as an ordinarily resident in Hong Kong during the period in which he or she remains in Hong Kong as a holder of a prescribed CPG travel document. Hence, these persons cannot become permanent residents of Hong Kong.

The above provision originates from the Immigration (Amendment) Bill 2001 (Bill) proposed by the HKSAR Government in 2001 and subsequently passed by the Legislative Council through three readings on November 6, 2002. The amendment provides that if the travel document held by a Mainland official deployed to work in Hong Kong specifies that he or she is directed to work in Hong Kong in his or her official capacity, then the official shall not be treated as an ordinarily resident in Hong Kong during the period that he or she remains in Hong Kong.

At that time, the HKSAR Government stated that, like members of the Hong Kong Garrison, Mainland officials are posted to Hong Kong in their official capacity. According to the CPG's policy, these officials are required to return to the Mainland upon expiry of their working assignment in Hong Kong. It was not intended that they enter Hong Kong for the purpose of settlement in accordance with paragraph 4 in Article 22 of the Basic Law. As such, they should not form part of Hong Kong's permanent population, and thus should fall within the scope of persons not ordinarily residents in Hong Kong. At that time, the HKSAR Government also affirmed that the Bill was fully consistent with the requirements in the Basic Law.