

LCQ2: One-way Permits scheme and talent admission schemes

Following is a question by the Hon Wu Chi-wai and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (March 20):

Question:

According to Article 22 of the Basic Law and the relevant Interpretation by the Standing Committee of the National People's Congress in 1999 (NPCSC's Interpretation), Mainland residents who wish to enter the Hong Kong Special Administrative Region (HKSAR) must apply for approval in accordance with the relevant laws, and must hold valid documents issued by the Mainland authorities (e.g. Permits for Proceeding to Hong Kong and Macao which are commonly known as "One-way Permits" (OWPs)) before they may enter HKSAR. In this connection, will the Government inform this Council:

(1) given that the HKSAR Government currently may, of its own accord, vet and approve Mainland residents' applications for entry into Hong Kong under the Admission Scheme for Mainland Talents and Professionals and the Quality Migrant Admission Scheme (including the setting of point-based tests and selection of applicants), if it has studied, from a legal perspective, whether the HKSAR Government's participation in the vetting and approval of OWP applications would not violate Article 22 of the Basic Law and NPCSC's Interpretation;

(2) given that Mainland residents may apply for OWPs for the reason, apart from family reunion, that they must come to Hong Kong for settlement due to other special circumstances, of the circumstances that are included under "other special circumstances"; and

(3) in each of the past 10 years,

(i) of the number of Mainland residents who came to Hong Kong for settlement on OWPs, broken down by the following categories of OWP holders:

- holders of Certificate of Entitlement;
- spouses separated for 10 years or more and their accompanying children;
- persons of other categories (set out one by one); and
- persons who must come to Hong Kong for settlement due to other special circumstances; and

(ii) whether there were unused quotas in respect of the OWPs applicable to different types of persons; if so, whether the Government will request the Central Authorities to reduce the quotas concerned in accordance with the actual demand?

Reply:

President,

The HKSAR Government's consolidated reply to the Hon Wu Chi-wai's question is as follows:

It is stipulated in Article 22(4) of the Basic Law 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." The provisions of this Article, in accordance with the interpretation by the Standing Committee of the National People's Congress in 1999, mean that Mainland residents "who wish to enter the HKSAR for whatever reason, must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the HKSAR." Mainland residents who wish to settle in Hong Kong for family reunion must apply for One-way Permits (OWPs) (i.e. Permits for Proceeding to Hong Kong and Macao) from the exit and entry administration offices of the public security authority at the places of their household registration in the Mainland.

The OWP scheme allows 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. As requested in the question, a breakdown of the numbers of Mainland residents entering Hong Kong on OWPs by category from 2009 to 2018 is attached at the Annex.

OWPs are documents issued by relevant authorities in the Mainland. The application, approval and issuance of OWPs fall within the remit of the Mainland authorities. The Mainland authorities have since May 1997 implemented a point-based system with the eligibility points announced through the Internet, setting out open and transparent criteria for the OWP scheme to objectively assess the eligibility and priority of applicants. The public security authorities of some provinces and cities publish the names of OWP applicants under certain categories whose approval procedures are completed, and allow applicants to check the status of their applications online. Mainland residents who meet the eligibility criteria laid down by the Mainland authorities may apply to come to settle in Hong Kong. Those criteria are related to the age of the applicants or period of separation. They are objective and transparent, and connected with the purpose of family reunion.

In the processing of OWP applications by the Mainland authorities, the Immigration Department (ImmD) facilitates at case level, including rendering assistance in verifying the supporting documents submitted by the applicants and their claimed relationship with relatives in Hong Kong (e.g. husband and wife, parent and child) when necessary. If a case is found to be suspicious or when factual discrepancies are identified, ImmD will inform the Mainland authorities and will request the applicant to provide further documentary proofs. ImmD will also help the Mainland authorities investigate the cases involving obtaining OWPs by illegal means. Taking OWP applications under the category of "reunion with spouses" as an example, in case the husband-and-wife relationship is doubtful, the Mainland authorities will pass the

particulars of the applicants and their spouses in Hong Kong to the ImmD for verification of the personal particulars of the Hong Kong residents, the certificates of registration of marriage in Hong Kong or other relevant records. ImmD will notify the Mainland authorities of the verification results for their follow-up actions.

ImmD has a mechanism for handling cases of obtaining OWPs by fraudulent means. ImmD will also initiate investigation into doubtful marriages, collect evidence from various sources and through different channels in order to investigate thoroughly the parties to suspected "bogus marriage" cases and the intermediaries involved. The relevant persons will be prosecuted when there is sufficient evidence. Once a case is substantiated, ImmD can declare the invalidation of a person's Hong Kong Identity Card, regardless of whether that person is a holder of Hong Kong Permanent Identity Card or has settled in Hong Kong for less than seven years and has divorced his/her Hong Kong permanent resident spouse. In addition, regardless of his/her years of residence in Hong Kong, ImmD has the authority to remove him/her from Hong Kong.

The various existing talent admission schemes serve different policy objectives. For instance, the Admission Scheme for Mainland Talents and Professionals (ASMTTP) aims at attracting Mainland talents with special skills, knowledge or experience of value to and not readily available in Hong Kong to work here in meeting local manpower needs. As for the Quality Migrant Admission Scheme (QMAS), it seeks to attract highly skilled or talented persons to settle in Hong Kong in order to enhance Hong Kong's economic competitiveness. Therefore, these talent admission schemes and the OWP scheme have different considerations about the required qualifications of their respective applicants. The prerequisites which ASMTTP applicants are required to fulfill include having secured a job relevant to his/her academic qualifications or work experience that cannot be readily taken up by the local workforce, receiving a remuneration package which commensurate with the prevailing market rate, etc. The prerequisites which QMAS applicants are required to fulfill include age, financial requirement, language proficiency, basic educational qualifications, etc. They can then accumulate points under "points test" and compete for quota allocation.

The admission of talents is for the purpose of enhancing Hong Kong's economic competitiveness, while the OWP scheme is for the purpose of allowing Mainland residents to come to Hong Kong for family reunion in an orderly manner. Given the policy objective of family reunion, we should not design a scheme under which the Mainland family members of affluent families have priority to come to Hong Kong, while those of other families have to wait for a longer time to come to Hong Kong. They should be treated fairly and equally. Therefore, we consider that the existing operation of the OWP scheme should be maintained.

Regarding the OWP quota, there are different views in the community on the 150 daily quota for OWPs, including views for maintaining or reducing the quota. Some of the views include advocating family reunion and demanding early settlement of Mainland family members of Hong Kong residents in Hong Kong. The overall usage of OWP quota depends on various factors. Cross-

boundary marriages now make up about one-third of locally registered marriages. There is no sign of decline and we will keep an eye on the trend in the long run. At present, the Mainland spouses are still required to wait for at least four years before becoming eligible to come to stay in Hong Kong. As such, there is a continued need for the OWP scheme to allow separated spouses and their children born in the Mainland to come to Hong Kong for family reunion.