LAWS OF HONG KONG

REGISTRATION OF PERSONS ORDINANCE

CHAPTER 177

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# CHAPTER 177

## REGISTRATION OF PERSONS ORDINANCE

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CHAPTER 177

REGISTRATION OF PERSONS

To provide for the registration of persons in Hong Kong, and of persons elsewhere who have the right of abode in Hong Kong, for the issue, carrying and production of identity cards and for purposes connected therewith.  (Amended 46 of 1979 s. 2; 32 of 1987 s. 2)


1. Short title

This Ordinance may be cited as the Registration of Persons Ordinance.

1A. Interpretation

In this Ordinance, unless the context otherwise requires—

"applicant" means a person who—

(a) applies to be registered under section 3;
(b) as the head of a family, applies on behalf of a person under 18 years of age to be registered under section 3;
(c) applies for an identity card under this Ordinance;
(d) as the head of a family, applies for an identity card under this Ordinance on behalf of a person under 18 years of age;  (Added 32 of 1987 s. 3)

"British National (Overseas)" means a person who is a British National (Overseas) under the Hong Kong (British Nationality) Order 1986 (App. III p. EG1);  (Added 32 of 1987 s. 3)

"British National (Overseas) passport" means a passport appropriate to the status of a British National (Overseas);  (Added 32 of 1987 s. 3)

"certificate of identity" has the same meaning as it has in the Immigration Ordinance (Cap. 115);  (Added 32 of 1987 s. 3)

"Commissioner" means any of the following—

(a) the person appointed under section 2 to be the Commissioner of Registration;
(b) any person appointed under that section to be the Deputy Commissioner of Registration;
(c) any person appointed under that section to be an assistant commissioner of registration;  (Added 32 of 1987 s. 3)
“forge” has the same meanings as in Part IX (Forgery) of the Crimes Ordinance (Cap. 200);  (Added 54 of 1981 s. 2)

“head of a family” means—

(a) a person who is in loco parentis to any other person under 18 years of age; and  (Replaced 32 of 1987 s. 3)

(b) any person having lawful custody or control of, or over, any such other person;

“identity card” means an identity card issued under this Ordinance and includes a permanent identity card;  (Amended 32 of 1987 s. 3)

“Immigration Tribunal” means the Immigration Tribunal established by section 53F of the Immigration Ordinance (Cap. 115);  (Added 32 of 1987 s. 3)

“perforated identity card” means an identity card which has been mechanically perforated by a registration officer to show an expiry date;  (Added 11 of 1983 s. 2)

“permanent identity card” means an identity card which contains a statement that the holder has the right of abode in Hong Kong;  (Added 32 of 1987 s. 3)

“registration officer” means any of the following—

(a) the Commissioner;

(b) any member of the Immigration Service appointed under section 2(2) to be a registration officer;

(c) in the case of a provision of this Ordinance which confers any functions on a registration officer, any member of the Immigration Service or other public officer authorized, by name or office, by the Commissioner to discharge the functions so conferred by that provision;  (Replaced 32 of 1987 s. 3)

“right of abode in Hong Kong” has the same meaning as it has in the Immigration Ordinance (Cap. 115);  (Added 32 of 1987 s. 3)

“transfers” means—

(a) sells or offers for sale;

(b) lends;

(c) gives;

(d) hands over; or

(e) parts with possession;  (Added 56 of 1989 s. 2)

“Tribunal” means the Registration of Persons Tribunal established by section 3C.  (Added 32 of 1987 s. 3)

(Added 51 of 1979 s. 2.  Amended 32 of 1987 s. 3)

2. Power to make appointments

(1) There shall be a Commissioner of Registration who shall be a public officer appointed, by name or office, by the Governor.  (Replaced 32 of 1987 s. 4)
(2) The Commissioner of Registration may appoint or authorize, by name or office, any member of the Immigration Service or other public officer to be—  
   (Amended 56 of 1989 s. 3)  
   (a) the Deputy Commissioner of Registration;  
   (b) an assistant commissioner of registration;  
   (c) a registration officer,
   as he thinks fit.  (Replaced 32 of 1987 s. 4)

(2A) The Deputy Commissioner of Registration may appoint or authorize, by name or office, any member of the Immigration Service or other public officer to be—  
   (a) an assistant commissioner of registration;  
   (b) a registration officer,
   as he thinks fit.  (Added 56 of 1989 s. 3)

(2B) An assistant commissioner of registration may appoint or authorize, by name or office, any member of the Immigration Service or other public officer to be a registration officer as he thinks fit.  (Added 56 of 1989 s. 3)

(3) The Governor may establish or set up such offices as he may deem necessary for the purposes of this Ordinance and may appoint an officer to be known by such style as the Governor may decide, to have charge of each such office.

(4) (Repealed 32 of 1987 s. 4)

3. Obligation to be registered

(1) Every person in Hong Kong is required to be registered under this Ordinance, unless exempted or excluded from its provisions by regulations made under section 7.

(2) Every person who is required by subsection (1) to be registered under this Ordinance and who—  
   (a) is not the holder of an identity card; or  
   (b) is the holder of a permanent identity card that was issued on an application made from outside Hong Kong,
   shall apply to be so registered in such manner as may be prescribed in regulations made under section 7.  
   (Replaced 32 of 1987 s. 5)

3A. Application for permanent identity cards for the purpose of international travel

A person who enjoys the right of abode in Hong Kong may, notwithstanding that he is already registered under this Ordinance or is not required to be so registered, apply in accordance with regulations made under
section 7 for a permanent identity card to be issued to him if such permanent identity card is required by the applicant for a British National (Overseas) passport or certificate of identity.

(Added 32 of 1987 s. 5)

3B. Head of a family to make application, etc.

Where provision is made by or under this Ordinance for a person to present or surrender an identity card or to make a report or application to a registration officer, or at a registration office, or to register, then in any case where that person is under 18 years of age and there is another person who stands in relation to him as head of the family—

(a) the presentation or surrender of the identity card or the report, application or registration shall be made by that other person; and

(b) the provisions of this Ordinance and of any regulations made thereunder shall be construed as if they expressly required the presentation or surrender of the identity card or the report, application or registration to be made by the head of the family:

Provided that nothing in this section shall prevent a registration officer from accepting, if he thinks fit to do so, any identity card, report, application or registration from a person under 18 years of age where the head of the family has failed to present or surrender the identity card or to make the report, application or registration.

(Added 32 of 1987 s. 5)

3C. Establishment of Registration of Persons Tribunal

(1) There is hereby established a tribunal to be known as the Registration of Persons Tribunal.

(2) For the purpose of exercising the jurisdiction of the Tribunal, the Governor shall appoint a chief adjudicator, deputy chief adjudicator and such number of other adjudicators as from time to time may be necessary.

(3) The remuneration, if any, of the chief adjudicator, deputy chief adjudicator and other adjudicators shall be determined by the Governor.

(Added 32 of 1987 s. 5)

3D. Jurisdiction of Tribunal and determination of appeals

(1) The Tribunal shall have jurisdiction to hear and decide any appeal by a person who is aggrieved by a decision of a registration officer not to issue a permanent identity card to that person, or to declare a permanent identity card issued to him to be invalid.
(2) Where a registration officer refuses to issue to a person a permanent identity card or declares a permanent identity card issued to such person to be invalid on the ground that, in the opinion of the registration officer, the person does not have the right of abode in Hong Kong the registration officer shall notify that person of his decision in writing and inform him of his right of appeal under subsection (1).

(3) A person who wishes to appeal under subsection (1) shall serve written notice of appeal, stating his ground of appeal and the facts upon which he relies, upon the Tribunal, within 90 days of his being notified of the decision of the registration officer to refuse to issue him with a permanent identity card or to declare a permanent identity card issued to him to be invalid.

(4) An appeal under subsection (1) may only be brought by a person on the ground that on the facts of his case he enjoys the right of abode in Hong Kong and shall succeed if, and only if, the Tribunal determines that he has that right.

(5) Where the Tribunal, upon an examination of—

(a) the written notice of appeal served under subsection (3) on which a person ("the appellant") appealing under subsection (1) seeks to rely; and

(b) the summary or record of the proceedings of the Immigration Tribunal in respect of an unsuccessful appeal by the appellant under section 53A(1)(aa) of the Immigration Ordinance (Cap. 115),

is satisfied that the facts or matters on which the appellant is seeking to rely are the same or substantially the same facts or matters on which the appellant sought to rely on the appeal to the Immigration Tribunal, it may dismiss the appeal under subsection (1) without a hearing and shall cause written notice of such dismissal to be given or sent by post to the appellant.

(6) The decision of the Tribunal under this section shall be final.

(7) For the avoidance of doubt, it is declared that the service of a written notice of appeal under subsection (3) does not give the person by whom or on whose behalf it is served any right to remain in Hong Kong pending the decision of the Tribunal.

*(Added 32 of 1987 s. 5)*

3E. Practice and procedure of Tribunal

The practice and procedure of, and on appeals under section 3D to, the Tribunal shall be such as may be prescribed in regulations made under section 7.

*(Added 32 of 1987 s. 5)*
4. Admissibility of copies of records

A document purporting to be a copy of the records or part of the records kept by the Commissioner and purporting to be certified as a true copy thereof by the officer having custody of the records shall be admissible in evidence in criminal or civil proceedings before any court on its production without further proof and— (Amended 32 of 1987 s. 6)

(a) until the contrary is proved, the court before which such document is produced shall presume—
   (i) that the document is certified by such officer; and
   (ii) that the document is a true copy of the records or part of the records to which it refers; and
(b) such document shall be prima facie evidence of all matters contained therein.

(Replaced 51 of 1979 s. 4)

5. Duty to use registered name and to submit number of identity card

(1) Notwithstanding the provisions of any law to the contrary, every person who is registered under this Ordinance shall in all dealings with Government— (Amended 32 of 1987 s. 7)

(a) use the personal name and surname entered on the identity card issued to such person; and (Amended L.N. 337 of 1989)

(b) furnish the number of his identity card to the satisfaction of the public officer requiring such number; and

(c) when he is required by law to furnish particulars of any other person, so far as he is able—
   (i) submit the personal name and surname entered on the identity card issued to such other person; and
   (ii) furnish the number of the identity card relating to such person to the satisfaction of the public officer requiring it. (Amended 36 of 1971 s. 3; 51 of 1979 s. 5; 3 of 1980 s. 3)

(2) Any person who fails to comply with subsection (1) commits an offence and is liable to a fine of $5,000 and to imprisonment for 1 year. (Added 54 of 1981 s. 3)

6. Power of arrest

(1) The Commissioner may, in the absence of a police officer, arrest without warrant any person whom he reasonably believes has committed an offence against this Ordinance or the regulations made thereunder. (Amended 32 of 1987 s. 8)
(2) The Director of Immigration or any member of the Immigration Service authorized in writing for the purposes of this section by the Director of Immigration may arrest without warrant any person whom he reasonably believes has committed an offence against this Ordinance or the regulations made thereunder, and, upon any such arrest, the provisions of section 12(2) of the Immigration Service Ordinance (Cap. 331) shall apply.

(3) Any person arrested under the provisions of this section by the Commissioner shall forthwith be given by him into the custody of a police officer or taken by him to the nearest police station, whereupon the provisions of sections 51 and 52 of the Police Force Ordinance (Cap. 232) or of section 52 of that Ordinance, as the case may be, shall apply.  (Amended 32 of 1987 s. 8)

(Replaced 40 of 1961 s. 2)

7. **Power to make regulations**

(1) The Governor in Council may make such regulations as may be necessary for the purposes of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by subsection (1) such regulations may provide for—

(a) the manner in which and places at which application for registration under section 3 or for the issue or renewal of identity cards under this Ordinance shall be made, and the making of an order by the Commissioner specifying or amending the places at which such application, issue or renewal shall be made;  (Amended 11 of 1983 s. 4; 32 of 1987 s. 9)

(aa) separate arrangements for the issue or renewal of identity cards for any category or group of persons;  (Added 11 of 1983 s. 4)

(b) the information and documents to be furnished for the purposes of registration under section 3 or for the purposes of the issue or renewal of identity cards under this Ordinance;  (Amended 11 of 1983 s. 4)

(c) the taking and recording of photographs and fingerprints of persons requiring registration under section 3 or the issue or renewal of identity cards under this Ordinance and the destruction of such photographs and the facsimiles of all such fingerprints on the expiration of this Ordinance;  (Amended 11 of 1983 s. 4)

(d) the method and manner by which information and documents furnished by a person requiring registration under section 3 or the issue or renewal of identity cards under this Ordinance are to be recorded and maintained;  (Amended 11 of 1983 s. 4)
(e) the photographing of fingerprints, information and documents furnished or made for the purposes of registration under section 3 or the issue or renewal of identity cards and the destruction of their originals;  
(Added 11 of 1983 s. 4)

(f) the disclosure of photographs, fingerprints and particulars of persons registered under section 3 or who have applied for the issue or renewal of identity cards under this Ordinance;  
(Added 36 of 1973 s. 4. Amended 11 of 1983 s. 4)

(g) the use of films and photographic reproductions of such films;

(ga) the practice and procedure of, and on appeals to, the Tribunal;  
(Added 32 of 1987 s. 9)

(h) the issue of identity cards, including the issue of permanent identity cards to persons with the right of abode in Hong Kong wherever resident, their form, and particulars to be entered thereon;  
(Amended 32 of 1987 s. 9)

(ha) circumstances under which identity cards may be perforated with an expiry date;  
(Added 11 of 1983 s. 4)

(i) the custody, surrender and production of identity cards;  
(Amended 36 of 1973 s. 4)

(ia) the making of an order by the Governor in Council requiring every person, or every person of such class or such description as may be specified in the order, to carry his identity card when in such area or place, on such occasion, for such purpose or in such circumstance as may be specified in the order;  
(Added 46 of 1979 s. 3)

(ib) the production, by a person required to carry his identity card, of such card to a police officer, or member of the Immigration Service and any other person authorized by or under the regulations;  
(Added 46 of 1979 s. 3)

(j) the inspection of identity cards;

(k) the amendment or cancellation of identity cards, and the issue of duplicates thereof;

(ka) circumstances in which identity cards shall cease to be valid, be declared invalid or cancelled by a registration officer;  
(Added 11 of 1983 s. 4. Amended 32 of 1987 s. 9)

(l) the issue of reports and certificates;

(m) the exemption of any person or category of persons from the provisions of this Ordinance;

(ma) the exclusion of persons or any class or description of persons from the provisions of this Ordinance and in particular for the prevention of persons or any class or description of persons from being registered under this Ordinance and being provided with identity cards;  
(Added 3 of 1980 s. 4)
(n) destruction of documents and records;
(o) forms;
(p) fees.

(3) Any regulation made under this Ordinance may provide that a contravention thereof shall be an offence and may prescribe penalties for such offence not exceeding a fine of $20,000 and imprisonment for 2 years.  
(Amended 51 of 1979 s. 6; 11 of 1983 s. 4)

(4) Any regulation made under this Ordinance may provide that, notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), criminal proceedings in respect of any such offence under the regulations as may be specified therein may be instituted within such period, not exceeding 5 years, of the commission of the offence as may be so specified.  
(Added 51 of 1979 s. 6.  Amended 11 of 1983 s. 4)

7A. Possession of forged identity cards

(1) Any person who without lawful authority or reasonable excuse uses or has in his custody or possession a forged identity card or other document issued under this Ordinance commits an offence and is liable—
(a) on conviction on indictment to a fine of $50,000 and to imprisonment for 10 years; and
(b) on summary conviction to a fine of $20,000 and to imprisonment for 2 years.

(1A) Any person who without lawful authority or reasonable excuse uses or has in his custody or possession an identity card or other document issued under this Ordinance which relates to another person commits an offence and is liable—
(a) on conviction on indictment to a fine of $50,000 and to imprisonment for 10 years; and
(b) on summary conviction to a fine of $20,000 and to imprisonment for 2 years.  
(Added 56 of 1989 s. 4)

(2) For the purposes of subsection (1) or (1A), an accused person shall be deemed to have an identity card or other document or a forged identity card or other document in his custody or possession if he—
(a) has it in his personal custody or possession; or
(b) knowingly has it in the actual custody or possession of any other person, or has it in any other place, whether occupied by himself or not,

and it is immaterial whether the identity card or other document or the forged identity card or other document, as the case may be, is in such custody, possession or place for the use of the accused person or that of another person.  
(Added 54 of 1981 s. 4.  Amended 56 of 1989 s. 4)
7AA. Transfer of identity card

(1) Any person who without lawful authority or reasonable excuse transfers to another person—

(a) an identity card or other document issued under this Ordinance; or

(b) a forged identity card or other document issued under this Ordinance,

commits an offence and is liable—

(i) on conviction on indictment to a fine of $50,000 and to imprisonment for 10 years; and

(ii) on summary conviction to a fine of $20,000 and to imprisonment for 2 years.

(2) For the purposes of subsection (1), it is immaterial whether the transfer of the identity card or other document or the transfer of the forged identity card or other document, as the case may be, relates to the accused person or another person.

(Added 56 of 1989 s. 5)

7B. Requirement to apply for new identity cards

(1) All persons who are holders of identity cards issued before 1 July 1987, or issued after that date as a result of an application made before that date, shall apply in accordance with regulations made under section 7 for identity cards at such places, in such sequence and within such periods as the Secretary for Security may direct by order published in the Gazette.

(Amended 56 of 1989 s. 6)

(2) An order under subsection (1) may direct that applications for identity cards be made by any description or category of persons, whether by reference to their date of birth, sex, place or area of usual residence, identity card numbers, or by reference to any other matter.

(3) Any person who without reasonable excuse fails to comply with subsection (1) in accordance with an order made thereunder, commits an offence and is liable to a fine of $3,000.

(4) A person who is absent from Hong Kong at the time when he is required by an order made under subsection (1) to apply for an identity card, shall not be regarded as failing to comply with subsection (1) provided he applies for an identity card within 30 days of his return to Hong Kong.

(Replaced 32 of 1987 s. 10)

7C. Power to declare old identity cards invalid

(1) The Secretary for Security may by order published in the Gazette declare all identity cards issued before 1 July 1987, or issued after that date as a
result of an application made before that date, or such of those identity cards as he may specify by reference to their numbers or description or category of their holders, to be invalid.

(2) An order under subsection (1) may specify a description or category of holders by reference to their date of birth, sex, place or area of usual residence, identity card numbers, or by reference to any other matter.

(Replaced 32 of 1987 s. 11)

7D. Replacement of identity card issued after 1 July 1987 by a permanent identity card

Any person—

(a) who is the holder of an identity card (other than a permanent identity card) issued after 1 July 1987; and  

(Amended 56 of 1989 s. 7)

(b) who at any time after the issue of such card becomes a Hong Kong permanent resident enjoying the right of abode in Hong Kong,

may apply in accordance with regulations made under section 7 for a permanent identity card to be issued to him in place of his identity card.

(Added 32 of 1987 s. 11)

8. (Repealed 32 of 1987 s. 12)