

1. Interpretation

(1) In this Schedule, unless the context otherwise requires-

"Chinese citizen" (中國公民) means a person of Chinese nationality under the Nationality Law of the People's Republic of China, as implemented in the Hong Kong Special Administrative Region pursuant to Article 18 of and Annex III to the Basic Law and interpreted in accordance with the Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region adopted at the 19th meeting of the Standing Committee of the National People's Congress at the 8th National People's Congress on 15 May 1996; (Replaced 28 of 1998 s. 2(2))

"new born infant" (初生嬰兒) means a child under the age of 12 months or a child who appears to the Director to be under the age of 12 months.

(2) The relationship of parent and child is taken to exist as follows-

(a) of a parent and child, between a person and a child born to such person in or out of wedlock; (Replaced L.N. 192 of 1999)

(b) (Repealed L.N. 192 of 1999)

(c) of a parent and adopted child, between a parent and a child adopted only in Hong Kong under an order made by a Court in Hong Kong under the Adoption Ordinance (Cap 290).

(3) For an abandoned new born infant found within Hong Kong,-

(a) a new born infant, who appears to the Director to be of Chinese descent, is taken, in the absence of evidence to the contrary, to be the legitimate child of a Chinese citizen who was a permanent resident of the Hong Kong Special Administrative Region at the time of birth of the child;

(b) a new born infant, who appears to the Director to be not of Chinese descent, is taken, in the absence of evidence to the contrary, to be the legitimate child of a parent not of Chinese nationality who had the right of abode in Hong Kong under paragraph 2(d) at the time of birth of the child.

(4) For the purposes of calculating the continuous period of 7 years in which a person has ordinarily resided in Hong Kong, the period is reckoned to include a continuous period of 7 years-

(a) for a person under paragraph 2(b), at any time before or after the establishment of the Hong Kong Special Administrative Region; and

(b) for a person under paragraph 2(d), before or after the establishment of the Hong Kong Special Administrative Region but immediately before the date when the person applies to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region.

(5) A person is settled in Hong Kong if-

- (a) he is ordinarily resident in Hong Kong; and
- (b) he is not subject to any limit of stay in Hong Kong.

## 2. Permanent resident of the Hong Kong Special Administrative Region

A person who is within one of the following categories is a permanent resident of the Hong Kong Special Administrative Region-

- (a) A Chinese citizen born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region. (Replaced L.N. 192 of 1999. Amended L.N. 84 of 2002)
- (b) A Chinese citizen who has ordinarily resided in Hong Kong for a continuous period of not less than 7 years before or after the establishment of the Hong Kong Special Administrative Region.
- (c) A person of Chinese nationality born outside Hong Kong before or after the establishment of the Hong Kong Special Administrative Region to a parent who, at the time of birth of that person, was a Chinese citizen falling within category (a) or (b). (Replaced L.N. 192 of 1999)
- (d) A person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than 7 years and has taken Hong Kong as his place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region.
- (e) A person under 21 years of age born in Hong Kong to a parent who is a permanent resident of the Hong Kong Special Administrative Region in category (d) before or after the establishment of the Hong Kong Special Administrative Region if at the time of his birth or at any later time before he attains 21 years of age, one of his parents has the right of abode in Hong Kong.
- (f) A person other than those residents in categories (a) to (e), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

## 3. Establishing permanent residence under paragraph 2(d)

(1) For the purposes of paragraph 2(d), the person is required-

- (a) to furnish information that the Director reasonably requires to satisfy him that the person has taken Hong Kong as his place of permanent residence. The information may include the following-
  - (i) whether he has habitual residence in Hong Kong;
  - (ii) whether the principal members of his family (spouse and minor children) are in Hong Kong;
  - (iii) whether he has a reasonable means of income to support himself and his family;
  - (iv) whether he has paid his taxes in accordance with the law;
- (b) to make a declaration in the form the Director stipulates that he has taken Hong Kong as his place of permanent residence; the declaration for a person under the age of 21 years must

be made by one of his parents or by a legal guardian; and  
(c) to be settled in Hong Kong at the time of the declaration.

(2) A person claiming to have the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) does not have the status of a permanent resident in the Hong Kong Special Administrative Region until he has applied to the Director and the application has been approved by the Director.

(3) For the purposes of paragraph 2(d), a person is taken to have entered Hong Kong on a valid travel document-

(a) if he entered Hong Kong before 1 July 1997 with an expired travel document or with a travel document that was not a valid travel document but was permitted to remain by an immigration officer or an immigration assistant; or

(b) if he was born in Hong Kong and was permitted to remain in Hong Kong by an immigration officer or an immigration assistant.

#### 4. Establishing permanent residence under paragraph 2(e)

(1) For the purposes of paragraph 2(e), the person on attaining the age of 21 years ceases to be a permanent resident of the Hong Kong Special Administrative Region and may apply to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) at any time.

(2) Section 2AAA applies in relation to a person who ceases to have the status of a permanent resident of the Hong Kong Special Administrative Region under this paragraph. (Amended 28 of 1998 s. 2(2))

#### 5. Establishing permanent residence under paragraph 2(f)

(1) For the purposes of paragraph 2(f), the person is required-

(a) to furnish information that the Director may reasonably require to determine whether that person had the right of abode only in Hong Kong immediately before the establishment of the Hong Kong Special Administrative Region; and

(b) to make a declaration that he had the right of abode only in Hong Kong immediately before the establishment of the Hong Kong Special Administrative Region; the declaration for a person under the age of 21 years must be made by one of his parents or by a legal guardian.

(2) If the person claims that he had no right of abode in a place that the Director reasonably believes that he had, the onus of proving that he did not have the right of abode in the place lies on the person.

(3) A person under 21 years of age born in Hong Kong on or after 1 July 1997 to a parent who is a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(f) at the time of the birth of the person is taken to have the status of a permanent

resident of the Hong Kong Special Administrative Region under paragraph 2(f) if, but for this subparagraph, the person has no right of abode in any place including Hong Kong.

(4) The person on attaining the age of 21 years ceases to be a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(f) and may apply to the Director for the status of a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) at any time.

(5) Section 2AAA applies in relation to a person who ceases to have the status of a permanent resident of the Hong Kong Special Administrative Region under this paragraph. (Amended 28 of 1998 s. 2(2))

## 6. Transitional

(1) A person who is not of Chinese nationality and who was a permanent resident of Hong Kong before 1 July 1997 is taken to be a permanent resident of the Hong Kong Special Administrative Region under paragraph 2(d) and exempt from the requirements under paragraph 3 if-

(a) he was settled in Hong Kong immediately before 1 July 1997;

(b) after he ceased to be settled in Hong Kong immediately before 1 July 1997 he returns to settle in Hong Kong within the period of 18 months commencing on 1 July 1997; or

(c) after he ceased to be settled in Hong Kong immediately before 1 July 1997 he returns to settle in Hong Kong after the period of 18 months commencing on 1 July 1997 but only if he has not been absent from Hong Kong for a continuous period of not less than 36 months.

(2) A person who is a Chinese citizen and was a Hong Kong permanent resident immediately before 1 July 1997 under this Ordinance as then in force shall, as from 1 July 1997, be a permanent resident of the Hong Kong Special Administrative Region as long as he remains a Chinese citizen. (Replaced 28 of 1998 s. 2(2))

## 7. Loss of the status as a permanent resident

A permanent resident of the Hong Kong Special Administrative Region loses the status of such resident only if- (Amended 28 of 1998 s. 2(2))

(a) being a person falling within the category in paragraph 2(d) or (e) has been absent from Hong Kong for a continuous period of not less than 36 months since he ceased to have ordinarily resided in Hong Kong; or

(b) being a person falling within the category in paragraph 2(f), has been absent from Hong Kong for a continuous period of not less than 36 months after he obtained the right of abode in any place other than Hong Kong and has ceased to have ordinarily resided in Hong Kong.

(Replaced 122 of 1997 s. 5)