

**For information**

**LegCo Panel on Security**

**Vietnamese Refugees/Migrants  
and the Ordinary Residence Requirement**

**Introduction**

At the Security Panel meeting on 13 November 2003, Members requested the Administration to provide a response on whether Vietnamese refugees and migrants who arrived in Hong Kong in the 1980's and had no chance of living overseas since 1995 or so could be regarded as having ordinarily resided in Hong Kong.

**The Administration's response**

2. Pursuant to the Immigration Ordinance, Cap 115 (the Ordinance), a person shall not be treated as ordinarily resident in Hong Kong during any period in which he remains in Hong Kong as a refugee under section 13A (this covers the situation of a Vietnamese refugee) or while detained in Hong Kong under section 13D (this covers the situation of a Vietnamese migrant). The residence of a Vietnamese refugee/migrant in Hong Kong are therefore excluded from being treated as ordinary residence for the purposes of the Ordinance.

3. The Vietnamese refugees or migrants who benefited from the Widened Local Resettlement Scheme (WLRs) and were granted

permission to remain in Hong Kong since 2000 may acquire the status of permanent resident under the Basic Law if they meet all the criteria set out in paragraph 2(d) of Schedule 1 to the Ordinance, which provides that “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” is a permanent resident of the Hong Kong Special Administrative Region.

4. In this respect, legal advice has confirmed that there is no provision in our laws which allows the 7-year continuous period of ordinary residence requirement in relation to establishing permanent resident status under paragraph 2(d) of Schedule 1 to be waived.

Security Bureau  
March 2004