

Abode curbs on post-1997 top officials

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From CHRIS YEUNG
in Guangzhou
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THE chief executive and principal government officials of the post-1997 Hongkong Government will be barred from holding right of abode in foreign countries under a provision approved by a Basic Law sub-group yesterday.

Also to be affected by the ban are future Executive Councillors and the president of the legislative assembly.

The Basic Law drafters' political sub-group remains undecided on whether the restriction should be extended to cover the future Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court.

But the panel decided against imposing restrictions on foreign passport holders to sit on the legislature of the future Hongkong Special Administrative Region (SAR).

The decisions were made yesterday at the first of a four-day session of the sub-group in Guangzhou to finalise proposals to be submitted to a plenary session next month.

The nationality ban followed Whitehall's offer of full British citizenship to

50,000 Hongkong families before 1997.

Under Chinese nationality laws, China considered all Hongkong people having resided in the territory as Chinese nationals. These people, under the original Basic Law draft, were entitled to take up the top SAR posts.

A senior Chinese official, Mr Lu Ping, said: "New problems have emerged now. Holders of the British Dependent Territories Citizenship passports were originally not given British right of abode. We considered them as Chinese nationals, if they stay in Hongkong."

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"But now, what if they are corrupt and run away with a large sum of money to Britain? Their buttocks are in Hongkong but their hearts are in Britain. Do you think they will really serve the territory wholeheartedly?" he asked.

"If they want to become Chinese nationals, they have to renounce their right of abode in Britain. They cannot enjoy the civic rights of foreign countries and those of China at the same time. It's very unfair. Don't you think it's unfair that their chief executive can enjoy consular protection?"

London insists the na-

tionality package is vital in keeping local talent in Hongkong.

Asked if the ban would undermine confidence of civil servants, Mr Lu said: "It's not our responsibility. We did not create the problem."

The amended provisions say the chief executive, principal officials, legislature's president and top judges should be Chinese nationals and have no right of abode in foreign countries.

The sub-group's Hongkong co-convenor, Dr Raymond Wu Wai-yung, said the matter was not one of allegiance of the foreign passport holders, adding that the insertion was needed from a legal point of view.

It is not aimed at counteracting the British right of abode plan, but to improve the provisions, he said.

Dr Wu said: "My worries are the same as yours that we should try to retain talented people and take into account local realities. But we'll also have to consider the legality and feasibility of the provisions to avoid conflicts with the Chinese nationality laws."

The insertion will help clarify the definition of Chinese nationals, he said.

Another local drafter, Miss Maria Tam Wai-chu, said holders of foreign right of abode would now have to choose between taking up the top SAR posts or retaining their rights to reside overseas.

"Those who have foreign right of abode should also find out for themselves whether they are considered Chinese nationals and how to renounce their Chinese nationality if they so wish," she said.

On the proposed nationality requirements for legislators, Dr Wu said members decided there should be no restriction, after a heated debate.

"Most members agreed not to impose a ban in the meantime, though some suggested there should be some sort of nationality restrictions over legislators returned through direct elections."

"We will further discuss this when we deal with the composition of the legislature," he said.

His mainland counterpart, Mr Xiao Weiyun, said: "Hongkong is an international city, where there are many expatriates. It is inappropriate if the legislature

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does not even have one expatriate member. But it is also inappropriate that most legislators are expatriates."

Mr Xiao, a Beijing University law lecturer, disagreed with criticisms that the decision to confine the posts of Chief Justice of the Final Court of Appeal and the High Court Chief Judge to Chinese nationals contravened the Sino-British Joint Declaration.

"The status, functions and even salaries of the posts are equivalent and even much senior than some principal officials. They should be Chinese nationals. It is totally in line with the Joint Declaration," he said.

The drafters' decision was received with reservations by Hongkong Executive and Legislative Councillors.

An Exco member, Mrs Rita Fan Hsu Lai-tai, said she could see no reason for the introduction of such a ban on future Executive Councillors.

"From my experience in Exco and Legco, my colleagues' nationality rarely comes into play because everyone is working for Hongkong's interests, regardless of what passports they hold. It seems to me the restriction is over-sensitive and unnecessary."

But Mrs Fan added she personally could accept such a stipulation.