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| 发文机关Promulgator | ：: | 全国人民代表大会常务委员会The Standing Committee of the National People's Congress |
| 发布日期Date of Issue | ：: | 1999.06.261999.06.26 |
| 生效日期Effective Date | ：: | 1999.06.261999.06.26 |
| 时效性Effectiveness | ：: | 现行有效Current |

# 全国人民代表大会常务委员会关于《中华人民共和国香港特别行政区基本法》第二十二条第四款和第二十四条第二款第（三）项的解释

# Interpretation by the Standing Committee of the National People's Congress Regarding Paragraph 4 in Article 22 and Category (3) of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the PRC

全国人民代表大会常务委员会关于《中华人民共和国香港特别行政区基本法》第二十二条第四款和第二十四条第二款第（三）项的解释

Interpretation by the Standing Committee of the National People's Congress Regarding Paragraph 4 in Article 22 and Category (3) of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the PRC

（１９９９年６月２６日第九届全国人民代表大会常务委员会第十次会议通过）

(Adopted at the 10th Meeting of the Standing Committee of the Ninth National People's Congress on June 26, 1999)

第九届全国人民代表大会常务委员会第十次会议审议了国务院《关于提请解释〈中华人民共和国香港特别行政区基本法〉第二十二条第四款和第二十四条第二款第（三）项的议案》。国务院的议案是应香港特别行政区行政长官根据《中华人民共和国香港特别行政区基本法》第四十三条和第四十八条第（二）项的有关规定提交的报告提出的。鉴于议案中提出的问题涉及香港特别行政区终审法院１９９９年１月２９日的判决对《中华人民共和国香港特别行政区基本法》有关条款的解释，该有关条款涉及中央管理的事务和中央与香港特别行政区的关系，终审法院在判决前没有依照《中华人民共和国香港特别行政区基本法》第一百五十八条第三款的规定请全国人民代表大会常务委员会作出解释，而终审法院的解释又不符合立法原意，经征询全国人民代表大会常务委员会香港特别行政区基本法委员会的意见，全国人民代表大会常务委员会决定，根据《中华人民共和国宪法》第六十七条第（四）项和《中华人民共和国香港特别行政区基本法》第一百五十八条第一款的规定，对《中华人民共和国香港特别行政区基本法》第二十二条第四款和第二十四条第二款第（三）项的规定，作如下解释：

At its 10th Meeting, the Standing Committee of the Ninth National People's Congress discussed the State Council's Proposal for Giving an Interpretation to Paragraph 4 in Article 22 and Category (3) of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. It is in order to respond to the report submitted by the Chief Executive of the Hong Kong Special Administrative Region in accordance with the relevant provisions of Article 43 and those of Category (2) of Article 48 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China that the State Council has put forward the proposal. In view of the fact that the issue raised in the proposal concerns the interpretation of the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Court of Final Appeal of the Hong Kong Special Administrative Region in its judgment made on January 29, 1999, that these provisions concern affairs which are the responsibility of the Central Authorities and the relationship between the Central Authorities and the Hong Kong Special Administrative Region, that the Court of Final Appeal, before making its judgment, failed to seek an interpretation of the provisions from the Standing Committee of the National People's Congress in accordance with the provisions of Paragraph 3 in Article 158 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and that the interpretation of the Court of Final Appeal is not in conformity with the original legislative intent, the Standing Committee of the National People's Congress, after consulting its Committee for the Basic Law of the Hong Kong Special Administrative Region, decides to give the following interpretation of the provisions in Paragraph 4 in Article 67 of the Constitution of the People's Republic of China and Paragraph 1 in Article 158 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China:

一、《中华人民共和国香港特别行政区基本法》第二十二条第四款关于“中国其他地区的人进入香港特别行政区须办理批准手续”的规定，是指各省、自治区、直辖市的人，包括香港永久性居民在内地所生的中国籍子女，不论以何种事由要求进入香港特别行政区，均须依照国家有关法律、行政法规的规定，向其所在地区的有关机关申请办理批准手续，并须持有有关机关制发的有效证件方能进入香港特别行政区。各省、自治区、直辖市的人，包括香港永久性居民在内地所生的中国籍子女，进入香港特别行政区，如未按国家有关法律、行政法规的规定办理相应的批准手续，是不合法的。

I. The provisions of Paragraph 4 in Article 22 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China "for entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval", mean that persons from provinces, autonomous regions and municipalities directly under the Central Government, including the children of permanent residents of the Hong Kong Special Administrative Region born in the mainland with Chinese nationality, who request to enter the Hong Kong Special Administrative Region with whatever reason shall, in accordance with the provisions of relevant laws and administrative regulations of the State, apply for approval from the relevant government department in the place of their residence and may only enter the Hong Kong Special Administrative Region with valid certificates issued by relevant authorities. Persons of a province, autonomous region or municipality directly under the Central Government, including the children of permanent residents of Hong Kong born in the mainland with Chinese nationality, shall enter the Hong Kong Special Administrative Region, It is illegal if it fails to go through the corresponding approval formalities in accordance with the relevant laws or administrative regulations of the State.

二、《中华人民共和国香港特别行政区基本法》第二十四条第二款前三项规定：“香港特别行政区永久性居民为：（一）在香港特别行政区成立以前或以后在香港出生的中国公民；（二）在香港特别行政区成立以前或以后在香港通常居住连续七年以上的中国公民；（三）第（一）、（二）两项所列居民在香港以外所生的中国籍子女”。其中第（三）项关于“第（一）、（二）两项所列居民在香港以外所生的中国籍子女”的规定，是指无论本人是在香港特别行政区成立以前或以后出生，在其出生时，其父母双方或一方须是符合《中华人民共和国香港特别行政区基本法》第二十四条第二款第（一）项或第（二）项规定条件的人。本解释所阐明的立法原意以及《中华人民共和国香港特别行政区基本法》第二十四条第二款其他各项的立法原意，已体现在１９９６年８月１０日全国人民代表大会香港特别行政区筹备委员会第四次全体会议通过的《关于实施〈中华人民共和国香港特别行政区基本法〉第二十四条第二款的意见》中。

II、 The first three categories of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China provide: "The permanent residents of the Hong Kong Special Administrative Region shall be: (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region; (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region; (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)". Among these people, the persons provided for in Category (3) "Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)" mean that those persons, at the time of their birth, no matter whether they were born before or after the establishment of the Hong Kong Special Administrative Region, whose parents or whose fathers or mothers are Chinese citizens as provided for in Category (1) or Category (2) of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region. The original legislative intent elucidated by this Interpretation and the original legislative intent of the other categories of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region have been embodied in the Opinions on the Implementation of the Second Paragraph of Article 24 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, which were adopted at the Fourth Plenary Meeting of the Preparatory Committee for the Hong Kong Special Administrative Region of the National People 's Congress on August 10, 1996.

本解释公布之后，香港特别行政区法院在引用《中华人民共和国香港特别行政区基本法》有关条款时，应以本解释为准。本解释不影响香港特别行政区终审法院１９９９年１月２９日对有关案件判决的有关诉讼当事人所获得的香港特别行政区居留权。此外，其他任何人是否符合《中华人民共和国香港特别行政区基本法》第二十四条第二款第（三）项规定的条件，均须以本解释为准。

After promulgation of this Interpretation, the courts of the Hong Kong Special Administrative Region shall, in applying the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, follow this Interpretation. This Interpretation does not affect the right of abode in the Hong Kong Special Administrative Region granted to the litigant in the case by the Court of Final Appeal of the Hong Kong Special Administrative Region on 29 January 1999. As to whether any other person conforms to the provisions of Category (3) of Paragraph 2 in Article 24 of the Basic Law of the Hong Kong Special Administrative Region, the matter shall be decided according to this Interpretation.