

Explanation on Regulations Related to Mainland Chinese Spouses' Right of Election and Holding Public Office

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The Mainland Affairs Council (MAC) stated that, in regards to the recent social concerns over the potential participation in the legislative election by a Taiwanese citizen with mainland Chinese nationality, a handful of ill-intentioned individuals have been distorting the law and deliberately making false allegations regarding government policies meant for providing care for mainland Chinese spouses. To prevent incorrect information from misleading the public and protect the new residents from controversies and discrimination in their integration into the Taiwanese society, the MAC offers the following clarification:

- 1. The government's consistent policy is to care for the new residents and actively assist them in integrating into the Taiwanese society. There is no room for ill-intentioned individuals to misinterpret or deny these achievements.**

Since first lifting the ban on cross-Strait people-to-people exchanges and interaction, the government, in keeping with the principle of caring for "our family," has consistently been allocating budget for the New Immigrants Development Fund and providing various counseling services to support the daily life of all new residents, including mainland Chinese spouses. Over the years, the government has also progressively adjusted policies, laws, regulations, and measures in several aspects. For instance, the conditions for mainland Chinese spouses to obtain residency and permanent residency were adjusted from an earlier "quota system" to that of "minimum years of residence" to reduce the waiting period for mainland Chinese spouses to participate in the National Health Insurance (NHI) program. Meanwhile, the period required for a mainland Chinese

spouse to obtain an identity card was shortened to six years. Moreover, in consideration of the role of mainland Chinese spouses as an important economic pillar in their families, the law was amended in 2009 to allow mainland Chinese spouses to work in Taiwan without needing to apply for a permit. The government has long been actively assisting new residents in integrating into Taiwanese society. False claims by a small minority that "mainland Chinese spouses are not truly recognized in Taiwan" is the last thing the government wants to see. Such claims are aimed at stirring up controversies and sowing division among different ethnic groups in Taiwan ahead of the elections. This will never be accepted by the Taiwanese society or the new residents; it is also solemnly condemned by the government.

2. Household registration status and nationality are different concepts; the deliberate mix-up and transposition of these two concepts is inconducive to clarifying the controversy.

Due to the unique nature of cross-Strait relations, provisions in the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (hereinafter referred to as the "Cross-Strait Act") govern mainly the issues related to people's rights and obligations arisen from cross-Strait people-to-people exchanges and interaction; the Act does not regulate issues that are constitutional in nature or relevant to the status of Taiwan and mainland China, such as nationality. On the issue of acquiring Taiwanese citizenship by individuals possessing mainland Chinese nationality, provisions in the Cross-Strait Act only require that such individuals renounce their household registration status in mainland China. The purpose of such requirement is to facilitate their integration into the Taiwanese society, access support for their daily life, obtain social welfare, and seek private-sector employment. Meanwhile, under the laws of the Chinese Communist Party (CCP), cancellation of one's household registration status in mainland China does not result in a loss of nationality. It is

abundantly clear that household registration status and nationality are two distinct legal concepts.

3. The Cross-Strait Act is a special law; matters not covered by the Act remain governed by other laws in Taiwan.

Given that the Cross-Strait Act only regulates key issues related to cross-Strait people-to-people exchanges, the last sentence of Article 1 of the Cross-Strait Act specifies that "with regard to matters not provided for in this Act, the provisions of other relevant laws and regulations shall apply." There are numerous laws governing our citizens' political participation; however, as for the protections and limits on the right to political participation of persons possessing mainland Chinese nationality and later acquiring citizenship of the Republic of China, Article 21 of the Cross-Strait Act stipulates that, in consideration of the differences in their understanding of Taiwan's liberal democracy and constitutional order, and hope for their further integration in and understanding of Taiwanese society and public issues, such persons may register to stand for election after domiciling in Taiwan for 10 years. Nonetheless, since the Cross-Strait Act does not specify further qualifications for such persons to run for office or serve in an elected office, these individuals should resort to the various election and recall laws, the Nationality Act, Civil Service Employment Act, and other relevant laws and regulations—same as all the other citizens.

4. The requirement for a Republic of China national holding nationality of another country to renounce their foreign nationality when serving public office is based on the principle of "duty of loyalty."

Subparagraph 4, Article 20 of the Nationality Act stipulates that, "If a national of the Republic of China who concurrently has the nationality of another country wants to hold a government office limited by nationality as determined by

this Article, he/she shall handle the waiver of the other country's nationality before taking office, and complete the loss of that country's nationality and the acquisition of certification documents within one year from the date of taking office, but if otherwise provided by another act, the provisions of that act should prevail." This provision applies to all "nationals of the Republic of China" irrespective of whether they were born in the Republic of China, a foreign country, or mainland China. The law requires all nationals of the Republic of China with foreign nationality to renounce it when seeking public office. This is because, between civil servants and the country, there is an inherent and uniquely close relationship founded on loyalty and trust. A civil servant is not allowed to simultaneously pledge allegiance to another country, hence the institutional design to preclude potential conflicting duties of loyalty for persons with multiple nationalities.

Whether a national of the Republic of China has foreign nationality is a matter of objective truth instead of political views. So long as a national of the Republic of China simultaneously and factually holds nationality of another country—whether the country of that other nationality has diplomatic relations with the Republic of China, or whether the Republic of China recognizes the country as a state or merely identifies it as a political entity—they are legally obligated to renounce it. As to whether the person may technically renounce their citizenship and how such an application should be made, it depends on the laws of that country and is not something our government can comment on. Subparagraph 4, Article 20 of the Nationality Act does not specify any exceptions, either.

Based on the principle of equality, new residents who acquire citizenship of the Republic of China enjoy the same rights, protections, and shoulder the same legal responsibilities as Republic of China nationals unless otherwise specified by law. All are equal before the law. No person can claim exemption from the application of the law based on political factors, demand special

treatment, or even go so far as to misinterpret laws that should be observed as a form of discrimination against them.

5. The MAC emphasizes that, the government has maintained that the law is the law throughout the controversy in this case.

Taiwan is a democratic society that respects the rule of law. The Constitution and a variety of legal frameworks protect our citizens' right to political participation in accordance with the law, but such protection and exercise of rights are not without any limits. The government calls on all sectors to cherish and uphold Taiwan's precious democratic and free system, to not distort the law or transpose concepts, to not resort to ethnic conflict or political ideology, and to not undermine the foundation of the rule of law or undermine social unity during the election period. The government will continue to care for all new residents and help them integrate in our kind Taiwanese society. The government also hopes that everyone can thrive and contribute to our society collectively and be part of the touching and heart-warming scenery of Taiwan.