

**Cheung Man Wai Florence
and
The Director of Social Welfare
(HCAL No. 25 of 1999)**

Facts

The Social Workers Registration Ordinance Cap. 505 which required registration of social workers was enacted on 6 June 1997. The Applicant, who has been a Social Worker Assistant in a voluntary organization subvented by the Social Welfare Department since 1996, refused to register.

Issues

One of the issues raised by the Applicant was that she was qualified under BL144 as "a staff member previously serving in subvented organizations in Hong Kong" and thus could "remain in her employment in accordance with the previous system".

Court of First Instance Decision

1. The relevant date for "the laws previously in force in Hong Kong" was 30 June/1st July 1997. As the statutory system of registration for social welfare workers was established before the relevant date, the registration requirement was "in the previous system".
2. BL 142 provides for the statutory context of BL144. BL144 should be read in the light of BL 142 and BL145.

"Pursuant to Article 145 the Government has the duty and is obliged to develop and improve the social welfare system as Hong Kong society requires, and I find it difficult to understand how the provisions of Article 144 could, in effect, stultify this requirement given that the legislation complained of falls squarely within the area of the development of the social welfare system."

Comments

The Court decision on BL 144 was made in the light of BL 142 and 145. While BL 100 mirrors BL 144, there is no provision in the Basic Law which resembles BL 142 and BL 145 to enable or impose a duty on the Government to develop and improve the Government structure.

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