

立法會
Legislative Council

LC Paper No. LS73/04-05

**Paper for the House Committee Meeting
on 3 June 2005**

**Legal Service Division Report on
Marriage (Introduction of Civil Celebrants of Marriages and
General Amendments) Bill**

I. SUMMARY

- 1. Objects of the Bill**

(1) To provide for a statutory framework for the appointment of civil celebrants to celebrate marriages;

(2) To modernize the drafting of certain provisions of the Marriage Ordinance (Cap. 181)
- 2. Comments**

The substantive provisions of the Bill relate to the appointment, regulation, obligations, appeals relating to appointment, and practice of civil celebrants of marriages.
- 3. Public Consultation**

The Immigration Department has conducted a survey of the opinion of marrying parties on the appointment of civil celebrants and the response was generally positive. The Law Society of Hong Kong and the Hong Kong Society of Notaries has also indicated support to the proposed scheme.
- 4. Consultation with LegCo Panel**

The Administration briefed the Panel on Security on 15 April 2005 on the proposed scheme of civil celebrants. Members of the Panel supported the proposed scheme in principle, but there were concerns about the level of fee to be charged. The Panel also asked the Administration to provide further details on the eligibility to be appointed as civil celebrants and other operational aspects
- 5. Conclusion**

The Legal Service Division is still scrutinizing the Bill. However, in view of the concern of members on various aspects of implementation of the proposed scheme, members may wish to consider forming a Bills Committee at this stage.

II. REPORT

Objects of the Bill

- (1) To provide for a statutory framework for the appointment of civil celebrants to celebrate marriages; and
- (2) To modernize the drafting of certain provisions of the Marriage Ordinance (Cap. 181)

LegCo Brief Reference

2. SBCR 1/1/5691/89 'D' dated 18 May 2005 issued by the Security Bureau.

Date of First Reading

3. 1 June 2005.

Comments

4. The Bill contains four parts. Contents of each part are given below :-

Part 1 : short title and commencement date;

Part 2 : appointment, regulation, obligations, appeals relating to appointment, and practice of civil celebrants;

Part 3 : consequential amendments; and

Part 4 : modernizing the drafting of certain existing provisions in the Marriage Ordinance.
5. Under the Bill, the Registrar of Marriages ("the Registrar") is empowered to appoint civil celebrants of marriages upon application. The criteria for appointment are prescribed in the proposed new Schedule 4. In essence a person may apply for appointment as a civil celebrant if:
 - (a) he is a solicitor having not less than 7 years of post-qualification experience and holding a current practicing certificate, or a notary public and holding a current practicing certificate;
 - (b) he is not the subject of a disciplinary order during the 3 years immediately preceding the date of the application; and
 - (c) he has completed such training as the Registrar may specify.

Under the Bill, the Registrar is required to publish an appointment by general notice in the Gazette.

6. In relation to regulation, the Registrar has power to issue code of practice for the purpose of providing practical guidance in respect of the professional conduct of civil celebrants. If a civil celebrant contravenes a code of practice the Registrar may suspend or cancel the appointment. A decision of the Registrar on refusal of an application, and on cancellation or suspension of appointment, may be appealed to the Civil Celebrant of Marriages Appointment Appeal Board proposed under the Bill. The decision of the Appeal Board shall be final.

7. As to the level of fee to be charged by civil celebrants for celebrating marriages, the Secretary for Security has informed the Legislative Council that the Administration does not intend to regulate the fees. The reason was that a civil celebrant may provide tailor-made services and arrangements, and it would be unrealistic for the Government to stipulate a standard rate for the services provided (written reply to the question by Hon Cheung Hok-ming in the Legislative Council meeting of 18 May 2005 refers).

Public Consultation

8. According to the LegCo Brief, the Immigration Department has conducted a survey of the opinion of marrying parties on the appointment of civil celebrants and the response was generally positive. The Law Society of Hong Kong and the Hong Kong Society of Notaries has also indicated support to the proposed scheme.

Consultation with LegCo Panel

9. At the meeting of the Panel on Security on 15 April 2005, the Administration briefed the Panel generally on the proposed scheme of civil celebrants. Members of the Panel expressed support in principle for the proposal. A member expressed concern that the fees to be charged by civil celebrants might be very high, and suggested that to avoid disputes about charges and to avoid corrupt practice associated with free service provided by civil celebrants who were candidates of LegCo or District Council (DC) elections, a fixed fee should be set. The member was of the view that the provision of free service by civil celebrants who were candidates of LegCo or DC elections should be prohibited within a certain period before the relevant elections. The Panel also requested further information on the eligibility criteria to apply to be civil celebrants, and the restrictions, if any, on the celebration of marriages by civil celebrants for their relatives.

Conclusion

10. The Legal Service Division is still scrutinizing the Bill. However, in view of the concern of members on various aspects of implementation of the proposal, members may wish to consider forming a Bills Committee at this stage.

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