

立法會
Legislative Council

LC Paper No. LS39/05-06

**Paper for the House Committee Meeting
on 10 March 2006**

**Legal Service Division Report on
Births, Deaths and Marriages (Digital Image) Bill**

I. SUMMARY

- 1. Object of the Bill** The main purpose of the Bill is to amend six Ordinances relating to registration of births, deaths and marriages to enable registers and records kept under those Ordinances to be maintained in the form of digital image, and to make related and consequential amendments.
- 2. Comments**

 - (a) The proposed amendments will provide the statutory basis for the implementation of information systems in the Immigration Department which will allow records of births, deaths and marriages to be maintained in the form of digital image.
 - (b) Amendments are proposed to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) to the effect that information relating to new-born children may be given to the Registrar of Births and Deaths through electronic means.
- 3. Public Consultation** No public consultation has been carried out.
- 4. Consultation with LegCo Panel** The LegCo Panel on Security was briefed on the proposal by circulation of paper at its meeting held on 1 November 2005. Members of the Panel raised no queries.
- 5. Conclusion** The Legal Service Division is seeking clarification from the Administration on certain drafting matters. Members may defer consideration on the Bill pending the Division's further report.

II. REPORT

Object of the Bill

The main purpose of the Bill is to amend the following Ordinances (“the relevant Ordinances”) relating to registration of births, deaths and marriages so as to enable registers and records kept under those Ordinances to be maintained in the form of digital image:

- (a) Civil Aviation (Births, Deaths and Missing Persons) Ordinance (Cap. 173);
- (b) Births and Deaths Registration Ordinance (Cap. 174);
- (c) Births Registration (Special Registers) Ordinance (Cap. 175);
- (d) Deaths Registration (Special Registers) Ordinance (Cap. 176);
- (e) Marriage Ordinance (Cap. 181); and
- (f) Merchant Shipping (Seafarers) Ordinance (Cap. 478).

LegCo Brief Reference

2. File Ref.: SBCR 4/2098/03 issued by the Security Bureau on 20 February 2006.

Date of First Reading

3. 8 March 2006.

Background

4. At present, the Director of Immigration (“the Director”), acting in the capacity of the Registrar of Births and Deaths, is required to keep register books of births and deaths under five Ordinances. These Ordinances are the Civil Aviation (Births, Deaths and Missing Persons) Ordinance (Cap. 173) (“the Births, Deaths and Missing Persons Ordinance”), the Births and Deaths Registration Ordinance (Cap. 174), the Births Registration (Special Registers) Ordinance (Cap. 175) (“the Births Special Registers Ordinance”), the Deaths Registration (Special Registers) Ordinance (Cap. 176) (“the Deaths Special Registers Ordinance”) and the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (“the Seafarers Ordinance”). In addition, the Director, in his capacity as Registrar of Marriages, is required under the Marriage Ordinance (Cap. 181) to keep notices of intended marriages and certificates of marriages. Currently, the register books of births and deaths, and the documents required to be kept under the Marriage Ordinance are maintained in paper and/or microfilm format.

5. In May 2004, the Finance Committee approved a new commitment of \$337 million for the Department of Immigration to implement certain information systems which will enable the Department of Immigration to maintain records of births, deaths and marriages and process their related applications in the form of digital image, or in the form of digital image and computer record concurrently. According to paragraph 4 of the LegCo Brief, these systems will allow access to these records to be done on-line under a secure and tightly controlled environment, thus enhancing security in records management, productivity and service delivery. The relevant systems are under development and are targeted for completion by the end of 2006.

Comments

6. To provide a statutory basis for the implementation of information systems in the Department of Immigration, the Bill seeks to amend the relevant Ordinances to enable the Director to maintain the following records in the form of digital image solely or in the form of digital image and computer data concurrently:

- (a) records kept under the Births, Deaths and Missing Persons Ordinance which relate to births and deaths occurring in any part of the world in any aircraft registered in Hong Kong, and the death, outside Hong Kong, of any person who, being a traveller on such an aircraft, is killed on the journey in consequence of an accident to such aircraft;
- (b) registers of births and deaths kept under the Births and Deaths Registration Ordinance recording births and deaths registered prior to 6 November 1995 and those recording births and deaths registered on or after 6 November 1995;
- (c) special register books maintained under the Births Special Registers Ordinance and the Deaths Special Registers Ordinance for the purpose of registering births and deaths previously registered on the register books which are deemed to have been permanently lost as from 25 December 1941;
- (d) notices of intended marriage and certificates of marriage kept under the Marriage Ordinance; and
- (e) records kept under the Seafarers Ordinance relating to births and deaths occurring in a ship registered in Hong Kong, and the birth and death of a person who holds a Hong Kong identity card occurring in a ship which is not registered in Hong Kong but has entered the waters of Hong Kong.

7. The Bill also empowers the Registrar of Births and Deaths and the Registrar of Marriages to record in the form of digital image all existing records that relate to births, deaths and marriages, and to dispose of such records after they have been so recorded.

8. Under section 5A of the Births and Deaths Registration Ordinance, the Registrar of Births and Deaths is required to compile a computer record of the particulars of births and deaths required to be registered under the Ordinance. Unlawful alteration or tampering with such particulars in the computer record is an offence punishable by a fine at level 1 (\$2,000) or imprisonment for 6 months. The Bill proposes a similar penalty provision for unlawful alteration or tampering with computer data under the other Ordinances relating to registration of births and deaths. The existing penalty provision for wilful alteration of documents kept under the Marriage Ordinance is also amended to cover documents kept in the form of digital image. The effect of this amendment is that wilful alteration of any document kept under the Marriage Ordinance, whether in the form of paper or microfilm or digital image, is an offence punishable by a fine at level 1 (\$2,000) and imprisonment for 6 months.

9. Apart from the above amendments, the Bill also proposes to amend the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (“the Order”) to remove section 8(1) of the Births and Deaths Registration Ordinance from Schedule 1 to the Order. Section 8(1) of the said Ordinance requires information relating to new-born children to be given to the Registrar of Births and Deaths within 42 days for the purpose of births registration. The effect of the proposed amendment to the Order is that such information may be given by way of an electronic record.

10. Other provisions of the Bill relate to the repeal of certain obsolete provisions and consequential amendments.

11. The Bill will come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

Public Consultation

12. No public consultation has been carried out.

Consultation with LegCo Panel

13. The Panel on Security was briefed on the proposal by circulation of paper at its meeting held on 1 November 2005. Members of the Panel did not raise queries on the proposal.

Conclusion

14. The Legal Service Division is seeking clarification from the Administration on some drafting matters. Members may defer consideration on the Bill pending the Division’s further report.

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7 March 2006
LS/B/5/05-06