

**For information**

**Bills Committee on**

**Matrimonial Proceedings and Property (Amendment) Bill 2010**

**Background**

At the meeting of the Bills Committee held on 5 October 2010, the Administration was requested to attend to the following matters, namely, to –

- (a) reconsider the appropriateness of the use of "substantial ground" in the proposed section 29AC(2) in the light of the interpretation made by the United Kingdom Supreme Court on the threshold required for grant of leave in *Agbaje and Agbaje* [2009];
- (b) provide information, with examples, on the use of the term "substantial ground", as well as its Chinese rendition, in other Hong Kong legislation;
- (c) provide information, with examples, on the use of the term "substantial connection", as well as its Chinese rendition, in other Hong Kong legislation;
- (d) clarify (i) whether the Hong Kong courts had the power to deal with applications for financial relief made by or on behalf of a child of the family after a foreign divorce; (ii) what would be the effect if references to section 5 were deleted from the proposed sections 29AG(1) and (2); and (iii) impact of the Bill on applications for financial relief made by or on behalf of a child of the family after a foreign divorce; and
- (e) provide a response to the query raised by the legal adviser to the Bills Committee on the policy consideration behind the exclusion of a periodical payment order under section 4(1)(a) or 5(2)(a) of the Matrimonial Proceedings and Property Ordinance (Cap. 192) from the proposed section 29AG(2).

### **Proposed section 29AC(2)**

2. The Administration has carefully considered the question of whether it is appropriate to adopt “substantial ground” in the proposed section 29AC(2) as the threshold required for the granting of leave, with reference to s.13 of the Matrimonial and Family Proceedings Act 1984 (“1984 Act”) and the relevant English cases. The matter has been discussed in LC Paper No. CB(2)2317/09-10(01) with particular reference to the comments of the U.K. Supreme Court (“SC”) in *Agbaje and Agbaje* ([2010] UKSC 13). The SC’s comments as quoted in paragraph 19 of the said paper are of particular relevance.

3. The Administration considers that it is proper to retain “substantial ground” as the threshold required for the granting of leave. The same terminology is used in s.13 of the 1984 Act on which the proposed section 29AC is modeled. As discussed in LC Paper No. CB(2)2317/09-10(01), the application of s.13 of the 1984 Act has been thoroughly discussed by the English courts, including the SC. These cases will become highly useful references if the issue of “substantial ground” has to be considered after the enactment of the Bill. The Administration submits that should the term be replaced by another expression, disputes might arise as regards the legislative intent. Arguments could be advanced that the intention was to depart from the 1984 Act as demonstrated by the choice of a different terminology. This may render the English cases less persuasive and is not the intention of the Administration.

### **Use of “substantial ground” and “substantial connection” in other Hong Kong legislation**

4. The use of the expressions “substantial ground” and “substantial connection” is not uncommon in local legislation. A few examples are set out in Annexes 1 and 2. The corresponding Chinese texts are also set out in those Annexes.

**Proposed Section 29AG – financial relief for children**

5. On the question of whether the Hong Kong courts had the power to deal with applications for financial relief made by or on behalf of a child of the family after a foreign divorce (see paragraph 1(d)(i)), it is the Administration’s view that such power is not available to the courts under the Matrimonial Proceedings and Property Ordinance (Cap. 192) (“the Ordinance”).

6. Section 5 of Ordinance provides for application for financial provision for a child of the family in cases of divorce. It is noted that s.25(1) which in effect bars a party to the marriage to apply for financial relief after a foreign divorce does not require that an order under s.5 of the Ordinance shall only take effect unless the decree nisi has been made absolute. This, we submit, does not amount to conferring the courts with the power to make financial provisions for a child of the family in cases of foreign divorce.

7. Section 5 of the Ordinance provides –

“(1) Subject to the provisions of section 10, in proceedings for divorce, nullity of marriage or judicial separation, the court may make any one or more of the orders mentioned in subsection (2)-

- (a) before or on granting the decree of divorce, of nullity of marriage or of judicial separation, as the case may be, or at any time thereafter;
- (b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal.”

8. It is our submission that an application under s.5 of the Ordinance for financial provision for a child of the family must be made in proceedings for divorce etc. Where parties to the marriage have obtained a divorce in another jurisdiction outside Hong Kong, no such proceedings would exist for the purposes of the section. The restrictions impose under s.25(1) of the Ordinance do not apply to such an application because it is stipulated under s.5 that the court may make an order before the granting of the decree of divorce etc or where such proceedings are dismissed. It is noted that the

provisions in s.5(1)(a) and (b) do not appear in ss. 4 and 6 of the Ordinance wherein it is specified that applications under these sections are subject to s.25(1). A copy of section 25 of the Ordinance is at Annex 3.

9. On the other hand, if proceedings have been commenced in Hong Kong, notwithstanding that the parties have subsequently obtained a divorce in another jurisdiction, it seems that the courts would still have jurisdiction to deal with an application under s.5 of the Ordinance. It is noted in the first instance case of *ML v YJ*<sup>1</sup>, Mr Justice Lam remarked that –

“A custody order does not depend on the making of a decree absolute. Neither is an order for maintenance of the children under s.5 of the Matrimonial Proceedings and Property Ordinance.” (at para. 33)

10. The proposed section 29AG is modeled on s.17 of the 1984 Act wherein it is provided that the court may make any one or more of the orders which it could make under Part II of the Matrimonial Causes Act 1973 ( the “MCA 1973”), in particular s.23(1) and 24(1). It is noted that s.5(2)(a), (b) & (c) of the Ordinance is similar to s.23(1)(d), (e) & (f) of the MCA 1973. In the Law Commission Working Paper No. 77, the English Law Commission noted that –

“The termination of the marriage will not prevent the English court from entertaining applications by a child’s mother or father for child maintenance under the provisions of the Guardianship of Minors Acts 1971 and 1973<sup>2</sup>, but the child must (probably) be a United Kingdom citizen or be present or ordinarily resident in this country and the respondent has to be served with proceedings or submit to the jurisdiction. However these powers are narrower than the powers exercisable in divorce proceeding, both in respect of the types of order that can be made, and of the range of persons who can be ordered to make payments.”

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<sup>1</sup> *ML v YJ* [2008]3 HKLRD 412 at p.423

<sup>2</sup> The Guardianship of Minors Act 1971 was repealed by the Children Act 1989, s108(7), Sch 15; and the Guardianship Act 1973 was repealed by the Children Act 1989, s108(7), Sch 5 and the Children (Scotland) Act 1995, s105(5), Sch 5.

11. Under the Guardianship of Minors Ordinance (Cap. 13) (“GMO”), the court is empowered to make certain orders requiring payment by a parent of the minor for the maintenance of the minor. It is noted that “maintenance order” is defined by s.2 to mean orders made under, *inter alia*, s.10 of the GMO. No reference is made to the Ordinance although orders made under s.10 of the GMO may include periodical payments, secured periodical payments and payment of a lump sum.

12. Section 3 of the GMO states the general principles. It provides that the proceedings concerned are in relation to the custody or upbringing of a minor, and in relation to the administration of any property belonging to or held in trust for a minor. Those proceedings are however not part of the matrimonial proceedings under the Ordinance. It is therefore the Administration’s submission that the courts of Hong Kong do not have the power to entertain application for financial provisions for a child of the family, for the purposes of the Ordinance, if the parents have obtained a divorce in another jurisdiction.

13. It is the Administration’s further submission that removing the references to s.5 of the Ordinance from the proposed section 29AG(1) and (2) (*see paragraph 1(d)(ii)*) will, in effect, prevent the new Part IIA of the Ordinance from applying to applications for financial relief for a child of the family in case of a foreign divorce. The departure from s.17 of the 1984 Act is likely to raise the argument that the new Part IIA of the Ordinance should not apply to applications for financial relief relating to children as the legislation has omitted the references to section 5.

14. As far as the impact of the Bill on applications for financial relief made by or on behalf of a child of the family after a foreign divorce is concerned (*see paragraph 1(d)(iii)*), the Administration considers it equally important that such a child should not suffer from any adverse consequences if the foreign court failed to provide any financial provisions or inadequate provisions have been made for the child. To attain this purpose, the Administration submits that the proposed section 29AG should explicitly empower the court to make an order under s.5 of the Ordinance.

**Exclusion of periodical payment order under ss. 4(1)(a) and 5(2)(a) of the Ordinance from proposed section 29AG(2)**

15. The Administration noted the comments of the legal adviser to the Bills Committee that s.6A(1) of the Ordinance has not been listed amongst the specified provisions set out in the proposed section 29AI. This would mean that an order for sale of property under s.6A(1) could only be made if the court has made an order mentioned in the proposed section 29AG(2), namely, an order made under ss.4(1)(b) or (c), 5(2)(b) or (c) or 6 of the Ordinance.

16. Having examined the relevant provisions further, the Administration considers that s.6A(1) of the Ordinance should also apply if the court has, under the proposed s.29AG(1), made an order mentioned in s.4(1)(a) or 5(1)(a). Amendments will be introduced to reflect this policy intent.

Legal Policy Division  
Department of Justice  
November 2010

Substantial ground

Chapter:	95F	Title:	FIRE SERVICES (FIRE HAZARD ABATEMENT) REGULATION	Gazette Number:	L.N. 113 of 2003; L.N. 194 of 2003
Section:	13	Heading:	Appeal against fire hazard orders or prohibition orders	Version Date:	01/01/2004

(5) The daily fine referred to in subsection (4) shall not be payable if the appellant-

- (a) in the case of an appeal that is dismissed, satisfies the court hearing the appeal; or
- (b) in the case of an appeal that is abandoned, satisfies the court before which proceedings are taken for the recovery of the fine,

that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay.

章：	95F	標題：	消防(消除火警危險)規例	憲報編號：	L.N. 113 of 2003; L.N. 194 of 2003
條：	13	條文標題：	針對火警危險令或禁止令的上訴	版本日期：	01/01/2004

(5) 上訴人—

- (a) 在上訴被駁回的情況下，如令聆訊該上訴的法庭信納；或
- (b) 在上訴被撤銷而有關追討罰款的法律程序是在某法庭席前進行的情況下，如令該法庭信納，

上訴是有充分理由而並非僅為拖延而提出的，則第(4)款所提述的每日罰款無須繳付。

Chapter:	503Y	Title:	FUGITIVE OFFENDERS (REPUBLIC OF KOREA) ORDER	Gazette Number:	L.N. 13 of 2007
Schedule:		Heading:	SCHEDULE	Version Date:	11/02/2007

## ARTICLE 5

### Mandatory Refusal of Surrender

Surrender shall not be granted under this Agreement in any of the following circumstances:

- (a) when the Requested Party has substantial grounds for believing that the offence for which surrender is requested is a political offence or an offence connected with a political offence. Reference to a political offence shall not include the following offences:
- (i) ...
  - (ii) ...

章：	503Y	標題：	逃犯(大韓民國)令	憲報編號：	L.N. 13 of 2007
附表：		條文標題：	附表	版本日期：	11/02/2007

## 第五條

### 強制拒絕移交

在以下任何情況下，不得根據本協定批准移交：

- (a) 被要求方有充分理由相信要求移交所根據的罪行是政治罪行或與政治罪行有關連的罪行，而對政治罪行的提述不包括以下罪行：
- (i) ...
  - (ii) ...



Chapter:	525	Title:	MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE	Gazette Number:	L.N. 449 of 1997
Section:	5	Heading:	Refusal of assistance	Version Date:	26/09/1997

(1) A request by a place outside Hong Kong for assistance under this Ordinance shall be refused if, in the opinion of the Secretary for Justice-

- (a) ...
- (d) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, nationality or political opinions;

章：	525	標題：	刑事事宜相互法律協助 條例	憲報編號：	32 of 2000
條：	5	條文標題：	拒絕協助	版本日期：	09/06/2000

(1) 如律政司司長認為有以下情況，對於由香港以外某地方提出的要求根據本條例提供協助的請求，須予以拒絕—

- (a) ...
- (d) 有充分理由相信該項請求提出的目的是基於某人的種族、宗教、國籍或政治見解而對該人進行檢控、懲罰或以其他方式使該人蒙受不利；

Chapter:	4A	Title:	THE RULES OF THE HIGH COURT	Gazette Number:	L.N. 152 of 2008; L.N. 18 of 2009
Order:	62	Heading:	COSTS	Version Date:	02/04/2009

**9C. When summary assessment not allowed**  
(O. 62, r. 9C)

(1) No direction or order may be made under rule 9(4)(b) or 9A(1)(a) or (b) for the payment of a sum of money if-

- (a) the paying party shows substantial grounds for disputing the sum claimed for costs that cannot be dealt with summarily;
- (b) ...

章：	4A	標題：	高等法院規則	憲報編號：	L.N. 152 of 2008; L.N. 18 of 2009
命令：	62	條文標題：	訟費	版本日期：	02/04/2009

**9C. 不容許作簡易程序評估的情況**  
(第62號命令第9C條規則)

(1) 在下述情況下，不得根據第9(4)(b)或9A(1)(a)或(b)條規則，作出關於支付款項的指示或命令—

- (a) 支付方提出對不能以簡易程序處理的訟費申索款項作爭議的實質理由；
- (b) ...

Chapter:	132	Title:	PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE	Gazette Number:	
Section:	127	Heading:	<b>Provisions for securing abatement of nuisances which may be dealt with summarily</b>	Version Date:	30/06/1997

(8) The provisions of Part VII (Appeals) of the Magistrates Ordinance (Cap 227) shall apply to proceedings under this section subject to the following provisions-

- (a) in the event of an appeal against a nuisance order which is or includes a prohibition order or a closing order or requires the execution of structural works, no person shall, by reason of any contravention of, or failure to comply with, the order, be liable to any penalty until after the determination or abandonment of the appeal:

Provided that, if the appeal is dismissed or abandoned, the appellant shall be liable to the fine specified in the third column of the Ninth Schedule in respect of an offence under subsection (7) for every day during which he has contravened or failed to comply with such nuisance order, unless he satisfies the court before which proceedings are taken for the recovery of such fine that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay, and, if the appeal is dismissed, the court hearing the appeal may itself impose such fine as if it were a court before which proceedings could be taken for the recovery of such fine;

章：	132	標題：	公眾衛生及市政條例	憲報編號：	
條：	127	條文標題：	確保減除可循簡易程序處理的妨擾事故的條文	版本日期：	30/06/1997

(8) 《裁判官條例》(第227章)第VII部(上訴)條文，在符合下列條文的規定下，適用於根據本條進行的法律程序—

- (a) 如上訴所反對的妨擾事故命令屬禁止令或封閉令，或包含任何禁止令或封閉令，或規定須進行結構工程，則在該項有關上訴獲裁定前或被放棄前，任何人均不得因違反該命令或沒有遵從該命令而被處任何刑罰：

但如該項上訴遭駁回或被放棄，則上訴人可就其違反或沒有遵從上述妨擾事故命令期間的日數，按日被處以附表9第3欄就第(7)款所訂罪行而指明的罰款，除非上訴人能令因追討該項罰款而在其席前進行法律程序的法庭信納上訴是基於實質理由而並非僅為拖延時間而提出的；如上訴遭駁回，聆訊上訴的法庭可自行施加罰款，猶如該法庭是任何可在其席前進行法律程序以追討該等罰款的法庭一樣；

Chapter:	136	Title:	MENTAL HEALTH ORDINANCE	Gazette Number:	
Section:	69	Heading:	<b>Protection of persons carrying out the provisions of this Ordinance</b>	Version Date:	30/06/1997

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such matter as is mentioned in subsection (1), without the leave of the Court, and leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

章：	136	標題：	精神健康條例	憲報編號：	
條：	69	條文標題：	對執行本條例條文的人 的保障	版本日期：	30/06/1997

(2) 如無高等法院的許可，不得就第(1)款所述的事項在高等法院針對某人而提起民事或刑事法律程序，而除非高等法院信納有實質理由，以指稱該名在擬提起的法律程序中被針對的人曾不真誠地行事或行事時缺乏合理程度的謹慎，否則不得給予許可。

Chapter:	221	Title:	CRIMINAL PROCEDURE ORDINANCE	Gazette Number:	
Section:	9G	Heading:	<b>An accused person may be refused bail in particular circumstances</b>	Version Date:	30/06/1997

(1) The court need not admit an accused person to bail if it appears to the court that there are substantial grounds for believing, whether or not an admission were to be subject to conditions under section 9D(2), that the accused person would-

- (a) fail to surrender to custody as the court may appoint; or
- (b) commit an offence while on bail; or
- (c) interfere with a witness or pervert or obstruct the course of justice.

章：	221	標題：	刑事訴訟程序條例	憲報編號：	25 of 1998 s. 2
條：	9G	條文標題：	在特別情況下可拒絕被 控人保釋	版本日期：	01/07/1997

(1) 法庭如覺得有實質理由相信(不論假若准予保釋會否根據第9D(2)條施加條件作規限)被控人會有下列行爲，則無須准予被控人保釋—

- (a) 不按照法庭的指定歸押；或
- (b) 在保釋期間犯罪；或
- (c) 干擾證人或破壞或妨礙司法公正。

Substantial connection

Chapter:	178	Title:	MARRIAGE REFORM ORDINANCE	Gazette Number:	
Section:	15	Heading:	<b>Dissolution of certain marriages on and after the appointed day</b>	Version Date:	30/06/1997

A customary marriage or a validated marriage subsisting on the appointed day and registered in accordance with Part IV may where at least one party to the marriage has a substantial connection with Hong Kong be dissolved on or after the day upon which such marriage has been so registered-

- (a) in accordance with the Matrimonial Causes Ordinance (Cap 179); or
- (b) in accordance with this Part.

章：	178	標題：	婚姻制度改革條例	憲報編號：	
條：	15	條文標題：	於指定日期及以後某類 婚姻的解除	版本日期：	30/06/1997

於指定日期當日存續並按照第IV部登記的舊式婚姻或認可婚姻，若婚姻至少有一方與香港有密切聯繫，則該姻可於登記當日或以後按照以下規定解除—

- (a) 《婚姻訴訟條例》(第179章)的規定；或
- (b) 本部的規定。

Chapter:	179	Title:	MATRIMONIAL CAUSES ORDINANCE	Gazette Number:	
Section:	3	Heading:	<b>Jurisdiction in divorce</b>	Version Date:	30/06/1997

## PART II

### JURISDICTION OF COURT

The court shall have jurisdiction in proceedings for divorce under this Ordinance if-

- (a) either of the parties to the marriage was domiciled in Hong Kong at the date of the petition or application; (Replaced 29 of 1995 s. 3)
- (b) either of the parties to the marriage was habitually resident in Hong Kong throughout the period of 3 years immediately preceding the date of the petition or application; or (Replaced 29 of 1995 s. 3)
- (c) either of the parties to the marriage had a substantial connection with Hong Kong at the date of the petition or application. (Added 68 of 1970 s. 26. Amended 29 of 1995 s. 3)

章：	179	標題：	婚姻訴訟條例	憲報編號：	
條：	3	條文標題：	對離婚案的司法管轄權	版本日期：	30/06/1997

## 第II部

### 法院的司法管轄權

如屬下列情況，法院對根據本條例進行的離婚法律程序具有司法管轄權—

- (a) 在呈請或申請提出當日，婚姻的任何一方以香港為居籍；（由1995年第29號第3條代替）
- (b) 在緊接呈請或申請提出當日之前的整段3年期間內，婚姻的任何一方慣常居於香港；或（由1995年第29號第3條代替）
- (c) 在呈請或申請提出當日，婚姻的任何一方與香港有密切聯繫。 （由1970年第68號第26條增補。由1995年第29號第3條修訂）

Chapter:	184	Title:	LEGITIMACY ORDINANCE	Gazette Number:	
Section:	11	Heading:	Legitimacy of children of certain void marriages	Version Date:	30/06/1997

(1) Subject to the provisions of this section, the child of a void marriage, whether born before or after the commencement of this Ordinance, shall be treated as the legitimate child of his parents if at the time of the conception of the child (or at the time of the time of the celebration of the marriage if later) both or either of the parties reasonably believed that the marriage was valid. (Amended 17 of 1993 s. 19)

(2) This section applies, and applies only, where the father of the child was domiciled in or had a substantial connection with Hong Kong at the time of the birth or, if he died before the birth, was so domiciled or had such a connection immediately before his death.

(3) In this section, "void marriage" (無效婚姻) means a marriage, not being voidable only, in respect of which the Court has or had jurisdiction to grant a decree of nullity, or would have or would have had such jurisdiction if the parties were domiciled in or had a substantial connection with Hong Kong.

章：	184	標題：	婚生地位條例	憲報編號：	
條：	11	條文標題：	某些無效婚姻的子女的 婚生地位	版本日期：	30/06/1997

(1) 在不抵觸本條的條文下，無效婚姻的子女，不論是在本條例生效之前或之後出生，如在其母親是次受孕時(或後來舉行婚禮者，則以婚禮舉行時為準)，婚姻雙方或其中一方合理地相信該宗婚姻是有效的，則該名無效婚姻的子女須視作是其父母所生的婚生地位子女。(由1993年第17號第19條修訂)

(2) 本條適用於、亦只限適用於以下情況：在有關子女出生時，其父親是以香港為其居籍或與香港有密切聯繫，或如其父親在其出生前已去世，但在緊接去世之前他是以前香港為其居籍或與香港有密切聯繫。

(3) 在本條中，“無效婚姻”(void marriage)指一宗不僅是可使無效的婚姻，而法院就該宗婚姻具有或曾經具有發出婚姻無效判令的司法管轄權；又如婚姻雙方是以香港為其居籍或與香港有密切聯繫，則法院就該宗婚姻會具有或會已經具有此司法管轄權。



Chapter:	429	Title:	PARENT AND CHILD ORDINANCE	Gazette Number:	
Section:	6	Heading:	<b>Declarations of parentage, legitimacy or legitimation</b>	Version Date:	30/06/1997

#### PART IV

#### DECLARATIONS OF STATUS

- (1) Any person may apply to the court for a declaration that-
  - (a) a person named in the application is or was in law his parent;
  - (b) he is the legitimate child of his parents; or
  - (c) he has become, or has not become, a legitimated person.
- (2) A court shall only have jurisdiction to entertain an application under this section if, at the date of the application, the applicant-
  - (a) is domiciled in Hong Kong;
  - (b) has been habitually resident in Hong Kong throughout the period of 1 year ending with that date; or
  - (c) has a substantial connection with Hong Kong.

章：	429	標題：	父母與子女條例	憲報編號：	
條：	6	條文標題：	父母身分、婚生地位或確 立婚生地位的宣告	確版本日期：	30/06/1997

#### 第IV部

#### 身分的宣告

- (1) 任何人均可向法院申請由法院宣告下列事項—
  - (a) 申請書內指明的人在法律上是或曾經是申請人的父母；
  - (b) 申請人是其父母的婚生子女；或
  - (c) 申請人已經成為或未有成為獲確立婚生地位人士。
- (2) 法院惟有在申請人根據本條提出申請之日符合下列條件時，方有權受理該宗申請—
  - (a) 申請人以香港為其居籍；
  - (b) 在提出申請當日之前的一年期間內，申請人一直慣常居於香港；或
  - (c) 申請人與香港有密切聯繫。

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	134 of 1997
Section:	26	Heading:	<b>Corporate elector to have authorized representative</b>	Version Date:	03/10/1997

(1) A corporate elector is required to select one eligible person to be its authorized representative for the purposes of casting its vote at an election.

(2) A person is eligible to be an authorized representative of a corporate elector for a functional constituency only if the person-

- (a) is registered, or is eligible to be and has applied to be registered, as an elector for a geographical constituency; and
- (b) has a substantial connection with the corporate elector; and
- (c) is not registered, and has not applied to be registered, as an elector for the constituency; and
- (d) is not disqualified from being registered or voting under section 31 or 53.

章：	542	標題：	立法會條例	憲報編號：	134 of 1997
條：	26	條文標題：	團體選民須有獲授權代 表	版本日期：	03/10/1997

(1) 團體選民須挑選一名合資格的人作為其獲授權代表以在選舉中投下該團體選民的選票。

(2) 符合以下條件的人方有資格作為某功能界別的團體選民的獲授權代表—

- (a) 已登記為地方選區選民，或有資格登記為地方選區選民並已申請如此登記；及
- (b) 與該團體選民有密切聯繫；及
- (c) 並無登記為該功能界別的選民，亦無申請如此登記；及
- (d) 並無根據第31或53條喪失登記或投票的資格。

Chapter:	569	Title:	CHIEF EXECUTIVE ELECTION ORDINANCE	Gazette Number:	L.N. 216 of 2009
Schedule:		Heading:	SCHEDULE	Version Date:	30/10/2009

(3) For the purposes of this Schedule-

- (a) the circumstances in which a person has a substantial connection with a body include, but are not limited to, being a member, partner, officer or employee of the body; and
- (b) the circumstances in which a person has a substantial connection with a subsector include, but are not limited to, being a member, partner, officer or employee of-
  - (i) a body included in the subsector; or
  - (ii) a corporate member of a body referred to in subparagraph (i).

章：	569	標題：	行政長官選舉條例	憲報編號：	L.N. 216 of 2009
附表：		條文標題：	附表	版本日期：	30/10/2009

(3) 就本附表而言—

- (a) 某人與某團體有密切聯繫的情況包括(但不限於)身為該團體的成員、會員、合夥人、僱員或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員；及
- (b) 某人與某界別分組有密切聯繫的情況包括(但不限於)—
  - (i) 身為列入該界別分組的團體的成員、會員、合夥人、僱員或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員；或
  - (ii) 身為屬第(i)節所提述的團體的團體成員的成員、會員、合夥人、僱員或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員。

MATRIMONIAL PROCEEDINGS AND PROPERTY ORDINANCE (Cap. 192)

- s.25 (1) Where a petition or joint application for divorce or a petition for nullity of marriage or judicial separation has been presented or made, then, subject to subsection (2), proceedings under section 3, 4, 5, 6 or 6A may be begun, subject to and in accordance with rules of court, at any time after the presentation of the petition or the making of the application; but-
- (a) no order under section 4, 6 or 6A shall be made unless a decree nisi of divorce or of nullity of marriage or a decree of judicial separation, as the case may be, has been granted;
  - (b) without prejudice to the power to give a direction under section 26, no such order made on or after granting a decree nisi of divorce or of nullity of marriage, and no settlement made in pursuance of such an order, shall take effect unless the decree has been made absolute.
- (2) Rules of court may provide, in such cases as may be prescribed by the rules-
- (a) that applications for ancillary relief shall be made in the petition, joint application or answer; and
  - (b) that applications for ancillary relief which are not so made, or are not made until after the expiration of such period following the presentation of the petition, making of the joint application or filing of the answer as may be so prescribed, shall be made only with the leave of the court. (Amended 29 of 1995 s. 20)
- (3) In subsection (2) "ancillary relief" (附屬濟助) means relief under any of the provisions of sections 3, 4, 5, 6 and 6A.

婚姻法律程序與財產條例 (192章)

- (1) 凡關於離婚的呈請書或共同申請或婚姻無效或裁判分居的呈請書已經提交或提出，則在符合第(2)款的規定下，任何根據第3、4、5、6或6A條提出的法律程序均可於呈請書提交或申請提出後的任何時間，在符合並按照法院規則的情況下開始進行；但
- (a) 除非法庭已批予離婚或婚姻無效的暫准判令或裁判分居判令(視屬何情況而定)，否則不得根據第4、6或6A條作出任何命令；
  - (b) 在不損害法庭根據第26條發出指示的權力下，凡在批予離婚或婚姻無效暫准判令之時或之後作出的該等命令，以及依據該等命令而作出的授產安排，在該判令轉為絕對判令之前均不得生效。
- (2) 在法院規則所訂明的若干案件中，法院規則可規定—
- (a) 附屬濟助申請須在呈請書、共同申請或答辯書內提出；及
  - (b) 任何並非按以上方式提出的附屬濟助申請，或在呈請書提交、共同申請提出或答辯書提交後的一段訂明期限屆滿後才提出的附屬濟助申請，只可在獲得法庭許可下提出。
- (3) 在第(2)款中，“附屬濟助”(ancillary relief) 指第3、4、5、6及6A條的任何條文所指的濟助。