

**Extract from minutes of special meeting on
Panel on Administration of Justice and Legal Services on 22 October 2009**

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I. Briefing on the Chief Executive's 2009-2010 Policy Address

Proposed amendments to the Matrimonial Proceedings and Property Ordinance

22. Mr Albert HO said that some recent judgments concerning claims for ancillary relief and custody in divorce proceedings had raised concern among family law practitioners. In one case, the husband pursued parallel divorce proceedings on the Mainland making claims on matrimonial assets after divorce proceedings had been initiated in Hong Kong. The husband appealed against the order on ancillary relief made by the Hong Kong court on the ground that a divorce had already been obtained from a Mainland court. The appeal was allowed. In the second case, the Hong Kong court had granted custody of a child to the wife, who had sent the child to study abroad. The husband had subsequently obtained an order from a Mainland court ordering the wife to let the husband see the child twice a week, which had put the wife in a very difficult situation. Mr HO said that cases such as these had raised questions on recognition of orders relating to matrimonial proceedings between Hong Kong and the Mainland.

23. SJ explained that unlike the United Kingdom, there was no legislation in Hong Kong conferring jurisdiction on the Hong Kong courts to deal with claims for ancillary relief and custody after the dissolution of a marriage in a jurisdiction outside Hong Kong. The Administration recognized this deficiency in the law and planned to introduce legislation to address such deficiency.

24. Solicitor General (SG) supplemented that the Administration had reached a broad consensus with the two legal professional bodies on how the law should be reformed and aimed at introducing a bill towards the end of the current session to empower the Hong Kong courts to deal with matters concerning matrimonial assets after recognition of a decree of divorce granted outside Hong Kong. The bill dealt only with matters concerning matrimonial property and not custody, as the latter involved complex issues and more time was needed to study the matter. In this regard, the Administration was proposing to have discussion with the Mainland authorities on broad issues relating to matrimonial proceedings and recognition of orders made in those proceedings.

25. Ms Audrey EU said that the legislative amendments involved were fairly simple and straightforward and it should not have taken the Administration so long to introduce the bill. She hoped that the Administration would consider extending the applicability of the legislation retroactively to cover on-going cases.

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