

立法會
Legislative Council

LC Paper No. CB(2)2514/10-11
(These minutes have been seen by
the Administration)

Ref : CB2/BC/7/10

Bills Committee on Guardianship of Minors (Amendment) Bill 2011

Minutes of meeting
held on Wednesday, 6 July 2011, at 8:30 am
in Conference Room B of the Legislative Council Building

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi

Member absent : Dr Hon Margaret NG

Public Officers attending : Item II

Ms Karyn CHAN
Principal Assistant Secretary for Labour and
Welfare (Welfare) 1

Mr Parson LAM
Assistant Secretary for Labour and Welfare
(Welfare) 1A

Ms Caran WONG
Assistant Director of Social Welfare (Family &
Child Welfare)

Ms Karmen KWOK
Government Counsel
Department of Justice

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Jove CHAN
Senior Council Secretary (2) 8

Ms Camy YOONG
Clerical Assistant (2) 7

I. Election of Chairman

Ms Cyd HO was elected Chairman of the Bills Committee.

II. Meeting with the Administration

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. The Bills Committee requested the Administration to provide the following information -

- (a) the legal and administrative arrangements for guardian appointment before and after the enactment of the Bill under different situations with regard to the marital status, relationship, residency, existence and accessibility, etc. of parents or the existing guardian;
- (b) the definition of guardianship and custodianship and their differences;
- (c) the extent of parental rights and guardian rights, and the legal responsibilities of a guardian;
- (d) the arrangements for a minor if the appointed guardian disclaimed the appointment;
- (e) the template of the proposed standard form for the appointment of guardians based on the Bill as currently drafted;

- (f) the arrangements for guardian appointment without signing or using the appointment form under different situations with regard to the marital status, relationship, residency, existence and accessibility, etc. of parents or the existing guardian after the commencement of the Bill, if enacted;
- (g) the arrangements for a ward of court, its relation and interaction with guardian appointment;
- (h) the arrangements for a ward of court and guardianship of a minor whose parents were Chinese citizens inhabited in the Mainland;
- (i) the appointment of the guardian of a minor under the High Court Ordinance (Cap. 4), the Guardianship of Minors Ordinance (Cap. 13) and the Protection of Children and Juveniles Ordinance (Cap. 213) under different situations;
- (j) the relevant provisions of the English Children Act 1989 (England and Wales) to which the Administration had made reference in drafting the Bill and the corresponding provision in the Bill;
- (k) the meaning of and proof of implied acceptance by the appointed guardian;
- (l) the automatic assumption of guardianship in the case where the appointing parent or appointing guardian had a joint custody order over the minor; and
- (m) the operation on payment of remuneration to guardians, the precedents, if any, and the criteria adopted.

4. The Bills Committee agreed to receive views from deputations on the Bill at the next meeting, particularly on the procedural problems that the public might encounter. The Bills Committee also agreed to invite views from the Hong Kong Federation of Women Lawyers, The Hong Kong Family Law Association and the International Social Services Hong Kong Branch. The Clerk would consult members on the list of organizations to be invited.

5. The Bills Committee also requested the Administration to provide the template of the proposed standard form for the appointment of

guardians (paragraph 3(e) above refers) prior to the next meeting to allow the deputations to give their views on the design of the form.

III. Date of next meeting

6. Members agreed to hold two meetings on -
 - (a) 27 July 2011 at 10:45 am to receive views from deputations;
and
 - (b) 29 July 2011 at 10:45 am for discussion with the Administration.
7. The meeting ended at 9:58 am.

Council Business Division 2
Legislative Council Secretariat
17 August 2011

**Proceedings of meeting of
Bills Committee on Guardianship of Minors (Amendment) Bill 2011
held on Wednesday, 6 July 2011, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000330	Mr TAM Yiu-chung Mr WONG Sing-chi Ms Cyd HO Mr CHEUNG Kwok-che	Election of Chairman	
000331 - 000446	Chairman Mr CHEUNG Kwok-che	Opening remarks; and Invitation of deputations to give views on the Bill	Members to suggest organizations to be invited The Clerk to invite deputations to give their views on the Bill at the next meeting
000447 - 001130	Chairman Admin	Briefing on the Guardianship of Minors (Amendment) Bill 2011 ("the Bill") (Legislative Council Brief: File Ref.: LWB CR 1/4841/02)	
001131 - 003030	Chairman Mr WONG Sing-chi Mr CHEUNG Kwok-che Admin	Arrangement for guardian appointment under different situations with regard to the marital status, relationship, residency, existence and accessibility, etc., of parents or the existing guardian; The difference between guardianship and custodianship; Legal responsibilities of a guardian; and Disclamation of guardian appointment	The Administration to provide information on - (a) the legal and administrative arrangements for guardian appointment under different situations; (b) the definition of guardianship and custodianship and their differences; and (c) the legal responsibilities of a guardian
003031 - 003319	Chairman Ms Audrey EU Admin	The reasons for the procrastination of the Bill	
003320 - 003819	Chairman Mr WONG Sing-chi Admin	The arrangements for disclaimer of guardian appointment	The Administration to provide information on the arrangements for the minor if the appointed guardian disclaimed the appointment
003820 - 004907	Chairman Mr TAM Yiu-chung Admin	Objection of guardian appointment by the minor; The differences between parental	The Administration to provide information on the extent of parental rights and guardian rights

Time marker	Speaker	Subject(s)	Action Required
		<p>rights and guardian rights; and</p> <p>The arrangements for guardianship of a minor whose parents inhabited in the Mainland</p>	
004908 - 010411	<p>Chairman Ms Audrey EU Mr WONG Sing-chi Admin</p>	<p>Preparation of document template for guardian appointment;</p> <p>Remuneration for guardian;</p> <p>Highlights of transitional and saving provisions;</p> <p>The interactions between the appointment of guardian and arrangements for a ward of court;</p> <p>Invitation of deputations to give their views on the Bill; and</p> <p>The arrangements for guardian appointment without signing or using the appointment form under different situations with regard to the marital status, relationship, residency, existence and accessibility, etc., of parents or the existing guardian</p>	<p>The Administration to provide information on -</p> <p>(a) the template of the proposed standard form for appointment of guardian prior to the meeting with deputations;</p> <p>(b) the arrangements for a ward of court, its relation and interaction with guardian appointment; and</p> <p>(c) the arrangements for guardian appointment without signing or using the appointment form under different situations after the commencement of the Bill, if enacted</p> <p>The Clerk to invite the Hong Kong Federation of Women Lawyers and The Hong Kong Family Law Association to give views at the next meeting</p>
010412 - 012306	<p>Chairman Ms Audrey EU Mr WONG Sing-chi Admin</p>	<p>The applicability of arrangements for a ward of court in respect of a minor whose parents inhabited in the Mainland; and</p> <p>The power of court to appoint a guardian of a minor whose parents could not be located</p>	<p>The Administration to provide information on -</p> <p>(a) the arrangements for a ward of court and guardianship of a minor whose parents were Chinese citizens inhabited in the Mainland; and</p> <p>(b) the appointment of the guardian of a minor under Caps. 4, 13 and 213 under different situations</p>
012307 - 012502	<p>Chairman Admin Mr WONG Sing-chi</p>	<p>Reference of overseas experience;</p> <p>Invitation of deputations to give their views on the Bill; and</p> <p>Appointment of guardian</p>	<p>The Administration to provide information on -</p> <p>(a) the relevant provisions of the English Children Act 1989 (England and Wales)</p>

Time marker	Speaker	Subject(s)	Action Required
		impliedly accepted	<p>to which the Administration had made reference in drafting the Bill; and</p> <p>(b) the meaning of and proof of implied acceptance by the appointed guardian</p> <p>The Clerk to invite the International Social Services Hong Kong Branch to give its views at the next meeting</p>
012503 - 012622	Chairman ALA9 Admin	Automatic assumption of guardianship in the cases of joint custody order	The Administration to provide information on the automatic assumption of guardianship in the case where the appointing parent or appointing guardian had a joint custody order over the minor
012623 - 013018	Chairman Mr WONG Sing-chi Clerk	Date of subsequent meetings	