

Bills Committee on Arbitration (Amendment) Bill 1999

Points raised by members at the meeting on 9 November 1999

Clause 2(1)

The Administration has advised that the MOU provides that the effective date for the implementation of the Arrangement will only be confirmed after the HKSAR has completed the amendment to the Arbitration Ordinance and the Mainland has promulgated a relevant judicial interpretation. However, clause 2(1) of the Bill states that the Ordinance shall come into operation on a date to be appointed by the Secretary for Justice. The Administration is requested -

- to provide a copy of the MOU for members' reference.
- to explain the detailed steps involved in the implementation of the Arrangement in both the Mainland and the HKSAR
- to advise whether the formulation in clause 2(1) is adopted for other local legislation which give effect to an agreement reached between Hong Kong and another jurisdiction in the past and if so, to provide examples and details. If not, explain why.
- to consider reflecting the relevant wordings of the MOU in clause 2(1), instead of the present formulation proposed under the clause.

Clause 3(c)

- to consider discussing the arrangements for mutual enforcement of arbitral awards between Macau and Hong Kong at an earliest opportunity.

Clause 5

Proposed section 40D

- to explain the existing procedures for a party to seek enforcement of a Mainland award.
- to explain why the documents required to be submitted under proposed section

40D need not follow those specified in Article 4(3) of the Arrangement.

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Proposed section 40E(2)(c)

- to reconsider the Chairman's suggestion to insert the words "or of the arbitration proceedings" to the proposed section 40E(2)(c) after "the appointment of the arbitrator" to achieve consistency between the MOU and the existing section 44(2)(c) of the Ordinance.

Clause 9

- to consider members' suggestion that clause 9 should be amended to the effect that the Bill applies to the State.

Section 2GG of Arbitration Ordinance

- to elaborate the Administration's advice at the meeting that it is not appropriate to amend the section in the light of the judgement of Findlay J at present.