

立法會
Legislative Council

LC Paper No. LS144/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 2 June 2000**

**Legal Service Division Report on
Arbitration (Amendment) Bill 2000**

Object of the Bill

To amend the Arbitration Ordinance (Cap. 341) ("the Ordinance") to clarify that the summary procedure for enforcement of awards, orders and directions under section 2GG of the Ordinance applies to awards, orders and directions made either in or outside Hong Kong.

LegCo Brief Reference

2. LP CLU 5037/7/1C VI issued by the Department of Justice in May 2000.

Date of First Reading

3. 31 May 2000.

Comments

4. Before June 1997, it was the general understanding that section 2H of the Ordinance allowed, with the leave of the court, summary enforcement of any arbitral award made either in or outside Hong Kong, as an alternative to the common law method of enforcement by action. In June 1997, section 2H was replaced by section 2GG. It was generally thought that section 2GG had the same effect until Justice Findlay held in January 1998 (in *Ng Fung Hong Limited v. ABC* (1998) 1 HKC 213) that it applied only to awards made in Hong Kong.

5. To clarify the law that section 2GG applies to an award, order and direction made or given whether in or outside Hong Kong, this Bill adds a new Clause 2GG(2) to the Ordinance. The effect is that arbitral awards made elsewhere including such countries or territories as Albania, Brazil, Iraq, Newfoundland, Taiwan and Macau can be enforced summarily.

Public Consultation

6. No public consultation was held.

Consultation with the LegCo Panel

7. According to paragraphs 16 and 17 of the Brief, the Administration explained that it had briefed the LegCo Panel on Administration of Justice and Legal Services ("AJLS Panel") on 21 March 2000 on the legislative proposal. The AJLS Panel supported it and urged the Amendment Bill to be enacted within this LegCo session since the proposal was straight-forward and involved no policy change. Early implementation would save public money and time, avoid wasting court time in unnecessary proceedings, and generally enhance Hong Kong's prestige and efficiency as an international arbitration centre. The AJLS Panel made a report on the proposed amendment to the House Committee of the LegCo on 24 March 2000. Members of the House Committee raised no objection to the proposal that an Amendment Bill be introduced by the Administration within this LegCo session.

Conclusion

8. The legal and drafting aspects of this Amendment Bill are in order. Subject to Members' views, this Bill is ready for resumption of Second Reading debate.

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