

立法會
Legislative Council

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**Paper for the House Committee Meeting
of the Legislative Council
on 17 December 1999**

**Legal Service Division Report on
Consular Relations Bill**

Objects of the Bill

To make provisions :-

- (a) for implementation in the Hong Kong Special Administrative Region (HKSAR) of certain provisions of the Vienna Convention on Consular Relations and of other agreements concerning consular relations to which the Government of the People's Republic of China (PRC) is a party and which are applied to HKSAR by the Central People's Government;
- (b) with respect to consular relations in HKSAR between the People's Republic of China and other states and matters arising in connection therewith; and
- (c) to enable diplomatic agents and consular officers in HKSAR to administer oaths and do notarial acts in certain cases;

and to provide for matters connected therewith and incidental thereto.

LegCo Brief Reference

2. Issued by the Chief Secretary for Administration's Office on 25 November 1999.

Date of First Reading

3. 8 December 1999.

Comments

4. The Bill seeks to replace the existing Consular Relations Ordinance (Cap. 259) ("the Ordinance"). The main provisions of the Bill appear to be essentially an adapted version of the provisions of the Ordinance. Apart from the removal of the provisions governing the privileges and immunities of official representatives of Commonwealth countries and those governing the power of the Governor to make order restricting the civil jurisdiction of the courts of HKSAR concerning contracts of service of master, commander or member of the crew of a ship or aircraft of another state and criminal jurisdiction concerning offences committed on board ship of another state, the major difference seems to be between clause 4 of the Bill and section 4 of the Ordinance.

5. The Governor's power to make order under section 4 of the Ordinance to give effect to the agreements made between the colonial authority and any other state by according additional privileges and immunities to the relevant consular post and persons is limited to those specified in the Second Schedule of the Ordinance.

6. Clause 4 gives the Chief Executive in Council power to make order for (a) according additional privileges and immunities and making necessary provisions to implement in HKSAR international agreements concerning consular relations of which PRC is a party and applied by the Central People's Government to HKSAR; (b) the exclusion of particular consular post or person from the privileges and immunities set out in the Schedule of the Bill; and (c) declaring on the ground of the principle of reciprocity that certain privileges and immunities conferred upon a consular post and persons connected with the post shall cease to have the force of law in HKSAR. It is understood that clause 4 so drafted is necessary to allow sufficient flexibility to the Chief Executive in Council to fully implement in HKSAR any international agreement made between PRC and another state.

7. The Schedule to the Bill reproduces the First Schedule of the Ordinance.

Public Consultation

8. There has not been any public consultation on this Bill.

Consultation with LegCo Panel

9. No LegCo Panel has been consulted.

Conclusion

10. This Division is seeking clarification from the Administration on a number of drafting and legal points. Subject to Members' views, the Bill may resume Second Reading debate upon the clarification of those issues. A second report may be issued if necessary.

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