

立法會
Legislative Council

Ref : CB2/BC/12/02

LC Paper No. CB(2)2054/03-04
(These minutes have been seen by
the Administration)

Bills Committee on Adoption (Amendment) Bill 2003

**Minutes of the seventh meeting
held on Thursday, 25 March 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon CHAN Yuen-han, JP
Hon Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Dr Hon LAW Chi-kwong, JP
Hon LI Fung-ying, JP
Hon Michael MAK Kwok-fung
Hon Audrey EU Yuet-mee, SC, JP
- Member absent** : Hon Cyd HO Sau-lan
- Public Officers attending** : Ms Susie HO, JP
Deputy Secretary for Health, Welfare and Food (Welfare)
- Miss Diane WONG
Principal Assistant Secretary for Health, Welfare and Food
(Welfare)
- Mr FUNG Pak-yan
Assistant Director (Family and Child Welfare)
Social Welfare Department
- Mr Peter NG
Chief Social Work Officer (Family and Child Welfare) 2
Social Welfare Department

Ms Fanny IP
Law Drafting Division
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Mrs Sharon TONG
Chief Council Secretary (2)1

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -

- (a) to advise whether there were residence requirements on adoption in the relevant legislation of the United States;
- (b) to provide information on the number of Mainland children who had settled in Hong Kong after adoption by Hong Kong residents;
- (c) to provide its response to issues raised in the submission from Caritas - Hong Kong;
- (d) to consult other non-government organisations (NGOs), including Caritas - Hong Kong, on the proposed arrangements in its paper entitled "Local Adption - Choice for Birth and Prospective Adoptive Parents and the participation of NGOs" and inform members of the outcome of its consultation;
- (e) to consider allowing more NGOs to engage in adoption arrangements;
- (f) to consider deferring the commencement of the part of the Bill on private arrangements for adoption by unrelated persons until the relevant mechanism was established;

- (g) to consider specifying in the Adoption Ordinance (AO) the list of accredited NGOs or the criteria for accreditation of NGOs;
- (h) to explain the intent of the proposed section 5(1)(c)(ii) of AO and consider whether there was a need for the proposed section;
- (i) to consider improving the drafting of the proposed section 5(1) and 5(2) of AO to minimise the need for references to other sections of AO;
- (j) to advise, in the situation where the birth mother of a child had died but the birth father was still alive, on the channel for a step father aged under 25 to adopt the child;
- (k) in relation to the proposed section 5(8) of AO, to consider providing that the court might regard a continuous custody as not broken in circumstances where it considered reasonable: and
- (l) to consider amending the expression "continuous actual custody" in the proposed section 5(8) of AO as "continuous actual care and control".

II. Any other business

3. The Bills Committee noted that the next meeting had been scheduled for 15 April 2004 at 4:30 pm.
4. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
16 April 2004

**Proceedings of the meeting of the
Bills Committee on Adoption (Amendment) Bill 2003
on Thursday, 25 March 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
Administration's response to issues raised at previous meetings			
000000 - 000327	Chairman	Relevant papers and submission from Caritas - Hong Kong	
000328 - 000901	Admin	Briefing on the Administration's paper on residence requirements for adoption, adoption of children from places outside Hong Kong (HK) by HK residents and escort arrangements of other countries (LC Paper No. CB(2)1829/03-04(01))	
000902 - 001231	Chairman Admin	Whether there were residence requirements on adoption in the relevant legislation of the United States	Admin to provide a response
001232 - 001704	Hon LI Fung-ying Admin Chairman	Information on cases of adoption of children from the Mainland by expatriate residents in Hong Kong; channel by which a child adopted in the Mainland by HK residents could settle in HK and the relevant statistics	Admin to provide information on the number of Mainland children who had settled in HK after adoption by HK residents
001705 - 001840	Hon Michael MAK Admin Chairman	Period of permanent abode required for satisfying the "residence" requirement	
001841 - 002000	Chairman Admin	Whether the legal status in HK of a child adopted in the Mainland by a HK resident was the same as that of a child adopted in HK	
002001 - 002922	Chairman Admin	Briefing on the Administration's paper entitled "Local Adoption - Choice for Birth and Prospective Adoptive Parents and the Participation of NGOs" (LC Paper No. CB(2)1829/03-04(02))	

Time marker	Speaker	Subject(s)	Action Required
002923 004334	Chairman Admin Hon Audrey EU Dr Hon LAW Chi- kwong Hon Miriam LAU	Difference between the proposal in the Bill to prohibit private arrangements for adoption by unrelated persons and the practice in the United Kingdom; scope of the proposed section 23A of the Adoption Ordinance (AO); options for arrangements to provide more choices for birth and adoptive parents	
004335 004917	Chairman Hon Miriam LAU Dr Hon LAW Chi- kwong SALA1	Consultation with more non-government organisations (NGOs) including Caritas - Hong Kong; provision of the Administration's response to the submission from Caritas - Hong Kong; allowing more NGOs to engage in adoption arrangements; commencement of different parts of the Bill	Admin to provide its response to issues raised in the submission from Caritas - Hong Kong; to consult other NGOs, including Caritas - Hong Kong, on the proposed arrangements in its paper entitled "Local Adoption - Choice for Birth and Prospective Adoptive Parents and the participation of NGOs" and inform members of the outcome of its consultation; to consider allowing more NGOs to engage in adoption arrangements; to consider deferring the commencement of the part of the Bill on private arrangements for adoption by unrelated persons until the relevant mechanism was established

Time marker	Speaker	Subject(s)	Action Required
004918 - 005107	Hon Miriam LAU Admin Chairman	Whether the list of accredited NGOs or the criteria for accreditation should be specified in AO	Admin to consider specifying in AO the list of accredited NGOs or the criteria for accreditation of NGOs
Clause-by-clause examination of the Bill			
005108 005333	SALA1 Chairman	Briefing on the summary of cross references to facilitate clause-by-clause scrutiny (LC Paper No. LS63/03-04)	
005334 - 005344	Chairman	Examination of clause 1	
005345 - 005506	Chairman Admin Hon Audrey EU	Examination of clause 2; whether intercountry adoptions covered adoption of Mainland children by adoptive HK parents	
005507 - 005516	Chairman	Examination of clause 3	
005517 005911	Chairman Admin Hon Miriam LAU SALA1	Examination of clause 4	
005912 - 005923	Chairman Admin	Examination of clause 5	
005924 - 010108	Chairman Admin	Examination of clause 6	
010109 - 010218	Chairman Admin	Examination of clause 7	
010219 - 010339	Chairman SALA1 Admin	Examination of clause 8 and deferral of the examination of the proposed deletion of section 5(3) of AO	
010340 - 011806	Chairman SALA1 Dr Hon LAW Chi- kwong Admin Hon LI Fung-ying Hon Miriam LAU	Examination of the proposed section 5(1)and (2) of AO; intent and need for the proposed section 5(1)(c)(ii) of AO	Admin to explain the intent of the proposed section 5(1)(c)(ii) of AO and consider whether there was a need for the proposed section
011807 - 012119	Hon Audrey EU Admin Chairman	Effect of the amendments proposed in the Bill to sections 4 and 5 of AO	

Time marker	Speaker	Subject(s)	Action Required
012120 - 012225	Chairman Hon Audrey EU Admin	Improving the drafting of the proposed section 5(1) and 5(2) of AO to minimise the need for references to other sections of AO	Admin to consider the suggestion
012226 - 013914	Hon Miriam LAU Admin Chairman Hon LAW Chi-kwong Hon Audrey EU	Intent of the proposed section 5(1)(c)(ii) of AO; declaration by Hon Miriam LAU as Chairman of the Guardianship and Custody Subcommittee of the Law Reform Commission (LRC); recommendations in the LRC Report on Guardianship of Children; channel, in the situation where the birth mother of a child had died but the birth father was still alive, for a step father aged under 25 to adopt the child	Admin to advise, in the situation where the birth mother of a child had died but the birth father was still alive, on the channel for a step father aged under 25 to adopt the child
013915 - 014052	Chairman Admin	Examination of the proposed section 5(5)(a) of AO	
014053 - 014221	Chairman Admin	Examination of the proposed section 5(5E) of AO	
014222 - 014313	Chairman Admin	Examination of the proposed section 5(5F) of AO	
014314 - 014356	Chairman Admin	Examination of the proposed section 5(6) of AO	
014357 - 014534	Chairman Admin	Examination of the proposed section 5(7) of AO	
014535 - 015816	Chairman Dr Hon LAW Chi-kwong Admin Hon Miriam LAU SALA1	Examination of the proposed section 5(8) of AO; meaning of the expression "continuous actual custody" in the proposed section	Admin to consider, in relation to the proposed section 5(8) of AO, providing that the court might regard a continuous custody as not broken in circumstances where it considered reasonable: to consider amending

Time marker	Speaker	Subject(s)	Action Required
			the expression "continuous actual custody" in the proposed section as "continuous actual care and control"
015817 - 015847	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
16 April 2004