

For information  
on 4 March 2004

## **Bills Committee for Adoption (Amendment) Bill 2003**

### **Changes Arising from the Adoption (Amendment) Bill 2003 – Impact on the Current Arrangements on Local Adoption**

#### **Purpose**

This paper sets out for Members' information the impact of the Adoption (Amendment) Bill 2003 (the Amendment Bill) on the current arrangements on local adoption.

#### **Background**

2. At the meeting on 7 January 2004, Members requested information on, among others :

- (a) changes in the roles of the Social Welfare Department (SWD) and Non-Governmental Organizations (NGOs) in local adoptions as a result of the Amendment Bill; and
- (b) an account of the most serious shortcomings in the existing private arrangements for adoptions by unrelated persons, the rationale of the proposal to criminalize such adoptions and whether similar legislation is in place in other jurisdictions.

#### **Present Arrangements**

3. Details of the present arrangements for local adoptions of children who are wards of the Director of Social Welfare (DSW)<sup>1</sup> and privately arranged adoptions have been set out in paragraphs 6 to 10 and

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<sup>1</sup> A DSW ward means a child or juvenile to whom DSW has been appointed his/her legal guardian under section 34(1)(a) of the Protection of Children and Juveniles Ordinance (Cap. 213).

paragraphs 13 to 14 of the paper on “Adoption : Current Arrangements”<sup>2</sup>.

4. To recap, for local adoptions of DSW wards, the Social Welfare Department (SWD) plays a key role in matching and placing the child with a suitable prospective adoptive parent(s), acts as the guardian ad litem (GAL) for the wards<sup>3</sup>, and sees to the legal proceeding leading to the grant of an adoption order. NGOs are not involved.

5. For privately arranged adoptions, SWD, NGOs and any parties may play a role in the adoption process, including placing the child for adoption and becoming the GAL<sup>4</sup>. Regardless of whether or not DSW is the GAL, SWD will visit the child during the adoption placement. If SWD is not the GAL, the department will still be notified of the date of the Court hearing by the GAL, and it may make comments on the proposed adoption.

### **Proposed Arrangements**

6. Two of the key changes to the roles and procedures for local adoptions proposed are -

- (a) prohibition of private arrangement/placement for adoptions by unrelated persons; and
- (b) advancing the timing of serving notice on SWD vide Form 6 (a Notice of Hearing of Application for an Adoption Order), to vide Form 2 (an Originating Summons on Application for an Adoption Order).

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<sup>2</sup> Ref : LC Paper No. CB(2)1474/03-04(01) discussed at the meeting on 26 February 2004.

<sup>3</sup> A guardian ad litem (GAL) is required under the Adoption Ordinance in all adoption proceedings to **safeguard and promote the interests of a prospective adoptive child during the Court process**. Save for certain scenarios (Rule 9 of the Adoption Rules), normally DSW is the GAL in all adoption proceedings (see section 5(5F) of the Ordinance and Rule 8 of the Adoption Rules). It is the duties of the GAL **to investigate as fully as possible all circumstances relevant to the proposed adoption and make a report to the Court for that purpose**.

<sup>4</sup> through application by the prospective adoptive parent(s) to the Court under Rule 9 of the Adoption Rules.

***(a) Prohibition of Private Arrangements for Adoption by Unrelated Persons***

***(i) Proposed Changes***

7. At present, private arrangement/placement for adoptions by unrelated persons is not prohibited in Hong Kong. We have proposed in clause 29 (section 23A) of the Amendment Bill to prohibit a person, other than SWD or any person authorized by SWD, to make arrangements for the adoption of a child or place a child for adoption, unless the prospective adoptive parent(s) is/are his/her birth parent(s) or relative(s), or save in pursuance of an order of the Court. This clause is modelled on section 11 of the UK Adoption Act 1976<sup>5</sup>.

8. The object of the prohibition on arrangement/placement made by private individuals for adoption by unrelated persons is to ensure that the vital placement decisions are handled by qualified/experienced people who are not acting for personal profit, i.e. to provide statutory safeguard before the vital first step is taken to place the child. This would help prevent the situation where the Court is presented with the constraint of a “fait accompli” as the bonding between the child and the prospective adoptive parent(s) will have already developed by the time the application is heard by the Court<sup>6</sup>. Such statutory prohibition would serve as a clear expression of societal disapproval of the commodification of children. Such statutory prohibition is generally thought to be a necessary

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<sup>5</sup> Section 11 of the UK Adoption Act 1976 provides that -

- “A person other than an adoption society shall not make arrangements for the adoption of a child, or place a child for adoption, unless :
  - (a) the proposed adopter is a relative of the child; or
  - (b) he is acting in pursuance of an order of the High Court.”

<sup>6</sup> According to Dr Athena Liu’s “Family Law for the HKSAR”, “private placement leaves the selection of a prospective adopter outside the control of DSW. In cases where the placement is thought to be less than desirable, the Court, in considering an application for adoption, may nonetheless be confronted with a fait accompli. In England, the Adoption Act 1976 has made it an offence for any person other than approved adoption agencies to make arrangements for adoption, unless the individual is a relative of the child. Any person who receives a child in contravention of the prohibition also commits an offence”.

safeguard in the UK and many Commonwealth countries<sup>7</sup>.

9. Under the proposal, SWD will be involved in making prior assessment of all adoptions by unrelated persons with the department's other roles unchanged (see Annex A). The views of the birth parents (for example in giving specific consent for adoptions by unrelated persons) will be taken into account by SWD in making its assessment, and such views will be respected unless such adoptions are not in the interests/welfare of the child.

10. The roles of other parties in local adoption may still include the following :

- (a) NGOs/other parties may make arrangements for adoptions by related persons; and
- (b) under rule 9 of the Adoption Rules, NGOs/other parties may be appointed to act as the GAL for adoption by related or unrelated persons; and
- (c) NGOs may be authorized by SWD as Accredited Bodies (ABs) under Clause 31 (section 26(1)) of the Amendment Bill, and the tasks undertaken by ABs may include assessment on the suitability of prospective adoptive parents (under clause 31 (section 27(5)) of the Amendment Bill) and dealing with

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<sup>7</sup> In the Report of the Departmental Committee on the Adoption of Children (the Houghton Report) in the UK, "Adoption is a matter of such vital importance to a child (who is usually too young to have any say in the matter) that society has a duty to ensure that the most satisfactory placements are made. Society manifestly does not do so, while it is open to anybody to place a child for adoption. While the Court hearing is intended as a final safeguard, safeguards are needed much earlier."

In Bromley's Family Law (4<sup>th</sup> Edition), "The fact that the number of people wishing to adopt children always far exceeds the number of children to be adopted has led to the possibility of commercial trafficking in adoption; this the Act seeks to prevent by making it illegal for any body of persons to make arrangements for an adoption unless it is a registered adoption society (which must be a charitable association) or a local authority and by forbidding the giving or receiving of any payment or reward in consideration of an adoption or the arrangement of an adoption. Any advertisement is prohibited which indicates that a parent or guardian wishes to have a child adopted or that a person wishes to adopt a child or that anyone except an adoption society or local authority is willing to make arrangements for its adoption. Furthermore, except under the authority of a provisional adoption order, it is forbidden to take or send a minor who is a British subject to any place outside the United Kingdom, Channel Islands or the Isle of Man with a view to his adoption by any person who is not his parent, guardian or relative."

placement (under clause 31 (section 29(2) and 29(3)) of the Amendment Bill) as decided by DSW. In view of the small number of local adoptions by unrelated persons at the moment, initially, SWD will be responsible for making arrangements for such adoptions. NGOs duly accredited as ABs may be authorized by DSW to assist in the assessment and placement in future, depending on further development.

(ii) Rationale

11. Though all local adoptions are subject to the final approval of the Court, we consider that safeguards have to be in place much earlier in the process. A professional assessment of the suitability of a proposed adoption has to be done before the first critical step of adoption placement, whereby a child is placed into the home of a prospective adoptive parent(s), to avoid a situation that close bonding between the prospective adoptive parent(s) and the child has been developed during the adoption placement, making it difficult for the Court to reject an adoption application even if the prospective adoptive parent(s) is/are eventually found to be unsuitable.

12. Adoption placement has to be handled by qualified and experienced professionals, because adoption is a long-term decision both on the part of the birth parents and the adoptive parents. Professional support is needed in the following areas before an adoption placement to ensure that the best interests of the child are taken into account -

- (a) assistance and counseling should be given to the birth parents to encourage them to continue with their parental responsibilities as far as possible. Relinquishment of parental rights over a child for the purpose of adoption will only be considered as a last resort and for the best interests of the child;
- (b) birth parents fully understand the long-term implications of an adoption decision and they are not being compelled to make impulsive decisions;
- (c) with consent given on a considered and informed basis, it would

avoid any disruptive effect caused by their subsequent change of mind;

(d) thorough consideration of the alternatives available for the child; and

(e) assessment of the suitability of the prospective adoptive parent(s).

13. If an arrangement is made privately, SWD will usually have no knowledge of the placement until the Notice of Intention to Apply for an Adoption Order is submitted by the applicant, by which time the child may have already been in the care and control of the applicants for a period of time. Following home study and investigation, even if SWD may have considerable reservations or even oppose an order during the Court hearing, with the close bonding already developed, the Court may be faced with a *fait accompli*, and have no alternative but to grant the adoption order.

*(iii) Overseas Experience*

14. Private arrangement for adoption by unrelated persons is prohibited in many jurisdictions of developed countries, including England, Scotland, Australia, New Zealand and generally in other Commonwealth countries. We are checking with the Commonwealth Legal Advisory Service on the practice of other Commonwealth countries, and still waiting for their replies.

15. Overseas experience shows that there was no lack of evidence of unsatisfactory independent arrangement/placement, before prohibition of private arrangement/placement. Information received from the Church of England Board for Social Responsibility which had contact with agencies working with unmarried mothers, for example, revealed that in the course of a year a considerable number of highly unsatisfactory independent placements came to the notice of the social workers. Their local authorities with experience of acting as GAL or carrying out welfare supervision of children placed for adoption had come across unsatisfactory independent placements which would not have been made by a reputable adoption agency.

16. Moreover, the fact that the number of people wishing to adopt children always far exceeded the number of children to be adopted had

also led to the possibility of commercial trafficking in adoption<sup>8</sup>. There were also allegations that couples had paid an inflated fee for the investigation of infertility on the understanding that a child would be found for them to adopt, and that services (such as nursing home facilities) had been provided on the understanding that the child would be available for adoption.

(iv) *Local Experience*

17. As for Hong Kong, there are not many cases of private adoptions by unrelated persons each year, with less than 10 such cases a year between 1999-2000 to 2002-03. While in many cases the adoptions are smooth, there have also been problematic cases such as :

- (a) some children were placed in unsuitable families, with the adoptive parents rushing into adoption without fully considering their long-term commitment, responsibilities or other implications arising from adoption<sup>9</sup>; and
- (b) the family problems such as health problems, marital problems, financial difficulties had been exacerbated by the child's presence<sup>10</sup>.

Besides, as the number of prospective adoptive parents exceeds the supply of normal and healthy children in general, the overseas concern of possible commercial trafficking in adoption is also valid in Hong Kong.

18. Normally, the problematic cases only come to the attention of

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<sup>8</sup> As indicated in the Bromley's Family Law 4<sup>th</sup> edition in the UK

<sup>9</sup> For example, in one case, a female child was privately placed at birth with an English/Filipino couple. Application for adoption was made through a private solicitor. The birth mother signed a specific consent to adoption and then disappeared. We understand that the birth and adoptive parents have not undergone any counseling or received any briefing by professional bodies. The couple managed to legally adopt the child after the child had been in their care for more than 1 year. However, 6 months later, the adoptive parents approached SWD because they wanted to relinquish their parental rights over the child. They had been unable to obtain a travel document for her, as their own countries did not grant nationality to an adopted child by virtue of private adoption. Moreover, they also found that taking care of a small child had imposed greater responsibility on them than they would have thought.

<sup>10</sup> For example, in one case, a male infant was placed to a couple through private arrangements by his birth parents when he was one year old. The case was known to SWD only years after when the couple applied for an adoption order. In the process of the adoption application, the female applicant deserted the family, and the male applicant was found to be an alcoholic with ill health. With the intervention of SWD, the adoption application was finally rejected by the Court, with the child restored back to the care of the birth family.

SWD some time after the relationship has been established and it is difficult for SWD to recommend rejection of the applications even if the prospective applicants are not suitable adoptive parents because of the bonding between the prospective adoptive parents and the child. It is possible that SWD would be asked to support cases which would not have passed the eligibility tests to become prospective adoptive parents in the first place.

(v) *Proposal and Alternatives*

19. It is clear from the above analysis that professional assessment and support is needed before the adoption placement commences; and such inputs can only be provided by professionally qualified bodies, such as SWD as well as ABs (if so authorized) in future. Without requiring all private adoptions by unrelated persons to go through SWD and ABs (if so authorized), it would not be possible to achieve this.

20. Between April 1999 to December 2003, SWD has taken up 25 privately unrelated adoption cases, of which 10 cases with the involvement of solicitors. For all these cases, the birth parents have given specific consent to the adoption of the children by unrelated persons. With the prohibition of private arrangement/placement, all cases involving adoptions by unrelated persons will have to go through SWD for processing so as to ensure that professional assessment and support will be given to the birth parent(s), the prospective adoptive parent(s) and the child(ren) concerned. The adoption process is conducted in a transparent and open manner. An information brief highlighting the procedures and criteria for local adoptions in Hong Kong will be given to the applicants wishing to apply for adoption. Besides, they will be clearly explained of the areas of assessment and the time frame for the completion of the adoption procedures (normally 10 to 12 months from application to the grant of an adoption order).

21. While a thorough home assessment will be conducted on the suitability of the applicant to be an adoptive parent, due consideration will also be given to the wishes of the child and the bonding between the prospective adoptive parent and the child, if any. For example, if a birth parent gives a specific consent for his/her child to be adopted by an applicant who is also assessed to be suitable, the child will **not** be matched to other prospective adoptive parents any more. Even if no specific consent is available, DSW has also previously allowed adoption of DSW wards by unrelated persons without matching because of the ties between the prospective adoptive parent(s) and the child. Such specific



adoptions without matching will still be allowed after the proposed legislative amendments.

22. Moreover, a new provision under clause 31 (section 30) of the Amendment Bill has been proposed to enable an applicant, if aggrieved by DSW's decision on the assessment of his/her suitability to be an adoptive parent or termination of the adoptive placement, to appeal to the Administrative Appeal Board within 28 days after receiving the notice of DSW's decision. Members of the Administrative Appeal Board who are mostly non-official members would be able to monitor SWD's quality of decisions.

23. Members have also suggested that we consider an alternative approach of only criminalizing private adoption arrangements for profit-making purposes, by making reference to the prohibition against making surrogacy arrangements on a commercial basis as set out in the Human Reproductive Technology Ordinance (Cap.561)<sup>11</sup>. In fact, there are already similar provisions in the Adoption Ordinance restricting payments made in connection with adoption (section 22<sup>12</sup>) and

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<sup>11</sup> Section 17 of the Human Reproductive Technology Ordinance, **which are not yet in operation**, provides that :

- “(1) No person shall-
- (a) whether in Hong Kong or elsewhere, make or receive any payment for-
    - (i) initiating or taking part in any negotiations with a view to the making of a surrogacy arrangement;
    - (ii) offering or agreeing to negotiate the making of a surrogacy arrangement; or
    - (iii) compiling any information with a view to its use in making, or negotiating the making of, surrogacy arrangements;
  - (b) seek to find a person willing to do any act which contravenes paragraph (a);
  - (c) take part in the management or control of a body of persons corporate or unincorporate whose activities consist of or include any act which contravenes paragraph (a); or
  - (d) carry out or participate in any act in furtherance of any surrogacy arrangement where he knows, or ought reasonably to know, that the arrangement is the subject of any act which contravenes paragraph (a).
- (2) Without prejudice to the generality of subsection (1)(b), no person shall cause to be published or distributed, or knowingly publish or distribute, an advertisement relating to surrogacy arrangements, and whether or not the advertisement invites persons to do any act which contravenes subsection (1)(a).

<sup>12</sup> Section 22(1) of the Adoption Ordinance provides that “Save with the sanction of the Court, no person shall make or give or agree to make or give, or receive or agree to receive, or attempt to obtain, any payment, remuneration or reward whatsoever in connection, directly or indirectly, with the adoption or proposed adoption of an infant, except in consideration of the professional services of a qualified barrister or solicitor within the meaning of the Legal Practitioners Ordinance (Cap 159).” This section is proposed to be amended under the Amendment Bill to allow payments for cost and expenses reasonably incurred by ABs in the making of adoption arrangements (clause 27).

advertisements relating to adoption (section 23<sup>13</sup>). Moreover, under section 23 of the Human Reproductive Technology Ordinance, only persons/bodies licensed under the Ordinance can be engaged in the human reproductive technology procedures in the making of surrogacy arrangements and they would ensure that professional assessment and counseling services are provided to the relevant parties before deciding on whether a surrogacy arrangement involving human reproductive technology should be made. They therefore perform similar roles as SWD/ABs.

(vi) *Views of Parties Consulted*

24. Most submissions received during the public consultation in 1998 and 1999 supported the proposal. The Hong Kong Family Law Association clearly opined in support of “prior independent third party scrutiny to ensure the parent has given consent freely and the receiving couple is eligible and suited to receive a child into their care”.

(b) *Proposed Change in Timing of Notifying SWD*

25. Besides the above changes in the roles of SWD and NGOs, there will also be a change in procedure. At present, DSW is notified of a potential adoption when the applicant submits a Notice of Intention to Apply for an Adoption Order (Form 1), regardless of whether DSW is the GAL. However, if DSW is not the GAL, SWD will only be notified again vide Form 6 of further development of the case shortly before the date of the court hearing (normally 2 weeks). As a result, SWD may not have sufficient time to conclude examination of the application and decide whether to give comments during the court hearing. Also, SWD has received feedback from the Judiciary that the department should be involved in the process early.

26. We therefore propose in clause 1 of the Schedule of the Amendment Bill that Rule 9 of the Adoption Rules be amended to require the applicant to serve on DSW a copy of the Originating Summons on

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<sup>13</sup> Section 23(1) of the Adoption Ordinance provides that “Except with the written consent of the Director, no advertisement shall be published indicating-

- (a) that the parent or guardian of an infant desires to cause the infant to be adopted;
- (b) that a person desires to adopt an infant; or
- (c) that any person is willing to make arrangements for the adoption of an infant.”

Application for an Adoption Order (Form 2), which is required to be filed within four months of the filing of Form 1 (normally two months before the court hearing), even when DSW is not the GAL. This will allow SWD more time to prepare for its comments and, if necessary, the Court hearing.

### **Detailed Changes in Roles and Procedures**

27. The proposed procedures for local adoptions are Annex A. The roles of SWD and NGOs for local adoptions before and after the proposed legislative amendments are at Annex B.

### **Presentation**

28. Members may wish to take note of the information above to facilitate consideration of the Adoption (Amendment) Bill 2003.

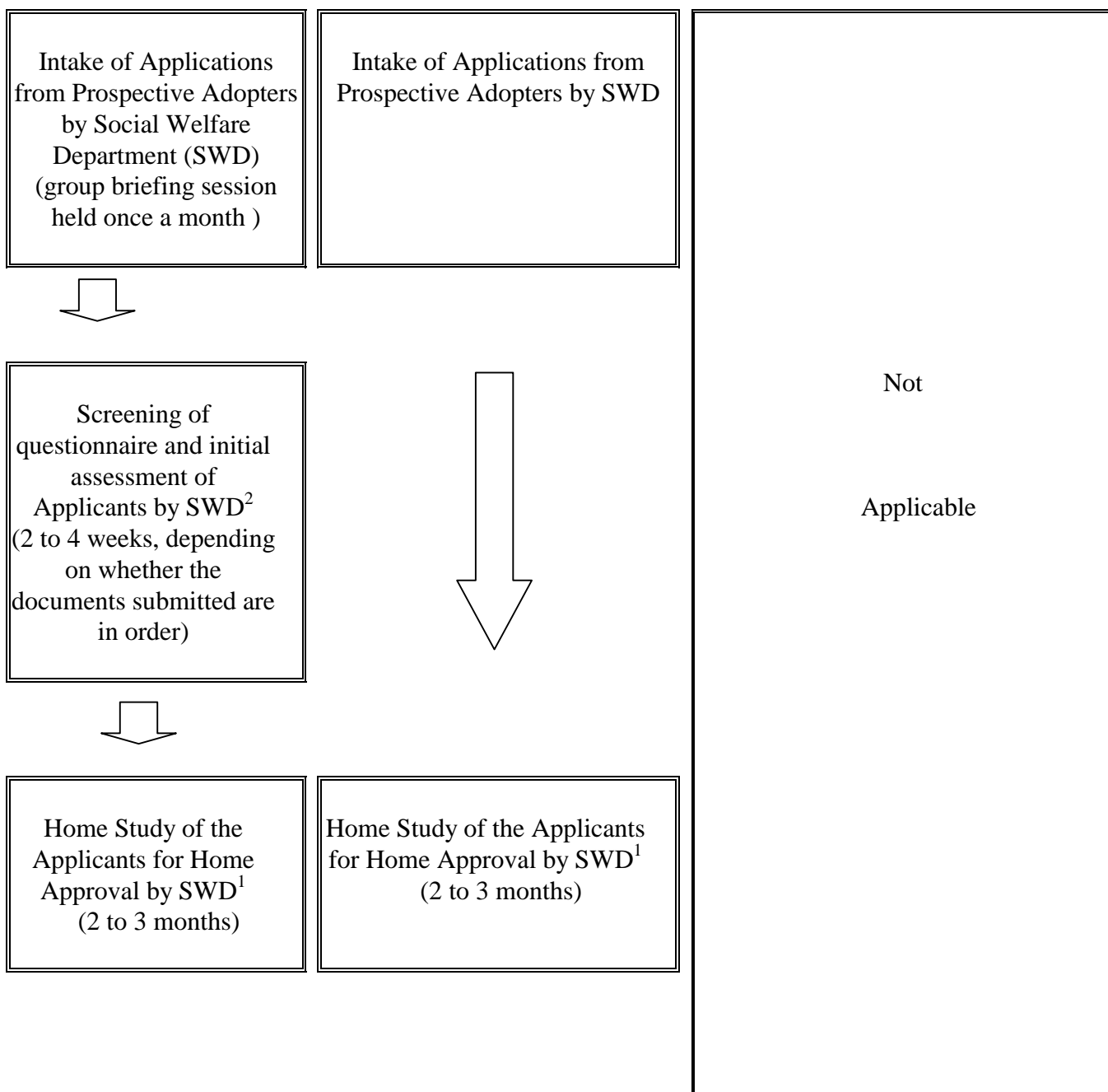
Health, Welfare and Food Bureau  
February 2004

**Adoption Arrangements: Revised Procedure for Local Adoptions**

**Adoption of DSW Wards**

**Unrelated Adoption of Non-DSW Wards involving SWD**

**Privately Arranged Adoption (Non-DSW Wards) Related Adoptions only<sup>1</sup>**



<sup>1</sup> Administratively, applicants intending to make related adoptions may also approach SWD for assistance and the procedure in the second column for ‘unrelated adoption of non-DSW wards involving SWD’ will apply.

<sup>2</sup> In view of the small number of local unrelated adoptions, initially, SWD will assume the role of assessment of the suitability of prospective adopters. Whether NGOs may be authorized by DSW to assist in the assessment and placement is subject to future development.

**Adoption of DSW Wards**

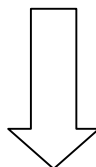
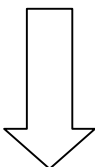
**Unrelated Adoption of Non-DSW Wards involving SWD**

**Privately Arranged Adoption (Non-DSW Wards) Related Adoptions only<sup>1</sup>**

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Matching Prospective Adopters with Children Ready for Adoption by SWD  
(2 to 3 weeks)



*[Six Months Before an Adoption Order can be made]*

- (i) Adoption Placement (at least 6 months or 13 weeks as the case may be); and
- (ii) Lodging of the Notice of Intention to Apply for an Adoption Order with SWD by applicants or their representatives

*[Six Months Before an Adoption Order can be made]*

- (i) Adoption Placement (at least 6 months or 13 weeks as the case may be); and
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**Adoption of DSW Wards**

**Unrelated Adoption of Non-DSW Wards involving SWD**

**Privately Arranged Adoption (Non-DSW Wards) Related Adoptions only<sup>1</sup>**

(a) SWD to visit and examine the child under section 21(1) of the Adoption Ordinance.

(b) DSW is normally the guardian ad litem (GAL) of the child to investigate all relevant circumstances to the proposed adoption and to make a report to Court for that purpose.

<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>
(a)SWD to visit and examine the child under section 21(1) of the Adoption Ordinance.	SWD to visit and examine the child under section 21(1) of the Adoption Ordinance.
(b)DSW will take up the role of GAL as set out in item (b) of the first column.	

<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>
(a)SWD to visit and examine the child under section 21(1) of the Adoption Ordinance.	SWD to visit and examine the child under section 21(1) of the Adoption Ordinance.
(b)DSW will take up the role of GAL as set out in item (b) of the first column.	



*[Within four months after the lodging of the Notice of Intention to Apply for an Adoption Order]*

Formal Application for an Adoption Order to be submitted to the Court

<i>[Within four months after the lodging of the Notice of Intention to Apply for an Adoption Order]</i>	
<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>
Formal Application for an Adoption Order to be submitted to the Court	SWD to be notified

<i>[Within four months after the lodging of the Notice of Intention to Apply for an Adoption Order]</i>	
<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>
Formal Application for an Adoption Order to be submitted to the Court	SWD to be notified



**Adoption of DSW Wards**

**Unrelated Adoption of Non-DSW Wards involving SWD**

**Privately Arranged Adoption (Non-DSW Wards) Related Adoptions only<sup>1</sup>**

<i>[Shortly before the court hearing]</i>	<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>	<u>If DSW is the GAL</u>	<u>If DSW is not the GAL</u>
<p>(a) DSW as the GAL to submit a detailed report on the circumstances relating to the adoption and his/her recommendation on the application.</p>	<p><i>[Shortly before the court hearing]</i></p> <p>(a) DSW as the GAL to submit a detailed report on the circumstances relating to the adoption and his/her recommendation on the application.</p> <p>(b) DSW as the GAL will serve a notice of hearing of application for an adoption order on the relevant parties whose consent is required</p>	<p><i>[Shortly before the court hearing]</i></p> <p>(a) The GAL (NGOs or others appointed by the Court) will submit a detailed report as described in the first column.</p> <p>(b) The GAL will also serve a notice of hearing of application for an adoption order on DSW and the relevant parties whose consent is required</p> <p>(c) SWD may provide comments on the application as necessary</p>	<p><i>[Shortly before the court hearing]</i></p> <p>(a) DSW as the GAL to submit a detailed report on the circumstances relating to the adoption and his/her recommendation on the application.</p> <p>(b) DSW as the GAL will serve a notice of hearing of application for an adoption order on the relevant parties whose consent is required</p>	<p><i>[Shortly before the court hearing]</i></p> <p>(a) The GAL (NGOs or others appointed by the Court) will submit a detailed report as described in the first column.</p> <p>(b) The GAL will also serve a notice of hearing of application for an adoption order on DSW and the relevant parties whose consent is required</p> <p>(c) SWD may provide comments on the application as necessary</p>



**Adoption of DSW Wards**

**Unrelated Adoption of Non-DSW Wards involving SWD**

**Privately Arranged Adoption (Non-DSW Wards) Related Adoptions only<sup>1</sup>**

Court Hearing



The Court to make a decision on whether to grant an adoption order or postpone the decision by making an interim order



Successful applicants to collect the Adoption Order and Adoption Certificate



**Changes in Roles of Social Welfare Department and Non-Governmental Organizations  
in Local Adoptions as a result of the Adoption (Amendment) Bill 2003**

<b>Types of Adoptions</b>	<b>Present Roles</b>		<b>Future Changes in Roles, if any</b>	
	<b>SWD</b>	<b>NGOs</b>	<b>SWD</b>	<b>NGOs</b>
Unrelated adoption (DSW wards)	<ul style="list-style-type: none"> <li>• DSW assumes the whole responsibility of monitoring the child's permanency plan, including identification of the best available local adoptive home for him/her</li> <li>• SWD is the sole authority for taking forward the local adoption of these children and is normally the guardian ad litem. It conducts home studies, supervises adoption placement and makes recommendations to the Court on whether the adoption should proceed</li> </ul>	<ul style="list-style-type: none"> <li>• No involvement</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> </ul>

<b>Types of Adoptions</b>	<b>Present Roles</b>		<b>Future Changes in Roles, if any</b>	
	<b>SWD</b>	<b>NGOs</b>	<b>SWD</b>	<b>NGOs</b>
Unrelated adoption (private arrangement)	<ul style="list-style-type: none"> <li>Applicants may directly approach SWD for lodging their intention to apply for an adoption order. When the applicant proceeds to apply to the Court for an adoption order, he must notify DSW who may visit and examine the child concerned under Section 21(1) of the Adoption Ordinance.</li> </ul>	<ul style="list-style-type: none"> <li>No involvement except where the NGO staff may be appointed as the guardian ad litem by the Court</li> </ul>	<ul style="list-style-type: none"> <li>With the prohibition of privately-arranged unrelated adoption, all these cases shall go through SWD for arrangements of placement and application for an adoption order</li> </ul>	<ul style="list-style-type: none"> <li>In view of the small number of local unrelated adoptions, initially, SWD will make arrangements for these cases. NGOs, upon accreditation as Accredited Bodies may be authorized by SWD to assist in the assessment of the suitability of the prospective adoptive parents and arranging for the adoption placement as and when the need arises.</li> </ul>

Types of Adoptions	Present Roles		Future Changes in Roles, if any	
	SWD	NGOs	SWD	NGOs
	<ul style="list-style-type: none"> <li>If the birth parent desires to give specific consent to an unrelated person (e.g. a friend) for the child's adoption, SWD will assess the suitability of this person and whether it is in the best interests of the child before proceeding further.</li> </ul>	<ul style="list-style-type: none"> <li>No involvement</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>	<ul style="list-style-type: none"> <li>Same as above.</li> </ul>
Related adoption (i.e. parents, uncles, aunts or other relatives as defined in the Adoption Ordinance)	<ul style="list-style-type: none"> <li>Applicants may directly approach SWD for lodging their intention to apply for an adoption order. When the applicant proceeds to apply to the Court for an adoption order, he must notify DSW who may visit and examine the child concerned under Section 21(1) of the Adoption Ordinance.</li> </ul>	<ul style="list-style-type: none"> <li>NGOs may make arrangements for adoption by related persons.</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>

<b>Types of Adoptions</b>	<b>Present Roles</b>		<b>Future Changes in Roles, if any</b>	
	<b>SWD</b>	<b>NGOs</b>	<b>SWD</b>	<b>NGOs</b>
All Adoptions	<ul style="list-style-type: none"> <li>Where DSW is appointed as the guardian ad litem in the adoption proceedings, SWD is required to prepare a report to the Court about the circumstances relating to the adoption and its recommendation on the application</li> </ul>	<ul style="list-style-type: none"> <li>The Adoption Rules provide that some person other than DSW could be appointed as the guardian ad litem if the applicant so desires and applies to the Court. The judge may appoint such person (e.g. social worker, teacher, clinical psychologist) as he thinks fit to be the guardian ad litem .</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>

Types of Adoptions	Present Roles		Future Changes in Roles, if any	
	SWD	NGOs	SWD	NGOs
	<ul style="list-style-type: none"> <li>If DSW is the GAL, when a date is fixed for hearing the application, DSW shall (pursuant to Rule 16 of the Adoption Rules) serve a notice of hearing on every person whose consent is required under section 5(5). If DSW is not the guardian ad litem, the guardian ad litem is still required to serve the notice of hearing on the DSW as well.</li> </ul>	<ul style="list-style-type: none"> <li>For cases with DSW as the guardian ad litem, DSW may appoint an agent, possibly an NGO, to interview the applicant(s) and other relevant parties as required under Rule 13 of the Adoption Rules. However, this is not DSW's practice at the moment.</li> </ul>	<ul style="list-style-type: none"> <li>The applicant is required to notify DSW again when he/she submits a formal application for adoption to the Court (i.e. Form 2 of the First Schedule in the Adoption Rules), regardless of whether DSW is the guardian ad litem. In this regard, the formal application will come to the attention of DSW at an earlier stage.</li> </ul>	<ul style="list-style-type: none"> <li>No change</li> </ul>

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