

For information  
on 11 March 2004

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

### **Breakdown on Categories of Relatives**

#### **Purpose**

This paper informs Members of the breakdown on the categories of relatives for local adoption by related persons known to the Social Welfare Department (SWD) in recent years.

#### **Background**

2. At the meeting on 4 March 2004, Members requested information on, among others, a breakdown on the categories of relatives for local adoption by related persons in recent years.

#### **Definition of Relatives**

3. According to section 2 of the Adoption Ordinance (Cap.290), 'relative' is defined as grandparent, brother, sister, uncle or aunt, whether of full-blood, half-blood or affinity, and includes :

- (a) where an adoption order has been made in respect of the infant or any other person under the Ordinance, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock;
- (b) where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of his mother and father.

#### **Statistics**

4. According to the local adoption cases known to SWD, the breakdown of the categories of relatives is shown at the Annex. As revealed in the statistics, most of the relatives involved in the past three years were paternal or maternal uncles or aunts, with a small number of paternal grandparents. As explained at the last Bills Committee meeting, for adoption by related persons, the court would need to be satisfied that the applicant (adoptive parent) is indeed the relative before granting the adoption order.

### **Presentation**

5. Members may wish to take note of the contents of this information note.

Health, Welfare and Food Bureau  
March 2004

**Breakdown of the Categories of Relatives for Local Adoptions in the Past Three Years  
(for 2001 to 2003)**

Year	Prospective Adoptive Parent's relationship with the Child						Total
	Paternal Uncle i.e. 伯父、叔父、姑丈	Paternal Aunt i.e. 伯母、叔母、姑母	Maternal Uncle i.e. 舅父、姨丈	Maternal Aunt i.e. 舅母、姨母	Paternal Grandparents i.e. 祖父母	Maternal Grandparents i.e. 外祖父母	
<b>2001</b>	3	2	2	1	0	0	<b>8</b>
<b>2002</b>	1	1	0	4	0	2	<b>8</b>
<b>2003</b>	2	4	1	5	0	1	<b>13</b>
<b>Total</b>	<b>6</b>	<b>7</b>	<b>3</b>	<b>10</b>	<b>0</b>	<b>3</b>	<b>29</b>



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



立法會  
LEGISLATIVE COUNCIL

**By Fax : 2524 7635**

來函編號 : YOUR REF :  
本函編號 : DEPT : CB2/BC/12/02  
電話 : TELEPHONE : 2869 9594  
傳文傳真 : FAX : 2509 0775

17 February 2004

Secretary for Health, Welfare and Food Bureau  
(Attn : Miss Diane WONG)  
8<sup>th</sup> floor, West Wing  
Central Government Offices  
11 Ice House Street  
Hong Kong

Dear Miss WONG,

**Bills Committee on  
Adoption (Amendment) Bill 2003**

I attach a submission from the Hong Kong Family Law Association for your reference. I should be grateful if you would provide the Administration's response to the issues raised therein.

With best regards,

Yours sincerely,

(Raymond LAM)  
for Clerk to Bills Committee

Encl.

TO 25247635  
Vice-chairman  
Miss Sharon Ser  
Hon. Treasurer  
Mr. Jonathan Mok  
Hon. Secretary  
Miss Wendy Lam

President  
Miss Elsie Leung  
Vice President  
Miss Jacqueline Leung, QC. SC

2847 2470  
2843 2244  
2533 2529

17 February 2004

**& BY POST**

Mrs. Sharon Tong  
Clerk to Bills Committee  
Legislative Council Building  
Jackson Road  
Central, Hong Kong

Dear Mrs. Tong,

**Re: Bills Committee on Adoption (Amendment) Bill 2003**

Mr. Barnes, the Chairman of the Hong Kong Family Law Association has passed to me your letter of the 21<sup>st</sup> January 2004 addressed to him, and following deliberations by the Executive Committee of the Hong Kong Family Law Association, he has asked me to write to you in response to your letter of the 21<sup>st</sup> January 2004.

May I first of all say that the Hong Kong Family Law Association was delighted to be invited to convey their views to the Bills Committee, and we are indebted to you for being given the opportunity to do so.

The Family Law Association was essentially in favour of the proposed amendments to the Adoption (Amendment) Bill 2003.

We completely agreed with paragraph 10 of the Legislative Council Brief, which proposes to amend the Adoption Ordinance to prohibit a person or an organisation other than SWD or adoption agencies authorised by SWD to make arrangements for

Mrs. Sharon Tong  
17 February 2004

the adoption of a child, with the exception of adoption of a child by his/her birth parent or relative, or save pursuant to an Order of the Court.

We further agreed with the proposal set out in paragraph 14 of the Legislative Council Brief insofar as proposed overseas adoptions were concerned.

Similarly, we had no objections to the proposed changes as set out in paragraphs 15, 17 and 19 of the Brief.

As far as paragraph 20 of the Brief was concerned, which set out details of the proposed penalty for breach of the ordinance, we accept that the penalties do have to be increased in order to take into account current values, but since these are matters that concern the welfare of a child, the financial penalty levels still seem to be rather low at their maximum, and we were surprised that no custodial sentences have been considered for any proposed breach, especially, say, in relation to the unauthorised private adoptions.

The Family Law Association agreed to the proposed amendments as are set out in paragraphs 24, 26, 27, 28, 30 and 32 of the Brief.

We did have concerns about the Root-tracing System as set out in paragraphs 33 to 35. In our view, the rights of the adopted child have to be of paramount interest. It is the adopted child who has to deal with identity issues once that child has learned that he or she is adopted. Given that the adopted child will actually be an adult at 18 when the mechanism will start to work for Root-tracing, we did not agree that a power of veto that might be exercised by a birth parent should apply until such time as the birth parent had either withdrawn the veto or had passed away. We did not accept that the birth parents' right of privacy overrode the right of the adopted person to ascertain information concerning his/her birth parents, and background.

The Family Law Association had no concerns insofar as the Textual and Formatting changes were concerned, and we accept and endorse the proposals concerning Inter country adoption and we were delighted that Hong Kong was fully embracing the provisions of the Hague Convention in this regard.


Essentially the Family Law Association thought the proposed amendments were progressive and helpful and, with respect, we thought the rationale behind the changes, and indeed as expressed in the Legislative Council Brief, were well thought out and well drafted.

The Family Law Association welcomes and supports the idea of "open adoption", in order to facilitate that any perceived stigma or embarrassment associated with adoption is eradicated at an early stage by children and adoptive parents speaking openly about the adoption process, and even in some circumstances having limited contact with the birth parents. Such a concept has been fully embraced in the U.K. and we believe that such a concept has scope here in Hong Kong also. We believe that the very progressive approach adopted by the Bills Committee on the Adoption (Amendment) Bills of 2003 is an important step in the direction of greater transparency in matters concerning adoption, and that we would fully endorse.

Mrs. Sharon Tong  
17 February 2004

If we can be of any further assistance to you then do please contact us at the Hong Kong Family Law Association.

Yours sincerely,



Sharon A. Ser  
Executive member of  
The Hong Kong Family Law Association

SAS/381694/es