

# 立法會

## Legislative Council

(Revised)

LC Paper No. LS63/03-04

### Adoption (Amendment) Bill 2003

#### Summary of Cross References to facilitate Clause-by-clause Scrutiny

Clause No.	Section no. cited	Marked-up copy page	Summary of provision
4(a)	20C(2)	17	Adoption order made under s.4 (power of Court to make adoption orders) shall be made as a Convention adoption order if the application is made in respect of a Convention adoption.
4(f)	26	23	DSW may approve accredited bodies.
7(a)	20C(3)	17	Application for the grant of a Convention adoption order shall be in Court of First Instance.
8(a)	4(a)	2	Court order authorizing sole applicant to adopt.
8(a)	4(b)	2	Court order authorizing applicants who apply jointly as 2 spouses to adopt.
8(a)	5(1)(b)	3	Court shall not make adoption order unless, inter alia, applicant is a relative of infant and has attained 21 years.
8(a)	5(1)(d)	3	Court shall not make adoption order unless, inter alia, applicant has attained 25 years.
8(b)	20C(4)	17	Certain sections not applied to Convention adoption orders.
8(c)	5(5C)	4	Parent may revoke consent within 3 months.
8(c)	5(5D)	4	Parent given consent, 3 months expired, apply to Court of First Instance for order to revoke consent.
8(e)	20C(5)	17	Conditions that CFI may make a Convention adoption order.
8(g)	5(7)	4	Conditions for an adoption order.
9	5(7)(b)	4	Notice of intention to apply for adoption order.
9	27(1) or (2)	Eng 24, Chi 23	(1) a person resident in HK may apply to DSW for assessment of suitability to be adoptive parent of an infant he is neither parent nor relative. (2) where a person habitually resident in HK intends to make an intercountry adoption, he shall apply to DSW as Central Authority in HK for assessment of his suitability as adoptive parent.

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9	27(3)(a) and (b)	Eng 24, Chi 23	Written application together with information DSW may require, and notice authorizing CP to inform DSW of conviction.
9	28	24	Duty of DSW to check criminal record.
9	27(3)	Eng 24, Chi 23	Written application together with information DSW may require, and notice authorizing CP to inform DSW of conviction.
11-12	5(5)(a)	3	Adoption order not be made except with consent of parent or guardian.
13	5(1)(c)	3	Court shall not make adoption order unless applicant is a person married to birth parent and infant born in wedlock
13	5AA	5	Applicant's authorization for criminal record check.
13	27(3)	Eng 24, Chi 23	Written application together with information DSW may require, and notice authorizing CP to inform DSW of conviction.
14	20C(7)	17	Provisions relating to interim orders not applied to Convention adoption order.
16	5(1)(c)	3	Court shall not make adoption order unless applicant is a person married to birth parent and infant born in wedlock.
18	15(1)(b)	11	Devolvement of property on intestacy of adopter or adopted person after making of order.
18	15(2)(b)	11	Disposition of property by will after date of adoption order, reference to child of the adopted person's birth parents shall be construed as not being or not including reference to the adopted person.
19	paragraph (b) of definition of "Convention adoption" in s. 20A(1)	16	"Convention adoption" means an adoption to which the Convention applies and for the purposes of s. 20F, whether or not HK acts as the State of origin or the receiving State.
19	20A(1)	16	Interpretation of Part 5
21	1(1)(a) of Schedule 1	Eng 26, Chi 25	Registration of adoptions outside HK, upon request of DSW, if Registrar of Births and Deaths satisfied that DSW has furnished sufficient particulars, he shall make entry into Adopted Children Register.

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21	1(1)(b) of Schedule 1	Eng 26, Chi 25	Registration of adoptions outside HK, Registrar of Births and Deaths may mark "Adopted" or "Re-adopted" in entry on the conditions prescribed therein.
21	19	14	Registration of adoptions
21	Schedule 1	26	Registration of certain adoptions made outside HK
22	Schedule 2	27	Form of entry in Adopted Children Register
22	1(4) of Schedule 1	Eng 26, Chi 25	Definition of "registrable adoption made outside Hong Kong" in section 1, Schedule 1.
24 & New s.20A	20C(2)	17	Adoption order made under s.4 shall be made as a Convention order if the application is made in respect of a Convention adoption.
New s.20A	Article 2 of Convention	Eng 28, Chi 27	Situations in which the Convention applies.
New s.20A	Article 3 of Convention	Eng 28, Chi 27	Condition when the Convention ceases to apply.
New s.20A	20F	18	Recognition of Convention adoption outside HK
New s.20A	Article 23 of Convention	Eng 32, Chi 30	Adoption certified by competent authority as made in accordance with the Convention shall be recognized by operation of law in other Contracting States.
New s.20A	Article 2(1) of Convention	28	The Convention shall apply where a child habitually resident in the State of origin has been, is being, or is to be moved to the receiving State either after adoption by spouses or a person habitually resident in receiving State, or for the purposes of such an adoption.
New s.20A(2)	20D(1)	17	Secretary for Health, Welfare and Food may by order in the Gazette declare a State or certain territorial unit of a state as a Contracting state.
New s.20B	Schedule 3	Eng 28, Chi 27	"Relevant Provisions of Convention..."
New s.20C(2)	4	2	Power of Court of First Instance to make orders authorizing adoption.
New s.20C(4)	5(5)(a)	3	Consent of parent or guardian required for making of adoption order.
New s.20C(4)	5(5A)	3	Parent shall give consent on prescribed form.
New s.20C(4)	5(5B)	4	Parent ceases to have parental rights, duties, obligations and liabilities from the execution of consent.

<b>Clause No.</b>	<b>Section no. cited</b>	<b>Marked-up copy page</b>	<b>Summary of provision</b>
New s.20C(4)	5(5C)	4	Parent may revoke consent within 3 months.
New s.20C(4)	5(5D)	4	Parent given consent, 3 months expired, apply to Court of First Instance for order to revoke consent.
New s.20C(4)	5(5E)	4	Where parent revokes consent or court makes an order revoking a consent, parental rights, duties, obligations and liabilities vests in the parent.
New s.20C(4)	5(5F)	4	DSW be guardian ad litem of infant after consent by parent or infant has no guardian.
New s.20C(4)	5A	5	Court of First Instance may make order declaring infant free for adoption on application by DSW.
New s.20C(4)	5B	5	Person whose consent is required may apply for revocation of s. 5A order.
New s.20C(4)	6	6	Court may dispense with consent on prescribed conditions.
New s.20C(4)	7	7	Evidence of consent of parent or guardian.
New s.20C(5)	5(6)	4	Adoption order shall not be made unless applicant and infant reside in HK.
New s.20C(6)	8(1)(a)	8	Before making adoption order, Court must be satisfied that consent has been given and the person understands effect of order.
New s.20C(7)	9	9	Court may make interim order giving custody not exceeding 2 years.
New s.20D(2)& New s.20E(2)	Article 14 of Convention	Eng 30, Chi 29	Persons habitually resident in one Contracting State wishing to adopt child in another Contracting State shall apply to the Central Authority in the State of their habitual residence.
New s.20E(3)	Article 15 of Convention	Eng 30, Chi 29	If Central Authority of Receiving State satisfied that the applicants are eligible and suited to adopt, it shall make a report to the Central Authority of the State of Origin.
New s.20E(3)	Article 16 of Convention	Eng 30, Chi 29	Actions Central Authority of the State of Origin must take if it is satisfied that child is adoptable.
New s.20F(2)	20G	19	Conditions on which the Court may direct that a Convention adoption not recognized as full adoption (defined in the section).

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New s.20F(2)	20H	19	Court may declare a Convention adoption not be recognized in HK on ground of manifestly contrary to public policy.
New s.20G(1)& New s.20H(1)	20F(1)	18	This section applies to Convention adoption made in accordance with the provisions of the Convention in a Contracting State or any other part of the PRC where the Convention is in force.
New s.20G(1)	20F(2)	18	A Convention adoption has same effect as an adoption order made under the Adoption Ordinance.
New s.23C(1)	23B	22	(1) Court may make order passing care and control of infant to a person authorized by DSW with a view to adoption by a person not residing in HK (2) Conditions for making such an order.
New s.26	20E(4)	18	DSW may delegate his functions as the Central Authority to accredited bodies.
New s.26	23A(1)	21	Restriction on arranging adoption or placing infant for adoption, unless the prospective adopter is a parent or relative, or pursuant to order of Court.
New s.27	20E(2)	18	Application by a person habitually resident in Hong Kong for inter-country adoption shall be made to DSW as Central Authority.
New s.29(3)	6(4)	7	While application for adoption order pending, parent or guardian who signified consent not entitled to remove infant from applicant except with leave of Court.
Schedule para. 1	5(5F)	4	DSW be guardian ad litem of infant after consent by parent or infant has no guardian.
Schedule para. 2	5(1)(c)	3	Court shall not make adoption order unless applicant is a person married to birth parent and infant born in wedlock.
Schedule para. 3	7(2)	8	Where a document signifying consent to adoption order is attested by a Commissioner for Oaths or a prescribed person, it shall be admissible without further proof of signature. The attestation shall be deemed duly attested.

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