

For discussion
on 7 June 2004

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

**Proposed Committee Stage Amendments on
Accreditation Principles**

Purpose

This paper sets out the rationale for the proposed Committee Stage Amendments to the Adoption (Amendment) Bill in respect of the accreditation principles.

Background

2. At the meeting of the Bills Committee on 7 June 2004, in considering the draft CSAs on the Accreditation Principles (new Schedule 4), Members noted that the accreditation principles set out therein were adapted from Articles 10 and 11 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention, relevant extract at Annex A). Members indicated that in relation to Accredited Bodies undertaking local adoption, there might be scope for setting out the accreditation principles in more specific terms.

Local Adoption

3. Following the meeting on 7 June 2004, we have sought the views

of 5 NGOs¹ on a set of accreditation principles (Annex B). Such principles had previously been incorporated in the Consultation Document on NGOs's role in local adoption discussed in April 2004. The NGOs are content with the principles. Their replies are set out in Annex C. On the basis of Articles 10 and 11 of the Hague Convention and the principles set out in Annex B, we have prepared a set of revised CSAs at Annex D.

Revised CSAs

4. Accredited Bodies undertaking intercountry adoption would be accredited by the Director of Social Welfare in accordance with the principles set out in Articles 10 and 11 of the Hague Convention [revised section 26(1)]. For local adoption, the Director may accredit bodies in accordance with the principles set out in Schedule 4 [new section 26(2)].

New Schedule 4

5. The accreditation principle in paragraph 1 of Schedule 4 relates to the experience and resources of accredited bodies. This principle reflects Article 10 of the Hague Convention, as well as item 4 and part of item 6 of the principles set out in Annex B and with which the 5 NGOs agreed.

6. The accreditation principle in paragraph 2(a) stipulates that the accredited body shall be a charitable institution exempted from tax under s88 of the Inland Revenue Ordinance. This reflects Article 11(a) of the Convention, and item 2 of the principles set out in Annex B.

¹ The five NGOs consulted were :

- (a) Mother's Choice and International Social Service Hong Kong Branch which provide services relating to intercountry adoptions and are members of the revamped Working Group on Review of the Adoption Ordinance;
- (b) Caritas Hong Kong which used to provide services relating to intercountry adoption and is a member of the revamped Working Group on Review of the Adoption Ordinance;
- (c) Hong Kong Family Welfare Society which has an interest in adoption matters and is a member of the revamped Working Group on the Review of the Adoption Ordinance; and
- (d) Po Leung Kuk which should have the capacity to provide adoption services as it provides nearly all types of residential services for vulnerable children and women including place of refuge for children, women shelter, small group homes, foster care, residential crèches and nurseries, and so on.

7. The accreditation principles in paragraphs 2(b) and (c) refer to the qualifications of the supervisory personnel and those working on the adoption team in the accredited body. This reflects Article 11(b) of the Hague Convention, as well as item 3 and part of item 6 of the principles set out in Annex B.

8. Paragraph 2(d) refers to effective internal procedures to supervise the operation of the accredited body. This reflects Article 10 of the Hague Convention (bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted), as well as item 5 and part of item 6 of the principles set out in Annex B.

Conclusion

9. Members may wish to note the contents of this paper in going through the attached set of proposed Committee Stage Amendments.

Health, Welfare and Food Bureau
June 2004

Articles 10 and 11 of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall –

- a)* pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b)* be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c)* be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Annex B

Accreditation Principles for Local Adoption circulated to and agreed with the Five Non-Governmental Organizations

1. The agency complies with the law of HKSAR and follows the principles laid down in Article 10 and 11 of the Hague Convention.
2. The agency operates as an approved charitable organization registered under section 88 of the Inland Revenue Ordinance (Cap. 112).
3. There is a designated section in the agency directed by persons with appropriate qualifications and staffed by social workers who have registered in the Social Workers Registration Board, Hong Kong under the Social Workers Registration Ordinance (Cap. 505) to undertake home assessment and placement tasks for the purpose of adoption.
4. The agency has specialized experience in providing adoption or child welfare services.
5. There is a mechanism set up by the management of the agency to monitor the adoption work of the agency.
6. The agency has a clearly delineated organization structure, resources to make adoption arrangement for children, and a written policy and working procedures governing the work of the agency.

CHILDREN'S SERVICES

42B Kennedy Road,

Hong Kong

Tel: 2537 4122

Fax: 2537 7681

兒童服務

香港

堅尼地城42號B

電話: 2537 4122

傳真: 2537 7681

E-mail: foster@motherschoice.com

adoption@motherschoice.com

sgh@motherschoice.com



Mother's Choice

母親的抉擇

Ms. Susie S.Y. Ho
Deputy Secretary
Health, Welfare and Food Bureau
Government Secretariat
20/F., Murray Building
Garden Road, Hong Kong

June 8, 2004

Dear Susie:

Thank you for your letter of June 7, 2004 from Ms. Wendy Cheung and the informative meeting we had with you and Diane as well as Brenda and Tiffany from Caritas, regarding proposals on accreditation principles for local adoption and other areas of the Adoption Ordinance. We understand that further discussion will take place following the implementation of accreditation, and that there will continue to be an atmosphere of transparency and openness that will allow us to work together to provide the best service for children awaiting adoption, birth families choosing adoption and adoptive families. We understand from you also that a review will take place two years after implementation. In this light, we have no additional comments to make at this stage.

We greatly look forward to our continuing partnership in working closely with the Social Welfare Department. We sincerely trust and appreciate your efforts, and those of the Legislative Council Adoption Bills Committee in reviewing the Adoption Ordinance. Thank you very much.

Yours sincerely,
For and on behalf of Mother's Choice,

Gretchen D. Ryan
Managing Director

c.c. Ms. Wendy Cheung, Assistant Secretary (Welfare), Health, HWFB
Ms. Diane Wong, Principal Assistant Secretary (Welfare), HWFB
Ms. Brenda Ku, Supervisor, Caritas-Hong Kong
Dr. Joyce Chang, Director, Caritas-Hong Kong

} w/s copies



香港公益金資助機構
A BENEFICIARY OF THE COMMUNITY CHEST



香港公益金會員機構
A MEMBER AGENCY OF THE COMMUNITY CHEST



General Secretariat, Geneva, Switzerland
Consultative status with the Economic
and Social Council of the United Nations

香港國際社會服務社 International Social Service Hong Kong Branch

贊助人：董趙洪嬌女士，太平紳士
Patron : Mrs. Betty Tung, J.P.

9 June 2004

顧問委員會

主席
何享邦先生

副主席
高世杰先生

總務司庫
鍾嘉年先生

馬永新教授，太平紳士

蔡惠靈夫人，M.B.E.，太平紳士

郭偉健先生

羅蘭士先生

馬登夫人，M.B.E.，太平紳士

譚耀宗議員，G.B.S.，太平紳士

行政總監
邱浩波先生，太平紳士

Advisory Committee

Mr. C. P. Ho
(Chairman)

Mr. Larry S. K. Ko
(Vice Chairman)

Mr. Kenneth P. Chung
(Hon. Treasurer)

Prof. Nelson W. S. Chow, J.P.

Mrs. Peter Choy
M.B.E., J.P.

Mr. Kenneth Kwok

Mr. Anthony Lawrence

Mrs. Anne Marden
M.B.E., J.P.

The Hon. Tam Yiu Chung
G.B.S., J.P.

Chief Executive
Mr. Stephen Yau, J.P.

Ms. Wendy Cheung
Health, Welfare and Food Bureau
20/F, Murray Building
Garden Road
Hong Kong

Via fax: 2524 7635

Dear Wendy,

Re: Proposed Legislative Proposals on Accreditation Principles for Local Adoption

I refer to your letter of June 7, 2004, the proposed legislative provisions and our subsequent conversation on the captioned subject.

We have no further comments on the accreditation principles for local adoption. In fact, the same set of principles should apply to intercountry adoption and be laid down in the Ordinance as well.

Thank you for your attention.

Yours sincerely,


Stephen Yau
Chief Executive

香港灣仔軒尼詩道130號修頓中心6字樓

6th Floor, Southern Centre, 130 Hennessy Road, Wanchai, Hong Kong

電話: 2834 6863 Fax 傳真: 2834 7627 E-mail Address 電子郵件: isshk@isshk.org Website 網址: www.isshk.org



香港明愛
CARITAS - HONG KONG

THE OFFICIAL SOCIAL SERVICE AGENCY OF THE ROMAN CATHOLIC CHURCH IN HONG KONG
天主教香港教區社會服務機構

BY HAND AND BY FAX (2524 7635)

Our Ltr. Ref. CSW/G/0228/2004

9 June 2004

Ms Susie Ho
Deputy Secretary (Welfare)
Health, Welfare and Food Bureau
20/F Murray Building
Garden Road
Hong Kong

Dear Ms Ho

Thank you for arranging a meeting for us and Gretchen and Vivian of Mother's Choice in such a rush. We appreciate very much of the openness of the meeting and your proposal of a review on the implementation of accreditation in two years' time.

In regard to the proposed accreditation principles for local adoption presented to us on June 7, we have no further comments.

As you shared in today's meeting, we are looking to have a trustworthy partnership with Social Welfare Department and all accredited bodies in handling the local and intercountry adoptions. Once again, we appreciate the work and effort you and your office have done in the review of the Adoption Ordinance.

Yours sincerely

Dr Joyce S.H. Chang, JP
Director
Social Work Services

BK/cl

c.c. Ms Diane Wong, Principal Assistant Secretary
Ms Gretchen Ryan, Managing Director, Mother's Choice



*Views of the Hong Kong Family
Welfare Society*



"Cecilia Kwan"
<ckwan@hkfws.org.hk>

To: "Wendy ST CHEUNG" <wstcheung@hwfb.gov.hk>
cc:
Subject: Re: Adoption

09/06/2004 10:26
 Urgent
 Return Receipt

Dear Wendy,

Refers to Annex B, I agree with the principles. It's necessary to set conditions for Accredited Bodies, in order to ensure that the organization has the mission, capability and proper infrastructure to provide quality service for the overall welfare of the child.

Thank you,
Cecilia Kwan (Mrs.)
Executive Director

**保良局**

TEL: 2277 8888 • FAX: 2576 4509

Our Ref: PLK 66 (SSD)
Tel No.: 2277 8157
Fax No.: 2890 2097

June 8, 2004

Ms. Wendy CHEUNG
Health, Welfare and Food Bureau
Mezzanine Floor, 19, 21/F, Murray Bldg.
Garden Road, Central
Hong Kong

Dear Ms. Cheung,

**Proposed Legislative Proposals on Accreditation Principles
for Local Adoption**

Thank you for your letter of 7.6.2004 on the captioned subject.

I have no further comments on the proposed legislative proposals.

Yours sincerely,

Ms YUE Mui-ying
Principal Social Services Secretary
Social Services Department

MYY/mcl

Detailed Committee Stage Amendments for the Accreditation Principles

31 (a) By adding before the proposed section 26 –

"PART 7

**ACCREDITED BODIES, SUITABILITY ASSESSMENT OF
PROSPECTIVE ADOPTERS, AND PLACEMENT, ETC.**

25. Interpretation of Part 7

(1) In this Part [and Schedule 4](#), unless the context otherwise requires –

"adoption of overseas children" (海外兒童領養) means an adoption within the meaning of paragraph (a) of the definition of "non-Convention adoption";

"Convention adoption" (公約領養) has the meaning assigned to it by paragraph (a) of the definition of the expression in section 20A(1);

"local adoption" (本地領養) means the adoption of an infant resident in Hong Kong by a person resident in Hong Kong;

"non-Convention adoption" (非公約領養) means –

- (a) the adoption of an infant resident in a place outside the People's Republic of China by a person resident in Hong Kong, other than a Convention adoption; or
- (b) the adoption of an infant resident in Hong Kong by a person resident in a place outside the People's Republic of China, other than a Convention adoption."

- (b) By deleting the proposed sections 26, 27, 28 and 29 and substituting –

"26. Accredited bodies

(1) The Director may, in accordance with the principles set out in ~~Schedule 4~~ Articles 10 and 11 of the Convention (as defined in section 20A(1)), accredit, or renew the accreditation, of a body of persons (corporate or unincorporate) as an accredited body in relation to –

- (a) Convention adoption; or
- (b) non-Convention adoption; ~~or~~
- ~~(c) local adoption.~~

~~(2) The Director may, in accordance with the principles set out in Schedule 4, accredit, or renew the accreditation, of a body of persons (corporate or unincorporate) as an accredited body in relation to local adoption.~~

~~(3)~~ An accreditation may be subject to such conditions as the Director may reasonably impose.

~~(4)~~ Unless revoked or suspended, an accreditation shall be valid for a period of four years or such lesser period as the Director may determine when he grants or renews the accreditation.

~~(5)~~ The Director may, at any time by notice in writing served on the accredited body, amend or revoke any such condition, or impose new conditions, as may be reasonable in the circumstances.

(6) An accredited body may, while acting under and in accordance with its accreditation and subject to the

provisions of this Ordinance, make arrangements for the adoption of infants and proceed with their placement for adoption.

26A. Revocation or suspension of accreditation

~~(5)~~—The Director may, at any time by notice in writing served on an accredited body, revoke or suspend its accreditation if –

- (a) in his opinion, the accredited body is operated in a manner that is inconsistent with the principles in accordance with which it is accredited under section 26(1) or ~~(2) set out in Schedule 4~~; or
- (b) any condition of the accreditation has not been or is not being complied with by the accredited body.

26BA. Register of accredited bodies

(1) The Director shall cause to be kept, in such form as he may specify, a register of accredited bodies containing–

- (a) the name and address of every accredited body; and
- (b) such other particulars as the Director thinks fit.

32

~~(a) — In the proposed Schedule 3, in Chapter III, by deleting Articles 10 and 11.~~

~~(b) — By adding —~~

"SCHEDULE 4 [ss. 25 & 26(2)]

ACCREDITATION PRINCIPLES

1. Accreditation shall only be granted to and maintained by a body of persons (corporate or unincorporate) that demonstrates its competence to carry out properly tasks related to local adoption services, having regard to —

(a) the experience that it has in adoption services or child welfare services; and

(b) its financial status and the resources (financial or otherwise) that may be made available for providing local adoption services.

~~properly the tasks with which it may be entrusted.~~

2. An accredited body ~~shall—~~

(a) shall be a charitable institution that is exempted from tax under section 88 of the Inland Revenue Ordinance (Cap. 112);

(b) shall ensure that its local adoption services are undertaken by a team of staff designated by it for such services, and directed by persons qualified by their ethical standards and by training or experience to work in the field of local adoption;

(c) shall ensure that the team so designated includes registered social workers (as defined in the Social Workers' Registration Ordinance (Cap. 505)), and that only those registered social workers may undertake home assessment and placement tasks; and

(d) shall establish effective internal procedures to supervise its operation related to local adoption.

~~(a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities;~~

~~(b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of adoption in relation to~~

~~which the accreditation is granted or renewed; and~~

~~(c) be subject to supervision by the competent authorities as to its composition, operation and financial situation."~~

Detailed Committee Stage Amendments for the Accreditation Principles

31 (a) By adding before the proposed section 26 –

"PART 7

**ACCREDITED BODIES, SUITABILITY ASSESSMENT OF
PROSPECTIVE ADOPTERS, AND PLACEMENT, ETC.**

25. Interpretation of Part 7

(1) In this Part **and Schedule 4**, unless the context otherwise requires –

"adoption of overseas children" (海外兒童領養) means an adoption within the meaning of paragraph (a) of the definition of "non-Convention adoption";

"Convention adoption" (公約領養) has the meaning assigned to it by paragraph (a) of the definition of the expression in section 20A(1);

"local adoption" (本地領養) means the adoption of an infant resident in Hong Kong by a person resident in Hong Kong;

"non-Convention adoption" (非公約領養) means –

- (a) the adoption of an infant resident in a place outside the People's Republic of China by a person resident in Hong Kong, other than a Convention adoption; or
- (b) the adoption of an infant resident in Hong Kong by a person resident in a place outside the People's Republic of China, other than a Convention adoption."

- (b) By deleting the proposed sections 26, 27, 28 and 29 and substituting –

"26. Accredited bodies

(1) The Director may, in accordance with the principles set out in ~~Schedule 4~~Articles 10 and 11 of the Convention (as defined in section 20A(1)), accredit, or renew the accreditation, of a body of persons (corporate or unincorporate) as an accredited body in relation to –

- (a) Convention adoption; or
- (b) non-Convention adoption.~~;~~~~or~~
- ~~(c) — local adoption.~~

(2) The Director may, in accordance with the principles set out in Schedule 4, accredit, or renew the accreditation, of a body of persons (corporate or unincorporate) as an accredited body in relation to local adoption.

~~(3)~~ An accreditation may be subject to such conditions as the Director may reasonably impose.

~~(4)~~ Unless revoked or suspended, an accreditation shall be valid for a period of four years or such lesser period as the Director may determine when he grants or renews the accreditation.

~~(5)~~ The Director may, at any time by notice in writing served on the accredited body, amend or revoke any such condition, or impose new conditions, as may be reasonable in the circumstances.

(6) An accredited body may, while acting under and in accordance with its accreditation and subject to the

provisions of this Ordinance, make arrangements for the adoption of infants and proceed with their placement for adoption.

26A. Revocation or suspension of accreditation

~~(5)~~—The Director may, at any time by notice in writing served on an accredited body, revoke or suspend its accreditation if –

- (a) in his opinion, the accredited body is operated in a manner that is inconsistent with the principles **in accordance with which it is accredited under section 26(1) or ~~(2) set out in Schedule 4~~**; or
- (b) any condition of the accreditation has not been or is not being complied with by the accredited body.

26BA. Register of accredited bodies

(1) The Director shall cause to be kept, in such form as he may specify, a register of accredited bodies containing–

- (a) the name and address of every accredited body; and
- (b) such other particulars as the Director thinks fit.

32

~~(a) — In the proposed Schedule 3, in Chapter III, by deleting Articles 10 and 11.~~

~~(b) — By adding –~~

"SCHEDULE 4 [ss. 25 & 26(2)]

ACCREDITATION PRINCIPLES

1. Accreditation shall only be granted to and maintained by a body of persons (corporate or unincorporate) that demonstrates its competence to carry out properly ~~tasks related to local adoption services,~~ having regard to –

- (a) the experience that it has in adoption services or child welfare services; and
- (b) its financial status and the resources (financial or otherwise) that may be made available for providing local adoption services.

~~properly the tasks with which it may be entrusted.~~

2. An accredited body ~~shall—~~

- (a) shall be a charitable institution that is exempted from tax under section 88 of the Inland Revenue Ordinance (Cap. 112);

- (b) shall ensure that its local adoption services are undertaken by a team of staff designated by it for such services, and directed by persons qualified by their ethical standards and by training or experience to work in the field of local adoption;
 - (c) shall ensure that the team so designated includes registered social workers (as defined in the Social Workers' Registration Ordinance (Cap. 505)), and that only those registered social workers may undertake home assessment and placement tasks; and
 - (d) shall establish effective internal procedures to supervise its operation related to local adoption.
-
- ~~(a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities;~~
 - ~~(b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of adoption in relation to~~

~~which the accreditation is granted or renewed; and~~

~~(c) be subject to supervision by the competent authorities as to its composition, operation and financial situation."~~