

立法會

Legislative Council

LC Paper No. LS135/02-03

Paper for the House Committee Meeting on 20 June 2003

Legal Service Division Report on Adoption (Amendment) Bill 2003

I. SUMMARY

- 1. Objects of the Bill**

To amend certain existing provisions in the Adoption Ordinance (Cap. 290) ("the Ordinance"), and to add provisions for intercountry adoption for the purpose of giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption ("the Hague Convention") in Hong Kong.
- 2. Comments**

The Bill proposes changes and improvements to existing provisions on local adoption, and proposes to add new provisions relating to intercountry adoption to provide the statutory basis for giving effect to the Hague Convention in Hong Kong. Members may wish to refer to paragraphs 8 to 56 of the LegCo Brief for details of the proposals.
- 3. Public Consultation**

The Administration has carried out public consultation on the proposed changes to local adoption. Respondents generally supported the proposals. The Administration has also consulted non-government organizations providing, or having an interest in, adoption service and the Social Welfare Advisory Committee. They welcomed the proposals.
- 4. Consultation with LegCo Panel**

The Panel on Welfare Services discussed the proposals which were to be included in the Adoption (Amendment) Bill 2003 at its meeting on 14 April 2003.
- 5. Conclusion**

The Bill proposes amendments to various aspects of the adoption system in Hong Kong, and proposes to implement the provisions of the Hague Convention in Hong Kong. There are various policy aspects which merit consideration by Members from the policy and social points of view. While the Legal Service Division is still scrutinizing the technical aspects of the Bill, Members may wish to consider forming a Bills Committee to consider the Bill in detail.

II. REPORT

Objects of the Bill

To amend certain existing provisions in the Adoption Ordinance (Cap. 290) ("the Ordinance"), and to add provisions for intercountry adoption for the purpose of giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption ("the Hague Convention") in Hong Kong.

LegCo Brief Reference

2. HWFCR/1/5691/00(02)Pt. 22 dated 3 June 2003 issued by the Health, Welfare and Food Bureau.

Date of First Reading

3. 18 June 2003.

Comments

4. One of the main objects of the Bill is to propose changes and improvements to existing provisions on local adoptions. The proposed changes include (a) prohibiting privately arranged adoption except under certain conditions, (b) prohibiting the removal of a child out of Hong Kong by an unrelated person for the purpose of adoption without a court order, (c) requiring an applicant for an adoption order to authorize the Commissioner of Police to inform the Director of Social Welfare whether the applicant has previous convictions and if so the particulars, (d) enabling a step-parent to apply as the sole applicant for an adoption order if his spouse is the birth parent of the child born within wedlock, (e) providing for appeals against certain decisions of the Director of Social Welfare to be made to the Administrative Appeals Board, and (f) increasing the fines of certain existing offences. Details are in paragraphs 8 to 36 of the LegCo Brief.

5. The other main object of the Bill is to add provisions relating to intercountry adoption. The aim of the proposed addition is to provide the statutory basis for giving effect to the Hague Convention in Hong Kong. The Hague Convention provides for the requirements for intercountry adoptions, designation of central authorities and accredited bodies, procedural requirements in intercountry adoption, and mutual recognition of adoptions made in contracting states. The Bill proposes, inter alia, that the articles of the Hague Convention set out in the proposed Schedule 3 shall have the force of law in Hong Kong, that the Director of Social Welfare be designated as the Central Authority for Hong Kong, and that the High Court be empowered to hear adoption applications and to grant adoption orders under the Convention. Details are in paragraphs 37 to 56 of the LegCo Brief.

Public Consultation

6. According to the LegCo Brief, the Administration has carried out public consultation on the proposed changes to local adoption arrangements. Respondents generally supported the proposals. The Administration has also consulted non-government organizations providing, or having an interest in, adoption service and the Social Welfare Advisory Committee and they welcomed the proposals.

Consultation with LegCo Panel

7. The Panel on Welfare Services discussed the proposals to be included in the Adoption (Amendment) Bill 2003 at its meeting on 14 April 2003. Members sought clarifications on a number of issues relating to private arrangements for adoption, consent for adoption, adoption by homosexual persons or partners as joint applicants, and records of adoption orders.

8. A member asked whether the Amendment Bill would address the issues arising from intra-country adoptions. The Administration pointed out that it was not aware of any practical problems arising from such adoptions and that a mechanism already existed to recognise adoptions outside Hong Kong under section 17 of the Adoption Ordinance.

9. A member expressed concern that given the complexity of the Bill, Members might not be able to complete the scrutiny of the Bill before the end of the current term and the enactment of the Bill might then be delayed. The member asked whether the Bill could be split into several less complicated bills in order to speed up the scrutiny process. The Administration explained that it had already simplified the Bill as far as possible. As the Bill had to address two areas, i.e. to improve local adoption arrangements and to give effect to the Hague Convention in Hong Kong, it was inevitable that the Bill would be complicated and voluminous.

Conclusion

10. The Bill proposes amendments to various aspects of the adoption system in Hong Kong, and proposes to implement the provisions of the Hague Convention in Hong Kong. There are various policy aspects which merit consideration by Members from the policy and social points of view. While the Legal Service Division is still scrutinizing the technical aspects of the Bill, Members may wish to consider forming a Bills Committee to consider the Bill in detail.

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