

立法會
Legislative Council

LC Paper No. CB(2)543/11-12
(These minutes have been seen by
the Administration)

Ref : CB2/BC/7/10

Bills Committee on Guardianship of Minors (Amendment) Bill 2011

Minutes of meeting
held on Thursday, 10 November 2011, at 10:45 am
in Conference Room 2B of the Legislative Council Complex

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon Miriam LAU Kin-ye, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi

Public Officers attending : Item I

Ms Wendy LEUNG
Principal Assistant Secretary for Labour and
Welfare (Welfare) 1

Mr Parson LAM
Assistant Secretary for Labour and Welfare (Welfare) 1A

Ms Caran WONG
Assistant Director of Social Welfare (Family and
Child Welfare)

Ms Karmen KWOK
Government Counsel
Department of Justice

Clerk in attendance : Mrs Sharon TONG
Principal Council Secretary (2)

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Jove CHAN
Senior Council Secretary (2) 8

Ms Michelle LEE
Legislative Assistant (2) 7

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee completed the clause-by-clause examination of the Chinese version of the Guardianship of Minors (Amendment) Bill 2011 ("the Bill"). The Chairman requested Assistant Legal Adviser 9 to examine the legal and drafting aspect of the English version of the Bill and check whether it was in alignment with its Chinese version.

3. The Bills Committee requested the Administration to -

- (a) incorporate the guardian appointment form in the promotional materials after the enactment of the Bill;
- (b) consider whether the term "意願" or "意見" should be used in the Chinese text;
- (c) review and implement administrative measures to inform the surviving parent of a guardian appointment when the guardianship took effect automatically;
- (d) review the proposed section 8H; and
- (e) provide its draft Committee Stage amendments to the Bill.

II. Any other business

4. The meeting ended at 12:41 pm.

**Proceedings of meeting of
Bills Committee on Guardianship of Minors (Amendment) Bill 2011
held on Thursday, 10 November 2011, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required
000307 - 000333	Chairman	Opening remarks	
000334 - 000649	Chairman Admin	LC Paper No. CB(2)225/11-12(01) The rights of surviving parents as to guardianship subject to section 19(4) of the Matrimonial Proceedings and Property Ordinance (Cap.192)	
000650 - 001834	Chairman Admin ALA9 Mr CHEUNG Kwok-che	Prescription of wording sufficient for expressing the intention of appointing a guardian; and Requirements for guardian appointment in writing and the format of the guardian appointment form	The Administration to incorporate the guardian appointment form in the promotional materials after the enactment of the Bill.
001835 - 003612	Chairman Admin Mr TAM Yiu-chung Mr CHEUNG Kwok-che ALA9	The use of the term "views of the minor"; The use of the term "意願" or "意見"; and Briefing by the Administration on the proposed Committee Stage amendments ("CSAs") to the existing section 3 of the Guardianship of Minors Ordinance (Cap.13) in respect of "wishes of minors"	The Administration to consider whether the term "意願" or "意見" should be used in the Chinese text.
003613 - 003730	Chairman Admin	Automatic assumption of guardianship in case where the appointing parent had a joint custody over the child	
003731 - 003854	Chairman Admin	The ancillary orders that the court may make when it orders a person to be the sole guardian of a minor to the exclusion of the surviving parent	
003855 - 003955	Chairman Admin	Amendments to inclusive masculine expressions	

Time marker	Speaker	Subject(s)	Action Required
003956 - 004717	Chairman Admin	<u>Clause-by-clause examination of the Bill</u> <u>Clauses 1 to 3</u> Briefing by the Administration on the amendment proposals	
004718 - 005406	Chairman Mr TAM Yiu-chung Admin ALA9	<u>Clause 4</u> <u>Proposed section 5 - Rights of surviving parent as to guardianship</u> Clarification on the rights of the surviving parent who shall not be entitled as of right to the custody or the guardianship of the child upon the death of custodial parent if the court had made an order in the decree of divorce or judicial separation that he/she was unfit to have custody of the child; and Briefing by the Administration on the proposed CSA	
005407 - 010329	Chairman Admin Mr TAM Yiu-chung	<u>Proposed section 6 - Power of parent and guardian to appoint guardian</u> Right of parent who was not entitled as of right to custody or the guardianship to appoint guardian	
010330 - 012428	Chairman Admin Mr TAM Yiu-chung ALA9 Ms Miriam LAU	<u>Proposed section 7 - When guardianship takes effect automatically</u> <u>Proposed section 8 - Assumption of guardianship by application</u> Notification to the surviving parent of a guardian appointment when the guardianship took effect automatically	The Administration to review and implement administrative measures to inform the surviving parent of a guardian appointment when the guardianship took effect automatically.
012429 - 012548	Chairman Admin	<u>Proposed section 8A - Guardian appointed under section 6 to act jointly with surviving parent or surviving guardian</u> Briefing by the Administration on the amendment proposals	

Time marker	Speaker	Subject(s)	Action Required
012549 - 013606	Chairman Admin Mr CHEUNG Kwok-che Ms Miriam LAU	<p><u>Proposed section 8B - Revocation of guardian appointment</u></p> <p>The validity of copy of the appointment document if the original document was destroyed under the proposed section 8B(3); and</p> <p>The validity of a revocation if the person who revoked the appointment did not notify all other persons who jointly made the appointment of the revocation made under the proposed section 8B(3)</p>	
013607 - 014243	Chairman Admin Ms Miriam LAU Mr TAM Yiu-chung	<p><u>Proposed section 8C - Guardian may disclaim appointment</u></p> <p>The need for a specific timing of notification to the Director of Social Welfare of a disclaimer to an appointment of guardian under the proposed section 8C(3); and</p> <p>Briefing by the Administration on the proposed CSA</p>	
014244 - 014613	Chairman Admin	<p><u>Proposed section 8D - Power of court to appoint guardian of minor</u></p> <p><u>Proposed section 8E - Removal of guardian</u></p> <p><u>Proposed section 8F - Guardian appointed by court to act jointly with surviving parent or surviving guardian</u></p> <p>Briefing by the Administration on the amendment proposals</p>	
014614 - 014708	Chairman Admin	<p><u>Proposed section 8G - Guardian to have parental rights</u></p> <p>Briefing by the Administration on the proposed CSA on to the proposed section 8G</p>	
014709 - 015335	Chairman Admin Ms Miriam LAU	<p><u>Proposed section 8H - Remuneration for guardian</u></p> <p>The need to revise the scope of remuneration entitlement to only the guardian of minor who was a</p>	The Administration to review the proposed section 8H.

Time marker	Speaker	Subject(s)	Action Required
		ward of the court	
015336 - 015652	Chairman Admin	<u>Clauses 5 to 8</u> Briefing by the Administration on the amendment proposals	
015653 - 015733	Chairman	Completion of the clause-by-clause examination of the Bill Closing remark	The Administration to provide its draft CSAs.

Council Business Division 2
Legislative Council Secretariat
8 December 2011