

**立法會**  
**Legislative Council**

Ref : CB4/SS/4/12

LC Paper No. CB(4)202/12-13  
(These minutes have been seen  
by the Administration)

**Subcommittee on Mediation Ordinance (Commencement) Notice**

**Minutes of the second meeting  
held on Friday, 16 November 2012, at 8:30 am  
in Conference Room 2A of the Legislative Council Complex**

**Members present** : Hon Dennis KWOK (Chairman)  
Hon TAM Yiu-chung, GBS, JP  
Hon Cyd HO Sau-lan  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Hon Tony TSE Wai-chuen

**Members absent** : Hon James TO Kun-sun  
Hon CHEUNG Kwok-che

**Public Officers attending** : Mr Simon LEE  
Deputy Law Officer (Civil Law)  
Department of Justice

Ms Angela HO  
Deputy Principal Government Counsel (Acting)  
Department of Justice

Miss Rachel DAI  
Government Counsel  
Department of Justice

**Attendance by: invitation** : Hong Kong Mediation Accreditation Association Limited

Mr John BUDGE, SBS, JP  
Chairman

**Clerk in attendance** : Miss Polly YEUNG  
Chief Council Secretary (4) 4

**Staff in attendance** : Mr YICK Wing-kin  
Assistant Legal Adviser 8

Mr KWONG Kam-fai  
Senior Council Secretary (4)4

Ms Esther CHEUNG  
Council Secretary (4)4

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**I. Meeting with the Administration and the Hong Kong Mediation Accreditation Association Limited**

(LC Paper No. CB(4)151/12-13(01) -- Administration's response to issues raised at the meeting on 6 November 2012)

Relevant papers

(LC Paper No. CB(4)104/12-13(02) -- Paper provided by the Administration

L.N. 167 of 2012 -- Mediation Ordinance (Commencement) Notice

LC Paper No. LS5/12-13 -- Legal Service Division Report

LC Paper No. CB(2)1943/11-12) -- Report of the Bills Committee on Mediation Bill for the House Committee meeting on 11 May 2012

Ordinance No. 15 of 2012 -- Mediation Ordinance

LC Paper No. CB(4)104/12-13(03) -- Background brief prepared by the Legislative Council Secretariat)

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

2. The Administration briefed members on its paper setting out the Administration's response to the issues raised by members at the last meeting on 6 November 2012. Hong Kong Mediation Accreditation Association Limited ("HKMAAL") was invited to brief members on the progress of its work since its incorporation. The Subcommittee noted HKMAAL's explanation on its functions and its work.

#### Legislative timetable

3. The Subcommittee completed the scrutiny of the Commencement Notice and would not propose any amendment to the Notice. The Chairman advised that he would report to the House Committee on 30 November 2012.

4. At the invitation of the Chairman, the Clerk advised members that the scrutiny period of the Commencement Notice had been extended to 12 December 2012 by resolution of the Council on 14 November 2012. The deadline for giving notice of amendments to the Commencement Notice was 5 December 2012.

## **II. Any other business**

5. There being no other business, the meeting ended at 9:40 am.

Council Business Division 4  
Legislative Council Secretariat  
3 December 2012

**Proceedings of the second meeting of the Subcommittee on  
Mediation Ordinance (Commencement) Notice  
on Friday, 16 November 2012, at 8:30 am  
in Conference Room 2A of the Legislative Council Complex**

| Time marker     | Speaker(s)   | Subject(s)   | Action required |
|-----------------|--|--|-----------------|
| 001043 - 001109 | Chairman   | Opening remarks  |                 |
| 001110 - 001249 | Administration   | The Administration's briefing on its response to members' concerns raised at the meeting of the Subcommittee on 6 November 2012 [LC Paper No. CB(4)151/12-13(01)].   |                 |
| 001250 - 001759 | Chairman<br>Chairman of<br>Hong Kong Mediation<br>Accreditation<br>Association Limited<br>("HKMAAL") | <p>HKMAAL gave an account of its role and the progress of its work since incorporation –</p> <ul style="list-style-type: none"> <li>(a) It would operate as an industry-led mediation accreditation body on a self-financing basis and had no intention to seek government funding.</li> <li>(b) HKMAAL was in the course of considering three bids from its founder members to set up its secretariat and launching its own website.</li> <li>(c) There was no commitment that HKMAAL would be ready to perform its accreditation functions, in tandem with the commencement of the Mediation Ordinance on 1 January 2013.</li> <li>(d) HKMAAL was tasked to be the premier mediation accreditation body in Hong Kong. After establishing itself successfully, it would work towards seeking statutory backing.</li> </ul> <p>The Ordinance did not contain provisions relating to HKMAAL or the accreditation of mediators. HKMAAL's view was that there was no association between the operation of HKMAAL and the commencement of the Ordinance.</p> |                 |
| 001800 - 003209 | Chairman<br>Ms Cyd HO<br>Administration<br>HKMAAL  | <p>Ms HO's observation that –</p> <ul style="list-style-type: none"> <li>(a) There was no official record on the number of mediators and the number of mediator accrediting organizations in Hong Kong.</li> <li>(b) It would take time for HKMAAL to set up and to establish the accreditation system. Given the proliferation of degree and sub-degree courses offered by tertiary institutions, the Administration and HKMAAL should keep in view the qualifications on mediation awarded by tertiary institutions.</li> <li>(c) The Administration/HKMAAL should manage public expectation and send a clear message to interested parties that completion of a mediation course may not necessarily confer on the person concerned a qualification to practise as a mediator accredited by HKMAAL.</li> </ul>  |                 |

| Time marker     | Speaker(s)   | Subject(s)   | Action required |
|-----------------|--|--|-----------------|
|                 |  | <p>(d) Whether the Government would consider injecting a sum of seed money to fund HKMAAL's early operation such as the establishment of its secretariat.</p> <p>The Administration's response that –</p> <p>(a) HKMAAL would work independently in its operation and would not be publicly funded, but in case there was a request from HKMAAL for financial assistance, the Administration would give due consideration.</p> <p>(b) The Administration would facilitate HKMAAL to liaise with stakeholders and local universities.</p> <p>HKMAAL's comments/observations that –</p> <p>(a) HKMAAL was a self-funding, industry-led accreditation body and would not seek public funding. Mediators accredited by the three founder members (i.e. the Law Society of Hong Kong, the Hong Kong International Arbitration Centre and the Hong Kong Mediation Centre) would likely seek accreditation with HKMAAL by paying the annual subscription fee tentatively pitched at about \$900.</p> <p>(b) Mediation had drawn a great deal of interest from the community, but the current proliferation of mediation accreditation bodies was unsatisfactory. The setting up of HKMAAL as the premier accreditation body would help ensure that future accredited mediators would meet recognized standards.</p> <p>(c) Many people would like to acquire mediation-related knowledge to help them in their own profession and daily work, but not necessarily to become full-time mediators.</p> <p>(d) HKMAAL was aware of the importance of maintaining good communication with local universities offering courses on mediation.</p> |                 |
| 003210 - 003759 | Chairman<br>Mr TAM Yiu-chung<br>Administration<br>HKMAAL | <p>Mr TAM's views that –</p> <p>(a) There were sufficient mediators providing services in different fields.</p> <p>(b) Mediation courses were attended by individuals from different sectors, e.g. District Councillors might also attend mediation courses or obtain relevant accreditations so as to enhance their work in serving the community.</p> <p>(c) It was expected that the qualification and experience of accredited mediators would be enhanced after HKMAAL had commenced operation.</p>   |                 |

| Time marker     | Speaker(s)  | Subject(s)   | Action required |
|-----------------|---|--|-----------------|
|                 |   | <p>(d) He supported the commencement of the Mediation Ordinance. Given time, he trusted that mediation would be more widely accepted as a means to resolve disputes.</p> <p>HKMAAL's response that –</p> <p>(a) In Hong Kong, mediation was initially used in family cases, and had been increasingly used by parties in other fields.</p> <p>(b) HKMAAL noted the views of Ms HO and Mr TAM. It confirmed that it would monitor the standards for accreditation.</p> <p>(c) After several years of successful operation, HKMAAL would work towards seeking statutory backing.</p>   |                 |
| 003800 - 005954 | <p>Chairman<br/>Dr Priscilla LEUNG<br/>HKMAAL</p> | <p>Dr LEUNG's views that –</p> <p>(a) HKMAAL should collaborate with the academic sector, in particular the universities which were currently providing training programmes on mediation.</p> <p>(b) Not less than three local universities had developed programmes on "alternative dispute resolution".</p> <p>(c) The qualifications on mediation awarded by local universities/recognized tertiary institutions should be automatically recognized by HKMAAL for the purpose of accreditation.</p> <p>HKMAAL's response that –</p> <p>(a) The founder members were experienced in mediation accreditation. It also intended to invite more renowned academics from local universities to join HKMAAL.</p> <p>(b) HKMAAL did not intend to prescribe any new standard for accreditation. The accreditation standard to be used would likely be similar to those being used by the founder members.</p> <p>Discussion on the role of HKMAAL which was that of a regulator responsible for setting standards for training and accreditation of mediators but not promoting mediation services or directly providing training courses.</p> |                 |
| 005955 - 010547 | <p>Chairman<br/>Mr Tony TSE<br/>HKMAAL</p>        | <p>Mr TSE noted that HKMAAL would be open to including accredited mediators in other professions and fields such as architecture, surveying and construction.</p> <p>HKMAAL's response that –</p> <p>(a) Future participants of HKMAAL would not be limited to a single profession such as the legal</p>   |                 |

| <b>Time marker</b> | <b>Speaker(s)</b>              | <b>Subject(s)</b>   | <b>Action required</b>  |
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|                    |                                | sector.<br><br>(b) A batch of 32 applicants comprising individuals from different professions such as nurses, doctors, surveyors, architects, management consultants and teachers had been recently accredited as mediators by HKIAC.   |   |
| 010548 - 010808    | Chairman<br>Dr Priscilla LEUNG | Dr LEUNG's view that attention should be paid to the quality assurance of the mediation courses offered by different organizations. Expectation of individuals on being accredited by HKMAAL after the completion of mediation courses should also be managed. The Administration/HKMAAL should take necessary action to ensure that participants of these courses would not have the false expectation that their qualifications obtained by completion of such courses would be automatically recognized by HKMAAL. |   |
| 010809 - 010919    | Chairman<br>Clerk              | (a) The Chairman's remark that the Subcommittee had completed the scrutiny of the Commencement Notice.<br><br>(b) The legislative timetable.  | The Chairman would report to the House Committee on 30 November 2012. |