

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

**Administration's Response to issues arising from the meeting
held on 6 November 2012**

Introduction

This paper sets out the Administration's response to the issues raised at the meeting of the Subcommittee on Mediation Ordinance (Commencement) Notice held on 6 November 2012.

Mediators accredited by three of the founder members of Hong Kong Mediation Accreditation Association Limited ("HKMAAL")

2. The Law Society of Hong Kong has 232 accredited general mediators, 41 accredited family mediators and 10 family supervisors. The Hong Kong International Arbitration Centre has 687 accredited general mediators, 183 accredited family mediators and 46 family supervisors. The Hong Kong Mediation Centre has 886 accredited mediators. Some mediators are accredited by more than one of the three founder members of HKMAAL.

Mediator accrediting organizations other than the founder members

3. There is no public record of the number of mediator accrediting organizations in Hong Kong. Among the organizations that have given views to the Bills Committee on the Mediation Bill and/or attended the HKMAAL briefing held on 11 October 2012, about 10 have indicated in their websites that they have their own accreditation procedures and most of them have not indicated the number of mediators accredited by them. There is thus insufficient information to estimate the number of mediators accredited by organizations other than the founder members of HKMAAL.

HKMAAL to develop plans to collaborate with academic sector

4. HKMAAL is in the course of formulating its various accreditation standards and policies, and in so doing, it will take into account views received from stakeholders. The Administration has conveyed Members' views to the Council of HKMAAL on the collaboration with the academic sector.

Actions to be accomplished to pave way for commencement

5. The purpose of the Mediation Ordinance ("the Ordinance") is to provide a regulatory framework in respect of certain aspects of the conduct of mediation and to make consequential and related amendments. Section 11 and Schedule 2 of the Ordinance set out the consequential and related amendments to be made in specified enactments.

6. The objects of the Ordinance are, as provided in section 3, to promote, encourage and facilitate the resolution of disputes by mediation; and to protect the confidential nature of mediation communications.

7. The Ordinance does not contain provisions relating to the accreditation and training of mediators. Whilst HKMAAL, a non-statutory, industry-led accreditation body for mediators in Hong Kong, will set standards for training and accreditation of mediators, there is no statutory requirement for a person to be accredited by HKMAAL before the person undertakes mediation. The commencement of the Ordinance is therefore unrelated to the operation of HKMAAL.

8. The actions to be taken to pave the way for the commencement of the Ordinance are two-fold. Firstly, the Judiciary and the Labour Department, which will be affected by the consequential and related amendments specified in Schedule 2, will need to make amendments to the relevant forms and publications. In this regard, the Judiciary and the Labour Department have confirmed that the revised forms and publications will be ready for use and they are content with the proposed commencement date of 1 January 2013.

9. Secondly, actions are being taken by the Administration to inform the public and relevant stakeholders about the Ordinance and its proposed commencement date. These include –

- (a) issuing a press release to announce the proposed commencement date of the Ordinance¹;
- (b) uploading information about the Ordinance and the proposed commencement date in the Department of Justice homepage;
- (c) organizing seminars and briefings on the Ordinance for relevant policy bureaux and government departments; and
- (d) notifying stakeholders, in particular those who have given views to the Bills Committee on the Mediation Bill or attended the HKMAAL briefing, of the Ordinance and the proposed commencement date.

Department of Justice
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¹ The press release was issued by the Administration on 19 October 2012.