

**立法會**  
*Legislative Council*

LC Paper No. CB(4)1180/20-21  
(These minutes have been seen by  
the Administration)

Ref: CB4/BC/1/20

**Bills Committee on Mainland Judgments in Matrimonial and  
Family Cases (Reciprocal Recognition and Enforcement) Bill**

**Minutes of the third meeting held on  
Friday, 26 February 2021, at 9:00 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)  
Hon Paul TSE Wai-chun, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Vincent CHENG Wing-shun, MH, JP

**Members absent** : Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Elizabeth QUAT, BBS, JP

**Public Officers  
attending** : **Agenda item I**

Department of Justice

Ms Jenny FUNG  
Deputy Solicitor General (Policy Affairs) (Acting)

Miss Deneb CHEUNG  
Senior Assistant Solicitor General (China Law)

Miss Selina LAU  
Senior Government Counsel

Ms Mary HO  
Government Counsel

Miss Celia HO  
Government Counsel

Mr Karl SUEN  
Government Counsel

**Clerk in attendance** : Mr Lemuel WOO  
Chief Council Secretary (4)6

**Staff in attendance** : Ms Vanessa CHENG  
Assistant Legal Adviser 5

Miss Janice HO  
Council Secretary (4)6

Ms Emily LIU  
Legislative Assistant (4)6

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Action

**I. Meeting with the Administration**

[LC Paper No. CB(3)182/20-21, File Ref: L/M(5) to LP CLU 5037/7/3C, LC Paper Nos. LS13/20-21, CB(4)354/20-21(01) to (03), CB(4)389/20-21(01) to (03), CB(4)443/20-21(01) to (02), and CB(4)546/20-21(01)]

Discussion

The Bills Committee deliberated (Index of proceedings at **Appendix**).

Clause-by-clause examination of the Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Bill

2. The Bills Committee continued clause-by-clause examination of the Bill. The Bills Committee examined up to clause 31 of the Bill before the end of the meeting.

Follow-up actions to be taken by the Administration

- Admin 3. The Administration was requested to provide the following information:
- (a) background and rationale for requiring that registration application in respect of both care-related orders and maintenance-related orders shall generally be made within a two-year time limit under clause 8 of the Bill, in particular whether and which parts of the *Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region* ("the Arrangement") and the relevant laws (including identifying the relevant articles/provisions) of the People's Republic of China ("PRC") have been reflected in this construction;
  - (b) background and rationale for the Administration's proposed replacement of "child" by "person" in various provisions of the Bill, in particular whether and which parts of the Arrangement and the relevant laws of PRC (including identifying the relevant articles/provisions) have been reflected in this construction;
  - (c) the Administration's response to members' suggestion of keeping the term "child" in the Bill with its scope of different meanings clearly defined under clause 2 of the Bill, and to the Chairman's request for the Administration to study whether the proposed amendments thereto would affect other provisions in the Bill or would have implications for other relevant legislation in Hong Kong;
  - (d) the Administration's further response to the Chairman's suggestions that the Bill should, instead of giving a wide discretion to the courts, specify the time limits for setting aside a registration application under clause 14(1) and a recognition order under clause 31; and/or consider providing a direction to the courts and legal practitioners on the setting of time limit;
  - (e) the relevant laws of PRC (including identifying the relevant articles or provisions thereof) stipulating that a Mainland divorce certificate (i.e. a divorce certificate issued by a civil affairs department in the Mainland) as referred to in clause 30 and a status-related order (which includes an order granting a divorce by a court in PRC) as referred to in clause 24 and Part 2 of Schedule 2 will be considered as valid in the Mainland; and

- (f) the Administration's response to the suggestion of refining the proposed amendments to clause 11 to make it clear that those payments or acts (that is required to be made or performed periodically) falling due on or after the date of registration of a maintenance-related order are also covered by the said registration order.

**II. Any other business**

- 4. There being no other business, the meeting ended at 10:28 am.

Council Business Division 4  
Legislative Council Secretariat  
29 June 2021

**Bills Committee on Mainland Judgments in Matrimonial and Family Cases (Reciprocal Recognition and Enforcement) Bill**

**Proceedings of the third meeting held on  
Friday, 26 February 2021, at 9:00 am  
in Conference Room 1 of the Legislative Council Complex**

| <b>Time Marker</b>                                     | <b>Speaker(s)</b>  | <b>Subject(s)</b>  | <b>Action required</b> |
|--|--|--|------------------------|
| <b>Agenda Item I - Meeting with the Administration</b> |  |  |                        |
| 000654-003430  | Chairman<br>Administration   | Opening remarks<br><br>Briefing by the Administration on its responses to the follow-up actions arising from the discussion at the meeting on 19 January 2021, and the Administration's proposed amendments to the Bill [LC Paper No. CB(4)546/20-21(01)].   |                        |
| 003431-004316  | Chairman<br>Mr Paul TSE<br>Assistant Legal Adviser ("ALA")<br>Administration | Comments and suggestions of the Chairman, Mr TSE and ALA regarding the proposed replacement of "child" by "person" in various provisions of the Bill, and the Administration's responses.  |                        |
| 004317-004948  | Chairman<br>ALA  | ALA's comment on the Chinese rendition of "finally disposed of".<br><br>ALA's enquiry and the Administration's response on whether the proposed amendments to clause 11 of the Bill would be further refined to clarify its legislative intent.<br><br>The Chairman's and ALA's suggestions to specify a fixed time limit in clause 14(1) of the Bill in respect of applications to set aside a registration.      | Admin                  |
| 004949-005802  | Chairman<br>Administration   | <u>Continuation of clause-by-clause examination of the Bill</u><br><br>The Chairman's direction that those clauses of the Bill, which had been examined at the previous meetings but were affected by the proposed amendments, should be examined again.<br><br>Clauses 2, 8(1),(2) and (3), 11, 16(2), 17(3)(b), 19 heading, 19(1), 24 heading, 24(1) and 26(5)(b) as amended.<br><br>Members raised no question. |                        |

| Time Marker   | Speaker(s)  | Subject(s)  | Action required |
|---------------|---|---|-----------------|
| 005803-010718 | Chairman<br>Administration<br>ALA                         | <p><b>Part 2: Registration in Hong Kong of Mainland Judgments Given in Matrimonial or Family Cases</b></p> <p><u>Clause 27</u><br/>The Administration's explanation on the legislative intent of clause 27 of the Bill.</p> <p>ALA's enquiries and the Administration's responses regarding what would constitute "same cause of action" under clauses 16, 26 and 27 of the Bill, and the Chairman's comment.</p> <p>ALA's enquiry on whether it was necessary to make provisions in clause 27 of the Bill that was similar to clause 26(5), and the Administration's response.</p> <p><u>Clause 28</u><br/>Members raised no question.</p>   |                 |
| 010719-010822 | Chairman<br>Administration                                | <p><b>Part 3: Recognition in Hong Kong of Mainland Divorce Certificates</b></p> <p><u>Clause 29</u><br/>The Administration's elaboration on the clause.</p>   |                 |
| 010823-012446 | Chairman<br>Dr Junius HO<br>Mr Paul TSE<br>Administration | <p>Dr HO's enquiries and the Administration's responses about the background and rationale for setting a two-year time limit in certain provisions under clause 8 for the making of registration applications and Dr HO's requests for the Administration to provide supplemental information to his enquiries to facilitate the easy reference of legal practitioners.</p> <p>Enquiries of Mr TSE and Dr HO regarding the time limit applicable to applications made to the Mainland and Hong Kong courts for the recognition and enforcement of judgments given in matrimonial and family cases, and the Administration's responses.</p> <p>The Chairman's suggestion for the Administration to provide the background and rationale for the proposed replacement of "child" by "person" in various provisions of the Bill.</p> | Admin           |

| <b>Time Marker</b>                         | <b>Speaker(s)</b>                 | <b>Subject(s)</b>   | <b>Action required</b> |
|--|-----------------------------------|---|------------------------|
| 012447-012823                              | Chairman<br>ALA<br>Administration | Enquiries of the Chairman and ALA about what documents or records issued in the Mainland might be recognized in Hong Kong with the effect that one's divorced status might be recognized, and the Administration's responses.               | Admin                  |
| 012824-013109                              | Chairman<br>ALA<br>Administration | <u>Clause 30</u><br><br>Members raised no question.<br><br><u>Clause 31</u><br><br>The Chairman's and ALA's suggestions to specify a fixed time limit in clause 31 of the Bill in respect of applications to set aside a recognition order. | Admin                  |
| <b>Agenda Item II - Any other business</b> |                                   |   |                        |
| 013110-013146                              | Chairman                          | Closing remarks   |                        |