

Domicile Bill to be gazetted on Friday

The Domicile Bill, which seeks to simplify the complex and confusing common law rules for determining a person's domicile, and to make it easier to ascertain a person's domicile, will be published in the Government Gazette on Friday (January 26).

Domicile has been defined as "the place or country which is considered by law to be a person's permanent home". It is an important legal concept, since it determines which system of law governs a person's legal status for various purposes.

The concept is unconnected with, and distinct from, nationality, right of abode and citizenship, a spokesman for the Department of Justice said today (January 24).

The spokesman said the central notion of domicile was that of a long-term relationship between person and place. In other words, a person is domiciled in the country where he intends to live indefinitely.

If a person is domiciled in a particular country, that country's system of law will govern certain issues relating to that person. These issues relate principally to status and property.

The spokesman said the bill dealt only with a natural person's domicile, not the domicile of a corporation.

If a Hong Kong court needed to decide where an individual was domiciled, the issue was to be determined according to Hong Kong law, he added.

The spokesman said the bill incorporated a number of recommendations made by the Law Reform Commission which published a report entitled "Rules for Determining Domicile" in April, 2005.

The commission considered that, for practical purposes, the recommendations would not change the domicile of many people, with the exception of a married woman's domicile which would no longer depend on that of her husband.

The commission recommended a major change in the law relating to the domicile of children so that this would no longer be directly tied to the parents' domicile. This proposal will ensure that the domicile of children more closely reflects modern realities.

The commission also recommended the abolition of the concept of domicile of origin so that the domiciliary rule would be better tuned to modern conditions.

The Bill will be introduced into the Legislative Council on February 7, 2007.

Ends/Wednesday, January 24, 2007

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