

Enduring Powers of Attorney (Amendment) Bill 2011 to be gazetted

The Enduring Powers of Attorney (Amendment) Bill 2011, which seeks to relax the existing execution requirements for an enduring power of attorney, will be gazetted tomorrow (May 13).

An enduring power of attorney (EPA) is a document by which a person (the donor) appoints and empowers another person (the attorney) to act on the donor's behalf and in the donor's name. The document survives the onset of the donor's mental incapacity.

Under the existing Ordinance, the donor must sign the prescribed form before a solicitor and a registered medical practitioner who must both be present at the same time. The medical practitioner must also certify that the donor is mentally capable before an enduring power of attorney takes effect.

A spokesperson for the Department of Justice said, "The bill proposes to relax the existing execution requirements and to allow a donor and a solicitor to sign an enduring power of attorney within 28 days after the date it has been signed by a registered medical practitioner.

"The bill also proposes to adopt new statutory forms and associated explanatory information, which are drafted in plain language and in a more user-friendly format."

The proposals were put forward by the Law Reform Commission in a report published in March 2008 subsequent to a public consultation conducted in April 2007. This was in response to concerns that the existing execution requirements were unduly onerous and were at least in part to blame for the extremely low take-up rate of EPAs in Hong Kong. As at the end of 2010, only 40 EPAs had been registered in Hong Kong

since the existing Ordinance was enacted in 1997.

Relevant professional organisations including the Bar Association, the Law Society of Hong Kong, the Medical Council of Hong Kong, the Hong Kong Medical Association, the Hong Kong Doctors Union, the Hong Kong Psychogeriatric Association and the Hong Kong Council of Social Service, as well as other interested parties, were consulted. Most of the opinions collected were in support of the proposals in the Bill.

The Bill will be introduced into the Legislative Council on May 25 for first reading.

Ends/Thursday, May 12, 2011