

Consultation period on proposed legislation on continuing powers of attorney extended to April 28

The Department of Justice (DoJ) announced today (February 21) that the deadline for submission of views on the consultation paper on the proposed continuing powers of attorney legislation has been extended by two months to April 28, 2018.

A spokesman for the DoJ said, "Having considered requests made by different groups interested in this matter, we have decided to extend the consultation period so that the public could have more time to submit their written views on the consultation paper."

The consultation paper was published on December 28, 2017 to seek views from the public on this matter.

According to the existing Enduring Powers of Attorney (EPA) Ordinance (Cap. 501), an EPA is a legal instrument which allows its donor (i.e. the person who gives a power of attorney in favour of someone), while he or she is still mentally capable, to appoint attorney(s) to take care of the donor's affairs in the event that he or she subsequently becomes mentally incapacitated.

At present, the powers which may be delegated under an EPA in Hong Kong are limited to decisions in relation to the property and financial affairs of the donor.

The Law Reform Commission of Hong Kong (LRC) published the report on "Enduring Powers of Attorney: Personal Care" (2011 Report) in July 2011. The report recommended the extension of the scope of an EPA to cover also decisions on a donor's personal care. Subsequently, the DoJ established an inter-departmental working group (IWG) to study the 2011 Report.

"After careful consideration of the views and recommendations of the LRC and those provided by members of the IWG, the DoJ has prepared the proposed Continuing Powers of Attorney Bill (the Bill) with a view to implementing the relevant recommendations in the 2011 Report.

"It is proposed that the new Continuing Powers of Attorney Ordinance be enacted to replace the existing EPA scheme. More specifically, the Bill seeks to provide a statutory framework, under which the donor confers on the attorney authority to act for (including making decisions for) the donor on any matters relating to the personal care, and property or financial affairs, of the donor," the spokesman said.

The Consultation Paper on the Continuing Powers of Attorney Bill is now available on the website (www.doj.gov.hk/eng/public/pdf/2017/cpa_consulte.pdf).

Members of the public are invited to submit their views to the Legal Policy Division of the Department of Justice by mail to 5/F, East Wing, Justice Place, 18 Lower Albert Road, Central, Hong Kong, or by email to cpa@doj.gov.hk on or before April 28, 2018.

Ends/Wednesday, February 21, 2018