

CONSULTATION PAPER ON DRAFT WOMEN'S CHARTER (AMENDMENT) BILL 2016

Aim

1. The Ministry of Social and Family Development (MSF) invites the public to give feedback on the draft Women's Charter (Amendment) Bill.

Background

2. Enacted in 1961, the Women's Charter enshrined the protection of women in Singapore and defined the institution of family by legislating monogamy for civil marriages. It also spells out the provisions relating to:

- Solemnization of marriages;
- Registration and dissolution of civil marriages;
- Rights and duties of married persons;
- Maintenance of wives and children;
- Protection of family; and
- Penalties for offences against women and girls.

3. The Women's Charter was last amended in 2011. The amendments then focussed on strengthening the enforcement of maintenance orders, by giving more sanctions which the courts could impose and facilitating applications for maintenance enforcements (see *Annex A*). Since these amendments, the Community Justice Centre (CJC) was established in 2012 to facilitate the referral of maintenance claimants to Social Service Offices for social assistance and other support.

Stakeholder Consultation and Feedback

4. For this round of amendments, MSF took into account the recommendations of the Family Justice Committee (FJC). The Committee consulted relevant stakeholders, Voluntary Welfare Organisations (VWOs) and the public, and presented their recommendations in July 2014. On divorce, one key recommendation was to put the child's interest first by requiring divorcing couples who are unable to agree on the divorce and all ancillary matters to undergo a pre-filing consultation session. Another key recommendation was to set up specialist agencies to provide a range of services to support families undergoing divorce. During the FJC public consultation, there were also calls for gender equity in maintenance.

5. Separately, MSF held consultation sessions and obtained inputs on emerging family issues from women's groups, VWOs and public sector agencies that work with families on protection work for women and girls. They have given feedback on how to enhance specific aspects of the Women's Charter to better protect women and girls, as well as address emerging concerns including rising divorce, and marriages of convenience.

Scope of Proposed Amendments

6. MSF proposes to amend the Women's Charter in these key areas:
- (I) Putting the child's interest first in divorce through a mandatory parenting programme for divorcing parents;
 - (II) Allowing maintenance for incapacitated men who cannot work;
 - (III) Enhancing protection for women, girls, residents at places of safety and professionals engaged in protection work; and,
 - (IV) Voiding a marriage that is a marriage of convenience under section 57C of the Immigration Act.

(I) Putting the child's interest first in divorce through a mandatory parenting programme for divorcing parents

7. Currently, the law requires divorcing parents with a child below 21 years old to attend mandatory mediation and counselling at the Family Justice Courts after a divorce writ has been filed. This has helped many parties reach agreement on child matters in a less acrimonious way. However, more can be done to protect the interests of the child.

8. The proposed amendment will require divorcing parents with children below 21 years old to attend a mandatory parenting programme before they file for a divorce, unless they agree on the divorce and all ancillary matters. The programme aims to help the couples understand the importance of co-parenting and the practical issues (e.g. housing, finances, childcare arrangements and schooling considerations) arising from a divorce that impact their children.

9. The programme will be conducted by Divorce Support Specialist Agencies and implemented in phases, starting with those with children aged below 14 years. Parties may be ordered to attend any "family support programme or activity" at any stage of the divorce process in addition to the current mediation and counselling conducted by the courts if the court considers that it is in the interest of the parties or their children to do so.

(II) Maintenance of incapacitated men who cannot work

10. Currently, the Women's Charter provides for a man to maintain his wife/ex-wife during marriage/after divorce. There have been calls over the years, including during last year's Family Justice Committee's public consultation exercise in 2014, to extend spousal maintenance to men in the same manner as for women.

11. Feedback from stakeholders however indicates that our society is not ready to accept that women have the same responsibility as men to support their spouse/ex-

spouse. Nevertheless, it is acknowledged that there is a small group of incapacitated men who need support from their wives or ex-wives.

12. The proposed amendment will enable the Court to order maintenance for this small group of men who must be incapacitated by physical or mental disability or by illness. It must be severe enough such that they are unable to work. The incapacitation must have occurred during the marriage and not after the divorce. The men must also have no other means to support themselves. Support given to these men is in line with our philosophy of family as the first line of support, and the mutual help expected of spouses.

13. There have been concerns raised by women on whether they can afford to maintain their husbands or ex-husbands while struggling to provide for their children on a single income. As with maintenance for a wife, the Court will consider all the circumstances of the case, including a wife's financial circumstances and needs of the children, before ordering maintenance for an incapacitated husband or ex-husband.

(III) Enhancing protection for women, girls, residents at places of safety and professionals engaged in protection work

14. Based on inputs from VWOs and professionals, protection for victims in family violence or crisis situations, as well as the professionals who assist them, can be strengthened. The proposed amendments will:

- (a) Prohibit the publication of information (i) relating to places of safety to enhance the safety of victims, staff and professionals working with victims; and (ii) on proceedings in camera in certain cases;*

Places of safety provide temporary emergency shelter to victims of family violence and their family members, and other individuals in crisis. Victims, staff and professionals working at the places of safety may face threats to their safety, as some perpetrators of violence may try to seek out their victims to harass, intimidate, or harm them.

The proposed amendment will prohibit any person from publishing or broadcasting any information that would reveal, or is likely to identify a place of safety and its residents (e.g. newspaper, and social media). Those who breach this provision will be liable to a fine.

The proposed amendment will also prohibit the publishing or broadcasting of information on social media, pertaining to Court proceedings in camera in certain cases under the Women's Charter, which may lead to the identification of the woman or girl in the proceedings. This is in addition to the current prohibition to broadcast or publish such information in newspaper reports.

- (b) Provide other care options for women and girls in need of protection apart from placing them in places of safety or children's homes; and*

Currently, the Director of Social Welfare (DSW) may make orders to place women and girls in need of protection in shelters and children's homes, while the circumstances of the case are being investigated. To provide more community-based care options, the option to commit a woman or girl requiring protection to the care of a suitable "fit individual" will be introduced. A "fit individual" may include a relative or close friend. This will apply for situations where it may not be safe for the women or girl to stay with her immediate family.

(c) Protect professionals against lawsuits or other legal proceedings in personal capacity for actions taken in good faith when carrying out court orders or statutory responsibilities under Part VII and XI of the Act.

There is currently no statutory protection in the Women's Charter for professionals (e.g. social workers) against lawsuits or other legal proceedings in their personal capacity when they undertake actions in good faith when carrying out a court order or under the direction of the DSW. A new provision will be introduced to protect professionals against lawsuits or other legal proceedings when carrying out court orders or statutory responsibilities, which were done with reasonable care and in good faith.

(d) Empower married or previously married persons below the age of 21 years to apply for a protection order and expedited order for themselves and specific dependants.

Presently, family violence victims who are below 21 cannot apply for a protection order for themselves. The application can only be made by their guardian, a relative or a person responsible for their care, or by any person appointed by the Minister. The proposed amendment will enable a married or previously married person (i.e. widowed or divorced or whose marriage was declared null and void) below 21 years of age to seek protection against family violence for themselves, their children (biological and stepchildren) and relative's children who are in their care.

(IV) Voiding a marriage that is a marriage of convenience under section 57C of the Immigration Act

15. Section 57C in the Immigration Act makes it an offence to enter into a marriage of convenience for immigration advantage (MOC). The proposed amendments will void a marriage that is an MOC under section 57C. The marriage will be deemed void if either party to a marriage is convicted of the immigration offence in respect of the marriage. MSF also proposes to require a person who has a prior MOC conviction to make a statutory declaration on the MOC conviction when he/she applies for a marriage licence to marry thereafter. This allows the future spouse to make an informed choice about the person he/she intends to marry.

Other administrative amendments

(V) Electronic Register

16. The Registrar of Marriages maintains a register of duly signed marriage certificates in book form. To overcome the challenge of storage of the physical marriage certificates that have accumulated over the decades, an amendment is proposed to allow ROM to maintain an electronic register.

(VI) Taking a child under a custody order out of Singapore

17. Currently, a person shall not take a child who is the subject of a custody order out of Singapore without the consent of both parents or the permission of the court. This prevents an access parent from taking the child out of Singapore without the consent of the custodial parent. As the Court may make a care and control order without a custody order, an amendment is proposed such that a child who is the subject of a care and control order cannot be taken out of Singapore without the consent of both parents or the permission of the court.

(VII) Family Justice Rules

18. Currently, proceedings under Part VII for protection orders and under Part VIII for maintenance orders are governed by the Criminal Procedure Code (CPC). The proposed amendment will provide that the Family Justice Rules would prescribe which provisions of the CPC and other written laws would apply for proceedings under Parts VII and VIII.

(VIII) Amendments to the Women's Charter (Registration of Marriages) Rules

Extending the mandatory Marriage Preparation Programme to marriages where at least one party is a minor

19. In 2011, the Women's Charter and the Women's Charter (Registration of Marriages) Rules were amended to require couples intending to marry to attend a Marriage Preparation Programme before a marriage license can be issued if (i) at least one party is below the age of 18 years old; or (ii) both parties are minors aged 18- 21 years old.

20. MSF recently released its findings on "Dissolution of Marriages among Marriage Cohorts, 1987-2012". One key finding was that marriages involving younger grooms, regardless of the age of the bride, were particularly vulnerable to divorce. MSF hence proposes to extend the mandatory Marriage Preparation Programme to all marriages where one party is aged 21 years and below. The Marriage Preparation Programme will help minors to be better prepared to cope with the responsibilities that come with marriage, hence helping their marriage to start on a stronger foundation. This will involve an amendment of the Women's Charter (Registration of Marriages) Rules.

Summary

21. In summary, the proposed key amendments to the Women's Charter are as follows:

- (I) Putting the child's interest first in divorce through Mandatory Parenting Programme for divorcing parents;
- (II) Allow maintenance for incapacitated men who cannot work;
- (III) Enhance protection for women, girls, residents at places of safety and professionals engaged in protection work; and,
- (IV) Void a marriage that is a marriage of convenience under Section 57C of the Immigration Act.

References

22. Please refer to the draft Women's Charter (Amendment) Bill online on the REACH portal at www.reach.gov.sg.

Feedback

23. The public is invited to email their feedback to consultations@msf.gov.sg by **8 November 2015**.

Ministry of Social and Family Development
19 October 2015

Annex A – Measures to enhance Enforcement Maintenance and Applications for Maintenance

Legislative Amendments

1.1 With the amendment to the Women’s Charter in 2011, the Court can act in the following manner if a person defaults in paying maintenance:

- a) direct the amount due to be levied in the manner provided for levying fines;
- b) sentence the defaulter to imprisonment;
- c) make a garnishee order;
- d) order the defaulter to set up a banker’s guarantee against future default;
- e) order the defaulter to attend financial counselling;
- f) order the defaulter to perform community services; and
- g) make an attachment of earnings order (“AEO”) against the defaulter.

1.2 The Court could also direct the CPF Board to disclose the employment information of defaulters in AEO proceedings.

1.3 In addition, remarrying persons are required to declare whether they owe any maintenance arrears. It is a reminder that their obligation to their previous family, especially children, continue even after remarriage. It also informs the intending spouse of the partner's continuing obligations.

Other Measures

1.4 Women may also report their husbands or ex-husbands who default in maintenance to DP SME Commercial Credit Bureau. This may result in the defaulters having a poor credit standing. The contact information for DP SME Commercial Credit Bureau is as follows:

Website: <http://www.dpgroup.com.sg/Aboutdp/CommercialSMECredit.aspx>, or,
Tel: 6320 1900.

Streamlining of Court Processes

1.5 Apart from the above, Court processes have also been streamlined. Both Mentions and Hearing sessions are now held in one day whenever possible, and complainants are no longer required to attend Court when Summons for the respondent is issued.

1.6 Complainants can also file an application to enforce maintenance orders through video-conference linkup with the Family Court at Maintenance Support Central. They may also do so at the Singapore Council of Women’s Organisations at 96 Waterloo Street, Singapore 187967. These changes save time for complainants and reduce their attendances at Court.

Financial and Other Social Support

1.7 A referral protocol between the Community Justice Centre (CJC) and Social Service Offices (SSOs) is in place. This will allow needy divorcees identified at the CJC to be referred to the nearest SSO for timely assistance. Similarly, divorcees seeking help at the SSOs can be referred to the CJC for assistance on maintenance related issues.