

LCQ20: Estate planning

Following is a question by the Hon Nixie Lam and a written reply by the Secretary for Home and Youth Affairs, Miss Alice Mak, in the Legislative Council today (June 4):

Question:

It has been reported that according to a survey conducted by a social enterprise, only about 20 per cent of the public in Hong Kong have made wills, and nearly 40 per cent do not have any legacy planning documents, reflecting a serious lack of public awareness of estate planning. Moreover, such social enterprise projected that the number of elderly people aged over 65 in Hong Kong would reach 2.5 million in 2038, and the assets involved would amount to about \$3 trillion. In this connection, will the Government inform this Council:

(1) whether the Government will roll out a territory-wide publicity programme for popularisation of wills and work with the legal sector and social welfare organisations to enhance public awareness of the legal effect and procedures of wills; if so, of the specific measures and timetable; if not, the reasons for that;

(2) as it has been reported that currently some cities on the Mainland have already set up government-supported wills services centres to provide members of the public with one-stop public services for consultation on will making, safekeeping of wills and assistance in will execution, whether the Government will consider working with the legal sector to introduce similar referral services to meet the demand of members of the public; and

(3) as it has been reported that currently more than 500 people from Hong Kong, Macao and Taiwan have registered their wills for safekeeping through the China Will Registration Center on the Mainland, reflecting the keen demand of Hong Kong people for cross-boundary estate planning, whether the Government will collaborate with Mainland departments to streamline the notarisation procedures for Hong Kong wills on the Mainland, such as by exempting some documents from going through the probate process again; if so, of the details; if not, the relevant factors for consideration?

Reply:

President,

In consultation with the Administration Wing, the Department of Justice and the Home Affairs Department (HAD), the reply to various parts of the question raised by the Hon Nixie Lam is as follows:

According to the Wills Ordinance (Cap. 30), a person may by means of a will, executed in accordance with the Ordinance, dispose of his/her property.

Upon the death of the testator, the executor may apply to the Probate Registry for a grant of probate under the Probate and Administration Ordinance (Cap. 10) to administer the testator's estate. If the estate is wholly made up of money not exceeding \$50,000 in aggregate, the executor may apply to the Estate Beneficiaries Support Unit of the HAD for a Confirmation Notice for the administration of estate.

Regarding the notarisation for Hong Kong wills on the Mainland, in general, an individual has to follow the notarisation procedures on the Mainland and provide the necessary materials (such as identification documents of the applicant, documents to be notarised such as will, etc) to prove that the applicant is a qualified executor of the estate and the legality of the relevant documents. In fact, there are certain differences between the Mainland and Hong Kong in terms of the probate mechanism and the inheritance procedures. We will monitor the relevant situations and explore arrangements that could facilitate members of the public in due course.

Members of the public who require legal advice on matters relating to wills in Hong Kong, such as the making of wills, safekeeping of wills and wills execution, may make an appointment to meet a volunteer lawyer of the Free Legal Advice Scheme operated by the Duty Lawyer Service, which provides preliminary one-off legal advice. They may also visit the website of the Duty Lawyer Service for pre-recorded legal information on the relevant legal topics.

As for publicity, the Government has compiled various publications on inheritance matters. The Home and Youth Affairs Bureau (HYAB) has compiled a new promotional leaflet on wills this year to enhance public understanding of relevant information, including what constitutes a valid will, the content that a will may include, the benefits of making a will, etc. The promotional leaflet is available for public access at the Home Affairs Enquiry Centres and the Estate Beneficiaries Support Unit of the HAD. The relevant information has also been uploaded to the HYAB's one-stop family and women information portal for public viewing. The Government will keep in view the relevant materials to meet the needs of the community, and continue to promote the importance of making of wills through various channels.