

BRIEF FOR LEGISLATIVE COUNCIL

**Private Bills Ordinance
(Chapter 69)
Legislative Council (Powers and Privileges) Ordinance
(Chapter 382)
The Legislative Council Commission Ordinance
(Chapter 443)**

ADAPTATION OF LAWS BILL 2000

INTRODUCTION

At the meeting of the Executive Council on 10 October 2000, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws Bill 2000 (copy at Annex A) should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. Article 160 of the Basic Law states that –

“Upon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People’s Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law.”

3. Article 8 of the Basic Law states that –

“The laws previously in force in Hong Kong, that is, the common law,

rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravenes this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.”

4. The Standing Committee of the National People’s Congress, on 23 February 1997, published a decision which set out a number of principles for interpreting the laws which were adopted by the NPCSC to continue to remain in force as laws of the HKSAR. These principles were included in the Hong Kong Reunification Ordinance and were subsequently incorporated as section 2A and Schedule 8 of the Interpretation and General Clauses Ordinance (Cap. 1).

5. Despite the guiding principles under the Interpretation and General Clauses Ordinance on construing terminology inconsistent with the Basic Law and the status of Hong Kong as a Special Administrative Region of the People’s Republic of China, it is considered unacceptable to retain these terminology in our Statute Book after the Reunification. We, therefore, need to introduce the Adaptation of Laws Bill 2000 to bring necessary textual amendments to the Private Bills Ordinance, the Legislative Council (Powers and Privileges) Ordinance and the Legislative Council Commission Ordinance.

6. The Adaptation of Laws (No. 27) Bill 1999 with the proposed amendments to the three Ordinances concerned was introduced into the Legislative Council on 14 July 1999. However, the Bill lapsed at the end of the last term of the Legislative Council.

7. We have since slightly amended the Bill to put beyond doubt that the existing usage and practice of the Legislative Council (立法會) (which were established by virtue of resolutions of the Legislative Council (立法局) before 1997) is preserved, by adding “或立法會” after the last reference to “立法局” in section 15 of Cap. 382 to make it read as “立法局或立法會”. Given the nature of the amendment, no adaptation to the English text of the Ordinance is considered necessary.

THE BILL

8. The proposed amendments, as summarised at Annex B, are

terminological changes, e.g. references to “Standing Orders” are replaced by “Rules of Procedure” and references to “立法局”, with the exception as set out in paragraph 7 above, by “立法會”.

COMMENCEMENT

9. The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights, the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region.

LEGISLATIVE TIMETABLE

10. The legislative timetable is as follows –

Publication in the Gazette	27 October 2000
First Reading and commencement of Second Reading debate	8 November 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

13. The amendments will not affect the current binding effect of the existing provisions of the various Ordinances covered by the Bill.

FINANCIAL AND STAFFING IMPLICATIONS

14. There are no financial or staffing implications.

PUBLIC CONSULTATION

15. Since the amendments are straightforward adaptations, consultation with the public is unnecessary.

ENQUIRIES

16. For enquiries on the brief, please contact Mr David Leung, Assistant Director of Administration (3) at 2810 3946.

Administration Wing
Chief Secretary for Administration's Office
26 October 2000

ADAPTATION OF LAWS BILL 2000

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A BILL

To

Adapt certain Ordinances to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Adaptation of Laws Ordinance 2000.

2. Commencement

(1) This Ordinance shall be deemed to have come into operation on 1 July 1997.

(2) Subsection (1) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

3. Amendment of Ordinances

The Ordinances specified in the Schedules are amended in the manner indicated in those Schedules.

SCHEDULE 1

[s. 3]

PRIVATE BILLS ORDINANCE

1. Section 3(1) and (3) of the Private Bills Ordinance (Cap. 69) is amended by repealing "立法局" and substituting "立法會".

SCHEDULE 2

[s. 3]

LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE
AND ITS SUBSIDIARY LEGISLATION

Legislative Council (Powers and Privileges) Ordinance

1. The long title to the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "立法局" wherever it appears and substituting "立法會".

2. Section 1 is amended by repealing "《立法局(權力及特權)條例》" and substituting "《立法會(權力及特權)條例》".

3. Section 2 is amended -
 - (a) in subsection (1) -
 - (i) in the definition of "officer of the Council", by repealing "(立法局)" and substituting "(立法會)";
 - (ii) by repealing the definition of "Standing Orders" and substituting -
""Rules of Procedure" (議事規則) means the Rules of Procedure of the Council for the time being in force.";
 - (iii) in the definition of "主席", by repealing "立法局" wherever it appears and substituting "立法會";

- (iv) in the definition of "委員會", in paragraph (a), by repealing "立法局" and substituting "立法會";
 - (v) in the definition of "秘書", by repealing "立法局" and substituting "立法會";
 - (vi) in the definition of "會議廳", by repealing "立法局" where it twice appears and substituting "立法會";
 - (vii) in the definition of "會議廳範圍", by repealing "立法局" wherever it appears and substituting "立法會";
 - (viii) in the definition of "議事錄", by repealing "立法局" where it twice appears and substituting "立法會";
 - (ix) in the definition of "議員", by repealing "立法局" and substituting "立法會";
- (b) in subsection (1A), by repealing "立法局" and substituting "立法會".

4. Section 3 is amended by repealing "立法局" where it twice appears and substituting "立法會".

5. Section 4 is amended -

- (a) by repealing "立法局" and substituting "立法會";
- (b) by repealing "該局" and substituting "立法會".

6. Section 5 is amended by repealing "立法局" where it twice appears and substituting "立法會".

7. Section 6 is amended -

- (a) in subsection (1), by repealing "立法局" where it twice appears and substituting "立法會";
- (b) in subsection (2) -
 - (i) by repealing "Standing Orders" and substituting "Rules of Procedure";
 - (ii) by repealing "Governor" where it twice appears and substituting "Chief Executive";
 - (iii) by repealing "立法局" wherever it appears and substituting "立法會".

8. Section 7 is amended -

- (a) in subsection (1), by repealing "立法局" wherever it appears and substituting "立法會";
- (b) in subsection (2) -
 - (i) by repealing "Standing Orders" and substituting "Rules of Procedure";
 - (ii) by repealing "立法局" and substituting "立法會".

9. Section 8 is amended -

- (a) in subsection (1), by repealing "立法局" and substituting "立法會";
- (b) in subsection (2) -
 - (i) by repealing "Standing Orders" and substituting "Rules of Procedure";
 - (ii) by repealing "立法局" where it twice appears and substituting "立法會";
- (c) in subsection (3), by repealing "立法局" and substituting "立法會".

10. Section 8A(2) is amended -
 - (a) by repealing "Governor" where it twice appears and substituting "Chief Executive";
 - (b) by repealing "立法局" where it twice appears and substituting "立法會".

11. Section 9 is amended by repealing "立法局" wherever it appears and substituting "立法會".

12. Section 10(1) and (3) is amended by repealing "立法局" and substituting "立法會".

13. Section 11 is amended by repealing "立法局" wherever it appears and substituting "立法會".

14. Section 12 is amended -
 - (a) in subsections (1) and (2), by repealing "立法局" wherever it appears and substituting "立法會";
 - (b) in subsection (6), by repealing "Governor" and substituting "Chief Executive".

15. Section 13 is amended by repealing "立法局" wherever it appears and substituting "立法會".

16. Section 14 is amended -
 - (a) in subsection (1), by repealing "立法局" and substituting "立法會";
 - (b) in subsection (2) -

- (i) by repealing "Governor" and substituting "Chief Executive";
- (ii) in paragraph (ii), by repealing "Her Majesty's Government in the United Kingdom" and substituting "the Central People's Government";
- (iii) by repealing "立法局" wherever it appears and substituting "立法會".

17. Section 15 is amended -

- (a) by repealing "立法局" wherever it appears (except "於立法局" and "後立法局") and substituting "立法會";
- (b) by adding "或立法會" after "後立法局".

18. Section 16(1) is amended by repealing "立法局" where it twice appears and substituting "立法會".

19. Section 17(a), (b) and (c) is amended by repealing "立法局" wherever it appears and substituting "立法會".

20. Section 18 is amended by repealing "立法局" wherever it appears and substituting "立法會".

21. Section 19(a), (b), (c) and (d) is amended by repealing "立法局" wherever it appears and substituting "立法會".

22. Section 20 is amended -

- (a) in paragraph (a), by repealing "Standing Orders" and substituting "Rules of Procedure";
- (b) by repealing "立法局" and substituting "立法會".

23. Section 21 is amended by repealing "立法局" and substituting "立法會".
24. Section 22 is amended by repealing "Letters Patent or Royal Instructions" and substituting "the Basic Law".
25. Section 23 is amended -
 - (a) by repealing "Standing Orders" and substituting "Rules of Procedure";
 - (b) by repealing "立法局" wherever it appears and substituting "立法會".
26. Section 24 is amended by repealing "立法局" and substituting "立法會".
27. Section 25 is amended by repealing "立法局" and substituting "立法會".

**Administrative Instructions for Regulating Admittance
and Conduct of Persons**

28. The title to the Administrative Instructions for Regulating Admittance and Conduct of Persons (Cap. 382 sub. leg.) is amended by repealing "立法局" and substituting "立法會".
29. The long title is amended by repealing "立法局" and substituting "立法會".
30. Section 1 is amended -

- (a) in the definition of "office of the Council", by repealing "(立法局" and substituting "(立法會";
- (b) in the definition of "officer of the Council", by repealing "(立法局" and substituting "(立法會";
- (c) in the definition of "大樓", by repealing "立法局" and substituting "立法會";
- (d) in the definition of "主席", by repealing "立法局" wherever it appears and substituting "立法會";
- (e) in the definition of "委員會", in paragraph (a), by repealing "立法局" and substituting "立法會";
- (f) in the definition of "秘書", by repealing "立法局" and substituting "立法會";
- (g) in the definition of "會議廳", by repealing "立法局" where it twice appears and substituting "立法會";
- (h) in the definition of "會議廳範圍", by repealing "立法局" where it twice appears and substituting "立法會";
- (i) in the definition of "議員", by repealing "立法局" and substituting "立法會".

31. Section 2 is amended by repealing "立法局" and substituting "立法會".

32. Section 3 is amended by repealing "立法局" where it twice appears and substituting "立法會".

33. Section 4 is amended by repealing "立法局" where it twice appears and substituting "立法會".

34. Section 6 is amended by repealing "立法局" wherever it appears and substituting "立法會".

35. Section 7 is amended by repealing "立法局" and substituting "立法會".
36. Section 8 is amended by repealing "立法局" where it twice appears and substituting "立法會".
37. Section 9 is amended by repealing "立法局" wherever it appears and substituting "立法會".
38. Section 10(3)(a) is amended by repealing "立法局" and substituting "立法會".
39. Section 11 is amended by repealing "立法局" and substituting "立法會".
40. Section 12(3) and (4) is amended by repealing "立法局" wherever it appears and substituting "立法會".
41. Section 13 is amended by repealing "立法局" where it twice appears and substituting "立法會".
42. Section 14 is amended by repealing "立法局" and substituting "立法會".
43. Section 15 is amended by repealing "立法局" and substituting "立法會".

SCHEDULE 3

[s. 3]

THE LEGISLATIVE COUNCIL COMMISSION ORDINANCE

1. Section 14(3) of The Legislative Council Commission Ordinance (Cap. 443) is amended by repealing "Governor" and substituting "Chief Executive".

Explanatory Memorandum

The purpose of this Bill is to adapt certain Ordinances and their subsidiary legislation to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China (clause 3, Schedules 1 to 3).

2. The Ordinances adapted and their respective Schedule numbers under the Bill are -

Private Bills Ordinance (Cap. 69)	Schedule 1
Legislative Council (Powers and Privileges) Ordinance (Cap. 382)	Schedule 2
The Legislative Council Commission Ordinance (Cap. 443)	Schedule 3
3. The Bill also provides that the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region (clause 2).

**Adaptation of Laws Bill 2000 -
Summary of the proposed amendments to
Private Bills Ordinance (Cap. 69),
Legislative Council (Powers and Privileges) (Cap. 382),
and The Legislative Council Commission Ordinance (Cap. 443)**

Original Terms	Proposed Amendments
立法局	立法會 ¹
Governor 總督	Chief Executive 行政長官
Standing Orders 會議常規	Rules of Procedure 議事規則 ²
Her Majesty's Government in the United Kingdom 聯合王國的女皇政府	the Central People's Government 中央人民政府 ³
Letters Patent or Royal Instructions 《英皇制誥》或《皇室訓令》	the Basic Law 《基本法》 ⁴

Notes:

¹ All references to “立法局” in Cap. 69 and Cap. 382 to be adapted to “立法會”，except section 15 of Cap. 382 where the second last reference to “立法局” to be retained and the last reference to be adapted to “立法局或立法會”。The relevant references in Cap. 443 have already been adapted to “立法會”，except where the term is a historical reference.

² Various places in Cap. 382.

³ Section 14(2) of Cap. 382.

⁴ Section 22 of Cap. 382.