

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 2001.

2. Commencement

(1) (a) This Ordinance, except as provided in subsections (2) to (11), shall be deemed to have come into operation on 1 July 1997.

(b) Paragraph (a) 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).

(2) Section 2 of Schedule 3 shall be deemed to have come into operation on 9 June 2000.

(3) Sections 4, 5 and 6 of Schedule 3 shall be deemed to have come into operation on 1 July 2001.

(4) Section 16 of Schedule 3 shall be deemed to have come into operation on 26 September 1997.

(5) Section 17 of Schedule 3 shall be deemed to have come into operation on 20 February 1998.

(6) Sections 18 and 19 of Schedule 3 shall come into operation on the day appointed for the commencement of sections 2 and 5 of the Interception of Communications Ordinance (Cap. 532).

(7) Section 20 of Schedule 3 shall be deemed to have come into operation on 21 January 1998.

(8) Section 21 of Schedule 3 shall be deemed to have come into operation on 1 August 1999.

(9) Section 22 of Schedule 3 shall be deemed to have come into operation on 3 October 1997.

(10) Section 23 of Schedule 3 shall be deemed to have come into operation on 19 March 1999.

(11) Section 24 of Schedule 3 shall be deemed to have come into operation on 21 September 2001.

3. Amendment of Ordinances

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

SCHEDULE 1 [s. 3]

Prevention of Bribery Ordinance

1. Section 2 of the Prevention of Bribery Ordinance (Cap. 201) is amended---

(a) in subsection (1)---

(i) by repealing the definition of "Commissioner" and substituting---
"Commissioner" (專員) means the Commissioner of the Independent Commission Against Corruption appointed in accordance with the Basic Law and includes the Deputy Commissioner appointed under section 6 of the Independent Commission Against Corruption Ordinance (Cap. 204) and the person appointed to act as the Commissioner of the Independent Commission Against Corruption under section 7(2) of that Ordinance;"

(ii) by repealing the definition of "Crown servant" and substituting---
"prescribed officer" (訂明人員) means---

(a) any person holding an office of emolument, whether permanent or temporary, under the Government; and

(b) the following persons (to the extent that they are not persons included in paragraph (a))---

(i) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;

(ii) Director of Audit;

(iii) Chairman of the Public Service Commission;

(iv) Commissioner of the Independent Commission Against Corruption and any member of the staff of that Commission;

(v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary;"

(iii) in the definition of "public body", in paragraph (e), by repealing "Governor or the Governor in Council" and substituting "Chief Executive or the Chief Executive in Council";

(iv) in the definition of "公共機構"---

(A) in paragraph (b), by repealing "行政局" and substituting "行政會議";

(B) in paragraph (c), by repealing "立法局" and substituting "立法會";

(v) in the definition of "public servant", by repealing "Crown servant" and substituting "prescribed officer";

(b) in subsection (3), by repealing "Governor" and substituting "Chief Executive".

2. Section 3 is amended---

(a) by repealing "Crown servant" and substituting "prescribed officer";

(b) by repealing "Governor" and substituting "Chief Executive".

3. Section 4(3) is amended by repealing "Crown servant" and substituting "prescribed

officer".

4. Section 8(1) is amended by repealing "Crown servant" and substituting "prescribed officer".

5. Section 10(1) is amended by repealing "Crown servant" and substituting "prescribed officer".

6. Section 12(2) and (3) is amended by repealing "Crown" and substituting "Government".

7. Section 12AA(8) is amended by repealing "Crown" and substituting "Government".

8. Section 21A(1) is amended by repealing "Crown servant" wherever it appears and substituting "prescribed officer".

9. Section 35 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 2 [s. 3]

Independent Commission Against Corruption Ordinance
and its Subsidiary Legislation

Independent Commission Against Corruption Ordinance

1. Section 1 of the Independent Commission Against Corruption Ordinance (Cap. 204) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

2. Section 2 is amended---

(a) by repealing the definition of "Commissioner" and substituting---

"'Commissioner' (廉政專員) means the Commissioner of the Independent Commission Against Corruption appointed in accordance with the Basic Law and includes the Deputy Commissioner appointed under section 6;";

(b) by repealing the definition of "Crown servant" and substituting---

"'prescribed officer' (訂明人員) means---

(a) any person holding an office of emolument, whether permanent or temporary, under the Government; and

(b) the following persons (to the extent that they are not persons included in paragraph (a))---

(i) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;

(ii) Director of Audit;

(iii) Chairman of the Public Service Commission;

(iv) Commissioner of the Independent Commission Against Corruption and any member of the staff of that Commission;

(v) any judicial officer holding a judicial office specified in Schedule 1 to

the Judicial Officers Recommendation Commission Ordinance (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary;";
(c) by adding---

"Public Service (Administration) Order" (《公務人員 (管理) 命令》) means---

(a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
(b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
(c) any other regulation made or any direction given under that Order, as amended from time to time."

3. Section 5 is amended---

(a) by repealing subsection (1) and substituting---

"(1) The Commissioner, subject to the orders and control of the Chief Executive, shall be responsible for the direction and administration of the Commission.";

(b) in subsection (2), by repealing "Governor" and substituting "Chief Executive";

(c) in subsection (3)---

(i) by repealing "be appointed" and substituting "hold office";

(ii) by repealing "Governor" and substituting "Chief Executive";

(d) by repealing subsection (4) and substituting---

"(4) The Commissioner shall not, while he holds the office of the Commissioner, discharge the duties of any other prescribed officer."

4. Section 6 is amended by repealing "Governor" and substituting "Chief Executive".

5. Section 7 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".

6. Section 8 is amended---

(a) in subsections (1), (2)(c)(ii) and (d) and (3), by repealing "Governor" and substituting "Chief Executive";

(b) in subsection (4), by repealing "Colonial Regulations" where it twice appears and substituting "Public Service (Administration) Order".

7. Section 10(1) is amended by repealing "Crown servant" and substituting "prescribed officer".

8. Section 10A(8) is amended by repealing "Governor" and substituting "Chief Executive".

9. Section 11(2) is amended---

(a) by repealing "Governor" and substituting "Chief Executive";

(b) by repealing "Colonial Regulations" and substituting "Public Service (Administration) Order".

10. Section 12 is amended---

(a) by repealing "Governor" and substituting "Chief Executive";

(b) in paragraph (b)(iv) and (vii), by repealing "Crown servant" wherever it appears and substituting "prescribed officer";

(c) in paragraph (c)---

(i) by repealing "Crown servant" and substituting "prescribed officer";

(ii) by repealing "Governor" and substituting "Chief Executive".

11. Section 13 is amended---

(a) in subsection (1)(b)---

(i) by repealing "Crown servant" and substituting "prescribed officer";

(ii) by repealing "Crown or" and substituting "prescribed officer or";

(b) in subsection (2)(a), by repealing "Crown servant" and substituting "prescribed officer".

12. Section 14 is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".

13. Section 15(1) is amended by repealing "Governor" and substituting "Chief Executive".

14. Section 16(2) is amended by repealing "Governor" and substituting "Chief Executive".

15. Section 17 is amended---

(a) in subsection (1), by repealing "Governor" where it twice appears and substituting "Chief Executive";

(b) in subsection (2)---

(i) by repealing "Governor" and substituting "Chief Executive";

(ii) by repealing "立法局" and substituting "立法會".

16. Section 17A is amended---

(a) in subsection (1), by repealing "總督特派廉政專員公署福利基金" and substituting "廉政公署福利基金";

(b) in subsection (2)(b), by repealing "立法局" and substituting "立法會".

17. Section 18A(1)(c) and (2) is amended by repealing "Governor" and substituting "Chief Executive".

Independent Commission Against Corruption

(Treatment of Detained Persons) Order

18. Paragraph 1 of the Independent Commission Against Corruption (Treatment of Detained Persons) Order (Cap. 204 sub. leg.) is amended by repealing "《總督特派廉政專員公署 (被扣留者的處理) 令》" and substituting "《廉政公署 (被扣留者的處理) 令》".

19. Paragraph 18(1) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 3 [s. 3]

Amendments to other Ordinances

Public Service Commission Ordinance

1. The First Schedule to the Public Service Commission Ordinance (Cap. 93) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Audit Ordinance

2. Schedule 1 to the Audit Ordinance (Cap. 122) is amended, in item 7---

(a) by repealing "總督特派廉政專員公署福利基金" and substituting "廉政公署福利基金";

(b) by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Banking Ordinance

3. Section 120(5)(d) of the Banking Ordinance (Cap. 155) is amended by repealing "廉政專員公署" and substituting "廉政公署".

Police Force Ordinance

4. Section 3 of the Police Force Ordinance (Cap. 232) is amended, in the definition of "Independent Commission Against Corruption", by repealing "(總督特派廉政專員公署)" and substituting "(廉政公署)".

5. Section 59E(1)(b)(ii) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

6. Section 59G is amended---

(a) in subsection (1)(b), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》";

(b) in subsection (2)(i), by repealing "總督特派廉政專員公署" and substituting "廉政公署".

Prison Rules

7. Rule 1A of the Prison Rules (Cap. 234 sub. leg.) is amended, in the definition of "specified person", in paragraph (i), by repealing "appointed under section 5 of the Independent Commission Against Corruption Ordinance (Cap. 204)".

Public Order Ordinance

8. Section 17C(2)(h) of the Public Order Ordinance (Cap. 245) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Peak Tramway By-laws

9. By-law 25 of the Peak Tramway By-laws (Cap. 265 sub. leg.) is amended by repealing "廉政專員公署" and substituting "廉政公署".

Kowloon-Canton Railway Corporation By-laws

10. By-law 96 of the Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg.) is amended by repealing "港督特派廉政專員公署" and substituting "廉政公署".

Road Traffic Ordinance

11. Schedule 8 to the Road Traffic Ordinance (Cap. 374) is amended, in paragraph 5(h), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

12. Schedule 10 is amended, in paragraph 5(h), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Hong Kong Bill of Rights Ordinance

13. The Schedule to the Hong Kong Bill of Rights Ordinance (Cap. 383) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Fugitive Offenders Ordinance

14. Section 2(1) of the Fugitive Offenders Ordinance (Cap. 503) is amended, in the definition of "獲授權人員", in paragraph (c), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Justices of the Peace Ordinance

15. Schedule 1 to the Justices of the Peace Ordinance (Cap. 510) is amended, in Part II, in section 1, by repealing "《總督特派廉政專員公署(被扣留者的處理)令》" and substituting "《廉政公署(被扣留者的處理)令》".

Mutual Legal Assistance in Criminal Matters Ordinance

16. Section 2(1) of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) is amended, in the definition of "獲授權人員", in paragraph (c), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

17. Section 12(12)(c) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Interception of Communications Ordinance

18. Section 2 of the Interception of Communications Ordinance (Cap. 532) is amended, in the definition of "執法人員", in paragraph (b), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

19. Section 5(1)(c) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Electoral Affairs Commission (Electoral Procedure)

(Legislative Council) Regulation

20. Section 96(2) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg.) is amended by repealing "《廉政專員公署條例》" and substituting "《廉政公署條例》".

Electoral Affairs Commission (Electoral Procedure)

(District Councils) Regulation

21. Section 94(2) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg.) is amended by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Legislative Council Ordinance

22. Section 39(5) of the Legislative Council Ordinance (Cap. 542) is amended, in the definition of "訂明的公職人員", in paragraph (b), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

District Councils Ordinance

23. Section 2 of the District Councils Ordinance (Cap. 547) is amended, in the definition of "訂明公職人員", in paragraph (b), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

Chief Executive Election Ordinance

24. Section 2(1) of the Chief Executive Election Ordinance (Cap. 569) is amended, in the definition of "訂明公職人員", in paragraph (b), by repealing "《總督特派廉政專員公署條例》" and substituting "《廉政公署條例》".

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, 2 and 3).

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

Prevention of Bribery Ordinance (Cap. 201) Schedule 1

Independent Commission Against Corruption Schedule 2

Ordinance (Cap. 204)

Amendments to other Ordinances Schedule 3

3. The Bill also provides that the adaptations (except those referred to in clause 2(2) to (11)) when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region (clause 2).