

**Panel on Administration of Justice and Legal Services**

**Applicability of HKSAR laws to offices set up by  
the Central People’s Government (“CPG”) in the HKSAR**

**Purpose**

As requested by the Panel, this paper informs Members of the latest development of the following issues:

- (a) legislative work relating to the ordinances (listed at **Annex A**) that expressly bind the Government but are silent on their applicability to offices set up by CPG in the HKSAR; and
- (b) adaptation of the 35 Ordinances (listed at **Annex B**) that are expressed to bind, or apply to, the “Crown”<sup>1</sup>.

**Legislative work relating to the ordinances that expressly bind the Government but are silent on their applicability to offices set up by CPG in the HKSAR**

2. There are three offices set up by CPG in the HKSAR (“CPG offices”):

- (a) the Liaison Office of the Central People’s Government in the HKSAR;
- (b) the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR; and
- (c) the Hong Kong Garrison of the Chinese People's Liberation Army.

3. The Government has been studying and discussing with the relevant authorities of CPG on whether and how the ordinances listed at Annex A can be made applicable to CPG offices. Progress has been made in respect of the arrangement for applying the relevant ordinances enacted by the HKSAR to the CPG Offices. The relevant application formula is as below:

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<sup>1</sup> Or “Her Majesty”. Same for the rest of this paper.

“This Ordinance applies to the Government and the Offices set up by the Central People’s Government in Hong Kong Special Administrative Region.”

4. In accordance with the consensus attained, as a start, we intend to introduce amendment legislation in the 2008/09 legislative session to amend the following four ordinances, so as to expressly provide that, aside from being applicable to the Government, they will also apply to the offices set up by the CPG in the HKSAR:

- |     |  |             |
|-----|--|-------------|
| (a) | The Legislative Council Commission Ordinance | Chapter 443 |
| (b) | Plant Varieties Protection Ordinance         | Chapter 490 |
| (c) | Patents Ordinance                            | Chapter 514 |
| (d) | Registered Designs Ordinance                 | Chapter 522 |

5. As for the remaining ordinances listed at Annex A, we need to discuss further with CPG. Upon reaching consensus, we will deal with the remaining ordinances in phases as appropriate.

### **Adaptation of the 35 Ordinances that expressly bind or apply to the “Crown”**

6. As regards the 35 Ordinances that are expressed to bind or apply to the “Crown”, six of which require no further action. Three ordinances have already been adapted. Three other ordinances have been repealed, or does not contain any reference to the “Crown”, and thus no further adaptation is necessary. The details are set out at Annex B.

7. For the remaining 29 Ordinances, the Administration will continue to examine how these Ordinances should be adapted. The legal effect of these Ordinances or their provisions has not been compromised, as they are to be construed in accordance with the Hong Kong Reunification Ordinance (No. 110 of 1997), the relevant provisions of which have now been incorporated into Schedules 8 and 9 to the Interpretation and General Clauses Ordinance (Chapter 1).

Constitutional and Mainland Affairs Bureau  
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## Annex A

### **List of relevant ordinances that expressly bind the Government but are silent on their applicability to offices set up by the CPG in the HKSAR**

(1)	The Legislative Council Commission Ordinance	Cap. 443	*
(2)	Plant Varieties Protection Ordinance	Cap. 490	*
(3)	Patents Ordinance	Cap. 514	*
(4)	Registered Designs Ordinance	Cap. 522	*
(5)	Gas Safety Ordinance	Cap. 51	
(6)	Arbitration Ordinance	Cap. 341	
(7)	Ozone Layer Protection Ordinance	Cap. 403	
(8)	Dumping at Sea Ordinance	Cap. 466	
(9)	Marine Parks Ordinance	Cap. 476	
(10)	Sex Discrimination Ordinance	Cap. 480	
(11)	Mandatory Provident Fund Schemes Ordinance	Cap. 485	
(12)	Personal Data (Privacy) Ordinance	Cap. 486	
(13)	Disability Discrimination Ordinance	Cap. 487	
(14)	Environmental Impact Assessment Ordinance	Cap. 499	
(15)	Occupational Safety and Health Ordinance	Cap. 509	
(16)	Family Status Discrimination Ordinance	Cap. 527	

\* We intend to introduce legislative amendments in the 2008/09 legislative session to amend these four ordinances, so as to expressly provide that they will apply to the Government, as well as the offices set up by CPG in the HKSAR.

## Annex B

### **List of the 35 ordinances that expressly bind or apply to the “Crown”**

(1)	Bankruptcy Ordinance	Cap. 6	
(2)	Law Amendment and Reform (Consolidation) Ordinance	Cap. 23	
(3)	Recognition of Trusts Ordinance	Cap. 76	
(4)	Matrimonial Causes Ordinance	Cap. 179	
(5)	Traffic Accident Victims (Assistance Fund) Ordinance	Cap. 229	
(6)	Fixed Penalty (Traffic Contraventions) Ordinance	Cap. 237	
(7)	Enforcement of Rights (Extension of Time) Ordinance	Cap. 252	
(8)	Perpetuities and Accumulations Ordinance	Cap. 257	
(9)	Peak Tramway Ordinance	Cap. 265	
(10)	Massage Establishments Ordinance	Cap. 266	
(11)	Motor Vehicles Insurance (Third Party Risks) Ordinance	Cap. 272	
(12)	Education Ordinance	Cap. 279	#
(13)	Merchant Shipping Ordinance	Cap. 281	
(14)	Employees’ Compensation Ordinance	Cap. 282	
(15)	Misrepresentation Ordinance	Cap. 284	
(16)	Hong Kong Airport (Regulations) Ordinance	Cap. 292	(Repealed in 2002)
(17)	Crown Proceedings Ordinance	Cap. 300	
(18)	Shipping and Port Control Ordinance	Cap. 313	

(19)	Occupiers Liability Ordinance	Cap. 314	
(20)	Industrial Training (Construction Industry) Ordinance	Cap. 317	(Repealed in 2008)
(21)	Lifts and Escalators (Safety) Ordinance	Cap. 327	#
(22)	Small Claims Tribunal Ordinance	Cap. 338	
(23)	Waste Disposal Ordinance	Cap. 354	
(24)	Water Pollution Control Ordinance	Cap. 358	
(25)	Pneumoconiosis (Compensation) Ordinance	Cap. 360	
(26)	Roads (Works, Use and Compensation) Ordinance	Cap. 370	
(27)	Road Traffic Ordinance	Cap. 374	#
(28)	Civil Liability (Contribution) Ordinance	Cap. 377	
(29)	Hong Kong Bill of Rights Ordinance	Cap. 383	(No need for adaptation*)
(30)	Noise Control Ordinance	Cap. 400	
(31)	Occupational Retirement Schemes Ordinance	Cap. 426	
(32)	Parent and Child Ordinance	Cap. 429	
(33)	Merchant Shipping (Limitation of Shipowners Liability) Ordinance	Cap. 434	
(34)	Occupational Deafness (Compensation) Ordinance	Cap. 469	
(35)	Carriage by Air Ordinance	Cap. 500	

# The provisions regarding the scope of their application have been adapted. Please see paragraph 6 of the main paper.

\* On further examination, the Hong Kong Bill of Rights Ordinance does not have any references to “Crown”. Thus, there is no need for adaptation.