

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1756/10-11  
(The minutes have been seen  
by the Administration)

Ref : CB2/BC/5/09

**Bills Committee on  
Adaptation of Laws (Military References) Bill 2010**

**Minutes of the sixth meeting  
held on Monday, 11 April 2011, at 10:45 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Hon LAU Kong-wah, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon Cyd HO Sau-lan  
Hon CHAN Hak-kan  
Hon WONG Kwok-kin, BBS  
Hon Paul TSE Wai-chun

**Members absent** : Dr Hon Margaret NG  
Hon James TO Kun-sun  
Dr Hon Priscilla LEUNG Mei-fun

**Public Officers attending** : Item I  
  
Ms Carol YIP, JP  
Deputy Secretary for Security  
  
Mr David LAU  
Principal Assistant Secretary for Security  
  
Ms Francoise LAM  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Mrs Sharon TONG  
Principal Council Secretary (2)

**Staff in attendance** : Mr Jimmy MA  
Legal Adviser

Ms Catherina YU  
Senior Council Secretary (2) 7

Mr Jove CHAN  
Senior Council Secretary (2) 8

Ms Camy YOONG  
Clerical Assistant (2) 7

---

**I. Meeting with the Administration**

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Clause-by-clause examination of the Bill  
(LC Paper No. CB(2)228/10-11(05))

2. The Administration was requested to take the following actions and revert to the Bills Committee -

Public Service Commission Ordinance (Cap. 93)  
Section 6 - Functions of Commission

(a) to discuss with the policy bureau and consider reviewing the proposed adaptation to retain the reference of "office" in section 6(2)(d) having regard to the Police Force Ordinance (Cap. 232);

Telecommunications Ordinance (Cap. 106)  
Section 14 - Power to place and maintain telecommunications lines, etc., on land, etc.

(b) to advise the justifications of proposing the reference "Commander of the Hong Kong Garrison", and whether it had consulted the Hong Kong Garrison and if in the affirmative, the view of the Hong Kong Garrison;

- (c) to review the proposed definition of "Commander of the Hong Kong Garrison" in Cap. 1 having regard to the views of members and LA;

Dutiable Commodities Ordinance (Cap. 109)

Section 3 - Application

- (d) to make reference to section 10D(1)(a) of the Pilotage Ordinance (Cap. 84) and consider the need to add the reference of "goods for non-commercial services" in the provision;
- (e) to examine the meaning of "the Government of the United Kingdom" in the Bill and review the relevant adaptation proposals;

Inland Revenue Ordinance (Cap. 112)

Section 8 - Charge of salaries tax

- (f) to consider the need to mention "在中央人民政府的" before "職位" in the proposed adaptation for section 8(2)(d);

Rating Ordinance (Cap. 116)

Section 36 - Exemption of certain tenements from assessment

- (g) to provide information on whether the Government was charging rates for the United Services Recreation Club which was located within the Gun Club Hill Barracks;
- (h) to provide information on whether there were other provisions in the Rating Ordinance providing exemption from the payment of rates, wholly or in part, by the former Governor before the Reunification or the Chief Executive;

Funeral Parlours Regulation (Cap. 132 sub. leg. AD)

Regulation 3 - Interpretation

- (i) to consider including the reference of "any mortuary situated within the precincts of ... similar institution" in the proposed adaptation in section 3(ba);

Hong Kong Cemetery, Happy Valley, Rules (Cap . 132 sub. leg. AJ)

Rule 4 - Bands and photographs

- (j) to review the proposed adaptation, or consider taking away the exemption in a separate exercise;

Dangerous Drugs Ordinance (Cap. 134)

- (k) to provide information on whether the provisions in Cap. 134 were applicable to military hospitals;
- (l) to provide information on whether pharmacists in military hospitals were exempted from registration; and

Air Passenger Departure Tax Ordinance (Cap. 140)

SECOND SCHEDULE

- (m) to review the appropriateness of replacing "關係" by "關連" in section 5(b).

3. The Bills Committee had identified other areas requiring amendments that would involve law reform in the course of the scrutiny of the Bill. Given that such amendments were outside the scope of adaptation of laws and hence the Adaptation Bill, members requested the Administration to consider such amendment proposals in separate law amendment exercises.

**II. Date of next meetings**

4. Members agreed to hold meetings in May, June and July 2011 as follows -

- (a) 19 May 2011 at 4:30 pm;
- (b) 30 May 2011 at 4:30 pm;
- (c) 27 June 2011 at 10:45 am ; and
- (d) 11 July 2011 at 10:45 am.

5. The meeting ended at 12:45 pm.

**Proceedings of the sixth meeting of the  
Bills Committee on Adaptation of Laws (Military References) Bill 2010  
on Monday, 11 April 2011, at 10:45 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000136	Chairman	Welcoming remarks	
000137 - 000610	Chairman Admin Ms Cyd HO	<p><u>Employment Ordinance (Cap.57)</u> <u>Section 33 - Sickness allowance</u></p> <p>Explanation by the Administration on the proposed adaptation.</p> <p>Ms Cyd HO's enquiry on the notification mechanism and the ordinances concerning the control and prevention of infectious diseases adopted by military hospital.</p> <p>Ms Cyd HO's comments on whether the Hong Kong Garrison should follow the laws relating to the control and prevention of infectious diseases.</p> <p>The Administration's response to Ms HO's enquiry and explanation on the requirements as stipulated in the Garrison Law for the Hong Kong Garrison to abide by the laws of Hong Kong including the Prevention and Control of Disease Regulation (Cap. 599A).</p>	
000611 - 000754	Chairman Admin Ms Cyd HO	<p><u>Import and Export (Registration) Regulations (Cap. 60 sub. leg. E)</u> <u>Regulation 3 - Exemptions in respect of regulations 4 and 5</u></p> <p>Ms Cyd HO's enquiry about the appropriateness of the proposed adaptation in view of the difference in the size of the Chinese People's Liberation Army ("CPLA") and the Hong Kong Garrison.</p> <p>The Administration's explanation on the justifications for the proposed adaptation was to ensure that the exemption relating to the "armed forces of the Crown" before the Reunification should continue to have effect and apply to CPLA. Only when the content of the provision related to title to land in the Government of Hong Kong Special Administrative Region, the reference to "the Crown" would be proposed to be adapted as "the Hong Kong Garrison".</p>	

Time marker	Speaker	Subject(s)	Action required
000755 - 001707	Chairman Admin Ms Cyd HO LA	<p><u>Pensions Regulations (Cap. 89 sub. leg. A)</u>  <u>Regulation 16 - War service to count for pension purposes</u>  <u>Regulation 17A - Additional pension in respect of war service</u></p> <p>The Administration's explanation on the major differences between Cap. 89 sub. leg. A and Cap. 99 sub. leg. A and the justifications to repeal regulation 16 from Cap. 89 sub. leg. A and to retain regulation 17A and the proposed adaptation.</p> <p>Ms Cyd HO's enquiry on the availability of the number of persons eligible for additional pension under regulation 17A and suggestion to delete the regulation when no more person was eligible for the relevant pension.</p> <p>The Chairman's enquiry and LA's comments on the adaptation of "the Crown" to "the United Kingdom".</p> <p>The Administration's response to Ms HO and the Chairman's enquiry that the adaptation proposal of "the Crown" to "the United Kingdom" was prepared in accordance with Schedule 9 of Cap.1.</p>	
001708 - 002425	Chairman Admin LA Ms Cyd HO Mr LAU Kong-wah	<p><u>Public Service Commission Ordinance (Cap. 93)</u>  <u>Section 6 - Functions of Commission</u></p> <p>The Administration's explanation on the proposed adaptation.</p> <p>LA's enquiry on the appropriateness of retaining the term "office" in section 6(2)(d) with reference to the Police Force Ordinance (Cap. 232) as there was no mention of the term in Cap. 232 and suggestion for the Administration to review the proposed adaptation.</p> <p>The Administration was requested to discuss LA's suggestion with the policy bureau.</p> <p>Ms Cyd HO's suggestion for the Administration to introduce a miscellaneous amendment bill to deal with other identified amendments that would involve law reform in the course of scrutiny of the Bill.</p> <p>The Chairman and Mr LAU Kong-wah's comments that legislative amendments which were beyond the scope of adaptation of laws should be handled outside the current exercise.</p> <p>The Administration was requested to take necessary actions separately for all such legislative amendments.</p>	<p><b>Admin</b></p> <p><b>Admin</b></p>

Time marker	Speaker	Subject(s)	Action required
002426 - 002436	Chairman Admin	<p><u>Pension Benefits Regulations (Cap. 99 sub. leg. A)</u>  <u>Regulation - 15 Military service to count for pension benefits</u>  <u>Regulation - 15A Additional pension in respect of war service</u></p> <p>The Administration's explanation on the proposed adaptation.</p>	
002437 - 002714	Chairman Admin Ms Cyd HO	<p><u>"Star" Ferry Company, Limited, By-Laws (Cap.104 sub. leg. E)</u>  <u>Section 13 - Firearms</u></p> <p>Ms Cyd HO's enquiry on the provisions stipulating the circumstances under which a member of Her Majesty's forces on duty could enter the Star Ferry Company's piers or travel on any of its vessels with firearms.</p> <p>The Administration's response to Ms HO's enquiry.</p>	
002715 - 003636	Chairman Admin Mr LAU Kong-wah Ms Cyd HO LA	<p><u>Telecommunications Ordinance (Cap. 106)</u>  <u>Section 14 - Power to place and maintain telecommunications lines, etc., on land, etc.</u></p> <p>Mr LAU Kong-wah's comments and enquiry on the justifications for the proposed definition of "Commander of the Hong Kong Garrison" in the Interpretation and General Clauses Ordinance (Cap. 1).</p> <p>The Administration responded to Mr LAU's enquiry and added that the justification of the proposal to include the definition of "Commander of the Hong Kong Garrison" had been provided to the Bills Committee vide LC Paper No. CB(2)1495/10-11(01).</p> <p>The Chairman's enquiry on the consultation with the Hong Kong Garrison by the Administration on the use of "Commander of the Hong Kong Garrison" in the proposed adaptations.</p> <p>LA's enquiry on the proper translation of "Commander of the Hong Kong Garrison" as agreed by the Hong Kong Garrison.</p> <p>The Administration's response to the Chairman and LA's enquiries that the Garrison was consulted on the Adaptation Bill in accordance with Article 10 of the Garrison Law.</p> <p>LA's comments on the functional description of the "Commander of the Hong Kong Garrison" in the Chinese text and the post-holder description in the English text and the absence of a Commander of the Hong Kong Garrison in the establishment of the Hong</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Kong Garrison.</p> <p>LA's concern about the inconsistency in the meaning of "Commander of the Hong Kong Garrison" in the English and Chinese texts of the provisions.</p> <p>The Administration explained that the adaptation proposals for both the Chinese and English texts of the provisions were consistent and were prepared in accordance with the principles of adaptation.</p> <p>Ms Cyd HO's enquiry on the use of the post-holder in the rank in the proposed adaptation.</p> <p>The Chairman's enquiry on the Administration's suggestion to the Hong Kong Garrison on using the post-holder in the rank in the proposed adaptation.</p> <p>The Administration was requested to -</p> <p>(a) advise the justifications of proposing the reference "Commander of the Hong Kong Garrison", and whether it had consulted the Hong Kong Garrison, and if in the affirmative, the view of the Hong Kong Garrison; and</p> <p>(b) review the proposed definition of "Commander of the Hong Kong Garrison" in Cap. 1 having regard to the views of members and LA.</p>	<b>Admin</b>
003637 - 003902	Chairman Admin LA	<p><u>Tramway Ordinance (Cap. 107)</u> <u>Section 2 - Interpretation</u></p> <p>Background information provided by LA on the use of military lands by the Hong Kong Garrison after the Reunification.</p>	
003903 - 005105	Chairman Admin Ms Cyd HO Mr LAU Kong-wah LA	<p><u>Dutiable Commodities Ordinance (Cap. 109)</u> <u>Section 3 - Application</u></p> <p>Ms Cyd HO's concern about the exemption of tax for commodities imported or purchased by the Central People's Government ("CPG") or CPLA for commercial purposes and suggestion on the application of the provision to goods imported or purchased for non-commercial service only.</p> <p>The Chairman's remarks on CPLA not engaging in any commercial activities.</p> <p>The Chairman and LA's view on confining commodities for non-commercial activities might involve law reform to the existing provision.</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman's enquiry on the reasons for the inclusion of CPLA in the proposed adaptation.</p> <p>The Administration's explanation as to why CPLA was included considering the "Government of the United Kingdom" included Her Majesty's armed forces before the Reunification.</p> <p>Ms Cyd HO's comments on whether the inclusion of CPLA was beyond adaptation of laws and concern about the inconsistent approaches adopted by the Administration in the same Bill.</p> <p>Mr LAU Kong-wah's concern about the different meaning of the Government of the United Kingdom in different provisions.</p> <p>LA's comments on the inclusion of the Hong Kong Garrison in the proposed adaptation and whether the Government of the United Kingdom should include judicial and legislative authorities in addition to executive authorities and the correct approach of law adaptation in view of the respective structure of CPG and the Government of the United Kingdom.</p> <p>The Administration was requested to -</p> <p>(a) make reference to section 10D(1)(a) of the Pilotage Ordinance (Cap. 84) and consider the need to add the reference of "goods for non-commercial services" in the provision; and</p> <p>(b) examine the meaning of "the Government of the United Kingdom" in the Bill and review the relevant adaptation proposals having regard to the views of members and LA.</p>	<b>Admin</b>
005106 - 005220	Chairman Mr LAU Kong-wah Admin	Mr LAU Kong-wah's enquiry and the Administration's explanation on different adaptations proposed for "the Hong Kong Government" in section 2 of Cap. 107 and section 3(4) of Cap. 109.	
005221 - 010201	Chairman Admin Mr LAU Kong-wah Ms Cyd HO LA	<p><u>Inland Revenue Ordinance (Cap. 112)</u> <u>Section 8 - Charge of salaries tax</u></p> <p>The Chairman and Mr LAU Kong-wah's views on the proposed adaptation for section 8(2)(d) which might change the meaning of the original provision and suggestion for the Administration to consider the need to amend it.</p> <p>LA's comments on the concept of permanent service in section 8(2)(d) and the difference in the meaning between the English and Chinese texts of the section.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Ms Cyd HO's enquiry on the persons who were in the permanent service of CPLA in Hong Kong.</p> <p>The Administration's response to the enquiry that the adaptation proposal was necessary and had not altered the legal effect of the provision concerned, and that the Hong Kong Garrison had not directly employed any individuals in Hong Kong at the moment.</p> <p>The Administration was requested to discuss with the Department of Justice the proposed adaptation for section 8(2)(d).</p>	<b>Admin</b>
010202 - 010439	Chairman Admin Ms Cyd HO LA	<p><u>Immigration Ordinance (Cap. 115)</u> <u>Section 2 - Interpretation</u></p> <p>Ms Cyd HO's enquiry on the proposed deletion of the words "隸屬" in section 2(1).</p> <p>The Administration's response to Ms HO's enquiry that the adaptation proposal was to reflect the actual situation in the CPLA and would not alter the legal effect of the provision.</p>	
010440 - 010833	Chairman Admin LA Ms Cyd HO	<p><u>Immigration Ordinance (Cap. 115)</u> <u>Section 17B - Interpretation</u> <u>Section 57A - Powers of arrest by Her Majesty's forces</u> <u>Section 57B - Resisting arrest by, and obstruction of, Her Majesty's forces</u> <u>Section 58 - Powers of Her Majesty's naval offices</u> <u>Section 58A - Powers of persons in charge of authorized vessels</u></p> <p><u>Authorization by the Governor under Section 58A (Cap. 115 sub. leg. F)</u></p> <p>The Administration's briefing on the proposed deletions and adaptations.</p> <p>LA's remarks on bringing the provisions of the laws into conformity with the status of Hong Kong as a Special Administrative Region was one of the objectives of the law adaptation exercise.</p>	
010834 - 011659	Chairman Admin Ms Cyd HO	<p><u>Rating Ordinance (Cap. 116)</u> <u>Section 36 - Exemption of certain tenements from assessment</u></p> <p>Ms Cyd HO's grave concern about the exclusion of "for defence purposes" from section 36(4).</p> <p>The Administration's explanation as to why it was unnecessary to repeat "for defence purposes" in the provision where the military land was concerned.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman's enquiry on the arrangements of rates for the United Services Recreation Club which was located within the Gun Club Hill Barracks.</p> <p>Ms Cyd HO's concern about the United Services Recreation Club located within the Gun Club Hill Barracks being regarded as a military land notwithstanding that the land was occupied by a private organization without defence purposes.</p> <p>The Administration's explanation on the arrangements for the United Services Recreation Club located within the Gun Club Hill Barracks under the "Exchange of Notes between the Government of the People's Republic of China and the Government of the United Kingdom on the Arrangements for the Future Use of the Military Sites in Hong Kong" signed in November 1994.</p> <p>The Administration was requested to provide information on whether the Government was charging rates for the United Services Recreation Club which was located within the Gun Club Hill Barracks.</p>	<p><b>Admin</b></p>
011700 - 012151	Mr LAU Kong-wah Chairman Admin LA	<p>Mr LAU Kong-wah's enquiry on the body or organizations established for defence purposes before the Reunification, their current status and whether they needed to pay rates.</p> <p>The Administration's response to Mr LAU's question.</p> <p>LA drew members' attention to the Administration's proposal to delete the phrase "or by any body or organization established primarily for defence purposes and designated by the Governor for the purpose of this section" and request for the Administration to provide information on whether there were other provisions in the Rating Ordinance providing exemption from the payment of rates, wholly or in part, by the former Governor before the Reunification or the Chief Executive after the Reunification as in section 36(4).</p>	<p><b>Admin</b></p>
012152 - 012225	Chairman Admin	<p><u>Buildings Ordinance (Cap. 123)</u> <u>Section 41 - Exemptions</u></p> <p>The Administration's explanation on the proposed adaptation.</p>	

Time marker	Speaker	Subject(s)	Action required
012226 - 012509	Chairman Admin Ms Cyd HO	<p><u>Lands Resumption Ordinance (Cap. 124)</u> <u>Section 2 - Interpretation</u></p> <p>Ms Cyd HO's enquiry on the process of land resumption from the Hong Kong Garrison.</p> <p>The Administration's response to Ms HO's enquiry that any such procedures should be made in accordance with the Garrison Law, the Basic Law and the laws of Hong Kong.</p>	
012510 - 012532	Chairman Admin	<p><u>Land Acquisition (Possessory Title) Ordinance (Cap. 130)</u> <u>Section 2 - Interpretation</u></p> <p>The Administration's explanation on the proposed adaptation.</p>	
012533 - 013406	Chairman Admin Mr LAU Kong-wah Ms Cyd HO LA	<p><u>Funeral Parlours Regulation (Cap. 132 sub. leg. AD)</u> <u>Regulation 3 - Interpretation</u></p> <p>Mr LAU Kong-wah's suggestion to include "similar institution" in the proposed adaptation in regulation 3(ba).</p> <p>Ms Cyd HO and LA's interpretation of "similar institution".</p> <p>The Administration was requested to consider including the reference of "any mortuary situated within the precincts of ... similar institution" in the existing provision and review the proposed adaptation in regulation 3(ba) taking into account the views of members and LA.</p>	<b>Admin</b>
013407 - 013956	Chairman Admin Ms Cyd HO Mr LAU Kong-wah	<p><u>Hong Kong Cemetery, Happy Valley, Rules (Cap. 132 sub. leg. AJ)</u> <u>Rule 4 - Bands and photographs</u></p> <p>Mr LAU Kong-wah's view on the inappropriateness of involving law reform in the current exercise of adaptation of laws.</p> <p>Ms Cyd HO's reiteration of the Administration's inconsistency in dealing with policy amendments in the law adaptation exercise.</p> <p>The Chairman's views on the strict compliance of the principles of law adaptation in the scrutiny of the Bill.</p> <p>The Administration was requested to review the proposed adaptation, or consider taking away the exemption having regard to members' views.</p>	<b>Admin</b>

Time marker	Speaker	Subject(s)	Action required
013957 - 014828	Chairman Admin LA Mr LAU Kong-wah Ms Cyd HO	<p><u>Dangerous Drugs Ordinance (Cap. 134 )</u>  <u>Section 2 - Interpretation</u>  <u>Section 5 - Dangerous drug not to be supplied except to person authorized or licensed to be in possession thereof</u>  <u>Section 22 - Statutory authority for certain persons to possess, supply or manufacture dangerous drugs</u>  <u>Section 23 - Restrictions on authority conferred by section 22, etc.</u>  <u>Section 27 - Statutory authority to possess equipment and apparatus for injection of dangerous drugs</u>  <u>Section 30 - Supply of dangerous drugs to hospitals, etc.</u>  <u>SCHEDULE 2</u></p> <p><u>Dangerous Drugs Regulations (Cap. 134 sub.leg. A)</u>  <u>Regulation 3 - Requirements with respect to prescriptions</u></p> <p>The Chairman's concern about the applicability of the provisions in Cap. 134 to military hospitals given the medical practitioners in military hospitals were exempted from registration in Hong Kong.</p> <p>The Administration's explanation on the justifications for the proposed adaptations.</p> <p>LA's explanation on the exemption from registration of medical officers of CPLA under section 29 of the Medical Registration Ordinance (Cap. 161).</p> <p>Ms Cyd HO's enquiry on whether pharmacists in military hospitals were exempted from registration.</p> <p>The Administration was requested to provide information on -</p> <p>(a) whether the provisions in Cap. 134 were applicable to military hospitals; and</p> <p>(b) whether pharmacists in military hospitals were exempted from registration.</p>	<b>Admin</b>
014829 - 015052	Chairman Admin Ms Cyd HO	<p><u>Pharmacy and Poisons Ordinance (Cap. 138)</u>  <u>Section 2 - Interpretation</u></p> <p>The Administration's explanation on the proposed adaptations.</p>	
015053 - 015340	Chairman Admin Mr LAU Kong-wah	<p><u>Air Passenger Departure Tax Ordinance (Cap. 140)</u>  <u>SECOND SCHEDULE</u></p> <p>Mr LAU Kong-wah's enquiry on the reasons of replacing "關係" by "關連" in section 5(b).</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's response to Mr LAU's question that the reference "關連" was more consistent with the meaning of "in connection with" in section 5(b) of the Ordinance.</p> <p>The Administration was requested to review the proposed adaptation to "關連".</p>	<b>Admin</b>
015341 - 015432	Chairman Admin	<p><u>Dentists Registration Ordinance (Cap. 156)</u> <u>Section 30 - Exemptions from sections 9, 10 and 14</u></p> <p>The Administration's explanation on the proposed adaptations.</p>	
015333- 015434	Chairman Admin	<p><u>Medical Registration Ordinance (Cap. 161)</u> <u>Section 29 - Exemption from registration</u></p> <p>The Administration's explanation on the proposed adaptations.</p>	
015435 - 015614	Chairman Admin Mr LAU Kong-wah	<p><u>Midwives Registration Ordinance (Cap. 162)</u> <u>Section 25 - Exemption from registration</u></p> <p>Mr LAU Kong-wah's enquiry on the proposed deletion of "on full pay" from the provision.</p> <p>The Administration's response to Mr LAU's question that there was no such classification in the establishment of the CPLA.</p>	
015615 - 015626	Chairman Admin	<p><u>Nurses Registration Ordinance (Cap. 164)</u> <u>Section 26 - Exemptions from registration</u></p> <p>The Administration's explanation on the proposed adaptations.</p>	
015627 - 015714	Chairman Admin	<p><u>Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)</u> <u>Section 2 - Interpretation</u></p> <p>The Administration's explanation on the proposed adaptations.</p>	
015715 - 020034	Chairman Ms Cyd HO Mr LAU Kong-wah Admin LA Clerk	Date of next meetings	