

立法會
Legislative Council

LC Paper No. CB(2)2613/10-11
(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 ninth meeting
held on Monday, 27 June 2011, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Dr Hon Priscilla LEUNG Mei-fun
Hon Paul TSE Wai-chun

Members absent : Dr Hon Margaret NG
Hon WONG Kwok-kin, BBS

Public Officers attending : Item I

Ms Carol YIP, JP
Deputy Secretary for Security

Mr David LAU
Principal Assistant Secretary for Security

Ms Françoise LAM
Senior Government Counsel
Department of Justice

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Ms Catherina YU
Senior Council Secretary (2) 7

Ms Michelle LEE
Legislative 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 -

Massage Establishments Ordinance (Cap. 266)
Section 3 - Application of Ordinance

- (a) to check whether maternity home was one of the facilities in the military hospital and consider whether amendments to the proposed section 3(aa) were required;

Shipping and Port Control Ordinance (Cap. 313)
Section 70 - Boarding ships without authority

- (b) to provide information on the procedures involved when the Government of the Hong Kong Special Administrative Region asked the Central People's Government ("CPG") for assistance from the Hong Kong Garrison in the maintenance of public order or in disaster relief under Article 14 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region;

Civil Aviation Ordinance (Cap. 448)

Section 2A - Power to give effect to Chicago Convention and regulate air navigation

- (c) to provide information on the departments of CPG which were responsible for the enforcement of the orders under sections 2A(3) and (4) and the relevant procedures;

Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C)

Section 64 - Rules of the Air

- (d) to provide examples of the regulations or directives issued by CPG under section 64;

Aviation Security Ordinance (Cap. 494)

Section 2 - Interpretation

- (e) to review the proposed adaptation in section 2(4) having regard to members' views;

Registered Designs Ordinance (Cap. 522)

Section 77 - Designs relevant for defence purposes

- (f) to consider revising the adaptation proposal for "Secretary of State " to "Central People's Government";
- (g) to consult the relevant policy bureau and identify the responsible authority of CPG for the matters covered by section 77; and

General issue

- (h) to provide justifications for the different adaptation proposals for "Secretary of State" in the Bill.

3. The Administration was also requested to consider reviewing the extent of the exemption from indemnity for persons specified in section 53 of the Public Order Ordinance (Cap. 245) in a separate exercise in future.

II. Date of next meeting

4. Members agreed that the next meeting would be scheduled when the Administration's response to issues raised by the Bills Committee at this and previous meetings was available.

5. The meeting ended at 12:30 pm.

Council Business Division 2
Legislative Council Secretariat
12 September 2011

**Proceedings of the ninth meeting of the
Bills Committee on Adaptation of Laws (Military References) Bill 2010
on Monday, 27 June 2011, at 10:45 am
in Conference Room B of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action required |
|--------------------|----------------------------------|---|------------------------|
| 000246 - 000409 | Chairman | Welcoming remarks | |
| 000410 - 000539 | Chairman Admin | <u>Public Order Ordinance (Cap. 245)</u> <u>Section 49 - Power to require identification</u> Briefing by the Administration on the adaptation proposals. | |
| 000540 - 000751 | Chairman Admin | <u>Public Order Ordinance (Cap. 245)</u> <u>Section 50 - Power of members of certain auxiliary services and Her Majesty's forces</u> <u>Section 50A - Obstruction</u> Briefing by the Administration on the adaptation proposals. | |
| 000752 - 001041 | Chairman Admin Mr James TO | <u>Public Order Ordinance (Cap. 245)</u> <u>Section 53 - Indemnity to persons acting under Ordinance</u> Mr James TO's view on the extent of exemption from indemnity for persons specified in this provision and his request for the Administration to consider reviewing the exemption in a separate exercise in future. | Admin |
| 001042 - 001056 | Chairman Admin | <u>Protected Places (Safety) Ordinance (Cap. 260)</u> <u>Section 3 - Power for the Chief Executive to authorize any person to act as an authorized guard</u> Briefing by the Administration on the adaptation proposals. | |
| 001057 - 001203 | Chairman Admin | <u>Protected Places (Safety) (Authorized Guards) Order (Cap. 260 sub. leg. C)</u> <u>Section 2 - Authorized guards in respect of protected places under control of Senior Military Officer</u> <u>Section 3 - Authorized guards in respect of protected places under control of Captain, Hong Kong</u> <u>Section 4 - Authorized guards in respect of protected places under control of Air Officer Commanding, Hong Kong</u> Briefing by the Administration on the adaptation proposals. | |

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| 001204 - 001223 | Chairman Admin | <p><u>Peak Tramway By-laws (Cap. 265 sub. leg. B)</u> <u>Section 25 - Firearms</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |
| 001224 - 001917 | Chairman Admin Mr James TO | <p><u>Massage Establishments Ordinance (Cap. 266)</u> <u>Section 3 - Application of Ordinance</u></p> <p>The Chairman's enquiry on the justifications for replacing "經辦" by "營辦" and the deletion of the word "由" from section 3(a) of Cap. 266.</p> <p>Mr James TO's enquiry on the reasons for the exclusion of hospitals of the Hong Kong Garrison in the new section 3(aa) of Cap. 266 and whether the Hong Kong Garrison had maintained any maternity home outside the military hospital.</p> <p>The Administration's response to the Chairman and Mr TO's enquiries.</p> <p>Explanation by the Administration on the proposed definition of "military hospital" in Cap. 1.</p> <p>Request for the Administration to check whether maternity home was one of the facilities in the military hospital and considered whether amendments to the new section 3(aa) of Cap. 266 were required.</p> | Admin |
| 001918 - 001958 | Chairman Admin | <p><u>Merchant Shipping Ordinance (Cap. 281)</u> <u>Section 118 - Dispensing power and exemption</u></p> <p>The Chairman's enquiry on the replacement of "船艦" by "船舶".</p> <p>The Administration explained that the reference to "ship" was rendered as "船舶" in the Chinese version in the other provisions of the Ordinance, it was therefore suggested to amend the term "ships of war" to "軍用船舶" to ensure consistency within the same Ordinance. The proposal would not alter the scope and legal effect of the provision.</p> | |
| 001959 - 002056 | Chairman Admin | <p><u>Employees' Compensation Ordinance (Cap. 282)</u> <u>Section 3 - Interpretation</u> <u>Section 4 - Application to certain employees</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |

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| 002057 - 002120 | Chairman Admin | <u>Housing (Traffic) By-laws (Cap. 283 sub. leg. A)</u> <u>Section 9 - Exemption from restrictions</u> Briefing by the Administration on the adaptation proposal. | |
| 002121 - 002143 | Chairman Admin | <u>Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C)</u> <u>Schedule 2 - Scheduled Circumstances</u> Briefing by the Administration on the adaptation proposal. | |
| 002144 - 002221 | Chairman Admin | <u>Mining Ordinance (Cap. 285)</u> <u>Section 2 - Interpretation</u> Briefing by the Administration on the adaptation proposal. | |
| 002222- 002232 | Chairman Admin | <u>Mining (General) Regulations (Cap. 285 sub. leg. A)</u> <u>FIRST SCHEDULE</u> Briefing by the Administration on the adaptation proposals. | |
| 002233 - 002415 | Chairman Admin | <u>Adoption Rules (Cap. 290 sub. leg. A)</u> <u>Section 29 - Persons who may attest documents and declarations outside Hong Kong</u> Briefing by the Administration on the adaptation proposal. | |
| 002416 - 002438 | Chairman Admin | <u>Dangerous Goods Ordinance (Cap. 295)</u> <u>Section 3 - Application</u> Briefing by the Administration on the adaptation proposal. | |
| 002439 - 002612 | Chairman Admin | <u>Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C)</u> <u>FIRST SCHEDULE</u> The Chairman's enquiry on whether the military dock in Central was for military use only. The Administration's response to the Chairman's enquiry that military land occupied by the Hong Kong Garrison was for defence purposes, and that the military dock to be located on the Central Harbourfront was one of such military land. | |

| Time marker | Speaker | Subject(s) | Action required |
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| 002613 - 002703 | Chairman Admin | <p><u>Shipping and Port Control Ordinance (Cap. 313)</u> <u>Section 3 - Application</u> <u>Section 11 - Application</u> <u>Section 15 - Port clearance to be obtained before departure</u> <u>Section 52 - Port dues and remissions</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |
| 002704 - 003149 | Chairman Admin Ms Cyd HO | <p><u>Shipping and Port Control Ordinance (Cap. 313)</u> <u>Section 70 - Boarding ships without authority</u></p> <p>Ms Cyd HO's enquiry on the procedures involved when the Government of the Hong Kong Special Administrative Region asked the Central People's Government ("CPG") for assistance from the Hong Kong Garrison under Article 14 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region.</p> <p>The Administration's response to Ms HO's enquiry that pursuant to the provisions of the Basic Law and the Garrison Law, the Government of the Hong Kong Special Administrative Region might, when necessary, ask CPG for assistance from the Hong Kong Garrison in the maintenance of public order or in disaster relief.</p> | Admin |
| 003150 - 003329 | Chairman Admin | <p><u>Shipping and Port Control Regulations (Cap. 313 sub. leg. A)</u> <u>Section 22 - Report of arrival of ship</u> <u>Section 47 - Use of piers</u> <u>Section 63 - Use of lights</u> <u>Section 65 - Minor prohibitions</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |
| 003330 - 003504 | Chairman Admin Ms Cyd HO | <p><u>Census and Statistics Ordinance (Cap. 316)</u> <u>Section 10 - Enumeration of armed forces and travellers</u></p> <p>Ms Cyd HO's enquiry on how census was conducted on the Hong Kong Garrison and whether the Hong Kong Garrison was covered by the 2011 Population Census.</p> <p>The Administration's response to Ms HO's enquiry.</p> | |

| Time marker | Speaker | Subject(s) | Action required |
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| 003505 - 003709 | Chairman Admin Ms Cyd HO | <u>Industrial Training (Clothing Industry) Ordinance (Cap. 318)</u> <u>Section 3 - Application</u> Ms Cyd HO's view on dealing with obsolete provisions in separate law amendment exercises. | |
| 003710 - 003752 | Chairman Admin | <u>Lifts and Escalators (Safety) Ordinance (Cap. 327)</u> <u>Section 3 - Application</u> <u>Section 46 - Special provisions as to application of Ordinance where lessee of building responsible for lift or escalator</u> Briefing by the Administration on the adaptation proposals. | |
| 003753 - 004013 | Chairman Admin Ms Cyd HO | <u>Motor Vehicles (First Registration Tax) Ordinance (Cap. 330)</u> <u>Section 5 - Tax not payable in respect of certain motor vehicles</u> The Chairman's enquiry on the numbering of the provisions after the proposed changes had taken effect. The Administration's response to the Chairman's enquiry. | |
| 004014 - 004124 | Chairman Admin | <u>Medical Clinics Ordinance (Cap. 343)</u> <u>Section 2 - Interpretation</u> Briefing by the Administration on the adaptation proposal. | |
| 004125 - 004151 | Chairman Admin | <u>Supplementary Medical Professions Ordinance (Cap. 359)</u> <u>Section 30 - Disapplication of certain provisions to certain classes of person</u> Briefing by the Administration on the adaptation proposals. | |
| 004152 - 004245 | Chairman Admin | <u>Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360)</u> <u>Section 2 - Interpretation</u> <u>Section 4 - Entitlement to compensation</u> Briefing by the Administration on the adaptation proposals. | |

| Time marker | Speaker | Subject(s) | Action required |
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| 004246 - 004300 | Chairman Admin | <u>Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B)</u> <u>Section 96 - Exemption for Government officers</u> Briefing by the Administration on the adaptation proposal. | |
| 004301 - 004357 | Chairman Admin | <u>Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B)</u> <u>Section 4 - Application to State</u> The Chairman's enquiry on the justifications for the adaptation proposals. The Administration's response to the Chairman's enquiry. | |
| 004358 - 004612 | Chairman Admin Mr LAU Kong-wah Mr Andrew LEUNG | <u>Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C)</u> <u>Section 10 - Exemptions from restrictions</u> The Chairman's enquiry on the term "官方軍隊" in section 10(c) of Cap. 374 sub. leg. C. The Administration's response to the Chairman's enquiry. | |
| 004613 - 004642 | Chairman Admin | <u>Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E)</u> <u>Section 3 - Application</u> <u>Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G)</u> <u>Section 2 - Interpretation</u> <u>Road Traffic (Parking on Private Roads) Regulations (Cap. 374 sub. leg. O)</u> <u>Section 10 - Exemptions</u> <u>Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q)</u> <u>Section 4 - Vehicles permitted</u> Briefing by the Administration on the adaptation proposals. | |
| 004643 - 004742 | Chairman Admin | <u>Pension Benefits (Judicial Officers) Regulations (Cap. 401 sub. leg. A)</u> <u>Section 15 - Military service to count for pension benefits</u> Briefing by the Administration on the adaptation proposals. | |

| Time marker | Speaker | Subject(s) | Action required |
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| 004743 - 004924 | Chairman Admin | <p><u>Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)</u> <u>Section 5 - Application of Part III</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |
| 004925 - 010309 | Chairman Admin Ms Cyd HO Mr LAU Kong-wah Mr Andrew LEUNG | <p><u>Civil Aviation Ordinance (Cap. 448)</u> <u>Section 2A - Power to give effect to Chicago Convention and regulate air navigation</u></p> <p>The Chairman's enquiry on the reasons for adapting "Secretary of State" to "the Standing Committee of the National People's Congress" in Section 2A(8) of Cap. 448.</p> <p>The Administration's response that the proposed adaptation was in line with the relevant provisions in the Basic Law concerning the declaration of a state of emergency.</p> <p>Ms Cyd HO's view on the suitability to adapt "Secretary of State" to "the Central People's Government" in sections 2A(3)(b) and 2A(4) and her request for the Administration to explain in detail the justifications for the adaptation proposals for "Secretary of State".</p> <p>The Administration's further explanation on the proposed adaptations that adaptation proposals regarding the reference "Secretary of State" were prepared in accordance with the principles of adaptation of laws and Cap.1. The adaptation proposals did not alter or expand the scope of the provisions concerned.</p> <p>Ms HO's view on the need to elaborate on the mechanism for the declaration of a state of emergency and the issue of instruction to the Chief Executive during a state of emergency in the adaptation proposals.</p> <p>The Administration's explanation that the proposal to adapt the reference of "Secretary of State" to "the Standing Committee of the National People's Congress" in section 2A(8) of Cap. 448 was prepared in accordance with the references stipulated in Article 18 of the Basic Law.</p> <p>Ms HO's view on the difference between Article 18 of the Basic Law and sections 2A(4) and (8) of Cap. 448, and her suggestion to use "the Standing Committee of the National People's Congress" instead of "the Central People's Government" in sections 2A(3)(b) and 2A(4)</p> | Admin |

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| | | <p>of Cap. 448.</p> <p>Information provided by the Chairman on the declaration of a state of emergency by the Standing Committee of the National People's Congress and the enforcement of such orders by CPG.</p> <p>Mr LAU Kong-wah's referral to Articles 13 to 15 and 18 of the Basic Law which mentioned about the role of CPG and his concurrence with the Administration's adaptation proposal.</p> <p>Mr Andrew LEUNG's view on the different roles of the Standing Committee of the National People's Congress and CPG and his expression of support for the adaptation proposals.</p> <p>Ms HO's request for the Administration to provide information on the departments of CPG which were responsible for the enforcement of the orders under sections 2A(3) and (4) of Cap. 448 and the relevant procedures.</p> | <p>Admin</p> |
| 010310 - 010528 | <p>Chairman Admin Mr LAU Kong-wah Ms Cyd HO</p> | <p><u>Civil Aviation Ordinance (Cap. 448)</u> <u>Section 13 - Savers</u></p> <p>Mr LAU Kong-wah's enquiry on the reasons for including "the Hong Kong Special Administrative Region" in section 13(1) of Cap. 448 and whether the Government Flying Service was covered by section 13 of Cap. 448.</p> <p>The Administration's response to Mr LAU's enquiry that the aircraft of the Government Flying Service was covered under the reference "belonging to or exclusively employed for the time being in the service of ... the Government of the Hong Kong Special Administrative Region".</p> | |
| 010815 - 010905 | <p>Chairman Admin</p> | <p><u>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C)</u> <u>Section 19 - Members of flight crew - requirement of licences</u> <u>Section 23 - Instruction in flying</u></p> <p>The Administration's briefing on the adaptation proposals, and its explanation as to why the Chinese version for Air Navigation (Hong Kong) Order 1995 was not available.</p> | |

| Time marker | Speaker | Subject(s) | Action required |
|-----------------|---|--|-----------------|
| 012031 - 012526 | Chairman Admin Mr LAU Kong-wah Ms Cyd HO | <p><u>Aviation Security Ordinance (Cap. 494)</u> <u>Section 2 - Interpretation</u></p> <p>The Chairman and Mr LAU Kong-wah's enquiries on the justifications for including "on behalf of the Central People's Government" in section 2(4) of Cap. 494 which was different from the proposed adaptation for "Secretary of State" in other provisions in the Bill.</p> <p>The Administration's response to the Chairman and Mr LAU's enquiries that the adaptation proposal was prepared in the context of signing a certificate by or on behalf of the Central People's Government and the adaptation proposal did not alter or expand the scope of the provision concerned.</p> <p>Mr LAU's view on the disadvantages of adding "on behalf of the Central People's Government" to section 2(4) of Cap. 494.</p> <p>The Chairman's query on the need to specify "on behalf of the Central People's Government" in section 2(4) of Cap. 494; and the Chairman and Ms Cyd HO's view on the differences in adapting the reference to "Secretary of State" in other relevant provisions in the Bill.</p> <p>The Administration's undertaking to review the proposed adaptation in section 2(4) of Cap. 494.</p> | Admin |
| 012527 - 012542 | Chairman Admin | <p><u>Carriage by Air Ordinance (Cap. 500)</u> <u>Section 8 - Power to exclude aircraft in use for military purposes</u></p> <p>Briefing by the Administration on the adaptation proposals.</p> | |
| 012543 - 013359 | Chairman Admin Ms Cyd HO Mr LAU Kong-wah | <p><u>Registered Designs Ordinance (Cap. 522)</u> <u>Section 77 - Designs relevant for defence purposes</u></p> <p>Mr LAU Kong-wah's view on the lack of clarity to adapt "Secretary of State" (which meant the Secretary of State for Trade and Industry of the United Kingdom in section 77) to "competent authority" and his suggestion to adapt "Secretary of State" to "Central People's Government" in section 77 of Cap. 522 as CPG was responsible for assigning the appropriate authority for the matters to which this section applied.</p> <p>The Chairman's expression of support for Mr LAU's suggestion.</p> <p>The Administration's undertaking to consider Mr LAU's suggestion.</p> | Admin |

| Time marker | Speaker | Subject(s) | Action required |
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| | | Ms Cyd HO's comments on the English and Chinese texts of "Secretary of State" in section 77 of Cap. 522 and her suggestion for the Administration to consult the relevant policy bureau and identify the authority of CPG which was responsible for the matters covered by section 77 of Cap. 522. | Admin |
| 013400 - 014114 | Chairman Admin Ms Cyd HO Mr LAU Kong-wah Mr Andrew LEUNG | <p><u>Interpretation and General Clauses Ordinance (Cap. 1)</u> <u>Section 2A - Laws previously in force</u></p> <p>Ms Cyd HO's comments on the non-compliance of the adaptation proposal with the principles for adaptation of laws and her view on dealing with the amendment in a separate exercise.</p> <p>The Administration's reiteration on the guiding principles for adaptation of laws.</p> <p>Mr LAU Kong-wah's enquiry on the need for the adaptation proposal.</p> <p>The Administration's response to Mr LAU's enquiry.</p> | |
| 014115 - 014135 | Chairman Admin | <p><u>Airport Authority Bylaw (Cap. 483 sub. leg. A)</u> <u>Section 6 - Public officers, etc.</u> <u>Aviation Security Regulation (Cap. 494 sub. leg. A)</u> <u>Section 22 - Extent to which Regulation not binding on the Government</u></p> <p>The Chairman's enquiry on the adaptation proposal.</p> <p>The Administration's response to the Chairman's enquiry.</p> | |
| 014136 - 014600 | Chairman Admin Mr LAU Kong-wah Ms Cyd HO | <p>Completion of the scrutiny of Schedules 1 and 2 to the Bill.</p> <p>Date of next meeting</p> | |