

**Adaptation of Laws (Military References) Bill 2010
Response to Follow-up Actions of the Meeting on 11 April 2011**

Minutes of Meeting(LC Paper No. CB(2)1756/10-11)	Follow-up Action	Response
Section 11 of Schedule 1 to the Bill / Section 6 of the Public Service Commission Ordinance (Cap. 93)		
Paragraph 2 (a)	<ul style="list-style-type: none">▪ A Member requested the Administration to consider taking away the reference “office” in Section 6(2) (d) of the Public Service Commission Ordinance.	<ul style="list-style-type: none">▪ The Adaptation Bill aims to adapt certain military-related references in the laws of Hong Kong. As the reference “any office or rank ... in the police force” in the provision is not military-related, the suggestion therefore falls outside the scope of adaptation of laws of the Adaptation Bill. Meanwhile, considering that there are references to “office” and “rank” in the Police Force Ordinance (Cap.232), the reference “any office or rank ... in the police force” has thus been adopted in the Public Service Commission Ordinance (Cap. 93). That said, having regard to the views of individual members, we have referred the proposal to the relevant bureau to examine its feasibility.
Section 15 of Schedule 1 to the Bill / Section 14 of the Telecommunications Ordinance (Cap. 106)		
Paragraphs 2 (b) and (c)	<ul style="list-style-type: none">▪ A Member would like to know the justification for including the reference “Commander of the Hong Kong Garrison” in the adaptation proposal, and whether the Hong Kong Garrison had been consulted.	<ul style="list-style-type: none">▪ Before the Reunification, entering the land occupied by the then British Forces stationed in Hong Kong for the purpose of maintenance of telecommunications facilities therein (including telecommunications lines) was subject to the written consent of the Commander, British Forces. In accordance with the principles of adaptation of laws, it is therefore suggested to adapt the reference

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		<p>“Commander, British Forces” in Section 14 of the Telecommunications Ordinance to “Commander of the Hong Kong Garrison”.</p> <ul style="list-style-type: none"> ▪ Under Article 10 of the Garrison Law, “the Hong Kong Special Administrative Region shall consult the Hong Kong Garrison when formulating any policy or drafting any legislation which concerns the Hong Kong Garrison”. The Hong Kong Special Administrative Government (“HKSARG”) has consulted the Garrison in accordance with the requirements of the Garrison Law during the preparation of the Adaptation Bill and the Garrison has also agreed to the adaptation proposals. ▪ As for the proposal to include the four definitions in Cap. 1 of the Laws of Hong Kong, including the reference “Commander of the Hong Kong Garrison”, the intention was to provide clarity for the drafting in respect of the adaptation. It has neither expanded nor reduced the legal effect of existing Ordinances. In view of suggestions of the Members of the Bills Committee, we suggest taking away the four proposed definitions from the Adaptation Bill to better comply with the principles of adaptation of laws.

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Section 17 of Schedule 1 to the Bill / Section 3 of Dutiable Commodities Ordinance (Cap. 109)		
Paragraphs 2(d) and (e)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider adding the reference “used only on non-commercial service” in the provision. ▪ A Member suggested the Administration to review the adaptation proposals that involved the reference “the Government of the United Kingdom” in the Adaptation Bill. 	<ul style="list-style-type: none"> ▪ Considering the reference “the Government of the United Kingdom” in the provision concerned covers the then British Government as well as the British forces, it is therefore proposed to adapt the reference to “Central People’s Government, the Chinese People’s Liberation Army”.
Section 18 of Schedule 1 to the Bill / Section 8 of the Inland Revenue Ordinance (Cap. 112)		
Paragraph 2(f)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider taking away the reference “在中央人民政府的” before “職位” in the Chinese version of the adaptation proposal. 	<ul style="list-style-type: none"> ▪ The suggestion to include the reference “在中央人民政府的職位” in the Chinese version of the adaptation proposal is to ensure clarity in the provision concerned and better reflect the meaning of the reference “in respect of their offices under that Government” in the English version of the provision so as to avoid mis-interpreting the reference “offices” as offices in the HKSARG. The adaptation proposal is a straight forward one.
Section 23 of Schedule 1 to the Bill / Section 36 of the Rating Ordinance (Cap. 116)		
Paragraphs	<ul style="list-style-type: none"> ▪ A Member requested the Administration to 	<ul style="list-style-type: none"> ▪ Under Section 36(1) of the Rating Ordinance (Cap.116), military land

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2(g) and (h)	<p>provide information to explain whether the HKSARG was charging the United Services Recreation Club, which was located within the Gun Club Hill Barracks, for rates.</p> <ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information to explain whether there were other provisions in the Ordinance concerned that provided exemption from the payment of rates, wholly or in part, by the then Governor before the Reunification or the Chief Executive after the Reunification. 	<p>shall be exempt from assessment to rates. As such, any facilities on military land, including the United Services Recreation Club, will also be exempt from assessment to rates under the Ordinance.</p> <ul style="list-style-type: none"> ▪ Section 36 of Part VIII of the Ordinance sets out the exemptions from assessment to rates, including those may be granted by the Chief Executive under Section 36(1)(c), (2) and (3). The relevant provisions are set out below- <ul style="list-style-type: none"> “(1) (c) any village house within such areas of the New Territories as may be designated by the Chief Executive for the purposes of this paragraph, being- <ul style="list-style-type: none"> (i) a building to which paragraph (a) or (b) of regulation 3(2) of the Buildings Ordinance (Application to the New Territories) Regulations (Cap 322 sub. leg. 1984 Ed.), or any regulations replaced thereby, applied immediately before the coming into operation of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121); (ii) a dwelling house, built before 16 August 1945, of a type which was normally built for New Territories residents; or (iii) a building in respect of which a certificate of exemption in

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		<p>respect of building works has been issued under section 4 or 5(a), (b) or (d) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121);</p> <p>(2) The Chief Executive in Council may, by order, declare any class of tenements, or parts thereof, or any part of Hong Kong to be exempted from the payment of rates wholly or in part.</p> <p>(3) The Chief Executive may exempt any tenement, or part of any tenement, from the payment of rates, wholly or in part.”</p>
Section 27 of Schedule 1 to the Bill / Regulation 3 of the Funeral Parlours Regulation (Cap. 132 Subsidiary Legislation AD)		
Paragraph 2(i)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider including the reference “any mortuary situated within the precincts of ... similar institution” in Section 3(ba). 	<ul style="list-style-type: none"> ▪ Considering the Garrison only has mortuaries in the military hospital and has no other “similar institution”, it is therefore considered not appropriate to include the reference so suggested.
Section 28 of Schedule 1 to the Bill / Rule 4 of the Hong Kong Cemetery, Happy Valley, Rules (Cap. 132 Subsidiary Legislation AJ)		
Paragraph 2(j)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to review the adaptation proposal, or consider taking away the exemption in a 	<ul style="list-style-type: none"> ▪ Considering the exemption is not applicable to the Garrison after the Reunification, it is therefore proposed to repeal the provision concerned during the preparation of the adaptation proposal.

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	separate exercise.	
Sections 29-35 of Schedule 1 to the Bill / Dangerous Drugs Ordinance (Cap.134)		
Paragraphs 2(k) and (l)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information on whether the Dangerous Drugs Ordinance (Cap. 134) was applicable to military hospital, and explained whether pharmacists in military hospital were exempt from registration. 	<ul style="list-style-type: none"> ▪ Under the Garrison Law, Article 16(2) stipulates that members of the Hong Kong Garrison shall abide by the laws of the HKSAR, and Article 7 suggests that “the Hong Kong Garrison and its members shall also enjoy other rights and immunities prescribed by the laws in force in the Hong Kong Special Administrative Region”. In view of the above provisions, the relevant Ordinance equally applies to the Hong Kong Garrison.
Section 38 of Schedule 1 to the Bill / Schedule 2 of the Air Passenger Departure Tax Ordinance (Cap. 140)		
Paragraph 2(m)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to review the proposal to replace “關係” (“in connexion with”) by “關連” (“in connexion with”) in the Chinese version of the adaptation proposal. 	<ul style="list-style-type: none"> ▪ The reference “in connexion with” is used in the English version of the provision concerned, it is therefore considered that the Chinese term “關連” will be able to better reflect the Chinese meaning of such reference.

Security Bureau
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