

**Adaptation of Laws (Military References) Bill 2010
Response to Follow-up Actions of the Meeting on 19 May 2011**

Minutes of Meeting (LC Paper No. CB(2)2466/10-11)	Follow-up Action	Response
Section 45 of Schedule 1 to the Bill / Section 25 of the Registration Of Persons Regulations (Cap. 177 Subsidiary Legislation A)		
Paragraph 2 (a)	<ul style="list-style-type: none">▪ A Member requested the Administration to explain whether persons serving in the Chinese People's Liberation Army were "servicemen".	<ul style="list-style-type: none">▪ All persons serving in the Chinese People's Liberation Army are members of the Chinese People's Liberation Army.
Paragraph 2 (b)	<ul style="list-style-type: none">▪ A Member requested the Administration to explain whether there were any spouse and children of members of the Hong Kong Garrison residing in Hong Kong.	<ul style="list-style-type: none">▪ The Hong Kong Garrison adopts a closed-camp management approach and no spouse or children of its members accompanies members of the Garrison to Hong Kong.
Paragraph 2 (c)	<ul style="list-style-type: none">▪ A Member requested the Administration to explain whether the spouse and children of members of the Hong Kong Garrison were required to undergo immigration clearance.	<ul style="list-style-type: none">▪ Under Article 16(2) of the Garrison Law, members of the Hong Kong Garrison shall abide by the laws of the Hong Kong Special Administrative Region ("HKSAR") including immigration-related ordinances.▪ If the spouse and children of members of the Hong Kong Garrison visit Hong Kong, they have to undergo the same immigration clearance, i.e. producing a valid travel document under Section 5 of the Immigration

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		<p>Ordinance, as any other visitors to Hong Kong.</p>
<p>Paragraph 2 (d)</p>	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information to explain whether the measures implemented by local hospitals in relation to the provision of obstetrics services for Mainland women applied to the wives of members of the Hong Kong Garrison. 	<ul style="list-style-type: none"> ▪ Generally speaking, unless the wife of the member of the Hong Kong Garrison is an “Eligible Person” (“EP”) (see below) of the Hospital Authority (“HA”), she will need to pay the specified charges applicable to Non-Eligible Persons (“NEPs”) and will not receive any subsidy. ▪ Under the present arrangement, EPs can receive subsidised public healthcare services including obstetric services provided by HA. EPs include the following persons– <ul style="list-style-type: none"> ▪ holders of Hong Kong Identity Card issued under the Registration of Persons Ordinance; ▪ children under 11 years of age with Hong Kong resident status; and ▪ other persons approved by the Chief Executive of HA. ▪ Except the afore-mentioned persons, one would be regarded as NEP and have to pay the specified NEP charges for access to public healthcare services. ▪ In respect of obstetric services, NEPs (including members of the Hong Kong Garrison and their Mainland family members) who wish to seek healthcare services in local public hospitals have to make

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		prior booking and pay for a package charge.
Paragraph 2 (e)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider reviewing the adaptation proposal of “服役” to “服務” in the Chinese version of Regulation 25(b)(i). 	<ul style="list-style-type: none"> ▪ The present adaptation proposal will neither expand nor reduce the legal effect of the Ordinance concerned. ▪ Nevertheless, considering Members’ suggestion to retain the reference “服役” in the Chinese version will allow better compliance with the principles of adaptation of laws, we propose that the reference of “服役” can be retained in the provision concerned.
Sections 47 and 48 of Schedule 1 to the Bill / Sections 8 and 9 of the Defences (Firing Areas) Ordinance (Cap. 196)		
Paragraph 2(f)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to review the adaptation proposal of “officer” to “person” in Sections 8 and 9. 	<ul style="list-style-type: none"> ▪ The current adaptation proposal will neither expand nor reduce the legal effect of the Ordinance concerned. ▪ We consider it necessary to retain the original adaptation proposal, i.e. adapting the reference “officers” to “persons” in the provisions concerned, such that the provisions can accurately encompass all persons including those non-officers mentioned in Article 9. For instance, section 9(c) stipulates that “any person authorized in writing under the hand of the said officer in charge”.
Paragraph 2(g)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to give justifications for the proposal to adapt 	<ul style="list-style-type: none"> ▪ As there is no equivalent rank in the Chinese People’s Liberation Army of “warrant officer, non-commissioned officer or military

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	<p>“warrant officer, non-commissioned officer or military policeman” to “soldier” in section 9, and set out the ranks under the establishment of the Garrison.</p>	<p>policeman” as in the British Forces, and such personnel is generally known as “soldiers”, it is therefore proposed to adapt the references to “soldier”. The adaptation proposal is in line with the actual establishment of the Chinese People’s Liberation Army.</p> <ul style="list-style-type: none"> ▪ The list of military ranks of the Chinese People’s Liberation Army, including the Hong Kong Garrison, is set out at <u>Appendix</u>.
Section 51 of Schedule 1 to the Bill / Section 7 of the Crimes Ordinance (Cap. 200)		
<p>Paragraphs 2(h) to (j)</p>	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information on the allegiance requirement of non-military groups after the Reunification. ▪ A Member requested that Administration to consider making adaptation to Section 7 having regard to the non-military groups. ▪ A Member requested the Administration to consider taking away the adaptation proposal to the Crimes Ordinance from the Bill. 	<ul style="list-style-type: none"> ▪ Apart from “any member of Her Majesty’s forces” as mentioned in sub-section (a), the non-military groups in Section 7 of the Crimes Ordinance (Cap. 200) also include “any member of the Government Flying Service” in sub-section (ba), “any police officer” in sub-section (c) and “any member of the Royal Hong Kong Auxiliary Police Force” in sub-section (d). ▪ <u>Government Flying Service (“GFS”)</u>: After the Reunification, the Government Flying Service Ordinance (Cap. 322) has no requirements for members of GFS to take an oath when taking up the duties of his office. ▪ <u>Police Force</u>: After the Reunification, a police officer is required to take an oath or

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		<p>declaration of office to pledge allegiance to the Government of the Hong Kong Special Administrative Region (“HKSARG”) under the adapted Section 26 of the Police Force Ordinance (Cap. 232).</p> <ul style="list-style-type: none"> ▪ <u>Auxiliary Police Force</u> : After the Reunification, a member of the Auxiliary Police Force is not required to take an oath or declaration of office to pledge allegiance to the HKSARG under the adapted Section 11 of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233). ▪ The proposal to adapt the reference “any person who knowingly attempts to seduce any member of Her Majesty’s forces from his duty or allegiance to Her Majesty” to “any person who knowingly attempts to seduce any member of the Chinese People’s Liberation Army from his duty or allegiance to the People’s Republic of China” under the Adaptation Bill is a straight forward adaptation. It will neither expand nor reduce the legal effect of the Ordinance concerned, and fully comply with the principles of adaptation of laws. Therefore, the adaptation proposal should not be handled in another exercise.

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Section 56 of Schedule 1 to the Bill / Section 158 of the Crimes Ordinance (Cap. 200)		
Paragraphs 2(k) to (l)	<ul style="list-style-type: none"> ▪ A Member suggested substituting the relevant Acts of the United Kingdom mentioned in Section 158 with the corresponding provisions of the Hong Kong Garrison. 	<ul style="list-style-type: none"> ▪ Under Chapter V “Judicial Jurisdiction over Members of the Hong Kong Garrison” of the Garrison Law, the offences concerned committed by members of Hong Kong Garrison after the Reunification will be handled by Hong Kong courts instead of military courts. Therefore, the relevant provisions do not comply with the Garrison Law and need to be repealed.

Security Bureau
November 2011

List of Military Ranks of the Chinese People's Liberation Army

Officers' ranks
Lieutenant general
Major general
Senior colonel
Colonel
Lieutenant
Colonel
Major
Captain
Lieutenant
Second lieutenant
Soldiers' ranks
Senior Sub-Officer (Master Sergeant Class One, Master Sergeant Class Two, Master Sergeant Class three)
Intermediate Sub-Officer (Master Sergeant Class Four, Sergeant First Class)
Junior Sub-Officer (Sergeant, Corporal)
Private (Private First Class, Private)

References:

- The Regulations of the Military Ranks of Officers of the Chinese People's Liberation Army and
- The Military Service Regulations Pertaining to People's Liberation Army Soldiers in Active Service