

Adaptation of Laws (Military References) Bill 2010
Adaptation Proposals

Schedule 1

Section	Legislation	Proposed Adaptation	Justifications
86 87	<p>Housing (Traffic) By-laws (Cap. 283 sub. leg. A), By-law 9(b)</p> <p>Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C), Schedule 2</p> <p>[Pages 87-88 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>By-law 9 Exemption from restrictions</u></p> <p>Nothing in by-law 8 shall apply –</p> <p>(b) to fire services vehicles, ambulances, police vehicles, vehicles used for the conveyance of public mail, or vehicles used by the armed forces of the Crown <u>Chinese People’s Liberation Army</u> when any such vehicles are being used in the performance of their function in any restricted road;</p> <p><u>Schedule 2 Scheduled Circumstances</u></p> <p>For the purposes of section 5 of this Bylaw and Schedule 1, the circumstances which may constitute a defence in proceedings for a contravention are as follows –</p> <p>C. Where a motor vehicle is being used on a restricted road for the purposes of the police, fire services or ambulance services, or for the conveyance of public mail, or by the Armed</p>	<p><u>Subsidiary Legislation A By-law 8</u> makes provisions for offences relating to parking of vehicles on restricted roads and parking spaces that are managed by the Housing Authority. The provision concerned gave exemption for vehicles used by the armed forces of the Crown from the restrictions stipulated in by-law 8 before the Reunification.</p> <p><u>Subsidiary Legislation C Schedule 2</u> lists out the circumstances which may constitute a defence in proceedings for a contravention that has taken place on restricted roads and parking spaces that are managed by the Housing Authority.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the term “armed</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>Forces of the Crown <u>Chinese People's Liberation Army</u> when any such vehicle is being used as a matter of urgent necessity, if compliance with this Bylaw would be likely to hinder the use of the vehicle on that occasion for any of those purposes.</p>	<p>forces of the Crown” to “Chinese People's Liberation Army”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) of Cap.1 and Section 1 of Schedule 8 to Cap.1.</p>
88 89	<p>Mining Ordinance (Cap. 285), Section 2</p> <p>Mining (General) Regulations (Cap. 285 sub. leg. A), Schedule 1, Forms IV and V</p> <p>[Pages 89-91 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 2 Interpretation</u></p> <p>“private land” (私人土地) means land held under lease, agreement for lease, tenancy agreement, licence, permit, deed of appropriation, or other valid title from the Government, and also land occupied by Her Majesty's forces <u>the Hong Kong Garrison</u> under lease, licence, permit, requisition or other permanent or temporary title;</p> <p><u>Schedule 1 Form IV Prospecting Licence</u></p> <p>Notes: (5) “Private land” (私人土地) is defined by section 2 of the Ordinance to mean land held under lease, agreement for lease, tenancy agreement, licence, permit, deed of appropriation, or other valid title from the Government, and also land occupied by Her Majesty's Forces <u>the Hong Kong Garrison</u> under lease, licence, permit, requisition or other permanent or temporary title.</p>	<p>The Ordinance makes provisions for prospecting for minerals and mining. Holders of prospecting and mining licence should obtain prior consent in writing from the owner or any lawful occupier of the private land concerned before commencing any prospecting and mining works. <u>Section 2 of the Ordinance</u> gives definition for the term “private land”. <u>Form IV of Schedule 1 to Subsidiary Legislation A</u> provides a sample of the prospecting licence whereas <u>Form V of Schedule 1 to Subsidiary Legislation A</u> provides a sample of the mining licence.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty's forces” is proposed to be adapted to “the Chinese People's Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. As the reference of “Her Majesty's Forces” referred to circumstances involving land used by the then</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p><u>Schedule 1 Form V Mining Licence</u></p> <p>Notes: (5) "Private land" (私人土地) is defined by section 2 of the Ordinance to mean land held under lease, agreement for lease, tenancy agreement, licence, permit, deed of appropriation, or other valid title from the Government, and also land occupied by Her Majesty's Forces the Hong Kong Garrison under lease, licence, permit, requisition or other permanent or temporary title.</p>	<p>British Forces, it is therefore proposed to adapt the reference to “the Hong Kong Garrison”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
90	<p>Adoption Rules (Cap. 290 sub. leg. A), Rule 29</p> <p>[Page 92 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Rule 29 Persons who may attest documents and declarations outside Hong Kong</u></p> <p>For the purposes of section 7(2) of the Ordinance, a document or declaration executed or made by any person outside Hong Kong shall be sufficiently attested if it is attested as follows –</p> <p>(a)-(b) (Repealed 28 of 2004 s. 35)</p> <p>(c) if the document or declaration is executed or made at a place outside Hong Kong –</p> <p>(i)-(ii) (Repealed 28 of 2004 s. 35)</p> <p>(iii) by any person for the time being authorized by law in that place to administer an oath for any judicial or other legal purpose;</p>	<p>Section 7 of the Ordinance makes provisions for the circumstances that can be served as evidence of consent of parent or guardian, and a document “signifying consent to an adoption order” shall be deemed to be attested as “evidence of consent of parent or guardian” with necessary signature. <u>Cap. 290 Subsidiary Legislation A</u> lists out the persons who may attest documents and declarations outside Hong Kong. Before the Reunification, any officer holding a commission in Her Majesty’s Forces could attest the document or declaration made by any member in the Force.</p> <p>In order to reflect the situation after the Reunification, the Administration had already repealed the non-military colonial references in</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>(d) if the person by whom the document or declaration is executed or made is serving in any of Her Majesty's naval, military or air forces, by any officer holding a commission in any of those forces.</p>	<p>Rules 29(a), (b), (c)(i) and (c)(ii) of Cap.290 Subsidiary Legislation A, i.e. the document or declaration which were executed or made at any place in the United Kingdom, any colony of the United Kingdom and any other place, and by any consular officer of Her Majesty's Government in the United Kingdom before the Reunification, under the Adoption (Amendment) Ordinance 2004. The then Health, Welfare and Food Bureau did not repeal Rule 29(d) in the same exercise as Rule 29(d) involved military references. In view of the amendments made in the Adoption (Amendment) Ordinance 2004, it is suggested to repeal Rule 29(d) in Cap. 290 Subsidiary Legislation A.</p>
91	<p>Dangerous Goods Ordinance (Cap. 295), Section 3</p> <p>[Page 93 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 3 Application</u></p> <p>This Ordinance shall apply to all explosives, compressed gases, petroleum and other substances giving off inflammable vapours, substances giving off poisonous gas or vapour, corrosive substances, substances which become dangerous by interaction with water or air, substances liable to spontaneous combustion or of a readily combustible nature, radioactive material and to such substances to which it is applied by the Chief Executive in Council under section 5:</p>	<p>The Ordinance makes provisions for matters relating to the control of dangerous goods. According to the provision concerned, any dangerous goods carried in Her Majesty's ships of war or in the ships of war of any foreign state were exempt from the control as stipulated in the Ordinance before the Reunification.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>Provided that this Ordinance shall not apply –</p> <p>(a) to any dangerous goods carried in Her Majesty's ships of war <u>the ships of war of the Chinese People's Liberation Army</u>, or in the ships of war of any foreign state; or</p>	<p>term is to be adapted to “the Hong Kong Garrison”. Meanwhile, considering that only the Chinese People's Liberation Army has “ships of war”, it is therefore proposed to adapt the reference “Her Majesty's ships of war” to “the ships of war of the Chinese People's Liberation Army”.</p> <p>In addition, as the term “ship” is referred to as “船舶” in the Chinese version of the Dangerous Goods Ordinance, it is therefore suggested to amend the term “ships of war” to “軍用船舶” in Chinese to ensure consistency in the Ordinances concerned.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
92	<p>Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C), Schedule 1</p> <p>[Page 94 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Schedule 1 Approved petroleum wharves</u> <u>Part II Wharves which may be used for the berthing of Type III vessels only</u></p> <p>11. The wharf at Stonecutters Island vested in the Ministry of Defence <u>the Ngong Shuen Chau Barracks</u>.</p> <p>12. The wharf at HMS TAMAR Victoria Basin vested in the Ministry of Defence.</p>	<p>Part II of Schedule 1 lists out the approved petroleum wharves which may be used for the berthing of Type III vessels (i.e. any vessels traded exclusively within the waters of Hong Kong and required to be registered or licensed pursuant to the Merchant Shipping Ordinance (Cap. 281)). Before the Reunification, Type III Vessels were allowed to berth at the wharves at Stonecutters Island and HMS Tamar Victoria Basin.</p> <p>As the name of the military base of the former British Forces stationed in Hong Kong before the</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>Reunification at “Stonecutters Island” has already been renamed as “”Ngong Shuen Chau Barracks” after the Reunification, consequential amendment is proposed to be made in Item 11.</p> <p>The “HMS TAMAR Victoria Basin” of the former British Forces stationed in Hong Kong before the Reunification, along with the wharf concerned, was moved to the then military base at “Stonecutters Island” before the Reunification. It is therefore suggested to delete Item 12.</p> <p>Under Article 7 of the Basic Law, “the land and natural resources within the Hong Kong Special Administration shall be State property” after the Reunification and there would not be any “vesting” arrangement. It is therefore suggested to take away the references of “vested in the Ministry of Defence”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) of Cap.1.</p>
93 94 95 96	Shipping and Port Control Ordinance (Cap. 313), Sections 3, 11, 15 and 52 [Pages 95-96 of	<u>Section 3 Application</u> (1) This Ordinance shall, except where otherwise specially provided, apply to all vessels (except local vessels) in Hong Kong or in the waters of Hong Kong, including vessels for the	The Ordinance makes provisions for matters relating to the regulation and control of ports and vessels in Hong Kong or in the waters of Hong Kong. According to <u>Section 3</u> , the Ordinance applied to

Section	Legislation	Proposed Adaptation	Justifications
	<p>marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p>time being used by the Hong Kong Government and all warships and ships for the time being used by Her Majesty's Government the Chinese People's Liberation Army, the Central People's Government or the Government of any State.</p> <p><u>Part III Control Over Vessels and Ports</u> <u>Section 11 Application</u></p> <p>Sections 11A and 11B shall apply in relation to all vessels whether within or outside the waters of Hong Kong except for – (b) any warship or other ship for the time being used by Her Majesty's Government the Chinese People's Liberation Army or the Central People's Government other than for commercial purposes.</p> <p><u>Section 15 Port clearance to be obtained before departure</u></p> <p>(2) Subsection (1) shall not apply – (a) to any warship or other ship for the time being used by Her Majesty's Government the Chinese People's Liberation Army, the Central People's Government or the Government of any State for other than commercial purposes;</p> <p><u>Part VIII Ports Dues</u> <u>Section 52 Port dues and remissions</u></p>	<p>“all warships and ships for the time being used by Her Majesty's Government” before the Reunification. Those ships included ships used by Her Majesty's Government and the British Forces at that time.</p> <p>According to <u>Section 11</u>, arrangements such as the requirement for vessels to give prior notification of expected arrival in the waters of Hong Kong to the Director of Marine were not applicable to any warship or other ship used by Her Majesty's Government for other than commercial purposes before the Reunification.</p> <p><u>Section 15</u> stipulates that, vessels are required to obtain the necessary port clearance before departure. Otherwise, such vessels are not allowed to depart. Before the Reunification, any warship or other ship for the time being used by Her Majesty's Government for other than commercial purposes was exempt from such requirement.</p> <p><u>Section 52</u> stipulates that, all vessels entering any port or other part of the waters of Hong Kong or use any port facility are required to pay ports dues. Before the Reunification, the arrangement to pay ports dues was not applicable to any warship or ship for the time being used by Her Majesty's</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>(2) Subsection (1) shall not apply to any vessel for the time being used by the Hong Kong Government or to any warship or ship for the time being used by Her Majesty's Government <u>the Chinese People's Liberation Army, the Central People's Government</u> or the Government of any State for other than commercial purposes.</p>	<p>Government for other than commercial purposes.</p> <p>In this adaptation, “the Chinese People’s Liberation Army” is used instead of “the Hong Kong Garrison” as there is a need to cater for visiting warships from the Chinese People’s Liberation Army (i.e. those based outside Hong Kong). Further, as ships belonging to Her Majesty also included ships of the United Kingdom Government, it is therefore suggested to adapt the reference to “the Chinese People’s Liberation Army, the Central People’s Government”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
97	<p>Shipping and Port Control Ordinance (Cap. 313), Section 70</p> <p>[Page 96 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 70 Boarding ships without authority</u></p> <p>(1) No person, other than a member of Her Majesty's forces in uniform and on duty <u>the Chinese People's Liberation Army in uniform and acting under Article 14 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997)</u> or a person duly authorized by law for the purpose, shall without the permission of the owner or his agent or the</p>	<p>The Ordinance makes provisions for matters including the boarding ships without authority. Before the Reunification, members of Her Majesty’s forces in uniform and on duty were exempt from obtaining permission of the owner of the ship before boarding the ship concerned.</p> <p>Before the Reunification, members of Her Majesty’s forces could board ships and conduct search for the maintenance of public order. Under the Basic Law, maintenance of public order is the responsibility of the Government of the Hong Kong</p>

Section	Legislation	Proposed Adaptation	Justifications
		master of a ship go on board the ship.	Special Administrative Region. The Hong Kong Garrison no longer performs such duties, including boarding other ships in the waters of Hong Kong, and would only exercise those responsibilities in the provision concerned only under the conditions stipulated in Article 14 of the Garrison Law, i.e. providing the requested assistance in the maintenance of public order or in disaster relief. It is therefore suggested to adapt the reference “on duty” to “acting under Article 14 of the Law of the People’s Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997)”.
98	Shipping and Port Control Regulations (Cap. 313 sub. leg. A), Regulation 22 [Page 97 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]	<u>Regulation 22 Report of arrival of ship</u> (4) Paragraph (1) shall not apply to any ship for the time being used by the Hong Kong Government, or to any warship or ship for the time being used by Her Majesty’s Government <u>the Chinese People’s Liberation Army, the Central People’s Government</u> or the Government of any State for other than commercial purposes.	The Regulation concerned requires the owner of any ship or his agent to report to the Director of Marine within 24 hours after the ship’s arrival in the waters of Hong Kong. Before the Reunification, any warship or ship for the time being used by Her Majesty’s Government for other than commercial purposes was exempt from making such report. In this adaptation, “the Chinese People’s Liberation Army” is used instead of “the Hong Kong Garrison” as there is a need to cater for visiting warships from the Chinese People’s Liberation Army (i.e. those based outside Hong Kong).

Section	Legislation	Proposed Adaptation	Justifications
			<p>Further, as ships belonging to Her Majesty also included ships of the United Kingdom Government, it is therefore suggested to adapt the reference to “the Chinese People’s Liberation Army, the Central People’s Government”.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
99	<p>Shipping and Port Control Regulations (Cap. 313 sub. leg. A), Regulation 47</p> <p>[Page 98 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Regulation 47 Use of piers</u></p> <p>(1) No vessel shall make fast to any part of a <u>Government or British Forces pier Government pier or Hong Kong Garrison pier</u> except to the recognized mooring bollards and rings provided thereon as moorings.</p>	<p>Before the Reunification, the Regulation prohibits any vessel to make fast to any part of the British Forces pier.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. As the reference of “British Forces” referred to circumstances involving land used by the then British Forces, it is therefore proposed to adapt the relevant reference to “Hong Kong Garrison”.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
100	<p>Shipping and Port Control Regulations (Cap. 313 sub. leg. A), Regulation 63</p> <p>[Page 98 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Regulation 63 Use of lights</u></p> <p>(1) Subject to paragraph (2), no person shall use a light on or from a vessel in the waters of Hong Kong in a manner that is likely to interfere with the safe operation of any other vessel or any aircraft.</p> <p>(2) Paragraph (1) does not apply to –</p> <p>(b) Her Majesty's forces <u>the Chinese People's Liberation Army.</u></p>	<p>The Regulation concerned makes provisions for the use of lights by vessels which are within the waters of Hong Kong to ensure such lights would not interfere with the safe operation of other vessels. Before the Reunification, Her Majesty's forces were exempt from the relevant Regulation.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". It is therefore proposed to adapt the reference "Her Majesty's forces" to "the Chinese People's Liberation Army".</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
101	<p>Shipping and Port Control Regulations (Cap. 313 sub. leg. A), Regulation 65</p> <p>[Page 98 of marked-up copy of adaption</p>	<p><u>Regulation 65 Minor prohibitions</u></p> <p>(1) No person –</p> <p>(c) not being a public officer or a member of Her Majesty's forces on duty <u>the Chinese People's Liberation Army acting under Article 14 of the Law of</u></p>	<p>The Regulation concerned makes provisions on minor prohibitions relating to shipping and port control. Before the Reunification, members of Her Majesty's forces on duty were exempt from the requirement to obtain the permission of the master of the ship before he made fast or caused to be made fast to a ship underway within the waters of</p>

Section	Legislation	Proposed Adaptation	Justifications
	proposals (LC Paper No. CB(2)228/10-11(05)]	<p><u>the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997)</u>; shall make fast to or cause to be made fast to a ship underway within the waters of Hong Kong any vessel except with the permission of the master of the ship.</p>	<p>Hong Kong and would not be considered as committed an offence even if they had not obtained such permission.</p> <p>Before the Reunification, members of Her Majesty's forces could board ships and conduct search for the maintenance of public order. Under the Basic Law, maintenance of public order is the responsibility of the Government of the Hong Kong Special Administrative Region. The Hong Kong Garrison no longer performs such duties, including boarding other ships in the waters of Hong Kong, and as a result obviating the need to make fast to or cause to be made fast to a ship underway within the waters of Hong Kong. The Hong Kong Garrison would only exercise those responsibilities in the provision concerned only under the conditions stipulated in Article 14 of the Garrison Law, i.e. providing the requested assistance in the maintenance of public order or in disaster relief. It is therefore suggested to adapt the reference "on duty" to "acting under Article 14 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997)".</p>

Section	Legislation	Proposed Adaptation	Justifications
102	<p>Census and Statistics Ordinance (Cap. 316), Section 10</p> <p>[Page 99 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 10 Enumeration of armed forces and travellers</u></p> <p>The Commissioner may, in such manner as he thinks fit, obtain such particulars as may be required for the purposes of any census of population regarding –</p> <p>(a) any naval, military or air force personnel for the time being in Hong Kong whether engaged in the Armed Forces of the Crown <u>Chinese People's Liberation Army</u> or in the armed forces of any foreign state; and</p>	<p>The Ordinance makes provisions for conducting population census, as well as the collection, compilation and publication of statistical information concerning Hong Kong. The reference of “Crown” in the provision referred to the then British Forces before the Reunification. Before the Reunification, the provision concerned allowed the Commissioner for Census and Statistics to obtain information from members of the then British Forces for the purposes of conducting population census.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the reference “Armed Forces of the Crown” to “Chinese People’s Liberation Army”.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
103	<p>Industrial Training (Clothing Industry) Ordinance (Cap. 318), Section 3</p> <p>[Page 100 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Section 3 Application</u></p> <p>This Ordinance shall not apply to or in respect of clothing items which –</p> <p>(a) are exported by the Hong Kong Government or by or on behalf of Her Majesty's Armed Forces;</p>	<p>The Ordinance makes provisions for matters relating to the levy paid by exporters of clothing items. Before the Reunification, the provision concerned did not apply to clothing items exported by or on behalf of Her Majesty's Armed Forces.</p> <p>Considering that Article 18 of the Garrison Law stipulates that the “Hong Kong Garrison or its members shall not engage in any form of profit-making business activities”, and the provision concerned involves profit-making business activities, it is therefore suggested to take away the relevant military reference to comply with conditions as set out in the Garrison Law.</p>
104 105	<p>Lifts and Escalators (Safety) Ordinance (Cap. 327), Sections 3 and 46</p> <p>[Pages 101-102 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Section 3 Application</u></p> <p>(1A) Parts III, IV and IVA and sections 29, 29A and 33 shall not apply to a lift or escalator installed in any building-</p> <p>(c) upon any land vested in any person on behalf of Her Majesty's naval, military or air force services <u>the Hong Kong Garrison</u> or in any building over which any of such services <u>the Hong Kong Garrison</u> has control and management; or</p> <p><u>Section 46 Special provisions as to application of Ordinance where lessee of building</u></p>	<p>The Ordinance makes provisions for matters relating to the design, construction, examination and testing of lifts and escalators. Before the Reunification, lifts and escalators installed in any buildings that were located on military land were exempt from the application of the Ordinance.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty's forces” is proposed to be adapted to “the Chinese People's Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p><u>responsible for lift or escalator</u></p> <p>(1) Where, under any agreement, the lessee or sub-lessee of any building is responsible for any lift or escalator which forms part of the building or has become annexed by operation of law to the building, this Ordinance shall, subject to subsection (2), and notwithstanding paragraphs (a), (b) and (c) of section 3(1A) where the lessee or sub-lessee is not the Government, the Central People's Government, the Housing Authority or Her Majesty's naval, military or air force services <u>the Hong Kong Garrison</u>, apply, during the continuance in force of such agreement, as if any reference to the owner of a lift or escalator were a reference to such lessee or sub-lessee.</p>	<p>term is to be adapted to “the Hong Kong Garrison”. As the reference of “Her Majesty’s naval, military or air force services” referred to circumstances involving land used by the then British Forces, it is therefore proposed to adapt the reference to “the Hong Kong Garrison”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
106	<p>Motor Vehicles (First Registration Tax) Ordinance (Cap. 330), Section 5</p> <p>[Page 103 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 5 Tax not payable in respect of certain motor vehicles</u></p> <p>(1) Tax shall not be payable in respect of any motor vehicle imported into Hong Kong by a person who is a member of Her Majesty's naval, military or air force service, being a motor vehicle in respect of which there has been paid in any country of the Commonwealth a tax or other charge which is the same as or similar to the tax payable under this Ordinance, whether such tax or charge was payable in the form of import duty</p>	<p>The Ordinance makes provisions for matters relating to the tax payable in respect of motor vehicles on the first registration. Section 2 of the Ordinance gives definition on the term “first registration”, i.e. “first registration in accordance with the provisions of the Road Traffic Ordinance (Cap. 374)”. As for the term “first registration tax”, it refers to “the tax payable under this Ordinance before a motor vehicle's first registration or otherwise in accordance with this Ordinance”. Before the Reunification, any motor vehicle imported into Hong Kong by any member of Her</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>or in the form of purchase tax or otherwise, so long as such person continues to be a member of such service and such motor vehicle continues to be owned by such person.</p>	<p>Majesty’s naval, military or air force service was exempt from First Registration Tax provided that a similar tax had been paid in any Commonwealth country.</p> <p>As the tax exemption arrangement was for members of Her Majesty’s naval, military or air force service who had paid similar tax for their vehicles in any Commonwealth country, the section is no longer relevant after the Reunification. It is therefore suggested to take away the section to reflect the situation after the Reunification.</p>
107	<p>Medical Clinics Ordinance (Cap. 343), Section 2</p> <p>[Page 104 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 2 Interpretation</u></p> <p>“clinic” (診療所) means any premises used or intended to be used for the medical diagnosis or the treatment of persons suffering from, or believed to be suffering from, any disease, injury or disability of mind or body, but does not include –</p> <p>(a) premises used in the manner aforesaid which are maintained or controlled by any department of the Government of the United Kingdom or of the Government of Hong Kong <u>Government, or by the Hong Kong Garrison</u>, or by The Chinese University of Hong Kong, or by the University of Hong Kong;</p>	<p>The Ordinance makes provisions for the registration and control of medical clinics. The reference of “Government of the United Kingdom” in the section refers to the former British Forces stationed in Hong Kong before the Reunification. Before the Reunification, any clinic of the then British Forces stationed in Hong Kong was not regarded as a “clinic” under the Ordinance and therefore did not require registration.</p> <p>As the reference of “Government of the United Kingdom” refers to the then British forces stationed in Hong Kong, it is therefore suggested to adapt the reference to “the Hong Kong Garrison”.</p> <p>The adaptation proposal is prepared by making</p>

Section	Legislation	Proposed Adaptation	Justifications
			reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.
108	<p>Supplementary Medical Professions Ordinance (Cap. 359), Section 30</p> <p>[Page 105 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 30 Disapplication of certain provisions to certain classes of person</u></p> <p>(2) The following persons practising a profession directly connected with and necessary for the discharge or performance of their duties shall while serving in <u>the appointments or holding the appointments or positions</u> specified be deemed to be registered but sections 13, 14, 15, 16, 18 and 19 shall not apply to or in relation to them –</p> <p>(a) a person holding an appointment in Her Majesty's Forces; and</p> <p><u>(a) a member of the Chinese People's Liberation Army; and</u></p>	<p>The Ordinance makes provisions for registration of persons engaged in occupations and professions in supplementary medicine. Before the Reunification, the provision concerned allowed persons who held appointments in Her Majesty's Forces at that time to be deemed registered and exempt from the registration requirements under the Ordinance.</p> <p>As any member of the Chinese People's Liberation Army would have the opportunity to hold the positions as stipulated in the Ordinance, and no separate appointment would be required, it is therefore suggested to adapt the reference "a person holding an appointment in Her Majesty's Forces" to "a member of the Chinese Peoples' Liberation Army" to reflect the actual situation in the Chinese People's Liberation Army.</p> <p>Further, according to the principles of adaptation of laws, the term "Her Majesty's forces" is generally proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the reference “Her Majesty’s Forces” to “the Chinese People’s Liberation Army”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
109 110	<p>Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360), Sections 2 and 4</p> <p>[Pages 106-107 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 2 Interpretation</u></p> <p>"hospital" (醫院) means any hospital registered under the Hospitals, Nursing Homes and Maternity Houses Registration Ordinance (Cap 165) or maintained by the Crown or which is a, any hospital maintained by the Government, any military hospital or any public hospital within the meaning of the Hospital Authority Ordinance (Cap 113);</p> <p><u>Section 4 Entitlement to compensation</u></p> <p>(3) No compensation shall be payable – (d) to members of the armed forces of the Crown <u>Chinese People’s Liberation Army</u>;</p>	<p>This Ordinance establishes a scheme for compensating persons or their family members in respect of incapacity or death resulting from pneumoconiosis or mesothelioma.</p> <p><u>Section 2</u> sets out the definition of the term “hospital”. As the reference “maintained by the Crown” included the then Hong Kong Government and the British Forces, it is therefore proposed to adapt the reference to include “any hospital maintained by the Government” and the “military hospital” of the Hong Kong Garrison. The term “Crown” in the provision should have been adapted as “特區政府” in the Chinese version in accordance with the definition in Part II of Cap. 1, i.e. “Government (特區政府) means the Government of the Hong Kong Special Administrative Region”. Considering that the term “政府” has been used in other existing provisions for reference relating to the Government</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>of the Hong Kong Special Administrative Region in the Ordinance in the Chinese version, it is therefore proposed to adapt the relevant term to “政府” to ensure consistency of the relevant provisions in the Ordinance.</p> <p><u>Section 4</u> stipulates no compensation shall be payable to members of then Armed Forces of the Crown. As the reference “armed forces of the Crown” referred to the then British Forces before the Reunification, and according to the principles of adaptation of laws, the term “Her Majesty’s forces” is generally proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the reference to “Chinese People’s Liberation Army”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
111	Kowloon-Canton Railway Corporation By-laws (Cap. 372 sub. leg. B), by-law 96	By-law 80 shall not apply to a police officer, an immigration officer or immigration assistant, an officer of the Fire Services Department, a member of Her Majesty’s Forces <u>the Chinese</u>	The subsidiary legislation makes provisions on matters such as the regulation of conduct of persons on railway premises. The provision concerned provided exemption for members of Her Majesty’s

Section	Legislation	Proposed Adaptation	Justifications
	<p>[Page 108 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>People’s Liberation Army</u>, a member of the Customs and Excise Service within the meaning of the Customs and Excise Service Ordinance (Cap 342), the Commissioner, the Deputy Commissioner or an officer of the Independent Commission Against Corruption who requires access to the railway premises or any part thereof for the performance of his duty in circumstances of such urgency that the performance of his duty might be frustrated or seriously impaired if such by-law was to apply to him.</p>	<p>Forces to enter or remain on the railway premises without a permit before the Reunification.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the reference “Her Majesty’s Forces” to “the Chinese People’s Liberation Army”.</p> <p>As the operation of the subsidiary legislation concerned has been suspended, instead of being repealed, with effect from 2 December 2007, it is necessary to adapt the military references in the subsidiary legislation to ensure clarity in the laws.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
112	<p>Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B), Regulation 4</p>	<p><u>Regulation 4 Application to State</u></p> <p>(2) These regulations shall not apply to— (a) any member of Her Majesty’s forces; (b) any member of a civilian component of</p>	<p>Subsidiary legislation B makes provisions on matters such as the issue, reissue, renewal, variation, cancellation or withholding of, and imposing of conditions on, driving licences, international driving permits and driving</p>

Section	Legislation	Proposed Adaptation	Justifications
	<p>[Page 109 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p>Her Majesty's forces; (c) any person who is employed by Her Majesty's forces; or (d) any person who is attached to Her Majesty's forces, when he is driving a vehicle belonging to the Crown in the course of his duties.</p> <p><u>(2) These regulations do not apply to -</u> <u>(a) any member of the Chinese People's Liberation Army; or</u> <u>(b) any person who is employed by the Chinese People's Liberation Army,</u> <u>when he is driving a vehicle belonging to the Chinese People's Liberation Army in the course of his duties.</u></p>	<p>instructors' licences. The provision concerned exempt members of Her Majesty's forces from the regulations relating to driving licences.</p> <p>As the reference of "vehicle belonging to the Crown" referred to the vehicles belonging to the military forces before the Reunification, it is therefore proposed to adapt the reference to "vehicle belonging to the Chinese People's Liberation Army".</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". It is therefore proposed to adapt the reference "any member of Her Majesty's Forces" to "any member of the Chinese People's Liberation Army", and "any person who is employed by Her Majesty's Forces" to "any person who is employed by the Chinese People's Liberation Army".</p> <p>The term "any member" has already covered the meaning of "any member of a civilian component" in the Chinese People's Liberation Army, the reference of "any member of a civilian component</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>of Her Majesty’s Forces” in sub-section (b) has already been reflected in the adaptation proposal of sub-section (a), i.e. “any member of the Chinese People’s Liberation Army”.</p> <p>Further, as there is no such person as being “attached” to the Chinese People’s Liberation Army, it is therefore suggested to delete sub-section (d) to reflect the actual establishment situation of the Chinese People’s Liberation Army.</p> <p>The adaptation proposals are prepared by making reference to section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
113 114 115 116 117	<p>Road Traffic (Parking) Regulations (Cap. 374 sub. leg. C), Section 10(c)</p> <p>Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E), Section 3</p> <p>Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G),</p>	<p><u>Subsidiary Legislation C Section 10 Exemptions from restrictions</u></p> <p>Nothing in regulation 4 or 5 or 6 shall apply –</p> <p>(c) to vehicles used for the conveyance of public mail, or vehicles used by the armed forces of the Crown <u>Chinese People’s Liberation Army</u> when any such vehicles are being used as a matter of urgent necessity; or</p> <p>Provided that no vehicle shall remain parked under paragraphs (a), (b) and (c) for any longer period than may be necessary for such purpose.</p>	<p><u>Subsidiary Legislation C</u> makes provisions for the prohibition and restriction of parking of vehicles. Before the Reunification, the vehicles used by the armed forces of the Crown as a matter of urgent necessity were exempt from the parking restrictions in regulations 4, 5 and 6.</p> <p><u>Subsidiary Legislation E</u> makes provisions for the regulation of registration and licensing of vehicles. Before the Reunification, vehicles used by Her Majesty’s Forces were exempt from the regulations regarding vehicles registration and licensing.</p> <p><u>Subsidiary Legislation G</u> makes provisions for</p>

Section	Legislation	Proposed Adaptation	Justifications
	<p>Section 2</p> <p>Road Traffic (Parking on Private Roads) Regulations (Cap. 374 sub. leg. O), Section 10</p> <p>Road Traffic (Expressway) Regulations (Cap. 374 sub. leg. Q), Section 4</p> <p>[Pages 110-114 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Subsidiary Legislation E Section 3 Application</u></p> <p>These regulations apply to all vehicles used or capable of being used on a road except –</p> <p>(b) vehicles used by Her Majesty's forces <u>the Chinese People's Liberation Army</u>; and</p> <p><u>Subsidiary Legislation G Section 2 Interpretation</u></p> <p>(1) In these regulations, unless the context otherwise requires-</p> <p>“person in the public service of the State” (“國家” 的公共服務人員) means a person who is –</p> <p>(b) a member of Her Majesty's armed forces <u>the Chinese People's Liberation Army</u>; or</p> <p><u>Subsidiary Legislation O Section 10 Exemptions</u></p> <p>This Part shall not apply to any vehicle which is parked on a restricted parking area in contravention of any sign or road marking if the vehicle –</p> <p>(c) is a fire service vehicle, ambulance, police vehicle, customs and excise vehicle, vehicle used for the conveyance of public mail, or vehicle used by the armed forces of the Crown <u>Chinese People's Liberation Army</u>, when any such vehicle is being used in the discharge of its duties; or</p>	<p>traffic control measures such as erection of traffic lights and alteration or road markings. Section 2 provides definition on the expression “person in the public service of the State”. Before the Reunification, the definition covered public officers, members of Her Majesty's Forces and members of certain groups at that time.</p> <p><u>Part IV of Subsidiary Legislation O</u> makes provisions for impounding, removal and disposal of vehicles parked on restricted parking areas. Before the Reunification, vehicles used by Her Majesty's forces were exempt from the restrictions as set out in Part IV of the subsidiary legislation under Section 10.</p> <p><u>Subsidiary Legislation Q Section 4 Sub-regulation (1)</u> regulates the types of vehicles which can be used on expressways. Before the Reunification, vehicles used by Her Majesty's Forces were not required to be regulated under the conditions as set out in Section 4(1).</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty's forces” is proposed to be adapted to “the Chinese People's Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>Subsidiary Legislation Q Section 4 Vehicles permitted</p> <p>(2) Subregulation (1) shall not apply to –</p> <p>(c) a motor vehicle other than one of those referred to in subregulation (1), which is –</p> <p>(ii) used by Her Majesty's forces <u>the Chinese People's Liberation Army</u>, in respect of which written permission has been given by the Commissioner to use an expressway.</p>	<p>term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the references “armed forces of the Crown” and “Her Majesty's forces” to “Chinese People's Liberation Army”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
118	<p>Pension Benefits (Judicial Officers) Regulations (Cap. 401 sub. leg. A), Regulation 15</p> <p>[Pages 115-116 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p>Section 15 Military service to count for pension benefits</p> <p>(1) Where an officer has served with Her Majesty's Forces in time of war and before so serving was employed in public service the following provisions apply—</p> <p>(a) during the period of that service with Her Majesty's Forces, including any period after the termination of the war, (in this regulation referred to as military service), he shall be deemed for the purposes of the Ordinance and these regulations to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to his military service;</p>	<p>The Ordinance makes provisions for granting of pension benefits, and is applicable to judicial officers who have served with Her Majesty's Forces in time of war, and before so serving was employed in the public service.</p> <p>It is proposed to delete the obsolete Regulation 15 which is for the purpose of calculating pension which would apply to officers who have served with Her Majesty's Forces in time of war and before so serving shall have been employed in the public service. As the provisions are no longer applicable after the Reunification, it is therefore proposed to make deletion.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(b) of Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>(b) during any period between his leaving public service for the purpose of serving with Her Majesty's Forces and the date of his commencing military service he shall, for the purposes of the Ordinance and these regulations, be deemed to be on leave without salary, not granted on grounds of public policy, from the public service in which he was last employed and to have held the substantive office last held by him in that service prior to his military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for those purposes, be deemed to be on leave from public service and to have held the substantive office in which he is re-employed.</p> <p>(2) This regulation does not apply when either period mentioned in subregulation (1)(b) exceeds 3 months, or a longer period that the Governor may in any special case determine; or if the officer fails after his military service to re-enter the public service otherwise than in circumstances in which he would be permitted under the law applicable to the public service in</p>	

Section	Legislation	Proposed Adaptation	Justifications
		<p>which he is last employed prior to his military service to retire on pension or gratuity, those circumstances arising not later than the expiration of 3 months, or a longer period as may be determined by the Governor, after the termination of his military service.</p> <p>(3) This regulation does not apply where an officer commenced his military service without the approval of the Governor of the territory in the service of which he was last employed before so serving.</p> <p>(4) If during any period mentioned in subregulation (1)(a) the officer qualified for pension, or received emoluments in lieu of pension rights, in respect of his military service, subregulation (1)(a) shall, as respects that period, have effect as if the words "leave without salary, not granted on grounds of public policy," were substituted for the words "leave on full salary".</p> <p>(5) If during his military service the officer was injured or killed, he shall not for the purposes of any provision of the Ordinance and these regulations relating to injury or death awards, be deemed to have been injured or killed in the discharge of his duty.</p>	

Section	Legislation	Proposed Adaptation	Justifications
		<p>(6) The provisions of this regulation which deem an officer to have held a specified office and to have been on leave from a specified service do not apply in respect of any period during which he held any other substantive office and was on leave from any public service.</p> <p>(7) Except where in any particular case the Governor otherwise directs, this regulation does not apply where the office in the public service last held by the officer prior to his military service was not an established office.</p> <p>(8) This regulation does not apply to an officer who has received a pension or gratuity during a period of his military service in respect of public service prior to joining the military service.</p>	
119	<p>Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), Section 5</p> <p>[Page 117 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 5 Application of Part III</u></p> <p>(3) No direction under section 6(2) shall apply to any vessel of Her Majesty's navy or to any ship not forming part of Her Majesty's navy which belongs to Her Majesty or is held by any person on behalf of or for the benefit of the Crown in right of Her Majesty's Government in the United Kingdom or Her Majesty's Government in Hong Kong, and no action shall be taken under section 6(4) or (5) as respects any such vessel or ship.</p>	<p>The Ordinance concerned makes provisions for the prevention and control of pollution from ships. <u>Part III of the Ordinance</u> stipulates the powers which the Director of Marine can exercise in case of pollution caused by any ship in Hong Kong or within the waters of Hong Kong during accidents. Before the Reunification, the direction given by the Director of Marine were not applicable to the ships of Her Majesty's Forces, Her Majesty's Government and the Hong Kong Government at that time.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p><u>(3) No direction under section 6(2) applies to –</u> <u>(a) any ship which is used by the Chinese People’s Liberation Army; or</u> <u>(b) any ship which belongs to the Central People’s Government or the Government of the Hong Kong Special Administrative Region and is used only on non-commercial service,</u> <u>and no action may be taken under section 6(4) or (5) as respects any such ship.</u></p>	<p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. Further, the Chinese People’s Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known as “the Chinese People’s Liberation Army”. It is therefore proposed to adapt the term “any vessel of Her Majesty’s navy” to “any ship which is used by the Chinese People’s Liberation Army” in sub-section (a). In adapting the term, “the Chinese People’s Liberation Army” is suggested instead of “the Hong Kong Garrison” as there is a need to cater for visiting warships from Chinese People’s Liberation Army (i.e. those based outside Hong Kong).</p> <p>As the provision covered the ships belonged to Her Majesty’s Government in the United Kingdom and the Hong Kong Government before the Reunification that were used only on non-commercial service, it is therefore proposed to adapt the reference “any ship not forming part of Her Majesty’s navy which belongs to Her Majesty</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>or is held by any person on behalf of or for the benefit of the Crown in right of Her Majesty's Government in the United Kingdom or Her Majesty's Government in Hong Kong" to "any ship which belongs to the Central People's Government or the Government of the Hong Kong Special Administrative Region and is used only on non-commercial service" in sub-section (b).</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
120	<p>Civil Aviation Ordinance (Cap. 448), Section 2A</p> <p>[Page 118 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 2A Power to give effect to Chicago Convention and regulate air navigation</u></p> <p>(3) No order may be made under subsection (2)(s) for prohibiting aircraft from flying over any area in Hong Kong –</p> <p style="padding-left: 40px;">(a) by reason of national defence; or</p> <p style="padding-left: 40px;">(b) during a state of emergency or state of war,</p> <p>except on an instruction of a Secretary of State <u>the Central People's Government</u> issued as described in subsection (4).</p> <p>(4) Where a Secretary of State <u>the Central People's Government</u>, by reason of national defence, or at any time during a state of</p>	<p>The Ordinance makes provisions for the implementation of the "Chicago Convention". Before the Reunification, the then Governor in Council could made orders for prohibiting aircraft from flying over specific areas in Hong Kong under section 2A(2)(s).</p> <p><u>Section 2A(3):</u> Before the Reunification, except on the instruction of a "Secretary of State" of the United Kingdom under section (4), the then Governor in Council could not make any order for prohibiting aircraft from flying over any area in Hong Kong by reason of national defence or during a state of emergency or state of war.</p> <p><u>Section 2A(4):</u> Before the Reunification, the then</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>emergency or state of war, issues an instruction to the Governor Chief Executive –</p> <p>(a) that an order be made under subsection (2)(s) in accordance with the instruction; or</p> <p>(b) that an order made under subsection (2)(s) be repealed or amended in accordance with the instruction,</p> <p>then the Governor in Council Chief Executive in Council shall comply with that instruction.</p> <p>(8) In this section –</p> <p>“state of emergency” (緊急狀態) means a state of emergency in Hong Kong declared by a Secretary of State the Standing Committee of the National People’s Congress for the purposes of this Ordinance by reason of turmoil within Hong Kong which endangers national unity or security and is beyond the control of the Government of the Hong Kong Special Administrative Region;</p> <p>“state of war” (戰爭狀態) means a state of war declared in accordance with the law of the United Kingdom People’s Republic of China.</p>	<p>Governor in Council should comply with the instruction made, repealed or amended by the Secretary of State by reason of national defence or at any time during a state of emergency or state of war in accordance with subsection 2(s).</p> <p><u>Section 2A(8)</u>: provides the definition of “state of emergency” and “state of war”.</p> <p>In accordance with section 11 of Schedule to Cap. 1 of Hong Kong Laws, which stipulates that “any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively”, it is therefore proposed to adapt the reference “Governor” to “Chief Executive”, and “Governor in Council” to “Chief Executive in Council”.</p> <p>According to section (1) of Schedule 8 to Cap. 1 of Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China.</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>Under Article 14 of the Basic Law, the “Central People’s Government shall be responsible for the defence of the Hong Kong Special Administrative Region”. It is therefore suggested to adapt the reference of “a Secretary of State” in sections (3) and (4) to “the Central People’s Government”.</p> <p>Under Article 18 of the Basic Law, “the Standing Committee of the National People’s Congress decides to declare a state of war”, it is therefore suggested to adapt the reference of “a Secretary of State” in section (8) to “the Standing Committee of the National People’s Congress” and the “United Kingdom” to “the People’s Republic of China”.</p>
121	<p>Civil Aviation Ordinance (Cap. 448), Section 13</p> <p>[Page 119 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 13 Savers</u></p> <p>(1) Nothing in this Ordinance shall apply to aircraft belonging to or exclusively employed for the time being in the service of Her Majesty the Central People’s Government, the Chinese People’s Liberation Army or the Government of the Hong Kong Special Administrative Region.</p> <p>(2) The Governor in Council <u>Chief Executive in Council</u> may by order apply to any aircraft described in subsection (1), with or without modification, any provision of this Ordinance or</p>	<p>Before the Reunification, the Ordinance provided exemption to aircraft belonging to or exclusively employed for the time being in the service of Her Majesty from the need to follow the regulations of the Ordinance. Such exemption was offered to the aircraft of the then Government of the United Kingdom, British Forces and the Hong Kong Government. Before the Reunification, the then Governor in Council could by order apply to any aircraft described in subsection (1), i.e. aircraft belonged to Her Majesty or exclusively employed for the time being in the service of Her Majesty, with or without modification, any provisions of the</p>

Section	Legislation	Proposed Adaptation	Justifications
		any regulations made thereunder or any enactment specified in subsection (6).	<p>Ordinance concerned or any enactment specified in subsection (6).</p> <p>As aircraft belonging to Her Majesty and exclusively employed for the time being in the service of Her Majesty included the aircraft of the then Government of the United Kingdom, British Forces and the Hong Kong Government, it is therefore proposed to adapt the relevant references to “the Chinese People’s Government, the Chinese People’s Liberation Army or the Government of the Hong Kong Special Administrative Region”. The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Sections 1 and 2 of Schedule 8 to Cap.1.</p> <p>In accordance with section 11 of Schedule to Cap. 1 of Hong Kong Laws, which stipulates that “any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively”, it is therefore proposed to adapt the reference “Governor in Council” to “Chief Executive in Council” in section (2).</p>

Section	Legislation	Proposed Adaptation	Justifications
122 123	Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Articles 19 and 23 [Pages 120-121 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]	<p><u>Article 19: Members of flight crew-requirement of licences</u></p> <p>(4) Notwithstanding the provisions of paragraph (1) of this Article, a person may, unless the certificate of airworthiness in force in respect of the aircraft otherwise requires, act as pilot of an aircraft registered in Hong Kong for the purpose of undergoing training or tests for the grant or renewal of a pilot's licence or for the inclusion, renewal or extension of a rating therein without being the holder of an appropriate licence, if the following conditions are complied with:</p> <p>(b) the person acting as the pilot of the aircraft without being the holder of an appropriate licence either –</p> <p>(i) within the period of 6 months immediately preceding was serving as a qualified pilot of aircraft in any of Her Majesty's naval, military or air forces <u>the Chinese People's Liberation Army</u>, and his physical condition has not, so far as he is aware, so deteriorated during that period as to render him unfit for the licence for which he intends to qualify; or</p>	<p>Subsidiary Legislation C makes provisions for matters such as the issue of air operators' certificates. Before the Reunification, members of any of Her Majesty's naval, military or air forces were exempt from the requirement of registration of licences under Article 19(1).</p> <p><u>Article 23(2)</u> stipulated that pilots of any of Her Majesty's naval, military of air forces were exempt from following the restrictions on flying instruction in the flight crew-requirement of licences.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's naval, military or air forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". Further, as the Chinese People's Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively know as "the Chinese People's Liberation Army". It is therefore proposed to adapt the term "any of Her Majesty's naval, military or air forces" to "the Chinese People's Liberation Army".</p> <p>The adaptation proposals are prepared by making</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>(6) Notwithstanding the provisions of paragraph (1) of this Article, a person may act as a member of the flight crew of an aircraft registered in Hong Kong without being the holder of an appropriate licence if, in so doing, he is acting in the course of his duty as a member of any of Her Majesty's naval, military or air force the Chinese People's Liberation Army.</p> <p><u>Article 23: Instruction in flying</u></p> <p>(2) This Article applies to instruction in flying given to any person flying or about to fly a flying machine or glider for the purpose of becoming qualified for-</p> <ul style="list-style-type: none"> (a) the grant of a pilot's licence; (b) the inclusion or variation of any rating in his licence: <p>Provided that this Article shall not apply to any instruction if flying given to a person for the purpose of becoming qualified for the inclusion in his licence of an aircraft rating entitling him to act as pilot of a multi-engined aircraft, or of an aircraft of any class appearing in column 4 of the Table in Part A of Schedule 1 to this Order if that person has previously been entitled under the Order, or qualified in any of Her Majesty's naval,</p>	<p>reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>military or air force <u>the Chinese People's Liberation Army</u>, to act as pilot of multi-engined aircraft, or of an aircraft of that class as the case may be.</p>	
124	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Article 64</p> <p>[Page 122 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Article 64: Rules of the Air</u></p> <p>(3) It shall be lawful for the Rules of the Air to be departed from to the extent necessary –</p> <p>(e) for complying with Military Flying Regulations (Joint Service Publication 318) or Flying Orders to Contractors (Aviation Publication 67) issued by the Secretary of State in relation to an aircraft of which the commander is acting as such in the course of his duty as a member of Her Majesty's naval, military or air forces</p> <p><u>(c) for complying with regulations or directives issued by the Central People's Government in relation to an aircraft of which the pilot in command is acting as such in the course of his duty as a member of the Chinese People's Liberation Army.</u></p>	<p>The Ordinance stipulates that any pilot in command who was acting as a member of Her Majesty's forces and was in the course of his duty in accordance with the Military Flying Regulations issued by the Secretary of State of the Government of the United Kingdom would not be regarded as not complying with the regulations in the Air Navigation Order concerned.</p> <p>According to section (1) of Schedule 8 to Cap. 1 of Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China. It is therefore proposed to adapt the reference “the Secretary of State” to “the Central People's Government”</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty's naval, military or air forces” is proposed to be adapted to “the</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. Further, the Chinese People’s Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known as “the Chinese People’s Liberation Army”. It is therefore proposed to adapt the reference to “the Chinese People’s Liberation Army”.</p> <p>The “Military Flying Regulations (Joint Service Publication 318) or Flying Orders to Contractors (Aviation Publication 67)” as mentioned in section (3) was the regulation/directive issued by the Government of the United Kingdom. As there was no such similar regulation/directive issued by the Central People’s Government for the moment, it is therefore proposed to adapt the reference to “regulations or directives issued by the Central People’s Government”.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
125	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Article 66</p> <p>[Page 123 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Article 66: Prohibition of unlicensed air traffic controllers and student air traffic controllers</u></p> <p>(1) Provided that a licence shall not be required by any person who acts in the course of his duty as a member of any of Her Majesty's naval, military or air forces or a visiting force<u>the Chinese People's Liberation Army</u>.</p>	<p>The Ordinance provided exemption to members of the then Her Majesty's forces and visiting forces from the need to obtain the relevant licences on air traffic control. The reference on visiting force referred to the military forces of the countries which had joint defence agreements with the United Kingdom. The agreement allowed the visiting forces to enjoy the same rights and exemptions of the local military forces when they stationed in the partner country.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's naval, military or air forces or a visiting force" is generally proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". Further, the Chinese People's Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known as "the Chinese People's Liberation Army". It is therefore proposed to adapt the reference to "the Chinese People's Liberation Army".</p> <p>In addition, as the exemption was provided to the United Kingdom and other Commonwealth</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>countries or areas before the Reunification, and it is not applicable after the Reunification, it is therefore proposed to take away the reference on “visiting force”.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(b), 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
126	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Article 69</p> <p>[Page 124 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Article 69: Power to prohibit or restrict flying</u></p> <p>(4) No regulations may be made under paragraph (1)(a) of this Article prohibiting flight by any aircraft in any airspace over Hong Kong –</p> <p style="padding-left: 40px;">(a) by reason of national defence; or</p> <p style="padding-left: 40px;">(b) during a state of emergency or state of war,</p> <p>except on an instruction of a Secretary of State <u>the Central People’s Government</u> issued as described in paragraph (5) of this Article.</p> <p>(5) Where a Secretary of State <u>the Central People’s Government</u>, by reason of national defence, or at any time during a state of emergency or state of war, issues an instruction to the Governor <u>Chief Executive</u>–</p> <p style="padding-left: 40px;">(a) that regulations be made under</p>	<p>The Article stipulates that, the then Governor could make regulations to prohibit or impose flight conditions in the public interest before the Reunification.</p> <p><u>Section (4)</u> provides that no regulation should be made under paragraph (1)(a) by reason of national defence or during a state of emergency or war, by the then Governor before the Reunification, except on the instruction of the then Secretary of State of the Government of the United Kingdom.</p> <p><u>Section (5)</u> provides that the then Governor shall comply with the instruction to prohibit or restrict flying by reason of national defence or during a state of emergency or war issued by the then Secretary of State of the Government of the United Kingdom before the Reunification.</p> <p>According to section (1) of Schedule 8 to Cap. 1 of</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>paragraph (1)(a) of this Article in accordance with the instruction; or</p> <p>(b) that regulations made under paragraph (1)(a) of this Article be repealed or amended in accordance with the instruction,</p> <p>then the Governor <u>Chief Executive</u> shall comply with that instruction.</p>	<p>Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China. It is therefore proposed to adapt the reference "a Secretary of State" to "the Central People's Government"</p> <p>In accordance with section 11 of Schedule to Cap. 1 of Hong Kong Laws, which stipulates that any reference to the Governor of Hong Kong shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region, it is therefore proposed to adapt the reference "Governor" to "Chief Executive".</p> <p>The adaptation proposals are prepared by making reference to Sections 1 and 11 of Schedule 8 to Cap.1.</p>
127	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Article 94</p> <p>[Page 125 of marked-up</p>	<p>Article 94: Application of Order to the Crown and visiting forces <u>Government</u> etc.</p> <p>(1) Subject to the following provisions of this Article, the provision of this Order shall apply to or in relation to aircraft belonging to or</p>	<p>The Ordinance stipulates that, unless otherwise stated, the Air Navigation Order was applicable to the aircraft belonged to or exclusively employed in the service of Her Majesty before the Reunification.</p>

Section	Legislation	Proposed Adaptation	Justifications
	<p>copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p>exclusively employed in the service of Her Majesty<u>the Central People’s Government or the Government of the Hong Kong Special Administrative Region</u>, as they apply to or in relation to other aircraft and for the purposes of such application the Department or other authority for the time being responsible on behalf of Her Majesty<u>the Central People’s Government or the Government of the Hong Kong Special Administrative Region</u> for the management of the aircraft shall be deemed to be the operator of the aircraft and in the case of an aircraft belonging to Her Majesty<u>the Central People’s Government or the Government of the Hong Kong Special Administrative Region</u>, to be the owner of the interest of Her Majesty<u>the Central People’s Government or the Government of the Hong Kong Special Administrative Region</u> in the aircraft:</p> <p>Provided that nothing in this Article shall render liable to any penalty any Department or other authority responsible on behalf of Her Majesty<u>the Central People’s Government or the Government of the Hong Kong Special Administrative Region</u> for the management of any aircraft.</p> <p>(2) Save as otherwise expressly provided the</p>	<p>As the term “Her Majesty” referred to the then Government of the United Kingdom and Hong Kong, it is therefore proposed to adapt the relevant references in section (1) to “the Central People’s Government” and “the Government of the Hong Kong Special Administrative Region”, and amend the term “Crown” in the heading to “Government”.</p> <p>The reference on visiting force referred to the military forces of the countries which had joint defence agreements with the United Kingdom. The agreement allowed the visiting forces to enjoy the same rights and exemptions of the local military forces when they stationed in the partner country. It is therefore proposed to take away the reference of “visiting force” from the heading, and sections (2) and (4).</p> <p>In general, according to the principles of adaptation of laws, the term “any of Her Majesty’s naval, military or air forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. Further, as the Chinese People’s Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>naval, military and air force authorities and members of any visiting force and any international headquarters and the members thereof and property held or used for the purpose of such a force or headquarters shall be exempt from the provisions of this Order and of any regulations made thereunder to the same extent as if that force or headquarters formed part of the forces of Her Majesty raised in the United Kingdom and for the time being serving in Hong Kong.</p> <p>(3) Save as otherwise provided by paragraph (4) of this Article, Article 78 of this Order and the Rules of the Air, nothing in this Order shall apply to or in relation to any military aircraft.</p> <p>(4) Where a military aircraft is flown by a civilian pilot and is not commanded by a person who is acting in the course of his duty as a member of any of Her Majesty's naval, military or air forces or as a member of a visiting force or international headquarters<u>the Chinese People's Liberation Army</u>, the following provisions of this Order shall apply on the occasion of that flight, that is to say, Articles 47, 48, 49 and 69 and in addition Article 64 (so far as applicable) shall apply unless the aircraft is flown in compliance with Military Flying Regulations (Joint Service</p>	<p>as “the Chinese People’s Liberation Army”, it is therefore proposed to adapt the reference to “the Chinese People’s Liberation Army”.</p> <p>The “Military Flying Regulations (Joint Service Publication 318) of Flying Orders to contractors (Aviation Publication 67)” as mentioned in section (4) was the regulation/directive issued by the Government of the United Kingdom. As there was no such similar regulation/directive issued by the Central People’s Government for the moment, it is therefore proposed to adapt the reference to “regulations or directives issued by the Central People’s Government”.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>Publication 318) of Flying Orders to contractors (Aviation Publication 67) issued by the Secretary of State regulations or directives issued by the Central People’s Government in relation to an aircraft of which the pilot in command is acting as such in the course of his duty as a member of the Chinese People’s Liberation Army.</p>	
128	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Article 98</p> <p>[Page 126 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Article 128: Interpretation</u></p> <p>(1) “Country” includes a territory or place, except in paragraph (2) of this Article;</p> <p>“Government aerodrome” means any aerodrome in Hong Kong which is under the control of the Chief Executive or is in the occupation of any department of the Government of the Hong Kong Special Administrative Region, or of Her Majesty’s naval, military or air forces, or of any visiting force <u>the Chinese People’s Liberation Army;</u></p> <p>“Military aircraft” includes the naval, military or air force aircraft of any country and –</p> <p>(a) any aircraft being constructed for the naval, military or air forces of any country under a contract entered into by the Secretary of State by or on behalf of <u>the Central People’s Government;</u> and</p>	<p>The references on visiting force referred to the military forces of the countries which had joint defence agreements with the United Kingdom. The agreement allowed the visiting forces to enjoy the same rights and exemptions of the local military forces when they stationed in the partner country. It is therefore proposed to take away the reference of “visiting force” from sections (1) and (2). The proposal to delete the reference “except in paragraph (2) of this Article” from the definition of “country” is consequential to the adaptation proposal to delete the reference on “visiting force” in section (2).</p> <p>Before the Reunification, the term “Government aerodrome” included the then British Forces and the visiting forces. In general, according to the principles of adaptation of laws, the term “Her Majesty’s naval, military or air forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>any aircraft in respect of which there is in force a certificate issued by the Secretary of State by or on behalf of the Central People's Government that the aircraft is to be treated for the purposes of this Order as a military aircraft;</p> <p>(2) In relation to Hong Kong the expression "visiting force" in this Order means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952^(a), which extend to that territory, in respect of that country, by virtue of any Order in Council made under subsection (2) of section 1 or under section 15 of that Act.</p>	<p>vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. Further, the Chinese People’s Liberation Army only makes differentiation regarding the posts but not the units of naval, army and air forces, which are collectively known as “the Chinese People’s Liberation Army”. It is therefore proposed to adapt the references to “the Chinese People’s Liberation Army”.</p> <p>Before the Reunification, the term “military aircraft” covered any aircraft constructed for the naval, military or air forces of the British Forces that were under the contract entered into by the Secretary of State by the Government of United Kingdom. According to Section (1) of Schedule 8 to Cap. 1 of Hong Kong laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People’s Government of the People’s Republic of China has responsibility shall be construed as a reference to the Central People’s Government or other competent authorities of the People’s Republic of China. It is therefore proposed to adapt the term “the Secretary of State” to “the Central People’s Government”.</p> <p>The adaptation proposals are prepared by making</p>

Section	Legislation	Proposed Adaptation	Justifications
			reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.
129	<p>Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C), Schedule 14</p> <p>[Page 127 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Schedule 14: Rules of the Air</u></p> <p>3. Misuse of Signals and Markings</p> <p>A person in an aircraft or on an aerodrome or at any place at which an aircraft is taking off or landing shall not make any signal which may be confused with a signal specified in the Rules and, except with lawful authority, shall not make any signal which he knows or ought reasonably to know to be a signal in use for signalling to or from any of Her Majesty's naval, military or air force aircraft <u>military aircraft of the Chinese People's Liberation Army.</u></p>	<p>The Ordinances makes provision on matters such as prohibiting persons from making signals in use for signalling to or from any military aircraft of Her Majesty's forces, as such affecting their operation, before the Reunification.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's naval, military or air force" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". Further, the Chinese People's Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known as "the Chinese People's Liberation Army". It is therefore proposed to adapt the relevant reference to "military aircraft of the Chinese People's Liberation Army".</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
130	<p>Security and Guarding Services Ordinance (Cap. 460), Schedule 1</p> <p>[Page 128 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p style="text-align: center;">Schedule 1</p> <p style="text-align: center;">PERSONS TO WHOM PART II DOES NOT APPLY</p> <p>Item 2. Person Members of Her Majesty's regular armed forces <u>the Chinese People's Liberation Army</u></p>	<p>The Ordinance makes provisions for the establishment of the Security and Guarding Services Industry Authority, and the issue of security personnel permits and security company licenses. Part II of the Ordinance imposes controls over security work such as restrictions on providing security services, supply individuals to provide security services and obtaining benefits of security work. Schedule 1 set out the persons to whom Part II of the Ordinance does not apply to. Before the Reunification, the persons included public officers, members of Her Majesty's regular armed forces, members of visiting forces and persons who held office of emolument under the Crown in right of the Government of the United Kingdom.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". It is therefore proposed to adapt the reference of "Her Majesty's regular armed forces" to "the Chinese People's Liberation Army".</p> <p>Further, there is no differentiation of regular armed</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>forces in the Chinese People’s Liberation Army, it is therefore proposed to take away the term “regular” to reflect the actual situation of the Chinese People’s Liberation Army.</p> <p>The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.</p>
131	<p>Occupational Deafness (Compensation) Ordinance (Cap. 469), Section 14</p> <p>[Page 129 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 14 Entitlement to compensation for the first time</u></p> <p>(3) No compensation is payable –</p> <p>(a) to a member of Her Majesty's armed forces <u>the Chinese People’s Liberation Army</u>;</p>	<p>The Ordinance makes provisions for the compensation and other benefits of persons who have been exposed to noise in their working environment and have suffered noise-induced deafness. Before the Reunification, members of Her Majesty’s armed forces would not receive first time compensation under the scheme in the Ordinance.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the reference to “Her Majesty’s armed forces” to “the Chinese People’s Liberation Army”.</p>

Section	Legislation	Proposed Adaptation	Justifications
			The adaptation proposal is prepared by making reference to Section 2A(2)(c) and Section 1 of Schedule 8 to Cap.1.
132 133 134	Merchant Shipping (Seafarers) Ordinance (Cap. 478), Sections 3 and 141 of Schedule 1 [Pages 130-132 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]	<p><u>Section 3 Application</u></p> <p>(1) This Ordinance shall not apply to –</p> <p>(a) any of Her Majesty's ships or other ships of war except, subject to section 141, a Royal Fleet Auxiliary ship; any ship of war of the Chinese People's Liberation Army, any other ship of war or any ship belonging to the Central People's Government and used only on non-commercial service;</p> <p><u>Section 141 Royal Fleet Auxiliary</u></p> <p>(1) Subject to this section, this Ordinance shall not apply to the Royal Fleet Auxiliary or the Royal Fleet Auxiliary recruiting officer.</p> <p>(2) Subsection (1) shall cease to have effect immediately upon the receipt by the Royal Fleet Auxiliary recruiting officer of any permission in writing of the Superintendent—</p> <p>(a) under section 40(1); and</p> <p>(b) of that officer to supply registered seafarers for employment in a Royal Fleet</p>	<p>The Ordinance makes provisions for matters such as the registration of seafarers. Before the Reunification, any of Her Majesty's ships or other ships of war was exempt from the regulations stipulated in the Ordinance. Such exemption had been applied to Her Majesty's ships that were used only on non-commercial purposes.</p> <p>In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". In adapting the term, "the Chinese People's Liberation Army" is suggested instead of "the Hong Kong Garrison" as there is a need to cater for visiting warships from Chinese People's Liberation Army (i.e. those based outside Hong Kong). At the same time, considering only the Chinese People's Liberation Army would be equipped with ships of war, it is therefore proposed to adapt the reference to "any ship of war of the Chinese People's Liberation Army".</p>

Section	Legislation	Proposed Adaptation	Justifications				
		<p>Auxiliary ship.</p> <p>(3) The permission referred to in subsection (2) shall be subject to such conditions—</p> <p>(a) as the Superintendent thinks fit; and</p> <p>(b) specified in that permission.</p> <p>(4) For the avoidance of doubt, it is hereby declared that the permission referred to in subsection (2) may be given notwithstanding that no application has been made by the Royal Fleet Auxiliary recruiting officer for such permission.</p> <p style="text-align: center;"><u>Schedule 1</u></p> <p style="text-align: center;"><u>SPECIFIED PROVISIONS FOR PURPOSES OF SECTION 125</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 20%;"><u>Item</u></th> <th style="text-align: left;"><u>Provision of Ordinance</u></th> </tr> </thead> <tbody> <tr> <td>17.</td> <td>Section 141</td> </tr> </tbody> </table>	<u>Item</u>	<u>Provision of Ordinance</u>	17.	Section 141	<p>Separately, as the term “ship” is referred as “船舶” in the Chinese version of the Merchant Shipping (Seafarers) Ordinance, it is therefore proposed to revise the term “ships of war”, i.e. “軍用船艦” to “軍用船舶” in Chinese to ensure consistency in the relevant provisions.</p> <p>Further, as ships belonged to Her Majesty’s also included ships of the Government of the United Kingdom, it is therefore proposed to include “any ship belonging to the Central People’s Government and used only on non-commercial service” apart from the proposal of “any ship of war of the Chinese People’s Liberation Army”.</p> <p>Considering that the Chinese People’s Liberation Army does not have any auxiliary fleet, it is therefore proposed to take away the reference of “a Royal Fleet Auxiliary ship” in Section 3 and delete Section 141 to reflect the actual situation of the Chinese People’s Liberation Army.</p> <p>The proposal to delete item 17 of Schedule 1 is a consequential amendment arising from the deletion of the reference on Royal Fleet Auxiliary ship.</p> <p>The adaptation proposals are prepared by making reference to Section 2A(2)(c) and Section 1 of</p>
<u>Item</u>	<u>Provision of Ordinance</u>						
17.	Section 141						

Section	Legislation	Proposed Adaptation	Justifications
			Schedule 8 to Cap.1.
135	<p>Aviation Security Ordinance (Cap. 494), Section 2</p> <p>[Page 133 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Section 2 Interpretation</u></p> <p>(4) In any proceedings, a certificate purporting to be signed by the Secretary of State by or on behalf of the Central People’s Government that an aircraft is or is not a military aircraft for the purposes of this Ordinance shall be conclusive evidence of that fact.</p>	<p>The Ordinance makes provisions for matters on civil aviation security. Before the Reunification, a certificate purported to be signed by the Secretary of State stating whether the aircraft was military aircraft or not would be considered as conclusive evidence in any proceedings.</p> <p>According to section (1) of Schedule 8 to Cap. 1 of Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China. It is therefore proposed to adapt the reference “the Secretary of State” to “the Central People’s Government”.</p>
136	<p>Carriage by Air Ordinance (Cap. 500), Section 8</p> <p>[Page 134 of marked-up copy of adaption proposals (LC Paper No.</p>	<p><u>Section 8 Power to exclude aircraft in use for military purposes</u></p> <p>(1) Where the Secretary of State<u>Central People’s Government</u> issues an instruction to the Governor<u>Chief Executive</u> to direct that this section shall apply, or shall cease to apply, to any State or territory specified in the instruction, the Governor</p>	<p>The Ordinance makes provisions for the implementation of certain international conventions on carriage by air. Before the Reunification, the then Governor should comply with the instruction given by the then Secretary of State of the Government of the United Kingdom by notice in the Gazette.</p>

Section	Legislation	Proposed Adaptation	Justifications
	CB(2)228/10-11(05)]	Chief Executive shall, by notice in the Gazette, comply with that instruction.	<p>According to section (1) of Schedule 8 to Cap. 1 of Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China. It is therefore proposed to adapt the reference “Secretary of State” to “the Central People’s Government”.</p> <p>In accordance with section 11 of Schedule to Cap. 1 of Hong Kong Laws, which stipulates that “any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively”, it is therefore proposed to adapt the reference “Governor” to “Chief Executive”.</p>
137	Registered Designs Ordinance (Cap. 522), Section 77 [Page 135 of marked-up copy of adaption	<p><u>Section 77 Designs relevant for defence purposes</u></p> <p>(1) Where, either before or after the commencement of this Ordinance, an application for registration of a design has been made and it appears to the Registrar that the design is one of a class notified to him by the Secretary of</p>	The Ordinance makes provisions for protection of designs relevant for defence purposes. Before the Reunification, the then Secretary of State of the Government of the United Kingdom was responsible for matters on designs relevant for defence purposes.

Section	Legislation	Proposed Adaptation	Justifications
	<p>proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Statecompetent authority</u> as relevant for defence purposes, the Registrar may give directions for prohibiting or restricting the publication of information with respect to the design, or the communication of such information to any person or class of persons specified in the directions.</p> <p>(3) Where the Registrar gives such directions, he shall give notice of the application of the directions to the Secretary of State<u>directions to the competent authority</u>, and thereupon the following provisions shall have effect –</p> <p>(a) the Secretary of State<u>competent authority</u> shall consider whether the publication of the design would be prejudicial to the defence of the United Kingdom or Hong Kong<u>People’s Republic of China</u>;</p> <p>(b) the Secretary of State<u>competent authority</u> may at any time after the design has been registered or, with the consent of the applicant, at any time before the design has been registered, inspect the representation of the design, or any such evidence as to its registrability;</p> <p>(c) if upon the consideration of the design at any time it appears to the Secretary of State<u>competent authority</u> that the</p>	<p>According to section (1) of Schedule 8 to Cap. 1 of Hong Kong Laws, any reference in any provision to the Secretary of State where the content of the provision involves affairs for which the Central People's Government of the People's Republic of China has responsibility shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China. As the competent authority within the Central People’s Government which exercises similar authority as the Secretary of State of the Government of the United Kingdom cannot be determined, it is therefore proposed to adapt the reference “Secretary of State” to “competent authority”, and define “competent authority” in section (4) as “an authority in the Central People’s Government responsible for the matters to which this section applies” in accordance with Cap. 1 of Hong Kong laws.</p> <p>Under the Basic Law, the defence of the Hong Kong Special Administrative Region is not matters responsible by the Government of the Hong Kong Special Administrative Region, but by the People’s Republic of China. It is therefore proposed to adapt the references of “United Kingdom” to “People’s Republic of China” and take away the reference “of Hong Kong” in sections (a) and (c).</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>publication of the design would not, or would no longer, be prejudicial to the defence of the United Kingdom or Hong Kong People's Republic of China, notice may be given to the Registrar to that effect; and</p> <p>(4) In this section, "Secretary of State" (王賢大臣) means the Secretary of State for Trade and Industry of the United Kingdom.</p> <p><u>(4) In this section, "competent authority" (主管當局) means an authority in the Central People's Government responsible for the matters to which this section applies.</u></p>	

Schedule 2

Section	Legislation	Consequential Amendments	Justifications
1	<p>Interpretation and General Clauses Ordinance (Cap. 1), Section 2A(2)(c)</p> <p>[Page 136 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05)]</p>	<p><u>Section 2A Laws previously in force</u></p> <p>(1) All laws previously in force shall be construed with such modifications, adaptations, limitations and exceptions as may be necessary so as not to contravene the Basic Law and to bring them into conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.</p> <p>(2) Without prejudice to the generality of subsection (1), in any Ordinance –</p> <p>(c) provisions relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom shall, subject to the provisions of the Basic Law and the Garrison Law of the Hong Kong Special Administrative Region of the People's Republic of China <u>Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997)</u>, continue to have effect and apply to the military forces stationed in the Hong Kong Special Administrative Region by the Central People's Government of the People's Republic of China;</p>	<p>The proposal to add “Law of the People’s Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997) is to ensure consistency when quoting the reference of “Garrison Law” in the Hong Kong laws.</p>

Section	Legislation	Consequential Amendments	Justifications
2	<p>Airport Authority Bylaw (Cap. 483 sub. leg. A), Section 6(1)</p> <p>[Page 137 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Section 6 Public officers, etc.</u></p> <p>(1) Sections 9, 11(2), 12 and 48(7), (8), (9), (12) and (14) shall not apply to, and sections 9, 46(1) and 48(2) shall not apply in respect of a vehicle or vessel being used by, a police officer, an immigration officer or immigration assistant, an officer of the Fire Services Department, a member of the <u>Hong Kong</u> Garrison, a member of the Customs and Excise Service within the meaning of the Customs and Excise Service Ordinance (Cap. 342), the Commissioner, the Deputy Commissioner or an officer of the Independent Commission Against Corruption when he is acting in the course of duty in such circumstances of urgency that the performance of his duty might be frustrated or seriously impaired if the said sections were to apply to him or in respect of the vehicle or vessel being used by him.</p>	<p>The Subsidiary Regulation concerned makes provisions on the regulation on the operation of the Airport and control of vehicular traffic in any restricted area in the Airport.</p> <p>The proposal to add the term “Hong Kong” is to ensure consistency in quoting the “Hong Kong Garrison” in other Ordinances.</p>
3	<p>Aviation Security Regulation (Cap. 494 sub. leg. A), Section 22(d)</p> <p>[Page 138 of marked-up copy of adaption proposals (LC Paper No. CB(2)228/10-11(05))]</p>	<p><u>Section 22 Extent to which Regulation not binding on the Government</u></p> <p>Part II shall not apply to, and Part III shall not apply in respect of a vehicle being used by-</p> <p>(a) a police officer;</p> <p>(b) an immigration officer or immigration assistant;</p> <p>(c) an officer of the Fire Services</p>	<p>The subsidiary legislation controls the access to restricted areas by certain groups and their vehicles in cases of emergency, members and their vehicles are exempt from following the conditions as set out in Part II and Part III of the subsidiary legislation.</p> <p>It is to ensure consistency in quoting the “Hong Kong Garrison” in other Ordinances.</p>

Section	Legislation	Consequential Amendments	Justifications
		Department; (d) a member of the Hong Kong Garrison; (e) a member of the Customs and Excise Service within the meaning of the Customs and Excise Service Ordinance (Cap. 342); (f) the Commissioner, Deputy Commissioner or an officer of the Independent Commission Against Corruption,	

Security Bureau
August 2011