

Adaptation of Laws Programme

Guiding Principles and Guideline Glossary of Terms

BACKGROUND

In accordance with Articles 8 and 160 of the Basic Law, all Ordinances of Hong Kong (with the exception of 24 Ordinances or parts of Ordinances) were adopted as the laws of the Hong Kong Special Administrative Region under the *Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* adopted on 23 February 1997.

2. The Decision also sets out the principles on which the previous laws were adopted and how various expressions inconsistent with the status of Hong Kong as a Special Administrative Region of the People's Republic of China are to be construed. These principles have been enacted as part of the local law by the *Hong Kong Reunification Ordinance (Ord. No. 110 of 1997)* and are now incorporated as section 2A and Schedule 8 in the *Interpretation and General Clauses Ordinance (Cap. 1)*. In line with these general principles, more detailed principles of interpretation have been added to *Cap. 1* by the amendments made under the *Adaptation of Laws (Interpretative Provisions) Ordinance (Ord. No. 26 of 1998)*.
3. During the term of the Provisional Legislative Council, adaptations considered essential to the operation of the Special Administration Region were made under 6 Ordinances (the so-called "essential" adaptation Ordinances) each dealing with one or more subject matters.
4. The present stage of the adaptation exercise makes adaptations on an Ordinance-by-Ordinance basis and, subject to the qualification mentioned in paragraph 12 below, seeks to deal with all remaining adaptation matters.

GUIDING PRINCIPLES

5. In implementing the present stage of the adaptation of laws programme, the guiding principles to be applied are as follows-
- (a) that the provision when adapted should be consistent with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China, but that subject to this each provision should, as far as possible, be to the same legal effect after its adaptation as before. Any amendment that is neither related to the Basic Law nor necessitated by Hong Kong's new status are outside the scope of the adaptation of laws programme;
 - (b) that the adaptation of each provision should be made in accordance with the relevant provisions of the Interpretation and General Clauses Ordinance (Cap. 1) where applicable, but the adaptation must be considered in the context of the particular Ordinance concerned and other related Ordinances.

GUIDELINE GLOSSARY OF TERMS

6. For the purposes of the present exercise, the 'new terms' shown in the table at **Annex A** are treated as the guideline adaptation of the corresponding 'original terms' shown in the table.
7. The table is neither definitive or exhaustive. However, amendments for adapting particular terms, or instances of departure from the guidelines, will be explained separately to the Bills Committee involved.

MISCELLANEOUS MATTERS

8. Change of Titles
Various titles to government agencies and post titles were changed upon reunification (e.g. "Legal Department" to "Department of Justice"). Most of the changes of titles have already been effected under the Declaration of Change of Titles (General Adaptation) Notice 1997 (L.N. 362 of 1997 - at **Annex B**) ("**Change of Titles Notice**") made on 23 June 1997 under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1). The looseleaf edition and the Bilingual Laws Information System ("BLIS") version (available through the internet) of the Laws of Hong Kong will incorporate those adaptations effected by that Notice upon enactment of the Adaptation of Laws Bill for the Ordinance concerned. For the time being, the unadapted titles will continue to appear in the looseleaf edition and the BLIS version of the Ordinances.

9. Historical references

Historical references do not normally need to be adapted. For example, when referring to a notice given by the Governor or a resolution passed by the Legislative Council before reunification, the references to "Governor" and "立法局" can remain unchanged. In some cases, it may be appropriate to delete an historical reference if the provision is spent or if keeping the reference presents problems for the adaptation of other references.

10. Section headings

Section headings that require adaptation will be adapted editorially.

11. Short titles & Change of Titles Notice

Where the short title to an Ordinance includes mention of a title which is subject to adaptation under the Change of Title Notice (e.g. the Royal Hong Kong Auxiliary Police Force Ordinance (Cap. 233)), any reference to that short title found in another Ordinance will be adapted as a consequential amendment in the Adaptation Bill for the former Ordinance.

12. Adaptations not dealt with in the present stage of the exercise

Adaptation of the following references and provisions will not be dealt with in the Adaptation of Laws Bills for the individual Ordinances in which they are found but will instead be dealt with collectively in separate Bills for the subjects concerned -

- (a) references to "Her Majesty's forces" and other military references;
- (b) provisions relating to proceedings against the Crown that need to be considered in the context of the adaptation of the Crown Proceedings Ordinance (Cap. 300);
- (c) provisions relating to Article 23 of the Basic Law.

Adaptation of Laws Programme**Guideline Glossary of Terms**

Item No.	ENGLISH		CHINESE		<u>Remarks</u>
	<u>Original Term</u>	<u>New Term</u>	<u>Original Term</u>	<u>New Term</u>	
1	abroad	outside Hong Kong	外地／外國	香港以外地方	
2	appellate court	[no change]	上訴法庭	審理上訴的法院	
3	branch	bureau	科	局	BL 48(5) & BL 60
4	Chief Justice	[no change]	首席大法官	終審法院首席法官	Sched 8 ⁱ , s.21F
5	Chief Justice of the Supreme Court	Chief Judge	最高法院首席大法官	高等法院首席法官	Sched 8 [*] , s.21D

ⁱ Schedule 8 of Cap. 1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
6	Colonial Regulations	Any executive order issued by the Chief Executive for the administration of the public service and any regulation or direction made under such order	《殖民地規例》	由行政長官為管理公務人員而發出的任何行政命令及根據該等命令所訂立的任何規例或所發出的任何指示	BL 48(4) Executive Order No. 1 of 1997 [See Note ^[1] below]
7	Colony	Hong Kong	香港	[no change]	Sched 8 [*] s.6 [See Note ^[2] below]
8	Court of Appeal	[no change]	上訴法院	上訴法庭	Sched 8 [*] , s.8 Cap. 1, s.3
9	court of first instance	[no change]	原訟法庭	初審法院	to distinguish from Court of First instance

^[1] (a) This term is drawn so as to encompass the Public Service (Administrative) Order (Executive Order No. 1 of 1997), the Public Service (Disciplinary) Regulation made under that Order and any subsequent such Order or Regulation.

(b) For better expression, the guideline term may in certain contexts be substituted by the simple term 'relevant executive order', and an appropriate definition of that term introduced.

^[2] References to "general revenue of the Colony" will simply be changed to "general revenue" because the latter term is defined in the Interpretation and General Clauses Ordinance (Cap. 1) to mean the general revenue of the Hong Kong Special Administrative Region.

*Schedule 8 of Cap. 1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
10	Crown	State/ Government/ Central People's Government	英皇／官方	"國家"／政府／中央人民政 府	Sched 8* ss.1 & 2 Sched 9#, s.7 [See Note ^[3] below]
11	Crown land	Government land	官地	政府土地	s.6 of Cap.1
12	Crown lease	Government lease	官契	政府租契	s.6 of Cap.1
13	deputy judge	[no change]	暫委大法官	暫委法官	Sched 8* s.21D
14	District Court	[no change]	地方法院	區域法院	Sched 8*, s.10,
15	District Judge	[no change]	地院法官／地方法院法官	區域法院法官／區域法院法 官	Sched 8*, s.21C
16	Executive Council	[no change]	行政局	行政會議	Sched 8*, s.21B

^[3] (a) The appropriate adaptation will depend on a proper construction of the existing provision.

(b) Specific principles in relation to the adaptation of certain references to "the Crown" are set out in LC Paper No. CB(2)532/98 - 99(01).

* Schedule 8 of Cap. 1.

Schedule 9 of Cap. 1.

Item	ENGLISH	CHINESE			
No.	Original Term	New Term	Original Term	New Term	Remarks
17	foreign country/ foreign state	country or territory other than the People's Republic of China / place other than the Hong Kong Special Administrative Region	外國	中華人民共和國以外的國家 或地區／香港特別行政區以 外的任何地方	Sched 8*, s.19
18	Government of the United Kingdom	Central People's Government	英國政府	中央人民政府	Sched 8*, s.1
19	Government Secretariat	[no change]	布政司署	政府總部	
20	Governor	(a) Chief Executive (b) Chief Executive in Council	總督	行政長官／行政長官會同行 政會議	Sched 8*, s.11 BL56 [See Note ^[4] below]

^[4] Where the reference to the Governor appears in the context of a power to make subsidiary legislation, the term 'Chief Executive in Council' is appropriate (see BL 56); in other cases the term 'Chief Executive' is appropriate. The expression "Chief Executive in Council" is defined in section 3 of Cap. 1 to mean the Chief Executive acting after consultation with the Executive Council. The terms "subordinate legislation" and "subsidiary legislation" mean any proclamation, rule, regulation, order, resolution, notice, rule of court, bylaw or other instrument made under or by virtue of any Ordinance and having legislative effect (s. 3 of Cap. 1). Normally, the following points are considered in ascertaining whether an instrument has legislative effect, namely whether -

- (a) there is an express provision declaring the instrument to be a piece of subsidiary legislation;
- (b) the instrument has general application to the public or a significant sector of the public as opposed to individuals;
- (c) the instrument extends or amends existing legislation;
- (d) the instrument formulates a general rule of conduct.

* Schedule 8 of Cap. 1.

Item	ENGLISH		CHINESE		Remarks
	<u>Original Term</u>	<u>New Term</u>	<u>Original Term</u>	<u>New Term</u>	
21	Governor in Council	Chief Executive in Council	總督會同行政局	行政長官會同行政會議	Sched 8*, s.11
22	Her Majesty in Council/Privy Council	(a) Hong Kong Court of Final Appeal (b) Central People's Government/ Government	樞密院／女皇陛下會同樞密院	(a) 香港終審法院中央 (b) 人民政府／政府	(a) Sched 8*, s.3 (b) Sched 8*, s.4 [See Note ^[5] below]
23	saving the rights of Her Majesty, Her Heirs and Successors	saving the rights of the Central People's Government and the rights of the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws	保留女皇陛下、其世襲繼承人及繼位人的權利	保留中華人民共和國中央人民政府及香港特別行政區政府的根據《基本法》和其他法律的規定所享有的權利	Sched 8*, s.21
24	High Court	Court of First Instance	高等法院	原訟法庭	Sched 8*, s.9

^[5] A reference to the "Hong Kong Court of Final Appeal" will be substituted where the context refers to appellate jurisdiction in relation to Hong Kong.

* Schedule 8 of Cap. 1.

Item No.	ENGLISH		CHINESE		Remarks
	<u>Original Term</u>	<u>New Term</u>	<u>Original Term</u>	<u>New Term</u>	
25	judge	[no change]	大法官	法官	Sched 8*, s.21D
26	judge of the High Court	judge of the Court of First Instance	高等法院大法官	原訟法庭法官	Sched 8*, s.14
27	Justice of Appeal	[no change]	上訴法院大法官	上訴法庭法官	Sched 8*, s.13
28	Legislative Council	[no change]	立法局	立法會	Sched 8*, ss.15, 21A
29	president (of the Court of Appeal)	[no change]	(上訴法院) 院長	(上訴法庭) 庭長	Sched 8*, s.8
30	Privy Council (see "Her Majesty in Council" in item 22 above)				
31	Queen	HKSAR	女皇	特區	
32	Queen's Proctor	Secretary for Justice	政府代訴人	律政司司長	
33	recorder	[no change]	特委大法官	特委法官	Sched 8*, s.21D

* Schedule 8 of Cap. 1.

Item <u>No.</u>	ENGLISH		CHINESE		<u>Remarks</u>
	<u>Original Term</u>	<u>New Term</u>	<u>Original Term</u>	<u>New Term</u>	
34	Regulations of the Hong Kong Government	The administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service	《香港政府規例》	稱為《政府規例》的行政規則及規管公務人員的任何其他行政規則或其他文書	For better expression, the guideline term may in certain contexts be substituted by the simple term "government regulations" and an appropriate definition of that term introduced
35	Royal Hong Kong Jockey Club	The Hong Kong Jockey Club	英皇御准香港賽馬會	香港賽馬會	The Jockey Club has officially changed its name to "Hong Kong Jockey Club"
36	Secretary	Director of Bureau	司級	政府總部局長級	BL 48(5) [See Note ^[6] below]
37	Secretary of State	Central People's Government	國務大臣	中央人民政府	Sched 8 [*] , s.1
38	Supreme Court	High Court	最高法院	高等法院	Sched 8 [*] , s.7

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^[6] "Secretary" when referring to the designation of a rank is adapted to "Director of Bureau" whereas post titles (e.g. Secretary for Security) will remain unchanged in English but changed from "司" to "局長" in Chinese.

* Schedule 8 of Cap. 1.