

Bills Committee on
Adaptation of Laws (No. 9) Bill 1999

I. General Issues

The Adaptation of Laws Programme has the limited purpose of making amendments that are necessary to bring our laws into conformity with the Basic Law and with Hong Kong's new status as a SAR of the PRC. The Ordinances concerned are adapted as they stand in accordance with the relevant provisions of the Interpretation and General Clauses Ordinance (Cap. 1). Should any policy issues underlying the legislation arouse concern among members of the Bills Committee, they should be dealt with in a separate exercise.

II. Section 13 of Schedule 1 (By-law 4(1), Cross-Harbour Tunnel By-laws (Cap. 203 sub. leg.))

Section 14 of Schedule 2 (By-law 4(1), Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg.))

Section 12 of Schedule 10 (By-law 4(1), Tate's Cairn Tunnel By-laws (Cap. 393 sub. leg.))

In the Western Harbour Crossing By-law (Cap. 436 sub. leg.) and the Tai Lam Tunnel and Yuen Long Approach Road By-law (Cap. 474 sub. leg.), it is not only the exemption provision which refers to the "Government", the savings and application provisions also refer to the "Government" as well (see by-laws 3, 26 and 27 of the respective By-laws). The Administration's understanding of the Members' view is that references to the "Crown" in by-laws 4(1) and 26 of the Cross-Harbour Tunnel By-laws (Cap. 203 sub. leg.), by-laws 4(1), 23 and 24 of the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg.) and by-laws 4(1), 23 and 24 of the Tate's Cairn Tunnel By-laws (Cap. 393 sub. leg.) should all be amended to the "Government" to achieve consistency among these legislation.

The Administration had, in its previous information paper to the Bills Committee, set out the basis for amending references to the "Crown" in the provisions concerned to the "State". It needs only to repeat that the

proposed amendments are in line with section 7 of Schedule 9 to Cap. 1. We fully appreciate Members' views on the "inconsistency" supposedly exists among the tunnel legislation. It should be noted that the "inconsistency" does not arise from the proposed adaptation in the No.9 Bill as such. Given that the legislature passed the relevant legislation with clear reference to the "Crown" and "Government" under different legislation, there is no latitude, for the purpose of the adaptation exercise, for the Administration to attribute legislative intention to the legislature beyond the clear words of the law. Any such changes are policy changes which will have to be dealt with outside the Adaptation of Laws Programme.

III. Section 62 of Schedule 8 (Regulation 2(1), Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.)

Section 64 of Schedule 8 (Regulation 41(2)(a), Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.)

Section 65 of Schedule 8 (Regulation 62, Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.)

The reference to "person in the public service of the Crown" in the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.) (the "Regulations") is defined in section 2(1) thereof as follows -

"person in the public service of the Crown" (官方的公共服務人員) means a person who is -

- (a) a public officer;
- (b) a member of Her Majesty's armed forces; or
- (c) a member of -
 - (i) (Repealed 20 of 1997 s. 25)
 - (ii) the Royal Hong Kong Auxiliary Air Force;
 - (iii) the Royal Hong Kong Auxiliary Police Force;
 - (iv) the Essential Services Corps;
 - (v) the Civil Aid Service;
 - (vi) the Auxiliary Medical Service; or
 - (vii) the Auxiliary Fire Services".

The term "Crown" in the above reference is proposed to be adapted to "State".

Such reference appears in two regulations in the Regulations, namely, regulations 41 and 62.

Regulation 41 prohibits the driving of motor cycles on a pedestrian road or any unleased Government land which is not a road without a permit, but any "person in the public service of the Crown" while he is driving a motor cycle in the course of his duties shall be exempted from this prohibition. Since the actual definition of "person in the public service of the Crown" in the Regulations is not affected by merely adapting the term "Crown" therein to "State", the effect of this regulation remains the same as before after adaptation.

Regulation 62 states that the Regulations shall apply to vehicles and persons in the public service of the Crown except where otherwise expressly provided. Since the actual definition of "person in the public service of the Crown" in the Regulations is not affected by merely adapting the term "Crown" therein to "State", the effect of this regulation remains the same as before after adaptation.

IV. Section 2 of Schedule 9 (Section 17, Road Traffic (Driving-offence Points) Ordinance (Cap. 375))

Information on the existing legislation governing persons and vehicles in the public service of the Crown in respect of matters such as the issue of driving permit, vehicle license and registration, exemption provisions from law binding, and driving-offence points etc. is as follows -

Driving licences

Matters relating to driving licences are regulated by the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg.). These regulations apply to persons in the public service of the "Crown" (which is proposed to be adapted to "State") except that under reg. 4(2), these regulations do not apply to a member of Her Majesty's forces or a person employed by or attached to Her Majesty's forces when he is driving a vehicle belonging to the Crown in the course of his duties. Reg. 4(2) will be dealt with separately by the Adaptation Bill relating to the Garrison.

Vehicle Registration

Vehicle registration matters are regulated by the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.). According to regulation 3 thereof, these Regulations do not apply to -

- (a) Government vehicles; and
- (b) vehicles used by "Her Majesty's forces" (this will be dealt with in the Adaptation Bill relating to the Garrison).

Annual Vehicle Licence

Matters relating to annual vehicle licence are regulated by the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.). According to regulation 3 thereof, these Regulations do not apply to -

- (a) Government vehicles; and
- (b) vehicles used by "Her Majesty's forces" (this will be dealt with in the Adaptation Bill relating to the Garrison).

Fixed penalty for traffic contraventions

The Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) applies to motor vehicles owned by the Crown and to persons in the public service of the Crown. Where a contravention is committed in respect of a motor vehicle owned by the Crown, the person liable for the fixed penalty shall be the driver of the motor vehicle at the time the contravention is committed. "Crown" is proposed to be adapted to "State". No exemption clause is provided for in this Ordinance.

Recording of Driving-offence Points

Under the Road Traffic (Driving-offence Points) Ordinance (Cap. 375), driving offence points are recorded against a person who is convicted of a scheduled offence or liable to a fixed penalty in respect of such an offence. Section 17 of the Ordinance expressly provides that it shall apply to persons in the public service of the "Crown" which, in accordance with section 7 of Schedule 9 to Cap. 1, shall be adapted to the "State". The proposed adaptation amendment is therefore appropriate in the circumstances.

V. Section 3 of Schedule 5 - Section 4(4) of the Motor Vehicle Insurance (Third Party Risks) Ordinance

- (a) At the last meeting of the Bills Committee, the Administration

explained that "Her Majesty" was sometimes used interchangeably with "the Crown" in our legislation. In such cases, "Her Majesty" does not merely mean the Queen personally, but extends to mean all elements of her executive government. The following examples illustrate the above statement -

1. Under regulation 10(c) of the Road Traffic (Parking) Regulations (Cap. 374 sub. leg.) and regulation 10(c) of the Road Traffic (Parking on Private Roads) Regulations, exemption is granted to "vehicles used by the armed forces of the Crown". In regulation 2 of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.), "person in the public service of the Crown" is defined to include a person who is a member of "Her Majesty's armed forces". In regulation 4(2)(c)(ii) of the Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.), a motor vehicle which is used by "Her Majesty's forces" is exempted from the application of subregulation (1). In the aforesaid provisions, "armed forces of the Crown", "Her Majesty's armed forces" and "Her Majesty's forces" carry the same meaning i.e. British Forces. Copies of these provisions are attached as Annex A.
2. In section 2 of the Lands Resumption Ordinance (Cap. 124), "resumption for a public purpose" is defined to include "resumption for any purpose connected with the naval, military or air forces of the Crown". In rule 29(d) of the Adoption Rules (Cap. 290 sub. leg.), a document or declaration executed or made by a person who is serving in any of "Her Majesty's naval, military or air forces" shall be sufficiently attested for the purpose of section 7(2) of the Ordinance if it is attested by any officer holding a commission in any of those forces. It is submitted that the expressions "Crown" and "Her Majesty" bear the same meaning in these provisions. Copies of these provisions are attached as Annex B.

It is the Administration's submission that "Her Majesty" in section 4(4)(a) of Cap. 272 in effect means "the Crown". Members may also wish to note that at the Second Reading of the Motor Vehicles Insurance (Third Party Risks) Bill 1951,

there had been a discussion on the subject provision. Although the focus was then on the exemption given to Government vehicles, reference had been made to "His Majesty's Forces" (page 297 of the Hong Kong Hansard (1951)) (see Annex C). This clearly shows that "Her Majesty" does not only infer the Queen personally in this context.

- (b) The Administration's proposal is to amend the 2 references to "Her Majesty or the Government" to "the State". Upon adaptation, State vehicles will not be required by law to take out third party insurance. As to the exact categories of vehicles exempted under section 4(4)(a), the definition of "State" in S. 3 of the Interpretation and General Clauses Ordinance (Cap. 1) is relevant (copy of the definition is attached as Annex D). The Administration only wishes to emphasize that for a subordinate organ of the CPG or the Central Authorities of the PRC to come within the definition of "State", it has to satisfy 3 tests -

1. it carries out executive functions of the CPG or functions for which the CPG has responsibility under the Basic Law;
2. it does not exercise commercial functions; and
3. it is acting within the scope of the authority and functions delegated to it by the CPG or the relevant Central Authority.

Currently, there are 3 "State" organs in Hong Kong, namely -

1. The Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR;
2. The Hong Kong Garrison of the Chinese People's Liberation Army (the Hong Kong Garrison); and
3. Xinhua News Agency (Hong Kong Branch).

Vehicles of these organs which satisfy the above tests are exempted from third party insurance.

The Administration also wishes to point out that according to Article 22 of the Basic Law, should departments of the Central Government, the provisions, autonomous regions or municipalities directly under the Central Government need to set up offices in the HKSAR in future, they must obtain the consent of the HKSARG and the approval of the CPG.

Chapter	374C	Title:	ROAD TRAFFIC (PARKING) REGULATIONS	Gazette Number:	
Regulation:	10	Heading:	Exemptions from restrictions	Version Date:	30/06/1997

Nothing in regulation 4 or 5 or 6 shall apply-

- (a) so as to restrict the use of any vehicle in connection with-
 - (i) the removal of any obstruction to traffic;
 - (ii) the maintenance, improvement or reconstruction of any road as authorized by the Director of Highways; or
 - (iii) the erection, alteration or repair in or near any road of any sewer or any main, pipe or apparatus for the supply of gas, water or electricity or of any telephone wires, cable posts or supports,
if compliance with those regulations would cause unreasonable inconvenience in the use of the vehicle for such purpose;
- (b) to vehicles used for fire service, ambulance or police purposes;
- (c) to vehicles used for the conveyance of public mail, or vehicles used by the armed forces of the Crown when any such vehicles are being used as a matter of urgent necessity; or
- (d) to anything done with the permission of a police officer:

Provided that no vehicle shall remain parked under paragraphs (a), (b) and (c) for any longer period than may be necessary for such purpose.

Chapter	374O	Title:	ROAD TRAFFIC (PARKING ON PRIVATE ROADS) REGULATIONS	Gazette Number:	
Regulation:	10	Heading:	Exemptions	Version Date:	30/06/1997

PART IV

IMPOUNDING, REMOVAL AND DISPOSAL OF VEHICLES PARKED ON RESTRICTED PARKING AREAS

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-

- (a) is prevented from proceeding by breakdown or other circumstances beyond the driver's control, and all reasonable steps are taken to minimize any obstruction and effect the removal of the vehicle as soon as possible;
- (b) cannot be conveniently parked elsewhere and is being used in connection with-
 - (i) any building operation, demolition, or excavation; or
 - (ii) the maintenance, improvement or reconstruction of any private road; or
 - (iii) the erection, placement, alteration, removal or repair in or near to any private road of any sign, traffic sign, road marking (including a road marking within the meaning of section 2 of the Ordinance), sewer or any main, pipe or apparatus for the supply of gas, water or electricity, or of any telephone or rediffusion wires, cables, parts or supports;
- (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, when any such vehicle is being used in the discharge of its duties; or
- (d) is so parked with the permission of-
 - (i) the owner of the private road concerned; or
 - (ii) an authorized officer in respect of that road.

(Enacted 1989)

Chapter	374G	Title:	ROAD TRAFFIC (TRAFFIC CONTROL) REGULATIONS	Gazette Number:	
Regulation:	2	Heading:	Interpretation	Version Date:	30/06/1997

(1) In these regulations, unless the context otherwise requires-

"box junction" (黃色方格路口) means an area of carriageway at a road junction which is indicated by a road marking in accordance with Figure No. 514 or 522 in Schedule 2; (L.N. 242 of 1987)

"bus lane" (巴士線) means a traffic lane of the type bounded by a road marking of the type shown in Figure No. 504 or 518 in Schedule 2 and marked at its commencement by a road marking of the type shown in Figure No. 510 in Schedule 2;

"bus stop" (巴士站) has the meaning assigned to it by regulation 2 of the Public Bus Services Regulations (Cap 230 sub. leg.); (L.N. 23 of 1989)

"carriageway" (車路) means a way constituting or comprised in a road, being a way over which the public have a right of way for the passage of motor vehicles;

"central reservation" (中央分道帶) means any provision, not consisting of a pedestrian refuge, made under these regulations on a road for separating the carriageway to be used by vehicles travelling in one direction from the carriageway to be used by vehicles travelling in the opposite direction, and having as a boundary which separates it from the carriageway a road marking of the type shown in Figure No. 505 or 607 in Schedule 2 or, in the absence of either of these, a kerb or a barrier fence; (L.N. 248 of 1991)

"controlled" (控制) in relation to any crossing (including a zebra crossing) means a crossing at which traffic is for the time being controlled by a police officer in uniform or traffic warden in uniform and "uncontrolled" (不受控制) shall be construed accordingly;

"crossing" (過路處、行人線) means a crossing made under these regulations available on a road for the use of pedestrians;

"Director" means the Director of Highways; (L.N. 127 of 1986)

"dual-carriageway road" (分隔車路) means a road in which under these regulations there are 2 separated carriageways for the passage of vehicles travelling in opposite directions;

"emergency crossing" (緊急過路處) means an access across a central reservation on a road for a vehicle to be driven from a carriageway on one side of the central reservation to the carriageway on the other side in an emergency; (L.N. 248 of 1991)

"excavation" (挖掘處) means any opening, hole or trench executed in any road;

"footway" (行人徑) means a pavement comprised in a road with a right of way on foot only;

"franchised bus" (專利巴士) means a bus in respect of which a franchise is in force under the Public Bus Services Ordinance (Cap 230);

"hours of darkness" (黑夜時間) means the time between a quarter of an hour after sunset and a quarter of an hour before sunrise;

"kerb" (路邊石) means a border of stone, concrete or other rigid material formed at the edge of a carriageway;

"lay by" (路旁停車處) means an area by the side of a road intended as a stopping place for any vehicle, unless otherwise indicated by a traffic sign or a road marking, and separated from the main carriageway by a road marking shown in Figure No. 606 in Schedule 2;

"light signal" (交通燈) means an illuminated signal to control vehicular traffic or pedestrians;

"light signal crossing" (交通燈控制的過路處) means a crossing delineated in accordance with Figure No. 803 in Schedule 4 at which light signals in accordance with Figure No. 701 in Schedule 3 operate;

"major road" (大路) means a road or roundabout at a road junction into which vehicular traffic emerges from a minor road;

"minor road" (小路) means a road immediately before a road junction between that road and another road

or roundabout, on which the sign shown in Figure No. 101 or 102 in Schedule 1 is erected under these regulations or the marking shown in Figure No. 508 in Schedule 2 is placed;

"obstruction" (障礙物) means any material, machinery, tools, rubbish, vehicle or other thing placed upon any road in such a manner as to obstruct or endanger the passage of any person or of any vehicle on the road;

"one way street" (單程路) means any road in which the driving of vehicles otherwise than in one direction is prohibited under these regulations;

"passing place" (避車處、讓車處) means a local widening of a road to enable vehicles to pass or overtake each other;

"pedestrian-controlled vehicle" (徒步控制的車輛) has the meaning assigned to it by regulation 2 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap 374 sub. leg.);

"pedestrian priority zone" (行人優先使用區) means an area designated under regulation 40;

"pedestrian refuge" (行人安全島) means an area made available under these regulations on a road for the use of pedestrians only at a crossing;

"person in the public service of the Crown" (官方的公共服務人員) means a person who is-

- (a) a public officer;
- (b) a member of Her Majesty's armed forces; or
- (c) a member of-
 - (i) (Repealed 20 of 1997 s. 25)
 - (ii) the Royal Hong Kong Auxiliary Air Force;
 - (iii) the Royal Hong Kong Auxiliary Police Force;
 - (iv) the Essential Services Corps;
 - (v) the Civil Aid Service; (58 of 1997 s. 34)
 - (vi) the Auxiliary Medical Service; or (57 of 1997 s. 34)
 - (vii) the Auxiliary Fire Services;

"poor visibility conditions" (能見度低的情況) means, in relation to a vehicle used or driven on a road other than in the hours of darkness, such conditions adversely affecting visibility (whether consisting of, or including, fog, smoke, heavy rain or spray, dense cloud, or any similar condition) as seriously reduce the ability of the driver (after the appropriate use by him of any windscreen wiper, demister, or washer) to see other vehicles or persons on the road, or the ability of other users of the road to see his vehicle;

"prescribed road marking" (訂明道路標記) means a road marking of the size, colour and type prescribed in Schedule 2 or 4;

"prescribed traffic sign" (訂明交通標誌) means a traffic sign of the size, colour and type prescribed in Schedule 1, 3 or 4;

"prohibited zone" (禁區) means an area designated as a prohibited zone under regulation 14(1)(a);

"rail stop" (輕鐵站) means a designated rail stop under the Kowloon-Canton Railway Corporation Regulations (Cap 372 sub. leg.); (L.N. 242 of 1987)

"restricted zone" (限制區) means an area designated as a restricted zone under regulation 14(1)(b);

"road works" (道路工程) means any excavation, structural or maintenance work or any other work executed on or near the road together with the area for-

- (a) the storage of any material;
- (b) the storage and operation of any constructional plant; and
- (c) the construction of any temporary structure in connection with road works;

"roundabout" (迴旋處) means a road junction designed for the movement of traffic in one direction round a central island;

"school crossing patrol" (學校交通安全隊員) means any person authorized under regulation 34 to act as a school crossing patrol while so acting;

"school crossing patrol sign" (學校交通安全隊交通標誌) means a traffic sign of the size, colour and type shown in Figure No. 804 in Schedule 4;

"stud" (路釘) means a mark or device on a carriageway, whether or not projecting above the surface of the carriageway;

"tailgate" (後擋板) includes a tail board; (L.N. 72 of 1990)

"traffic lane" (行車線) means, in relation to a road, a part of the carriageway having as a boundary which separates it from another such part a road marking of the type shown in Figure No. 501, 502, 503, 504, 505, 510, 511, 512, 513, 518, 523, 525, 601, 602, 603, 605, 606 or 607 in Schedule 2, or Figure No. 951 in Schedule 2 to the Road Traffic (Expressway) Regulations (Cap 374 sub. leg.); (L.N. 242 of 1987; L.N. 248 of 1991)

"tram stop" (電車站) means a place designated as a tram stop under regulation 3 of the Tramway Regulations (Cap 107 sub. leg.); (L.N. 221 of 1986)

"yellow striped light signal crossing" (交通燈控制的黃條過路處) means a light signal crossing delineated in accordance with Figure No. 806 in Schedule 4; (L.N. 72 of 1990)

"zebra controlled area" (斑馬線控制區) means the area of carriageway in the vicinity of a zebra crossing, and lying on both sides of the crossing or only on one side of the crossing, being an area the presence and limits of which are indicated in accordance with Figure No. 802 in Schedule 4;

"zebra crossing" (斑馬線) means a crossing for pedestrians established on any road in accordance with regulation 30, the presence and limits of which are indicated in accordance with Figure No. 801 in Schedule 4.

(2) For the purposes of settling the times of hours of darkness as defined in subregulation (1) the times of sunrise and sunset shall be-

- (a) deemed to be the same such times throughout Hong Kong; and
- (b) determined by or on behalf of the Director of the Royal Observatory.

(3) In these regulations the expression "left" (左) and "right" (右) shall be construed to be in relation to the direction in which the person or vehicle in respect of which the expression is used is travelling.

(4) Regulations 3, 5, 8, 11, 15, 16, 17, 18, 30, 43, 46(b) and 59 shall apply in relation to any part of the carriageway of the North-west Railway that is not a road, and to vehicles of the North-west Railway on such carriageway, in the same way as those regulations apply in relation to roads and to vehicles on roads;

Provided that no signs or road markings shall be erected or placed on, or extend over, any part of the carriageway of the North-west Railway that is not a road without the consent of the Kowloon-Canton Railway Corporation. (L.N. 242 of 1987)

Chapter	374Q	Title:	ROAD TRAFFIC (EXPRESSWAY) REGULATIONS	Gazette Number:	
Regulation:	4	Heading:	Vehicles permitted	Version Date:	30/06/1997

PART II

PERMITTED TRAFFIC

(1) Subject to subregulation (2) and regulations 23 and 24, no person shall drive or use on an expressway any vehicle unless it is-

- (a) a private car;
- (b) a taxi;
- (c) a private light bus;
- (d) a private bus;
- (e) a public bus;
- (f) a light goods vehicle;
- (g) a medium goods vehicle;
- (h) a heavy goods vehicle;
- (i) a motor cycle;
- (j) a motor tricycle; or
- (k) a recovery vehicle,

of which the cylinder capacity of the engine is not less than 125 cubic centimetres.

(2) Subregulation (1) shall not apply to-

- (a) a trailer which is being towed by a vehicle referred to in subregulation (1) or in paragraph (b) or (c);
- (b) a motor vehicle in respect of which a permit is issued under regulation 50A of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap 374 sub. leg.); or
- (c) a motor vehicle other than one of those referred to in subregulation (1), which is-
 - (i) owned by the Government, the Urban Council or the Regional Council;
 - or
 - (ii) used by Her Majesty's forces,
 in respect of which written permission has been given by the Commissioner to use an expressway.

(Enacted 1991)

Chapter	290A	Title:	ADOPTION RULES	Gazette Number:	
Rule:	29	Heading:	Persons who may attest documents and declarations outside the Colony	Version Date:	30/06/1997

ATTESTATION OF CONSENTS, ETC.

For the purposes of section 7(2) of the Ordinance, a document or declaration executed or made by any person outside the Colony shall be sufficiently attested if it is attested as follows-

- (a) if the document or declaration is executed or made at any place in the United Kingdom, the Channel Islands, the Isle of Man, or in any Colony, protectorate, protected state or United Kingdom trust territory, by any judge of any court of civil or criminal jurisdiction, any justice of the peace or magistrate or any person for the time being authorized by law in that place to administer an oath for any judicial or other legal purpose;
- (b) if the document or declaration is executed or made at any place in any of the countries mentioned in section 1(3) of the British Nationality Act 1948 (1948 c. 56 U.K.) or in the Republic of Ireland or in any mandated territory or trust territory administered by the government of any such territory, by any person for the time being authorized by law in that place to administer an oath for any judicial or other legal purpose;
- (c) if the document or declaration is executed or made at any other place-
 - (i) by any consular officer of Her Majesty's Government in the United Kingdom;
 - (ii) if there is no such consular officer, by any person authorized by the Secretary of State to administer the oath of allegiance for the purposes of section 6 or 10 of the British Nationality Act 1948 (1948 c. 56 U.K.); or
 - (iii) if there is no such consular officer and no person so authorized by the Secretary of State, by any person for the time being authorized by law in that place to administer an oath for any judicial or other legal purpose; (L.N. 45 of 1973)
- (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.

Chapter	124	Title:	LANDS RESUMPTION ORDINANCE	Gazette Number:	29 of 1998 ss. 32 & 105
Section:	2	Heading:	Interpretation	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 29 of 1998 ss. 32 & 105

In this Ordinance, unless the context otherwise requires-

"Authority" (主管當局) means-

- (a) in relation to land to which Part II of the New Territories Ordinance (Cap 97) does not apply, the Director of Lands; and (Amended L.N. 107 of 1978; L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)
- (b) in relation to land to which Part II of the New Territories Ordinance (Cap 97) applies, the Director of Lands; (Added 63 of 1974 s. 2, Amended L.N. 370 of 1981; L.N. 76 of 1982; L.N. 94 of 1986; L.N. 291 of 1993)

"former owner" (前業主) means, in relation to land resumed by the Government, the person who was the owner of the land immediately before the land reverted to the Government under section 5; (Added 63 of 1974 s. 2. Amended 29 of 1998 s. 105)

"land" (土地) means Government land of whatever description (whether held under Government lease or other title recognized by the Government), or any part or section thereof in Hong Kong and the New Territories, and includes buildings created thereon; (Amended 50 of 1911; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule; 29 of 1998 s. 105)

"owner" (業主) means the person registered or entitled to be registered in the Land Registry in respect of any land sought to be resumed, or, if such person is absent from the Colony, or cannot be found, or is bankrupt or dead, his agent or representative in the Colony; (Amended 50 of 1911 s. 4; 51 of 1911; 1 of 1912 Schedule; 2 of 1912 Schedule; 21 of 1912 s. 2; 8 of 1993 s. 2)

"resumption for a public purpose" (收回作公共用途) includes-

- (a) resumption of insanitary property for the purpose of securing the erection of improved dwellings or buildings thereon or the sanitary improvement of such property; and (Amended 51 of 1911; 2 of 1912 Schedule)
- (b) resumption of any land upon which any building is erected which, by reason of its proximity to or contact with any other buildings, seriously interferes with ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; and (Amended 51 of 1911; 2 of 1912 Schedule)
- (c) resumption for any purpose connected with the naval, military or air forces of the Crown, including the volunteer forces in the Colony; and (Amended 51 of 1911; 2 of 1912 Schedule; 27 of 1937 Schedule)
- (d) resumption for any purpose of whatsoever description whether ejusdem generis with any of the above purposes or not, which the Governor in Council may decide to be a public purpose. (Amended 51 of 1911; 2 of 1912 Schedule)

(Amended 50 of 1911 s. 4)

HONG KONG HANSARI

REPORTS
OF THE MEETINGS OF THE
LEGISLATIVE COUNCIL
OF HONG KONG

SESSION 1951

It has been the custom in the past to call the various editions of the Ordinances as and when they were published after the name of their principal editor. This edition I take it will be known as Griffin's and in my submission a most suitable name because the ease of reference in all of its volumes makes it particularly suitable for any griffin. This publication has been the result of much time, labour and skill on the part of the Legal Department and particularly those whose names are mentioned on the first page of the first volume, and the work is particularly creditable in my opinion because that department is as we all know a very much overworked one these days. Anyone who has anything to do with the administration of the law in this Colony realizes that the personnel of that department is very much taxed these days. Long gone, Sir, are the days when it might be said of the office, for example, of Crown Solicitor that Mr. So-and-so was its recumbent. It is therefore in my view fitting that the names of the persons particularly concerned with the preparation of this edition should be recorded in Hansard, wherefore I now take leave to read them. They are:—

The Hon. J. B. Griffin

The Hon. G. E. Strickland

Mr. H. A. de Barros Botelho, and

Mr. E. H. Sainsbury.

It is proper also on this occasion that congratulations and thanks should be given them for their work, and I know that members of this Council who are practising members of the legal profession, the Hon. M. M. Watson and the Hon. M. W. Lo, wish to associate themselves with me in my remarks.

I may perhaps be allowed to conclude on a note of personal gratification that amongst the editors is a Portuguese and that the printers are a Portuguese concern who have been Government Printers for well nigh a century. (applause).

The question was put and agreed to.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) BILL, 1951.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for the protection of third parties against risks arising out of the use of motor vehicles." He said: Sir, the Bill is explained in considerable detail in the

Objects and Reasons and I think that almost anything I may say would necessarily be repetitive. I shall content myself therefore with a view observations which may emphasize the objects of the Bill:

Under subclause (1) of clause 4 of the Bill it is an offence for a person to use or cause or permit the user of a motor vehicle on the road unless there is in force a policy of insurance for security in respect of third party risk complying in each case with the provisions of the Ordinance. Apart from the punishment for the offence the offence entails disqualification of the offender for at least one year from holding a driving licence unless a magistrate, for special reasons, thinks fit to order otherwise. A series of cases in the United Kingdom has established that special reasons are those which relate to the facts which constitute the offence and not matters which are special to the offender. This is of fundamental importance because the mitigation or extenuating circumstances must be something connected with the offence itself and not to the person of the offender or the fact that being without a licence will deprive him of earning his living. It is of fundamental importance because the danger of being disqualified is considerably increased and therefore persons are unlikely to fail to comply with the duty to take out the requisite insurance.

The policy of making insurance compulsory is amply justified by paragraph 2 of the Objects and Reasons. Experience elsewhere, however, indicates that there is another salutary effect which a Bill of this nature has when it is passed into law. If a person is not insured he cannot lawfully drive a motor vehicle, but there is no obligation for an insurance company to insure him. If he is guilty of persistently bad driving involving the insurance company in liability, he incurs the danger that insurance companies won't insure him and that he will thus be driven off the road. If so, the roads will be rendered safe for other users. Presumably insurance companies will not lose sight of this aspect of the matter and will endeavour to inquire into the blame of the insured when an accident occurs even if, as a matter of policy, agreements are entered into with other companies which preclude blame being established.

There is one other matter to which I should direct attention. Subclause (5) of clause 4 provides that the important provision contained in subsection (1) making it an offence to use a motor vehicle without a policy or security in lieu of policy, shall not come into force until a date fixed by order of the Governor in

Council. The object of this was to enable insurance companies to make all proper arrangements, that is not to say that such companies have not already been consulted. In fact they have been consulted as far back as 1948 and their comments have so far as possible been met. It is still, however, proposed to give them further time to study the final form of the Bill, regulations and forms and to fix rates. It is anticipated that the operative date will be 1st June, 1952.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

Objects and Reasons.

The "Objects and Reasons" for the Bill were stated as follows:—

1. The primary object of this Bill is to compel, in some degree, owners and users of motor vehicles to take out insurance against the liability to pay compensation to other persons (third parties) which may arise in the event of road accidents.

2. The reason which prompts the introduction of this legislation is that in default of such provision, a person who is entitled to recover damages as a result of personal injury caused by another's negligent driving, may in fact be unable to do so owing to that person's lack of means to satisfy any judgment obtained against him.

3. The Bill in general follows the model of the Road Traffic Acts, 1930-1934. Compulsory insurance is restricted to motor vehicles (as defined in Clause 2) and is not applicable to certain of these, namely vehicles which belong to the Crown or to the Government, vehicles being driven for police purposes and vehicles owned by persons who have deposited the sum of \$200,000 (either in cash or approved securities or partly in cash and partly in such securities) with the Accountant General. (Clauses 4(4) and 5). These exceptions are made because the financial security of the owner of the vehicle is established.

4. The liability against which insurance must be taken out is that of causing bodily injury or death to third parties when using a motor vehicle upon the road. It does not extend to damage to property. (Clause 6(1)(b)).

5. "Third parties" in this Bill do not however include—
- employees of the insured if death or injury arises out of and in the course of their employment, nor
 - passengers in the vehicle the use of which has caused the death or injury unless they are being carried for hire or reward or in accordance with a contract of employment (proviso to clause 6(1)(b)).

The requirement to insure employees and passengers is not made because in the case of employees it is intended by other legislation to regulate compensation payable in the case of injury or death arising from their employment and because in the case of passengers in private cars other considerations are present.

6. The responsibility for taking out insurance is placed upon any person who uses or causes or permits any other person to use a motor vehicle to which the Bill applies. (Clause 4(1)). Failure so to do is made a criminal offence punishable on conviction by fine and/or imprisonment. Such conviction also entails disqualification from holding a driving licence for at least one year, unless the magistrate holds that there are "special reasons" why such disqualification should not be made. (Clause 4(2)). A time limit within which prosecutions for the above offence may be instituted is prescribed (Clause 4(3)).

7. Insurance may be in the form either of a policy of insurance or of a security in respect of third party risks (Clause 4(1)).

8. A policy of insurance to be valid for the purposes of this Bill must be issued by "authorized insurer" who is an insurer authorized by the Governor in Council or his nominee ("The Authority") to carry on the business of motor insurance in the Colony. (Clause 6(1)). The Authority can only grant such authorization if satisfied of the insurer's financial stability and for this purpose may require a sum not exceeding \$200,000 to be deposited with the Accountant General (Clause 3). Such deposit may be made either in cash or in approved securities or partly in one and partly in the other (Clause 5). It is to be retained so long as the insurer carries on motor insurance business in the Colony (Clause 7(3)) and is applicable for the discharge of liabilities incurred under policies of insurance issued under this Bill (Clause 5(f)).

9. The insurer's liability under a policy of insurance issued under this Bill extends to a liability to indemnify the persons or classes of persons specified in the policy in respect of liabilities

purported to be covered by the policy. This liability is "notwithstanding anything in any other law", and therefore certain defences which might in certain cases have been open to the insurer are excluded, e.g. that the person seeking indemnity was not a party to the contract of insurance or that his name had not been inserted in the policy (Clause 6(2)).

10. A security in respect of third party risks (which is an alternative to a policy of insurance) to be valid must be given either by an authorized insurer or alternatively by a body of persons carrying on in the Colony the business of giving security as to whose financial stability the Authority is satisfied. For this purpose the Authority may require a similar deposit to that which it may require from an insurer. The security consists of an undertaking to make good up to \$80,000, or in the case of public service vehicles up to \$400,000, any failure by the owner of the vehicle or the persons specified in the security to discharge any such liability as is required to be covered by a policy of insurance. (Clause 7).

11. Neither a policy of insurance nor a security in respect of third party risks is to be of effect under the Bill unless a certificate of insurance or a certificate of security, as the case may be, has been issued. (Clauses 6(3) and 7(4)). Its object is to afford evidence that the person using the vehicle is insured. Such certificate is required for production, particularly after an accident. (See clause 16 which makes it an offence not to produce it when required by a police officer).

12. Clause 8 places upon the insurers a liability to pay direct to a hospital the reasonable expenses incurred in treating a person injured or killed in a traffic accident. A "hospital" in this connexion means one which is not carried on for profit.

13. Conditions in policies or securities against third party risks relieving the insurers of liability by reason of an act or omission after the accident are to be of no effect as regards third party claims (Clause 9).

14. Whenever a certificate of insurance has been delivered and judgment is obtained by a third party against a person covered by the policy, the insurers must satisfy such judgment. A statutory debt by the insurers is thus created on which the third party can sue. This liability attaches notwithstanding that the insurers have avoided or cancelled or are entitled to avoid or cancel the policy (Clause 10(1)). If however the amount which

insurers have to pay as a result of this provision is greater than would otherwise have been payable the excess may be recovered from the insured (Clause 10(4)). Certain qualifications upon the provision are contained in clause 10(2) and (3). The insolvency of the insured is not to affect his liabilities to third parties (Clause 11).

15. Clause 12 provides that certain restrictions in policies of insurance e.g. restriction as to the condition of the vehicle, number of passengers carried, are not to affect liabilities to third parties.

16. Clause 13 assists a third party in his right to recover payment from an insurer by requiring a person who ought to be insured to furnish on demand particulars of the policy.

17. Clauses 17, 18 and 19 make provisions for offences and penalties, and clause 20 enables the Governor in Council to make regulations for the purpose of carrying the Bill into effect. Regulations entitled the Motor Vehicles Insurance (Third Party Risks) Regulations, 1951, are contained in the Schedule to the Bill. These provide *inter alia* for the manner of issue of certificates of insurance and certificates of security and prescribe appropriate forms.

18. An interval of time must necessarily be afforded to enable insurers to set up organization to meet the obligation of compulsory third party insurance imposed by clause 4(1) of the Bill. In these circumstances, clause 4(5) of the Bill provides that the operation of clause 4(1) be postponed (notwithstanding the enactment of the Bill) to a date to be fixed by Order of the Governor in Council published in the *Gazette*.

THIRD PARTIES (RIGHTS AGAINST INSURERS) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the First reading of a Bill intitled "An Ordinance to confer on third parties rights against insurers of third party risks in the event of the insured becoming insolvent, and in certain other events". He said: Sir, the Bill is another measure of law reform necessary to lay the foundation for the Bill, the First reading of which I have just moved, but is also of general application to all cases where under a contract of insurance a person is insured against liability to third parties which he may incur.

4. In the circumstances a compromise has been reached. The original proposals stand, but a proviso has been introduced that where the total payable by the Company by way of royalty and advertising receipts exceeds 25 per cent of the net profits, the excess shall be refunded.

5. Following on this concession it was necessary to provide a safeguard against possible steps, in themselves perfectly legitimate, which might be taken by the Company to reduce net profits assessable to royalty at 25 per cent. If for example subsidiary companies were formed which sold goods at inflated prices to the "Star" Ferry Company the net profits of the latter would drop and the profits of the subsidiary companies would only be liable to profits tax at normal rates. The Company has agreed therefore that although the figure for net profits shall be ascertained by reference to the profit assessable to tax under the Inland Revenue Ordinance, there shall be additional provisions as set forth in paragraph 5 of the Schedule to meet any such contingency. As a further safeguard clause 7 of the Bill provides that Government shall have the right to examine not only the books of the Company, but also those of the other party or parties to transactions with the Company.

6. Paragraph 5(1) of the Schedule provides that in respect of the year 1950, the Company's total liability in respect of royalty and advertising receipts shall be fixed at \$600,000, a sum representing approximately 35 per cent of the net profit for that year.

7. It has been provided that where the concession expires through efflux of time or by reason of any fault or default of the Company or any failure by the Company to fulfil its undertakings, then Government may take over the undertaking for its existing value, without regard to any considerations of goodwill or earning capacity.—See paragraph 17 of the Schedule. This is in contrast with paragraph 17 of the Schedule to the Hong Kong and Yaumati Ferry Company (Services) Ordinance, 1951 under which the power of compulsory purchase can be exercised during the subsistence of the concession.

8. There are several other divergences from the franchise granted to the Hong Kong and Yaumati Ferry Company, notably in the undertakings given by the Company. For example, all books shall be kept in English; the Company shall be a public Company; and the Directors shall not refuse to register share transfers save on the grounds specified in Appendix III to the Schedule.—See paragraph 16 of the Schedule.

MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to make provision for the protection of third parties against risks arising out of the use of motor vehicles."

HON. C. E. M. TERRY:—Sir, this Bill has received what I believe is known in theatrical circles as "a mixed Press". Editorial comment having been fairly equally divided pro and con. I personally am pro, and am supported in that view by the fact that legislation on these lines has been advocated for some years by two representative bodies in the Colony, the Hong Kong Automobile Association and the Kowloon Residents' Association.

The principal points of criticism appear to be firstly the fear that it will add to the irresponsibility of drivers, and secondly that it places Insurance Companies virtually in the magisterial position of revoking licences through failure or refusal to issue insurance cover.

These two criticisms appear to me to be contradictory. I think the very impressive traffic figures quoted by the Honourable Attorney General at the last meeting of this Council show the absolute necessity for restricting in every possible way and by every possible means the irresponsible driver. If then a driver is so accident prone as to constitute an actuarial "bad risk", surely the public must be protected against that risk by the withdrawal of his licence, and that I think is most expeditiously and agreeably done through automatic disqualification through failure to obtain insurance cover.

Although I agree with the general principles of the Bill, Sir, there are three points on which I wish to comment; if my Honourable Friend can clarify them I shall be grateful.

Section 4 sub-section (2) as I understand it, makes it automatic that a person convicted of using a motor vehicle on a road without Third Party cover shall be disqualified from holding a licence to drive for 12 months, unless the Magistrate for special reasons thinks fit to order otherwise. The Honourable Attorney General, in his introductory remarks, made it clear that "special reasons" relate to the facts which constitute the offence and not matters which are special to the offender. The effect of this section, then is that the Magistrate is debarred from exercising his discretion even though, in his considered opinion, the punishment of with-

drawal or cancellation of a licence may deprive a man of his living or otherwise react in some manner harsh and not justified by the circumstances. I feel that the Magistrate should not be deprived of this discretionary power unless there are reasons more urgent and stronger than outlined by the Honourable Attorney General.

Secondly, Sir, I refer to section 4 sub-section (4)(a) which exempts all vehicles owned by the Government and other vehicles used by any person in the service of the Government exclusively in such service. What, however, is the position where a Government owned vehicle is allotted permanently to a Government Servant, and is and may be used other than in specific Government service? For instance, the driver might well be driving home from his club, or some such similar circumstance. Does Government then become in effect the insurer and accept liability for claims for any accident that may occur under those circumstances though, as may well be, the individual is not able to meet a claim for heavy damages?

Finally, Sir, I refer to section 8 wherein under sub-section (1) the amount payable for hospital expenses is limited to \$400 for an in-patient and \$80 for an out-patient, and under sub-section (2) these expenses include maintenance in hospital.

This section further limits the definition of "hospital" to an institution not carried on for profit, and therefore debar large numbers of private hospitals and similar institutions whose fees are, generally speaking, in excess of those charged in Government hospitals. In the event of a serious accident occurring in the immediate vicinity of such an institution, where the logical course would be immediate admission to that hospital, it would appear that no provision exists for the recovery of their fees, and this might well lead to refusal to admit an obviously indigent accident victim. I cannot therefore see justification for limiting the scope of emergency medical treatment, such as obviously must arise in accident cases, nor for the fixing of maximum hospital charges at the amount stated.

As I have said, Sir, I would welcome clarification on those points.

THE ACTING ATTORNEY GENERAL:—Your Excellency, I am obliged to the Honourable Member.

I take the hospital question first. I think the Honourable Member is under some misapprehension as to the effect of class 8. As I understand it, the effect is to create a liability in the insurer to pay certain expenses direct to the hospital. The clause applies only where payment of compensation is made in respect of death or bodily injury, that is to say, in cases in which although legal liability may not be expressly admitted it is considered advisable to pay compensation. In this class of case therefore the injured person would normally have the right to recover expenses incurred by him in hospital and the hospital could make the charge and the insurer therefore would ultimately be called upon to pay such expenses. In the case, however, of non-profit making hospitals the injured person might not incur liability to pay because the hospital might not, in fact, charge him any fee except for out-of-pocket expenses or may charge reduced fees. The effect of this clause is to enable the hospital to recover notwithstanding that fact up to the limit stated by the clause.

The same principle does not apply to profit-making hospitals which can, I submit, be left to pursue their ordinary remedies. I doubt myself very much whether their exclusion from the concession granted would induce such hospitals to turn away an accident casualty in the circumstances envisaged by the Honourable Member, but I would in any case point out that the formal procedure is to summon an ambulance. With regard to the maximum it may be that the amounts are not sufficiently generous. If so, we may have to amend. I am reluctant, however, to advise amendment now because this Bill which already imposes new liabilities on insurance companies has, after considerable discussion, received their agreement and I would prefer to let the limits stand as they are.

To pass to the question of disqualification for special reasons, at first glance it seems not unreasonable, as the Honourable Member has suggested, that complete discretion should be given to Magistrates. There are, however, three important considerations why I submit that it is desirable to accept the clause as it stands. In the first place, compulsory insurance against third party risks has been in force in England for 20 years and considerable experience has been gained of its operation. I would be hesitant therefore to suggest that we should legislate in a different manner here unless the grounds of differentiation could be justified by some peculiarity in local conditions. That is not suggested by the Honourable Member. He has, in fact,

challenged the wisdom of the rule as a whole. Secondly, Justices in England originally did construe a similar provision there as enabling them to refrain from disqualification for reasons connected with the offender and not with the offence. The result was that a number of flimsy excuses were accepted by Justices. The matter was finally put right by the Court of Criminal Appeal and the Lord Chief Justices did not mince his words in condemning the practice which had been current.

This brings me to the third reason. The reason why Parliament in England desired to make disqualification automatic except for special reasons connected with the offence is that it really is the only effective deterrent against failure to insure. The moral conscience is justifiably shocked when, for example, the negligence of a motorist results in a family being deprived of its bread winner or in that bread winner being seriously incapacitated and there is no practical way of obtaining proper compensation. If, on some occasions, automatic disqualification appears over severe, let us weigh against that the necessity of compelling persons to insure against the risks in question so as to avoid far worse injustice to persons who might be quite blameless. Indeed, I think this aspect of the matter has been recognized by the Honourable Member when he agrees that it is desirable that the incompetent motorist should be driven from the road.

The Honourable Member has also asked for clarification in the case of Government vehicles. I am authorized to say that although in Hong Kong the Crown could not be sued for damages caused by the negligence of its servants, Government does not, so far as concerns liability for accidents on the road caused by persons authorized to drive Government vehicles, propose to take advantage of this immunity. It is Government's intention to acknowledge liability in every case in which an employer, a private employer, would be liable. Moreover, Government proposes that where it has authorized the use of Government vehicles for what might perhaps be termed the personal convenience of Government Servants, such as cars hired to Government servants for recreational purposes, arrangements will be made whereby Government will either carry the insurance itself, making a suitable charge to the Government servant concerned, or will negotiate special insurance for such occasions. The final decision as to which of these courses should be taken has not yet been decided, but Honourable Members may rest assured that it will be taken before sub-clause (1) of clause 4 is brought into operation, and that there will be appropriate cover. Government cannot, however, be expected to carry the insurance where a wholly

unauthorized use is made of a Government vehicle as, for example, where a joy-rider removes a Government vehicle from a car park and causes an accident in the course of his joy-ride. That would only be possible if an agreement covering unauthorized user generally were negotiated with the insurance companies as it has been in the United Kingdom.

I believe, Sir, I am correct in saying that the same attitude will be adopted by His Majesty's Forces with regard to Service vehicles, but I must not be taken as giving any undertaking so far as concerns the Forces. In the circumstances, Sir, the paragraph to which the Honourable Member has invited your attention, namely paragraph (a) of sub-clause (4) of clause 4, is a little misleading in two respects. In the first place, Sir, the words following the word "or", although disjunctive tend to suggest that there is no exemption unless a vehicle is used exclusively in Government service, and secondly it is arguable that a person who makes unauthorized use of a Government vehicle does not commit an offence against sub-clause (1) of clause 4. As I have said, this is not the intention and I propose to move an amendment in committee.

I am indeed obliged, Sir, to the Honourable Member for the opportunity he has afforded to clarify certain aspects of the Bill.

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Clause 4.

THE ACTING ATTORNEY GENERAL :—Sir, I have an amendment to propose to clause 4 which has been tabled and I formally move the amendment which is paragraph (a) of sub-clause (4) of clause 4 be amended by the deletion of the words "or to any person in the service of His Majesty, or of the Government, using, or causing or permitting to be used, any such motor vehicle exclusively in the service of His Majesty or the Government" and the substitution therefor of the words "upon any occasion on which such vehicle is being used by a person authorized by His Majesty or the Government to use the same on such occasion".

I have already explained the reasons for the amendment. Schedule.

THE ACTING ATTORNEY GENERAL :—I have an amendment to the Schedule which has already been tabled and I formally move that amendment.

The amendments were agreed to.

Council then resumed.

THE ACTING ATTORNEY GENERAL :—Does Your Excellency consider the amendments material?

H. E. THE GOVERNOR :—No.

THE ACTING ATTORNEY GENERAL reported that the Motor Vehicles Insurance (Third Party Risks) Bill, 1951 had passed through Committee without material amendment and moved the Third reading..

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

THIRD PARTIES (RIGHTS AGAINST INSURERS) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to confer on third parties rights against insurers of third party risks in the event of the insured becoming insolvent, and in certain other events".

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ACTING ATTORNEY GENERAL reported that the Third Parties (Rights against Insurers) Bill, 1951 had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

COMMONWEALTH PARLIAMENTARY ASSOCIATION (FORMATION OF SUBSIDIARY BRANCH).

HON. CHAU TSUN-NIN, C.B.E. moved the following Resolution :—

WHEREAS Clause IV(e) of the Constitution of the Commonwealth Parliamentary Association provides that a legislature of any part of the Commonwealth with a Majority of Unofficial Members may form an Affiliated Branch of the Association with the concurrence of the Executive Committee of the Main Branch of the nation concerned, and with the concurrence of the General Council; and such Affiliated Branch shall be affiliated both to the Main Branch and to the Association through the General Council of the Association and that in cases where a legislature has not reached a stage which, in the view of the Executive Committee of the Main Branch of the nation concerned, would justify affiliation to the Association through the General Council, such legislature may affiliate with the appropriate Main Branch, with its consent, for the purpose of friendly intercourse and thereupon such legislature shall be a Subsidiary Branch of the Main Branch and the Main Branch shall be its Parent Branch.

AND WHEREAS it is considered that the Legislative Council should form such Subsidiary Branch.

NOW, THEREFORE it is hereby Resolved that the Executive Committee of the United Kingdom Branch of the Commonwealth Parliamentary Association be asked for authority for the Legislative Council to form a Subsidiary Branch of the United Kingdom Branch of the aforesaid Association.

He said : Sir, the Commonwealth Parliamentary Association (or the Empire Parliamentary Association as it was originally called) was founded in 1911. It arose from a proposal that "His Majesty's faithful Commons from each part of the Empire should, by delegations of their Members, be present at the Coronation" of King George V. The delegations duly came and the idea of a permanent association of parliamentarians of all parties in the legislatures of the Empire was conceived.

Its objects, as declared in its Constitution, were to facilitate the exchange of information, closer understanding and more frequent intercourse between parliamentary representatives in the various parts of the Empire. These purposes it was to fulfil, and has fulfilled in all the years of its existence, by the provision

Annex D

Chapter:	1	Title:	INTERPRETATION AND GENERAL CLAUSES ORDINANCE	Gazette Number:	35 of 1998 s.5
Section:	3	Heading:	Interpretation of words and expressions	Version Date:	30/06/1997

"State" (“國家”) includes only-

- (a) the President of the People's Republic of China;
- (b) the Central People's Government;
- (c) the Government of the Hong Kong Special Administrative Region;
- (d) the Central Authorities of the People's Republic of China that exercise functions for which the Central People's Government has responsibility under the Basic Law;
- (e) subordinate organs of the Central People's Government that-
 - (i) on its behalf, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
 - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; and
- (f) subordinate organs of the Central Authorities of the People's Republic of China referred to in paragraph (d), that-
 - (i) on behalf of those Central Authorities, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
 - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; (Added 26 of 1998 s. 4)