

LEGISLATIVE COUNCIL BRIEF

Foreign Jurisdiction (Expenses) Ordinance
(Chapter 223)

Smuggling into China (Control) Ordinance
(Chapter 242)

ADAPTATION OF LAWS (NO.3) BILL 1998

INTRODUCTION

At the Executive Council meeting on 13 October 1998, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No. 3) Bill 1998, at Annex, should be introduced into the Legislative Council to repeal the Foreign Jurisdiction (Expenses) Ordinance (Cap. 223) and the Smuggling into China (Control) Ordinance (Cap. 242) and its subsidiary legislation.

BACKGROUND AND ARGUMENT

2. The Foreign Jurisdiction (Expenses) Ordinance, the Smuggling into China (Control) Ordinance and its subsidiary legislation, have become obsolete. They are not in conformity with Hong Kong's status as a Special Administrative Region of the People's Republic of China and should be repealed.

Foreign Jurisdiction (Expenses) Ordinance

3. The Foreign Jurisdiction (Expenses) Ordinance provides for expenses in relation to persons who have been convicted or acquitted on the ground of insanity before courts in any country or place out of "Her Majesty's dominions" under the UK Foreign Jurisdiction Acts. We can trace no record of any expenses incurred in relation to this Ordinance.

4. China has resumed the exercise of sovereignty over Hong Kong and that the UK Foreign Jurisdictions Acts upon which the operation of the Ordinance depended has ceased to apply to Hong Kong. This Ordinance is obsolete and should be repealed.

Smuggling into China (Control) Ordinance

5. The Smuggling into China (Control) Ordinance was enacted in 1948 to give effect to an agreement between the then Chinese Government and the United Kingdom Government for various measures to prevent smuggling between Hong Kong and China. These measures included, for examples, restricting the locations where loading of certain types of vessels and landing of goods could take place, enabling the Chinese Customs to patrol and take enforcement actions in Hong Kong waters within a delineated area (the waters in Mirs Bay and Deep Bay north of the agreed line which was commonly referred to as the “Cap. 242 line”) etc. Following the subsequent enactment of the Import and Export Ordinance (Cap. 60), smuggling offences have been dealt with entirely under that Ordinance. The provisions under the Smuggling into China (Control) Ordinance were therefore not required and never invoked, except that the Cap. 242 line continued to be used as a customary reference line, where Mainland security vessels were allowed access north of the line.

6. Following the promulgation of the boundary of the Hong Kong Special Administrative Region by the State Council in its Order No. 221 on 1 July 1997, the customary line laid down in the Smuggling into China (Control) Ordinance has become obsolete. The Ordinance should be repealed.

THE BILL

7. The Bill repeals the Foreign Jurisdiction (Expenses) Ordinance and the Smuggling into China (Control) Ordinance and its subsidiary legislation which have become obsolete and are not in conformity with the status of Hong Kong as a Special Administrative Region of the People’s Republic of China.

LEGISLATIVE TIMETABLE

8. The legislative timetable is as follows-

Publication in the Gazette

23 October 1998

First Reading and commencement of Second Reading debate 11 November 1998

Resumption of Second Reading debate, committee stage and Third Reading to be notified

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the proposed Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

10. There are no binding effect implications as the Ordinances are repealed by the Bill.

FINANCIAL AND STAFFING IMPLICATIONS

11. There are no financial or staffing implications arising from the Bill.

PUBLIC CONSULTATION

12. Since the amendments are to repeal two obsolete Ordinances, consultation with the public is not considered necessary.

ENQUIRIES

13. Enquiries on the contents of this paper should be directed to

-

	<u>Telephone Number</u>
Mrs Carrie Willis Principal Assistant Secretary (Security)	2810 2329
Ms Rosanna Law Assistant Director of Administration	2810 2576

Security Bureau
22 October 1998
File Ref.: SBCR 1/5/1162/88 (98)

A BILL

To

Repeal certain Ordinances that are not in conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Adaptation of Laws (No. 3) Ordinance 1998.

2. Repeals

The Ordinances specified in the Schedule are repealed.

SCHEDULE

[s. 2]

1. Foreign Jurisdiction (Expenses) Ordinance (Cap. 223).
2. Smuggling into China (Control) Ordinance (Cap. 242).
3. Smuggling into China (Control) Specification (Cap. 242 sub. leg.).

Explanatory Memorandum

The purpose of this Bill is to repeal the Foreign Jurisdiction (Expenses) Ordinance (Cap. 223), the Smuggling into China (Control) Ordinance (Cap. 242) and the Smuggling into China (Control) Specification (Cap. 242 sub. leg.) which are not in

conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.