

Adaptation of Laws (No.4) Bill 1998

Provisions that are not covered by, or are given treatment different from, the Guideline Adaptations

Item	Schedule and section No.	Term or Provision Repealed	Term or Provision Added or Substituted	Remarks or Proposals
1	Sch. 1 s. 2(c)	-	“of China in Hong Kong” after “authorities” in s. 4(1)(d)(i) of Cap. 87	Further to general review, this item is proposed to be dealt with collectively with other adaptations of military references in a separate Adaptation of Laws Bill, in accordance with para. 12 of the Adaptation of Laws Guiding Principles.
2	Sch. 1 s. 2(d)	s. 4(1)(d)(ii) of Cap. 87	-	This adaptation proposal is made for the purpose of removing provision which confers privileges on the UK pursuant to s.2A of the Interpretation and General Clauses Ordinance (Cap. 1).
3	Sch. 1 ss. 3 & 4	ss. 5 & 6 of Cap. 87	new ss. 5 & 6	This adaptation proposal is made to preserve the rights and duties of the Secretary for Justice. This is consistent with s.24(2) of the Hong Kong Reunification Ordinance (No. 110 of 1997).

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4	Sch. 1 s.8	the Sch. to Cap. 87	new Sch.	The purpose of this adaptation proposal is to include in the Schedule to Cap. 87 an updated list of the adapted titles of legal officers in the Department of Justice.
5	Sch. 2 s. 1	-	new s. 2(1A) of Cap. 159	This adaptation proposal is made in order to cover the pre-Reunification position in so far as qualification provisions relating to service in the Department of Justice is concerned (e.g. ss. 20(5) & 27A(1)(c) of Cap. 159, rule 8(3A)(c) of Cap. 159B, rules 2(1)(d), 7, 9(1)(b) & (4) of Cap. 159E, and rule 20(1)(b) of Cap. 159J).
6	Sch. 2 ss. 2	ss. 3(3) of Cap. 159	-	This proposal is made on the basis of there still being an inherent jurisdiction of the Court even after the proposed repeal takes effect. An alternative approach is being considered for the introduction of a replacement provision.

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7	Sch. 2 s. 3	“外國” in heading to Part IIIA of Cap. 159	“外地”	The 2 terms of “外國律師” and “外國律師行” in the heading are adapted as defined terms previously adapted under the Adaptation of Laws (References to Foreign Country, etc.) Ordinance (23 of 1998). Same for s. 25 in Sch. 2.
8	Sch. 2 s. 6	“any member of Her Majesty’s Overseas Judiciary,” in s. 75(1)(a) of Cap. 159	-	This adaptation proposal is made for the purpose of removing provision which confers privileges on the UK pursuant to s.2A of the Interpretation and General Clauses Ordinance (Cap. 1).
9	Sch. 2 s. 9(b)(i) & (ii)	(a) “section 98 of the Mental Health Act 1983 (1983 c. 20 U.K.) (Emergency powers)” in new s. 26A(2A)(g) of Cap. 159  (b) “section 99 of that Act (Appointment of a receiver)” in that new s. 26A(2A)(g)	(a) “section 10D of the Mental Health Ordinance (Cap. 136) (Court’s powers in cases of emergency)”  (b) “section 11 of that Ordinance (Appointment of committee)”	The purpose of the adaptation is to remove old references to an English Act by referring to local legislative provisions intended to provide a regulatory mechanism parallel to that under the English scheme.

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10	Sch. 2 ss. 14 to 17	“Attorney General’s Chambers” in rules 2(1)(d), 3(a)(ii), 7(2) & 9(1)(b) & (4) of Cap. 159E	“Department of Justice”	Unlike “Legal Department” which has been adapted under the Declaration of Change of Titles (General Adaptation) Notice 1997 (L.N. 362 of 1997), “Attorney General’s Chambers” requires to be adapted.
11	Sch. 3 ss. 1(b) & (e)	“Colonial Regulations” in s. 2 of Cap. 416	new definition in new s. 2(9) of Cap. 416	A defined term is used in the amendment for the sake of clarity of expression. However, the amendment is to be further amended in accordance with the Guideline adaptations and with any latest decisions made in respect of an earlier adaptation bill being examined by this Council.

Department of Justice

7 December 1998

**Sections in the relevant Ordinances which have not been adapted in Adaptation of Laws (No.4) Bill**

Item		Remarks
1.	Sections 27(1)(a) & (b), (1A) and (4), 27A(1), 28, 31(1)(c) and 72A(bb) of and Schedule 1 to the Legal Practitioners Ordinance (Cap. 159)	To be dealt with by future amendment bill/ adaptation bill
2.	Rule 8(2)(a)(i), (ii) & (iv) of and Form 1B of the Schedule to the Admission and Registration Rules (Cap. 159 sub. leg.)	"
3.	Rules 2, 2A and 9(4) of the Barristers (Qualification) Rules (Cap. 159 sub. leg.)	"
4.	Rule 4 of and paragraph 3 of Form 1 in the Schedule to the Solicitors' Practice Rules (Cap. 159 sub. leg.)	"
5.	Rules 9A(1) to (3) and 14 of the Trainee Solicitors Rules (Cap. 159 sub. leg.)	"
6.	Item 15, Pt. II of the Schedule to Solicitors (Trade Marks and Patents) Costs Rules (Cap. 159 sub. leg.)	"
7.	Section 2A of Legal Officers Ordinance (Cap. 87)	"
8.	Section 31(1)(f) in item 33 of Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)	"