

LEGISLATIVE COUNCIL BRIEF

Public Finance Ordinance (Cap. 2)
Loans Ordinance (Cap. 61)
Loans (Government Bonds) Ordinance (Cap. 64)
Legal Tender Notes Issue Ordinance (Cap. 65)
Exchange Fund Ordinance (Cap. 66)
Hong Kong Treasury Bills (Local) Ordinance (Cap. 74)
Public Revenue Protection Ordinance (Cap. 120)
Banking Ordinance (Cap. 155)
Government Lotteries Ordinance (Cap. 334)
Trading Funds Ordinance (Cap. 430)
Coinage Ordinance (Cap. 454)
Financial Secretary Incorporation Ordinance (Cap. 1015)

ADAPTATION OF LAWS (NO. 25) BILL 1999

INTRODUCTION

Annex At the meeting of the Executive Council on 29 June 1999, the Council **ADVISED** and the Chief Executive **ORDERED** that the Adaptation of Laws (No. 25) Bill 1999 at the Annex should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. Article 160 of the Basic Law states that -

"Upon the establishment of the Hong Kong Special Administration Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance

with the procedure as prescribed by this Law."

Article 8 of the Basic Law states that -

"The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravenes this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region."

3. On 23 February 1997, the Standing Committee of the National People's Congress published a decision on the treatment of laws previously in force in Hong Kong. It provides, among other things, that apart from the 24 Hong Kong Ordinances that are declared not to be adopted in whole or in part, the existing Hong Kong laws are to be adopted as laws of the Hong Kong Special Administrative Region and these laws, shall, unless the context otherwise requires, be construed in accordance with specified principles of interpretation. These interpretative principles are included in 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). Although the Interpretation and General Clauses Ordinance laid down how terminology inconsistent with the Basic Law or with the status of Hong Kong as a Special Administrative Region of the People's Republic of China are to be construed, it is considered unacceptable to retain such terminology in our laws. Accordingly, we need to introduce further legislation to effect the necessary textual amendments.

THE BILL

4. Most of the proposed amendments are merely terminological changes, e.g. references to "the Colony" and "立法局" are replaced by "Hong Kong" and "立法會" respectively. Similarly, a reference to the "Governor" will be replaced by the "Chief Executive". Where a provision previously conferred power on the "Governor" to make subsidiary legislation, the reference to the "Governor" will still be adapted to the "Chief Executive". Although the requirement under Article 56 of the Basic Law that the Chief Executive shall consult the Executive Council before making subordinate legislation is then not expressly set out, the Executive Council will still have to be consulted if the Chief Executive is to exercise this legislative function.

5. The term "Crown" in section 17B(1) of the Public Finance Ordinance (Cap. 2) is adapted to "Government" because the provision relates to forfeiture of property. The reference to "the Crown or" in section 39A of Cap. 2 is no longer necessary and should be repealed. The term "Crown" in section 131(1), (2) and (3) of the Banking Ordinance (Cap. 155) is adapted as "Government" as it relates to the

recovery of fees as a civil debt due to the Government.

COMMENCEMENT

6. The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights, the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region.

PUBLIC CONSULTATION

7. Since the amendments are essentially straightforward adaptations, consultation with the public is not considered necessary.

HUMAN RIGHTS IMPLICATION

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

FINANCIAL AND STAFFING IMPLICATIONS

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

LEGISLATIVE TIMETABLE

10. The legislative timetable is -

Publication in the Gazette	2 July 1999
First Reading and commencement of Second Reading debate	14 July 1999
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

11. A press release will be issued on 7 July 1999.

ENQUIRIES

12. In case of enquiries about this Brief, please contact Miss Amy Tse, Principal Assistant Secretary for the Treasury (Revenue), at 2810 2370.

Finance Bureau
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ADAPTATION OF LAWS (NO. 25) BILL 1999

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A BILL

To

Adapt certain Ordinances to bring them into conformity with the Basic Law and 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. 25) Ordinance 1999.

2. Commencement

(1) This Ordinance shall be deemed to have come into operation on 1 July 1997.

(2) Subsection (1) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

3. Amendment of Ordinances

The Ordinances specified in the Schedules are amended in the manner indicated in those Schedules.

SCHEDULE 1
PUBLIC FINANCE ORDINANCE AND ITS SUBSIDIARY LEGISLATION

[s. 3]

Public Finance Ordinance

1. Section 2 of the Public Finance Ordinance (Cap. 2) is amended -
 - (a) by repealing the definition of "enactment";
 - (b) in the definition of "Finance Committee", by repealing "standing Orders of the Legislative Council" and substituting "Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region";
 - (c) in the definition of "public moneys", in paragraph (c), by repealing "Governor" and substituting "Chief Executive".
2. Section 5(1) is amended by repealing "立法局" and substituting "立法會".
3. Section 6(1) is amended by repealing "立法局" and substituting "立法會".
4. Section 7(1) and (2) is amended by repealing "立法局" and substituting "立法會".

5. Section 8 is amended -
 - (a) in subsection (6) (a) -
 - (i) by repealing "Governor" and substituting "Chief Executive";
 - (ii) by repealing "立法局" and substituting "立法會";
 - (b) in subsection (8) (b), by repealing "立法局" and substituting "立法會".
6. Section 9 is amended by repealing "立法局" and substituting "立法會".
7. Section 11(2) is amended by repealing "Governor" and substituting "Chief Executive".
8. Section 12(1) is amended by repealing "立法局" and substituting "立法會".
9. Section 17A is amended -
 - (a) by repealing "of the Colony";
 - (b) by repealing "Governor" and substituting "Chief Executive".
10. Section 17B(1) is amended -
 - (a) by repealing "Crown" and substituting "Government";
 - (b) by repealing "of the Colony".

11. Section 17C(1) and (2) is amended by repealing "Governor" and substituting "Chief Executive".
12. Section 18A is amended -
 - (a) in subsection (1) -
 - (i) by repealing "of the Colony";
 - (ii) by repealing "立法局" and substituting "立法會";
 - (b) in subsection (2), by repealing "立法局" and substituting "立法會".
13. Section 19(2) is amended by repealing "立法局" and substituting "立法會".
14. Section 27(2) is amended by repealing "from the Crown Agents or".
15. Section 28(1) (a) is amended by repealing "立法局" and substituting "立法會".
16. Section 29(1) is amended by repealing "立法局" and substituting "立法會".
17. Section 30(1) is amended by repealing "立法局" and substituting "立法會".

18. Section 31 is amended by repealing "立法局" and substituting "立法會".
19. Section 34 is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
20. Section 39A is amended -
 - (a) by repealing "the Crown or";
 - (b) in paragraphs (a) and (b), by repealing "Governor" and substituting "Chief Executive";
 - (c) in paragraph (c), by repealing "of the Colony".
21. Section 40 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
22. Section 43 is amended by repealing "立法局" and substituting "立法會".

Capital Investment Fund

23. Paragraph 3(g) and (k) of the Capital Investment Fund (Cap. 2 sub. leg.) is amended by repealing "立法局" and substituting "立法會".

Loan Fund

24. Paragraph 3(d) of the Loan Fund (Cap. 2 sub. leg.) is amended by repealing "立法局" and substituting "立法會".

Lotteries Fund

25. Paragraph 1 of the Lotteries Fund (Cap. 2 sub. leg.) is amended -
- (a) in subparagraph 2, by repealing "or in sterling";
 - (b) in subparagraph 3 -
 - (i) in sub-subparagraph (a), by repealing "of the Colony";
 - (ii) in sub-subparagraph (b) -
 - (A) by repealing "of the Colony";
 - (B) by repealing "本局" and substituting "本立法會";
 - (iii) in sub-subparagraph (f), by repealing "本局" and substituting "本立法會".

Financial Secretary Incorporated Suspense Account

26. The Financial Secretary Incorporated Suspense Account (Cap. 2 sub. leg.) is amended by repealing "Crown Leases" and substituting "Government Leases".

Disaster Relief Fund

27. Paragraph (b) of the Disaster Relief Fund (Cap. 2 sub. leg.) is amended by repealing "Governor" and substituting "Chief Executive".

28. Paragraph (f) (i) is amended by repealing "立法局" and substituting "立法會".

Fees for Official Signatures and Miscellaneous Services Notice

29. The Schedule to the Fees for Official Signatures and Miscellaneous Services Notice (Cap. 2 sub. leg.) is amended, in item 1(a), by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 2 [s. 3]
LOANS ORDINANCE

1. Section 3(1) and (3) of the Loans Ordinance (Cap. 61) is amended by repealing "立法局" and substituting "立法會".
2. Section 5(2) is amended by repealing "立法局" and substituting "立法會".
3. Section 6(2) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 3 [s. 3]
LOANS (GOVERNMENT BONDS) ORDINANCE

1. Section 3 of the Loans (Government Bonds) Ordinance (Cap. 64) is amended by repealing "立法局" where it twice appears and substituting "立法會".

2. Section 4(2) is amended by repealing "立法局" and substituting "立法會".
3. Section 5(1) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 4 [s. 3]
LEGAL TENDER NOTES ISSUE ORDINANCE

1. Section 3(1) and (2) of the Legal Tender Notes Issue Ordinance (Cap. 65) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
2. Section 6 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 5 [s. 3]
EXCHANGE FUND ORDINANCE

1. Section 3 of the Exchange Fund Ordinance (Cap. 66) is amended -
 - (a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (5) -
 - (i) by repealing "Governor in Council" and substituting "Chief Executive in Council";

- (ii) by repealing "Governor to" and substituting "Chief Executive to";
 - (iii) by repealing "立法局" where it twice appears and substituting "立法會".
- 2. Section 3A(3) and (4) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
- 3. Section 6(b) is amended by repealing "Governor" and substituting "Chief Executive".
- 4. Section 7 is amended by repealing "Governor" and substituting "Chief Executive".
- 5. Section 8 is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

SCHEDULE 6
HONG KONG TREASURY BILLS (LOCAL) ORDINANCE

[s. 3]

- 1. The Preamble of the Hong Kong Treasury Bills (Local) Ordinance (Cap. 74) is amended by repealing "Governor" and substituting "Chief Executive".
- 2. Section 2 is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";

- (b) by repealing "of Hong Kong" and substituting "of";
 - (c) by repealing "立法局" and substituting "立法會".
- 3. Section 3 is amended by repealing "the Colony" and substituting "Hong Kong".
- 4. Section 4 is amended by repealing "of the Colony".
- 5. Section 5 is amended by repealing "Governor" and substituting "Chief Executive".
- 6. Section 6 is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "of the Colony".

SCHEDULE 7
PUBLIC REVENUE PROTECTION ORDINANCE

[s. 3]

- 1. The long title to the Public Revenue Protection Ordinance (Cap. 120) is amended by repealing "the Colony" and substituting "Hong Kong".
- 2. Section 2 is amended -
 - (a) by repealing "Governor" where it twice appears and substituting "Chief Executive";
 - (b) by repealing "立法局" and substituting "立法會".

3. Section 3 is amended by repealing "總督" and substituting "行政長官".
4. Section 4 is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "總監" and substituting "關長".
5. Section 5 is amended -
 - (a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (2) (a), by repealing "立法局" and substituting "立法會";
 - (c) in subsection (4), by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 8
BANKING ORDINANCE

[s. 3]

1. Part II of the Banking Ordinance (Cap. 155) is amended, in the heading, by repealing "GOVERNOR" and substituting "CHIEF EXECUTIVE".
2. Section 4 is amended -
 - (a) in subsection (1) -
 - (i) by repealing "Governor" where it first appears and substituting "Chief Executive";

- (ii) by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsections (2) and (3), by repealing "Governor" wherever it appears and substituting "Chief Executive".
- 3. Section 5 is amended -
 - (a) in subsection (1) -
 - (i) by repealing "Governor" where it first appears and substituting "Chief Executive";
 - (ii) by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsections (2) and (3), by repealing "Governor" wherever it appears and substituting "Chief Executive".
- 4. Section 9(4) is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
- 5. Section 10 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
- 6. Section 52(1) and (2) is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".
- 7. Section 53 is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

8. Section 53F(1) and (2) is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".
9. Section 117(5) (c) is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".
10. Section 119(1) is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".
11. Section 120 is amended -
 - (a) in subsection (5) (f), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (5B), by repealing "立法局" and substituting "立法會".
12. Section 122(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
13. Section 131(1), (2) and (3) is amended by repealing "Crown" and substituting "Government".
14. Section 132A(1), (2), (3) and (5) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

15. Section 135 is amended -
- (a) in subsection (1), by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsection (2), by repealing "立法局" and substituting "立法會".

SCHEDULE 9
GOVERNMENT LOTTERIES ORDINANCE

[s. 3]

1. Section 3 of the Government Lotteries Ordinance (Cap. 334) is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
2. Section 5 is amended by repealing "Governor" and substituting "Chief Executive".
3. Section 6 is amended -
- (a) in subsection (2), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (4) -
 - (i) by repealing "the Colony" and substituting "Hong Kong";
 - (ii) by repealing "Governor" and substituting "Chief Executive";
 - (c) in subsection (6), by repealing "立法局" and substituting "立法會".

4. Section 7(2) is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "立法局" and substituting "立法會".
5. Section 8 is amended by repealing "of the Colony".
6. Section 9 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".

SCHEDULE 10 [s. 3]
TRADING FUNDS ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Trading Funds Ordinance

1. The long title to the Trading Funds Ordinance (Cap. 430) is amended by repealing "立法局" and substituting "立法會".
2. Section 2(1) is amended, in the definition of "財務委員會", by repealing "立法局" and substituting "立法會".
3. Section 3(1) is amended by repealing "立法局" and substituting "立法會".
4. Section 4(1) and (2) is amended by repealing "立法局" and substituting "立法會".

5. Section 6(1) and (3) is amended by repealing "立法局" and substituting "立法會".
6. Section 7(4) is amended by repealing "立法局" and substituting "立法會".
7. Section 8(2) is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "立法局" and substituting "立法會".
8. Section 11 is amended -
 - (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "立法局" and substituting "立法會".
9. Section 12(1) is amended by repealing "立法局" and substituting "立法會".

Land Registry Trading Fund

10. Schedule 1 to the Land Registry Trading Fund (Cap. 430 sub. leg.) is amended, in item 22, by repealing "Crown" and substituting "Government".

SCHEDULE 11
COINAGE ORDINANCE

[s. 3]

1. Section 2(1) and (4) of the Coinage Ordinance (Cap. 454) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
2. Section 4 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 12
FINANCIAL SECRETARY INCORPORATION ORDINANCE

[s. 3]

1. Section 1 of the Financial Secretary Incorporation Ordinance (Cap. 1015) is amended by repealing "《財政司法團條例》" and substituting "《財政司司長法團條例》".
2. Section 7 is amended -
 - (a) by repealing "Governor" wherever it appears and substituting "Chief Executive";
 - (b) by repealing "the Colony" wherever it appears and substituting "Hong Kong".

Consequential Amendments

Government Rights (Re-entry and Vesting Remedies) Ordinance

3. Section 2 of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) is amended, in the definition of "財政司司長法團", by repealing "《財政司法團條例》" and substituting "《財政司司長法團條例》".

Banking Ordinance

4. Section 81(4A) (a) of the Banking Ordinance (Cap. 155) is amended by repealing "《財政司法團條例》" and substituting "《財政司司長法團條例》".

Mass Transit Railway (Land Resumption and Related Provisions) Ordinance

5. Section 2 of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) is amended, in the definition of "財政司司長法團", by repealing "《財政司法團條例》" and substituting "《財政司司長法團條例》".

Explanatory Memorandum

The purpose of this Bill is to adapt certain Ordinances and their subsidiary legislation to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of

the People's Republic of China (clause 3, Schedules 1 to 12).

2. The Ordinances adapted and their respective Schedule numbers under the Bill are -
- | | |
|---|-------------|
| Banking Ordinance (Cap. 155) | Schedule 8 |
| Coinage Ordinance (Cap. 454) | Schedule 11 |
| Exchange Fund Ordinance (Cap. 66) | Schedule 5 |
| Financial Secretary Incorporation Ordinance (Cap. 1015) | Schedule 12 |
| Government Lotteries Ordinance (Cap. 334) | Schedule 9 |
| Hong Kong Treasury Bills (Local) Ordinance (Cap. 74) | Schedule 6 |
| Legal Tender Notes Issue Ordinance (Cap. 65) | Schedule 4 |
| Loans (Government Bonds) Ordinance (Cap. 64) | Schedule 3 |
| Loans Ordinance (Cap. 61) | Schedule 2 |
| Public Finance Ordinance (Cap. 2) | Schedule 1 |
| Public Revenue Protection Ordinance (Cap. 120) | Schedule 7 |
| Trading Funds Ordinance (Cap. 430) | Schedule 10 |
3. The Bill also provides that the adaptations when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region (clause 2).