

LEGISLATIVE COUNCIL BRIEF

- Port Control (Cargo Working Areas) Ordinance (Cap. 81)
- Stowaways Ordinance (Cap. 83)
- Pilotage Ordinance (Cap. 84)
- Merchant Shipping Ordinance (Cap. 281)
- Shipping and Port Control Ordinance (Cap. 313)
- Marine Insurance Ordinance (Cap. 329)
- Merchant Shipping (Prevention and Control of Pollution) Ordinance
(Cap. 413)
- Merchant Shipping (Liability and Compensation for Oil Pollution)
Ordinance (Cap. 414)
- Merchant Shipping (Registration) Ordinance (Cap. 415)
- Carriage of Goods by Sea Ordinance (Cap. 462)
- Merchant Shipping (Seafarers) Ordinance (Cap. 478)
- Nuclear Material (Liability for Carriage) Ordinance (Cap. 479)
- Merchant Shipping (Liner Conferences) Ordinance (Cap. 482)
- Merchant Shipping (Collision Damage Liability and Salvage) Ordinance
(Cap. 508)

ADAPTATION OF LAWS (NO. 31) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 6 July 1999, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No. 31) Bill 1999 at the Annex should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. There are provisions in the Ordinances which are inconsistent with the Basic Law or with Hong Kong's status as a Special Administrative Region of the People's Republic of China (PRC). The Adaptation of Laws (No. 31) Bill 1999 seeks to adapt these provisions with a view to bringing them into conformity with the Basic Law and Hong Kong's present status.

THE BILL

3. The Bill comprises mainly terminological changes, for example, references to "the Colony" and "立法局" will be replaced by "Hong Kong" and "立法會" respectively. Similarly, references 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 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 Council will still have to be consulted if the Chief Executive is to exercise this legislative function.

4. References to a United Kingdom (U.K.) Act are either repealed or proposed to be replaced by a reference to local legislation. References to "a marine surveyor of the United Kingdom Department of Transport" and other UK authorities and references to "British ships" are repealed without substitution as Hong Kong will manage its own shipping system. Reference to "Secretary of State" is replaced either by "Director" (meaning the Director of Marine) or "Central People's Government" depending on whether technical matters within the responsibility of the HKSAR Government or foreign affairs within the responsibility of the Central People's Government are involved.

5. References to "the Crown" are adapted as follows –

- (a) *s.52(3) proviso, Merchant Shipping Ordinance (Cap. 281)*

The proviso to s.52(3) make it clear that an officer of the "Crown" shall not receive remuneration for work done as an

assessor in connection with investigation and inquiry into casualties. Such matters are within the responsibility of the SAR Government so the reference to the “Crown” is adapted to the "Government".

- (b) ***R. 11A, Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg)***

R.11A concerns forfeiture of examination fee to “the Crown” if an applicant for a local certificate of competency fails to attend an examination. Such matters are within the HKSAR Government's responsibility and “the Government” is substituted.

- (c) ***S.21(7), 33, 34(1), Shipping and Port Control Ordinance (Cap.313); R. 17(4), Shipping and Port Control (Dwelling Vessels) Regulations (Cap.313 sub. leg.); R.34 Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg.)***

In this Ordinance, all references to the “Crown” concern forfeiture of property in law enforcement and are replaced by the “Government”.

- (d) ***s.92(1), Marine Insurance Ordinance (Cap. 329)***

s.92(1) provides that money received under a contract by way of gambling on loss by maritime perils shall be forfeited to the Crown. As the provision deals with the matter for which HKSAR is solely responsible, the reference to "Crown" is adapted to "Government".

- (e) ***s.3(5)(vi), Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)***

The reference to the “Crown” concerns the scope of application of regulations made under the Ordinance. In line with s.7 of Schedule 9 of the Interpretation and General Clauses Ordinance (Cap.1), such reference is replaced by the “State”.

- (f) ***s.6(2), Merchant Shipping (Registration) Ordinance (Cap. 415)***

Section 6 protects public officers from liability for damage as a result of their act or omission in the exercise of powers, functions or duties under the Merchant Shipping (Registration) Ordinance (Cap. 415) without affecting tortious liability of “the Crown” for that act or omission. Tortious liability for such acts or omission of public officers concerns the HKSARG only. Reference to the "Crown" is therefore replaced by the "Government".

6. Explanations for some other particular amendments are set out below –

(a) ***s.2, Merchant Shipping Ordinance (Cap.281)***

Various definitions are repealed without substitution as these definitions concerns application of the Merchant Shipping (Safety Convention) Act 1949 to Hong Kong. Equivalent provisions are found in Parts I and II of the Merchant Shipping (Safety) Ordinance (Cap. 369) or the provisions are obsolete.

(b) ***s. 92(4), Merchant Shipping Ordinance (Cap. 281)***

The provision that deems the holder of a Broad of Trade Certificate of Competency as skipper (full) or skipper (limited) to be a duly certificated trawling master is repealed without substitution. Hong Kong has our own system of certificate of competency. Certificates issued by the U.K. Board of Trade are now treated in the same way as certificates issued by other countries.

(c) ***s. 117, Merchant Shipping Ordinance (Cap. 281)***

This section saves U.K. legislation. Its repeal without substitution is in line with the localization of shipping legislation.

(d) ***s.16(3), Merchant Shipping (Registration) Ordinance (Cap. 415) & r.3, Merchant Shipping (Registration) (Ships' Names) Regulations (Cap. 415 sub. leg.)***

Under BL 9 and s.2A(2)(d) of Cap. 1, the English and Chinese languages are official languages and of equal status. It is proposed that a ship should now have either a Chinese or English name. For operational need, a Chinese name must have a phonetic equivalent in English.

(e) ***s.103, Merchant Shipping (Registration) Ordinance (Cap. 415)***

This provision, which saves Merchant Shipping Acts, is repealed without substitution.

(f) ***para. 2, Annex to the Table of Mandatory Provisions, Schedule to Merchant Shipping (Liner Conferences) (Mandatory Provisions) Regulations, Sch. 2 Merchant Shipping (Liner Conferences) Ordinance (Cap. 482)***

Under this provision, if a Contracting Party to the Code of Conduct for Liner Conferences has made reservation disapplying Art. 2 of the Code (on rights in participation of trade) in respect of its trade with U.K., application of those rights in respect of its trade with HK would be affected. PRC, in applying the Code to Hong Kong, has declared that where a Contracting Party has made such reservation, its trade with Hong Kong would likewise be affected. Therefore, the reference to the “United Kingdom” is replaced by “People's Republic of China”.

COMMENCEMENT

7. 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. This is subject to the exceptions referred to in Clause 2(2) of the Bill, which mainly concern Merchant Shipping Notices issued by the Director of Marine replacing U.K. Merchant Shipping Notices, that the relevant provisions shall come into operation on the day when the Bill is enacted into law and the Ordinance so enacted published in the Gazette.

LEGISLATIVE TIMETABLE

8. The legislative timetable will be -
- | | |
|--|----------------|
| Publication in the Gazette | 9 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 |

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. The amendments will not affect the current binding effect of the existing provisions of various Ordinances covered 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 essentially straightforward adaptations, consultation with the public is not considered necessary.

PUBLICITY

13. A press release will be issued on 9 July. A spokesman will be available to handle media enquiries.

ENQUIRY

14. For enquiries on this brief, please contact Mr Raymond TANG, Deputy Director of Marine at Tel. No. 2852 4408 or Mr Peter KWOK, Assistant Secretary for Economic Services at Tel. No. 2537 2842.

Economic Services Bureau

Date : 6 July 1999

ADAPTATION OF LAWS (NO. 31) 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. 31) Ordinance 1999.

2. Commencement

(1) (a) This Ordinance, except as provided in subsection (2), shall be deemed to have come into operation on 1 July 1997.

(b) Paragraph (a) 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).

(2) The following provisions shall come into operation at the beginning of the day on which this Ordinance is published in the Gazette -

(a) sections 1, 2, 3(a), 5(b) (ii), 6, 7(a), 15, 17 and 20 of Schedule 4;

(b) sections 1, 18, 21, 27, 28, 29 and 30 of Schedule 5;

- (c) sections 2, 3, 4, 5, 8, 9, 10, 12(b), 13, 15, 17, 19 and 20 of Schedule 7;
- (d) sections 4(b), 5, 8, 10, 11, 12, 13, 14, 15 and 16 of Schedule 9;
- (e) section 7 of Schedule 11.

3. Amendment of Ordinance

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

SCHEDULE 1

[s. 3]

PORT CONTROL (CARGO WORKING AREAS) ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Port Control (Cargo Working Areas) Ordinance

1. Section 6(1) of Port Control (Cargo Working Areas) Ordinance (Cap. 81) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Port Control (Cargo Working Areas) Regulations

2. Regulation 2 of the Port Control (Cargo Working Areas) Regulations (Cap. 81 sub. leg.) is amended, in the definition of "China trade cargo", by repealing "The People's Republic of China" and substituting "Mainland of China".
3. Regulation 5C(6) (a) is amended by repealing "The People's Republic of China" and substituting "Mainland of China".

SCHEDULE 2

[s. 3]

STOWAWAYS ORDINANCE

1. Section 3 of the Stowaways Ordinance (Cap. 83) is amended by repealing "the Colony" where it twice appears and substituting "Hong Kong".
2. Section 4 is amended by repealing "the Colony" where it twice appears and substituting "Hong Kong".
3. Section 5 is amended by repealing "the Colony" wherever it appears and substituting "Hong Kong".

SCHEDULE 3

[s. 3]

PILOTAGE ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Pilotage Ordinance

1. Section 4(2) (b), (3), (4) and (5) of the Pilotage Ordinance (Cap. 84) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
2. Section 6(1) and (2) is amended by repealing "Governor" and substituting "Chief Executive".
3. Section 10C(5) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
4. Section 10D(2)(a) is amended by adding "other" before "Chinese".

5. Section 21 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Pilotage Regulations

6. Regulation 8(1) of the Pilotage Regulations (Cap. 84 sub. leg.) is amended by repealing "the Colony" and substituting "Hong Kong".

7. Regulation 9(a) is amended by repealing "the Colony" and substituting "Hong Kong".

SCHEDULE 4

[s. 3]

MERCHANT SHIPPING ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Merchant Shipping Ordinance

1. The long title to the Merchant Shipping Ordinance (Cap. 281) is amended by repealing", to remove anomalies and out-moded provisions therefrom, and incorporate therein amendments consequential upon the application to Hong Kong of the Merchant Shipping (Safety Convention) Act 1949" and substituting "and to remove anomalies and out-moded provisions therefrom".

2. Section 2 is amended-

- (a) by repealing the definitions of "accepted Safety Convention certificate", "Merchant Shipping Acts", "Minister", "principal Act", "Safety Convention country", "Safety Convention ship" and "non-Convention country";
- (b) in the definitions of "tons" and "tonnage", by repealing "British measurement of registered

tonnage" and substituting "the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg.)".

3. Section 51 is amended-
 - (a) in subsection (2), by repealing "the Merchant Shipping Acts to inspectors appointed by the Minister" and substituting "section 115 of the Merchant Shipping (Safety) Ordinance (Cap. 369)";
 - (b) in subsection (3), by repealing "Governor" and substituting "Chief Executive".

4. Section 52 is amended-
 - (a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (2) -
 - (i) by repealing "Governor" and substituting "Chief Executive";
 - (ii) by repealing "British mercantile marine" where it twice appears and substituting "Hong Kong mercantile marine";
 - (c) in subsection (3) -
 - (i) by repealing "Governor" and substituting "Chief Executive";
 - (ii) in the proviso, by repealing "Crown" and substituting "Government".

5. Section 53 is amended-
 - (a) in subsection (1) (a), (b), (c), (ca), (d), (f) and (g), by repealing "or British ship" wherever it appears;

- (b) in subsection (2) -
 - (i) by repealing paragraphs (a), (c), (d) and (f);
 - (ii) by repealing "the Merchant Shipping Acts to inspectors appointed by the Minister" and substituting "section 115 of the Merchant Shipping (Safety) Ordinance (Cap. 369)";
- (c) in subsection (3), by repealing "any part of the Commonwealth" and substituting "Hong Kong";
- (d) by repealing subsection (4).

6. Section 54 is amended by repealing "the Merchant Shipping Acts to inspectors appointed by the Minister" and substituting "section 115 of the Merchant Shipping (Safety) Ordinance (Cap. 369)".

7. Section 55 is amended-

- (a) in subsection (1) (b), by repealing "Merchant Shipping Acts" and substituting "Merchant Shipping (Safety) Ordinance (Cap. 369)";
- (b) in subsection (3), by repealing "Governor" and substituting "Chief Executive";
- (c) in subsection (4), by repealing "Governor" where it twice appears and substituting "Chief Executive".

8. Section 56(1) is amended -

- (a) by repealing "Governor" and substituting "Chief Executive";
- (b) by repealing "大" before "法官".

9. Section 58(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
10. Section 92(4) is amended by repealing everything after "a duly certificated trawling master" where it first appears and substituting a fullstop.
11. Section 94(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
12. Section 107B(3) is amended, in the definition of "authorized insurer", in paragraph (b), by repealing "Governor in Council" and substituting "Chief Executive in Council".
13. Section 114(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
14. Section 115 is amended-
 - (a) in subsections (1) and (2), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (3), by repealing "Governor in Council" and substituting "Chief Executive in Council".
15. Section 117 is amended-
 - (a) by repealing subsection (1);
 - (b) in subsection (2), by repealing "under any of the said Acts or".
16. Section 118(1) is amended-

- (a) by repealing "Governor" and substituting "Chief Executive";
- (b) in the proviso -
 - (i) by repealing "Governor" and substituting "Chief Executive";
 - (ii) by repealing "立法局" and substituting "立法會".

17. Section 119 is repealed.

Merchant Shipping (Fees) Regulations

18. Regulation 10 of the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg.) is amended by repealing "British".

19. Regulation 11A is amended by repealing "Crown" and substituting "Government".

20. Regulation 12 is amended -

- (a) in subregulation (1), by repealing "a British Government department" and substituting "a department of the Central People's Government";
- (b) in subregulation (2), by repealing "Hong Kong Government department or public body" and substituting "department of the Government of the Hong Kong Special Administrative Region, any public body".

21. The Schedule is amended, in Part II, in Section K -

- (a) in items 1, 2 and 3, -
 - (i) by repealing "recommendations of the Report of the Department of Trade Standing Advisory

Committee on the Carriage of Dangerous Goods in Ships" and substituting "Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.)";

- (ii) by repealing "the recommendations of the report" and substituting "that Regulation";
- (b) in item 4, by repealing "recommendations of the Report of the Department of Trade Standing Advisory Committee on the Carriage of Dangerous Goods in Ships" and substituting "Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.)".

Merchant Shipping (Marine Courts) Regulations

22. Regulation 24 of the Merchant Shipping (Marine Courts) Regulations (Cap. 281 sub. leg.) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 5

[s. 3]

SHIPPING AND PORT CONTROL ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Shipping and Port Control Ordinance

1. Section 2 of the Shipping and Port Control Ordinance (Cap. 313) is amended, in the definition of "tons" and "tonnage", by repealing "British measurement of registered tonnage" and substituting "the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg.)".

2. Section 11B(6) is amended by repealing "Governor" and substituting "Director".
3. Section 21(7) is amended by repealing "Crown" and substituting "Government".
4. Section 33 is amended -
 - (a) in subsection (1), by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) in subsection (1A) (c), by repealing "Crown" and substituting "Government".
5. Section 34(1) is amended by repealing "Crown" and substituting "Government".
6. Section 35(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
7. Section 51(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
8. Section 57 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
9. Section 58(4) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

10. Section 66 is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".

11. Section 80(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Shipping and Port Control Regulations

12. Regulation 22(1) (c) of the Shipping and Port Control Regulations (Cap. 313 sub. leg.) is amended by repealing "a British ship or".

13. Regulation 60(8) is amended by repealing "Crown" and substituting "Government".

14. Regulation 72(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Shipping and Port Control (Dwelling Vessels) Regulations

15. Regulation 2 of the Shipping and Port Control (Dwelling Vessels) Regulations (Cap. 313 sub. leg.) is amended, in the definition of "closed area", by repealing "by the Governor".

16. Regulation 17(4) is amended by repealing "Crown" and substituting "Government".

Shipping and Port Control (Typhoon Shelters) Regulations

17. Regulation 13 of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.) is amended by repealing "Governor"

where it twice appears and substituting "Chief Executive".

Merchant Shipping (Launches and Ferry Vessels) Regulations

18. Regulation 37(1) of the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg.) is amended by repealing "English characters" and substituting "English and Chinese characters".

Merchant Shipping (Miscellaneous Craft) Regulations

19. Regulation 24(2) of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg.) is amended by repealing "the Colony" and substituting "Hong Kong".

20. Regulation 34(4) is amended by repealing "Crown" and substituting "Government".

Shipping and Port Control (Hong Kong-China and Macau Ferry Terminals) Regulations

21. Regulation 1 of the Shipping and Port Control (Hong Kong - China and Mecaui Ferry Terminals) Regulations (Cap. 313 sub. leg.) is amended by repealing "Hong Kong-China and Macau".

22. Regulation 2 is amended, in the definition of "ferry vessel", in paragraph (b), by adding "other" before "place".

23. Regulation 3(1) is amended by repealing "Governor" and substituting "Chief Executive".

Hong Kong-Macau Ferry Terminal Boundaries Order

24. Paragraph 2 of the Hong Kong - March Ferry terminal Boundaries Order (Cap. 313 sub. leg.) is amended by repealing "China" where it twice appears and substituting "any other place in China".

Shipping and Port Control Ordinance (Exemption) (1984-89 Consolidation) Notice

25. Schedule 1 to the Shipping and Port Control Ordinance (Exemption) (1984-89 Consolidation) Notice (Cap. 313 sub. leg.) is amended, in Part VI, in item 1, by repealing "People's Republic of China" and substituting "Mainland of China".

China Ferry Terminal Boundaries Order

26. Paragraph 1 of the China Ferry Terminal Boundaries Order (Cap. 313 sub. leg.) is amended by repealing "China or Macau" where it twice appears and substituting "Macau or any other place in China".

Consequential Amendments

Import and Export Ordinance

27. Section 6E(5) (e) of the Import and Export Ordinance (Cap. 60) is amended by repealing "Hong Kong-China and Macau".

Export (Prescribed Articles) Regulations

28. Regulation 4 of the Export (Prescribed Articles) Regulations (Cap. 60 sub. leg.) is amended by repealing "Hong Kong-China and Macau".

Immigration (Anchorage and Landing Places) Order

29. Paragraph 2(a) of the Immigration (Anchorage and Landing Places) Order (Cap. 115 sub. leg.) is amended by repealing "Hong Kong-China and Macau".

Public Health and Municipal Services Ordinance

30. Section 104E(1) (e) of the Public Health and Municipal Services Ordinance (Cap. 132) is amended by repealing "Hong Kong-China and Macau".

SCHEDULE 6

[s. 3]

MARINE INSURANCE ORDINANCE

1. Section 92(1) of the Marine Insurance Ordinance (Cap. 329) is amended by repealing "Crown" and substituting "Government".

SCHEDULE 7

[s. 3]

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION)
ORDINANCE AND ITS SUBSIDIARY LEGISLATION

**Merchant Shipping (Prevention and Control
of Pollution) Ordinance**

1. Section 3(5) (vi) of Merchant shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) is amended by repealing "Crown" and substituting "State".

**Merchant Shipping (Prevention of Oil
Pollution) Regulations**

2. Regulation 1(2) of the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg.) is amended -
 - (a) in the definition of "Certifying Authority", by repealing everything after "Services" and substituting a semi-colon;
 - (b) in the definition of "Merchant Shipping Notice", by repealing "United Kingdom Department of Transport and published by Her Majesty's Stationery Office" and substituting "Director";
 - (c) in the definition of "oil", by repealing "1077" and substituting "1011".
3. Regulation 4(4) is amended by repealing "M 1076" and substituting "1012".
4. Regulation 5(3) is amended by repealing "M 1076" and substituting "1012".
5. Regulation 6(3) is amended by repealing "M 1076" and substituting "1012".
6. Regulation 22(1)(b) (ii) and (2) (b) is amended by repealing "Secretary of State" and substituting "Director".

7. Regulation 23(1) (b) is amended by repealing "Secretary of State" and substituting "Director".

8. Schedule 7 is amended, in paragraph 6.6, by repealing "Merchant Shipping (Fire Appliances) Regulations 1980, as adopted by section 111 of the Merchant Shipping (Safety) Ordinance (Cap. 369)" and substituting "Merchant Shipping (Safety) (Fire Protection) (Ships Built Before 25 May 1980) Regulations (Cap. 369 sub. leg.), Merchant Shipping (Safety) (Fire Appliances) (Ships Built On or After 25 May 1980 but Before 1 September 1984) Regulations (Cap. 369 sub. leg.), or Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg.), as appropriate".

**Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk)
Regulations**

9. Regulation 1(2) of the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg.) is amended, in the definition of "Merchant Shipping Notice", by repealing "United Kingdom Department of Transport and published by Her Majesty's Stationery Office" and substituting "Director".

10. Regulation 23(2) is repealed and substituted -

"(2) Every such survey shall be carried out by a surveyor appointed by the Director under regulation 2A or by the Secretary for Economic Services under section 5 of the Merchant Shipping (Safety) Ordinance (Cap. 369), and application for such a survey shall be made by or on behalf of the owner to the Director."

11. Regulation 24(3) (c) is amended by repealing "non-British" and substituting "non-Hong Kong".

Merchant Shipping (Reporting of Pollution Incidents) Regulations

12. Regulation 2 of the Merchant Shipping (Reporting of Pollution Incidents) Regulations (Cap. 413 sub. leg.) is amended -
- (a) in the definition of "the IMDG Code", by repealing "Secretary of State" and substituting "Director";
 - (b) in the definition of "Merchant Shipping Notice", by repealing "Department of Transport of the United Kingdom" and substituting "Director".

Merchant Shipping (BCH Code) Regulations

13. Regulation 4(2) of the Merchant Shipping (BCH Code) Regulations (Cap. 413 sub. leg.) is repealed and substituted -

"(2) Every such survey shall be carried out by a surveyor appointed by the Director under regulation 2A or by the Secretary for Economic Services under section 5 of the Merchant Shipping (Safety) Ordinance (Cap. 369), and application for such a survey shall be made by or on behalf of the owner to the Director."

14. Regulation 5(2) (c) is amended by repealing "non-British" and substituting "non-Hong Kong".

Merchant Shipping (IBC Code) Regulations

15. Regulation 4(2) of the Merchant Shipping (IBC Code) Regulations (Cap. 413 sub. leg.) is repealed and substituted -

"(2) Every such survey shall be carried out by a surveyor appointed by the Director under regulation 2A or by the Secretary for Economic Services under section 5 of the Merchant Shipping (Safety) Ordinance (Cap. 369), and application for such a survey shall be made by or on behalf of the owner to the Director."

16. Regulation 5(2) (c) is amended by repealing "non-British" and substituting "non-Hong Kong".

**Merchant Shipping (Safety) (Dangerous Goods
and Marine Pollutants) Regulation**

17. Regulation 1(1) of the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.) is amended by repealing the definition of "Merchant Shipping Notice (UK)" and substituting -

""Merchant Shipping Notice" (商船公告) means a notice issued by the Director and designated by an identifying number as a Merchant Shipping Notice;".

18. Regulation 2(2) is amended by repealing "territorial".

19. Regulation 3(4) is amended by repealing "M1213 (UK)" and substituting "1014".

20. Regulation 22(2) (f) is amended by repealing "M1435, M1493 or M1437 (UK)" and substituting "1015, 1016 or 1017".

Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) Regulation

21. Section 6 of the Merchant Shipping (Prevention and Control of Pollution) (Charges for Discharge of Polluting Waste) Regulation (Cap. 413 sub. leg.) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 8

[s. 3]

MERCHANT SHIPPING (LIABILITY AND COMPENSATION FOR OIL POLLUTION) ORDINANCE

1. Section 3 of the Merchant Shipping (Liability and Compensation for oil Pollution) Ordinance (Cap. 414) is amended by repealing "Governor" and substituting "Chief Executive".

2. Section 15(5) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

3. Section 16(3) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

4. Section 22(3) is amended by repealing "Governor" and substituting "Chief Executive".

5. Section 23(8) is amended-

- (a) by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council";
- (b) by repealing "Governor" and substituting "Chief Executive".

6. Section 24(1) and (4) is amended by repealing "Governor" and substituting "Chief Executive".
7. Section 31(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
8. Section 32(1) (b) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 9

[s. 3]

MERCHANT SHIPPING (REGISTRATION) ORDINANCE
AND ITS SUBSIDIARY LEGISLATION

Merchant Shipping (Registration) Ordinance

1. Section 6(2) of the Merchant Shipping (Registration) Ordinance (Cap. 415) is amended by repealing "Crown" and substituting "Government".
2. Section 13 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
3. Section 15(1) and (3) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
4. Section 16 is amended -
 - (a) in subsection (1), by repealing "Governor in Council" and substituting "Chief Executive in Council";
 - (b) by repealing subsection (3) and substituting -

- "(3) (a) A ship shall have a name which may be either in English alphabetic characters or in Chinese characters and which may include numerals: Provided that where the name is in Chinese characters, the phonetically corresponding name in the English alphabet shall also be shown.
- (b) If a ship has a name in both English and Chinese characters, each shall be a separate name for the purposes of this section and section 17."

5. Section 18(1) (a) is amended by adding "and (if appropriate) Chinese characters" after "letters" wherever it appears.
6. Section 90(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
7. Section 92 is amended by repealing "Governor" and substituting "Chief Executive".
8. Section 103 is repealed.
9. Section 104(1) (b) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
10. Schedule 3 is amended, in column 2, by repealing "103,".
11. Schedule 4 is amended, in column 2, by repealing "103,".

12. Schedule 5 is amended, in Part 3, in paragraph 1, by repealing everything after "Hong Kong" and substituting a fullstop.

Merchant Shipping (Registration) (Ships' Names) Regulations

13. Regulation 3 of the Merchant Shipping (Registration) (Ships' Names) Regulations (Cap. 415 sub. leg.) is amended by adding at the end "unless the phonetically corresponding name in the English alphabet is also registered".

Merchant Shipping (Registration) (Tonnage) Regulations

14. Regulation 2 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg.) is amended, in the definition of "moulded draught", in paragraph (b), by repealing "Merchant Shipping (Passenger Ship Construction) Regulations 1980" and substituting "Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg.) or the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg.) (as appropriate)".

15. Regulation 11(2) is amended by repealing "Merchant Shipping (Passenger Ship Construction) Regulations 1980" and substituting "Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg.) or the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg.) (as appropriate)".

16. Schedule 5 is amended, in Part IV, in paragraph 16(1), by repealing "the Royal Yachting Association or the Yacht Brokers, Designers and Surveyors Association being organizations" and substituting "any organization".

SCHEDULE 10

[s. 3]

CARRIAGE OF GOODS BY SEA ORDINANCE AND
ITS SUBSIDIARY LEGISLATION

Carriage of Goods by Sea Ordinance

1. Section 4(1) of the Carriage of Goods by Sea Ordinance (Cap. 462) is amended by repealing "Governor" and substituting "Chief Executive".

Carriage of Goods by Sea (Parties to Convention) Order 1985

2. The Schedule to the Carriage of Goods by Sea (Parties to Convention) Order 1985 (Cap. 462 sub. leg.) is amended -

- | | | | |
|-----|----------------|---------------------------------------|---|
| (a) | by repealing - | "Hong Kong | 1st February 1981"; |
| (b) | by adding - | "The People's
Republic of
China | Hong Kong Special
Administrative
Region 1st July
1997". |

SCHEDULE 11

[s. 3]

MERCHANT SHIPPING (SEAFARERS) ORDINANCE AND ITS
SUBSIDIARY LEGISLATION

Merchant Shipping (Seafarers) Ordinance

1. Section 18(2) and (3) of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) is amended by repealing "Governor" and substituting "Chief Executive".
2. Section 112(3) is amended by repealing "Governor" and substituting "Chief Executive".
3. Section 114(3), (4) and (5) is amended by repealing "High Court" and substituting "Court of First Instance".
4. Section 135(1) and (2) is amended by repealing "Governor" and substituting "Chief Executive".

Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation

5. Section 3(2) of the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478 sub. leg.) is amended by repealing "Governor" and substituting "Chief Executive".

Merchant Shipping (Seafarers) (Conduct of Inquiries) Rules

6. Rule 2 of the Merchant Shipping (Seafarers) (Conduct of Inquiries) Rules (Cap. 478 sub. leg.) is amended, in the definition of "獲委任人", by repealing "首席大法官" and substituting "終審法院首席法官".

Merchant Shipping (Seafarers) (Fees) Regulation

7. The Schedule to the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg.) is amended, in Part III, in item 6(e),

by repealing", United Kingdom or Commonwealth government departments" and substituting "government departments or a department of the Central People's Government".

SCHEDULE 12

[s. 3]

NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) ORDINANCE

1. Section 2 of the Nuclear Material (Liability for Carriage) Ordinance (Cap. 479) is amended -
 - (a) in subsection (1), in the definition of "relevant territory", by repealing "country or territory" and substituting "country, territory or place";
 - (b) in subsection (3) -
 - (i) in paragraph (c), by repealing "country or territory" and substituting "country, territory or place";
 - (ii) by repealing "Governor" and substituting "Chief Executive";
 - (c) in subsection (4), by repealing "Governor in Council" and substituting "Chief Executive in Council".
2. Section 3(c) is amended by repealing "country or territory" and substituting "country, territory or place".
3. Section 6(2) (b) is amended by repealing "country or territory" and substituting "country, territory or place" where it twice appears.
4. Section 10 is amended -

- (a) in subsections (1) and (4), by repealing "Governor" and substituting "Chief Executive";
 - (b) in subsection (5), by repealing "country or place" where it twice appears and substituting "country, territory or place".
5. Section 11(2) is amended by repealing "Governor" and substituting "Chief Executive".
6. Section 13 is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 13

[s. 3]

MERCHANT SHIPPING (LINER CONFERENCES) ORDINANCE

1. Section 5 of the Merchant Shipping (Liner Conferences) Ordinance (Cap. 482) is amended -
- (a) by repealing "Governor" and substituting "Chief Executive";
 - (b) by repealing "a Secretary of State" where it twice appears and substituting "the Central People's Government";
 - (c) by repealing "Governor in Council" and substituting "Chief Executive in Council".
2. Section 11(1) and (2) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
3. Section 13(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

4. Section 14(1) and (2) is amended by repealing "Governor in Council" wherever it twice appears and substituting "Chief Executive in Council".
5. Section 15(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
6. Section 16 is amended by repealing "Governor" and substituting "Chief Executive".
7. Schedule 2 is amended -
 - (a) in the Merchant Shipping (Liner Conferences) (Mandatory Provisions) Regulations, in regulation 1, in the definitions of "representative of shippers", "shipper" and "shippers' organizations", by repealing "Governor" and substituting "Chief Executive";
 - (b) in the Schedule to the Merchant Shipping (Liner Conferences) (Mandatory Provisions) Regulations, in the Annex to the Table of Mandatory Provisions -
 - (i) in paragraph 2, by repealing "United Kingdom" and substituting "People's Republic of China";
 - (ii) in paragraph 12, by repealing "Governor" where it twice appears and substituting "Chief Executive".
8. Schedule 3 is amended, in the Merchant Shipping (Liner Conferences) (Conditions for Recognition) Regulations, in regulations 3 and 5, by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 14

[s. 3]

MERCHANT SHIPPING (COLLISION DAMAGE LIABILITY
AND SALVAGE) ORDINANCE

1. Schedule 1 to the Merchant Shipping (Collision Damage Liability and Salvage) Ordinance (Cap. 508) is amended, in Part II, in paragraph 8(1), by repealing "Governor" and substituting "Chief Executive".

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 14).

2. The Ordinances adapted and their respective Schedule numbers under the Bill are -
- | | |
|---|------------|
| Port Control (Cargo Working Areas) Ordinance (Cap. 81) | Schedule 1 |
| Stowaways Ordinance (Cap. 83) | Schedule 2 |
| Pilotage Ordinance (Cap. 84) | Schedule 3 |
| Merchant Shipping Ordinance (Cap. 281) | Schedule 4 |
| Shipping and Port Control Ordinance (Cap. 313) | Schedule 5 |
| Marine Insurance Ordinance (Cap. 329) | Schedule 6 |
| Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) | Schedule 7 |
| Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414) | Schedule 8 |
| Merchant Shipping (Registration) Ordinance (Cap. 415) | Schedule 9 |

Carriage of Goods by Sea Ordinance (Cap. 462)	Schedule 10
Merchant Shipping (Seafarers) Ordinance (Cap. 478)	Schedule 11
Nuclear Material (Liability for Carriage) Ordinance (Cap. 479)	Schedule 12
Merchant Shipping (Liner Conferences) Ordinance (Cap. 482)	Schedule 13
Merchant Shipping (Collision Damage Liability and Salvage) Ordinance (Cap. 508)	Schedule 14

3. The Bill also provides that the adaptations (except those referred to in clause 2(2)) when passed into law shall take effect retrospectively, as from the date of the establishment of the Hong Kong Special Administrative Region (clause 2).