

## **LEGISLATIVE COUNCIL BRIEF**

Land (Miscellaneous Provisions) Ordinance  
(Cap. 28)

Government Leases Ordinance  
(Cap. 40)

Crown Lease (Pok Fu Lam) Ordinance  
(Cap. 118)

Lands Resumption Ordinance  
(Cap. 124)

Government Rent and Premium (Apportionment) Ordinance  
(Cap. 125)

Government Rights (Re-entry and Vesting Remedies)  
Ordinance (Cap. 126)

Government Rent (Assessment and Collection) Ordinance  
(Cap. 515)

## **ADAPTATION OF LAWS (NO.7) BILL 1998**

### **INTRODUCTION**

Annex                    At the meeting of the Executive Council on 27 October 1998, the Council ADVISED and the Acting Chief Executive ORDERED that the Adaptation of Laws (No.7) Bill 1998, as set out at the Annex, should be introduced into the Legislative Council, to effect necessary adaptations to the above seven Ordinances relating to general land matters.

### **BACKGROUND AND ARGUMENT**

2.                    Article 160 of the Basic Law states that -

"Upon the establishment of the Hong Kong Special Administrative 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 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). However, 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 now 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", "立法局" and "地方法院" are replaced by "Hong Kong", "立法會" and "區域法院" respectively. Similarly, a reference to "the Governor" will, in the usual case, be replaced by "the Chief Executive". Where a provision previously conferred power on "the Governor" to make subsidiary legislation, a reference to the "Chief Executive in Council" will be substituted to comply with the requirement under Article 56 of the Basic Law that the Chief Executive shall consult the Executive Council before making subordinate legislation. Reference to "the Crown" is adapted to "the Government" (meaning the HKSAR Government) since the captioned Ordinances are related to the management of Government land (including section 20 ("saving") of the Land (Miscellaneous Provisions) Ordinance).

## **COMMENCEMENT**

5. The Bill also 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.

## **LEGISLATIVE TIMETABLE**

6. The legislative timetable is -

Publication in the Gazette	6 November 1998
First Reading and commencement of Second Reading debate	18 November 1998
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## **HUMAN RIGHTS IMPLICATIONS**

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

### **BINDING EFFECT**

8. The amendments in the Bill do not affect the current binding effect of the existing provisions of various Ordinances covered by the Bill.

### **FINANCIAL AND STAFFING IMPLICATIONS**

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

### **PUBLIC CONSULTATION**

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

### **PUBLIC REACTION**

11. The public and the legal profession are likely to welcome the introduction of the Bill, as it sets out clearly the detailed adaptation amendments to a number of Ordinances, thus obviating the need to make cross references to the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance.

### **PUBLICITY**

12. A press release will be issued on 6 November 1998.

## **ENQUIRIES**

13. For enquiries, please contact Mr Anthony LI, Assistant Secretary for Planning, Environment and Lands at phone number 2848 2112.

**Planning, Environment and Lands Bureau**  
**November 1998**

**ADAPTATION OF LAWS (NO. 7) BILL 1998**

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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. 7) Ordinance 1998.

**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

[s. 3]

LAND (MISCELLANEOUS PROVISIONS) ORDINANCE

1. Section 3(2) of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) is amended by repealing "Governor" and substituting "Chief Executive in Council".

2. Section 12(5) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 15A is amended -
  - (a) by repealing “Governor in Council” where it twice appears and substituting “Chief Executive in Council”;
  - (b) by repealing “Governor” where it last appears and substituting “Chief Executive”.
4. Section 19 is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.
5. Section 20 is amended by repealing “Crown” and substituting “Government”.

SCHEDULE 2

[s. 3]

GOVERNMENT LEASES ORDINANCE

1. Section 3(3) of the Government Leases Ordinance (Cap. 40) is amended by repealing “Governor” and substituting “Chief Executive in Council”.
2. Section 9(9) is amended by repealing “renewable Crown lease” where it twice appears and substituting “renewable Government lease”.
3. Section 14 is amended -
  - (a) in subsection (2) -
    - (i) by repealing “官方” and substituting “政府”;
    - (ii) by repealing “地方法院” and substituting “區域法院”;



- (b) in subsection (3) and (4), by repealing “地方法院” and substituting “區域法院”.
  
- 4. Section 19(1) and (3) is amended by repealing “地方法院” and substituting “區域法院”.
  
- 5. Section 20 is amended by repealing “地方法院” and substituting “區域法院”.
  
- 6. Section 21 is amended -
  - (a) by repealing “地方法院” where it twice appears and substituting “區域法院”;
  - (b) by repealing “大法官” wherever it appears and substituting “法官”.
  
- 7. Section 22 is amended -
  - (a) by repealing “地方法院” and substituting “區域法院”;
  - (b) by repealing “方法官” and substituting “法官”.

SCHEDULE 3

[s. 3]

CROWN LEASE (POK FU LAM) ORDINANCE

- 1. Section 2 of the Crown Lease (Pok Fu Lam) Ordinance (Cap. 118) is amended, in the definition of “published”, by repealing “the Colony” and substituting “Hong Kong”.
  
- 2. Section 8(3) is amended by repealing “the Colony” and substituting “Hong Kong”.

SCHEDULE 4

[s. 3]

LANDS RESUMPTION ORDINANCE

1. Section 2 of the Lands Resumption Ordinance (Cap. 124) is amended -
  - (a) in the definition of “owner” -
    - (i) by repealing “the Colony” where it twice appears and substituting “Hong Kong”;
    - (ii) by repealing “官方” and substituting “政府”;
  - (b) in the definition of “resumption for a public purpose”, in paragraph (d), by repealing “Governor in Council” and substituting “Chief Executive in Council”.
2. Section 3 is amended -
  - (a) by repealing “Governor in Council” and substituting “Chief Executive in Council”;
  - (b) by repealing “Governor” where it secondly appears and substituting “Chief Executive”.
3. Section 4(3) is amended by repealing “Governor” and substituting “Chief Executive”.
4. Section 7(1) is amended by repealing “Governor” and substituting “Chief Executive”.
5. Section 8(3) is amended by repealing “Governor” and substituting “Chief Executive”.
6. Section 9 is amended by repealing “Crown” and substituting “Government”.

7. Section 16 is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.
8. Section 17 is amended -
  - (a) in subsection (1), by repealing “Crown” and substituting “Government”;
  - (b) in subsection (6), by repealing “of the Colony”.
9. Section 18 is amended -
  - (a) by repealing “the Colony” and substituting “Hong Kong”;
  - (b) by repealing “Governor” where it twice appears and substituting “Chief Executive”.
10. Section 20 is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.

SCHEDULE 5

[s. 3]

GOVERNMENT RENT AND PREMIUM (APPORTIONMENT) ORDINANCE

1. Section 3(1)(b) of the Government Rent and Premium (Apportionment) Ordinance (Cap. 125) is amended by repealing “Governor” and substituting “Chief Executive in Council”.
2. Section 4(1) and (2) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 5 is amended by repealing “Governor” and substituting “Chief Executive”.

4. Section 12 is amended by repealing “Governor” and substituting “Chief Executive”.
5. Section 21(3) and (4) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

SCHEDULE 6

[s. 3]

GOVERNMENT RIGHTS (RE-ENTRY AND VESTING REMEDIES) ORDINANCE

1. Section 4(1) of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) is amended by repealing “Governor” and substituting “Chief Executive”.
2. Section 7(1) and (1A) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 8(1) (a), (2) (a), (3) and (4) is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.
4. Section 9 is amended -
  - (a) in subsection (1), by repealing “Governor” where it first appears and substituting “Chief Executive”;
  - (b) in subsections (1) (b) and (2), by repealing “Governor in Council” and substituting “Chief Executive in Council”.
5. Section 11(1) is amended -
  - (a) by repealing “Governor” where it first appears and substituting “Chief Executive”;

- (b) by repealing “Governor in Council” and substituting “Chief Executive in Council”.

6. Section 12(1) is amended -

- (a) by repealing “Governor” where it first appears and substituting “Chief Executive”;
- (b) by repealing “Governor in Council” and substituting “Chief Executive in Council”.

#### SCHEDULE 7

[s. 3]

#### GOVERNMENT RENT (ASSESSMENT AND COLLECTION) ORDINANCE

1. Section 2 of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) is amended -

- (a) in the definition of “lease”, by repealing “a lease is granted by or on behalf of the Governor, any extension of the term of a lease, a lease that is varied, an agreement to grant a lease” and substituting “a Government lease is granted”;
- (b) in the definition of “最低應課差餉租值”, in paragraph (b), by repealing “立法局” and substituting “立法會”.

2. Section 6(12) is amended by repealing “Governor” and substituting “Chief Executive”.

3. Section 10(1) is amended by repealing “Governor” and substituting “Chief Executive”.

4. Section 21(1) is amended by repealing “Governor” and substituting “Chief Executive”.

5. Section 34(1) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

#### Explanatory Memorandum

The purpose of this Bill is to adapt certain Ordinances 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 7).

2. The Ordinances adapted and their respective Schedule numbers under the Bill are -

Crown Lease (Pok Fu Lam) Ordinance (Cap. 118)	Schedule 3
Government Leases Ordinance (Cap. 40)	Schedule 2
Government Rent and Premium (Apportionment) Ordinance (Cap. 125)	Schedule 5
Government Rent (Assessment and Collection) Ordinance (Cap. 515)	Schedule 7
Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126)	Schedule 6
Land (Miscellaneous Provisions) Ordinance (Cap. 28)	Schedule 1
Lands Resumption Ordinance (Cap. 124)	Schedule 4

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).