

LEGISLATIVE COUNCIL BRIEF

New Territories Leases (Extension) Ordinance
(Chapter 150)

New Territories Land (Exemption) Ordinance
(Chapter 452)

ADAPTATION OF LAWS (NO.8) 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.8) Bill 1998, as set out at the Annex, should be introduced into the Legislative Council, to effect necessary adaptations to the above two Ordinances relating to land matters in the New Territories.

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 Governor" and "the Governor in Council" are replaced by "the Chief Executive" and "the Chief Executive in Council" respectively.

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

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. 8) 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]

NEW TERRITORIES LEASES (EXTENSION) ORDINANCE

1. Section 11 of the New Territories Leases (Extension) Ordinance (Cap. 150) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 2

[s. 3]

NEW TERRITORIES LAND (EXEMPTION) ORDINANCE

1. Section 3 of the New Territories Land (Exemption) Ordinance (Cap. 452) is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.
2. Section 7 is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.
3. Section 8 is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.
4. Section 9 is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.
5. Section 12(c) is amended by repealing “Governor” and substituting “Chief Executive”.

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 2).

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

New Territories Leases (Extension) Ordinance (Cap. 150)	Schedule 1
New Territories Land (Exemption) Ordinance	Schedule 2

(Cap. 452)

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).