

LEGISLATIVE COUNCIL BRIEF

The Secretary for Home affairs submits the following note for Members' information :

<u>Title of Note</u>	<u>Date of ExCo</u>	<u>Date of Gazette</u>
Adaptation of Laws(No.17) Bill 1998	15.12.98	24.12.98

Home Affairs Bureau
22 December 1998

File Ref: S/F (16) to HAB/CR/1/19/45

LEGISLATIVE COUNCIL BRIEF

Trustee Ordinance (Cap.29)
 Registered Trustees Incorporation Ordinance (Cap.306)
 Queen Elizabeth Foundation for the Mentally Handicapped Ordinance (Cap.399)
 Secretary for Home Affairs Incorporation Ordinance (Cap.1044)
 Grantham Scholarships Fund Ordinance (Cap.1076)
 Social Work Training Fund Ordinance (Cap.1100)
 Sir Robert Black Trust Fund Ordinance (Cap.1101)
 Sir Murray MacLehose Trust Fund Ordinance (Cap.1118)
 Sir Edward Youde Memorial Fund Ordinance (Cap.1140)

ADAPTATION OF LAWS (NO.17) BILL 1998

INTRODUCTION

At the meeting of the Executive Council on 15 December 1998, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No.17) Bill 1998, 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. The Adaptation of Laws (No.17) Bill 1998 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. Most of the proposed amendments are terminological changes, e.g. references to "the Governor" and "立法局" are replaced by "the Chief Executive" and "立法會" respectively. The term "Crown" is adapted as "Government" in accordance with section 2 of Schedule 8 to the Interpretation and General Clauses Ordinance (Cap.1). The savings provisions which save the rights of Her Majesty the Queen, Her Heirs or Successors should be adapted as saving "the rights of the Central People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws" based on item 10 of Annex 3 of the Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative

Region of the People's Republic of China. This decision has since been incorporated in section 21 of Schedule 8 to the Interpretation and General Clauses Ordinance (Cap.1).

COMMENCEMENT

4. The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights Ordinance, 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

5. The proposed legislative timetable is as follow :

Publication in the Gazette	24 December 1998
First Reading and commencement of Second Reading debate	6 January 1998
Resumption of Second Reading debate, committee stage and Third Reading	to be notified.

HUMAN RIGHTS IMPLICATIONS

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

BINDING EFFECT

7. 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

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

PUBLICITY

9. A press release will be issued on 22 December 1998 and the Bill will be gazetted on 24 December 1998.

OTHERS

10. Enquiries concerning the Bill and this brief can be directed to Miss Anne TENG, Assistant Secretary for Home Affairs (tel no : 2835 1580).

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ADAPTATION OF LAWS (NO. 17) 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. 17) 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]

TRUSTEE ORDINANCE

1. Section 64 of the Trustee Ordinance (Cap. 29) is amended by repealing “立法局” and substituting “立法會”.
2. Section 66(1) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 67(1) is amended by repealing “Governor” and substituting “Chief Executive”.
4. Section 73 is amended by repealing “Crown” wherever it appears and substituting “Government”.
5. Section 76 is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.
6. Section 78(3) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.
7. Section 80(2) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.
8. Section 105(3) is amended by repealing “Governor” and substituting “Chief Executive in Council”.
9. Section 106(1) and (2) is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.

SCHEDULE 2

[s. 3]

REGISTERED TRUSTEES INCORPORATION ORDINANCE

1. Section 4(1) of the Registered Trustees Incorporation Ordinance (Cap. 306) is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.
2. Section 5(1) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 15 is amended -
 - (a) in subsection (1), by repealing “the Colony” and substituting “Hong Kong”;
 - (b) in subsection (2) -
 - (i) by repealing “Governor in Council” and substituting “Chief Executive in Council”;
 - (ii) by repealing “立法局” and substituting “立法會”.
4. The Second Schedule is amended in item 3 by repealing “Governor” and substituting “Chief Executive”.

SCHEDULE 3

[s. 3]

QUEEN ELIZABETH FOUNDATION FOR THE MENTALLY
HANDICAPPED ORDINANCE

1. Section 5 of the Queen Elizabeth Foundation for the Mentally Handicapped Ordinance (Cap. 399) is amended -

- (a) in paragraph (a), by repealing “Governor” and substituting “Chief Executive”;
- (b) in paragraph (d) -
 - (i) by repealing “Royal Hong Kong Jockey Club” and substituting “Hong Kong Jockey Club”;
 - (ii) by repealing “Governor” and substituting “Chief Executive”;
- (c) in paragraph (e), by repealing “Governor” and substituting “Chief Executive”.

2. Section 10 is amended -

- (a) in subsection (1) -
 - (i) by repealing “Governor” where it twice appears and substituting “Chief Executive”;
 - (ii) in paragraph (a), by repealing “Governor’s pleasure” and substituting “discretion of the Chief Executive”;
- (b) in subsections (2) and (3), by repealing “Governor” wherever it appears and substituting “Chief Executive”.

3. Section 11(2) is amended by repealing “Governor” and substituting “Chief Executive”.

4. Section 12(2) is amended by repealing “Governor” and substituting “Chief Executive”.
5. Section 13 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”.

SCHEDULE 4

[s. 3]

SECRETARY FOR HOME AFFAIRS INCORPORATION ORDINANCE

1. Section 1 of the Secretary for Home Affairs Incorporation Ordinance (Cap. 1044) is amended by repealing “《政務司法團佔領條例》” and substituting “《民政事務局局長法團條例》”.
2. Section 7(a) and (b) is amended by repealing “Crown lease” and substituting “Government lease”.
3. Section 8(1) and (2) (b) is amended by repealing “Governor” and substituting “Chief Executive”.
4. Section 9 is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

5. Section 10 is amended -
- (a) in subsection (4), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (6), by repealing “立法局” and substituting “立法會”.

Consequential Amendments

Chinese Temples Ordinance

6. Section 7(1) of the Chinese Temples Ordinance (Cap. 153) is amended by repealing “《政務司法團條例》” and substituting “《民政事務局局長法團條例》”.

Li Po Chun Charitable Trust Fund Ordinance

7. Section 4(1) of the Li Po Chun Charitable Trust Fund Ordinance (Cap. 1110) is amended by repealing “《政務司法團條例》” and substituting “《民政事務局局長法團條例》”.

Sir Murray MacLehose Trust Fund Ordinance

8. Section 2(3) of the Sir Murray MacLehose Trust Fund Ordinance (Cap. 1118) is amended by repealing “《政務司法團條例》” and substituting “《民政事務局局長法團條例》”.

9. Section 5(1) is amended by repealing “《政務司法團條例》” and substituting “《民政事務局局長法團條例》”.

SCHEDULE 5

[s. 3]

GRANTHAM SCHOLARSHIPS FUND ORDINANCE

1. Section 4 of the Grantham Scholarships Fund Ordinance (Cap. 1076) is amended -
- (a) in subsection (1)(f), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor shall” and substituting “Chief Executive shall”;
 - (ii) by repealing “by the Governor at his pleasure” and substituting “at the discretion of the Chief Executive”.
2. Section 8 is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 10 is amended -
- (a) in subsection (2), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor” and substituting “Chief Executive”;

- (ii) by repealing “立法局” where it twice appears and substituting “立法會”.

SCHEDULE 6

[s. 3]

SOCIAL WORK TRAINING FUND ORDINANCE

1. Section 4(2) of the Social Work Training Fund Ordinance (Cap. 1100) is amended by repealing “Governor” and substituting “Chief Executive”.
2. Section 5 is amended -
 - (a) in subsection (1)(d), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (2) -
 - (i) by repealing “Governor” where it first and secondly appears and substituting “Chief Executive”;
 - (ii) by repealing “by the Governor at his pleasure” and substituting “at the discretion of the Chief Executive”;
 - (c) in subsection (3), by repealing “Governor” and substituting “Chief Executive”.
3. Section 6(2) is amended by repealing “Governor” and substituting “Chief Executive”.

4. Section 7(1) is amended by repealing “Governor” and substituting “Chief Executive”.
5. Section 9 is amended by repealing “Governor” and substituting “Chief Executive”.
6. Section 10 is amended -
 - (a) in subsection (2), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor” and substituting “Chief Executive”;
 - (ii) by repealing “立法局” where it twice appears and substituting “立法會”.
7. Section 11 is amended by repealing everything after “Financial Secretary” and substituting a full stop.
8. Section 13 is amended by repealing “Her Majesty the Queen, Her Heirs or Successors” and substituting “the Central People’s Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws”.

SCHEDULE 7

[s. 3]

SIR ROBERT BLACK TRUST FUND ORDINANCE

1. Section 5 of the Sir Robert Black Trust Fund Ordinance (Cap. 1101) is amended -
 - (a) in subsection (2)(f), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor shall” and substituting “Chief Executive shall”;
 - (ii) by repealing “by the Governor at his pleasure” and substituting “at the discretion of the Chief Executive”.
2. Section 7(2) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 10 is amended -
 - (a) in subsection (2), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor” and substituting “Chief Executive”;
 - (ii) by repealing “立法局” where it twice appears and substituting “立法會”.

SCHEDULE 8

[s. 3]

SIR MURRAY MACLEHOSE TRUST FUND ORDINANCE

1. Section 3 of the Sir Murray MacLehose Trust Fund Ordinance (Cap. 1118) is amended by repealing “Governor” and substituting “Chief Executive”.
2. Section 4(1) and (3) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 5 is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.
4. Section 7 is amended -
 - (a) in subsection (2), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor” where it twice appears and substituting “Chief Executive”;
 - (ii) by repealing “立法局” and substituting “立法會”.

SCHEDULE 9

[s. 3]

SIR EDWARD YOUDE MEMORIAL FUND ORDINANCE

1. Section 4(3)(a) and (c) of the Sir Edward Youde Memorial Fund Ordinance (Cap. 1140) is amended by repealing “Governor” and substituting “Chief Executive”.

2. Section 9(2)(a) and (c) is amended by repealing “Governor” and substituting “Chief Executive”.

3. Section 11 is amended -
 - (a) in subsection (1) -
 - (i) by repealing “Governor under” and substituting “Chief Executive under”;
 - (ii) by repealing “by the Governor at his pleasure” and substituting “at the discretion of the Chief Executive”;
 - (b) in subsections (2), (3) and (4), by repealing “Governor” and substituting “Chief Executive”.

4. Section 14 is amended -
 - (a) in subsections (2) and (3), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (4) -
 - (i) by repealing “Governor” where it twice appears and substituting “Chief Executive”;
 - (ii) by repealing “立法局” and substituting “立法會”.

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 9).

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

Grantham Scholarships Fund Ordinance (Cap. 1076)	Schedule 5
Queen Elizabeth Foundation for the Mentally Handicapped Ordinance (Cap. 399)	Schedule 3
Registered Trustees Incorporation Ordinance (Cap. 306)	Schedule 2
Secretary for Home Affairs Incorporation Ordinance (Cap. 1044)	Schedule 4
Sir Edward Youde Memorial Fund Ordinance (Cap. 1140)	Schedule 9
Sir Murray MacLehose Trust Fund Ordinance (Cap. 1118)	Schedule 8
Sir Robert Black Trust Fund Ordinance (Cap. 1101)	Schedule 7
Social Work Training Fund Ordinance (Cap. 1100)	Schedule 6
Trustee Ordinance (Cap. 29)	Schedule 1

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).