

File Ref.: LDT 6035/52/56C 'A' & 'B'

LEGISLATIVE COUNCIL BRIEF

Volunteer and Naval Volunteer Pensions Ordinance
(Chapter 202)
Reformatory Schools Ordinance
(Chapter 225)
Traffic Accident Victims (Assistance Fund) Ordinance
(Chapter 229)
Probation of Offenders Ordinance
(Chapter 298)
Animals (Control of Experiments) Ordinance
(Chapter 340)
Residential Care Homes (Elderly Persons) Ordinance
(Chapter 459)
Emergency Relief Fund Ordinance
(Chapter 1103)

ADAPTATION OF LAWS (NO. 6) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 9 February 1999, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No. 6) Bill 1999, at the Annex, should be introduced into the Legislative Council, to effect necessary adaptations to seven Ordinances relating to health and welfare matters and their subsidiary legislation.

BACKGROUND AND ARGUMENT

2. The Bill covers seven Ordinances which contain references inconsistent with the Basic Law or with Hong Kong's status as a Special Administrative Region of the People's Republic of China. Adaptation is required to remove such inconsistencies.

THE BILL

3. Most of the proposed amendments are terminological changes. e.g. references to “立法局” and “the Colony” are replaced by “立法會” and “Hong Kong” respectively. Similarly, a reference to “the Governor” will be replaced by “the Chief Executive”. The Ordinances covered by the Bill do not contain provisions which previously conferred power upon the “Governor” to make subsidiary legislation.

4. Other amendments include -

- (a) Section 10(3) of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229)

This section deals with the recovery of duplicate payment made out of the assistance fund in respect of the same traffic accident. It is provided that the money involved "shall be recoverable as a debt due to the Crown". As this is a matter under the sole responsibility of the HKSAR Government, it is proposed to adapt the reference to "the Crown" to "the Government" in accordance with section 2

of Schedule 8 to the Interpretation and General Clauses Ordinance (Cap. 1).

- (b) Section 14(8) of the Residential Homes (Elderly Persons) Ordinance (Cap. 459)

At present, any sum (costs involved in the appeal) awarded by the Appeal Board to the Director of Social Welfare under section 14(4)(e) shall be a debt due to the Crown and recoverable in the District Court, and any sum payable by the Director under such an award shall be charged on the general revenue. In section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) "general revenue" is defined to mean the general revenue of the Hong Kong Government. Thus the award concerned is a matter for the Hong Kong Government and accordingly, the reference to "Crown" is proposed to be adapted to a reference to "Government" in accordance with section 2 of Schedule 8 to Cap. 1.

COMMENCEMENT

5. 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.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be -

Publication in the Gazette	26 February 1999
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First Reading and commencement of Second Reading debate	10 March 1999
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Resumption of Second Reading debate, committee stage and Third Reading	to be notified
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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 will 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.

PUBLICITY

11. A press release will be issued on 25 February 1999. A spokesman will be available to handle media enquiries.

Health and Welfare Bureau
February 1999

ADAPTATION OF LAWS (NO. 6) 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. 6) 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

[s. 3]

VOLUNTEER AND NAVAL VOLUNTEER PENSIONS ORDINANCE

1. Section 3(2)(c) and (4) of the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.

SCHEDULE 2

[s. 3]

REFORMATORY SCHOOLS ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Reformatory Schools Ordinance

1. Section 2 of the Reformatory Schools Ordinance (Cap. 225) is amended, in the definition of “visitor”, by repealing “Governor” and substituting “Chief Executive”.
2. Section 12 is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 14 is amended by repealing “Governor” and substituting “Chief Executive”.
4. Section 15 is amended -
 - (a) in subsection (1) -
 - (i) by repealing “Governor” and substituting “Chief Executive”;

(ii) by repealing “行政局” and substituting “行政會議”;

(iii) by repealing “立法局” and substituting “立法會”;

(b) in subsection (2) -

(i) by repealing “行政局” and substituting “行政會議”;

(ii) by repealing “立法局” and substituting “立法會”.

5. Section 19 is amended by repealing “Governor” wherever it appears and substituting “Chief Executive”.

6. Section 20 is amended by repealing “Governor” and substituting “Chief Executive”.

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

8. Section 30(2)(b) is amended by repealing “Governor” and substituting “Chief Executive”.

9. Section 33(1) is amended by repealing “Governor” and substituting “Chief Executive”.

Reformatory School Rules

10. Rule 18(g) of the Reformatory School Rules (Cap. 225 sub. leg.) is amended by repealing “Governor” and substituting “Chief Executive”.

Reformatory Schools (Forms) Regulations

11. The Schedule to the Reformatory Schools (Forms) Regulations (Cap. 225 sub. leg.) is amended, in Form 1, by repealing “the Colony” and substituting “Hong Kong”.

SCHEDULE 3

[s. 3]

TRAFFIC ACCIDENT VICTIMS (ASSISTANCE FUND) ORDINANCE

1. Section 3(2)(c) of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) is amended by repealing “立法局” and substituting “立法會”.
2. Section 4(a) is amended by repealing “立法局” where it twice appears and substituting “立法會”.
3. Section 10(3) is amended by repealing “Crown” and substituting “Government”.
4. Section 11 is amended -

- (a) in subsection (2), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (4), by repealing “立法局” and substituting “立法會”.
5. Section 14 is amended by repealing “立法局” and substituting “立法會”.

SCHEDULE 4

[s. 3]

PROBATION OF OFFENDERS ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Probation of Offenders Ordinance

1. Section 6(1) of the Probation of Offenders Ordinance (Cap. 298) is amended by repealing “the Colony” and substituting “Hong Kong”.
2. Section 9 is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 11 is amended by repealing “Governor” and substituting “Chief Executive”.
4. Section 12(2) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

Probation of Offenders Rules

5. Rule 38 of the Probation of Offenders Rules (Cap. 298 sub. leg.) is amended by repealing “Governor” and substituting “Chief Executive”.
6. Rule 45 is amended by repealing “Governor” and substituting “Chief Executive”.
7. Rule 51 is amended by repealing “Governor” and substituting “Chief Executive”.

SCHEDULE 5

[s. 3]

ANIMALS (CONTROL OF EXPERIMENTS) ORDINANCE

1. Section 6(1)(c) of the Animals (Control of Experiments) Ordinance (Cap. 340) is amended -
 - (a) by repealing “大法官” and substituting “法官”;
 - (b) by repealing “地方法院” and substituting “區域法院”.

SCHEDULE 6

[s. 3]

RESIDENTIAL CARE HOMES (ELDERLY PERSONS) ORDINANCE

1. Section 5 of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) is amended by repealing “Governor” where it twice appears and substituting “Chief Executive”.

2. Section 13(2), (4) and (6) is amended by repealing “Governor” and substituting “Chief Executive”.
3. Section 14(8) is amended by repealing “Crown” and substituting “Government”.
4. Section 15(1) is amended by repealing “Governor” and substituting “Chief Executive”.
5. Section 23(1) is amended by repealing “Governor in Council” and substituting “Chief Executive in Council”.

SCHEDULE 7

[s. 3]

EMERGENCY RELIEF FUND ORDINANCE

1. Section 5 of the Emergency Relief Fund Ordinance (Cap. 1103) is amended -
 - (a) in subsection (2)(d), by repealing “Governor” and substituting “Chief Executive”;
 - (b) in subsection (3) -
 - (i) by repealing “Governor” where it first appears and substituting “Chief Executive”;
 - (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 9 is amended by repealing everything after “Financial Secretary” and substituting a full stop.
4. 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”.

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 7).

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

Animals (Control of Experiments) Ordinance (Cap. 340)	Schedule 5
Emergency Relief Fund Ordinance (Cap. 1103)	Schedule 7
Probation of Offenders Ordinance (Cap. 298)	Schedule 4

Reformatory Schools Ordinance (Cap. 225)	Schedule 2
Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)	Schedule 6
Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229)	Schedule 3
Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202)	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).