LEGISLATIVE COUNCIL BRIEF

The Secretary for Information Technology and Broadcasting submits the following note for Members' information -

Title of Note	Date of ExCo
Television Ordinance (Cap. 52) Telephone Ordinance (Cap.269) Control of Obscene and Indecent Articles Ordinance (Cap. 390) Broadcasting Authority Ordinance (Cap. 391) Film Censorship Ordinance (Cap. 392) Outer Space Ordinance (Cap. 523)	15 June 1999
Adaptation of Laws (No. 18) Bill 1999	

16 June 1999

Information Technology and Broadcasting Bureau

File Ref:ITBB CR 7/5/10 (99) IV

LEGISLATIVE COUNCIL BRIEF

TELEVISION ORDINANCE (CAP. 52)
TELEPHONE ORDINANCE (CAP. 269)
CONTROL OF OBSCENE AND INDECENT
ARTICLES ORDINANCE (CAP. 390)
BROADCASTING AUTHORITY ORDINANCE (CAP. 391)
FILM CENSORSHIP ORDINANCE (CAP. 392)
OUTER SPACE ORDINANCE (CAP. 523)

ADAPTATION OF LAWS (NO. 18) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 15 June 1999, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No. 18) 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. The Adaptation of Laws (No. 18) 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 Governor" and "Governor in Council" are replaced by "the Chief Executive" and "Chief Executive in Council" respectively, and references to "the Colony" and "立法局" are replaced by "Hong Kong" and "立法會" respectively.

4. Other amendments which warrant further explanation include -

(a) Long Title and sections 4(2)(b), 4(3), 5(2)(b) & (c), 6(2)(e)(iii) & (iv), 7(2)(b), 8(2)(b), 9(2), 10(1)(a) and 11(1) of the Outer Space Ordinance

The Outer Space Ordinance confers licensing and other powers on the Governor (now to be adapted to the Chief Executive) to secure compliance with the international obligations of the United Kingdom with respect to the launching and operation of space objects and the carrying on of other activities in outer space. The references to "United Kingdom" in these sections appear in the context of securing compliance with the international obligations of the United Kingdom and preserving the national security of the United Kingdom. Such references are adapted to "People's Republic of China".

(b) Section 8(1) & (2) of the Outer Space Ordinance

Where the Governor (now to be adapted to the Chief Executive) intends to grant a licence in respect of the launching and operation of space objects and the carrying on of other activities in outer space, or intends to revoke such a licence, he shall -

(i) give notice of such intention to the Secretary of State; and

(ii) comply with the Secretary of State's instructions in relation to such notice.

The references to "Secretary of State" in this section are adapted to "Central People's Government".

(c) Section 12(1) of the Outer Space Ordinance

Any person who launches or operates space objects or carries on other activities in outer space is required to indemnify Her Majesty's Government in the United Kingdom against claims in respect of damage or loss arising out of such activity. The reference to "Her Majesty's Government in the United Kingdom" in this section is adapted to "Central People's Government".

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.

HUMAN RIGHTS IMPLICATIONS

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

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.

LEGISLATIVE TIMETABLE

8. The proposed legislative timetable is -

Publication in the Gazette	17 June 1999
First Reading and commencement of Second Reading debate	23 June 1999
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

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 17 June 1999 and the Bill will be gazetted on the same day.

OTHER

12. Enquiries concerning the Bill and this brief can be directed to -

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16 June 1999
Information Technology and Broadcasting Bureau
Government Secretariat

Annex

ADAPTATION OF LAWS (NO. 18) 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. 18) 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]

TELEVISION ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Television Ordinance

1. Section 2(1) of the Television Ordinance (Cap. 52) is amended, in the definition of "performance bond", by repealing "Governor in Council" and substituting "Chief Executive in Council".

2. Section 8 is amended -

(a) in subsection (1) -

(i) by repealing "Governor" where it first appears and substituting "Chief Executive";

(ii) by repealing "Governor in Council" and substituting "Chief Executive in Council";

(b) in subsection (2) -

(i) in paragraph (a) -

(A) by repealing "Governor in Council" and substituting "Chief Executive in Council";

(B) by repealing "受總督" and substituting "受行政長官";

(ii) in paragraph (b) (iii), by repealing "Governor in Council" and substituting "Chief Executive in Council";

(c) in subsections (3) and (4), by repealing "Governor in Council" and substituting "Chief Executive in Council".

3. Section 8B is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

4. Section 9 is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

5. Section 10(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

6. Section 11A is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

7. Section 13 is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

8. Section 13A(4) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

9. Section 14 is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

10. Section 16 is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

11. Section 17(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

12. Section 17B is amended -

(a) in subsection (1E), by repealing "Hong Kong Government" and substituting "Government of the Hong Kong Special Administrative Region";

(b) in subsection (1F), by repealing "Governor in Council" and substituting "Chief Executive in Council".

13. Section 17Q(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

14. Section 20(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

15. Section 20B(1), (2) and (3) (b) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

16. Section 20C(2) is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

17. Section 30(c) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

18. Section 32A is amended -

(a) in subsection (1), by repealing "Governor in Council" and substituting "Chief Executive in Council";

(b) in subsection (2), by repealing "立法局" and substituting "立法會".

19. Section 32C is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

20. Section 33(4), (5) and (10) is amended by repealing "該法院" wherever it appears and substituting "該法庭".

21. Section 38(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

22. Section 39 is amended by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

23. Section 41(11) is amended by repealing "Governor" and substituting "Chief Executive".

24. Section 44(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Television (Advertising) Regulation

25. Section 4(4) of the Television (Advertising) Regulation (Cap. 52 sub. leg.) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 2 [s. 3]

TELEPHONE ORDINANCE

1. Section 3(7) of the Telephone Ordinance (Cap. 269) is amended, in the definition of "numbering plan", by repealing "Governor in Council" where it twice appears and substituting "Chief Executive in Council".

SCHEDULE 3 [s. 3]

CONTROL OF OBSCENE AND INDECENT ARTICLES ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Control of Obscene and Indecent Articles Ordinance

1. Section 31(b) of the Control of Obscene and Indecent Articles Ordinance (Cap. 390) is amended by repealing "大法官" and substituting "法官".

2. Section 46 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

Control of Obscene and Indecent Articles Rules

3. Rules 4(2), 5(2) and 6(2) of and Forms 1, 3 and 5 of the Schedule to the Control of Obscene and Indecent Articles Rules (Cap. 390 sub. leg.) are amended by repealing "Attorney General's Chambers" and substituting "Department of Justice".

SCHEDULE 4 [s. 3]

BROADCASTING AUTHORITY ORDINANCE

1. Section 4(1), (2), (3), (4), (5) and (6) of the Broadcasting Authority Ordinance (Cap. 391) is amended by repealing "Governor" and substituting "Chief Executive".

2. Section 5 is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".

3. Section 9(1) (a) (i), (ii) and (iii), (aa), (c) and (d) is amended by repealing "Governor in Council" wherever it appears and substituting "Chief Executive in Council".

4. Section 9D(1), (3) and (4) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

5. Section 15 is amended -

(a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";

(b) in subsection (2), by repealing "立法局" and substituting "立法會".

6. Section 21(1) and (5) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

7. Section 26(1) and (3) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 5 [s. 3]

FILM CENSORSHIP ORDINANCE

1. Section 4(2) of the Film Censorship Ordinance (Cap. 392) is amended by repealing "Governor" and substituting "Chief Executive".

2. Section 16(2) (c) and (5) is amended by repealing "Governor" and substituting "Chief Executive".

3. Section 29(1A) and (3) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

SCHEDULE 6 [s. 3]

OUTER SPACE ORDINANCE

1. The long title to the Outer Space Ordinance (Cap. 523) is amended -
   (a) by repealing "Governor" and substituting "Chief Executive";
   (b) by repealing "United Kingdom" and substituting "People's Republic of China".

2. Section 4 is amended -
   (a) in subsection (2) (b) -
      (i) by repealing "Governor" and substituting "Chief Executive";
      (ii) by repealing "United Kingdom" where it twice appears and substituting "People's Republic of China";
   (b) in subsection (3) -
      (i) by repealing "Governor" and substituting "Chief Executive";
      (ii) by repealing "United Kingdom" and substituting "People's Republic of China".

3. Section 5 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) in paragraphs (b) and (c), by repealing "United Kingdom" and substituting "People's Republic of China";

(c) in subsection (3), by repealing "Governor in Council" and substituting "Chief Executive in Council".

4. Section 6 is amended -

(a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";

(b) in subsection (2) -

(i) in paragraphs (a), (b), (c) and (d), by repealing "Governor" wherever it appears and substituting "Chief Executive";

(ii) in paragraph (e) -

(A) in subparagraph (iii), by repealing "United Kingdom's international obligations" and substituting "international obligations of the People's Republic of China";

(B) in subparagraph (iv), by repealing "United Kingdom" and substituting "People's Republic of China";

(iii) in paragraph (g), by repealing "Governor" and substituting "Chief Executive".

5. Section 7 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) in paragraph (b), by repealing "United Kingdom" where it twice appears and substituting "People's Republic of China".

6. Section 8 is amended -

(a) in subsection (1) -

(i) by repealing "Governor" and substituting "Chief Executive";

(ii) by repealing "Secretary of State" and substituting "Central People's Government";

(b) in subsection (2) -

(i) by repealing "Secretary of State" and substituting "Central People's Government";

(ii) by repealing "Governor" where it twice appears and substituting "Chief Executive";

(iii) in paragraph (b), by repealing "United Kingdom" and substituting "People's Republic of China".

7. Section 9 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 "United Kingdom" and substituting "People's Republic of China".

8. Section 10(1) is amended -

(a) by repealing "Governor" where it twice appears and substituting "Chief Executive";

(b) in paragraph (a), by repealing "United Kingdom" and substituting "People's Republic of China".

9. Section 11(1) is amended -

(a) by repealing "Governor" and substituting "Chief Executive";

(b) by repealing "United Kingdom" and substituting "People's Republic of China".

10. Section 12 is amended -

(a) in subsection (1), by repealing "Her Majesty's Government in the United Kingdom" and substituting "the Central People's Government";

(b) in subsection (2) (b), by repealing "Governor" and substituting "Chief Executive".

11. Section 13 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 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 6).

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

Broadcasting Authority Ordinance (Cap. 391)	Schedule 4
Control of Obscene and Indecent Articles Ordinance (Cap. 390)	Schedule 3
Film Censorship Ordinance (Cap. 392)	Schedule 5
Outer Space Ordinance (Cap. 523)	Schedule 6
Telephone Ordinance (Cap. 269)	Schedule 2
Television Ordinance (Cap. 52)	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).