

## **LEGISLATIVE COUNCIL BRIEF**

- Dentists Registration Ordinance  
(Cap. 156)
- Medical Registration Ordinance  
(Cap. 161)
- Midwives Registration Ordinance  
(Cap. 162)
- Nurses Registration Ordinance  
(Cap. 164)
- Hospitals, Nursing Homes and Maternity Homes Registration  
Ordinance  
(Cap. 165)
- Child Care Services Ordinance  
(Cap. 243)
- Supplementary Medical Professions Ordinance  
(Cap. 359)
- Chiropractors Registration Ordinance  
(Cap. 428)
- Social Workers Registration Ordinance  
(Cap. 505)
- Hong Kong Red Cross Ordinance  
(Cap. 1129)

## **ADAPTATION OF LAWS (NO. 17) BILL 1999**

### **INTRODUCTION**

At the meeting of the Executive Council on 8 June 1999, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (No. 17) Bill 1999, at Annex, should be introduced into the Legislative Council.

## **BACKGROUND AND ARGUMENT**

2. The Bill covers 10 Ordinances and their subsidiary legislation relating to the registration of certain professions and organizations 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. These references need to be adapted.

## **THE BILL**

3. The Bill comprises mainly terminological changes, for example, references to "Governor" and "Governor in Council" have been changed to references to "Chief Executive" and "Chief Executive in Council" respectively. Where a provision previously conferred power on the "Governor" to make subsidiary legislation, the reference to the "Governor" will still be adapted to the "Chief Executive". Although the requirement under Article 56 of the Basic Law that the Chief Executive shall consult the Executive Council before making subordinate legislation is then not expressly set out, the Executive Council will still have to be consulted if the Chief Executive is to exercise this legislative function.

4. Amendments that warrant further explanation are set out below -

### **(a) References to the Crown**

There are provisions to the effect that certain property is to be forfeited to the Crown in the course of enforcement under certain Ordinances. Such provisions confer powers over matters for which the Government of the Hong Kong Special Administrative Region is solely responsible. According to section 2 of schedule 8 to the Interpretation and General Clauses Ordinance, the "Crown" in such provisions should be changed to the "Government". (examples are found in **section 3 of Schedule 1 and section 4 of Schedule 7**)

(b) **References to the "Governor"**

**Sections 4(b)(i) and (c) of Schedule 4** amend a transitional provision which is concerned with the appointment of members of the Nursing Board of Hong Kong. As some of the members were appointed by the Governor before 1 July 1997 and some by the Chief Executive after that date, the reference to the "Governor" has to be retained while a reference to the "Chief Executive" has to be added when adapting the transitional provision.

(c) **Change of affiliation of the Hong Kong Red Cross**

There are provisions to adapt the Hong Kong Red Cross Ordinance to reflect the Hong Kong Red Cross's change of affiliation from the British Red Cross Society to the Red Cross Society of China, which took effect on 1 July 1997. As some provisions in the Ordinance which refer to the former "British Red Cross Society (Hong Kong Branch)" are purely historical, no adaptation to such references is required. (see **Schedule 10**)

## **COMMENCEMENT**

5. The Bill provides that subject to Article 12 of the Hong Kong Bill of Rights, the adaptations contained in it, 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 approved by the Chief Executive in Council is as follows -

Publication in the Gazette	17 June 1999
First Reading and commencement of Second Reading debate	30 June 1999
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## **HUMAN RIGHTS IMPLICATIONS**

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

## **BINDING EFFECT OF THE LEGISLATION**

8. The amendments will not affect the current binding effect of the existing provisions of the 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 17 June 1999.
12. For enquiries in relation to this Bill, please contact the following officer -

Mr Eddie Poon  
Principal Assistant Secretary for Health and Welfare  
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Health and Welfare Bureau  
June 1999  
File Ref: HWCR/12/4/3221/91

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

DENTISTS REGISTRATION ORDINANCE AND ITS  
SUBSIDIARY LEGISLATION

**Dentists Registration Ordinance**

1. Section 4(2), (4) and (6) of the Dentists Registration Ordinance (Cap. 156) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
2. Section 12(4) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
3. Section 28 is amended by repealing "Crown" wherever it appears and substituting "Government".
4. Section 29(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
5. Section 31(2) is amended by repealing "Governor" and substituting "Chief Executive".

**Dentists (Registration and Disciplinary  
Procedure) Regulations**

6. The First Schedule to the Dentists (Registration and Disciplinary Procedure) Regulations (Cap. 156 sub. leg.) is amended, in Form 6, by repealing "*the Colony*" and substituting "*Hong Kong*".

SCHEDULE 2

[s. 3]

MEDICAL REGISTRATION ORDINANCE AND ITS SUBSIDIARY LEGISLATION

1. Section 3(2), (5) and (6) of the Medical Registration Ordinance (Cap. 161) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".

2. Section 3B is amended by repealing "Governor" and substituting "Chief Executive".
3. Section 3C(1) is amended by repealing "Governor" where it twice appears and substituting "Chief Executive".
4. Section 8(2) is amended by repealing "立法局" and substituting "立法會".
5. Section 12(2) (d) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
6. Section 19A(6) (a) is amended by repealing "overseas" and substituting "outside Hong Kong".
7. Section 20A(7) (c) is amended by repealing "Governor" and substituting "Chief Executive".
8. Section 30 is amended -
  - (a) in subsection (1) -
    - (i) by repealing "or territory" wherever it appears and substituting", territory or place";
    - (ii) by repealing "Governor" and substituting "Chief Executive";
  - (b) in subsection (2), by repealing "Governor" where it twice appears and substituting "Chief Executive".
9. Section 33(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

**Medical Practitioners (Registration and  
Disciplinary Procedure) Regulation**

10. Section 3(3) (d), (e) and (i) of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg.) is amended by repealing "or territory" wherever it appears and substituting", territory or place".

11. Section 4(3) (d) is amended by repealing "or territory" and substituting", territory or place".

SCHEDULE 3

[s. 3]

MIDWIVES REGISTRATION ORDINANCE AND RELATED ORDINANCE

**Midwives Registration Ordinance**

1. Section 3(2), (3), (4), (5) and (7) of the Midwives Registration Ordinance (Cap. 162) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".

2. Section 15(3) is amended, in the proviso, by repealing "法院" and substituting "法庭".

3. Section 23 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

**Midwives Registration (Amendment)  
Ordinance 1997**

4. Section 2(1) (f) of the Midwives Registration (Amendment) Ordinance 1997 (61 of 1997) is amended, in the new definition of

"appointed member", by repealing "Governor" and substituting "Chief Executive".

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

6. Section 11 (e) is amended, in the new subsections (6), (7) and (8), by repealing "上訴法院" wherever it appears and substituting "上訴法庭".

7. Section 15(b) is amended, in the new section 15(4), by repealing "上訴法院" and substituting "上訴法庭".

8. Section 24 is amended, in the new section 23(1), by repealing "Governor in Council" and substituting "Chief Executive in Council".

#### SCHEDULE 4

[s. 3]

### NURSES REGISTRATION ORDINANCE AND RELATED ORDINANCE

#### **Nurses Registration Ordinance**

1. Section 3(2), (3), (4), (4B) and (6) of the Nurses Registration Ordinance (Cap. 164) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".

2. Section 22 is amended, in the proviso, by repealing "法院" and substituting "法庭".

3. Section 27 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

**Nurses Registration (Amendment)  
Ordinance 1997**

4. Section 22 of the Nurses Registration (Amendment) Ordinance 1997 (82 of 1997) is amended -
- (a) in subsection (1), by repealing "Governor" and substituting "Chief Executive";
  - (b) in subsection (2) -
    - (i) by adding "or the Chief Executive, as the case may be," after "Governor" where it first appears;
    - (ii) by repealing "Governor" where it secondly and thirdly appears and substituting "Chief Executive";
  - (c) in subsection (3), by adding "or the Chief Executive, as the case may be," after "Governor".

SCHEDULE 5

[s. 3]

**HOSPITALS, NURSING HOMES AND MATERNITY HOMES  
REGISTRATION ORDINANCE**

1. Section 3 of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) is amended -
- (a) in subsection (3A), by repealing "立法局" and substituting "立法會";
  - (b) in subsection (7)(a) and (b), by repealing "Governor in Council" and substituting "Chief Executive in Council".
2. Section 5(3) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".

3. Section 6(2) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
4. Section 7(1) is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 6

[s. 3]

CHILD CARE SERVICES ORDINANCE

1. Section 5(1) and (2) of the Child Care Services Ordinance (Cap. 243) is amended by repealing "Governor" and substituting "Chief Executive".
2. Section 12 is amended by repealing "Governor" and substituting "Chief Executive".
3. Section 18(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
4. Section 19 is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 7

[s. 3]

SUPPLEMENTARY MEDICAL PROFESSIONS ORDINANCE

1. Section 1(2) of the Supplementary Medical Professions Ordinance (Cap. 359) is amended by repealing "Governor" and substituting "Chief Executive".

2. Section 3(1), (3) and (4) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
3. Section 5 is amended -
  - (a) in subsection (1) -
    - (i) in paragraphs (a) and (b), by repealing "Governor" and substituting "Chief Executive";
    - (ii) in paragraph (c), by repealing "Governor" and substituting "Chief Executive";
    - (iii) in paragraphs (d) and (e), by repealing "Governor" and substituting "Chief Executive";
  - (b) in subsections (3) and (4), by repealing "Governor" wherever it appears and substituting "Chief Executive".
4. Section 21(3) is amended by repealing "Crown" and substituting "Government".
5. Section 29(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
6. Section 30(1) (a) is amended by repealing "Governor" and substituting "Chief Executive".
7. Section 31 is amended by repealing "Governor" and substituting "Chief Executive".

SCHEDULE 8

[s. 3]

CHIROPRACTORS REGISTRATION ORDINANCE

1. Section 1(2) of the Chiropractors Registration Ordinance (Cap. 428) is amended by repealing "Governor" and substituting "Chief Executive".
2. Section 3(2) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
3. Section 4(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(2) (a) is amended by repealing "外地" and substituting "其他地方".
6. Section 16(1) (f) and (2) is amended by repealing "外地" and substituting "其他地方".
7. Section 22(4) is amended by repealing "該院" and substituting "該庭".
8. Section 27 is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
9. The Schedule is amended -
  - (a) in section 1(2), by repealing "Governor" and substituting "Chief Executive";
  - (b) in section 2, by repealing "Governor" wherever it appears and substituting "Chief Executive";

- (c) in section 5, by repealing "本港或外地" and substituting "香港或香港以外地方".

SCHEDULE 9

[s. 3]

SOCIAL WORKERS REGISTRATION ORDINANCE

1. Section 4(3) (b) of the Social Workers Registration Ordinance (Cap. 505) is amended by repealing "Governor" and substituting "Chief Executive".
2. Section 5(1) (b) (ii) and (3) is amended by repealing "Governor" wherever it appears and substituting "Chief Executive".
3. Section 39(1) is amended by repealing "Governor in Council" and substituting "Chief Executive in Council".
4. Schedule 1 is amended -
  - (a) in section 1 -
    - (i) in subsections (1) (b) and (c) and (4), by repealing "Governor" and substituting "Chief Executive";
    - (ii) in subsection (5), by repealing "Governor's pleasure" and substituting "Chief Executive's discretion";
  - (b) in section 10(1) (a) (i), by repealing "立法局" and substituting "立法會";
  - (c) in section 11(4), by repealing "立法局" and substituting "立法會".

## HONG KONG RED CROSS ORDINANCE

1. Section 2 of the Hong Kong Red Cross Ordinance (Cap. 1129) is amended -
  - (a) by repealing the definition of "Charter";
  - (b) in the definition of "Hong Kong Red Cross" by repealing "Hong Kong Branch of the Society" and substituting "Red Cross of the Hong Kong Special Administrative Region of the People's Republic of China";
  - (c) by repealing the definition of "Society" and substituting -  
    ""Society" means the Red Cross Society of China.".
  
2. Section 2A is amended by adding "and the Constitution of the International Federation of Red Cross and Red Crescent Societies" after "Movement".
  
3. Section 2B is repealed and the following substituted -  
**"2B. Affiliation to the Society**  
    The Hong Kong Red Cross shall be a branch of the Society and shall enjoy a high degree of autonomy; the relationship between the Hong Kong Red Cross and the Society shall be governed by the Announcement of the Society as set out in Schedule 2."
  
4. Section 9(1) is amended by repealing "the Schedule" and substituting "Schedule 1".
  
5. Section 12 is amended by repealing "the Charter" and substituting "this Ordinance".

6. Section 13 is amended by repealing "Her Majesty the Queen, Her Heirs or Successors" and substituting "the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
7. The Schedule is amended by repealing "SCHEDULE" and substituting "SCHEDULE 1".
8. The following is added -

"SCHEDULE 2

[s. 2B]

## RED CROSS SOCIETY OF CHINA

### Announcement

The Hong Kong Red Cross will Become a Special Local Branch with High Autonomy of the Red Cross Society of China from 1 July 1997.

At the fourth session of the Sixth National Board of the Red Cross Society of China (RCSC), which was held in Xiamen, Fujian Province from 1<sup>st</sup> to 4<sup>th</sup> April 1997, the RCSC National Board considered the application by the Hong Kong Red Cross (HKRC) to become a branch of the RCSC from 1 July 1997.

As the Government of the People's Republic of China shall resume the exercise of sovereignty over Hong Kong from 1 July 1997 with the establishment of the Hong Kong Special Administrative Region, and that the British Red Cross Society (BRCS) had accepted HKRC's notification to terminate its affiliation with the BRCS with effect from 1 July 1997, the RCSC National Board passed a resolution at the above-mentioned session to accept the HKRC to

be a branch of the RCSC with a high degree of autonomy. The affiliation will come into effect on 1 July 1997.

The legal basis regulating the future relationship between the RCSC and HKRC shall be the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, the Statutes of the International Red Cross and Red Crescent Movement and the Constitution of the International Federation of Red Cross and Red Crescent Societies. As from 1 July 1997, the full official name of the Hong Kong Red Cross shall be "The Red Cross of the Hong Kong Special Administrative Region of the People's Republic of China". The accepted short title shall be the "Hong Kong Red Cross (Branch of the Red Cross Society of China)". The HKRC shall use the emblem of the RCSC. The National Headquarters in Beijing shall continue to represent the RCSC in international organizations or meetings where statutory participation is confined to National Societies. However, whenever appropriate, HKRC representatives would be invited to serve as members of the RCSC delegations.

As a RCSC branch with a high degree of autonomy, the HKRC will have full autonomy, subject to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and other laws enacted by the legislature of the Hong Kong Special Administrative Region to formulate or revise its regulations and rules, and to make its own decisions on matters concerning its internal management, which include organizational structure, policies and administrative decision making, working procedures, personnel, financial management, nature and forms of service operations. The Red Cross Law of the People's Republic of China and the RCSC Constitution shall not apply to Hong Kong or to the

HKRC. The Hong Kong Red Cross (Branch of the Red Cross Society of China) shall be able to maintain and develop direct contact and operational programmes with other members of the International Red Cross and Red Crescent Movement, provided such contact and programmes do not contravene the Movement's Fundamental Principle of "Unity" and that the RCSC National Headquarters be duly informed.  
15 April 1997, Beijing".

#### 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 10).

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

Dentists Registration Ordinance (Cap. 156)	Schedule 1
Medical Registration Ordinance (Cap. 161)	Schedule 2
Midwives Registration Ordinance (Cap. 162)	Schedule 3
Nurses Registration Ordinance (Cap. 164)	Schedule 4
Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)	Schedule 5
Child Care Services Ordinance (Cap. 243)	Schedule 6
Supplementary Medical Professions Ordinance (Cap. 359)	Schedule 7
Chiropractors Registration Ordinance (Cap. 428)	Schedule 8
Social Workers Registration Ordinance (Cap. 505)	Schedule 9
Hong Kong Red Cross Ordinance (Cap. 1129)	Schedule 10
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).