

立法會
Legislative Council

LC Paper No. LS 203/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 4 June 1999**

**Legal Service Division Further Report on
Adaptation of Laws (No. 7) Bill 1999**

Members may recall that the Legal Service Division made a report to the House Committee on 12 March 1999 on the Bill (LegCo Paper No. LS124/98-99 refers). To recap, the Bill adapts certain Ordinances relating to financial services matters 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. Annexes A and B to the report are attached for Members' ease of reference.

2. At the House Committee meeting, we informed Members that we had written to the Administration seeking clarification on the following :

- (a) whether the organizations that would be affected by the Bill had been consulted;
- (b) the substitution of "other countries" by "places outside Hong Kong" in section 18(1)(h) of the Professional Accountants Ordinance (Cap. 50); and
- (c) the substitution of "territory" by "place" in the context of "country or territory outside Hong Kong" in the Occupational Retirement Schemes Ordinance (Cap. 426).

3. The Administration has now given its reply and the gist of the reply is as follows :

- (a) The Hong Kong Society of Accountants has been consulted on the Bill and they have no objection to the proposed amendments. Other amendments are essentially straightforward adaptations and involve no change in policy. Accordingly, the Administration does not consider it necessary to consult the public;

- (b) the substitution of “other countries” by “places outside Hong Kong” in section 18(1)(h) of Cap. 50 is in line with item 19 of Schedule 8 to Cap. 1. According to that item, any reference to a foreign country or state (or to similar terms or expressions) shall be construed as a reference to “... any place other than the Hong Kong Special Administrative Region”. The proposed adaptation would allow for exchange of information and reciprocal recognition of accountants with accounting bodies in the Mainland of China. According to the Administration, this is meant to preserve the legislative intent to cover the Mainland of China in this section;
- (c) the substitution of “territory outside Hong Kong” by “place outside Hong Kong” in certain provisions in Cap. 426 is made in accordance with item 19 of Schedule 8 to Cap. 1. Those provisions relate to the registration and regulation of off-shore occupational retirement schemes domiciled in a country or territory outside Hong Kong. The proposed adaptation is intended to preserve the original legislative intent of those provisions to cover the Mainland of China and places like Taiwan and Macau; and
- (d) following enactment of the Adaptation of Laws Bill 1998, the Administration has now proposed to amend the references to “territory outside Hong Kong” in Cap. 426 to make the adaptation consistent with that of a similar term in that Bill. The draft Committee Stage amendments are at Annex C.

4. With the Administration’s clarification and the proposed Committee Stage amendments, we are satisfied that the legal and drafting aspects of the Bill are in order. Subject to Members’ views, the Bill is ready for resumption of Second Reading debate.

Encl.

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1 June 1999

List of Ordinances affected by the Adaptation of Laws (No. 7) Bill 1999

<u>Item No.</u>	<u>Ordinances and subsidiary legislation</u>
1.	Insurance Companies Ordinance (Cap. 41)
2.	Professional Accountants Ordinance (Cap. 50)
3.	Chit-Fund Business (Prohibition) Ordinance (Cap. 262)
4.	Census and Statistics Ordinance (Cap. 316)
5.	Exchanges (Special Levy) Ordinance (Cap. 351)
6.	Occupational Retirement Schemes Ordinance (Cap. 426)
7.	Mandatory Provident Fund Schemes Ordinance and its subsidiary legislation (Cap. 485)

Adaptation of Laws (No. 7) Bill 1999
Summary of the proposed amendments

Original Terms	Proposed Amendments
Governor 總督	Chief Executive 行政長官
Governor in Council 總督會同行政局	Chief Executive in Council 行政長官會同行政會議
立法局	立法會
Crown ⁽¹⁾ 官方	Government 政府
法院	法庭
other countries ⁽²⁾ 其他國家	places outside Hong Kong 香港以外的地方
territory ⁽³⁾ 地區	place 地方
Supreme Court Ordinance 最高法院條例	High Court Ordinance 高等法院條例

Notes:

- (1) The reference to “Crown” is found in section 55A of the Insurance Companies Ordinance (Cap. 41). The Ordinance regulates the carrying on of insurance business through the Insurance Authority appointed under the Ordinance. Under section 55A of the Ordinance, the “Crown” is exempted from any liability incurred by things done by public officers who perform their functions under the Ordinance in good faith. Since the matter concerned is action done by public officers, and the regulation of insurance business is an affair for which the Government of the HKSAR is solely responsible, the reference to “Crown” is proposed to be adapted to “Government” in accordance with item 2 of Schedule 8 to Cap. 1.

- (2) This term appears in section 18(1)(h) of the Professional Accountants Ordinance (Cap. 50), which provides that the Council of the Hong Kong Society of Accountants may exchange information with similar bodies and with members of the profession in other countries and arrange with such bodies for the reciprocal recognition of accountants.

- (3) The references to “territory”, which are found in the Occupational Retirement Schemes Ordinance (Cap. 426), primarily relate to the registration and regulation of off-shore occupational retirement schemes domiciled in a country or territory outside Hong Kong.

ADAPTATION OF LAWS (NO. 7) BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 6, section 1	By deleting everything after "repealing" and substituting ""or territory" wherever it appears and substituting ", territory or place".
Schedule 6, section 2	By deleting everything after "repealing" and substituting ""or territory" and substituting ", territory or place".
Schedule 6, section 3	By deleting everything after "repealing" and substituting ""or territory" where it twice appears and substituting ", territory or place".
Schedule 6, section 9(b)	By deleting everything after "repealing" and substituting ""or territory" wherever it appears and substituting ", territory or place".

Schedule 6,
section 10

By deleting everything after "repealing" and substituting ""or territory" and substituting ", territory or place".