

# Legislative Council

LC Paper No. LS 128/98-99

## Paper for the House Committee Meeting of the Legislative Council on 25 June 1999

### Legal Service Division Further Report on Adaptation of Laws (No. 4) Bill 1999

Members may recall that the Legal Service Division made a report to the House Committee on 26 February 1999 on the Bill (LegCo Paper No. LS 109/98-99). Annexes A and B of the report are attached for Members' ease of reference.

2. Item 8 of Schedule 1 of the Bill proposes to repeal two UK qualifications for application of plumber's licence under Regulation 33(1) of the Waterworks Regulations (Cap. 102 sub. leg.). It was decided at the meeting of the House Committee that a further report be made setting out the explanation of the Administration as to how the proposed adaptation serves to bring the Regulations 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.
3. The Administration believes that it would be appropriate to omit references to British qualifications now that Hong Kong is no longer a colony and qualification standards can be set by reference to a Hong Kong qualification. If the Bill is enacted, persons who may apply for plumbers' licences will be limited to holders of the Craft Certificate in Plumbing and Pipefitting issued by the Vocational Training Council after 1987 and those who, in the opinion of the Water Authority, hold equivalent qualifications.
4. It is the policy for the Water Authority to accept the repealed qualifications as equivalent qualifications. The Administration considers that there has been no change in policy and that it is not necessary to consult the trade. The departmental instruction in the Water Supplies Department laying down the approval criteria for the granting of a plumber's licence will be amended accordingly.
5. The amendment to the Regulation 33(1) of the Waterworks Regulations (Cap. 102 sub. leg.) shall come into operation at the beginning of the day on which the Bill is published as an Ordinance in the Gazette. The Administration has confirmed that the proposal is applicable only to new applicants for plumbers' licences and would not affect those who have already been granted with such a licence.
6. Other amendments proposed by this Bill are along the same lines as amendments proposed in the Adaptation of Laws Bill 1998. Members also agreed to defer consideration of this Bill until the Bills Committee of that Bill had completed work.
7. In April 1999, the Legislative Council has approved the Committee Stage amendments to the Adaptation of Laws Bill 1998 (enacted as the Adaptation of Laws (No. 5) Ordinance 1999 (15 of 1999)) to the effect:

- a. that the term "Governor" will be adapted to "Chief Executive" notwithstanding that the provision relates to the power to make subsidiary legislation;
- b. that the provision on saving the rights of "Her Majesty the Queen, Her Heirs or Successors" would be adapted to saving the rights of "the Central Authorities of the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

8. The Administration has now proposed to make similar amendments to this Bill. A copy of the draft Committee Stage amendments is at Annex C.

9. With 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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Bill/Further/B/47/98-99

**Annex A**

**List of Ordinances and subsidiary legislation  
affected by the Adaptation of Laws (No. 4) Bill 1999**

<b>Item No.</b>	<b>Ordinances and subsidiary legislation</b>
1.	Waterworks Ordinance (Cap. 102) and Waterworks Regulations (Cap. 102 sub. leg.)
2.	Public Lighting Ordinance (Cap. 105)
3.	Sand Ordinance (Cap. 147)
4.	Mining Ordinance (Cap. 285) and Mining (General) Regulations (Cap. 285 sub. leg.)
5.	Architects Registration Ordinance (Cap. 408)
6.	Engineers Registration Ordinance (Cap. 409)
7.	Surveyors Registration Ordinance (Cap. 417)
8.	Planners Registration Ordinance (Cap. 418)
9.	Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470)
10.	Landscape Architects Registration Ordinance (Cap. 516)
11.	The Hong Kong Institution of Engineers Ordinance (Cap. 1105)
12.	The Hong Kong Institute of Architects Incorporation Ordinance (Cap. 1147)
13.	The Hong Kong Institute of Surveyors Ordinance (Cap. 1148)
14.	The Hong Kong Institute of Planners Incorporation Ordinance (Cap. 1153)
15.	The Hong Kong Institute of Landscape Architects Incorporation Ordinance (Cap. 1162)

**Annex B**

## **Adaptation of Laws (No. 4) Bill 1999**

### **Summary of the proposed amendments**

#### **A. Amendments**

Original Terms	Proposed Amendments
Governor 總督	Chief Executive/Chief Executive in Council 行政長官／行政長官會同行政會議
Governor in Council 總督會同行政局	Chief Executive in Council 行政長官會同行政會議
Crown 官方	Government <sup>1</sup> 政府
Governor's pleasure 總督決定	discretion of the Chief Executive <sup>2</sup> 行政長官酌情決定
Supreme Court 最高法院	High Court 高等法院
外地	香港以外地方
上訴法院	上訴法庭
地方法院	區域法院
立法局	立法會
an overseas body or institute of landscape architects 海外園境師團體或專業學會	any body or institute of landscape architects formed outside Hong Kong 任何在香港以外地方成立的園境師團體或專業學會
Her Majesty the Queen, Her Heirs or Successors 女皇陛下、其世襲繼承人或其他繼任人	the Central People's Government or the Government of the HKSAR under the Basic Law or other laws <sup>3</sup> 中央人民政府或香港特別行政區政府根據《基本法》或其他法律的規定所享有

## B. Deletions

1. “a Plumbing Craft Certificate issued by the City and Guilds of London”  
“a fellow or member of the Institute of Plumbing of the United Kingdom”<sup>4</sup>
2. “free from all rights of any person”<sup>5</sup>
3. definition of “上訴庭”<sup>6</sup>

### Notes

<sup>1</sup> section 21(1) of the Waterworks Ordinance (Cap. 102) -  
debt due to the Crown  
sections 43(c) and 59(1) of the Mining Ordinance (Cap. 285) -  
forfeited to the Crown  
section 62 of the Mining Ordinance (Cap. 285) -  
in the service of the Crown

<sup>2</sup> section 32(2) of the Mining Ordinance (Cap. 285) ;  
section 5(3) of the Architects Registration Ordinance (Cap. 408);  
section 4(3) of the Engineers Registration Ordinance (Cap. 409);  
section 4(3) of the Surveyors Registration Ordinance (Cap. 417);  
section 4(3) of the Planners Registration Ordinance (Cap. 418);  
section 4(3) of the Landscapes Architects Registration Ordinance (Cap. 516) -  
membership of the mining compensation board or the registration boards of the relevant professions

<sup>3</sup> section 32 of the Landscape Architects Registration Ordinance (Cap. 516);  
section 12 of The Hong Kong Institution of Engineers Ordinance (Cap. 1105);  
section 12 of The Hong Kong Institute of Architects Incorporation Ordinance (Cap. 1147);  
section 12 of The Hong Kong Institute of Surveyors Ordinance (Cap. 1148);  
section 12 of The Hong Kong Institute of Planners Incorporation Ordinance (Cap. 1153);  
section 12 of The Hong Kong Institute of Landscape Architects Incorporation Ordinance (Cap. 1162) -  
At the meeting of the Bills Committee on Adaptation of Laws Bill 1998 on 15 January 1999, the Administration agreed to move a Committee Stage Amendment to repeal the words “中央人民政府” and substituting “中央” to achieve consistency with 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.

<sup>4</sup> The Bill proposes to repeal these two qualifications for application of plumber’s licence under Regulation 33(1) of the Waterworks Regulations (Cap. 102 sub. leg.). See paragraph 5 of this Report for comments.

<sup>5</sup> Section 59 of the Mining Ordinance (Cap. 285) provides that upon making of an order of forfeiture by a magistrate, any minerals with respect to which an offence under certain provisions of the Ordinance has been committed shall be deemed to be the property of the Crown “free from all rights of any person”. The proposed repeal of the phrase does not have any legal effect.

<sup>6</sup> Section 2 of the Architects Registration Ordinance (Cap. 408) and section 2 of the Engineers Registration Ordinance (Cap. 409) contain a definition of “上訴庭” in the Chinese texts. However, no reference has been made to that term throughout both Ordinances.

ADAPTATION OF LAWS (NO. 4) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 4, sections 1, 5(a), 12 and 22	By deleting "in Council".
Schedule 10, section 12	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 11, section 1	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 12, section 1	By deleting everything after "Central" and substituting "Authorities or the Government of the

Hong Kong Special Administrative Region under the Basic Law and other laws".

Schedule 13, By deleting everything after "Central" and  
section 1 substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

Schedule 14, By deleting everything after "Central" and  
section 1 substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

Schedule 15, By deleting everything after "Central" and  
section 1 substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".