

立法會
Legislative Council

LC Paper No. LS42/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 23 October 1998**

**Legal Service Division Report on
Adaptation of Laws Bill 1998**

Object(s) of the Bill

To adapt certain Ordinances and their subsidiary legislation 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.

LegCo Brief Reference

2. NCR 2/6/5 IX dated 28 September 1998 issued by the Security Bureau.

Date of First Reading

3. 14 October 1998.

Comments

4. A summary of the proposed amendments in the Bill and a list of the Ordinances affected by those amendments are at Annexes A and B respectively. Members may note that the Ordinances set out at Annex B mainly deal with the treatment of offenders.

5. The Bill does not seek to introduce any change in policy. The proposed amendments are essentially technical drafting changes to individual ordinances.

6. If enacted, the Bill will take retrospective effect from 1 July 1997 to ensure that there is consistency in the interpretation of all laws on and after 1 July 1997. The retrospective effect will not apply to provisions involving criminal offences or penalties.

Public Consultation

7. There has not been any public consultation on the Bill.

Consultation with the LegCo Panel

8. No consultation with any LegCo Panel on the details of the Bill has been carried out.

Conclusion

9. Apart from certain technical points on which the Legal Service Division is seeking clarification from the Administration, the legal and drafting aspects of the Bill are in order. A further report will be issued if necessary.

Encls.

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Adaptation of Laws Bill 1998
Summary of the proposed amendments

Original Terms	Proposed Amendments
Colony	Hong Kong
Colonial Regulations	relevant executive order ¹
Crown ²	Government
Governor/Governor in Council	Chief Executive/ Chief Executive in Council
Secretary of State/United Kingdom ³	Central People's Government/ People's Republic of China
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Notes:

- ¹ “relevant executive order” is defined as “any executive order issued by the Chief Executive for the administration of the public service and any regulation or direction made under such order”. The Bill proposes to use this term to replace “Colonial Regulations” in the Prisons Ordinance (Cap. 234) and make it applicable to disciplinary offences committed by staff of the Correctional Services Department.
- ² References to “Crown” are made in the following Ordinances:-
- Control of Chemicals Ordinance (Cap. 145) - relating to forfeiture of controlled chemicals to the Crown;
 - Prisons Ordinance (Cap. 234) - relating to Crown debts due to the Correctional Services Department Welfare Fund; and
 - Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) - relating to certain court orders to be served as if the proceedings were civil proceedings against the Crown.
- The proposed change from “Crown” to “Government” in the relevant provisions of the above Ordinances would reflect the current legal position.
- ³ These terms are used in section 9 of the Transfer of Sentenced Persons Ordinance (Cap. 513) which deals with the Governor’s duty to give notice to the Secretary of State of any request for the transfer between Hong Kong and places outside Hong Kong of persons detained in institutions by virtue of orders made by courts in the exercise of their criminal jurisdiction.

List of Ordinances affected by the Adaptation of Laws Bill 1998

Item No.	Ordinances
1.	Control of Chemicals Ordinance (Cap. 145)
2.	Juvenile Offenders Ordinance (Cap. 226)
3.	Prisons Ordinance (Cap.234)
4.	Detention Centres Ordinance (Cap. 239)
5.	Drug Addiction Treatment Centres Ordinance (Cap. 244)
6.	Training Centres Ordinance (Cap. 280)
7.	Rehabilitation of Offenders Ordinance (Cap. 297)
8.	Prisoners (Release under Supervision) Ordinance (Cap. 325)
9.	Drug Addict Treatment and Rehabilitation Ordinance (Cap. 326)
10.	Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)
11.	Prisoners' Education Trust Fund Ordinance (Cap. 467)
12.	Post-Release Supervision of Prisoners Ordinance (Cap. 475)
13.	Transfer of Sentenced Persons Ordinance (Cap. 513)
14.	Long-term Prison Sentences Review Ordinance (Cap. 524)
15.	Correctional Services Children's Education Trust Ordinance (Cap. 1131)