

Adaptation of

Legislative Council (Powers and Privileges) Ordinance (Cap. 382)

Legislative Council Commission Ordinance (Cap. 443)

Private Bills Ordinance (Cap. 69)

TIMETABLE

The Adaptation of Laws Bill containing adaptations to the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), the Legislative Council Commission Ordinance (Cap. 443) and the Private Bills Ordinance (Cap. 69) is scheduled to be introduced to the Legislative Council on 3 March 1999.

CONTENTS OF ADAPTATION

A. **LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES)
ORDINANCE (CAP. 382)**

1. Many of the changes in this Ordinance are basically housekeeping amendments - such as changing “Governor” to “Chief Executive”.
2. There are however a few issues which are legally more complex in nature in respect of this Ordinance as follows -
 - Sections 3 and 4 (Freedom of speech and debate; Immunity from legal proceedings)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, make no amendments to sections 3 and 4;
- (b) second, sections 3 and 4 can be repealed. This approach relies on the protection conferred by BL 77 and the guarantees and powers in BL 27 and 73(6). Where provision is made for a particular thing in the Basic Law, caution should be exercised in attempting to make provision for the same thing in an Ordinance or otherwise.

/Section.....

- Section 5 (Freedom from arrest)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, amend in line with BL 78;
- (b) second, repeal section 5 on the basis that freedom from arrest is guaranteed under BL 78.

- Section 6 (Service of civil process and exemptions)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, amend “Governor” to “Government” in line with BL 62(6);
- (b) second, simply adapt to “Chief Executive” on the basis that the Chief Executive is the head of the government by virtue of BL 60 and in any case the exercise by him of the power under section 6(2) of Cap. 382 is consistent with his power under BL 48(11).

- Section 9 (Power to order attendance of witnesses)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, amend in line with BL 73(10);
- (b) second, repeal section 9 on the basis that power to summon persons to testify or give evidence is provided for under BL 73(10).

/Section

- Section 14 (Privileges of witnesses)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, leave section 14 as it is;
- (b) second, amend in line with BL 48(11).

- Section 15 (Determination of questions relating to evidence and production of documents before the Council or committee)

There are 2 possible alternative approaches to achieve adaptation -

- (a) first, leave section 15 as it is;
- (b) second, repeal section 15.

B. LEGISLATIVE COUNCIL COMMISSION ORDINANCE (CAP. 443)

The changes in this Ordinance are basically housekeeping amendments such as changing “Governor” to “Chief Executive”.

C. PRIVATE BILLS ORDINANCE (CAP. 69)

The adaptation to this Ordinance was effected in LN 362 of 1997 - Declaration of Change of Titles (General Adaptation) Notice 1997.

Department of Justice
16 September 1998