

# 立法會

## *Legislative Council*

LC Paper No. LS 33/99-00

### **Paper for the House Committee Meeting of the Legislative Council on 26 November 1999**

### **Legal Service Division Further Report on Adaptation of Laws (No. 30) Bill 1999**

Members may recall that the Legal Service Division made a report to the House Committee on 24 September 1999 on the Bill (LC Paper No. LS254/98-99 refers). Annexes A and B of the report are attached for Members' ease of reference. Members agreed to defer decision on the Bill pending clarifications from the Administration.

#### *Section 6(1) of the Church of England Trust Ordinance (Cap. 1014)*

2. Section 6(1) of the Church of England Trust Ordinance (Cap. 1014) provides that if at any time Saint John's Cathedral Church ceases to be used as a church for divine worship and the services usual in the Church of England cease to be performed and carried on therein in accordance with the said rites and ceremonies, the church and the precincts thereof shall revert to and become the absolute property of the Crown unless the same be sold or otherwise disposed of with the consent in writing of the Chief Executive.

3. The Bill proposes to adapt "Crown" to "Government". The proposed adaptation follows the principle laid down in Article 7 of the Basic Law, i.e., the land and natural resources within the HKSAR shall be State property and the HKSAR Government shall be responsible for their management, use and development.

4. The terms "revert to" and "become the absolute property" would be interpreted in accordance with section 6 of the Interpretation and General Clauses Ordinance (Cap. 1). Under section 6 of Cap. 1, where reference is made in any Ordinance to land and natural resources within the HKSAR and the expressions used in relation thereto imply such land and natural resources are owned by, belong to, or revert to, the Government, or convey a similar meaning, the reference shall be construed in accordance with Article 7 of the Basic Law. The Administration believes that the phrase "become the absolute property" would convey a meaning similar to "owned by" and "belong to".

*The Spiritual Assembly of the Baha'is of Hong Kong Incorporation Ordinance (Cap. 1143)*

5. The Bill proposes to repeal "foreign countries" and substitute "places outside Hong Kong" in the definition of "voting member" in paragraph 1 of the First Schedule to the Spiritual Assembly of the Baha'is of Hong Kong Incorporation Ordinance (Cap. 1143). The Administration clarifies that the policy intent is for citizens of the People's Republic of China to be included as voting members. The Spiritual Assembly of the Baha'is of Hong Kong also confirms that it has included PRC citizens as voting members before and after 1 July 1997.

*Committee Stage Amendments*

6. The Administration proposes to introduce Committee Stage Amendments to the Bill. The effect of the amendments are :

- (a) to adapt the term "立法局" to "立法會" in paragraph 19(2)(c) of the Schedule to the Tung Wah Group of Hospitals Ordinance (Cap. 1051);
- (b) to add "會" after the words "基督教" in the heading to and section 1 of Schedule 12 of the Bill when referring to the Chinese short title of the Hong Kong Council of the Church of Christ in China Incorporation Ordinance (Cap.1095).

A copy of the amendments is at Annex C. The proposed amendments deal with omissions in the Bill and are technical in nature.

7. 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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**List of Ordinances affected by the Adaptation of Laws (No. 30) Bill 1999**

<b>Item No.</b>	<b>Ordinances</b>
1.	Scout Association of Hong Kong Ordinance (Cap. 1005)
2.	Church of England Trust Ordinance (Cap. 1014)
3.	Hong Kong Girl Guides Association Ordinance (Cap. 1020)
4.	Po Leung Kuk Ordinance (Cap. 1040)
5.	Tung Wah Group of Hospitals Ordinance (Cap. 1051)
6.	Young Men's Christian Association Ordinance (Cap. 1054)
7.	Church of Christ in China, Wanchai Church, Incorporation Ordinance (Cap. 1063)
8.	Pentecostal Holiness Church Incorporation Ordinance (Cap. 1064)
9.	Brewin Trust Fund Ordinance (Cap. 1077)
10.	Tsung Tsin Mission of Hong Kong Incorporation Ordinance (Cap. 1090)
11.	Caritas - Hong Kong Incorporation Ordinance (Cap. 1092)
12.	Hong Kong Council of the Church of Christ in China Incorporation Ordinance (Cap. 1095)
13.	Heung Yee Kuk Ordinance (Cap. 1097)
14.	Prior of the Order of Cistercians of the Strict Observance Incorporation Ordinance (Cap. 1107)
15.	Hong Kong Conference of Youth Organizations Incorporation Ordinance (Cap. 1108)
16.	Li Po Chun Charitable Trust Fund Ordinance (Cap. 1110)

17. Chinese Permanent Cemeteries Ordinance (Cap. 1112)
18. Hong Kong Sea Cadet Corps Ordinance (Cap. 1134)
19. The Spiritual Assembly of the Baha'is of Hong Kong Incorporation Ordinance (Cap. 1143)
20. The Christian and Missionary Alliance (Transfer of Hong Kong Immovable Property) Ordinance (Cap. 1155)
21. Hong Kong Sheng Kung Hui Ordinance (Cap. 1157)
22. Church Body of the Hong Kong Sheng Kung Hui Ordinance (Cap. 1158)
23. Hong Kong Sheng Kung Hui Foundation Ordinance (Cap. 1159)
24. The Orthodox Metropolitanate of Hong Kong and South East Asia Ordinance (Cap. 1163)

**Adaptation of Laws (No. 30) Bill 1998**  
**Summary of the proposed amendments**

**A. Adaptation**

<b>Original Terms</b>	<b>Proposed Amendments</b>
Colony	Hong Kong
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
by the Governor at his pleasure 總督隨意	at the discretion of the Chief Executive 行政長官酌情
Her Majesty the Queen, Her Heirs or Successors 女皇陛下、其世襲繼承人或其他 繼承人	the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws 中央或香港特別行政區政府根據《基 本法》和其他法律的規定所享有
Her Majesty the Queen, Her Heirs, Successors or Assigns 女皇陛下、其世襲繼承人、繼承人或 指派人	the Government <sup>1</sup> 政府
Crown 官方	Government <sup>2</sup> 政府
in China 中國	in any other part of China 中國的任何其他部分

any of Her Majesty's Courts, whether or not within Hong Kong 女皇轄下香港或外地的任何法院	any Court in Hong Kong <sup>3</sup> 香港的任何法院
foreign countries 外國	places outside Hong Kong <sup>4</sup> 香港以外地方

## B. Repeal

The Bill proposes to repeal "or with the Sea Cadet Corps incorporated in England by Royal Charter" in section 15 of the Hong Kong Sea Cadet Corps Ordinance (Cap. 1134) so as to remove the prohibition for a person to knowingly form or work in connection with or be a member of any organization which, by the use of title or otherwise, without due authority purports or claims to be connected with the Sea Cadet Corps incorporated in England by Royal Charter.

### Notes:

- 1 Section 6(2) of the Church of England Trust Ordinance (Cap. 1014) imposes the restriction that without the previous consent of Her Majesty the Queen, Her Heirs, Successors or Assigns, the church building erected on Kowloon Inland Lot No. 1153 shall not be used for any purpose other than for a church and for erection of schools or parsonage in connection therewith, nor shall it be let, underlet, mortgaged assigned or otherwise parted with. The proposed adaptation is in accordance with Article 7 of the Basic Law.
- 2 Section 6(1)(a) of the Church of England Trust Ordinance (Cap. 1014) and the Schedule to Hong Kong Sea Cadet Corps Ordinance (Cap. 1134). See paragraph 6 of the Report for comments.
- 3 Under section 6 of the Heung Yee Kuk Ordinance (Cap. 1097), a person is disqualified to hold office as a chairman, vice-chairman, member of the Executive Committee or councillor of the Full Council if he has been convicted by any of Her Majesty's Courts, whether or not within Hong Kong of any offence for which he has been sentenced to a term of imprisonment exceeding 6 months. The proposed adaptation excludes Her Majesty's Courts outside Hong Kong.
- 4 The effect of the proposed adaptation is that citizens of places outside Hong Kong, including citizens of the People's Republic of China, whose transfers to the Baha'i community of Hong Kong have been recognized by the Assembly would be included in the definition of "voting member" in the First Schedule to The Spiritual Assembly of the Baha'is of Hong Kong Incorporation Ordinance (Cap. 1143).

ADAPTATION OF LAWS (NO. 30) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Home Affairs

Clause

Amendment Proposed

Schedule 5,  
section 3(c)

By adding -  
“(ia) in subparagraph (2) (c), by repealing “立法局” and  
substituting “立法會” ;” 。

Schedule 12,  
heading,  
section 1

By adding “會” after “基督教” 。