

Chapter:	443	THE LEGISLATIVE COUNCIL COMMISSION ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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An Ordinance to establish a Legislative Council Commission, and to provide for matters ancillary to and connected with such purpose.

(Enacted 1994)

[1 April 1994] L.N. 209 of 1994

(Originally 14 of 1994)

Part:	I	PRELIMINARY		30/06/1997
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(Enacted 1994)

Section:	1	Short title		30/06/1997
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- (1) This Ordinance may be cited as The Legislative Council Commission Ordinance.
- (2) (Omitted as spent)

(Enacted 1994)

Section:	2	Interpretation	L.N. 163 of 2013	03/03/2014
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In this Ordinance, unless the context otherwise requires-

"Chairman" (主席) means the Chairman of the Commission and any person acting in the place of the Chairman under section 5(9);

"Commission" (管理委員會) means The Legislative Council Commission established by section 3;

"Company" (公司) means The Legislative Council Secretariat incorporated under the Companies Ordinance (Cap 32) as in force at the time of the incorporation; (Amended 28 of 2012 ss. 912 & 920)

"Council" (立法會) means the Legislative Council but during the existence of the Provisional Legislative Council after the commencement of The Legislative Council Commission (Amendment) Ordinance 1997 (115 of 1997) (hereinafter referred to as "the amending Ordinance"), means the Provisional Legislative Council; (Replaced 115 of 1997 s. 3)

"Deputy Chairman" (副主席) means the Deputy Chairman of the Commission;

"member" (成員) means a member of the Commission;

"Secretariat" (秘書處) means the Legislative Council Secretariat but during the existence of the Provisional Legislative Council after the commencement of the amending Ordinance, means the Provisional Legislative Council Secretariat; (Replaced 115 of 1997 s. 3)

"Secretary General" (秘書長) means the Secretary General of the Legislative Council Secretariat appointed under section 15(1) and any person acting in his place under section 15(4).

(Enacted 1994)

Part:	II	THE COMMISSION		30/06/1997
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(Enacted 1994)

Section:	3	Establishment of the Commission	115 of 1997 s. 4	01/07/1997
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(1) There is hereby established a body corporate to be known as The Legislative Council Commission which may sue and be sued in that name. (Amended 115 of 1997 s. 4)

(2) Notwithstanding subsection (1), after the commencement of the amending Ordinance, the body corporate established under that subsection-

- (a) shall be known as "立法會行政管理委員會" in Chinese; and
- (b) may also be known, during the existence of the Provisional Legislative Council, as "The Provisional Legislative Council Commission". (Added 115 of 1997 s. 4)

(Enacted 1994)

Section:	4	Membership	115 of 1997 s. 5	01/07/1997
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(1) The Commission shall consist of the following members-

- (a) the President of the Council, who shall be the Chairman of the Commission;
- (b) the Chairman of the House Committee of the Council, who shall be the Deputy Chairman of the Commission;
- (c) the Deputy Chairman of the House Committee of the Council;
- (d) the persons who are members of the Executive Committee of the Company immediately before the commencement of this Ordinance and who do not become members of the Commission by virtue of paragraph (a), (b) or (c);
- (da) the persons who are members (including the Convenor and Deputy Convenor) of the Working Group on Administrative Matters of the Provisional Legislative Council immediately before the commencement of the amending Ordinance and who do not become members of the Commission by virtue of paragraph (a), (b) or (c); (Added 115 of 1997 s. 5)
- (e) not more than 10 other members elected, in such manner as the Council may determine, by and from amongst the members of the Council. (Amended 80 of 1997 s. 43; 115 of 1997 s. 5)

(2) The Council may by resolution amend the number of members referred to in subsection (1)(e).

(Enacted 1994)

Section:	5	Office of members	115 of 1997 s. 6	01/07/1997
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(1) Subject to subsection (8), a member shall cease to hold office if he ceases to be a member of the Council.

(2) Without prejudice to subsection (1), a person who becomes a member by virtue of section 4(1)(d) or (da) shall cease to hold his office upon the election of members under section 4(1)(e) next after the commencement of this Ordinance or the amending Ordinance, as the case may be. (Amended 115 of 1997 s. 6)

(3) Without prejudice to subsection (1), a member elected under section 4(1)(e) shall cease to hold his office as such if-

- (a) he becomes the President of the Council;
- (b) he becomes the Chairman of the House Committee of the Council; or
- (c) he becomes the Deputy Chairman of the House Committee of the Council.

(4) The terms of the office of the members elected under section 4(1)(e) shall be such period not exceeding 1 year as the Council may determine at the time of the election.

(5) Past service is no bar to becoming a member under section 4(1)(a), (b), (c) or (da) or re-election as a member under section 4(1)(e). (Amended 115 of 1997 s. 6)

(6) A member elected under section 4(1)(e) may at any time resign his office by notice in writing to the Chairman, and the resignation shall take effect-

- (a) from the date specified in the notice or on the date of receipt of the notice by the Chairman, whichever is later; or
- (b) if no date is specified in the notice, on receipt of the notice by the Chairman.

(7) Where a member-

- (a) dies;
- (b) ceases to hold office pursuant to subsection (1) or (3); or
- (c) resigns his office under subsection (6),

the Commission may, in such manner as it sees fit, appoint a member of the Council in his place to hold the office until such time when the term of office of the former member would have expired had he not died, ceased to hold office or resigned his office, as the case may be. (Amended 80 of 1997 s. 44; 115 of 1997 s. 6)

(8) Upon a dissolution of the Council-

- (a) the person who becomes the Chairman by virtue of section 4(1)(a) shall remain in office of the Chairman until the election of the President of the Council;
- (b) the person who becomes the Deputy Chairman by virtue of section 4(1)(b) shall remain in office of the Deputy Chairman until the election of the Chairman of the House Committee of the Council;
- (c) the person who becomes a member by virtue of section 4(1)(c) shall remain as a member until the election of the Deputy Chairman of the House Committee of the Council,

next after the commencement of the session of the Council next after such dissolution.

(9) Where the Chairman is unable by reason of absence from Hong Kong or incapacity to perform his functions the Deputy Chairman or, if the office of the Deputy Chairman is vacant or the Deputy Chairman is also unable by reason of absence from Hong Kong or incapacity to perform his functions, the member who becomes a member by virtue of section 4(1)(c), shall act in the place of the Chairman.

(Enacted 1994)

Section:	6	Meetings of Commission	30/06/1997
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(1) Meetings of the Commission shall be held at such time and place as the Commission or the Chairman may from time to time appoint.

(2) The following provisions shall apply to every meeting of the Commission-

- (a) the quorum shall-
 - (i) where the meeting is held during the sessions of the Council, be such number of members not less than 4 as may be determined by the Commission;
 - (ii) where the meeting is held at a time when the Council has been dissolved, be 2 members;
- (b) the Chairman or, in his absence or where he is required to vacate the chair under section 7(c), the Deputy Chairman shall preside or, if the Deputy Chairman is also absent or required to vacate the chair under section 7(c), the other members present at the meeting shall appoint one of their number to preside;
- (c) every question shall be determined by a majority of votes of the members present at the meeting and voting thereon;
- (d) in the event of an equality of votes the member presiding shall have a casting vote in addition to his original vote.

(Enacted 1994)

Section:	7	Disclosure of members' interest	30/06/1997
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If a member of the Commission or any committee of the Commission has a direct pecuniary interest in any matter under discussion at a meeting of the Commission or committee, being an interest greater than that which he has as a member of the general public, the following provisions shall apply-

- (a) the member shall disclose the nature of his interest at the meeting;
- (b) the disclosure shall be recorded in the minutes;
- (c) where the disclosure is made by the member presiding, he shall, if so required by the majority of the other members present at the meeting, vacate the chair during the discussion;
- (d) the member (including one who has vacated the chair under paragraph (c)) shall, if so required by the majority of the other members present at the meeting, withdraw from the meeting during the discussion and shall not in any case, except as otherwise determined by the majority of such members, vote on any resolution concerning the matter or be counted for the purpose of establishing the existence of a quorum.

(Enacted 1994)

Section:	8	Regulation of procedure	115 of 1997 s. 7	01/07/1997
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(1) The Council may, in such manner as it sees fit, make rules of procedure to regulate the conduct of the business and procedure of the Commission.

(2) Subject to this Ordinance and any direction given under section 17(2) and any rules of procedure made under subsection (1), the Commission may determine and regulate its own procedure.

(Enacted 1994. Amended 115 of 1997 s. 7)

Section:	9	Functions of the Commission	30/06/1997
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The functions of the Commission shall be-

- (a) to provide through the Secretariat administrative support and services to the Council;
- (b) to provide office accommodation to the members of the Council and staff of the Secretariat;
- (c) to supervise the operation of the Secretariat;
- (d) to produce an official report of all proceedings in the Council and in any committee of the whole Council; and
- (e) to perform such other duties as the Council may by resolution determine.

(Enacted 1994)

Section:	10	Powers of the Commission	30/06/1997
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(1) The Commission may-

- (a) acquire, hold or dispose of property of any description;
- (b) subject to subsection (2), employ staff in the Secretariat, dismiss and discipline such staff and determine their numbers, grading, duties, remuneration and other terms and conditions of service;
- (c) engage the services of such professional or technical advisers as the Commission sees fit;
- (d) determine the structure and the functions of the Secretariat;
- (e) formulate and execute such managerial and financial policies as the Commission considers expedient to the performance of its functions;
- (f) cause to be prepared annual estimates of income and expenditure and programme of activities of the Commission;
- (g) determine the financial procedure of the Secretariat;
- (h) receive and expend funds;
- (i) accept donations and gifts;
- (j) invest and deal with the money of the Commission which is not immediately required in such manner as it sees fit;
- (k) enter into, carry out, assign or accept the assignment of, vary or rescind any contract, agreement or other obligation;
- (l) enter into such arrangement with the Government or other authority as the Commission considers expedient to the performance of its functions;
- (m) charge a fee for any service provided by the Commission;
- (n) set up such committees as the Commission sees fit for the better performance of the functions of the Commission and determine their membership, functions, powers and procedures;
- (o) do such other incidental act or thing or exercise such power as is necessary for the performance of the functions imposed on the Commission under this Ordinance or any other enactment.

(2) The Commission shall ensure that the grading, remuneration and other terms and conditions of service of staff of the Secretariat are kept, subject to the Commission's discretion to make exceptions in such cases as it sees fit, broadly in line with those applicable to persons employed in the Civil Service of the Government.

(Enacted 1994)

Section:	11	Delegation	30/06/1997
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(1) The Commission may delegate any of its functions or powers, whether imposed or conferred by this Ordinance or any other enactment, other than the power to appoint the Secretary General, to the Secretary General or any committee or any other staff of the Commission.

(2) A delegation under subsection (1) may be conditional or qualified and may be revoked.

(3) A delegation under this section shall not preclude the Commission from performing the function or exercising the power so delegated.

(Enacted 1994)

Part:	III	FINANCIAL PROVISIONS AND REPORTS		30/06/1997
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(Enacted 1994)

Section:	12	Resources of Commission		30/06/1997
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The resources of the Commission shall consist of-

- (a) all money-
 - (i) paid by the Government to the Commission and appropriated for that purpose by the Council; and
 - (ii) otherwise provided to the Commission by the Government; and
- (b) all other money and property, including gifts, donations, fees, rent, interest and accumulations of income received by the Commission.

(Enacted 1994)

Section:	13	Financial year, accounts and annual report of the Commission		30/06/1997
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(1) The financial year of the Commission shall be the period of 12 months beginning on 1 April, but its first financial year shall commence on the commencement of this Ordinance and end on 31 March 1995.

(2) The Commission shall keep proper accounts and records of all its financial transactions.

(3) After the expiry of a financial year, the Commission shall-

- (a) prepare a statement of accounts of it, which shall include an income and expenditure account and a balance sheet; and
- (b) cause the statement of accounts to be audited by such auditor as the Commission may appoint.

(4) The auditor by whom an audit required under subsection (3)(b) is carried out shall make a written report thereon to the Commission.

(5) The Commission shall, as soon as practicable after the expiry of a financial year, cause-

- (a) a report on the activities of the Commission for that year;
- (b) a copy of the statement of accounts required under subsection (3) for that year; and
- (c) a copy of the auditor's report required under subsection (4) for that year,

to be tabled in the Council.

(6) In this section "auditor" (核數師) means a person who for the time being is registered under the Professional Accountants Ordinance (Cap 50) and holds a practising certificate within the meaning of that Ordinance.

(Enacted 1994)

Section:	14	Director of Audit's examination	71 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 2000 s. 3

(1) The Director of Audit may, in respect of any financial year, conduct an examination into the economy, efficiency and effectiveness with which the Commission has expended its resources in performing its functions and exercising its powers.

(2) The Director of Audit shall have a right of access at all reasonable times to all such documents or information in the custody and control of the Commission as he may reasonably require for conducting an examination under this section and shall be entitled to require, from any person holding or being accountable for any such document or information, such information and explanation as he considers reasonably necessary for that purpose.

(3) The Director of Audit may report to the Chief Executive and the President of the Council the results of an examination conducted by him under this section. (Amended 71 of 2000 s. 3)

(Enacted 1994)

Part:	IV	MISCELLANEOUS		30/06/1997
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(Enacted 1994)

Section:	15	Secretariat and Secretary General	115 of 1997 s. 8	01/07/1997
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- (1) The Secretariat shall consist of-
 - (a) the Secretary General, who shall be appointed by the Commission; and
 - (b) the other staff employed by the Commission in exercise of its power under section 10(1)(b).
- (2) The Secretary General shall be the chief executive of the Secretariat and shall be responsible to the Chairman for the administration of the Secretariat.
- (3) The Secretary General shall be the Clerk to the Council. (Amended 115 of 1997 s. 8)
- (4) If the Secretary General is unable by reason of absence from Hong Kong or incapacity to perform his functions or if for any period the office is vacant, the Commission may appoint a person to act in the place of the Secretary General.

(Enacted 1994)

Section:	16	Secretary General as controlling officer		30/06/1997
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(1) For the purposes of the Public Finance Ordinance (Cap 2), the Secretary General shall be deemed to be a public officer and shall be designated as the controlling officer in respect of the estimates of expenditure of the Commission under section 12 of that Ordinance.

(2) Section 13 of the Public Finance Ordinance (Cap 2) shall not apply to the Secretary General in relation to regulations, directions or instructions made or given by the Financial Secretary under section 11 of that Ordinance which are concerned solely with the expenditure of the Commission unless the Financial Secretary has consulted the Commission before such regulations, directions or instructions are made or given.

(Enacted 1994)

Section:	17	Commission subject to Council's direction only		30/06/1997
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(1) Subject to subsection (2), the Commission shall not, in relation to the formulation and execution of managerial and financial policies of it or the Secretariat, be subject to any direction or control of any person.

(2) The Council may by resolution give directions of a general or specific character to the Commission in relation to the performance of its functions or the exercise of its powers and the Commission shall comply with those directions.

(Enacted 1994)

Section:	18	Commission may act notwithstanding vacancies, etc.		30/06/1997
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The Commission may act notwithstanding any vacancy in the membership and its proceedings shall not be invalidated by reason of a defect in the election or qualification of a member.

(Enacted 1994)

Section:	19	Commission not servant or agent of the Government	115 of 1997 s. 9	01/07/1997
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The Commission is neither the servant nor agent of the Government nor does it enjoy any status, immunity or privilege of the Government.

(Enacted 1994. Amended 115 of 1997 s. 9)

Section:	20	Protection of members		30/06/1997
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(1) No member acting in good faith shall be personally liable for any act done or default made by or on behalf of the Commission in the performance or purported performance of the functions, or the exercise or purported exercise of the powers imposed or conferred on the Commission under this Ordinance or any other enactment.

(2) The protection conferred under subsection (1) on members in respect of any act or default shall not in any way affect the liability of the Commission for that act or default.

(Enacted 1994)

Section:	21	Unauthorized use of the Commission's name		30/06/1997
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(1) A person shall not incorporate, form, be a director, office-bearer or organizer of, or work in connection with, or be a member of, any body of persons, whether corporate or unincorporate, which, without the written consent of the Commission-

- (a) holds itself out to be-
 - (i) the Commission or a part thereof; or
 - (ii) in any way connected or associated with the Commission;
- (b) uses the title "The Legislative Council Commission" or a title in any language which so closely resembles that title that it is capable of misleading any person into believing that the body of persons is-
 - (i) the Commission or a part thereof; or
 - (ii) in any way connected or associated with the Commission.

(2) Any person who contravenes subsection (1) commits an offence and is liable-

- (a) on summary conviction, to a fine of \$2500 and to imprisonment for 3 months; and
- (b) on conviction on indictment, to a fine of \$5000 and to imprisonment for 6 months.

(Enacted 1994)

Section:	22	Dissolution of Company and transfer of property, etc.	L.N. 163 of 2013	03/03/2014
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(1) Notwithstanding-

- (a) any provisions in the memorandum of association or articles of association of the Company governing the winding up or dissolution of the Company; and
- (b) the provisions of any other Ordinance,

the Company shall, on the commencement of this Ordinance, be deemed to be dissolved under section 291A(1) of the Companies Ordinance (Cap 32) as in force at the time of that commencement as if, on that commencement, the Court of First Instance had made an order under that section that the Company be struck off the register of companies and dissolved and, accordingly, the Registrar of Companies shall as soon as practicable after that commencement strike the Company off the register. (Amended 25 of 1998 s. 2; 28 of 2012 ss. 912 & 920)

(2) For the avoidance of doubt, it is hereby declared that-

- (a) section 765(1) of the Companies Ordinance (Cap 622) shall not apply;
- (b) section 757 of the Companies Ordinance (Cap 622) shall apply, (Amended 28 of 2012 ss. 912 & 920)

to the Company.

(3) All property, whether movable (including choses in action) or immovable, which immediately before the commencement of this Ordinance was vested in or belonged to or was held in trust or subject to conditions for the Company and all rights, powers and privileges relating to or connected with any such property, shall on the commencement of this Ordinance, without any conveyance or assignment, be transferred to and vested in or become the property of, or property held in trust or subject to conditions for, the Commission.

(4) All property transferred by this section which immediately before the commencement of this Ordinance was standing in the books of any bank or was registered in the books of any bank, corporation or company in the name of the Company shall, upon the request of the Commission made at any time on or after the commencement of this Ordinance, be transferred in those books by the bank, corporation or company into the name of the Commission.

(5) Every chose in action transferred by this section may, on or after the commencement of this Ordinance, be sued upon, recovered, or enforced by the Commission in its own name and it shall not be necessary for the Commission to give notice to the person bound by any such chose in action of the transfer effected by this section.

(6) Every debt or other liability (including unliquidated liabilities arising from torts or breaches of a contract) which immediately before the commencement of this Ordinance is owing and unpaid or has been incurred and is undischarged by the Company shall, on such commencement, become and be the debt or liability of the Commission and shall be paid or discharged by and may be recovered from and shall be enforceable against the Commission accordingly.

(7) Every contract which was entered into and is in force immediately before the commencement of this

Ordinance between the Company and any person shall continue in force on and after such commencement, but it shall be construed and have effect as if the Commission were substituted therein for the Company and shall be enforceable by or against the Commission accordingly.

(8) All documents or instruments existing immediately before the commencement of this Ordinance to which the Company was a party or in which any reference was made to the Company shall be construed and have effect on and from such commencement as if-

- (a) the Commission had been a party thereto instead of the Company;
- (b) for any reference (whether express or implied) to the Company there were substituted, as respects anything falling to be done on or after such commencement, a reference to the Commission.

(9) Where, immediately before the commencement of this Ordinance, any legal proceedings to which the Company is a party are pending, the name of the Commission shall be substituted for that of the Company and the proceedings shall not abate by reason of such substitution.

(10) The Stamp Duty Ordinance (Cap 117) shall not apply to the vesting in the Commission of property or rights transferred by this section.

(Enacted 1994)

Section:	22A	Transfer of property, etc. to Commission	115 of 1997 s. 10	01/07/1997
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(1) All property, whether movable (including choses in action) or immovable, which immediately before the commencement of the amending Ordinance was vested in or belonged to any person acting as the President, or acting in or on the behalf, of the Provisional Legislative Council or was held in trust or subject to conditions for the Provisional Legislative Council and all rights, powers and privileges relating to or connected with any such property, shall on the commencement of the amending Ordinance, without any conveyance or assignment, be transferred to and vested in or become the property of, or property held in trust or subject to conditions for, the Commission.

(2) All property transferred by this section which immediately before the commencement of the amending Ordinance was standing in the books of any bank or was registered in the books of any bank, corporation or company in the name of any person shall, upon the request of the Commission made at any time on or after the commencement of the amending Ordinance, be transferred in those books by the bank, corporation or company into the name of the Commission.

(3) Every chose in action transferred by this section may, on or after the commencement of the amending Ordinance, be sued upon, recovered, or enforced by the Commission in its own name and it shall not be necessary for the Commission to give notice to the person bound by any such chose in action of the transfer effected by this section.

(4) Every debt or other liability (including unliquidated liabilities arising from torts or breaches of a contract) incurred by any person acting as the President, or acting in or on the behalf, of the Provisional Legislative Council which immediately before the commencement of the amending Ordinance is owing and unpaid or has been incurred and is undischarged shall, on such commencement, become and be the debt or liability of the Commission and shall be paid or discharged by and may be recovered from and shall be enforceable against the Commission accordingly.

(5) Every contract which was entered into between any person acting as the President, or acting in or on the behalf, of the Provisional Legislative Council and any other person and is in force immediately before the commencement of the amending Ordinance shall continue in force on and after such commencement, but it shall be construed and have effect as if the Commission were substituted therein for the first-mentioned person and shall be enforceable by or against the Commission accordingly.

(6) All documents or instruments existing immediately before the commencement of the amending Ordinance to which any person was a party as the President, or in or on the behalf, of the Provisional Legislative Council or in which any reference was made to such person shall be construed and have effect on and from such commencement as if-

- (a) the Commission had been a party thereto instead of that person;
- (b) for any reference (whether express or implied) to that person there were substituted, as respects anything falling to be done on or after such commencement, a reference to the Commission.

(7) Where, immediately before the commencement of the amending Ordinance, any legal proceedings to which any person acting as the President, or acting in or on the behalf, of the Provisional Legislative Council is a party are pending, the name of the Commission shall be substituted for that of such person and the proceedings shall not abate by reason of such substitution.

(8) The Stamp Duty Ordinance (Cap 117) shall not apply to the vesting in the Commission of property or rights transferred by this section.

(Added 115 of 1997 s. 10)

Section:	23	Application*	2 of 2009	08/05/2009
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This Ordinance applies to the Government and the Offices set up by the Central People's Government in the Hong Kong Special Administrative Region.

(Enacted 1994. Amended 115 of 1997 s. 11; 2 of 2009 s. 3)

Note:

* (Amended 2 of 2009 s. 3)

Section:	24	(Omitted as spent)		30/06/1997
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(Omitted as spent)

(Enacted 1994)

Schedule:		SCHEDULE (Omitted as spent)		30/06/1997
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(Omitted as spent)

(Enacted 1994)

Note-Please also see s. 12 of 115 of 1997, which section reads as follows-

"12. Consequential amendments to and transitional construction of "Legislative Council Secretariat", etc.

In any other Ordinance, any reference to-

- (a) "立法局行政管理委員會" or "立法局秘書處" is amended by repealing "立法局" and substituting "立法會";
- (b) "Legislative Council Secretariat" shall, if applicable, be construed as a reference to "Provisional Legislative Council Secretariat".