

**Adaptation of Laws (Military References) Bill 2010
Adaptation Proposals**

Schedule 1

| Section | Legislation | Proposed Adaptation | Justifications |
|---------|---|--|---|
| 58 | Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211 sub. leg. A), Regulation 13(1)(a) | The controller on duty when an aerial ropeway is in operation shall ensure that there is not carried on the ropeway – (a) any arms or ammunition except those carried by members of Her Majesty's forces <u>the Chinese People's Liberation Army</u> or by any public officer while on duty; | Cap. 211 sub. leg. A makes provisions for the operation and maintenance of aerial ropeways. Regulation 13(1)(a) provided exemption for members of Her Majesty's forces from the prohibition to carry arms or ammunition on the aerial ropeway while on duty. In general, according to the principles of adaptation of laws, the term "Her Majesty's forces" is proposed to be adapted to "the Chinese People's Liberation Army", except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to "the Hong Kong Garrison". It is therefore proposed to adapt the term "Her Majesty's forces" to "the Chinese People's Liberation Army". The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 1 of Schedule 8 to Cap.1. |
| 59 | Weapons Ordinance (Cap. 217), Section 3(a) | Part II does not apply to the possession of any prohibited weapon or martial arts weapon by any person – (a) on behalf of Her Majesty's Government including possession by an officer or member of | Part II of Cap. 217 makes provisions on possession of prohibited and martial arts weapon. Before the Reunification, Her Majesty's Government, officer or member of any of Her Majesty's forces enjoyed |

| Section | Legislation | Proposed Adaptation | Justifications |
|----------------|--|--|---|
| | | <p>any of Her Majesty's forces who is in possession of any prohibited weapon or martial arts weapon in his capacity as such; or <u>(a) on behalf of Her Majesty's Government the Central People's Government, including possession by an officer or member of the Chinese People's Liberation Army who is in possession of any prohibited weapon or martial arts weapon in his capacity as such; or</u></p> | <p>exemption and were not regulated by the provision.</p> <p>As such, the Adaptation Bill proposes to adapt the term-</p> <ul style="list-style-type: none"> (i) "Her Majesty's Government" to "the Central People's Government"; and (ii) "an officer or member of any of Her Majesty's forces" to "any officer or member of the Chinese People's Liberation Army". <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 1 of Schedule 8 to Cap.1.</p> |
| 60(1) 60(2) | Summary Offences Ordinance (Cap. 228), Section 29(2) | <p>No person shall smoke on board any vessel whatsoever which is in any naval dock or naval dockyard or alongside any naval premises:</p> <p>Provided that –</p> <ul style="list-style-type: none"> (a) this section shall not apply to any person who is a member of Her Majesty's naval force<u>the Chinese People's Liberation Army</u>; and (b) it shall be lawful for the Senior Naval Officer in Hong Kong<u>senior naval commander of the Hong Kong Garrison</u> to grant such exemptions from the provisions of this subsection as he may think fit. | <p>The Ordinance makes provisions relating to summary offences.</p> <p>Section 29 prohibits any person from smoking on board any vessel whatsoever which is in any naval dock or naval dockyard or alongside any naval premises. Section 29(2) provides exemption for members of Her Majesty's naval forces.</p> <p>The Chinese People's Liberation Army only makes differentiation regarding the posts but not the units of the naval, army and air forces, which are collectively known as "the Chinese People's Liberation Army". It is therefore proposed to adapt the term "Her Majesty's naval forces" to "the Chinese People's Liberation Army".</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|-------------------------|--|---|---|
| | | | <p>As the reference “Senior Naval Officer in Hong Kong” refers to the right enjoyed by a specific naval officer and such responsibility is exercised by the senior naval commander of the Hong Kong Garrison, it is proposed to adapt the relevant term as “senior naval commander of the Hong Kong Garrison”.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 1 of Schedule 8 to Cap.1.</p> |
| 61(1) 61(2) 61(3) | Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), Section 5 | <p>5(1) An annual levy at the rate specified in Part I of the Schedule shall be payable in respect of-</p> <p>(c) every motor vehicle owned by the Crown whether in right of Her Majesty's Government in Hong Kong or in the United Kingdom<u>Government or the Hong Kong Garrison</u>;</p> <p>5(2) A levy payable under subsection (1)(c) in respect of motor vehicles in the possession of Her Majesty's forces<u>possession of the Hong Kong Garrison</u> shall be so payable in respect only of such motor vehicles which the Secretary for Security certifies, at the time when the levy is payable, to be part of the vehicle establishment of any unit of Her Majesty's forces in Hong Kong<u>Hong Kong Garrison</u>.</p> <p>5(7) In the case of a motor vehicle to which subsection (1)(c) applies the levy shall be payable by the Crown in right of Her Majesty's Government in Hong Kong<u>Government</u> from general revenue not later than 1 June 1979 and thereafter at intervals of 12 months</p> | <p>This Ordinance makes provision for the creation of a welfare fund for providing assistance to traffic accident victims and the charging of levies on each vehicle which is licensed or is required to be registered and licensed in accordance with the Road Traffic Ordinance (Cap. 374), as well as each driver who is holder of a valid full driving licence, learner's driving licence, temporary driving licence or probationary driving licence issued under the Road Traffic (Driving Licences) Regulation (Cap. 374 sub. leg. B).</p> <p><u>Section 5(1)</u> stipulates the levy for the welfare fund in respect of every motor vehicle which is operated in Hong Kong, included those belonged to the former Hong Kong Government and Government of the United Kingdom before the Reunification.</p> <p>Before the Reunification, other than the vehicles and members of the former British Forces stationed in Hong Kong, the non-military vehicles and drivers of the Government of the United Kingdom obtained</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|---------|-------------|--|---|
| | | calculated from the date of the first payment. | <p>registration and driving licences respectively in accordance with the Road Traffic Ordinance (Cap. 374). However, the vehicles used by Her Majesty's forces were exempt from registration and licensing under the Road Traffic (Registration and Licensing of Vehicles) Regulation (Cap. 374, sub. leg. E). Members of Her Majesty's forces were also exempt from applying full driving licences under the Road Traffic (Driving Licences) Regulations (Cap. 374, sub. leg. B).</p> <p>Section 5(1)(a) of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229) stipulates that a levy shall be payable in respect of every motor vehicle which is licensed or is required to be registered and licensed in accordance with the Road Traffic Ordinance (Cap. 374). Before the Reunification, the non-military vehicles of the Crown in right of Her Majesty's Government in the United Kingdom paid the levy in accordance with section 5(1)(a) whereas the military vehicles of the British Forces paid levy by the Crown in right of Her Majesty's Government in Hong Kong from general revenue in accordance with section 5(1)(c) and 5(7). After the Reunification, vehicles of the Hong Kong Garrison are exempt from registration under Road Traffic (Registration and Licensing of Vehicles) Regulation (Cap. 374, sub. leg. E), it is therefore proposed to adapt the term "Crown in right of Her Majesty's Government in the United Kingdom" to "the Hong Kong Garrison".</p> <p><u>Section 5(2)</u> stipulates that a levy payable under subsection 5(1)(c) in respect of motor vehicles "in the</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|---------|-------------|---------------------|---|
| | | | <p>possession of Her Majesty’s forces” before the Reunification shall be so payable in respect only of such motor vehicles which the Secretary for Security certifies, at the time when the levy was payable, to be part of the vehicle establishment of any unit of Her Majesty’s forces in Hong Kong. As such condition only applied to the former British Forces stationed in Hong Kong, it is therefore proposed to adapt the relevant term to “the Hong Kong Garrison”.</p> <p><u>Section 5(7)</u> stipulates that the then Hong Kong Government shall pay the levy in respect of vehicles owned by the Crown for the traffic accident victims assistance fund in accordance with section 5(1)(c). Before the Reunification, the levy in respect of the vehicles and drivers of the former British Forces stationed in Hong Kong were paid from the general revenue in accordance with section 5(7) and 6(5).</p> <p>In the Chinese version, the term “香港政府” should have been adapted as “特區政府”. Considering that the term “政府” has been used in other existing provisions for references relating to the Government of the Hong Kong Special Administrative Region in the Ordinance, it is therefore proposed to adapt the relevant term as “政府” to ensure consistency of the relevant provisions in the Ordinance. In Cap. 1, “Government” (特區政府) means the Government of the Hong Kong Special Administrative Region.</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|---|--|---|--|
| 62(1) 62(2) 62(3) 62(4) 62(5) | Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), Section 6(1) and 6(5) | <p>Levy on licence holders <u>and members of Hong Kong Garrison</u></p> <p>(1) A levy at the rate specified in Part II of the Schedule shall be payable by-</p> <p>(b) the Crown<u>Government</u> in respect of every person in the public service of the Crown<u>Government</u> who, not being the holder of a valid full driving licence, learner's driving licence or temporary driving licence issued under the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B), is at the date of payment of the levy the holder of a valid driving licence to drive Government vehicles issued under the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B) or other authorization permitting that person to drive a vehicle belonging to the Crown<u>Government</u>;</p> <p><u>(c) the Government in respect of every member of the Hong Kong Garrison who, not being the holder of a valid full driving licence, learner's driving licence or temporary driving licence issued under the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B), is at the date of payment of the levy permitted by the Commander of the Hong Kong Garrison to drive a vehicle belonging to the Hong Kong Garrison.</u></p> <p>(5) The levy under subsection (1)(b) <u>and (c)</u> shall be payable by the Crown<u>Government</u> from the general revenue not later than 1 June 1979 and thereafter at intervals of 12 months calculated from the date of the first</p> | <p>Section 6(1)(b) stipulates that a levy shall be payable by the Crown in respect of every person in the "public service of the Crown" who holds a valid driving licence to drive Government vehicles issued under Cap. 374 sub. leg. B or other authorization permitting that person to drive a vehicle belonging to the Crown.</p> <p>As aforementioned, before the Reunification, drivers of the former British Forces stationed in Hong Kong were not required to obtain a full driving licence, learner's driving licence, temporary driving licence or probationary driving licence issued under the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B). Before the Reunification, the levy in respect of vehicles and drivers of the former British Forces stationed in Hong Kong for the Traffic Accident Victims Assistance Fund were paid from the general revenue in accordance with section 5(7) and 6(5).</p> <p>In Section 6(1), the term "Crown" covered the former Hong Kong Government and the British Forces stationed in Hong Kong before the Reunification, it is therefore proposed to adapt the relevant term as "Government", and add a subsection (c) and a reference in the heading to include "members of the Hong Kong Garrison" in order to reflect the legislative intent of the Ordinance.</p> <p>Before the Reunification, though members of the former British Forces stationed in Hong Kong were exempt from applying for full driving licences under the Road Traffic (Driving Licences) Regulation (Cap.</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|----------------------------------|---|---|---|
| | | payment. | <p>374, sub. leg. B), they were still required to obtain permission from the then Commander, British Forces before they could drive any vehicles. It is therefore proposed to adapt the relevant reference “or other authorization permitting that person to drive a vehicle belonging to the Crown” to “permitted by the Commander of the Hong Kong Garrison to drive a vehicle belonging to the Hong Kong Garrison”.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 2 of Schedule 8 to Cap.1.</p> <p><u>Section 6(5)</u> is a consequential amendment to the adaptation proposal to Section 62(4) of the Adaptation Bill.</p> |
| 62(6) 62(7) 62(8) 62(9) | Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), Section 6(6) | <p>In this section, "person in the public service of the Crown<u>Government</u>" (<u>官方政府公共服務人員</u>) means a person who is-</p> <p>(a) a public officer; <u>or</u></p> <p>(b) a member of Her Majesty's forces serving in Hong Kong; or</p> <p>(c) a member of-</p> <p>(ii) the Royal Hong Kong Auxiliary Air Force<u>Government Flying Service</u>;</p> | <p>The provision provides definition on the expression “person in the public service of the Crown”. In this Ordinance, the definition of “person in the public service of the Crown” covered the then public officers, members of Her Majesty’s Forces and members of certain groups.</p> <p>As the part on the Hong Kong Garrison has been separately dealt with in section 6(1)(c), it is therefore proposed to delete the reference “a member of Her Majesty’s forces serving in Hong Kong” from the proposed definition of “person in the public service of the Government”. The adaptation of the “Crown” to the “Government” is made in accordance with the principles of adaptation of laws.</p> |

| Section | Legislation | Proposed Adaptation | Justifications | | | | | | | | |
|----------------------------------|---|--|---|--------------------------------------|---|--|----|---|------|------|---|
| | | | <p>As the duties of the Royal Hong Kong Auxiliary Air Force in this section are now carried out by the Government Flying Service, it is therefore proposed to adapt the relevant term to the “Government Flying Service”.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 2 of Schedule 8 to Cap.1.</p> | | | | | | | | |
| 63 | Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), Section 7(2) | <p>Any unpaid annual levy or levy due from any person other than the Crown shall be recoverable as a debt due to the Crown <u>Government is recoverable as a debt due to the Government.</u></p> | <p>The provision stipulates that any unpaid levy is recoverable as a debt due to the Government. It is therefore proposed to adapt the term “Crown” to “Government”.</p> <p>The adaptation proposal is prepared by making reference to section 2 of Schedule 8 to Cap.1.</p> | | | | | | | | |
| 64(1) 64(2) 64(3) 64(4) | Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229), Schedule, Part II | <p><u>LEVY ON HOLDERS OF DRIVING LICENCES AND MEMBERS OF HONG KONG GARRISON</u></p> <table border="1" data-bbox="495 1098 1323 1477"> <thead> <tr> <th data-bbox="495 1098 562 1305">Item</th> <th data-bbox="562 1098 902 1305">Type of Licence or <u>Permission</u></th> <th data-bbox="902 1098 1093 1305">Annual Levy in respect of a levy paid in 1994</th> <th data-bbox="1093 1098 1323 1305">Annual Levy in respect of a levy paid after 1994</th> </tr> </thead> <tbody> <tr> <td data-bbox="495 1305 562 1477">4.</td> <td data-bbox="562 1305 902 1477">Driving licence or other authorization permitting a person in the public service of the</td> <td data-bbox="902 1305 1093 1477">\$28</td> <td data-bbox="1093 1305 1323 1477">\$38</td> </tr> </tbody> </table> | Item | Type of Licence or <u>Permission</u> | Annual Levy in respect of a levy paid in 1994 | Annual Levy in respect of a levy paid after 1994 | 4. | Driving licence or other authorization permitting a person in the public service of the | \$28 | \$38 | <p>Adding “or Permission” in the heading of the second column is a consequential amendment to the adaptation proposal to Section 62(4) of Schedule 1 to the Adaptation Bill. The relevant “Permission” is a written form of certification provided by the Hong Kong Garrison in permitting its members to drive its vehicles.</p> |
| Item | Type of Licence or <u>Permission</u> | Annual Levy in respect of a levy paid in 1994 | Annual Levy in respect of a levy paid after 1994 | | | | | | | | |
| 4. | Driving licence or other authorization permitting a person in the public service of the | \$28 | \$38 | | | | | | | | |

| Section | Legislation | Proposed Adaptation | | | Justifications | |
|---------|---|--|---|---|--|--|
| | | | Crown to drive a vehicle owned by the Crown Government to drive a vehicle belonging to the Government | | | |
| | | 5. | Permission permitting a member of the Hong Kong Garrison to drive a vehicle belonging to the Hong Kong Garrison | = | \$38 | |
| 65 | Public Bus Services Regulations (Cap. 230 sub. leg. A), Regulation 13(5)(d) | In this regulation “proof of identity” (身分證明) in relation to any passenger means – (d) documentary proof of identity officially issued to him for the purpose of his service in Her Majesty’s regular naval, military or air forces <u>the Chinese People’s Liberation Army</u> ; or | | | <p>The Ordinance makes provisions for the granting of franchises to operate public bus services on specified routes.</p> <p>The Regulation makes provision for the regulation of the conduct of drivers and passengers, as well as the carriage of goods on board.</p> <p>“Her Majesty’s regular naval, military or air forces” generally covered the then British Forces and was not restricted to the former British Forces stationed in Hong Kong. It is therefore proposed to adapt the term as “Chinese People’s Liberation Army”.</p> <p>Besides, in the establishment of the Chinese People’s Liberation Army, the concept of “service” (“服役”) has all along been called “服務” in Chinese. It is therefore proposed to adapt the relevant terms as “服務” in</p> | |

| Section | Legislation | Proposed Adaptation | Justifications |
|---------|---|--|--|
| | | | <p>Chinese to comply with the actual condition in the Chinese People’s Liberation Army.</p> <p>As for the proposed addition of “的目的” in the Chinese version of the provision, it is to reflect the reference “for the purpose of” in the English version of the provision.</p> <p>The adaptation proposal is consistent with the adaptation proposal suggested to section 17B(1)(e) of the Immigration Ordinance (Cap. 115), and is prepared by making reference to section 1 of Schedule 8 to Cap.1.</p> |
| 66 | Undesirable Medical Advertisements Ordinance (Cap. 231), Section 3(2) | <p>Subsection (1) shall not apply to an advertisement published by or with the authority of the Director of Health or to an advertisement duly authorized by an officer of Her Majesty’s forces for dissemination only amongst members of Her Majesty’s forces<u>the Chinese People’s Liberation Army for dissemination only amongst members of the Chinese People’s Liberation Army.</u></p> | <p>The provision provided exemption to officers of Her Majesty’s forces before the Reunification for dissemination of advertisement amongst their members and that those officers were not restricted by the conditions under Section 3(1) of the Ordinance.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the term “an officer of Her Majesty’s forces” to “an officer of the Chinese People’s Liberation Army” and the term “members of Her Majesty’s forces” to “members of the Chinese People’s Liberation Army”.</p> |

| Section | Legislation | Proposed Adaptation | Justifications |
|---------|---|--|--|
| | | | The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap. 1 and section 2 of Schedule 8 to Cap. 1. |
| 67 | Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), Schedule 2, paragraph 1C | <p>For the purposes of section 12 and Schedule 1, the circumstances which may constitute a defence in proceedings for a contravention are as follows –</p> <p>C. Where a motor vehicle is being used on a restricted road for the purposes of the police, fire services or ambulance services, or for the conveyance of public mail, or by the Armed Forces of the Crown <u>Chinese People's Liberation Army</u> when any such vehicle is being used as a matter of urgent necessity, if compliance with the Ordinance would be likely to hinder the use of the vehicle on that occasion for any of those purposes.</p> | <p>The Ordinance stipulates the circumstances which may constitute a defence in proceedings for traffic contraventions.</p> <p>In general, according to the principles of adaptation of laws, the term “Her Majesty’s forces” is proposed to be adapted to “the Chinese People’s Liberation Army”, except for circumstances involving land vested in or occupied by the former British Forces stationed in Hong Kong, where the term is to be adapted to “the Hong Kong Garrison”. It is therefore proposed to adapt the term “Armed Forces of the Crown” to “the Chinese People’s Liberation Army”.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap. 1 and section 1 of Schedule 8 to Cap. 1.</p> |