

**Adaptation of Laws (Military References) Bill 2010
Response to Follow-up Actions of the Meeting on 9 June 2011**

Minutes of Meeting (LC Paper No. CB(2)2560/10-11)	Follow-up Action	Response
Section 60 of Schedule 1 to the Bill / Section 29 of the Summary Offences Ordinance (Cap. 228)		
Paragraph 2 (a)	<ul style="list-style-type: none">▪ A Member requested the Administration to review the adaptation proposal to include the reference of “naval forces” having regard to Members’ views.	<ul style="list-style-type: none">▪ The adaptation proposal has been prepared on the basis that there is no separation of naval, military and air forces in the Chinese People’s Liberation Army and such forces have along been generally known as the “Chinese People’s Liberation Army”.▪ Considering Members’ suggestion to include the reference of naval forces will allow the adaptation proposal to comply more strictly with the principles of adaptation of laws and the legislative intent, we suggest adapting the reference “a member of Her Majesty’s naval forces” to “a member of the naval forces of the Chinese People’s Liberation Army”.
Sections 61 and 64 of Schedule 1 to the Bill / Section 5 and Schedule of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap. 229)		
Paragraph 2 (b)	<ul style="list-style-type: none">▪ A Member requested the Administration to review the adaptation proposal in Section 5(1)(c).	<ul style="list-style-type: none">▪ According to the principles of adaptation of laws, the term “香港政府” should have been adapted as “特區政府” in the Chinese version. That said, considering that the term “政府” has been used in other existing provisions in the Ordinance, it is therefore proposed

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		to adapt the relevant term as “政府” to ensure consistency of the provisions.
Paragraph 2 (c)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider adding the word “證” after “允許” in the adaptation proposal. 	<ul style="list-style-type: none"> ▪ The adaptation proposal has been prepared on the basis that the Hong Kong Garrison generally calls its written permission for permitting a member of the Hong Kong Garrison to drive vehicles of the Hong Kong Garrison as “允許” in Chinese.
Section 71 of Schedule 1 to the Bill / Section 31 of the Public Order Ordinance (Cap. 245)		
Paragraph 2 (d)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider retaining the reference “Army Department Pass” and taking away the reference of Hong Kong Garrison from the adaptation proposal having regard to Members’ views. 	<ul style="list-style-type: none"> ▪ The term “Army Department Pass” refers to the pass of Ministry of Defence of the United Kingdom Government. It is therefore suggested to adapt the reference to “pass of the Ministry of National Defence” to reflect situation after the Reunification. ▪ Considering Members’ suggestion to take away the reference of the Hong Kong Garrison will better comply with the principles of adaptation of laws, we consider amending the original adaptation proposal to “a member of the Ministry of National Defence in the Central People’s Government in possession of a valid pass of the Ministry of National Defence” (i.e. “持有有效的中央人民政府國防部通行證的國防部人員” in the Chinese text) and take away the reference of the Hong Kong

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		Garrison” from the original adaptation proposal.
Section 72 of Schedule 1 to the Bill / Section 37 of the Public Order Ordinance (Cap. 245)		
Paragraphs 2 (f) to (h)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information on the closed areas or other places occupied by Her Majesty’s Forces or for other purposes of the Crown in right of Her Majesty’s Government in the United Kingdom before the Reunification. ▪ A Member requested the Administration to explain the arrangements for the Commander of the Hong Kong Garrison or any member of the Chinese People’s Liberation Army who authorised by him to issue to any person a permit to enter and leave the closed area under Section 37(1) of the Public Order Ordinance. ▪ A Member requested the Administration to consider deleting “佔 	<ul style="list-style-type: none"> ▪ In view of Members request, we have looked into land records regarding occupation of land by Her Majesty’s Forces or for other purposes of the Crown before the Reunification, and found no other relevant information other than those use related to military sites. ▪ Any persons who wish to enter closed area occupied by the Hong Kong Garrison (such as military sites) have to obtain the relevant authorization from the Commander of the Hong Kong Garrison or any other member of the Chinese People’s Liberation Army authorised by him. For instance, workmen who need to enter military sites of the Hong Kong Garrison to conduct maintenance works will have to submit written application to the Hong Kong Garrison for entry. Having considered the application, should the Commander of the Hong Kong Garrison or any member of the Chinese People’s Liberation Army authorised by him allow such entry, a written permit will be issued to the applicant. ▪ We suggest retaining the reference “an area or place” in the provision concerned in order to ensure

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	用的地區或地方” from the adaptation proposal to Section 37(1) of the Public Order Ordinance.	consistency with other provisions on “closed area” in the Ordinance.
Section 74 of Schedule 1 to the Bill / Section 39 of the Public Order Ordinance (Cap. 245)		
Paragraphs 2(i) to (k)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide information on “any member of the Essential Services Corps” in Section 39(4)(a) of Cap. 245. ▪ A Member requested the Administration to provide information to explain whether the Central Barracks located at Tamar was regarded as closed area under Section 36 of Cap. 245. ▪ A Member requested the Administration to provide information on the closed areas or other places occupied for other purposes of the Central People’s Government (“CPG”). 	<ul style="list-style-type: none"> ▪ Essential services include the distribution of coal-gas, the maintenance of fire fighting, medical and health and sanitary services, as well as the provision of emergency public works. ▪ The Chief Executive may raise an Essential Services Corp for the purpose of preservation of peace and prevention of crime under the Essential Services Corp Ordinance (Cap. 197). ▪ Auxiliary Medical Services and Civil Aid Services were some of the Essential Services Corps established under the Essential Services Corp Ordinance in the past. ▪ According to Article 12 of the Garrison Law, the “Hong Kong Garrison shall delimit military restricted zones in conjunction with the Government of the Hong Kong Special Administrative Region. The locations and boundaries of the military restricted zones shall be declared by the Government of the Hong Kong Special Administrative Region.” Articles 36(1) and 39(4)

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		<p>of the Public Order Ordinance (Cap. 245) give authority to establish Military Installations Closed Areas Order (Cap. 245B), and declaring some areas and buildings as closed areas. At present, military sites (including the Central Barracks located at Tamar) are declared as closed areas under Cap. 245B. In view of the above, the Central Barracks located at Tamar is regarded as the closed area under Section 36 of the Public Order Ordinance.</p> <ul style="list-style-type: none"> ▪ After the Reunification, other than military sites, the Hong Kong Garrison has neither occupy any area nor places for other purposes of the Central People’s Government.
Other general information		
Paragraph 2(e)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to consider taking away the reference “and used only on non-commercial service” from the adaptation proposal of some shipping-related provisions. 	<ul style="list-style-type: none"> ▪ The original adaptation proposal to include the reference “and used only on non-commercial service” only aims to further clarify the legislative intent and to reflect the actual implementation of the provisions concerned. In view of Members’ suggestion to take away such reference for better compliance with the principles of adaptation of laws, we suggest taking away the reference “and used only on non-commercial service”.
Paragraph 2(l)	<ul style="list-style-type: none"> ▪ A Member requested the Administration to provide a summary of 	<ul style="list-style-type: none"> ▪ The relevant information is set out at the <u>Appendix</u>.

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	the reference included in the adaptation proposals in the Bill.	

Security Bureau
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Adaptation of Laws (Military References) Bill 2010
Table illustrating adaptation of military-related references

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
1.	Commander, British Forces	Commander of the Hong Kong Garrison	15(1)(b), 15(2)(b), 38, 46, 49(1), 52(b), 53(b), 54, 55(2)(b), 72
2.	Her Majesty's forces	Chinese People's Liberation Army	3(2), 3(3), 7, 20, 39, 65, 67, 69, 86, 87, 100, 102, 113, 114, 116, 117, 122(1), 123, 128(2), 129 [Remarks: Sections 122(1), 123, 128(2) and 129 have English version only]
3.	Her Majesty's forces [Remarks: in relation to land vested in or occupied by]	Hong Kong Garrison	5, 15(1)(a), 15(2)(a), 23, 24(1), 24(2), 24(3), 25, 26, 38, 61(2), 72, 79, 88, 89, 99, 104, 105

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
4.	(a) Member(s) of/Officer(s) of / Person(s) of Her Majesty's forces	Member(s) of the Chinese People's Liberation Army/	2(1), 2(2), 14, 18(1), 18(2), 18(3), 38, 44(1), 44(2), 45, 50, 51(1), 51(2), 52(a), 53(a), 55(2)(a), 58, 59, 60(1), 66, 68(2), 70, 71(1), 73, 76(2), 77, 80, 81, 85, 97, 101, 110, 111, 112, 115, 124, 125, 127(4)(a), 130, 131 [Remarks: Sections 124, 125 and 127(4)(a) have English version only; the reference "member" appears in the English text.]
	(b) any person appointed to a guard a closed area by the Commander British Forces	any member of the Chinese People's Liberation Army	74(3)
	(c) commissioned officer/person holding an appointment in Her Majesty's Forces	member of the Chinese People's Liberation Army	72, 76(4), 108(2)
	(d) serving member of Her Majesty's forces	serving member of the Chinese People's Liberation Army	19
	(e) Person(s) serving in Her Majesty's forces	Person(s) serving the Chinese People's Liberation Army	40, 41, 42, 122(2) [Remarks: Section 122(2) has English version only.]

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
5.	Ships belonging to Her Majesty/ any of Her Majesty's ships or other ships of war	<p>Ships belonging to the Chinese People's Liberation Army or ships belonging to the Central People's Government and used only on non-commercial service/</p> <p>any ship which is used by the Chinese People's Liberation Army; or any ship which belongs to the Central People's Government or the Government of the Hong Kong Special Administrative Region and is used only on non-commercial service</p> <p>any ship of war of the Chinese People's Liberation Army, any other ship of war or any ship belonging to the Central People's Government and used only on non-commercial service</p>	8, 119, 132
6.	Her Majesty's ships of war	the ships of war of the Chinese People's Liberation Army	83, 91
7.	Her Majesty's Government [Remarks: in relation to the use of warship/ship]	the Chinese People's Liberation Army, the Central People's Government	93, 94, 95, 96, 98

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
8.	a court martial held outside Hong Kong under the Naval Discipline Act, the Army Act or the Air Force Act	a court martial of the Chinese People's Liberation Army held outside Hong Kong	4
9.	Ministry of Defence (The Navy Department), The Ministry of Defence (The Army Department) [Remarks: in relation to land vested in or occupied by]	the Hong Kong Garrison	16
10.	Ministry of Defence [Remarks: in relation to the employment of aircraft]	Chinese People's Liberation Army	49(2)
11.	Ministry of Defence of Her Majesty's Government in the United Kingdom	Ministry of National Defence in the Central People's Government	38, 71(2)
12.	a valid Army Department Pass	a valid pass of the Ministry of National Defence or the Hong Kong Garrison	71(2)

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
13.	(a) Crown [Remarks: “英國” in the Chinese text]	United Kingdom	10(1), 10(2), 13(1), 13(2),
	(b) Crown [Remarks: “官方” in the Chinese text]	Government, Chinese People’s Liberation Army	57(2), 57(3), 57(4), 57(5), 78
14.	Crown	Government/ Hong Kong Garrison	62(4), 62(2), 62(5)(b), 62(6), 63, 64(3), 64(4)
15.	Crown in right of Her Majesty’s Government in the United Kingdom	Central People’s Government	5, 72
16.	Crown in right of Her Majesty’s Government in Hong Kong or in the United Kingdom	Government or the Hong Kong Garrison	61(1)
17.	Crown in right of Her Majesty’s Government in Hong Kong	Government	61(3)

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
18.	maintained by the Crown [Remarks: in relation to medical facilities]	maintained by the Government, a(any) military hospital, a (any) public hospital*/ maintained by the Government...military hospital/ maintained by the Government...of the Hong Kong Garrison/ maintained by the Government,...military hospital...of the Hong Kong Garrison (* public hospital within the meaning of the Hospital Authority Ordinance (Cap. 113) or its equivalent expression as defined in the relevant Ordinance)	6, 27, 29, 30, 31(1), 31(2), 32(1), 32(2), 32(3), 33, 34, 36, 37, 43(1), 43(2), 82(1), 82(2), 84, 107, 109
19.	Government of the United Kingdom	Central People's Government, Chinese People's Liberation Army	17
20.	Her Majesty's Government	Central People's Government	18(1), 59, 68(2)
21.	United Kingdom	People's Republic of China	120(4), 137(3)(b), 137(5)(b)
22.	Her Majesty	the People's Republic of China	50, 51

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
23.	Her Majesty [Remarks: in relation to the use of aircraft]	the Central People's Government, the Chinese People's Liberation Army or the Government of the Hong Kong Special Administrative Region	121(1), 127(2)
24.	officer(s) authorized by	person(s) authorized by	47, 48(2)(a)
25.	appointments	appointments or positions	40(a), 108(1)
26.	warrant officer, non-commissioned officer or military policeman [Remarks: in relation to firing areas]	soldier	48(2)(b)
27.	commissioned officer in Her Majesty's forces acting in aid of the civil power	member of the Chinese People's People's Liberation Army of or above the rank of second lieutenant (or ensign) acting under Article 14 of the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administration Region in Schedule 2 to the Promulgation of National Laws (No.2) 1997 (L.N. 386 of 1997)	76(3)
28.	Senior Naval Officer in Hong Kong	senior naval commander of the Hong Kong Garrison	60(2)

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
29.	Senior Military Officer in command of Her Majesty's regular troop in the Colony	Senior Army Officer of the Hong Kong Garrison	80
30.	Captain-in-charge, Hong Kong	Senior Navy Officer of the Hong Kong Garrison	80
31.	Air Officer Commanding, Hong Kong	Senior Air Officer of the Hong Kong Garrison	80
32.	Governor	Chief Executive	74(2), 120(2)(b), 126(2)(b), 136(b) [Remarks: Section 126(2)(b) has English version only.]
33.	Governor in Council	Chief Executive in Council	120(2)(c), 121(2)
34.	Secretary of State	Central People's Government/ competent authority	120(1), 120(2)(a), 124, 126(1), 126(2)(a), 127(4)(b), 128(3), 135, 136(a), 137(1), 137(2), 137(3)(a), 137(4), 137(5)(a), 137(6) [Remarks: Sections 124, 126(1), 126(2)(a), 127(4)(b) and 128(3) have English version only.]
35.	Secretary of State	the Standing Committee of the National People's Congress	120(3)

	<u>Expression (or its equivalent expressions) in the existing Ordinances</u>	<u>Expression used in the Adaptation Bill</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
36.	Royal Hong Kong Auxiliary Air Force	Government Flying Service	57(8), 62(9)
37.	Stonecutters Island	the Ngong Shuen Chau Barracks	92(a)

Note

- Section 1 is a new provision.
- Section 3(1) is a renumbering of a provision.
- Section 18(4) is a saving provision for the former members of Her Majesty’s forces.
- Sections 62(3) and 90(a) are change of punctuation mark.
- Sections 51(3), 51(4), 57(6), 62(5)(a) and 62(7) are consequential amendment after adaptation.
- Sections 9, 11, 12, 21, 22, 28, 56, 57(7), 62(8), 74(1), 74(2) (in relation to “Commander British Forces”), 75, 90(b), 92(b), 103, 106, 118, 127(3), 128(1), 128(4), 133 and 134 are not included in the above table as we propose to repeal the relevant colonial military references in the Bill.
- Sections 35, 48(1), 55(1), 57(1), 62(1), 64(1), 64(2), 68(1), 76(1) and 127(1) are an amendment of a section heading.