

**Legislative Council Bills Committee on
Adaptation of Laws (Military References) Bill 2010**

Follow-up to the First Meeting on 9 November 2010

Purpose

This paper sets out the Administration's responses to the issues raised by Members during the first meeting of the Bills Committee on Adaptation of Laws (Military References) Bill 2010 ("the Adaptation Bill").

(I) Justifications, guiding principles and scope of law adaptation

2. The Adaptation Bill aims to adapt certain military-related references in the laws of Hong Kong with a view to bringing them into conformity with the Basic Law and Hong Kong's status as a Special Administrative Region of the People's Republic of China ("the PRC"). Under the two overarching parameters, the provisions when adapted should have the same legal effect after its adaptation as before.

3. In essence, on 23 February 1997, the Standing Committee of the National People's Congress decided that except for 14 Ordinances and subsidiary legislation, and certain provisions in 10 Ordinances and subsidiary legislation which are in contravention of the Basic Law, the laws previously in force in Hong Kong are adopted as the laws of the Hong Kong Special Administrative Region in accordance with Articles 8 and 160 of the Basic Law¹. The decision of the Standing Committee of the National People's Congress also spells out the interpretative principles for provisions relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom and references of "Her Majesty", "the Crown", "the British Government" or

¹ Article 8 of the Basic Law stipulates that "[t]he laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region."

Article 160 of the Basic Law stipulates that "[u]pon the establishment of the Hong Kong Special Administrative Region, the laws previously in force in Hong Kong shall be adopted as laws of the Region except for those which the Standing Committee of the National People's Congress declares to be in contravention of this Law. If any laws are later discovered to be in contravention of this Law, they shall be amended or cease to have force in accordance with the procedure as prescribed by this Law."

“the Secretary of State”, etc. The interpretative principles promulgated by the Standing Committee of the National People’s Congress have been enacted as part of the laws of Hong Kong by the Hong Kong Reunification Ordinance (No. 110 of 1997) and incorporated as section 2A of and Schedule 8 to the Interpretation and General Clauses Ordinance (Cap. 1). Major interpretative principles relevant to the current laws adaptation exercise are-

- (i) Section 2A(2)(c) of Cap.1: provisions relating to the rights, exemptions and obligations of the military forces stationed in Hong Kong by the United Kingdom shall, subject to the provisions of the Basic Law and the Law of the PRC on the Garrisoning of the Hong Kong Special Administrative Region (“the Garrison Law”), continue to have effect and apply to the military forces stationed in Hong Kong Special Administrative Region by the Central People’s Government (“ the CPG”) of the PRC.

- (ii) Section 1 of Schedule 8 to Cap.1: any reference in a provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) where the content of the provision-
 - (a) relates to title to land in the Hong Kong Special Administrative Region;
 - (b) involves affairs for which the CPG of the PRC has responsibility;
 - (c) involves the relationship between the Central Authorities and the Hong Kong Special Administrative Region,shall be construed as a reference to the CPG or other competent authorities of the PRC; and

- (iii) Section 2 of Schedule 8 to Cap.1: any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) in contexts other than those specified in paragraph (ii) above shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.

4. Military-related provisions in the laws of Hong Kong previously in force have been construed in accordance with the interpretative principles set out in the Interpretation and General Clauses Ordinance since 1 July 1997. That said, in the interest of legal certainty of the laws of Hong Kong, it is still necessary to adapt these military-related provisions.

5. The Department of Justice presented to the Legislative Council (“LegCo”) back in 1998 the guiding principles to be applied for the adaptation of laws programme as set out in the “Guiding Principles and Guideline Glossary of Terms” (LC Paper No. CB(2)739/98-99(01) (“the Guiding Principles”) (at Annex A). Specifically, paragraph 5 of the Guiding Principles sets out -

- (a) that the provision when adapted should be consistent with the Basic Law and with Hong Kong’s status as a Special Administrative Region of the PRC, but that subject to this each provision should, as far as possible, be to the same legal effect after its adaption as before. Any amendment that is neither related to the Basic Law nor necessitated by Hong Kong’s new status are outside the scope of the adaptation of laws programme;
- (b) that the adaptation of each provision should be made in accordance with the relevant provisions of the Interpretation and General Clauses Ordinance where applicable, but the adaptation must be considered in the context of the particular Ordinance concerned and other related Ordinances.

6. The Adaptation Bill complies with the aforementioned guiding principles; hence, the Bill is adaptation in nature and is consistent with the principles and scope of law adaptation.

(II) Legal provisions regarding the Chinese People’s Liberation Army and the Hong Kong Garrison

7. The Basic Law and the Garrison Law stipulate the role, rights and obligations of the Hong Kong Garrison. The relevant provisions relating to the Hong Kong Garrison are set out at Annex B.

(III) Rationale for the adaptation proposals

8. The present Adaptation Bill does not seek to introduce any new provisions which would bring law reform. The four definitions viz. “Commander of the Hong Kong Garrison”, “Hong Kong Garrison”, “member of the Hong Kong Garrison” and “military hospital” for Cap. 1 are required such that the meaning of these terms are clearly set out to provide clarity of drafting to the proposed adaptation. Also, it obviates the need to repeat the same definitions in each of the Ordinances as covered in the Bill and in which these terms apply.

9. Legal advice confirms that the inclusion of the four terms in Cap. 1 will not alter, the meaning of any existing provisions in specific pieces of Ordinance to which the same terms apply. Indeed, the scope of application of Cap.1 with regard to other Ordinances is defined clearly in Section 2 of Cap. 1-

"Save where the contrary intention appears either from this Ordinance or from the context of any other Ordinance or instrument, the provisions of this Ordinance shall apply to this Ordinance and to any other Ordinance in force ..."

In other words, if a term is defined in Cap. 1 and that the same term appears in a specific Ordinance, say Cap. X, this term in Cap. X, if specified under Cap. X to have a meaning different from the term in Cap. 1, will not be affected or altered by Cap. 1, as the contrary intention is made clear in the context of Cap. X.

10. For illustration purpose, a summary table setting out how military references in Sections 1 to 45 of Schedule 1 to the Bill are to be adapted is attempted as at Annex C. For the same purpose, and to facilitate consideration of the adaptation proposals in context, we have attempted a table at Annex D that lists out the adaptation provisions under the Bill and the justifications for each of these provisions. The two tables at Annexes C and D cover Sections 1 to 45 of Schedule 1 to the Bill. Should Members consider the tables helpful, we will continue to work on Sections 46 to 137 of Schedule 1 and Schedule 2 to the Bill and will provide the summary tables to the Bills Committee in due course to facilitate the Bills Committee’s clause-by-clause scrutiny.

Security Bureau
December 2010

Adaptation of Laws Programme

Guiding Principles and Guideline Glossary of Terms

BACKGROUND

In accordance with Articles 8 and 160 of the Basic Law, all Ordinances of Hong Kong (with the exception of 24 Ordinances or parts of Ordinances) were adopted as the laws of the Hong Kong Special Administrative Region under the *Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* adopted on 23 February 1997.

2. The Decision also sets out the principles on which the previous laws were adopted and how various expressions inconsistent with the status of Hong Kong as a Special Administrative Region of the People's Republic of China are to be construed. These principles have been enacted as part of the local law by the *Hong Kong Reunification Ordinance (Ord. No.110 of 1997)* and are now incorporated as section 2A and Schedule 8 in the *Interpretation and General Clauses Ordinance (Cap. 1)*. In line with these general principles, more detailed principles of interpretation have been added to Cap. 1 by the amendments made under the *Adaptation of Laws (Interpretative Provisions) Ordinance (Ord. No.26 of 1998)*.

3. During the term of the Provisional Legislative Council, adaptations considered essential to the operation of the Special Administration Region were made under 6 Ordinances (the so-called "essential" adaptation Ordinances) each dealing with one or more subject matters.

4. The present stage of the adaptation exercise makes adaptations on an Ordinance-by-Ordinance basis and, subject to the qualification mentioned in paragraph 12 below, seeks to deal with all remaining adaptation matters.

GUIDING PRINCIPLES

5. In implementing the present stage of the adaptation of laws programme, the guiding principles to be applied are as follows-
- (a) that the provision when adapted should be consistent with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China, but that subject to this each provision should, as far as possible, be to the same legal effect after its adaptation as before. Any amendment that is neither related to the Basic Law nor necessitated by Hong Kong's new status are outside the scope of the adaptation of laws programme;
 - (b) that the adaptation of each provision should be made in accordance with the relevant provisions of the Interpretation and General Clauses Ordinance (Cap. 1) where applicable, but the adaptation must be considered in the context of the particular Ordinance concerned and other related Ordinances.

GUIDELINE GLOSSARY OF TERMS

6. For the purposes of the present exercise, the 'new terms' shown in the table at **Annex A** are treated as the guideline adaptation of the corresponding 'original terms' shown in the table.
7. The table is neither definitive or exhaustive. However, amendments for adapting particular terms, or instances of departure from the guidelines, will be explained separately to the Bills Committee involved.

MISCELLANEOUS MATTERS

8. Change of Titles

Various titles to government agencies and post titles were changed upon reunification (e.g. "Legal Department" to "Department of Justice"). Most of the changes of titles have already been effected under the Declaration of Change of Titles (General Adaptation) Notice 1997 (L.N. 362 of 1997-at **Annex B**)(**"Change of Titles Notice"**) made on 23 June 1997 under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1). The looseleaf edition and the Bilingual Laws Information System ("BLIS") version (available through the internet) of the Laws of Hong Kong will incorporate those adaptations effected by that Notice upon enactment of the Adaptation of Laws Bill for the Ordinance concerned. For the time being, the unadapted titles will continue to appear in the looseleaf edition and the BLIS version of the Ordinances.

9. Historical references

Historical references do not normally need to be adapted. For example, when referring to a notice given by the Governor or a resolution passed by the Legislative Council before reunification, the references to “Governor” and “立法局” can remain unchanged. In some cases, it may be appropriate to delete an historical reference if the provision is spent or if keeping the reference presents problems for the adaptation of other references.

10. Section headings

Section headings that require adaptation will be adapted editorially.

11. Short titles & Change of Titles Notice

Where the short title to an Ordinance includes mention of a title which is subject to adaptation under the Change of Title Notice (e.g. the Royal Hong Kong Auxiliary Police Force Ordinance (Cap. 233)), any reference to that short title found in another Ordinance will be adapted as a consequential amendment in the Adaptation Bill for the former Ordinance.

12. Adaptations not dealt with in the present stage of the exercise

Adaptation of the following references and provisions will not be dealt with in the Adaptation of Laws Bills for the individual Ordinances in which they are found but will instead be dealt with collectively in separate Bills for the subjects concerned-

- (a) references to “Her Majesty’s forces” and other military references;
- (b) provisions relating to proceedings against the Crown that need to be considered in the context of the adaptation of the Crown Proceedings Ordinance (Cap. 300);
- (c) provisions relating to Article 23 of the Basic Law.

Adaptation of Laws Programme
Guideline Glossary of Terms

Item No.	ENGLISH		CHINESE		Remarks
	<u>Original Term</u>	<u>New Term</u>	<u>Original Term</u>	<u>New Term</u>	
1	abroad	outside Hong Kong	外地/外國	香港以外地方	
2	appellate court	[no change]	上訴法庭	審理上訴的法院	
3	branch	bureau	科	局	BL 48(5) & BL 60
4	Chief Justice	[no change]	首席大法官	終審法院首席法官	Sched 8*, s.21F
5	Chief Justice of the Supreme Court	Chief Judge	最高法院首席大法官	高等法院首席法官	Sched 8*, s.21D

*Schedule 8 of Cap.1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
6	Colonial Regulations	Any executive order issued by the Chief Executive for the administration of the public service and any regulation or direction made under such order	《殖民地規例》	由行政長官為管理公務人員而發出的任何行政命令及根據該等命令所訂立的任何規例或所發出的任何指示	BL 48(4) Executive Order No. 1 of 1997 [See Note ^[1] below]
7	Colony	Hong Kong	香港	[no change]	Sched 8* s.6 [See Note ^[2] below]
8	Court of Appeal	[no change]	上訴法院	上訴法庭	Sched 8*, s.8 Cap. 1, s.3
9	court of first instance	[no change]	原訟法庭	初審法院	to distinguish from Court of First Instance

^[1](a) This term is drawn so as to encompass the Public Service (Administrative) Order (Executive Order No. 1 of 1997), the Public Service (Disciplinary) Regulation made under that Order and any subsequent such Order or Regulation.

(b) For better expression, the guideline term may in certain contexts be substituted by the simple term ‘relevant executive order’, and an appropriate definition of that term introduced.

^[2] References to “general revenue of the Colony” will simply be changed to “general revenue” because the latter term is defined in the Interpretation and General Clauses Ordinance (Cap.1) to mean the general revenue of the Hong Kong Special Administrative Region.

*Schedule 8 of Cap.1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
10	Crown	State/ Government/ Central People's Government	英皇／官方	“國家”/政府 / 中央人民政府	Sched 8*ss.1 & 2 Sched 9 [#] , s.7 [See Note ^[3] below]
11	Crown land	Government land	官地	政府土地	s.6 of Cap.1
12	Crown lease	Government lease	官契	政府租契	s.6 of Cap.1
13	deputy judge	[no change]	暫委大法官	暫委法官	Sched 8* s.21D
14	District Court	[no change]	地方法院	區域法院	Sched 8*, s.10,
15	District Judge	[no change]	地院法官 / 地方法院法官	區域法院法官/區域法院法官	Sched 8*, s.21C
16	Executive Council	[no change]	行政局	行政會議	Sched 8*, s.21B

^[3] (a) The appropriate adaptation will depend on a proper construction of the existing provision.

(b) Specific principles in relation to the adaptation of certain references to “the Crown” are set out in LC Paper No. CB(2)532/98-99(01).

* Schedule 8 of Cap.1.

Schedule 9 of Cap.1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
17	foreign country/ foreign state	country or territory other than the People's Republic of China/ place other than the Hong Kong Special Administrative Region	外國	中華人民共和國以外的國家或地區/香港特別行政區以外的任何地方	Sched 8*, s.19
18	Government of the United Kingdom	Central People's Government	英國政府	中央人民政府	Sched 8*, s.1
19	Government Secretariat	[no change]	布政司署	政府總部	
20	Governor	(a) Chief Executive (b) Chief Executive in Council	總督	行政長官 /行政長官會同行政會議	Sched 8*, s.11 BL56 [See Note ^[4] below]

^[4] Where the reference to the Governor appears in the context of a power to make subsidiary legislation, the term 'Chief Executive in Council' is appropriate (see BL 56); in other cases the term 'Chief Executive' is appropriate. The expression "Chief Executive in Council" is defined in section 3 of Cap. 1 to mean the Chief Executive acting after consultation with the Executive Council. The terms "subordinate legislation" and "subsidiary legislation" mean any proclamation, rule, regulation, order, resolution, notice, rule of court, bylaw or other instrument made under or by virtue of any Ordinance and having legislative effect (s. 3 of Cap.1). Normally, the following points are considered in ascertaining whether an instrument has legislative effect, namely whether-

- (a) there is an express provision declaring the instrument to be a piece of subsidiary legislation;
- (b) the instrument has general application to the public or a significant sector of the public as opposed to individuals;
- (c) the instrument extends or amends existing legislation;
- (d) the instrument formulates a general rule of conduct.

*Schedule 8 of Cap. 1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
21	Governor in Council	Chief Executive in Council	總督會同行政局	行政長官會同行政會議	Sched 8*, s.11
22	Her Majesty in Council/Privy Council	(a) Hong Kong Court of Final Appeal (b) Central People's Government/ Government	樞密院/女皇陛下會同 樞密院	(a) 香港終審法院 (b) 中央人民政府／政府	(a)Sched 8*, s.3 (b)Sched 8*, s.4 [See Note ^[5] below]
23	saving the rights of Her Majesty, Her Heirs and Successors	saving the rights of the Central People's Government and the rights of the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws	保留女皇陛下、其世襲繼承人及繼位人的權利	保留中華人民共和國中央人民政府及香港特別行政區政府的根據《基本法》和其他法律的規定所享有的權利	Sched 8*, s.21
24	High Court	Court of First Instance	高等法院	原訟法庭	Sched 8*, s.9

^[5] A reference to the “Hong Kong Court of Final Appeal” will be substituted where the context refers to appellate jurisdiction in relation to Hong Kong.
*Schedule 8 of Cap.1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
25	judge	[no change]	大法官	法官	Sched 8*, s.21D
26	judge of the High Court	judge of the Court of First Instance	高等法院大法官	原訟法庭法官	Sched 8*, s.14
27	Justice of Appeal	[no change]	上訴法院大法官	上訴法庭法官	Sched 8*, s.13
28	Legislative Council	[no change]	立法局	立法會	Sched 8*, ss.15, 21A
29	president (of the Court of Appeal)	[no change]	(上訴法院) 院長	(上訴法院) 庭長	Sched 8*, s.8
30	Privy Council (see “Her Majesty in Council” in item 22 above)				
31	Queen	HKSAR	女皇	特區	
32	Queen’s Proctor	Secretary for Justice	政府代訴人	律政司司長	
33	recorder	[no change]	特委大法官	特委法官	Sched 8*, s.21D

* Schedule 8 of Cap.1.

Item No.	ENGLISH		CHINESE		Remarks
	Original Term	New Term	Original Term	New Term	
34	Regulations of the Hong Kong Government	The administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service	《香港政府規例》	稱為《政府規例》的行政規則及規管公務人員的任何其他行政規則或其他文書	For better expression, the guideline term may in certain contexts be substituted by the simple term “government regulations” and an appropriate definition of that term introduced
35	Royal Hong Kong Jockey Club	The Hong Kong Jockey Club	英皇御准香港賽馬會	香港賽馬會	The Jockey Club has officially changed its name to “Hong Kong Jockey Club”
36	Secretary	Director of Bureau	司級	政府總部局長級	BL 48(5) [See Note ^[6] below]
37	Secretary of State	Central People’s Government	國務大臣	中央人民政府	Sched 8*, s.1
38	Supreme Court	High Court	最高法院	高等法院	Sched 8*, s.7

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^[6] “Secretary” when referring to the designation of a rank is adapted to “Director of Bureau” whereas post titles (e.g. Secretary for Security) will remain unchanged in English but changed from “司” to “局長” in Chinese.

* Schedule 8 of Cap.1.

L.N. 362 of 1997

DECLARATION OF CHANGE OF TITLES (GENERAL ADAPTATION) NOTICE 1997

(Made under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Notice shall come into operation on 1 July 1997.

2. Change of titles

(1) The titles set out in column 2 of the Schedule are declared to be changed respectively to the titles set out opposite thereto in column 3 of the Schedule.

(2) Where any title set out in column 2 of the Schedule is a component part of the title of a public officer, public body or person, the second-mentioned title is declared to be changed correspondingly.

3. Amendment of references to titles

(1) The titles set out in column 3 of the Schedule are substituted, where the context permits, respectively for the titles set out opposite thereto in column 2 of the Schedule whenever occurring in any Ordinance, instrument, contract or legal proceedings enacted, made or commenced before 1 July 1997.

(2) Where a title is changed to another title by virtue of section 2(2), the latter is substituted, where the context permits, for the former wherever occurring in any Ordinance, instrument, contract or legal proceedings enacted, made or commenced before 1 July 1997.

SCHEDULE [ss. 2 & 3]

CHANGE OF TITLES

Item	Original title	New title
1.	Chief Secretary	Chief Secretary for Administration
2.	財政司	財政司司長
3.	Attorney General	Secretary for Justice
4.	文康廣播司	文康廣播局局長
5.	公務員事務司	公務員事務局局長

1997年第362號法律公告

1997年宣布更改職稱及名稱(一般適應)公告

(根據《釋義及通則條例》(第1章)第55條訂立)

1. 生效日期

本公告自1997年7月1日起實施。

2. 更改名稱

(1) 現宣布將列於附表第2欄的職稱及名稱分別改為列於附表第3欄中該職稱或名稱(視屬何情況而定)相對之處的職稱或名稱(視屬何情況而定)。

(2) 凡列於附表第2欄的職稱或名稱是某公職人員、公共機構或人士的職稱或名稱的一個組成部分,現宣布將該人員、機構或人士的職稱或名稱作相應更改。

3. 修訂對有關職稱及名稱的提述

(1) 所有在1997年7月1日前已制定的任何條例、已訂立的任何文書或合約或已展開的任何法律程序中出現的列於附表第2欄的職稱及名稱,如文意容許,均須分別代以列於附表第3欄中該職稱或名稱(視屬何情況而定)相對之處的職稱或名稱(視屬何情況而定)。

(2) 凡某職稱或名稱("前者")憑藉第2(2)條更改為另一職稱或名稱("後者"),所有在1997年7月1日前已制定的任何條例、已訂立的任何文書或合約或已展開的任何法律程序中出現的前者,均須代以後者。

附表 [第2及3條]

更改職稱或名稱

項	原有職稱/名稱	新職稱/名稱
1.	布政司	政務司司長
2.	財政司	財政司司長
3.	律政司	律政司司長
4.	文康廣播司	文康廣播局局長
5.	公務員事務司	公務員事務局局長

Item	Original title	New title
6.	憲制事務司	政制事務處處長
7.	經濟司	經濟局局長
8.	教育統籌司	教育統籌局局長
9.	庫務司	庫務局局長
10.	財經事務司	財經事務處處長
11.	衛生福利司	衛生福利局局長
12.	政務司	民政事務處處長
13.	房屋司	房屋局局長
14.	規劃環境地政司	規劃環境地政處處長
15.	保安司	保安局局長
16.	工商司	工商局局長
17.	運輸司	運輸局局長
18.	工務司	工務局局長
19.	總督特派廉政專員	廉政專員
20.	核數署署長	審計署署長
21.	Crown Solicitor	Law Officer (Civil Law)
22.	Crown Prosecutor	Director of Public Prosecutions
23.	律政專員 (法律政策)	法律政策專員
24.	律政專員 (國際法律)	國際法律專員
25.	海關總監	海關關長
26.	人民入境事務處處長	入境事務處處長
27.	政務總署署長	民政事務總署署長
28.	Director of the Royal Observatory	Director of the Hong Kong Observatory
29.	Chambers Manager, Legal Department	Administrator, Department of Justice
30.	Chief Secretary's Office	Chief Secretary for Administration's Office
31.	財政司辦公室	財政司司長辦公室
32.	Legal Department	Department of Justice
33.	Broadcasting, Culture and Sport Branch	Broadcasting, Culture and Sport Bureau
34.	Civil Service Branch	Civil Service Bureau
35.	Constitutional Affairs Branch	Constitutional Affairs Bureau
36.	Economic Services Branch	Economic Services Bureau
37.	Education and Manpower Branch	Education and Manpower Bureau
38.	Finance Branch	Finance Bureau
39.	Financial Services Branch	Financial Services Bureau
40.	Health and Welfare Branch	Health and Welfare Bureau
41.	Home Affairs Branch	Home Affairs Bureau
42.	Housing Branch	Housing Bureau
43.	Planning, Environment and Lands Branch	Planning, Environment and Lands Bureau

項	原有職稱/名稱	新職稱/名稱
6.	憲制事務司	政制事務處處長
7.	經濟司	經濟局局長
8.	教育統籌司	教育統籌局局長
9.	庫務司	庫務局局長
10.	財經事務司	財經事務處處長
11.	衛生福利司	衛生福利局局長
12.	政務司	民政事務處處長
13.	房屋司	房屋局局長
14.	規劃環境地政司	規劃環境地政處處長
15.	保安司	保安局局長
16.	工商司	工商局局長
17.	運輸司	運輸局局長
18.	工務司	工務局局長
19.	總督特派廉政專員	廉政專員
20.	核數署署長	審計署署長
21.	民事檢察專員	民事法律專員
22.	Crown Prosecutor	Director of Public Prosecutions
23.	律政專員 (法律政策)	法律政策專員
24.	律政專員 (國際法律)	國際法律專員
25.	海關總監	海關關長
26.	人民入境事務處處長	入境事務處處長
27.	政務總署署長	民政事務總署署長
28.	天文台台長	香港天文台台長
29.	律政署政務總監	律政司政務總監
30.	布政司辦公室	政務司司長辦公室
31.	財政司辦公室	財政司司長辦公室
32.	律政署	律政司
33.	文康廣播科	文康廣播局
34.	公務員事務科	公務員事務局
35.	憲制事務科	政制事務局
36.	經濟科	經濟局
37.	教育統籌科	教育統籌局
38.	庫務科	庫務局
39.	財經事務科	財經事務局
40.	衛生福利科	衛生福利局
41.	政務科	民政事務局
42.	房屋科	房屋局
43.	規劃環境地政科	規劃環境地政處

Item	Original title	New title
34.	Security Branch	Security Bureau
35.	Trade and Industry Branch	Trade and Industry Bureau
36.	Transport Branch	Transport Bureau
37.	Works Branch	Works Bureau
38.	總督特派廉政專員公署	廉政公署
39.	Audit Department	Audit Commission
40.	Royal Hong Kong Police Force	Hong Kong Police Force
41.	Royal Hong Kong Auxiliary Police Force	Hong Kong Auxiliary Police Force
42.	政務總署	民政事務總署
43.	人民入境事務處	入境事務處
44.	Royal Observatory	Hong Kong Observatory

Mrs. Anson CHAN,
Chief Secretary.

23 June 1997.

Explanatory Note

This Notice declares a change in the titles of various Government officials and agencies and amends references to those titles.

項	原有職稱/名稱	新職稱/名稱
44.	保安科	保安局
45.	工商科	工商局
46.	運輸科	運輸局
47.	工務科	工務局
48.	總督特派廉政專員公署	廉政公署
49.	核數署	審計署
50.	皇家香港警務處	香港警務處
51.	皇家香港輔助警隊	香港輔助警察隊
52.	政務總署	民政事務總署
53.	人民入境事務處	入境事務處
54.	皇家香港天文台	香港天文台

陳方安生
布政司

1997年6月23日

註釋

本公告宣布更改若干政府官員的職稱及若干政府部門的名稱，並修訂對原有職稱及名稱的提述。

**Relevant provisions relating to the
Role, Rights and Obligations of the Hong Kong Garrison**

I. The Role, Rights and Obligations of the Hong Kong Garrison

The Law of the People's Republic of China ("the PRC") on the Garrisoning of the Hong Kong Special Administrative Region ("the Garrison Law")¹ was enacted in accordance with the Constitution and the Basic Law of the Hong Kong Special Administrative Region ("the HKSAR") to ensure the lawful performance of functions and responsibilities of the military forces stationed by the Central People's Government ("the CPG") in the HKSAR. The Garrison Law, being one of the National Laws applicable to Hong Kong under Annex III to the Basic Law, can be found under Instrument A403 of the Laws of Hong Kong.

1. The role of the Hong Kong Garrison

(i) The following provisions of the Basic Law are relevant to the role of the Hong Kong Garrison in the HKSAR-

(a) Article 14: The CPG shall be responsible for the defence of the HKSAR. The Government of the HKSAR shall be responsible for the maintenance of public order in the Region. Expenditure for the garrison shall be borne by the CPG.

(b) Article 18: In the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the HKSAR which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the CPG may issue an order applying the relevant national laws in the Region.

(ii) The following provisions of the Garrison Law are relevant to the role of the Hong Kong Garrison in the HKSAR-

(a) Article 1: The military forces stationed by the CPG in the HKSAR are for defence, and to maintain the sovereignty, unity

¹ The Garrison Law was promulgated on 30 December 1996 and took effect on 1 July 1997.

and territorial integrity of the State and the security of Hong Kong.

- (b) Article 2: The military forces stationed by the CPG in the HKSAR for defence shall be composed of forces from the Army, the Navy and the Air Force of the Chinese People's Liberation Army ("the Chinese PLA"), and be designated as the Hong Kong Garrison of the Chinese PLA.
- (c) Article 3: The number of its members shall be determined according to the need for the defence of the HKSAR.
- (d) Article 4: Expenditure for the Hong Kong Garrison shall be borne by the CPG.
- (e) Article 5: The Hong Kong Garrison shall perform the following defence functions and responsibilities:
 - (i) Preparing against and resisting aggression, and safeguarding the security of the HKSAR;
 - (ii) Carrying out defence duties;
 - (iii) Controlling military facilities; and
 - (iv) Handling foreign-related military affairs.
- (f) Article 6: In the event that the Standing Committee of the National People's Congress decide to declare a state of war, by reason of turmoil within the HKSAR which endangers national unity or security and is beyond the control of the Government of the Region, decides that the Region is in a state of emergency, the Hong Kong Garrison shall perform its duties in accordance with the provisions of the national laws that the CPG decides to apply in Hong Kong.

2. *The rights of the Hong Kong Garrison*

The following provisions of the Garrison Law are relevant to the rights of the Hong Kong Garrison in the HKSAR –

- (a) Article 7: The Hong Kong Garrison and its members shall also enjoy other rights and immunities prescribed by the laws in force in the HKSAR.
- (b) Article 10: The Government of the HKSAR shall support the Hong Kong Garrison in its performance of defence functions and responsibilities and guarantee the lawful rights and interests of the

Hong Kong Garrison and its members. The HKSAR shall also consult the Hong Kong Garrison when formulating any policy or drafting any legislation which concerns the Hong Kong Garrison.

3. *The obligations of the Hong Kong Garrison*

(i) The following provisions of the Basic Law are relevant to the obligations of and discipline for the Hong Kong Garrison in the HKSAR-

(a) Article 14: Military forces stationed by the Central People's Government in the HKSAR for defence shall not interfere in local affairs of the Region. In addition to abiding by national laws, members of the Garrison shall abide by the laws of the HKSAR.

(ii) The following provisions of the Garrison Law are relevant to the obligations of and discipline for the Hong Kong Garrison in the HKSAR-

(a) Article 9: The Hong Kong Garrison shall not interfere in the local affairs of the HKSAR.

(b) Article 11: The Hong Kong Garrison shall notify in advance the Government of the HKSAR of any military activities it is to conduct such as training exercises and manoeuvres which may affect the public interests of the HKSAR.

(c) Article 16: Members of the Hong Kong Garrison shall fulfil the following obligations:

(i) to be loyal to their motherland, perform their functions and responsibilities, maintain the security, honour and interests of their motherland, and safeguard the security of Hong Kong;

(ii) to abide by national laws and the laws of the HKSAR, and observe military discipline;

(iii) to respect the organs of political power, the social system and the ways of life of the HKSAR;

(iv) to cherish the public property of the HKSAR and the private property of Hong Kong residents and other persons, and

(v) to observe public ethics and cultivate civility and courtesy.

(d) Article 17: Members of the Hong Kong Garrison shall not join any political, religious or public organization in Hong Kong.

(e) Article 18: The Hong Kong Garrison or its members shall not engage in any form of profit-making business activities. Members of the Hong Kong Garrison shall not engage in any other activity

incompatible with their functions and responsibilities as servicemen.

II. Land used by the Hong Kong Garrison

- (a) Article 7 of the Basic Law: The land and natural resources within the HKSAR shall be State property. The Government of the HKSAR shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development.
- (b) Article 14 of the Basic Law: The CPG shall be responsible for the defence of the HKSAR.
- (c) Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Arrangements for the Future Use of the Military Sites in Hong Kong (entered into force on 11 November 1994): Military sites will be used exclusively for defence purposes by the military forces stationed in the HKSAR by the Government of the PRC as from 1 July 1997.

Adaptation of Laws (Military References) Bill 2010

**Table illustrating adaptation of military-related references
in the laws of Hong Kong
(Sections 1 to 45 of Schedule 1 to the Bill)**

	<u>Existing expression and equivalent expressions</u>	<u>Expression after adaptation</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
1	Commander, British Forces or Commander British Forces	Commander of the Hong Kong Garrison	15(1), 15(2), 38
2	Her Majesty's forces	Chinese People's Liberation Army	3(2), 3(3), 7, 20, 39, 40, 41, 42
3	Her Majesty's forces (in relation to land vested in or occupied by)	Hong Kong Garrison	5, 15(1), 15(2), 23, 24(1), 24(2), 24(3), 25, 26, 38
4	Ships belonging to Her Majesty	Ships belonging to the Chinese People's Liberation Army/ships belonging to the Central People's Government and used only on non-commercial service	8
5	Officers/Member(s) of Her Majesty's forces	Member(s) of the Chinese People's Liberation Army	2(1), 2(2), 14, 18(2), 18(3), 19, 38, 44(1), 44(2), 45
6	a court martial held 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
7	Ministry of Defence (The Navy Department), The Ministry of Defence (The Army Department)	the Hong Kong Garrison	16
8	the Ministry of Defence of	the Ministry of National	38

	<u>Existing expression and equivalent expressions</u>	<u>Expression after adaptation</u>	<u>Section Number of Schedule 1 to the Bill</u> ^{Note}
	Her Majesty's Government in the United Kingdom	Defence in the Central People's Government	
9	Crown	United Kingdom	10(1), 10(2), 13(1), 13(2)
10	Crown in right of Her Majesty's Government in the United Kingdom	Central People's Government	5
11	a/any hospital/any mortuary situated within the precincts of any hospital or similar institution maintained by the Crown/a health centre or clinic maintained by the Crown	a military hospital/a health centre or clinic/any mortuary situated within the precincts of any hospital or similar institution maintained by the Government/a military hospital/a health centre or clinic of the Hong Kong Garrison/any mortuary situated within the precincts of a military hospital	6, 27, 29, 30, 31(1), 31(2), 32(1), 32(2), 32(3), 33, 34, 36, 37, 43(1), 43(2)
12	Government of the United Kingdom	Central People's Government/ Chinese People's Liberation Army	17
13	Governments of the members of the commonwealth, other than the Government of Hong Kong, to members of Her Majesty's forces	Central People's Government to members of the Chinese People's Liberation Army	18(1)

Note

- Section 1 is a new provision.
- Section 3(1) is a renumbering of a provision.
- Sections 9, 11, 12, 21, 22 and 28 are not included in this paper as we propose to repeal the relevant provisions in the Bill.
- Section 35 is an amendment of a section heading.

Adaptation of Laws (Military References) Bill 2010
Adaptation Proposals

Schedule 1

Section	Legislation	Proposed Adaptation	Justifications
1	Interpretation and General Clauses Ordinance (Cap.1), s.3	<p>Section 3 of the Interpretation and General Clauses Ordinance is amended by adding –</p> <p><u>“Commander of the Hong Kong Garrison” (香港駐軍最高指揮官) means the officer for the time being in command of the Hong Kong Garrison;</u></p> <p><u>“Hong Kong Garrison” (香港駐軍) means the Hong Kong Garrison of the Chinese People’s Liberation Army as stipulated in Article 2 of the Law of the People’s Republic of China on the Garrisoning of the Hong Kong Special Administrative Region (L.N. 386 of 1997)</u></p> <p><u>“member of the Hong Kong Garrison” (香港駐軍人員) means a member of the Hong Kong Garrison for the time being serving with the Hong Kong Garrison but does not include locally employed personnel, agents or servants of the Hong Kong Garrison;</u></p> <p><u>“military hospital” (軍方醫院) means a hospital of the Hong Kong Garrison;”</u></p>	<p>The four definitions are required such that the meaning of these terms is clearly set out to provide clarity of drafting to the proposed adaptation. Also, it obviates the need to repeat the same definitions in each of the Ordinances as covered in the Bill and in which these terms apply.</p> <p>Legal advice confirms that the inclusion of the four terms in Cap.1 will not alter the meaning of any existing provisions in specific pieces of Ordinance to which the same terms apply. Indeed, the scope of application of Cap.1 with regard to other Ordinances is defined clearly in section 2 of Cap. 1-</p> <p>"Save where the contrary intention appears either from this Ordinance or from the context of any other Ordinance or instrument, the provisions of this Ordinance shall apply to this Ordinance and to any other Ordinance in force ..."</p> <p>In other words, if a term is defined in Cap. 1 and that the same term appears in a specific Ordinance, say Cap. X, this term in Cap. X, if specified under Cap.X to have a meaning different from the term in Cap. 1, will not be affected or altered by Cap.1, if the contrary intention is made clear in from the context of Cap. X.</p>
2(1) 2(2)	Jury Ordinance (Cap. 3), s. 5(1)(j) & s. 5(1)(p)	<p>The following persons shall be exempt from service as jurors –</p> <p>(j) officers employed on full pay in the naval, military or air services of Her Majesty; <u>members of the Chinese People’s Liberation Army;</u></p>	<p>Cap. 3 makes provisions in relation to jury. This provision provided exemption to officers employed in the naval, military or air services of Her Majesty and their spouses from service as jurors.</p> <p>As the Chinese People’s Liberation Army covers the naval,</p>

Section	Legislation	Proposed Adaptation	Justifications
		(p) spouses of members of the Armed Forces of Her Majesty serving on full pay <u>Chinese People's Liberation Army</u> ;	<p>military and air services, it is thus appropriate to adapt both references to “members of the Chinese People’s Liberation Army”.</p> <p>As there are no employment conditions in the Chinese People’s Liberation Army stipulating whether a soldier is on full pay or not, to retain the phrase “employed on full pay” may create legal ambiguity. As such, the present adaptation proposal is to take away the concept of “full pay” which is no longer valid.</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>
3(1) 3(2) 3(3)	Probate and Administration Ordinance (Cap. 10), s. 17	<p><u>(1) Nothing in this Ordinance shall be construed to enable or require the Official Administrator to obtain administration of the estate of any person dying in any of Her Majesty's forces or of any deceased seaman or apprentice for the administration of whose estate provision is made by any Act.</u></p> <p><u>(2) Nothing in this Ordinance shall be construed to enable or require the Official Administrator to obtain administration of the estate of any person dying in the Chinese People’s Liberation Army for the administration of whose estate provision is made by any law of the Mainland.</u></p> <p><u>(3) In this section, “Mainland” (內地) means any part of China other than Hong Kong, Macau and Taiwan.</u></p>	<p>Cap. 10 makes provisions relating to probate, letters of administration and administration of the estates of deceased persons.</p> <p>Section 10 provides that persons who dies intestate in Hong Kong or elsewhere leaving estate in Hong Kong, such estate shall vest in the Official Administrator (i.e. Registrar of the High Court as defined in section 9) who may receive and take possession of the same until administration is granted in respect thereof.</p> <p>Section 17, inter alia, restricts the Official Administrator from obtaining administration of the estate of any person dying in service of Her Majesty’s forces. “Act” refers to an Act of the Parliament of the United Kingdom. As “any Act” is therefore a general reference to any law of the United Kingdom, it is proposed to adapt the term as “any law of the</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>Mainland”.</p> <p>Since Her Majesty’s forces covered the British forces garrisoned in Hong Kong and other members of the British forces before July 1997, relevant terms in the provision are adapted as “the Chinese People’s Liberation Army” by the inclusion of a new subsection (2). The reference to “Act” in the original provision (i.e. the new subsection (1)) is not amended as it does not relate to a military reference and falls outside the scope of the Bill.</p> <p>Finally, the definition of “Mainland” is added under subsection (3) to provide clarity of drafting to (2) on the scope of the Mainland law.</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>
4	Defamation Ordinance (Cap. 21), Schedule	<p>NEWSPAPER STATEMENTS HAVING QUALIFIED PRIVILEGE</p> <p>PART I</p> <p>STATEMENTS PRIVILEGED WITHOUT EXPLANATION OR CONTRADICTION</p> <p>4. A fair and accurate report of any proceedings before a court exercising jurisdiction throughout any part of the Commonwealth outside Hong Kong or of any proceedings before a court-martial held outside Hong Kong under the Naval Discipline Act, the Army Act or the Air Force Act of the Chinese People’s Liberation Army held outside Hong Kong.</p>	<p>Cap. 21 makes provisions relating to defamatory words and libel.</p> <p>Section 14(1) provides that the publication in a newspaper or the broadcasting of any such report or other matter as is mentioned in the Schedule (including a fair and accurate report of any proceedings before a court-martial held outside Hong Kong under the United Kingdom Naval Discipline Act, Army Act or Air Force Act) shall be privileged unless the publication is proved to be made with malice. Such privileged publications are not subject to an action for libel by the person concerned.</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>As (a) there is no equivalent Naval Discipline Act, Army Act or Air Force Act under the laws of the Mainland and (b) we understand that there are no specific laws or regulations defining the jurisdiction of court-martials of the Mainland, it would not be appropriate to adapt the relevant provision by making reference to a particular law of the Mainland.</p> <p>The proposed amendment preserves the intent of the Ordinance and does not have the effect of narrowing the original scope of statutory defence which might be put forward.</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>
5	Antiquities and Monuments Ordinance (Cap. 53), s. 2	<p>"private land" (私人土地) means –</p> <p>(b) land occupied by Her Majesty's forces, or for other purposes of the Crown in right of Her Majesty's Government in the United Kingdom, the Hong Kong Garrison, or for other purposes of the Central People's Government, under lease, licence, permit, deed or memorandum of appropriation, requisition or other permanent or temporary title;</p>	<p>Cap. 53 provides for the preservation of objects of historical, archaeological and paleontological interest.</p> <p>As the first reference to “Her Majesty’s forces” could only relate to land vested in or occupied by the then British forces stationed in Hong Kong in the context of the Ordinance, it is therefore appropriate to adapt the relevant reference to “the Hong Kong Garrison” as only the Hong Kong Garrison could occupy land in Hong Kong for defence purposes.</p> <p>As for the “Crown in the right of Her Majesty’s Government in the United Kingdom”, it is proposed to be adapted as “the Central People’s Government” in accordance with the principles set out in section 1 of Schedule 8 to Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
			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.
6	Employment Ordinance (Cap. 57), s. 33(6)(a)	For the purposes of this section – (a) the expression "hospital" (醫院) means a hospital or specialist clinic maintained by the Crown Government, a military hospital, a public hospital within the meaning of the Hospital Authority Ordinance (Cap 113) or a hospital in respect of which a person is registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165);	Cap. 57 provides for the protection of the wages of employees, regulates general conditions of employment and employment agencies. The reference “a military hospital” is added to the adaptation proposal as “hospitals maintained by the Crown” include hospitals of the then British forces. 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.
7	Import and Export (Registration) Regulations (Cap. 60 sub. leg. E), regulation 3(c)	Nothing in regulations 4 and 5 shall apply to or in respect of – (c) articles imported or exported by the Government or the armed forces of the Crown Chinese People’s Liberation Army;	Cap. 60 sub. leg. E requires any person importing or exporting any article to give specified information in respect of the article before or after it has been imported or exported. Under Regulation 3(c) of Cap. 60 sub. leg. E, articles imported or exported by the armed forces of the Crown were exempted from lodging import and export declarations prior to the Reunification. The reference to “armed forces of the Crown” is therefore adapted as “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.
8	Pilotage Ordinance	The following ships shall be exempted from compulsory	Cap. 84 establishes the Pilotage Authority and regulates and

Section	Legislation	Proposed Adaptation	Justifications
	(Cap. 84), s. 10D(1)(a)	<p>pilotage –</p> <p>(a) ships belonging to Her Majesty the Chinese People’s Liberation Army or ships belonging to <u>the Central People’s Government and used only on non-commercial service</u>;</p>	<p>controls pilotage in respect of certain types of ships in HK waters.</p> <p>The Ordinance, under section 10D, has all along been offering exemption from pilotage requirements only to ships on official duties and providing non-commercial service. This principle had applied to ships belonging to Her Majesty prior to the Reunification.</p> <p>In adapting the term, “the Chinese People’s Liberation Army” is suggested instead of “the Hong Kong Garrison” as there is a need to cater for visiting warships from Chinese People’s Liberation Army (i.e. those based outside Hong Kong). Further, as ships belonging to Her Majesty also included ships of the United Kingdom Government, a second limb making reference to “the Central People’s Government” has been included as part of the adaptation. The adaptation proposal reflects the intent and application of the provision.</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>
9	Pensions Regulations (Cap. 89 sub. leg. A), regulation 16	<p>Where an officer shall have served with Her Majesty’s Forces in time of war and before so serving shall have been employed in the public service the following provisions shall have effect—</p> <p>(a) during the period of such service in Her Majesty’s Forces, including any period after the termination of the war (in this regulation referred to as military service), he shall be</p>	<p>Cap. 89A provides regulations for granting of pensions, gratuities and other allowances.</p> <p>It is proposed to delete the obsolete Regulation 16 which is for the purpose of calculating pension of new cases which would apply to officers who have served with Her Majesty’s forces in time of war and before so serving shall have been employed in the public service. The provisions are no</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>deemed for the purposes of the Ordinance and these regulations to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to military service;</p> <p>(b) during any period between his leaving the public service for the purpose of serving in Her Majesty's Forces and the date of his commencing military service he shall, for the purposes of the Ordinance and of these regulations, be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed and to have held the substantive office last held by him in that service prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service and to have held the substantive office in which he is re-employed:</p> <p>Provided that—</p> <p>(i) this regulation shall not apply when either period mentioned in paragraph (b) exceeds 3 months, or such longer period as the Governor may in any special case determine; or if the officer fails after serving with Her Majesty's Forces to re-enter the public service otherwise than in circumstances in which he would be</p>	<p>longer applicable after the Reunification and should be deleted.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(b) of Cap.1.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>permitted under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of 3 months or such longer period as may be determined as aforesaid, after the termination of his military service;</p> <p>(ii) this regulation shall not apply when subsequent to the commencement of the Ordinance an officer shall have commenced service with Her Majesty's Forces without the approval of the Governor of the territory in the service of which he was last employed before so serving;</p> <p>(iii) if during any period mentioned in paragraph (a) the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (a) shall, as respects that period, have effect as if the words "leave without salary not granted on grounds of public policy" were substituted for the words "leave on full salary";</p> <p>(iv) if during his military service the officer shall be injured or killed, he shall not, for the purposes of any provision of the Ordinance or of these regulations relating to injury awards, be deemed to have been injured or killed in the discharge of his duty;</p> <p>(v) the provisions of this regulation which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of</p>	

Section	Legislation	Proposed Adaptation	Justifications
		<p>any period during which he shall actually have held any other substantive office and have been on leave from any public service;</p> <p>(vi) save where in any particular case the Governor otherwise directs, this regulation shall not apply where the office in the public service last held by the officer prior to military service was not an established office;</p> <p>(vii) the provisions of this regulation shall not apply to an officer who has received a pension or gratuity during a period of service in Her Majesty's Forces in respect of public service prior to joining Her Majesty's Forces.</p>	
10(1) 10(2)	Pensions Regulations (Cap. 89 sub. leg. A), regulation 17A(9)	<p>“excess remuneration” (附加報酬) means, in relation to a retired officer of the Armed Forces of the Crown <u>United Kingdom</u> who is re-employed in those forces, any service pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer was re-employed which is granted by reason of the officer's former employment in those forces;</p> <p>“war service” (戰時服務) means service at any time between 3 September 1939 and 30 June 1950 in –</p> <p>(a) the Armed Forces of the Crown <u>United Kingdom</u>;</p> <p>(b) the merchant navy or mercantile marine;</p> <p>(c) any of the women's services listed in Schedule 2.</p>	<p>Regulation 17A(9) provides for additional pension for officers who performed war service or compulsory service between 3 September 1939 to 30 June 1950, which referred to war service with the United Kingdom Government.</p> <p>The provisions relate to events that occurred in a particular period in the past. As such, the reference to “the Crown” represents “the Crown” at a particular point in time and needs to be adapted to “United Kingdom” so as to provide coverage to persons whom should continue to be applicable.</p>
11	Public Service Commission Ordinance (Cap. 93), s. 6(2)(d)	<p>Nothing in this section shall apply to the following offices, classes of office or appointments –</p> <p>(d) any office or rank in any naval, military or air force constituted by or raised under any</p>	<p>Cap. 93 provides for the establishment of the Public Service Commission.</p> <p>Prior to the Reunification, there were only two bodies,</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>enactment or in the police force;</p>	<p>namely Royal Hong Kong Regiment (RHKR) and Royal Hong Kong Auxiliary Air Force (RHKAAF), that were constituted by or raised under enactments in Hong Kong, and were thus relevant to the Ordinance.</p> <p>As RHKR and RHKAAF have been disbanded prior to the Reunification and no longer exist, the adaptation proposal is to delete the terms “any naval, military or air force constituted by or raised under any enactment”.</p>
12	Pension Benefits Regulations (Cap. 99 sub. leg. A), regulation 15	<p>Where an officer, including a serving officer, has served with Her Majesty’s Forces in time of war and before so serving was employed in public service the following provisions shall apply—</p> <p>(a) during the period of such service with Her Majesty’s Forces, including any period after the termination of the war, (in this regulation referred to as military service), he shall be deemed for the purposes of the Ordinance and these regulations to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service prior to his military service;—</p> <p>(b) during any period between his leaving public service for the purpose of serving with Her Majesty’s Forces and the date of his commencing military service he shall, for the purposes of the Ordinance and these regulations, be deemed to be on leave without salary, not granted on grounds of public policy, from the public service in which he was last</p>	<p>Regulation 15 is for counting new cases of pension benefits and applies to officers who shall have served with Her Majesty’s Forces in time of war and before so serving shall have been employed in the public service.</p> <p>The provision is no longer applicable after the Reunification and should be deleted.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>employed and to have held the substantive office last held by him in that service prior to his military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from public service and to have held the substantive office in which he is re-employed:—</p> <p>Provided that—</p> <p>(i) this regulation shall not apply when either period mentioned in paragraph (b) exceeds 3 months, or such longer period as the Governor may in any special case determine; or if the officer fails after his military service to re-enter the public service otherwise than in circumstances in which he would be permitted under the law applicable to the public service in which he is last employed prior to his military service to retire on pension or gratuity, such circumstances arising not later than the expiration of 3 months, or such longer period as may be determined as aforesaid, after the termination of his military service;—</p> <p>(ii) this regulation shall not apply when an officer shall have commenced his military service without the approval of the Governor of the territory in the service of which he was last employed before so serving;—</p> <p>(iii) if during any period mentioned in paragraph (a) the officer shall have qualified for pension, or received emoluments in lieu of pension</p>	

Section	Legislation	Proposed Adaptation	Justifications
		<p>rights, actually in respect of his military service, paragraph (a) shall, as respects that period, have effect as if the words “leave without salary, not granted on grounds of public policy,” were substituted for the words “leave on full salary”;-</p> <p>(iv) if during his military service the officer shall be injured or killed, he shall not for the purposes of any provision of the Ordinance and these regulations relating to injury or death awards, be deemed to have been injured or killed in the discharge of his duty;-</p> <p>(v) the provisions of this regulation which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;-</p> <p>(vi) save where in any particular case the Governor otherwise directs, this regulation shall not apply where the office in the public service last held by the officer prior to his military service was not an established office;-</p> <p>(vii) this regulation shall not apply to an officer who has received a pension or gratuity during a period of his military service in respect of public service prior to joining the military service.</p>	
13(1) 13(2)	Pension Benefits Regulations (Cap. 99 sub. leg. A),	“excess remuneration” (附力口報報酬) means, in relation to a retired officer of the Armed Forces of the <u>Crown-United Kingdom</u> who is re-employed in those forces, any service	The provisions relate to events that occurred in a particular period in the past. As such, the reference to “the Crown” represents “the Crown” at a particular point in time and

Section	Legislation	Proposed Adaptation	Justifications
	regulation 15A(9)	<p>pension drawn in respect of such period of re-employment or any addition to the normal pay attaching to the post in which the officer was re-employed which is granted by reason of the officer's former employment in those forces;</p> <p>“war service” (戰時服務) means service at any time between 3 September 1939 and 30 June 1950 in –</p> <p>(a) the Armed Forces of the Crown <u>United Kingdom</u>;</p> <p>(b) the merchant navy or mercantile marine;</p> <p>(c) any of the women's services listed in Schedule 2.</p>	needs to be adapted to “United Kingdom” so as to provide coverage to persons whom should continue to be applicable.
14	“Star” Ferry Company, Limited, By-laws (Cap. 104 sub. leg. E), bylaw 13	No person other than a member of Her Majesty's forces <u>the Chinese People's Liberation Army</u> or a police or revenue officer on duty shall enter any of the Company's piers or travel on any of the Company's vessels with firearms.	<p>Cap. 104 sub. leg. E makes provisions for the protection of the property owned or controlled by the grantee of franchise and efficient and safe operations of the ferry service.</p> <p>Since “Her Majesty's forces” covered the British forces garrisoned in Hong Kong and other members of the British forces before July 1997, it is suggested the term be adapted as “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>
15(1)	Telecommunication Ordinance (Cap. 106), s. 14(1)(b)	The Authority, and any licensee authorized by the Authority either generally or for any particular occasion, may place and maintain a telecommunications line, and such posts as may be necessary, in, over or upon any land or seabed and may enter upon the land or seabed for the purpose of site inspection, or other activities for or	<p>Cap. 106 makes provisions for the licensing and control of telecommunications, telecommunications service and telecommunications apparatus and equipment.</p> <p>Under section 14(1)(b), the power of the Telecommunications Authority to place and maintain a</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>incidental to placement and maintenance of a telecommunications line, subject –</p> <p>(b) in the case of land vested in or occupied by Her Majesty's naval, military or airforce services, <u>the Hong Kong Garrison</u>, to the consent in writing of the Commander, British Forces, <u>Commander of the Hong Kong Garrison</u>, or such officer as he appoints to be his representative for the purposes of this section.</p>	<p>telecommunication line, pipe or wire in land occupied by the then British forces is subject to the consent in writing of the Commander, British Forces. As such, the relevant terms are adapted to “the Hong Kong Garrison” and the “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>
15(2)	Telecommunication Ordinance (Cap. 106), s. 14(3)(c)	<p>So far as may be necessary for the due exercise of the powers conferred by subsection (1) or (1A), as the case may be, the Authority or the licensee, as the case may be, may alter the position of any pipe or wire, other than a water, gas or electric main, if –</p> <p>(c) in the case of a pipe or wire in, over or upon land vested in or occupied by Her Majesty's naval, military or airforce services <u>the Hong Kong Garrison</u>, the consent in writing of the Commander, British Forces <u>Commander of the Hong Kong Garrison</u>, or such officer as he appoints to be his representative for the purposes of this section has been obtained.</p>	Please see justifications for Section 15(1) of the Bill.
16	Tramway Ordinance (Cap. 107), s. 2	<p>“department” (部門) includes The Ministry of Defence (The Navy Department), The Ministry of Defence (The Army Department), and the Hong Kong Government; <u>the Government and the Hong Kong Garrison;</u></p>	<p>Cap. 107 makes provisions relating to the authorization of construction of a tramway. In particular, it provides that where the tramway company intends to alter the position of any mains or pipes so as to facilitate any work on the tramway, notice shall be given to the department (including the then British Forces) to whom the mains or pipes belong.</p> <p>The relevant provisions of the Ordinance that make reference to “department” broadly relate to land vested in or occupied</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>by the former Hong Kong Government and the then British forces stationed in Hong Kong. It is therefore appropriate to adapt the relevant references (“Ministry of Defence (The Navy Department), The Ministry of Defence (The Army Department)) 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>
17	Dutiable Commodities Ordinance (Cap. 109), s. 3(4)	<p>This Ordinance does not apply to goods which are the property of or imported or purchased for the Government of the United Kingdom or of Hong Kong <u>Central People’s Government, the Chinese People’s Liberation Army or the Government of the Hong Kong Special Administrative Region.</u></p>	<p>Cap. 109 imposes duties on alcoholic liquors, tobacco, hydrocarbon oil (including aircraft spirit, light diesel oil, motor spirit and kerosene) and methyl alcohol.</p> <p>Section 3(4) provides that the Ordinance does not apply to “goods which are the property of or imported or purchased for the Government of the United Kingdom or of Hong Kong”.</p> <p>The Government of the United Kingdom includes, amongst others, the British forces stationed in Hong Kong prior to 1 July 1997. The term “the Chinese People’s Liberation Army” is therefore added to reflect the legislative intent of the Ordinance.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap. 1 and sections 1 and 2 of Schedule 8 to Cap.1.</p>
18(1)	Inland Revenue Ordinance (Cap. 112), s. 8(2)(d)	<p>In computing the income of any person for the purposes of subsection (1) there shall be excluded the following – (d) the emoluments payable by the Governments</p>	<p>Cap. 112 imposes a tax on property, earnings and profits.</p> <p>Section 8(1) imposes a salaries tax on employment income</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>of the members of the Commonwealth, other than the Government of Hong Kong, to members of Her Majesty's forces and to persons in the permanent service of those Governments in Hong Kong in respect of their offices under those Governments <u>Central People's Government to members of the Chinese People's Liberation Army, and to persons in the permanent service of that Government in Hong Kong in respect of their offices under that Government;</u></p>	<p>and pension income.</p> <p>Section 8(2) excludes certain income from the tax including, under paragraphs (d), (e) and (f) of that section, the emoluments payable by Commonwealth Governments to members of Her Majesty's forces, wound and disability pensions granted to members of Her Majesty's forces and gratuities granted to members of Her Majesty's forces in respect of war service.</p> <p>It is proposed to replace the references to "Her Majesty's forces" in each case by a reference to the "Chinese People's Liberation Army" as the provision refers to the exemptions of Her Majesty's forces and other Commonwealth Forces where applicable prior to the handover in relation to then British forces in Hong Kong. It should continue to have effect and apply 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>
18(2)	Inland Revenue Ordinance (Cap. 112), s. 8(2)(e)	<p>In computing the income of any person for the purposes of subsection (1) there shall be excluded the following –</p> <p>(e) wound and disability pensions granted to members of Her Majesty's forces <u>the Chinese People's Liberation Army;</u></p>	Please see justifications for Section 18(1) of the Bill above.
18(3)	Inland Revenue Ordinance (Cap. 112), s. 8(2)(f)	<p>In computing the income of any person for the purposes of subsection (1) there shall be excluded the following –</p> <p>(f) gratuities granted to members of Her Majesty's forces <u>the Chinese People's Liberation Army</u> in respect of services rendered during war;</p>	Please see justifications for Section 18(1) of Bill above.

Section	Legislation	Proposed Adaptation	Justifications
18(4)	Inland Revenue Ordinance (Cap. 112), s. 8	<u>(2A) In computing the income of any person for the purposes of subsection (1) there is to be excluded any amount that, had it been payable immediately before the date of commencement of section 18 of Schedule 1 to the Adaptation of Laws (Military References) Ordinance 2010 (of 2010), would have been excluded under subsection (2)(e) or (f) as in force immediately before that date.</u>	It is necessary to add a savings clause to allow the former members of Her Majesty’s forces to continue to receive wound or disability pensions or gratuities granted in respect of war service. The adaptation proposal would not change the legal effect of the original Ordinance.
19	Immigration Ordinance (Cap. 115), s. 2(1)	“serviceman” (軍人) means a person, not being locally engaged, who is a serving member of Her Majesty’s regular naval, military or air force service <u>the Chinese People’s Liberation Army</u> ;	Cap. 115 makes provisions relating to immigration and deportation. This is a straight forward adaptation from “Her Majesty’s naval, military or air forces” to “Chinese People’s Liberation Army”. The adaptation proposal is prepared by making reference to section 1 of Schedule 8 to Cap.1.
20	Immigration Ordinance (Cap. 115), s. 17B(1)(e)	Subject to subsection (2), in this Part – “proof of identity” (身分證明文件) in relation to any person means – (e) 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	Definition of “proof of identity” to include documentary proof of identity officially issued to members of the Chinese People’s Liberation Army. This is a straight forward adaptation from “Her Majesty’s regular naval, military or air force service” to “Chinese People’s Liberation Army”. The adaptation proposal is prepared by making reference to section 1 of Schedule 8 to Cap.1.
21	Immigration	(1) Without prejudice to this Ordinance or any other law,	Sections 57A, 57B, 58 and 58A relate to the power of Her

Section	Legislation	Proposed Adaptation	Justifications
	Ordinance (Cap. 115), s. 57A	<p>any member of Her Majesty's forces acting in the course of his duty and for the purposes of this Ordinance may arrest any person whom he reasonably suspects to be a person who—</p> <p>(a) by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer or immigration assistant and who lands or attempts to land without such permission; or</p> <p>(b) having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director,</p> <p>and may use such force as may be reasonably necessary for the purpose.</p> <p>(2) Any person arrested under subsection (1) shall be delivered into the custody of a police officer or an immigration officer or immigration assistant as soon as practicable.</p>	Majesty's forces to arrest illegal immigrants and board, search, seize and detain ships within the waters of Hong Kong. It is appropriate to repeal these provisions considering that the exercise of such powers, i.e. maintenance of public order, are the responsibility of the Government of the Hong Kong Special Administrative Region under the Basic Law and the Garrison no longer performs such duties.
21	Immigration Ordinance (Cap. 115), s. 57B	<p>(1) Any person being a person liable to arrest under section 57A(1) who resists arrest by a member of Her Majesty's forces under that subsection shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.</p> <p>(2) Any person who obstructs any member of Her Majesty's forces acting in the course of his duty and for the purposes of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.—</p>	Please see justifications for Section 21 of the Bill above.

Section	Legislation	Proposed Adaptation	Justifications
21	Immigration Ordinance (Cap. 115), s. 58	<p>(1) For the purposes of this Ordinance, the officer in command of any of Her Majesty's ships of war or auxiliary ships and any person under his command may board and search any ship, not being a ship of war, which is proceeding through the waters of Hong Kong.</p> <p>(2) Where the officer in command of one of Her Majesty's ships of war or auxiliary ships has reason to suspect that any ship is being or has been used in the commission of an offence under section 38(1) or, while it is in force, Part VIIA or Part VIIB or that any person on board such a ship is seeking to land in contravention of section 38(1)(a), or that a ship is being or has been used in landing any person in Hong Kong unlawfully, such officer and any person under his command may— (Amended 42 of 1979 s. 7; 61 of 1979 s. 6; 75 of 1981 s. 11)—</p> <ul style="list-style-type: none"> (a) seize the ship and detain it until it can be delivered to an immigration officer or police officer; (Amended 61 of 1979 s. 6) (aa) tow or otherwise move the ship; and (b) detain any person found on the ship until he can be delivered into the custody of an immigration officer or police officer. <p>(3) Any such officer and any person under his command may—</p> <ul style="list-style-type: none"> (a) stop and forcibly board any ship which he is empowered to board and search; (b) remove by force any person or thing obstructing any boarding, search, seizure or detention which he is empowered to make; (c) detain any person found on any ship which he is 	Please see justifications for Section 21 of the Bill above.

Section	Legislation	Proposed Adaptation	Justifications
21	Immigration Ordinance (Cap. 115), s. 58A	<p>empowered to search until it has been searched.</p> <p>(1) For the purposes of this Ordinance, the captain or person in charge of any vessel, or any vessel belonging to a class or description of vessels authorized by the Governor for the purposes of this section, and any person under the command of such captain or person may exercise respectively the powers conferred by section 58 on an officer in command of any of Her Majesty's ships of war and on any person under the command of such officer.</p> <p>(2) Without prejudice to section 51, the Governor may give directions to any person with respect to the exercise of any powers under this section, either generally or in any particular case.</p> <p>(3) A person shall, in the exercise of any powers under this section, comply with any directions given by the Governor under subsection (2).</p>	Please see justifications for Section 21 of the Bill above.
22	Authorization by the Governor under section 58A (Cap. 115 sub. leg. F)	<p>In exercise of the powers conferred by section 58A of the Immigration Ordinance, the Governor has on 7th day of May 1980 declared that all vessels manned or occupied by Members of Her Majesty's Forces acting in the course of their duties to be authorized vessels and that all persons in charge of such vessels may exercise the powers conferred by section 58 of the said Ordinance.</p>	The proposed deletion is consequential to the repeal of section 58A of the Immigration Ordinance (Cap. 115) (please refer to justifications for Section 21 of the Bill above).
23	Rating Ordinance (Cap. 116), s. 36(4)	<p>"military land" (軍事用地) means any land and any building thereon occupied by Her Majesty's forces, or by any body or organization established primarily for defence purposes and designated by the Governor for the purposes</p>	<p>Cap. 116 makes provisions relating to rating.</p> <p>Section 36(1) provides exemption of military land from assessment to rates. Military land is defined in section</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>of this section, but not the Hong Kong Garrison; but does not include any land or building thereon rented for public purposes by any such force, body or organization the Hong Kong Garrison unless such land or building is rented directly from the Government;</p>	<p>36(4).</p> <p>The reference is specific to the British forces stationed in Hong Kong and is in relation to land vested in or occupied by such forces. It is therefore to be adapted as “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 of Cap.1.</p>
24(1)	Buildings Ordinance (Cap. 123), s. 41(1)(b)	<p>The following shall be exempt from the provisions of this Ordinance –</p> <p>(b) buildings upon any land vested in any person on behalf of Her Majesty’s naval, military or air force services <u>the Hong Kong Garrison</u>;</p>	<p>Cap. 123 provides for the planning, design, and construction of buildings and associated works, and makes provisions for the rendering safe of dangerous buildings and land.</p> <p>Section 41 exempts buildings on military land from the Ordinance.</p> <p>The reference is specific to the British forces stationed in Hong Kong and is in relation to land vested in or occupied by such forces. It is therefore to be adapted as “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 of Cap.1.</p>
24(2)	Buildings Ordinance (Cap. 123), s. 41(1)(ba)	<p>The following shall be exempt from the provisions of this Ordinance –</p> <p>(ba) any land vested in the Housing Authority or in any person on behalf of Her Majesty’s naval, military or air force services <u>the Hong Kong Garrison</u>, and any unleased</p>	<p>Please see justifications for Section 24(1) of the Bill above.</p>

Section	Legislation	Proposed Adaptation	Justifications
		land within the meaning of the Land (Miscellaneous Provisions) Ordinance (Cap 28) other than such unleased land in respect of which a person is, under the terms of a Government lease, under an obligation to maintain;	
24(3)	Buildings Ordinance (Cap. 123), s. 41(1A)(a)	Nothing in subsection (1) shall exempt an owner of any building that is not a building referred to in paragraph (a), (aa) or (b) of that subsection from the operation of section 27C merely by reason of the fact that any water pipe, drain or sewer of the building is laid in, on or under – (a) any land vested in the Housing Authority or in any person on behalf of Her Majesty's naval, military or air force services <u>the Hong Kong Garrison</u> ;	Please see justifications for Section 24(1) of the Bill above.
25	Lands Resumption Ordinance (Cap. 124), s. 2	“resumption for a public purpose” (收回作公共用途) includes – (c) resumption for any purpose connected with the naval, military or air forces of the Crown, including the volunteer forces in the Colony, <u>Hong Kong Garrison</u> ; and	Cap. 124 makes provisions to facilitate the resumption of land required for public purposes. In section 2, the definition of “resumption for a public purpose” includes resumption for any purpose connected with the British Garrison stationed in Hong Kong. The reference is specific to the British forces stationed in Hong Kong and is in relation to the resumption of land for use by such forces. It is therefore to be adapted as “Hong Kong Garrison”. The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 1 of Schedule 8 of Cap.1.
26	Land Acquisition (Possessory Title)	“acquisition for a public purpose” (徵用作公共用途) includes –	Cap. 130 provides for the acquisition of land, held under a possessory title by virtue of the Limitation Ordinance (Cap.

Section	Legislation	Proposed Adaptation	Justifications
	Ordinance (Cap. 130), s. 2	(c) acquisition for any purpose connected with the naval, military or air forces of the Crown, including the volunteer forces in Hong Kong <u>Hong Kong Garrison</u> ; and	374), required for public purposes, and the compensation for such acquisition. The reference is specific to the British forces stationed in Hong Kong and is in relation to acquisition of land for use by such forces. It is therefore to be adapted as “the Hong Kong Garrison”. The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and section 1 of Schedule 8 of Cap.1.
27	Funeral Parlours Regulation (Cap. 132 sub. leg. AD), s. 3	“funeral parlour” (殯儀館) means a mortuary, but does not include – (b) any mortuary situated within the precincts of any hospital or similar institution which is maintained or controlled by the Crown <u>Government</u> , by the University of Hong Kong provided for by the University of Hong Kong Ordinance (Cap 1053) or by The Chinese University of Hong Kong provided for by The Chinese University of Hong Kong Ordinance (Cap 1109); <u>(ba) any mortuary situated within the precincts of a military hospital;</u>	The Regulation regulates the operation of funeral parlours. Any mortuary situated within the precincts of a military hospital is exempt from the application of the Regulation. As “any hospital or similar institution which is maintained or controlled by the Crown” refers to those maintained or controlled by the then Hong Kong Government as well as the former British forces stationed in Hong Kong, it is proposed to be adapted to include a hospital of the Hong Kong Garrison as in subsection (ba), i.e. “a military hospital”. The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.
28	Hong Kong Cemetery, Happy Valley, Rules (Cap. 132 sub. leg. AJ), rule 4(a)	Except with the prior permission of the Director of Food and Environment Hygiene – (a) no band, other than a band of Her Majesty’s armed forces , may enter or play within the cemetery; and	Cap. 132AJ makes rules for the operation of Happy Valley Cemetery (e.g. opening hours, taking of photos and playing of bans, etc.). Rule 4(a) provides for the right of the band of Her Majesty’s

Section	Legislation	Proposed Adaptation	Justifications
			<p>armed forces to enter or play within the cemetery without the prior permission of the DFEH.</p> <p>As the context of a band performing at a funeral within the Hong Kong Cemetery at Happy Valley is not valid to the Hong Kong Garrison, it is proposed to repeal this provision.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(b) of Cap.1.</p>
29	Dangerous Drugs Ordinance (Cap. 134), s. 2(1)	“prescribed hospital” (訂明醫院) means a hospital maintained by the Crown Government , <u>a military hospital</u> and a hospital or institution specified in the Second Schedule;	<p>Cap. 134 regulates the manufacture, sale, supply and possession of dangerous drugs and sets out related offences. The Ordinance specifies a number of exceptions to these offences, some of which are dependent on the meaning of the term “health centre or clinic maintained by the Crown” or the term “prescribed hospital” which is defined in its section 2(1) of Cap. 134.</p> <p>As “any hospital or similar institution which is maintained or controlled by the Crown” refers to those maintained or controlled by the then Hong Kong Government as well as the former British forces, it is proposed to adapt the term to include a hospital maintained by the Government and a hospital of the Hong Kong Garrison, i.e. “military hospital”.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
30	Dangerous Drugs Ordinance (Cap. 134), s. 5(3)(c)	For the purpose of this section, the administration of a dangerous drug – (c) by a sister for the time being in charge of a	This section is to provide exemption in the administration of dangerous drugs from a prescribed hospital or a health clinic maintained by the Crown, which referred to both the former

Section	Legislation	Proposed Adaptation	Justifications
		<p>ward, theatre or other department in a prescribed hospital, or in a health centre or clinic maintained by the Crown <u>in a health centre or clinic maintained by the Government or in a health centre or clinic of the Hong Kong Garrison</u>, acting on the instructions of a registered medical practitioner, to a patient of that ward, theatre, department, health centre or clinic;</p> <p>shall be deemed not to be the supplying of the dangerous drug.</p>	<p>Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
31(1) 31(2)	Dangerous Drugs Ordinance (Cap. 134), s. 22(1)(e)(ii) and 22(1)(f)	<p>Subject to the provisions of this Ordinance –</p> <p>(e) a person-</p> <p>(ii) who is employed or engaged at a prescribed hospital, or at a health centre or clinic maintained by the Crown <u>at a health centre or clinic maintained by the Government or at a health centre or clinic of the Hong Kong Garrison</u>; and...</p> <p>(f) a sister for the time being in charge of a ward, theatre or other department in a prescribed hospital, or in a health centre or clinic maintained by the Crown <u>in a health centre or clinic maintained by the Government or in a health centre or clinic of the Hong Kong Garrison</u>;</p> <p>is hereby authorized, so far as may be necessary for the practice or exercise of his profession, function or employment, and in his capacity as such, to be in possession of and to supply a dangerous drug.</p>	<p>The provision is to authorise persons employed or engaged at a prescribed hospital or a health centre or clinic maintained by the Crown to possess and supply a drug.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. The term is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>

Section	Legislation	Proposed Adaptation	Justifications
32(1)	Dangerous Drugs Ordinance (Cap. 134), s. 23(1)(b)	<p>Nothing in section 22 shall –</p> <p>(b) authorize the sister in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown in a health centre or clinic maintained by the Government or in a health centre or clinic of the Hong Kong Garrison –</p> <p>(i) to procure a dangerous drug except from a person employed or engaged in dispensing medicines at the hospital, health centre or clinic or from the matron of the hospital and except upon a written order signed by the sister; or</p> <p>(ii) to supply a dangerous drug except in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practitioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital;</p>	<p>This section prohibits relevant sister in a prescribed hospital or health centre or clinic maintained by the Crown from pouring or supplying a dangerous drug except under certain situations.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
32(2)	Dangerous Drugs Ordinance (Cap. 134), s. 23(1)(c)	<p>Nothing in section 22 shall –</p> <p>(c) authorize a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital, or at a health centre or clinic maintained by the Crown at a health centre or clinic maintained</p>	Please see justifications for Section 32(1) of the Bill above.

Section	Legislation	Proposed Adaptation	Justifications
		<p><u>by the Government or at a health centre or clinic of the Hong Kong Garrison</u> to supply a dangerous drug except –</p> <p>(i) in accordance with a written order signed by the sister in charge of a ward, theatre or other department in the hospital, health centre or clinic; or</p> <p>(ii) in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practitioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital;</p>	
32(3)	Dangerous Drugs Ordinance (Cap. 134), s. 23(3)	<p>Whenever a dangerous drug is supplied –</p> <p>(a) on a written order signed by a sister in accordance with subsection (1)(b)(i);</p> <p>(b) on a prescription lawfully given by a registered medical practitioner or a registered dentist; or</p> <p>(c) in accordance with directions given in the bed card or case sheet of a patient,</p> <p>by a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown or by the matron of a hospital <u>by the matron of a hospital or by a person who is a registered pharmacist or an approved person and who is employed or engaged at a</u></p>	<p>This section is to make the requirement of record keeping.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p><u>prescribed hospital, at a health centre or clinic maintained by the Government or at a health centre or clinic of the Hong Kong Garrison</u>, a record of such order or prescription shall be entered in a book kept solely for the purpose.</p>	
33	Dangerous Drugs Ordinance (Cap. 134), s. 27(1)(c)	<p>The following persons are hereby authorized to have in their possession equipment or apparatus fit and intended for the injection of a dangerous drug (or, in the case of paragraph (d), a specified dangerous drug), so far as may be necessary for the purposes of the practice or exercise of their profession, function or employment, that is to say –</p> <p>(c) any person employed or engaged in a prescribed hospital or in a health centre or clinic maintained by the Crown, <u>in a health centre or clinic maintained by the Government or in a health centre or clinic of the Hong Kong Garrison</u>; and</p>	<p>This section is to authorise any persons employed or engaged in a prescribed hospital or in a health centre or clinic maintained by the Crown to possess equipment or apparatus fit and intended for the injection of a dangerous drug.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
34	Dangerous Drugs Ordinance (Cap. 134), s. 30(1)	<p>A dangerous drug shall not be supplied for use in a prescribed hospital or in a health centre or clinic maintained by the Crown, <u>in a health centre or clinic of the Hong Kong Garrison</u> except on the written order of the registered pharmacist in charge of the dispensary attached to the hospital, health centre or clinic or of the medical officer in charge of the hospital, health centre or clinic.</p>	<p>This section spells out the situation where a dangerous drug can be supplied for use in a prescribed hospital or a health centre or clinic maintained by the Crown.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8</p>

Section	Legislation	Proposed Adaptation	Justifications
			to Cap. 1.
35	Dangerous Drugs Ordinance (Cap. 134), heading of schedule 2	PRESCRIBED HOSPITALS AND INSTITUTIONS, OTHER THAN HOSPITALS MAINTAINED BY THE GOVERNMENT <u>AND MILITARY HOSPITALS</u>	Heading amendment
36	Dangerous Drugs Regulations (Cap. 134 sub. leg. A), regulation 3(2)	In the case of a prescription given for the treatment of a patient in a prescribed hospital or a health centre maintained by the Crown, a health centre maintained by the Government or a health centre of the Hong Kong Garrison , sub-paragraph (d) of paragraph (1) shall be deemed to have been complied with if the prescription is written on the patient's bed card or case sheet, and in such a case the initials of the person giving the prescription shall be a sufficient signature for the purposes of sub-paragraph (a) of paragraph (1).	<p>Cap. 134 sub. leg. A makes regulations for the requirements with respect to prescriptions, keeping of registers and other records to manufacture, produce, supply or possess dangerous drugs and preservation of documents, etc.</p> <p>Regulation 3(1)(d) provides that a person by whom a prescription prescribing a dangerous drug is given, the prescription shall specify the name, identity card number and address of the person for whose treatment it is given.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
37	Pharmacy and Poisons Ordinance (Cap. 138), s. 2(1)	<p>“institution” (機構) means –</p> <p>(c) any such hospital, maternity home or clinic maintained by the Crown; or Government;</p> <p><u>(ca) any military hospital or any maternity home or clinic of the Hong Kong Garrison; or</u></p>	<p>Cap. 138 provides for a regulatory regime for pharmacy and poisons.</p> <p>Section 32 provides exemption for the sale or supply of a substance for use in or in connection with an institution and the sale of a substance to an institution concerned with</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>education or scientific research.</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
38	Air Passenger Departure Tax Ordinance (Cap. 140), schedule 2	<p>PASSENGERS EXEMPTED FROM LIABILITY TO PAY THE TAX</p> <p>5. Passengers departing from Hong Kong by civilian aircraft, who –</p> <p>(a) are members of Her Majesty's forces or are civilians sponsored by the Ministry of Defence of Her Majesty's Government in the United Kingdom <u>the Chinese People's Liberation Army or are civilians sponsored by the Ministry of National Defence in the Central People's Government</u>; and</p> <p>(b) are present in Hong Kong with or in connection with Her Majesty's forces in Hong Kong <u>the Hong Kong Garrison</u>,</p> <p>and members of their families forming part of their households, if their passages have been arranged by the appropriate authority or with the approval of the appropriate authority, as evidenced by a certificate issued by or on behalf of the Commander British Forces of the <u>Hong Kong Garrison</u>.</p>	<p>Cap. 140 imposes a tax on passengers departing by air from Hong Kong.</p> <p>Section 12(1) provides that a passenger of any description or class mentioned in the Second Schedule shall be exempted from liability to pay the tax.</p> <p>As it refers to the exemption previously enjoyed by Her Majesty's forces or civilians sponsored by the Ministry of Defence of Her Majesty's Government in the United Kingdom, and present in Hong Kong in connection with Her Majesty's forces in Hong Kong, the Chinese People's Liberation Army, the civilians sponsored by the Ministry of National Defence in the Central People's Government and present in Hong Kong in connection with the Hong Kong Garrison should thus be exempted from the air passenger departure tax.</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>

Section	Legislation	Proposed Adaptation	Justifications
39	Dentists Registration Ordinance (Cap. 156), s. 30(2)	All dentists of Her Majesty's navy, army or air force <u>the Chinese People's Liberation Army</u> residing in Hong Kong shall, while in the discharge of their duties or while practising dentistry otherwise than for gain in a charitable clinic approved by the Council, be deemed to be registered dentists for the purpose of section 3, and sections 9, 10 and 14 shall not apply to such dentists unless they practise dentistry privately in Hong Kong.	<p>Cap. 156 makes provisions relating to the registration and regulation of dentists and the establishment of Dental Council, etc.</p> <p>Section 30(2) provides that dentists of the Chinese People's Liberation Army are exempt from registration required by section 3, and that the requirements relating to application for and certificate of registration and exhibition of certificate of registration sections 9, 10 and 14 shall not apply to them.</p> <p>This is a straight forward adaptation from "Her Majesty's navy, army or air force" to "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>
40	Medical Registration Ordinance (Cap. 161), s. 29	<p>The following persons shall be exempted from registration and shall be deemed to be registered medical practitioners while serving in or holding the appointments <u>or positions</u> specified –</p> <p>(a) all medical officers of Her Majesty's Forces serving on full pay <u>the Chinese People's Liberation Army serving</u> in Hong Kong;</p>	<p>Cap. 161 makes provisions for regulating the registration of practitioners in medicine and surgery.</p> <p>Section 29 exempts medical officers of Her Majesty's Forces from registration.</p> <p>This is a straight forward adaptation from "Her Majesty's Forces" to "Chinese People's Liberation Army".</p> <p>As there are no employment conditions in the Chinese People's Liberation Army stipulating whether one is on full pay or not, to retain the phrase may create legal ambiguity. We propose to take away the concept of "full pay" which is no longer valid.</p>

Section	Legislation	Proposed Adaptation	Justifications
			<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>
41	Midwives Registration Ordinance (Cap. 162), s. 25	<p>Persons serving on full pay in Her Majesty's armed forces <u>in the Chinese People's Liberation Army</u> as midwives while acting in the discharge of their duty shall be deemed to be registered midwives.</p>	<p>Cap. 162 makes provisions for the registration of midwives and regulation of the practice of midwifery.</p> <p>Section 25 exempts midwives of the Her Majesty's armed forces from registration.</p> <p>This is a straight forward adaptation from "Her Majesty's armed forces" to "Chinese People's Liberation Army".</p> <p>As there are no employment conditions in the Chinese People's Liberation Army stipulating whether one is on full pay or not, to retain the phrase may create legal ambiguity. As such, the present adaptation proposal is to take away the concept of "full pay" which is no longer valid.</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>
42	Nurses Registration Ordinance (Cap. 164), s. 26(a)	<p>The following persons shall be exempted from registration or enrolment but shall be deemed to be registered nurses or enrolled nurses –</p> <p>(a) persons serving on full pay in Her Majesty's armed forces <u>in the Chinese People's Liberation Army</u> in the capacity of nurse while acting in the discharge of their duty; and</p>	<p>Cap. 164 makes provisions for the registration or enrolment of nurses and regulation of nursing.</p> <p>Section 26(a) exempts nurses of Her Majesty's armed forces from registration.</p> <p>This is a straight forward adaptation from "Her Majesty's armed forces" to "Chinese People's Liberation Army".</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>As there are no employment conditions in the Chinese People's Liberation Army stipulating whether one is on full pay or not, to retain the phrase may create legal ambiguity. As such, the present adaptation proposal is proposed to take away the concept of "full pay" which is no longer valid.</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>
43(1) 43(2)	Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), s. 2(1)	<p>"hospital" (醫院) means any establishment for the care of the sick, injured or infirm or those who require medical treatment, including a nursing home, but does not include any hospital maintained by the Crown or a <u>Government, any military hospital or any</u> public hospital within the meaning of the Hospital Authority Ordinance (Cap 113);</p> <p>"maternity home" (留產院) means any premises used or intended to be used for the reception of pregnant women or of women immediately after childbirth, but does not include any maternity home maintained by the Crown-Government, any maternity home of the Hong Kong Garrison or any maternity home run as part of a public hospital within the meaning of the Hospital Authority Ordinance (Cap 113) or any maternity home managed or controlled by the Hospital Authority established under that Ordinance;</p>	<p>Cap. 165 provides for the registration and inspection of hospitals, nursing homes and maternity homes.</p> <p>In section 2(1), hospitals or maternity homes of the Crown are exempt from registration by their exclusion from the definitions of "hospital" and maternity home".</p> <p>The Crown referred to both the former Hong Kong Government and the British forces stationed in Hong Kong. It is therefore proposed to be adapted to cover the Government and the Hong Kong Garrison.</p> <p>The adaptation proposal is prepared by making reference to section 2A(2)(c) of Cap.1 and sections 1 and 2 of Schedule 8 to Cap. 1.</p>
44(1)	Wild Animals Protection Ordinance (Cap. 170), s. 13(2)(a)	<p>Subsection (1) shall not apply to –</p> <p>(a) a public officer or a member of Her Majesty's forces <u>the Chinese People's Liberation Army</u> on duty within any such area;</p>	<p>Cap. 170 makes provisions for the conservation of wild animals.</p> <p>Section 13(2)(a) exempts members of Her Majesty's forces</p>

Section	Legislation	Proposed Adaptation	Justifications
			<p>from the requirement to obtain a permit for entering the restricted areas under the Ordinance.</p> <p>This is a straight forward adaptation from “Her Majesty’s forces” to “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>
44(2)	Wild Animals Protection Ordinance (Cap. 170), s. 13(3)(a)	<p>A person who under subsection (2) lawfully enters or is within any area specified in Schedule 6 shall not –</p> <p>(a) unless he is a police officer or a member of Her Majesty’s forces <u>the Chinese People’s Liberation Army</u> or the Customs and Excise Service on duty, be in possession of any arms;</p>	<p>This section offers exemption to members of Her Majesty’s forces from the prohibition from possession of arms within the restricted areas.</p> <p>This is a straight forward adaptation from “Her Majesty’s forces” to “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>
45	Registration of Persons Regulations (Cap. 177 sub. leg. A), regulation 25(b)(i)	<p>None of the persons mentioned hereunder so long as he retains the status and qualifications hereinafter mentioned shall be required to register or apply for the issue of an identity card or for the renewal of an identity card under the Ordinance and these regulations –</p> <p>(b) persons –</p> <p>(i) serving in Her Majesty’s regular naval, military or air forces <u>the Chinese People’s Liberation Army</u>, other than those locally domiciled, in possession of the official identity card or document of identity</p>	<p>Cap. 177 sub. leg. A provides for detailed regulations for the registration of and recording of particulars relating to persons in Hong Kong and persons elsewhere who have the right of abode in Hong Kong, for the issue, carrying, production and application of identity cards.</p> <p>Under regulation 25(b)(i), persons serving in Her Majesty’s regular naval, military or air forces, other than those locally domiciled, in possession of the official identity card or document of identity normally issued to them, and their wives, and their sons and daughters under 18 years of age,</p>

Section	Legislation	Proposed Adaptation	Justifications
		<p>normally issued to them, and their wives, and their sons and daughters under 18 years of age; or</p>	<p>shall not be required to register or apply for the issue of HKID cards.</p> <p>This is a straight forward adaptation from “Her Majesty’s regular naval, military or air forces” to “Chinese People’s Liberation Army”.</p> <p>The adaptation proposal is prepared by making reference to section 1 of Schedule 8 to Cap. 1 and section 2A(2)(c) of Cap.1.</p>

Security Bureau
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