

香港回歸條例

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香港特別行政區

1997 年第 110 號條例

印章位置

行政長官
董建華
1997 年 7 月 1 日

本條例旨在因應中華人民共和國恢復對香港行使主權而確認臨時立法會在 1997 年 7 月 1 日之前通過的條例草案；同意終審法院法官及高等法院首席法官的任命；幫助對香港原有法律在 1997 年 7 月 1 日及之後的詮釋；延續該等法律和確認若干其他法律；設立高等法院、區域法院、裁判法院、其他法院、審裁處、委員會及仲裁處；延續法律程序、刑事司法體系、司法及社會公正至 1997 年 7 月 1 日及之後；延續公務人員體系至 1997 年 7 月 1 日及之後；幫助對若干文件在 1997 年 7 月 1 日及之後的解釋；轉移若干財產及權利的擁有權，並就在 1997 年 7 月 1 日及之後承擔若干法律責任訂定條文；以及就有關連的目的訂定條文。

[1997 年 7 月 1 日]

鑑於——

在 1984 年 12 月 19 日於北京簽署的《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》記錄了中華人民共和國對香港的基本方針政策；

中華人民共和國主席在 1990 年 4 月 4 日公布的《中華人民共和國香港特別行政區基本法》在香港的政治、行政、立法、司法、施政、經濟及社會範疇，就實施中華人民共和國對香港的基本方針政策事宜訂定條文，同時亦確認中華人民共和國中央人民政府在關於香港特別行政區的國防及外交事務方面的角色；

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE No. 110 OF 1997

L.S.

TUNG Chee-hwa
Chief Executive
1 July 1997

An Ordinance to confirm the Bills passed by the Provisional Legislative Council before 1 July 1997, endorse the appointment of judges of the Court of Final Appeal and the Chief Judge of the High Court, assist the interpretation on and after 1 July 1997 of laws previously in force in Hong Kong, continue those laws and confirm certain other laws, establish the High Court, the District Court, magistracies and other courts, tribunals and boards, continue legal proceedings, the criminal justice system, the administration of justice and the course of public justice on and after 1 July 1997, continue the public service on and after 1 July 1997, assist the construction of certain documents on and after 1 July 1997, transfer the ownership of certain property and rights and provide for the assumption of certain liabilities on and after 1 July 1997, in consequence of the resumption of the exercise of sovereignty over Hong Kong by the People's Republic of China, and for connected purposes.

[1 July 1997]

WHEREAS—

The Joint Declaration of the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland on the Question of Hong Kong signed at Beijing on 19 December 1984 records the basic policies of the People's Republic of China regarding Hong Kong;

The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China promulgated by the President of the People's Republic of China on 4 April 1990 provides for the implementation of the basic policies of the People's Republic of China regarding Hong Kong in its political, executive, legislative, judicial, administrative, economic and social aspects while recognizing the role of the Central People's Government of the People's Republic of China in defence and foreign affairs in respect of the Hong Kong Special Administrative Region;

中華人民共和國香港特別行政區籌備委員會行使中華人民共和國全國人民代表大會所授予的權力，藉在 1996 年 3 月 24 日通過的決議，除為其他事宜外，亦特別為因應香港回歸而在緊接回歸前後的過渡期審議及通過法例，以及為香港特別行政區的有效管治，包括確認在 1997 年 7 月 1 日之前在預期回歸下作出的作為，而設立香港特別行政區臨時立法會；

全國人民代表大會在 1997 年 2 月 23 日行使其在《基本法》第一百六十條下的權力，就獲採用為香港特別行政區的有效法律的香港原有法律，以及就該等法律的解釋和修改原則，作出決定；

有需要確認若干在中華人民共和國恢復對香港行使主權及香港回歸前作出的作為的有效性，尤其是本條例詳題所述的作為的有效性，以及有需要就延續司法和公務人員體系及就有關事務作出規定，以確保延續香港的社會秩序，

因此由臨時立法會制定本條例。

第 I 部

一般條文

1. 簡稱

本條例可引稱為《香港回歸條例》。

2. 釋義

在本條例中，除文意另有所指外——

“公職人員”(public officer)就 1997 年 7 月 1 日之前的期間而言，包括總督、總督會同行政局及香港政府任何僱員；而就 1997 年 6 月 30 日之後的期間而言，則包括行政長官、行政長官會同行政會議及特區政府任何僱員；

“特區”(HKSAR)指中華人民共和國香港特別行政區；

The Preparatory Committee for the Hong Kong Special Administrative Region of the People's Republic of China, exercising powers delegated to it by the National People's Congress of the People's Republic of China, established the Provisional Legislative Council of the Hong Kong Special Administrative Region by resolution passed on 24 March 1996, inter alia, for the purpose of considering and passing legislation particularly in anticipation of the reunification and during the transition period immediately before and immediately after that event and for the proper administration of the Hong Kong Special Administrative Region including the confirmation of anticipatory acts done prior to 1 July 1997;

The National People's Congress, in exercising its powers under Article 160 of the Basic Law on 23 February 1997, resolved which of the laws previously in force in Hong Kong are to be adopted as the valid laws of the Hong Kong Special Administrative Region and the principles on which those laws should be construed and adapted;

It is necessary to confirm certain acts, in particular the acts referred to in the long title to this Ordinance, done before the reunification and resumption of the exercise of sovereignty by the People's Republic of China as valid acts, to provide for the continuation of the administration of justice and the public service and to provide for associated matters to ensure the continuity of the social order of Hong Kong,

THEREFORE this Ordinance is enacted by the Provisional Legislative Council.

PART I

GENERAL

1. Short title

This Ordinance may be cited as the Hong Kong Reunification Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“Basic Law”(《基本法》)means the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China;

“HKSAR”(特區)means the Hong Kong Special Administrative Region of the People's Republic of China;

“Provisional Legislative Council”(臨時立法會)means the Provisional Legislative Council of the HKSAR;

“《基本法》”(Basic Law) 指《中華人民共和國香港特別行政區基本法》；
“臨時立法會”(Provisional Legislative Council) 指特區臨時立法會。

第 II 部

確認臨時立法會所通過的條例草案

3. 確認臨時立法會所通過的條例草案

附表 1 所列由臨時立法會在預期回歸下在 1997 年 7 月 1 日之前通過的條例草案現予確認，如獲行政長官簽署和公布，則具有十足的法律效力及作用。

第 III 部

終審法院法官及高等法院首席法官

4. 同意法官的任命

臨時立法會同意附表 2 所列任命。

第 IV 部

原有法律的詮釋

5. 加入條文

《釋義及通則條例》(第 1 章) 現予修訂，加入——

“public officer” (公職人員), in relation to the period before 1 July 1997, includes the Governor, the Governor in Council and any employee of the Government of Hong Kong, and in relation to the period after 30 June 1997, includes the Chief Executive, the Chief Executive in Council and any employee of the Government of the HKSAR.

PART II

BILLS PASSED BY THE PROVISIONAL LEGISLATIVE COUNCIL CONFIRMED

3. Bills passed by the Provisional Legislative Council confirmed

The Bills listed in Schedule 1 as passed by the Provisional Legislative Council before 1 July 1997 in anticipation of the reunification are confirmed and subject to the signing and promulgation thereof by the Chief Executive shall have the full force and effect of law.

PART III

JUDGES OF COURT OF FINAL APPEAL AND CHIEF JUDGE OF HIGH COURT

4. Endorsement of appointment of judges

The appointments listed in Schedule 2 are endorsed by the Provisional Legislative Council.

PART IV

INTERPRETATION OF LAWS PREVIOUSLY IN FORCE

5. Section added

The Interpretation and General Clauses Ordinance (Cap. 1) is amended by adding—

“2A. 原有法律

(1) 所有原有法律均須在作出為使它們不抵觸《基本法》及符合香港作為中華人民共和國的特別行政區的地位而屬必要的變更、適應、限制及例外的情況下，予以解釋。

(2) 在不損害第(1)款的一般性原則下，在任何條例中——

- (a) 關於與香港特別行政區有關的外交事務的法律如與在香港特別行政區實施的任何全國性法律不一致，須在以全國性法律為準，並符合中華人民共和國中央人民政府享有的國際權利和承擔的國際義務的規限下，予以解釋；
- (b) 任何給予英國或英聯邦其他國家或地區特權待遇的規定，除實施香港與英國或英聯邦其他國家或地區的互惠性安排的規定者外，不再有效；
- (c) 有關英國駐香港軍隊的權利、豁免及義務的規定，凡不抵觸《基本法》和《中華人民共和國香港特別行政區駐軍法》的規定，繼續有效，並適用於中華人民共和國中央人民政府派駐香港特別行政區的軍隊；
- (d) 有關英文的法律效力高於中文的規定，須解釋為中文及英文都是正式語文；及
- (e) 引用的英國法律的規定，如不損害中華人民共和國的主權和不抵觸《基本法》的規定，在香港特別行政區通過其立法機關對其作出修訂前，作為過渡安排，可繼續參照適用。

“2A. Laws previously in force

(1) All laws previously in force shall be construed with such modifications, adaptations, limitations and exceptions as may be necessary so as not to contravene the Basic Law and to bring them into conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

(2) Without prejudice to the generality of subsection (1), in any Ordinance—

- (a) provisions relating to foreign affairs in respect of the Hong Kong Special Administrative Region which are inconsistent with any national law applied in the Hong Kong Special Administrative Region shall be construed subject to that national law and shall be so construed as to be consistent with the international rights and obligations of the Central People's Government of the People's Republic of China;
- (b) provisions conferring privileges on the United Kingdom or other Commonwealth countries or territories, other than provisions giving effect to reciprocal arrangements between Hong Kong and the United Kingdom or other Commonwealth countries or territories shall have no further effect;
- (c) provisions relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom shall, subject to the provisions of the Basic Law and the Garrison Law of the Hong Kong Special Administrative Region of the People's Republic of China, continue to have effect and apply to the military forces stationed in the Hong Kong Special Administrative Region by the Central People's Government of the People's Republic of China;
- (d) provisions relating to the superior legal status of the English language as compared with the Chinese language shall be construed as providing that both the English and Chinese languages are to be official languages; and
- (e) provisions applying any English law may continue to be applicable by reference thereto as a transitional arrangement pending their amendment by the Hong Kong Special Administrative Region through the Legislature thereof, provided that they are not prejudicial to the sovereignty of the People's Republic of China and do not contravene the provisions of the Basic Law.

(3) 在所有原有法律中出現的列於附表 8 的字和詞句，須按照該附表解釋。

(4) 在本條中——

“原有法律”(laws previously in force) 指在緊接 1997 年 7 月 1 日之前屬有效並已被採用為香港特別行政區法律的普通法、衡平法、條例、附屬法例(亦指附屬立法)及習慣法；

“《基本法》”(Basic Law) 指《中華人民共和國香港特別行政區基本法》。”。

6. 加入附表

《釋義及通則條例》(第 1 章) 現予修訂，加入——

“附表 8

[第 2A(3) 條]

原有法律中的字和詞句在 1997 年
7 月 1 日及之後的解釋

1. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣(或相類名稱、詞語或詞句)的提述，在條文內容與以下所有權有關或涉及以下事務或關係的情況下，須解釋為對中華人民共和國中央人民政府或其他主管機關的提述——
 - (a) 香港特別行政區土地的所有權；
 - (b) 中華人民共和國中央人民政府負責處理的事務；
 - (c) 中央與香港特別行政區的關係。
2. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣(或相類名稱、詞語或詞句)的提述，在文意並非第 1 條所指明者的情況下，須解釋為對香港特別行政區政府的提述。
3. 對女皇陛下會同樞密院或對樞密院的提述，在條文的內容與關乎香港的上訴司法管轄權有關的情況下，須解釋為對香港終審法院的提述。
4. 對女皇陛下會同樞密院或對樞密院的提述，在文意並非涉及其上訴司法管轄權的情況下，須以與根據第 1 及 2 條解釋對女皇陛下的提述的相同方式，予以解釋。
5. 對名稱中包含“皇家”一詞的政府機構的提述，須——
 - (a) 在猶如“皇家”一詞已被刪去的情況下理解；及
 - (b) 理解為提述香港特別行政區的相應政府機構。
6. 對殖民地香港(或相類名稱、詞語或詞句)的提述，須解釋為對香港特別行政區的提述，而對殖民地香港的邊界的提述，須解釋為對由中華人民共和國國務院頒布的香港特別行政區行政區域圖所指明的邊界的提述。

(3) In all laws previously in force words and expressions listed in Schedule 8 shall be construed according to that Schedule.

(4) In this section—

“Basic Law” (《基本法》) means the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China;

“laws previously in force” (原有法律) means the common law, rules of equity, Ordinances, subsidiary legislation and customary law in force immediately before 1 July 1997 and adopted as laws of the Hong Kong Special Administrative Region.”.

6. Schedule added

The Interpretation and General Clauses Ordinance (Cap. 1) is amended by adding—

“SCHEDULE 8

[s. 2A(3)]

CONSTRUCTION ON AND AFTER 1 JULY 1997 OF WORDS
AND EXPRESSIONS IN LAWS PREVIOUSLY IN FORCE

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) 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 Central People’s Government of the People’s Republic of China 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 Central People’s Government or other competent authorities of the People’s Republic of China.
2. 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 section 1 shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.
3. Any reference to Her Majesty in Council or to the Privy Council, where the content of the provision relates to appellate jurisdiction in relation to Hong Kong, shall be construed as a reference to the Hong Kong Court of Final Appeal.
4. Any reference to Her Majesty in Council or to the Privy Council in contexts other than its appellate jurisdiction shall be construed in the same manner as references to Her Majesty are construed under sections 1 and 2.
5. Any reference to a Government agency which bears a name which includes the word “Royal” shall be read—
 - (a) as if the word “Royal” were omitted; and
 - (b) as a reference to the corresponding Government agency of the Hong Kong Special Administrative Region.
6. Any reference to the Colony of Hong Kong (or to similar names, terms or expressions) shall be construed as a reference to the Hong Kong Special Administrative Region and any reference to the boundaries of the Colony of Hong Kong shall be construed as a reference to the boundaries as specified in the map of the administrative division of the Hong Kong Special Administrative Region published by the State Council of the People’s Republic of China.

7. 對香港最高法院的提述，須解釋為對香港特別行政區高等法院的提述。
8. 對香港上訴法院的提述，須解釋為對香港特別行政區高等法院上訴法庭的提述。
9. 對香港高等法院的提述，須解釋為對香港特別行政區高等法院原訟法庭的提述。
10. 對地方法院的提述，須解釋為對區域法院的提述。
11. 對香港總督的提述，須解釋為對香港特別行政區行政長官的提述；對總督會同行政局的提述，須解釋為對行政長官會同行政會議的提述。
12. 對香港最高法院首席法官的提述，須解釋為對香港特別行政區高等法院首席法官的提述。
13. 對上訴法院法官的提述，須解釋為對高等法院上訴法庭法官的提述。
14. 對高等法院法官的提述，須解釋為對高等法院原訟法庭法官的提述。
15. 在任何法律中文文本中對立法局、司法機關或行政機關或該等機關的人員的提述，須按照《基本法》有關規定解釋。
16. 在任何法律中對立法局的提述，須視情況要求，解釋為包括對臨時立法會的提述。
17. 對中華人民共和國或中國(或相類名稱、詞語或詞句)的提述，須解釋為對包括台灣、香港特別行政區及澳門在內的中華人民共和國的提述。
18. 對大陸、台灣、香港或澳門的提述(不論是單獨提述或同時提述)，須解釋為對作為中華人民共和國一個組成部分的大陸、台灣、香港或澳門(視屬何情況而定)的提述。
19. 對外國(或相類詞語或詞句)的提述，須解釋為對中華人民共和國以外的國家或地區的提述，或解釋為對香港特別行政區以外的任何地方的提述，視乎有關法律的內容而定。
20. 對外國人或外籍人士(或相類詞語或詞句)的提述，須解釋為對並非中華人民共和國公民的人士的提述。
21. 任何保留女皇陛下，其世襲繼承人及繼位人的權利的條文，須解釋為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。
22. 除文意另有所指外，本附表適用。”。

7. 保留原有法律

(1) 已被採用為特區法律的香港原有法律，即普通法、衡平法、條例、附屬法例(亦指附屬立法)及習慣法，繼續適用。

7. Any reference to the Supreme Court of Hong Kong shall be construed as a reference to the High Court of the Hong Kong Special Administrative Region.
8. Any reference to the Court of Appeal of Hong Kong shall be construed as a reference to the Court of Appeal of the High Court of the Hong Kong Special Administrative Region.
9. Any reference to the High Court of Justice of Hong Kong shall be construed as a reference to the Court of First Instance of the High Court of the Hong Kong Special Administrative Region.
10. Any reference to “地方法院” shall be construed as a reference to “區域法院”.
11. Any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively.
12. Any reference to the Chief Justice of the Supreme Court of Hong Kong shall be read as a reference to the Chief Judge of the High Court of the Hong Kong Special Administrative Region.
13. Any reference to “上訴法院法官” shall be construed as a reference to “高等法院上訴法庭法官”.
14. Any reference to a judge of the High Court shall be construed as a reference to a judge of the Court of First Instance.
15. Any reference in the Chinese version of any law to the Legislative Council, the Judiciary or the Executive Authorities or to the officers of those bodies shall be construed in accordance with the relevant provisions of the Basic Law.
16. Any reference in any law to the Legislative Council shall, as the case may require, be construed as including a reference to the Provisional Legislative Council.
17. Any reference to the People’s Republic of China or to China (or to similar names, terms or expressions) shall be construed as a reference to the People’s Republic of China as including Taiwan, the Hong Kong Special Administrative Region and Macau.
18. Any reference to the Mainland, Taiwan, Hong Kong or Macau (whether separately or concurrently) shall be construed as a reference to the Mainland, Taiwan, Hong Kong or Macau, as the case may be, as a part of the People’s Republic of China.
19. Any reference to a foreign country or foreign state (or to similar terms or expressions) shall be construed as a reference to a country or territory other than the People’s Republic of China or as a reference to any place other than the Hong Kong Special Administrative Region, depending on the content of the relevant law.
20. Any reference to an alien (or to similar terms or expressions) shall be construed as a reference to a person other than a citizen of the People’s Republic of China.
21. Any provision saving the rights of Her Majesty, Her Heirs and Successors shall be construed as saving the rights of the Central People’s Government of the People’s Republic of China and the rights of the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws.
22. This Schedule applies unless the context otherwise requires.”.

7. Maintenance of previous laws

(1) The laws previously in force in Hong Kong, that is the common law, rules of equity, Ordinances, subsidiary legislation and customary law, which have been adopted as the laws of the HKSAR, shall continue to apply.

(2) 在不損害第(1)款的原則下，現確認就1997-98財政年度財政預算案而制定的法例。

第V部

法院等的設立

8. 設立高等法院

《最高法院條例》(第4章)第3條現予廢除，代以——

“3. 高等法院

- (1) 現設立香港特別行政區高等法院，由原訟法庭及上訴法庭組成。
- (2) 除本條例條文另有規定外，高等法院是具有無限民事及刑事司法管轄權的法院。”。

9. 區域法院及其他法院等

- (1) 在緊接1997年7月1日之前存在的地方法院、裁判法院及每一其他法院(最高法院除外)、法定審裁處、法定委員會或法定仲裁處，在該日設立為特區的區域法院、裁判法院、法院、法定審裁處、法定委員會及法定仲裁處(視屬何情況而定)。
- (2) 在緊接1997年7月1日之前適用於第(1)款所提述的每一機構的法律於該日並自該日起適用於根據第(1)款設立的該機構。

第VI部

法律程序、刑事司法體系及司法

10. 法律程序、刑事司法體系及司法的延續

(1) 在符合本條例的規定下，法律程序、刑事司法體系、司法及社會公正的延續，不受中華人民共和國恢復對香港行使主權所影響。

(2) Without prejudice to subsection (1), legislation enacted in respect of the budget for the 1997-98 financial year is confirmed.

PART V

ESTABLISHMENT OF COURTS, ETC.

8. Establishment of High Court

Section 3 of the Supreme Court Ordinance (Cap. 4) is repealed and the following substituted—

“3. High Court

- (1) There shall be a High Court of the Hong Kong Special Administrative Region consisting of the Court of First Instance and the Court of Appeal.
- (2) Subject to the provisions of this Ordinance, the High Court shall be a court of unlimited civil and criminal jurisdiction.”.

9. The District Court and miscellaneous courts, etc.

- (1) The District Court, magistracies and every other court (apart from the Supreme Court), statutory tribunal or statutory board in existence immediately before 1 July 1997 are on that date established as the District Court, magistracies, courts, statutory tribunals and statutory boards, as the case may be, of the HKSAR.
- (2) The law applicable to each body referred to in subsection (1) immediately before 1 July 1997 shall on and from that date apply to that body as established under subsection (1).

PART VI

LEGAL PROCEEDINGS, CRIMINAL JUSTICE SYSTEM AND ADMINISTRATION OF JUSTICE

10. Continuity of legal proceedings, criminal justice system and administration of justice

(1) Subject to this Ordinance, the continuity of legal proceedings, the criminal justice system, the administration of justice and the course of public justice shall not be affected by the resumption of the exercise of sovereignty over Hong Kong by the People's Republic of China.

(2) 本部以下條文不損害第(1)款所述的原則的一般性。

11. 保留判決等

法院、裁判法院、法定審裁處、法定委員會或法定仲裁處在1997年7月1日之前所作出的作為，在適用的時間限制的規限下，在該日及之後繼續有效，而如情況要求，須視為特區的相應法院、裁判法院、審裁處、委員會或仲裁處所作出的作為。

12. 出庭發言權

在緊接1997年7月1日之前具有於任何法院、裁判法院、法定審裁處、法定委員會或法定仲裁處出庭發言的權利的每名人士，在該日及之後繼續享有於特區的相應法院、裁判法院、審裁處、委員會或仲裁處出庭發言的權利。

13. 大律師及律師

每一獲認許為最高法院大律師或律師的人在1997年7月1日及之後當作為已獲認許為特區高等法院大律師或律師(視屬何情況而定)。

14. 公證人

(1) 在緊接1997年7月1日之前註冊於由高等法院司法常務官根據《法律執業者條例》(第159章)第41條備存的公證人註冊紀錄冊之上的每一名公證人，在該日及之後繼續為公證人，並具有所有在緊接該日之前是可由公證人根據香港法律行使的權力。

(2) 在不影響第(1)款的一般性原則下，在該款中對權力的提述包括對以下權力的提述——

- (a) 見證、認證或核證文件的妥為簽立的權力；
 - (b) 在匯票上作拒付紀錄或拒付證明的權力，以及以公證承付的方式見證就任何拒付匯票而作出參加付款的權力；
 - (c) 監誓或主持聲明的權力。
- (3) 第(1)款不得解釋為影響——
- (a) 在當其時由香港以外的某國家或地區的法律或根據該等法律賦予(單獨或在連同其他事宜的情況下)在該國家或地區的司法管轄區以外的公證人的任何權力；

(2) The following provisions of this Part are without prejudice to the generality of the principle stated in subsection (1).

11. Saving of judgments, etc.

All acts done by a court, magistrate, statutory tribunal or statutory board before 1 July 1997 shall (subject to any applicable time limits) on and after that date, continue to have effect and, as the case may require, be regarded as acts done by the corresponding court, magistrate, tribunal or board of the HKSAR.

12. Rights of audience

Every person who immediately before 1 July 1997 enjoyed a right of audience before any court, magistrate, statutory tribunal or statutory board shall on and after that date continue to enjoy such right before the corresponding court, magistrate, tribunal or board of the HKSAR.

13. Barristers and solicitors

Every person admitted as a barrister or solicitor of the Supreme Court shall on and after 1 July 1997 be deemed to have been admitted as a barrister or solicitor, as the case may be, of the High Court of the HKSAR.

14. Notaries public

(1) Every notary public who immediately before 1 July 1997 was registered on the register of notaries public kept by the Registrar of the High Court under section 41 of the Legal Practitioners Ordinance (Cap. 159) shall on and after that date continue to be a notary public with all the powers which immediately before that date were exercisable by a notary public under the law of Hong Kong.

(2) Without affecting the generality of subsection (1), the reference to powers therein includes a reference to—

- (a) the power to attest, authenticate or certify the due execution of documents;
 - (b) the power to note or protest bills of exchange and to attest, by an act of honour, payment thereof for honour supra protest;
 - (c) the power to administer oaths, affirmations or declarations.
- (3) Subsection (1) shall not be construed as affecting—
- (a) any power which is for the time being conferred (either exclusively or inter alia) by or under the law of a country or territory outside Hong Kong on notaries outside the jurisdiction of that country or territory;

- (b) 在當其時由國際間的法律或由條約、公約或其他國際協議所成立(或依據條約、公約或其他國際協議組成)的國家群體、組織或組合的法律賦予公證人的權力。
- (4) 凡第(3)款(a)或(b)段所述的權力，是由該段所述的法律或根據該等法律賦予屬1個或多於1個指明的類別或種類的公證人的，第(3)款須按照該等法律解釋和具有效力。
- (5) (a) 在第(1)款中，“權力”(powers)包括職能及責任，而該款須據此解釋和具有效力。
- (b) 第(3)(a)款中對國家的提述須解釋為包括對國家的一部分的提述。

15. 待決法律程序

- (1) 任何在緊接1997年7月1日之前於任何法院、法定審裁處、法定委員會或法定仲裁處待決或於任何裁判官席前待決的法律程序(包括上訴)可在該日及之後繼續，並視作猶如該等法律程序是於特區的相應法院、審裁處、委員會或仲裁處待決或於特區的相應裁判官席前待決。
- (2) 任何由公職人員提出或針對公職人員提出並在緊接1997年7月1日之前於任何法院、法定審裁處、法定委員會或法定仲裁處待決或於任何裁判官席前待決的法律程序，在1997年7月1日及之後當作已由特區的相應公職人員提出或已針對特區的相應公職人員提出(視屬何情況而定)。
- (3) 任何由英女皇提出、以英女皇名義提出或針對英女皇提出並在緊接1997年7月1日之前於任何法院、法定審裁處、法定委員會或法定仲裁處待決或於任何裁判官席前待決的法律程序，在1997年7月1日及之後當作已由特區提出、以特區名義提出或針對特區提出(視屬何情況而定)。

16. 權利的歸屬

- (1) 凡官方、英女皇或公職人員於緊接1997年7月1日之前享有在或向任何法院、裁判法院、法定審裁處、法定委員會或法定仲裁處進行以下事情的權利(包括或有的權利)——
- (a) 提出法律程序；
- (b) 提出上訴；
- (c) 申請覆核某項決定；或
- (d) 申請呈述案件，

- (b) any power which is for the time being conferred on notaries by the law of nations or which is so conferred by the law of a community, association or group of states established by or formed pursuant to a treaty, convention or other international agreement.

(4) Where a power described in paragraph (a) or (b) of subsection (3) is conferred by or under a law so described on notaries of 1 or more specified classes or descriptions, subsection (3) shall be construed and have effect in accordance with that law.

(5) (a) In subsection (1) “powers” (權力) includes functions and duties and that subsection shall be construed and have effect accordingly.

(b) The references in subsection (3)(a) to a country shall be construed as including references to part of a country.

15. Pending proceedings

(1) All proceedings, including appeals, pending in any court, statutory tribunal or statutory board or before any magistrate immediately before 1 July 1997 may be continued on and after that date and shall be treated as if they had been pending in the corresponding court, tribunal or board or before the corresponding magistrate of the HKSAR.

(2) Any proceedings pending in any court, statutory tribunal or statutory board or before any magistrate by or against a public officer immediately before 1 July 1997 shall on and after that date be deemed to have been brought by or against, as the case may be, the corresponding public officer in the HKSAR.

(3) Any proceedings brought by, in the name of or against the Queen which are pending in any court, statutory tribunal or statutory board or before any magistrate immediately before 1 July 1997 shall on and after that date be deemed to have been brought by, in the name of or against, as the case may be, the HKSAR.

16. Vesting of rights

(1) Where immediately before 1 July 1997 the Crown, the Queen or a public officer enjoyed a right (including a contingent right)—

- (a) to bring proceedings;
- (b) to appeal;
- (c) to apply for a review of a decision; or
- (d) to apply for a case to be stated,

該權利在該日及之後歸屬特區政府或特區政府的相應公職人員(視情況要求而定)。

(2) 凡任何人於緊接1997年7月1日之前享有涉及官方、英女皇或公職人員的、或在向任何法院、裁判法院、法定審裁處、法定委員會或法定仲裁處進行以下事情的權利(包括或有的權利)——

- (a) 提出法律程序；
- (b) 提出上訴；
- (c) 申請覆核某項決定；或
- (d) 申請呈述案件，

該人在該日及之後繼續享有該權利，而該權利在該日及之後當作涉及特區政府或相應公職人員(視情況要求而定)。

17. 現有文書

向任何人賦予權利或施加責任的文書(包括令狀及傳票)，如是以官方或英女皇名義發出或代表官方或英女皇發出或是由公職人員發出的，須於1997年7月1日及之後繼續有效，而如情況要求，須當作以特區政府的名義發出或代表特區政府發出或是由特區的相應公職人員(視屬何情況而定)發出的。

18. 民事法律程序

在緊接1997年7月1日之前本可以律政司名義由香港政府提出或針對香港政府提出的民事法律程序，在該日及之後可以律政司司長名義由特區政府提出或針對特區政府提出(視屬何情況而定)。

19. 刑事法律程序

在緊接1997年7月1日之前本可由官方提出、以官方名義提出或針對官方提出的刑事法律程序，可在該日及之後，由特區提出、以特區名義提出或針對特區提出(視屬何情況而定)。

20. 時效期限

本部任何條文不得解釋為延展提出訴訟或其他法律程序的時效期限。

in or to any court, magistrate, statutory tribunal or statutory board such right shall on and after that date vest in the Government of the HKSAR or in the corresponding public officer of that Government, as the case may require.

(2) Where immediately before 1 July 1997 any person enjoyed a right (including a contingent right) involving the Crown, the Queen or a public officer—

- (a) to bring proceedings;
- (b) to appeal;
- (c) to apply for a review of a decision; or
- (d) to apply for a case to be stated,

in or to any court, magistrate, statutory tribunal or statutory board such right shall on and after that date continue to be enjoyed and shall be deemed to involve the Government of the HKSAR or the corresponding public officer, as the case may require.

17. Existing instruments

All instruments (including warrants and summonses) that impose rights or obligations on any person, which were issued in the name of or on behalf of the Crown or the Queen or by a public officer shall, on and after 1 July 1997, continue to have effect and, as the case may require, be deemed to be issued in the name of or on behalf of the Government of the HKSAR or by the corresponding public officer in the HKSAR, as the case may be.

18. Civil proceedings

Civil proceedings which immediately before 1 July 1997 could have been brought by or against the Government of Hong Kong in the name of the Attorney General may on and after that date be brought by or against, as the case may be, the Government of the HKSAR in the name of the Secretary for Justice.

19. Criminal proceedings

Criminal proceedings which immediately before 1 July 1997 could have been brought by, in the name of or against the Crown may on and after that date be brought by, in the name of or against, as the case may be, the HKSAR.

20. Limitation periods

Nothing in this Part shall be construed as extending any period of limitation within which any action or other proceeding must be brought.

21. 判決等的解釋

為施行本部以上條文，在1997年7月1日並自該日起，在任何於該日之前給予、施加、發出或作出的判決、指示、罰則、判令、命令、紀錄或文書中——

- (a) 在——
- (i) 已以官方名義提出檢控的情況下，對官方或英女皇（或相類名稱或詞語）的提述，須解釋為對特區的提述；及
 - (ii) 其他情況下，對官方或英女皇（或相類名稱或詞語）的提述，須解釋為對特區政府的提述；
- (b) 對公職人員的提述，須解釋為對特區的相應公職人員的提述；及
- (c) 對法院、裁判法院、法定審裁處、法定委員會或法定仲裁處的提述，須解釋為對特區的相應法院、裁判法院、審裁處、委員會或仲裁處的提述。

第 VII 部**公務人員體系的延續****22. 公務人員體系的延續**

(1) 在符合本條例的規定下，公務人員體系的延續及公職人員的權力及責任的延續不受中華人民共和國恢復對香港行使主權所影響。

(2) 本部以下條文不損害第(1)款所述的原則的一般性。

23. 職位的延續

(1) 除第(2)款另有規定外，在緊接1997年7月1日之前擔任香港公務人員體系職位的人在該日及之後繼續擔任特區公務人員體系的相應職位。

- (2) 第(1)款——
- (a) 在有關的相應職位是主要官員的職位的情況下，不予適用；或
 - (b) 不適用於在1997年6月30日離開公務人員體系或在1997年7月1日或之前開始離職前休假的人。

21. Construction of judgments, etc.

For the purpose of giving effect to the foregoing provisions of this Part and with effect on and from 1 July 1997 in any judgment, direction, penalty, decree, order, record or instrument given, imposed, issued or made before that date—

- (a) any reference to the Crown or the Queen (or to similar names or terms) shall—
- (i) in the case of a prosecution brought in the name of the Crown, be construed as a reference to the HKSAR; and
 - (ii) in any other case, be construed as a reference to the Government of the HKSAR;
- (b) any reference to a public officer shall be construed as a reference to the corresponding public officer in the HKSAR; and
- (c) any reference to a court, magistracy, statutory tribunal or statutory board shall be construed as a reference to the corresponding court, magistracy, tribunal or board of the HKSAR.

PART VII**CONTINUITY OF PUBLIC SERVICE****22. Continuance of public service**

(1) Subject to this Ordinance, the continuity of the public service and the powers and duties of public officers shall not be affected by the resumption of the exercise of sovereignty over Hong Kong by the People's Republic of China.

(2) The following provisions of this Part are without prejudice to the generality of the principle stated in subsection (1).

23. Continuance of office

(1) Subject to subsection (2), a person who immediately before 1 July 1997 held office in the public service of Hong Kong shall on and after that date continue to hold the corresponding office in the public service of the HKSAR.

- (2) Subsection (1) shall not apply—
- (a) where the corresponding office in question is the office of a principal official; or
 - (b) to a person who leaves the service on 30 June 1997 or starts his final leave on or before 1 July 1997.

(3) 由香港政府與公職人員訂立，並在緊接 1997 年 7 月 1 日之前是有效並在該日及之後繼續有效的僱傭合約，須在該日及之後視為與特區政府訂立的僱傭合約，而如由行政長官訂立的關於公務人員體系的行政命令適用於某公職人員，則該人員的僱傭合約受該行政命令的條款所規限。

24. 權力的延續

(1) 除第(2)款另有規定外，所有歸屬公職人員並在緊接 1997 年 7 月 1 日之前仍存在的普通法權力及經採用為特區法律的條例下的法定權力，除抵觸《基本法》者外，在該日及之後繼續存在，並歸屬特區的相應公職人員。

(2) 在緊接 1997 年 7 月 1 日之前可由公職人員行使的官方特權（包括權利、特權及豁免權），除抵觸《基本法》者外，在該日及之後繼續存在，並歸屬行政長官，以及可由特區的相應公職人員行使。

25. 先前的作為

(1) 所有由公職人員根據普通法權力或經採用為特區法律的條例下的法定權力在 1997 年 7 月 1 日之前作出、對公職人員如此作出或就公職人員如此作出的作為，在其於緊接該日之前是有效的並在其不抵觸《基本法》的範圍內，在該日及之後維持有效，並且當作是由特區的相應公職人員作出、對該相應公職人員作出或就該相應公職人員作出的（視屬何情況而定）。

(2) 在第(1)款中，“作出的作為”(acts done)包括轉授任何權力的作為，亦包括獲轉授權力的人行使該權力而作出的作為。

26. 轉授：一般情況

所有轉授予公職人員並在緊接 1997 年 7 月 1 日之前是有效的權力及責任，在一項相應的轉授權力（不論是明訂的或隱含的）在該日及之後存在的情況下，當作已轉授予特區的相應公職人員。

(3) All contracts of employment between the Government of Hong Kong and public officers in force immediately before 1 July 1997 which remain in force on and after that date shall on and after that date be regarded as contracts of employment with the Government of the HKSAR and in the case where an executive order relating to the public service made by the Chief Executive applies to a public officer his contract of employment is subject to the terms of that executive order.

24. Continuance of powers

(1) Subject to subsection (2), all common law powers and statutory powers under Ordinances adopted as laws of the HKSAR which were vested in public officers, and extant immediately before 1 July 1997 (except for those that are inconsistent with the Basic Law), shall on and after that date continue in existence and vest in the corresponding public officers in the HKSAR.

(2) Those prerogative powers (including rights, privileges and immunities) exercisable by a public officer immediately before 1 July 1997, except for those that are inconsistent with the Basic Law, shall on and after that date continue in existence, vest in the Chief Executive and be exercisable by the corresponding public officer in the HKSAR.

25. Previous acts

(1) All acts done before 1 July 1997 by, to or in relation to a public officer under a common law power or a statutory power under an Ordinance adopted as a law of the HKSAR, shall on and after that date remain valid to the extent that they were valid immediately before that date and are not inconsistent with the Basic Law, and be deemed to have been done by, to or in relation to, as the case may be, the corresponding public officer in the HKSAR.

(2) In subsection (1), “acts done” (作出的作為) includes acts delegating any powers and acts done in the exercise of a power by a delegate.

26. Delegations generally

All powers and duties delegated to a public officer which were in force immediately before 1 July 1997 shall, where a corresponding power of delegation (whether express or implied) exists on and after that date, be deemed to have been delegated to the corresponding public officer in the HKSAR.

27. 關於土地的轉授

所有轉授予公職人員並在緊接 1997 年 7 月 1 日之前是有效的總督批出或處置土地的權力，在該日及之後繼續有效，並須當作為轉授予特區的相應公職人員的行政長官出租或批出國家土地的權力。

28. 總督的其他轉授

凡歸屬總督或可由總督行使的權力(第 27 條提述者除外)轉授予公職人員，該項轉授如在緊接 1997 年 7 月 1 日之前是有效的，則在相類權力歸屬行政長官或可由行政長官行使的範圍內，該項轉授在該日及之後繼續有效，並當作由行政長官向特區的相應公職人員作出的。

第 VIII 部

文件

29. 文件並非無效

(1) 任何文件不得僅因其提述官方、英女皇或香港政府或提述香港政府任何部門或公職人員而被裁定為無效或失效。

(2) 除有相反的明文條文外，所有由香港政府或特區政府發出或售賣的文件在 1997 年 7 月 1 日及之後須按以下情況解釋——

- (a) 對官方、英女皇(或相類名稱或詞語)或香港政府的提述視作為對特區政府的提述；
- (b) 對香港政府部門或公職人員的提述視作為對特區政府的相應部門或公職人員(視屬何情況而定)的提述。

27. Delegations relating to land

All delegations to a public officer of the power of the Governor to grant or dispose of land which were in force immediately before 1 July 1997 shall on and after that date continue in force and be deemed to be delegations to the corresponding public officer in the HKSAR of the power of the Chief Executive to lease or grant State land.

28. Other delegations by the Governor

All delegations to a public officer of powers (other than those referred to in section 27) vested in or exercisable by the Governor which were in force immediately before 1 July 1997 shall, to the extent that similar powers are vested in or are exercisable by the Chief Executive, on and after that date continue in force and be deemed to have been made by the Chief Executive to the corresponding public officer in the HKSAR.

PART VIII

DOCUMENTS

29. Documents not invalid

(1) No document shall be held to be invalid or ineffectual only because it refers to the Crown, the Queen or the Government of Hong Kong or to a department or public officer of the Government of Hong Kong.

(2) All documents issued or sold by the Government of Hong Kong or the Government of the HKSAR shall, subject to express provision to the contrary, on and after 1 July 1997 be construed as if—

- (a) any reference to the Crown, the Queen (or to similar names or terms), or to the Government of Hong Kong were a reference to the Government of the HKSAR;
- (b) any reference to a department or public officer of the Government of Hong Kong were a reference to the corresponding department or public officer, as the case may be, of the Government of the HKSAR.

第 IX 部

政府財產

30. 特區政府的財產

(1) 為免生疑問，現宣布所有在緊接 1997 年 7 月 1 日之前歸屬或屬於官方或香港政府的財產、權利及法律責任均已在該日並自該日起，在符合《基本法》的規定下歸屬或轉移予特區政府。

(2) 所有與官方或香港政府訂立的合約、協議、安排及承擔，以及所有由官方或香港政府所給予的保證或給予官方或香港政府的保證，均在 1997 年 7 月 1 日並自該日起當作與特區政府訂立或由特區政府所給予或給予特區政府（視屬何情況而定）。

(3) 除有相反的明文條文外，在 1997 年 7 月 1 日並自該日起，第 (2) 款提述的所有合約、協議、安排、承擔及保證均須按以下情況解釋——

(a) 對官方或香港政府的提述視作為對特區政府的提述；及

(b) 對公職人員的提述視作為對特區政府的相應公職人員的提述。

(4) 任何人在緊接 1997 年 7 月 1 日之前拖欠官方或香港政府或應付予官方或香港政府的款項，包括稅項、租金、費用及收費，在該日及之後成為拖欠或應付予（視屬何情況而定）特區政府者。

(5) 在本條中——

“官方” (Crown) 指以香港政府為權利主體的官方。

31. 香港政府所設立的當局

(1) 香港政府所設立並在緊接 1997 年 7 月 1 日之前存在的每一當局在該日及之後繼續存在，並當作為特區政府所設立的當局。

(2) 所有在緊接 1997 年 7 月 1 日之前歸屬或屬於由香港政府所設立的當局的財產、權利及法律責任，均在該日並自該日起歸屬或轉移予特區的相應當局。

(3) 所有與香港政府所設立的當局訂立的合約、協議、安排及承擔以及所有由香港政府所設立的當局給予的保證或給予香港政府所設立的當局的保證，均在 1997 年

PART IX

GOVERNMENT PROPERTY

30. Property of HKSAR Government

(1) For the avoidance of doubt, it is declared that all property, rights and liabilities vested in or belonging to the Crown or the Government of Hong Kong immediately before 1 July 1997 have been on and from that date, subject to the Basic Law, vested in or transferred to the Government of the HKSAR.

(2) All contracts, agreements, arrangements and undertakings entered into with and all securities given to or by the Crown or the Government of Hong Kong shall be deemed on and from 1 July 1997 to have been entered into with or given to or by, as the case may be, the Government of the HKSAR.

(3) All contracts, agreements, arrangements, undertakings and securities referred to in subsection (2) shall, subject to express provision to the contrary, on and from 1 July 1997 be construed as if—

(a) references to the Crown or the Government of Hong Kong were references to the Government of the HKSAR; and

(b) references to a public officer were references to the corresponding public officer in the HKSAR.

(4) All moneys including taxes, rents, fees and charges that immediately before 1 July 1997 were due or payable to the Crown or the Government of Hong Kong shall on and after that date become due or payable, as the case may be, to the Government of the HKSAR.

(5) In this section—

“Crown” (官方) means the Crown in right of the Government of Hong Kong.

31. Authorities established by the Hong Kong Government

(1) Every authority established by the Government of Hong Kong which was in existence immediately before 1 July 1997 shall on and after that date continue in existence and be deemed to be an authority established by the Government of the HKSAR.

(2) All property, rights and liabilities which immediately before 1 July 1997 were vested in or belonged to an authority established by the Government of Hong Kong shall on and from that date be vested in or transferred to the corresponding authority of the HKSAR.

(3) All contracts, agreements, arrangements and undertakings entered into with and all securities given to or by an authority established by the Government of Hong Kong shall be deemed on and from 1 July 1997 to have

7月1日並自該日起當作與特區的相應當局訂立或由特區的相應當局所給予或給予特區的相應當局(視屬何情況而定)。

(4) 除有相反的明文條文外，在1997年7月1日並自該日起，第(3)款提述的所有合約、協議、安排、承擔及保證均須在猶如對香港政府所設立的當局或該當局的人員或僱員的提述為對特區的相應當局或其人員或僱員(視屬何情況而定)的提述的情況下解釋。

(5) 在本條中——
“當局”(authority)包括諮詢委員會和其他委員會及團體。

32. 出租或批出土地及自然資源

行政長官可代表特區政府出租或批出在特區之內並屬國家財產的土地及自然資源。

附表1

[第3條]

由臨時立法會在預期回歸下在1997年7月1日之前通過的條例草案

1. 《假日(1997年及1998年)條例草案》。
2. 《1997年市政局(修訂)條例草案》。
3. 《1997年區域市政局(修訂)條例草案》。
4. 《1997年區議會(修訂)條例草案》。
5. 《1997年立法局行政管理委員會(修訂)條例草案》。
6. 《國旗及國徽條例草案》。
7. 《區旗及區徽條例草案》。
8. 《1997年社團(修訂)條例草案》。
9. 《1997年公安(修訂)條例草案》。
10. 《1997年香港終審法院(修訂)條例草案》。
11. 《1997年司法人員敍用委員會(修訂)條例草案》。
12. 《1997年人民入境(修訂)(第3號)條例草案》。
13. 《1997年宣誓及聲明(修訂)條例草案》。

附表2

[第4條]

獲同意的法官任命

1. 任命李國能先生為首任終審法院首席法官。
2. 任命——
(a) 列顯倫先生；

been entered into with or given to or by, as the case may be, the corresponding authority of the HKSAR.

(4) All contracts, agreements, arrangements, undertakings and securities referred to in subsection (3) shall, subject to express provision to the contrary, on and from 1 July 1997 be construed as if references to an authority established by the Government of Hong Kong or to an officer or employee of that authority were references to the corresponding authority or officer or employee thereof, as the case may be, of the HKSAR.

(5) In this section—
“authority”(當局) includes any advisory or other committee or body.

32. Lease or grant of land and natural resources

The Chief Executive may on behalf of the Government of the HKSAR lease or grant land and natural resources within the HKSAR which are State property.

SCHEDULE 1

[s. 3]

BILLS PASSED BY THE PROVISIONAL LEGISLATIVE COUNCIL BEFORE
1 JULY 1997 IN ANTICIPATION OF THE REUNIFICATION

1. Holidays (1997 and 1998) Bill.
2. Urban Council (Amendment) Bill 1997.
3. Regional Council (Amendment) Bill 1997.
4. District Boards (Amendment) Bill 1997.
5. The Legislative Council Commission (Amendment) Bill 1997.
6. National Flag and National Emblem Bill.
7. Regional Flag and Regional Emblem Bill.
8. Societies (Amendment) Bill 1997.
9. Public Order (Amendment) Bill 1997.
10. Hong Kong Court of Final Appeal (Amendment) Bill 1997.
11. Judicial Service Commission (Amendment) Bill 1997.
12. Immigration (Amendment)(No. 3) Bill 1997.
13. Oaths and Declarations (Amendment) Bill 1997.

SCHEDULE 2

[s. 4]

ENDORSED APPOINTMENTS OF JUDGES

1. The appointment of Mr Andrew Li Kwok Nang as the first Chief Justice of the Court of Final Appeal.
2. The appointment of—
(a) Mr Henry Denis Litton;

- (b) 沈澄先生；及
 - (c) 包致金先生，
- 為首三位終審法院常任法官。
3. 任命陳兆愷先生為首任高等法院首席法官。

- (b) Mr Charles Ching; and
 - (c) Mr Syed Kemal Bokhary,
- as the first three permanent judges of the Court of Final Appeal.
3. The appointment of Mr Patrick Chan Siu Oi as the first Chief Judge of the High Court.