

Securities & Futures Bill Part II

Provisions of the Blue Bill compared with the relevant existing legislation

References to sections (*s.*), subsections (*ss.*) or paragraphs in the comments column are to those of the Bill unless otherwise expressly stated.

SFCO = Securities and Futures Commission Ordinance (Cap. 24)

CE = the Chief Executive

FS = the Financial Secretary

Blue Bill Clause Ref.	SFCO section	Comments
3	-	New. The clause provides for the continuity of the Commission in respect of its existence, corporate identity, rights, privileges, powers, obligations & liabilities.
4	-	New. The clause stipulates six regulatory objectives of the Commission. One of them is to assist FS in maintaining the financial stability of Hong Kong by taking appropriate steps in relation to the security and futures industry.
5	4	Paragraphs (a), (g), (i), (j), (k), (m) & (o) are added to <i>ss.</i> (1). <i>Ss.</i> (2), (3) & (5) are added.
5(4)	8	Paragraphs (e) & (f) are new and replaces the original paragraph (e).
6	-	New. The clause sets out the general duties of the Commission. It is expressly required to take into account the five factors listed in <i>ss.</i> (2).
7	10(1), (2) & (5)	The constitution & proceedings of the Advisory Committee are provided in <i>s.</i> 27-32 of Part I of Schedule 2.
<i>s.</i> 27-32 of Part I of Schedule 2	10(1), (3), (4), (6) & (7)	<i>S.</i> 28 & 31 of Part I of Schedule 2 are added to provide for the convening of meetings of the Advisory Committee and the resignation of members of the Advisory Committee.
8	6	A new <i>ss.</i> (4) is added to make clear that the Commission may act notwithstanding the reference of the matter to a committee. A new <i>ss.</i> (9) is added to empower the Commission to give direction to a committee.

9	7	A new <i>ss.</i> (3) is added to empower the Commission to engage consultants, agents & advisers to assist it in the performance of its functions.
10	9	A new <i>ss.</i> (2) is added to stipulate non-delegable power and functions. The new <i>ss.</i> (7) provides for the interpretation of the references to "the Commission" in relation to the performance a function when such has been delegated.
11	11	The power of CE to give directions under <i>ss.</i> (1) is restricted to further the Commission 's regulatory objectives or the performance of its functions in the public interest. A new <i>ss.</i> (3) is added allowing the direction of CE to substitute for the Commission's opinion, being satisfied and duty to consult. The new <i>ss.</i> (4) makes it clear that the directions given by CE are not subsidiary legislation.
12	13	The obligation to furnish information is extended in three aspects: (i) to the principles and practices pursuing or adopted or proposed to be pursued or adopted by the Commission; (ii) for the purpose of furthering any of its regulatory objectives; & (iii) the reasons for such principles, practices & policies.
13	14	In <i>ss.</i> (1), the express reference to a 12 month financial year is removed. In <i>ss.</i> (3), it is now specified that the duty of tabling the approved estimates is on the FS.
14	53	No substantive change.
15	15	In <i>ss.</i> (2)(a), it is now expressly stated that the financial statements shall give a true and fair view of the state of affairs of the Commission & the results of its operations & cash flow in the financial year.
15(3)	12	No change.
16	16	A new <i>ss.</i> (8) is added to empower the Director of Audit to authorize public officers to perform any function under <i>ss.</i> (7).
17	17	No change.

s. 1-24, & 26 of Schedule 2 Part I	5	The new s. 6 empowers the chairman to designate an executive director to be the chairman during the inability to act of himself and any deputy chairman. The new s. 7(b) empowers the FS to appoint an executive director as chairman when the deputy chairman is unable to act and there is no designation under s. 6. The new s. 9 deems deputy chairman or an executive director acting as chairman under s. 5 or in accordance with a designation under s. 6 or 7 to be chairman of the Commission. The new s. 12 states expressly that CE shall determine the remuneration etc. payable to a member of the Commission. The new s. 17 permits telephone or video meeting or meeting by other means. New s. 21 to 24 permits a written resolution by the Commission in place of a meeting.
s. 25 of Schedule 2 Part I	3(4)	No substantive change

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