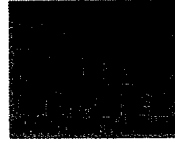


立法會 CB(2)1947/01-02(01)號文件



聯合聲明

2002年4月28日

將環食局及衛福局合併 是不恰當的改革

行政長官董建華先生在 2002 年 4 月 17 日宣佈高官問責制的架構內容，計劃把環境食物局和衛生福利局合併成「環境衛生福利局」。就此，我們下列各環保團體發出聯署聲明，以表達我們對事件深切的憂慮。我們認為把兩局合併是不恰當的改革，因為改革最終只會減低政府對環境及保育事務的注重。故此，我們促請政府重新考慮重組環境食物局的方案，並在方案落實前，作出全面的諮詢。

我們的關注和要求闡述如下：

1. 合併方案是一項大倒退，只會令環境及保育事務被其他政策事務所淹沒。

新的決策局需兼顧多方面的事務，主要官員和常任秘書長既要處理不同的政策如醫療改革、社會福利改革等問題，又要處理環境及保育事務，我們質疑面對如斯繁重的工作量，官員和常任秘書長如何能夠全情投入環境及保育事務的工作？因此，合併敲響了警鐘，表示政府有意減低對環境及保育事務的注重。

2. 相反，我們建議設立一個較為獨立的環境局來取代現時的环境食物局，專責處理一切環境及保育事務。

現時世界各地都設立獨立的环境行政機構，能直接進入最高的決策過程。政府這次的改革，顯然與這個大趨勢背道而馳。例如，美國的環保局局長（Environmental Protection Agency）便直接向總統回報一切環境事務。德國亦設立了環境、自然保育及核安全聯邦部（Federal Ministry for the Environment, Nature Conservation and Nuclear Safety）來保護環境。有關外國環境決策局或部門以及其架構詳見附錄甲。

3. 我們促請政府公開諮詢公眾意見，切勿倉促改革環境食物局。
政府公布實施改革建議的方式，公眾是否有足夠的討論空間？對此我們深表憂慮。主要官員問責制計劃在 2002 年 7 月 1 日實施，諮詢期實在太短。政府應提供途徑，讓公眾發表意見。我們相信若政府在改革實施前能充分考慮公眾的意見，有關的改革將對社會產生較正面的影響，政府也能達到其改革目的。

長春社
香港地球之友
綠化中國基金
香港觀鳥會
世界自然（香港）基金會

- 完 -

如有垂詢，請致電 81070660 聯絡鍾寶倫先生

附錄 A. 各國負責環境事務行政部門的使命、職責、組織架構或流程、職權範圍的概要

國家	部門	使命/職責	組織架構
中國	國家環保總局 (State Environmental Protection Administration)	<ul style="list-style-type: none"> 直屬國務院 負責制訂及執行環保政策 	<ul style="list-style-type: none"> 國務院由 19 個部、5 個委員會及 1 間銀行（中國人民銀行）組成 國家環保總局並不屬於部級或委員會，但卻為國務院直屬機關
英國	環保署 (Environmental Protection Agency)	<ul style="list-style-type: none"> 直接向總統匯報 其使命為保障市民健康及保護自然環境，包括空氣、水、土地，因這些都是人類賴以生存的資源 	<ul style="list-style-type: none"> 內閣包括副總統及由法定的 14 個行政部門首長 總統亦同時指定其他 3 間政府機關首長，包括環保署署長為其內閣成員之一
	魚類及野生動物服務 (Fish & Wildlife Service)	<ul style="list-style-type: none"> 部門的主要使命為保育、保護及強化魚類、植物及其棲息地，以為美國人民繼續提供益處 	<ul style="list-style-type: none"> 由內政部長匯報；內政部長同時負責監督土地管理局 (Bureau of Land Management)、土地開墾局 (Bureau of Land Reclamation)、國家公園服務 (National Parks Service)、及 露天礦務辦公室 (Office of Surface Mining)
美國	環境食物及鄉村事務大臣 (Secretary of Department for Environment, Food, & Rural Affairs)	<ul style="list-style-type: none"> 環境及鄉村事務事務大臣下有兩位部長 - 環境部長 (Minister of State (Environment)) 及鄉村事務部長 (Minister of State (Rural Affairs)) 其行政機關為環境食物及鄉村事務署，專責環境事務及食物工業的監管，包括安全標準及動物權益等 	<ul style="list-style-type: none"> 內閣由 23 名成員組成，包括環境及鄉村事務事務大臣
法國	國家發展及環境部 (Ministry of National Development and the Environment)	<ul style="list-style-type: none"> 其使命為監管環境素質、保護大自然、防止、減少或消除污染及騷擾、改善生活素質 	<ul style="list-style-type: none"> 總理辦公室共有部長 15 人
德國	環境、自然保育及核安全聯邦部 (Federal Ministry for the Environment, Nature Conservation and Nuclear)	<ul style="list-style-type: none"> 工作範圍包括基本環保政策議題、保護氣候、環境與能源、核能供應及鈾能、化學品安全、環境與健康等 	<ul style="list-style-type: none"> 內閣共有部長 14 名

	Safety)	- 聯邦環境署 (Federal Environmental Agency) 為其執行機關	
南韓	環境部 (Ministry of Environment)	- 環境部是基本的政府部門，專責一切保護環境的工作 - 工作主要集中在改善惡劣的環境，協調環境及制定經濟政策的制訂，及強化國際就跨境環境事務的合作。	總統之下有總理及 19 名部長

立法會 CB(2)1947/01-02(02)號文件

符合基本法 支持問責制

香港工會聯合會社會政策委員會

2002年5月6日

高官問責制自提出以來，社會輿論普遍持正面態度。本會認為，高官問責制符合基本法的有關規定，適應香港社會已發生了變化的現實，有利於香港的發展，符合包括公務員在內的全港市民的利益，體現了行政長官對香港的承擔和使命感，以及特區政府與時並進的新思維，方向正確，積極進取，本會表示支持。

一、高官問責制可以更好地維護基本法有關本港政制是以行政為主導的規定。

二、高官問責制能夠令政府問責制局長與行政長官的治港理念保持一致，從而提升問責制官員社會責任感及對其職責的承擔，改變過去毋須為自己的決策負上任何政治責任的制度。

三、高官問責制有利於提高政府的施政效率和水平，改變過去政令不暢，議而不決，決而不行，行而不果，效率低下，相互扯皮的狀況。

四、高官問責制可促使問責制局長增加與社會的聯繫，了解和掌握民情，向公眾負責，從而使其制訂的政策更能符合社會實際，貼近民意。在當前香港正面對經濟困難，失業率高企，民間有怨氣，政府需要盡快帶領香港走出低谷，步向復甦，紓解民困民怨的時刻，高官問責制的實施是十分及時的。

五、本會希望行政長官以選賢任能的原則，不拘一格，挑選德才兼備又為市民所認同的人才出任問責制局長；期望問責制局長以香港利益和市民福祉為依歸，盡忠職守，在當前情況下，首要任務是落實行政長官施政報告中提出的發展經濟的路向，令香港經濟的困境和勞工基層的失業問題盡快得到解決。

立法會 CB(2)1947/01-02(03)號文件



香港印刷業工會

HONG KONG PRINTING INDUSTRY WORKERS UNION

香港印刷業工會 地址：香港中環皇后大道中 100 號 10 樓 1010 室

TEL: 25764101-02 FAX: 25764101

高官問責制符合基法 有利香港發展

本會表示支持

香港回歸五年以來，特區政府在董建華的領導下，按照「一國兩制」的方針，依照基本法管治香港，不斷改革英殖民統治時期留下來的，不適應香港社會發展的制度，使香港成功地實踐了「一國兩制」。

現時提出的主要官員問責制，符合香港市民的利益，有利於香港的發展，是香港政制改革的新事物，既及時又合時，我們工會表示堅決支持。

- 一. 主要官員問責制有利於提高政府的施政水平和工作效率，更好地調動官員的責任感和承擔感，使他們對自己所作的決策有所承擔，負上責任。
- 二. 主要官員問責制可以使各主要官員在管治香港的理念上，在制定政策上行政長官保持一致，更好地配合行政長官施政，全力以赴地實現行政長官施政意圖，加快政府的決策過程。
- 三. 主要官員問責制有利於行政長官更好地運用創意行使權力，制定一個好的內閣制政府架構，從而使問責的官員更好地體貼民意，了解民情，增強廣大市民對政府施政的信心。
- 四. 主要官員問責制符合廣大市民希望有一個有承擔的政府的願望，特別在經濟低迷，失率高企的情況下，我們都十分希望有一個強有力的、高效率的政府，帶領香港走出谷底，增強市民對特區政府施政的信心。

香港印刷業工會

2002年5月10日

立法會 CB(2)1947/01-02(04)號文件

香港建造業總工會

HONG KONG CONSTRUCTION INDUSTRY EMPLOYEES GENERAL UNION

九龍油麻地上海街 383 號華興商業中心 2 字樓
2/F., Wah Hing Comm. Ctr., 383 Shanghai St., Yaumatei, Kln.
電話: 2388 6887 傳真: 2385 5002

致: 立法會轄下「研究擬議主要官員問責制及相關事宜小組委員會」

主席
葉國謙議員

關於全力支持特區政府推行主要官員問責制的信

敬啟者:

香港回歸祖國五年。特區政府要面對經濟轉型，與時俱進，更好地落實“基本法”，適應市民對政府的要求，為市民提供優質的服務，必須提高政府整體的施政能力，此時提出主要官員問責制很有必要。這對改善香港營商環境，增強香港競爭力，令香港經濟的困境和勞工基層的失業問題盡快得到解決，有著重要的意義。

政府主要官員問責制，就是要求問責的主要官員，在各自不同的政策範疇承擔主要責任，統領所轄部門工作，回應社會的訴求，制定全面協調的政策，解釋政策，為政策的實施作推介，爭取市民支持。同時要加強與立法會合作，出席立法會會議，就政府提出的法律草案，答覆議員質詢，參與動議辯論。這對有效落實政府的政策，對香港的繁榮穩定有著重大的促進作用。我們表示全力支持。

香港建造業總工會



- 港九泥水建築業職工會
- 港九水匠總工會
- 港九油漆業總工會
- 香港噴管從業員總會
- 港九搭棚同業工會
- 香港建築機械業職工會
- 香港建造業測量、平水及工程管理人員協會
- 香港建造業扎鐵職工會

- 香港建造業機械操作及維修業職工會
- 港九打石建造業職工會
- 港九水泥混凝土工程業職工會
- 港九船塢碼頭徵木總會
- 港九船務刷漆油漆工會
- 港九雕刻木器業職工會
- 香港木箱工會
- 建造業訓練局員工協會

二〇〇二年五月十三日

立法會 CB(2)1947/01-02(05)號文件

港九紡織染業職工總會

HONG KONG & KOWLOON SPINNING WEAVING AND DYEING

TRADE WORKERS GENERAL UNION

會址：荃灣大屋街 18 號金豐閣商場 1 樓

1/F., KAM FUNG COURT, 18 TAI UK ST., TSUEN WAN

電話：2416 7561 傳真：2416 7050

本會支持按期實施高官問責制

致： 研究擬議主要官員問責制及相關事宜小組委員會

香港回歸祖國五年來，以董建華行政長官為首的特區政府在祖國中央政府全力支持下成功貫徹一國兩制方針，成績顯著，惟因原有公務員架構並不完全適應施政需要，必須加以改善。

本會支持實行高官問責制以改善施政效率、加強服務市民、提高香港應付國際競爭克服困難保持長期穩定發展之能力。本會認為高官問責制應按期於七月一日實施，不應受到任何阻延。



港九紡織染業職工總會

主席：蔡觀偉

二零零二年五月十日

Accountability System for Principal Officials
Comments to Legislative Council Subcommittee
to Study the Proposed Accountability System for Principal Officials
and Related Issues

Wilson Wong
Assistant Professor
Department of Government and Public Administration
The Chinese University of Hong Kong

9/5/2002

A. Objectives and Necessary Conditions for the New System

The accountability system for principal officials or ministerial system is a revolutionary change in the political system of Hong Kong. Although Hong Kong will still have an executive-led government, the ministerial system is shifting the power of policy-making from the bureaucracy to the Chief Executive (CE) and his political appointees who serve as the principal officials under the new system.

According to the Administration, there are two main objectives of the ministerial system

- (i). To enhance the accountability of the government to the public for its performance
- (ii). To ensure good policy formulation and proper policy implementation

To make the system successful, it is important to build in other institutional arrangements and necessary conditions for the system. Without them, it is not likely that the stated two objectives can be attained. Moreover, many of the difficulties of the implementation of the ministerial system are also underestimated by the Administration. The critical issues that must be considered and addressed carefully for the success of the ministerial system are stated and explained below.

B. Critical Issues for Consideration

1. Institutionalization of the System

The new ministerial system will use political appointees, not the civil service, as the major driving force for the policy-making of Hong Kong. It will highly enhance the role and power of the CE in both the political system and the policy-making of Hong Kong. However, as the CE is not popularly elected, it is hard to imagine that, simply by implementing the new system, the CE himself and his ministers will be more accountable to the public.

It is understandable that it may take a longer time for the political reform to be accomplished that will make the CE be directly elected under universal suffrage. However, given the existing constraint in the political system, there is still room for improvement to enhance government accountability under the ministerial system.

A major problem of accountability of the ministerial system is that the Legislative Council (LegCo), the only political institution in Hong Kong that has a democratic component, does not play any significant role in the appointment and removal of the ministers. Although it is difficult to amend the Basic Law to give the Legislative Council a formal role in the process, the Administration should at least establish some constitutional conventions to make the LegCo a partner in the process. For example, the CE can ask all his ministers to attend meetings of the LegCo to explain their policy platforms before they are formally nominated and appointed.

The civil service is also not directly elected when they are given important roles in the policy-making under the existing system. However, at least, the civil service is an institution where there are institutional checks on their power. However, under the ministerial system, it seems that the CE is given more power without the proper institutional checks on his power. This will weaken the institutional strength of the existing system and making our system more towards a "rule of man", rather than a "rule of law."

2. Good Policy and Strong Leadership

One core assumption the Administration has for its dissatisfactory performance in the first term of the CE is that it is poor policy implementation, not poor policy formulation, is the problem. Nevertheless, it seems that many of the policy failures experienced by the Administration in the first term of the CE is more related to bad policies, rather than bad policy implementation. Therefore, even if the policy implementation and coordination can be improved with the adoption of the ministerial system, the policy failure caused by poor policy will still remain. At least, ministerial system is not a solution to this problem.

Moreover, strong leadership, which is so far a rather weak aspect of the Administration, is very important and necessary for the ministerial system. In the existing system, the civil servants who are serving as directors of bureaux are administrative officers (AO). One important devise of the administrative grade system as a policy-making institution is job rotation. As each AO will be shifted from one policy area to another policy area and one department to another department regularly, they will not have a rested interest in one single policy area or one single department. In addition, they are all career civil servants who are socialized in the same civil service system for a long period of time. Many of them also have personal ties with each other. Consequently, they often share the same vision and have the same consensus on policy-making.

However, under the new ministerial system, talent from outside the civil servants, are going to be recruited as ministers. The administrative grade system for policy coordination will break down. Ministers have a strong tendency to compete with each other for media attention, attention from the CE, resources, and policy achievements. In order to maintain the policy consensus and coordination, the CE and his director of the CE's office must exercise very strong leadership. If not, the new ministerial system will only bring more conflict and chaos to the policy-making of Hong Kong.

3. Integrity and Neutrality of the Civil Service

The Administration paper on the ministerial system states that "the civil service would continue to be permanent, meritocratic and politically neutral" after the adoption of the system. While these objectives are highly valued and treasured, there is little there in terms of institutional safeguard to ensure that the objectives can be achieved under the new system.

For example, the Secretary for the Civil Service is politically appointed. It is unsure how he or she can balance the political pressure from the ministers and the CE, and the merit and neutrality of the civil service. Although the ministers do not have the direct authority to fire the civil servants, they still have strong political control on the civil service by exercising influence on the career prospects of the civil servants. This risk is particularly high for the senior civil servants as much of their work is management and policy in nature. Their work is hard to be quantified by objective and measurable indicators. It becomes vulnerable to the subjective or perhaps even political judgment of the ministers. Consequently, it is very likely that the political influence of the ministers can easily go beyond the level of the permanent secretaries and reach much deeper into the civil service.

If the Administration would like to ensure the civil service will be "permanent, meritocratic, and politically neutral", a more effective solution is to follow the example of the UK. That is, civil service legislations can be passed to ensure that the civil service will not be put under political pressure under the new system.

4. Financial and Staffing Implications

It is difficult to make the new ministerial system "cost-neutral". The crux of the problem is that the Administration adds a new layer of policy-making, the ministers, to the existing bureaux. Even if the ministerial system can be made "cost-neutral", it is more likely that it is cost-neutral in the sense that the budgets for the bureaux are not increased. The bureaux can do so by shifting some of the administrative tasks and the staff to the departments.

Some of the bureaux are already "downsizing" themselves by shifting their administrative staff of lower ranks, such as the executive officers, to the departments.

There are two implications here:

- (i). The so-called "cost-neutrality" is simply a number game. While the expenses of the bureaux may be kept constant, the overall expenses of the government will be increased.
- (ii). The bureaux will become top-heavy. Much of the cost-saving will be made at the expense of the lower level staff. It can be unfair to them and socially unjust.

Furthermore, the ministers will hire his or her own support staff. Policy formulation and research will become a critical task for policy bureaux in the new system. These mean that there is actually a pressure for expansion for the overall personnel of the bureaux in the long run.

Consequently, it is really doubtful that the ministerial system can be "cost-neutral" in a real sense.

5. Timing

It is not a good idea to set a fixed deadline, such as July 1, as the implementation date of the new system. This is not to say that the ministerial system must not be implemented on July 1. The important point here is that the ministerial system should not be implemented before all the institutional safeguards and arrangements are built into it to preserve the existing strengths of the existing system.

In fact, the only and major merit of having the system implemented not later than July 1 is more or less ceremonial. As the leaders of the Central Government are going to visit Hong Kong for the fifth anniversary of the handover, it will be a good occasion for them to appoint the ministers during their visit. However, the cost of having a badly constructed and poorly perceived system implemented prematurely is very high. It is not advisable to take the risk of rushing the legislations required for the system through the LegCo, just for the sake of meeting a self-imposed deadline.

C. Conclusion: Not a Panacea for the Real Problems

There are two sets of worries for the new ministerial system. First of all, the ministerial system can weaken many of the institutional strengths of the political system of Hong Kong in general and the civil service system of Hong Kong in particular. For instance, by making the civil service more "politicalized", it may lose its power to offer professional and neutral advice to the government.

Secondly, some of the more urgent and important problems are not addressed, or more correctly, cannot be addressed by the ministerial system. Good policy, clear vision, and strong leadership are all critical factors that are necessary for the success of the ministerial system. The Administration must demonstrate to the public that they have these sets of qualities before they formally implement the system.

It is not to say that the ministerial system is necessarily bad. However, we should not have a false faith that it can solve all our problems. We should also do not let it blind us from seeing the real and more profound problems faced by the HKSAR Government.

存照：

20X20=400

(一)、未設法之前，先打個譬喻如下：

(A)、有一遊戲規則，規定「足球員」十一人出賽，全場可更換兩人。

(B)、另帶一遊戲規則，規定「籃球員」五人出賽，全場可無數次更換其隊員。

(C)、到了1988年，其規則改變為「足球員」的「通則」與「籃球員」的「通則」相同。(由於此一改變，球迷均嘩聲四起，著「足球員」全場可無數次更換球員矣！因為主辦者可引用「籃球員」規則給予「足球員」享用也！)

P1

(二)、回到談話的語題。如今高官向黃則、田楚歌、吳一雄指可以站得穩腳，已成為法界界之大笑話！結果，大概也是好叔前最後剩下一個所謂「通則」，也推出台去了，叫做「釋法及通則條例」第54條A云云：

未譯論以条文之前，吾人先洗該「釋法及通則條例」(或下文簡稱「釋例」)引述其中兩釋詞如下：

①「公務員」、「公務人員」(public servant)的涵義與「公職人員」的涵義相同；(由1998年第20号第4

NO



条增补)

② 公职人员 (public officer) 指任何在特已改 P.2 行担任受薪职位的人，不论该职位是常设或临时性质；(由 1998 年第 26 号第 4 条增补)

这个 1998 年增补的两个解释词，当时的意思是「薪金」或「受薪」时代所搞出的「好戏」！

不过，在 97 年就这样更改「公职人员」的涵义，是否已违反《基本法》第 103 条所说明「公职人员」——原旨限于——「招聘、任用」——和「管理」的职权，包括负责公职人员的任用、薪金

、服务条款中的专门机构 (前者按「指」公职人员任用委员会) ——予以保留。——此一条文呢？

现在「高院」认为作为「公职人员」的主要官员，可按照《释例》第 54A 条，即效法「公职人员」将任何职位转授给另一「主要官员」云云。(54A 条

1) 项规定「立法会可藉决议，订定将某一公职人员按照条例得行使的任何职权转授给另一公职人员。(由 1998 年第 26 号第 4 条修订)」)

有议有说，这一招叫偷龙转凤！不过，吾人要追向以是——九七以来谁修改《基本法》

，可以更改「公务员」的招聘、任用和管理
 制度吗？可不可以视及批准「包括负责公务
 人员的任用、---服务条件的专门机构」即「公
 务员任用委员会」的《基本法》第103条所赋予
 的权力呢？

为什么基本法不同一国家做去——第103条
 所赋予的「专门机构」已被夺权，是吗？

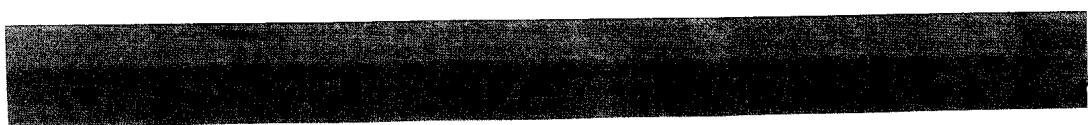
回到「公务员」与「公职人员」的问题上，当
 权者的企图，有如前述「足球员的比赛规则被更
 改为篮球员的规则」一样，球迷（或市民）就很
 容易明白到本会（或政府）^方如今如何横行霸
 道了！！

究竟《基本法》怎样规范「公务员」与「公职
 人员」的不同呢？

请看第四十八条有关特首的职权第(五)项和
 第(六)项的不同规定就是证明！

第四十八条(五)项规定「提名并经请中央人民政
 府任命下列主要官员---。」

第四十八条(六)项规定「依照法定程序任免公职
 人员。」



20X20=400

如果当时制定《基本法》时没有「主要官员
 属公职人员」的话，则第四项和第七项早决合
 编规则如下：「提名并拟请中央人民政府任命
 下列公职人员中的主要官员——；其他公职人员
 则依此法定程序任命。」任何认识或负责者
 ，都会像我一样作出^出相关概念的逻辑^{划分}的。
 如果概念的外延没有划分为母项与子项的逻辑
 關係，当然不会隸屬於同一条文中了，故由原
 《基本法》第四十条第四项与第七项的分项可知
 ，「主要官员」与「公职人员」与「公职人员」~~皆同~~!!!

况且，《基本法》第四章第六节「公职人
 员」（由第99条至第104条）一字也不提「公职
 人员」，则九八年以「职之会」以非法和擅断什么
 法规可把「公职人员」的涵义等同于「公职人
 员」的怪论呢？这样目無《基本法》的更改，香
 港特区的法院也同意吗？无可否认，大律师的
 ，生意等着你呢!!

这个董特政府、其时法治的残害，实在恐
 怖！尤其人子居港权的权利，竟敢去做影响他
 港事中的「权益」去处理，则权利云云~~哉~~!!!对权利
 与「权益」混淆，存於国际现代社会几个世纪!!
 立法会议书处、改制中经各条
 「法制委员会」各委员

海外文士
 2022年5月9日

NO