

**Subcommittee to Study the Proposed
Accountability System for Principal Officials and Related Issues**

Agenda Items 1(4) to (6) of the Subcommittee Meeting on 3 May

Introduction

This paper discusses the following issues –

- (a) powers and functions of the Chief Executive and his accountability;
- (b) relationship between the Central People's Government and principal officials; and
- (c) constitutional relationship between the Chief Executive /principal officials /permanent secretaries /LegCo.

Powers and functions of the Chief Executive and his accountability

2. Powers and functions of the Chief Executive and his accountability have been specifically set out in the Basic Law.

3. According to Article 12 of the Basic Law, the Hong Kong Special Administrative Region (HKSAR) shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government (CPG). BL 15 and BL 45 of the Basic Law provide that the Chief Executive shall be appointed by the CPG. BL 43(1) provides that the Chief Executive shall be the head of the HKSAR and shall represent the Region. Under BL 60(1), the Chief Executive is the head of the Government of the Hong Kong Special Administrative Region (HKSARG).

4. BL 48 sets out in detail the powers and functions of the Chief Executive, including those to lead the HKSARG, to implement the Basic

Law, to decide on government policies, to sign bills, to promulgate laws, to sign budgets, to nominate and report to the CPG for appointment of principal officials, and to conduct, on behalf of the HKSARG, external affairs and other affairs as authorized by the Central Authorities.

5. Under BL 48(1), the Chief Executive shall lead the HKSARG, which shall exercise the powers and functions specified in BL 62.

6. BL 43(2) provides that the Chief Executive shall be accountable to the CPG and the HKSAR in accordance with the provisions of the Basic Law. BL 47 requires that the Chief Executive must be a person of integrity, dedicated to his or her duties. In accordance with BL 104, the Chief Executive must swear allegiance to the HKSAR of the People's Republic of China.

Relationship between the Central People's Government and principal officials

7. Under BL 48(5), the CE is to nominate and to report to the CPG for appointment the principal officials and to recommend to the CPG the removal of these officials. Principal officials are members of the HKSARG. As stated in paragraphs 3 and 5 above, according to the Basic Law, the Chief Executive is the head of HKSAR [BL 43(1)] and the head of the HKSARG [BL 60]. He leads the HKSARG [BL 48(1)] and shall be accountable to the CPG in accordance with the provisions of the Basic Law [BL 43(2)].

Constitutional relationship between the Chief Executive /Principal Officials /Permanent Secretaries /LegCo

8. BL 99(2) requires that public servants must be dedicated to their duties and be responsible to the HKSARG. According to the Basic Law, the Chief Executive shall be the head of HKSARG and shall lead the HKSARG. Principal officials under the accountability system and permanent secretaries are members of the HKSARG and come under the leadership of the Chief Executive.

9. Under the Basic Law framework, the executive authorities and the legislature shall regulate each other as well as co-ordinate their activities. The HKSARG will continue to be accountable to the Legislative Council in accordance with Article 64 of the Basic Law.

Constitutional Affairs Bureau
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