

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

**The Decision relating to the Accountability System**

**Introduction**

At the meeting of the Subcommittee on 10 May 2002, a member asked the Administration to provide a paper identifying the relevant act or decision on the basis of which the accountability system is introduced. This paper is provided in response to that request.

**Powers of the Chief Executive**

2. The powers and functions to be exercised by the Chief Executive under the Basic Law include –

- to head the HKSARG (BL 60);
- to lead the government of the Region (BL 48(1));
- to decide on government policies (BL 48(4)); and
- to appoint members of the Executive Council from among the principal officials of the executive authorities, members of the Legislative Council and public figures (BL 55).

3. BL 56(2) provides that –

“Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.”

4. Acting in accordance with the Basic Law, the Chief Executive has, after consulting the Executive Council, decided to introduce the accountability system.

### **Promulgation and publication**

5. The Basic Law requires certain instruments or decisions to be “promulgated”.

- BL 18(2) provides that –

“National laws shall not be applied in the Hong Kong Special Administrative Region except for those listed in Annex III to this Law. The laws listed therein shall be applied locally by way of promulgation or legislation by the Region.”

- BL 48(3) provides that one of the powers and functions of the Chief Executive is –

“To sign bills passed by the Legislative Council and to promulgate laws;”.

- BL 76 provides that –

“A bill passed by the Legislative Council of the Hong Kong Special Administrative Region may take effect only after it is signed and promulgated by the Chief Executive.”

6. There is no requirement in the Basic Law that policy decisions of the Chief Executive, or the Chief Executive in Council, must be formally promulgated. Moreover, the proceedings as well as the papers and minutes of the Executive Council are kept confidential. However, the accountability system as decided by the Chief Executive in Council have been made public in various ways. In particular, the accountability system was announced personally by the Chief Executive in an address to the Legislative Council on 17 April 2002, and the details have been set out in the papers submitted by the Administration to the Subcommittee.

## **Scrutinizing legislation**

7. In the context of the announced changes, the Administration is asking the Legislative Council to approve two pieces of subsidiary legislation, namely –

- a resolution under section 54A of Cap 1, transferring relevant statutory functions to the policy secretaries of the reorganised bureaux.
- an order under section 62(3) of Cap 1, amending the list of public officers who may signify certain acts of the Chief Executive, in the light of the reorganisation and accountability system.

8. Since the nature of the reorganisation and the accountability system has been publicly explained in detail, the Administration considers that members of the Legislative Council are fully able to scrutinize these instruments to decide whether they will achieve their stated purpose.