

**Subcommittee to Study the Proposed
Accountability System**

**Resolution Under Section 54A of the
Interpretation and General Clauses Ordinance (Cap. 1)**

Transitional and Savings Provisions

Introduction

This paper seeks to explain the savings and transitional arrangements provided for in the draft Resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1).

The Draft Resolution

2. The implementation of the accountability system will be accompanied by the reorganization of certain bureaux. The purpose of the Resolution is to effect the transfer of statutory functions of certain existing bureau secretaries to bureau secretaries who will take charge of relevant policy responsibilities following the reorganization of policy bureaux. Details of the transfer are set out in paragraphs (1) to (13) of the draft Resolution. Paragraph (14) of the draft Resolution contains transitional and savings provisions that are included to ensure a smooth transition in the transfer of statutory functions.

The Scope of Section 54A(2) of Cap. 1

3. Section 54A(2) of the Interpretation and General Clauses Ordinance (Cap. 1) provides that a resolution under section 54A may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the resolution.

4. It is within the scope of section 54A(2) for the draft Resolution

to contain transitional and savings provisions in order to give full effect to the Resolution. Precedents for section 54A resolution that contained transitional and savings provisions can be found at L.N. 370 of 1981 and L.N. 76 of 1982.

Paragraph (14) of the Draft Resolution

5. Sub-paragraphs (a) and (b) of paragraph (14) are of general application. They seek to ensure that with effect from 1 July 2002-

- (a) anything done by or in relation to a bureau secretary from whom a function is transferred under the Resolution (“former officer”) shall be regarded as done by or in relation to the bureau secretary to whom the function is transferred (“new officer”);
- (b) anything that may be done and is in the process of being done by or in relation to the former officer may continue to be done by or in relation to the new officer; and
- (c) anything that is required to be done and is in the process of being done by or in relation to the former officer shall continue to be done by or in relation to the new officer.

6. Sub-paragraph (c) makes specific savings and transitional arrangements between a former officer and a new officer for existing contractual liabilities, pending proceedings, as well as the use of existing forms.

Advice sought

7. Members are invited to consider paragraph (14) of the draft Resolution.