

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

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

**Transfer of Statutory Functions
from Secretary for Planning and Lands
to Secretary for Housing, Planning and Lands**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Planning and Lands to the Secretary for Housing, Planning and Lands with effect from 1 July 2002.

Background

2. In the light of the discussions at this Subcommittee and views expressed by members of the public, the Administration has decided to adjust the portfolios of the policy bureaux. The draft Resolution which was issued to Legislative Council on 17 April 2002 therefore needs to be revised. This paper seeks to explain the provisions of the revised Resolution in respect of the transfer of statutory functions from the Secretary for Planning and Lands to the Secretary for Housing, Planning and Lands.

The Resolution

3. The introduction of the accountability system will be accompanied by the reorganization of a number of policy bureaux. As a result, the Secretary for Housing, Planning and Lands will be responsible for matters relating to housing, planning and lands. The relevant statutory functions currently vested in the Secretary for Housing and the Secretary for Planning and Lands will be transferred to the Secretary for Housing, Planning and Lands.

4. Paragraph 13(a) of the revised Resolution provides that statutory functions currently exercisable by the Secretary for Planning and Lands by virtue of the ordinances specified in column 2 of Schedule 13 to the Resolution be transferred to the Secretary for Housing, Planning and Lands. To give full effect to the Resolution, incidental, consequential and supplemental amendments, as appropriate, are introduced. Such amendments are provided for in paragraph 13(b) and Schedule 13 of the revised Resolution. Most of the amendments are to replace references to “Secretary for Planning and Lands” in the relevant ordinances with references to “Secretary for Housing, Planning and Lands”. Paragraph 13 and Schedule 13 of the revised Resolution are attached at Annexes A and B respectively.

5. A summary of the major statutory functions of the Secretary for Planning and Lands under existing legislation and the textual amendments to the relevant ordinances is attached as Annex C.

Advice Sought

6. Members are invited to consider paragraph 13 and Schedule 13 of the revised Resolution.

Constitutional Affairs Bureau
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(13) with effect from 1 July 2002 -

(a) the functions exercisable by the Secretary for Planning and Lands by virtue of the Ordinances specified in column 2 of Schedule 13 be transferred to the Secretary for Housing, Planning and Lands;

(b) for the purpose of giving full effect to subparagraph (a) -

(i) the provisions specified in Schedule 13 (other than item 4) be amended by repealing "Secretary for Planning and Lands" wherever it appears and substituting "Secretary for Housing, Planning and Lands";

(ii) the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) be amended -

(A) in section 2(1), by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means

the Secretary for
Housing, Planning and
Lands.";

(B) in the provisions specified in item 4 of Schedule 13, by repealing "規劃地政局局長"

wherever it appears and
substituting "局長";

- (iii) the Urban Renewal Authority Ordinance (Cap. 563) be amended, in section 36, by adding -

"(10) For the purposes of subsections (4) and (7), the functions of the Secretary for Planning and Lands under the repealed Ordinance shall, on and after 1 July 2002, be performed by the Secretary for Housing, Planning and Lands.".

SCHEDULE 13 [para. (13)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF SECRETARY
FOR PLANNING AND LANDS TO SECRETARY FOR
HOUSING, PLANNING AND LANDS

Item	Ordinance	Provision
1.	Buildings Ordinance (Cap. 123)	Sections 5(1) and (3A), 5AA(2)(a), 11(1) and (4A), 11AA(2)(a), 38(1) and (5), 39A(1) and 46(2)(a).
2.	Town Planning Ordinance (Cap. 131)	Section 24(1).
3.	Aerial Ropeways (Safety) Ordinance (Cap. 211)	Section 28(1).
4.	Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301)	Sections 3(1AA), (2A), (3A) and (3B), 7(1) and 23(1).
5.	Lifts and Escalators (Safety) Ordinance (Cap. 327)	Section 2(1) (the definition of "Secretary").
6.	Electricity Networks (Statutory Easements) Ordinance (Cap. 357)	Sections 2 (the definition of "approved scheme"), 3(1), 7(1) and 9(2), (3) and (4).
7.	Western Harbour Crossing Ordinance (Cap. 436)	Section 15(2).
8.	Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438)	Section 2 (the definition of "Secretary").
9.	Registrar General (Establishment) (Transfer of Functions and Repeal) Ordinance (Cap. 439)	Section 31.
10.	Land Drainage Ordinance (Cap. 446)	Section 2 (the definition of "Secretary").
11.	Land Survey Ordinance (Cap. 473)	Section 2 (the

- definition of
"Secretary").
12. Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) Section 15(2).
 13. Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) Section 12(1).
 14. Urban Renewal Authority Ordinance (Cap. 563) Section 2 (the definition of "Secretary").

**Statutory functions presently exercisable by Secretary for Planning and Lands (SPL)
to be transferred to Secretary for Housing, Planning and Lands (SHPL)**

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 1 of Schedule 13	123 Buildings Ordinance	<p>This ordinance provides for the planning, design and construction of buildings and associated works; and for the rendering safe of dangerous buildings and land.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • powers relating to appointment of disciplinary boards • power to make regulations • power to issue technical memoranda, publish the technical memoranda in the Gazette and cause them to be laid on the table of the Legislative Council after publication • power to appoint secretary to the Appeal Tribunal 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 1. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provisions are amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 2 of Schedule 13	131 Town Planning Ordinance	<p>This ordinance provides for the systematic preparation and approval of plans for the lay-out of areas of Hong Kong as well as for the types of building suitable for erection therein and for the preparation and approval of plans for areas within which permission is required for development in order to promote the health, safety, convenience and general welfare of the community.</p> <p>Major function to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • powers and functions on matters relating to review of the decision of the Authority (Director of Planning) 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 2. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 13	211 Aerial Ropeways (Safety) Ordinance	<p>This ordinance provides for the design, manufacture and installation of aerial ropeways, the regulation of the operation and maintenance of aerial ropeways, and the avoidance of dangerous conduct in relation thereto.</p> <p>Major function to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • power to make regulations 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 3. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 4 of Schedule 13	301 Hong Kong Airport (Control of Obstructions) Ordinance	<p>This ordinance provides for the restriction and, where necessary, the reduction of heights of buildings in the interest of the safety of aircraft, for the control of lighting, for the erection or provision and the maintenance of aids to air navigation, and for the assessment and payment of compensation in respect of damage suffered on account thereof.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • powers relating to issuing orders to prescribe areas within which no building shall exceed the height specified for the purpose of section 3 • power to order provision of marks, lights and beacons for the safety of aircrafts • power to extend period for making claims for compensation under this Ordinance 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 4. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The definition of “Secretary” in section 2(1) is repealed and substituted by “Secretary” (局長) means the Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> <ol style="list-style-type: none"> (a) The definitions of “規劃地政局局長” in section 2(1) is repealed and substituted by ““局長” (Secretary) 指房屋及規劃地政局局長”. (b) Other relevant provisions are amended by repealing “規劃地政局局長” and substituting “局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 5 of Schedule 13	327 Lifts and Escalators (Safety) Ordinance	<p>This ordinance provides for the design and construction, and the maintenance in safe working order of lifts and escalators, and for the examination and testing thereof.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • power to appoint disciplinary board upon the receipt of notice under sections 9 and 11G • power and functions relating to the appointment of the disciplinary board panel • power and functions relating to the disciplinary proceedings • power to appoint an appeal board upon the receipt of notice under sections 6, 11C and 15 • power and functions relating to the appointment of the appeal board panel 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 5. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 6 of Schedule 13	357 Electricity Networks (Statutory Easements) Ordinance	<p>This ordinance provides for the creation of easements in and over land in favour of certain undertakings which generate, transmit or distribute electricity.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • power to approve terms of a scheme for the purpose of section 3(1) • powers and functions on matters relating to rectification of approved schemes • powers and functions relating to the handling of objections lodged by the owner of any land against the exercise of any right by a power company 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 6. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provisions are amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provisions are amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 7 of Schedule 13	436 Western Harbour Crossing Ordinance	<p>This is an ordinance to grant a franchise for the construction and operation of a crossing between West Kowloon Reclamation and Sai Ying Pun. It provides for the maintenance of the works within the tunnel area, the payment of tolls to the franchise holder for the use of the tunnel by motor vehicles and the regulation of vehicular traffic in relation to such use.</p> <p>Major function to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • power to apply the Buildings Ordinance to any of the construction works 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 7. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 8 of Schedule 13	438 Sewage Tunnels (Statutory Easements) Ordinance	<p>This ordinance provides for the creation of easements and other rights over land in favour of the Government for the purpose of the construction, maintenance and operation of sewage tunnels.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • power to direct preparation and publication of plans relating to sewage tunnels • functions relating to the deposit of plan and registration of order made under sections 6 and 7 of this Ordinance • powers on matters relating to rectification of plans • power to order that section 10 of the Ordinance shall apply to certain land and to publish in the Gazette notice of such order 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 8. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 9 of Schedule 13	439 Registrar General (Establishment) (Transfer of Functions and Repeal) Ordinance	<p>This ordinance provides for the amendment of Ordinances consequential on the transfer of the functions of the Registrar General and certain functions of the Land Officer and the change of title of the Land Officer and the Land Office to Land Registrar and Land Registry respectively and for the repeal of the Registrar General (Establishment) Ordinance (Cap 100).</p> <p>Major functions to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • Power to repeal references to “Registrar General”, “Registrar General (Land Officer)”, “Land Officer” and “Land Office” by notice in Gazette. 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 9. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 10 of Schedule 13	446 Land Drainage Ordinance	<p>This ordinance provides for the constitution of Drainage Authority Areas and the carrying out of drainage works within such areas and for connected matters.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • power to direct preparation of draft plans • functions on matters relating to replacement of plans • powers and functions on matters relating to appeals • powers and functions on matters relating to submission of draft plans to the Chief Executive in Council and the subsequent arrangements • function relating to the deposit of approved plans in the Land Registry • powers and functions on matters relating to resumption of land on application • power to make regulations 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 10. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 11 of Schedule 13	473 Land Survey Ordinance	<p>This ordinance provides for the registration and discipline of land surveyors engaged in land boundary surveys, for the control of the standards of land boundary surveys and for the establishment of land boundary records.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • powers to appoint the Land Surveyors Registration Committee • power to appoint a disciplinary board upon a referral or a complaint made under section 21 of this ordinance • powers and functions relating to the appointment of disciplinary board panels and the disciplinary proceedings • power to make regulations 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 11. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 12 of Schedule 13	474 Tai Lam Tunnel and Yuen Long Approach Road Ordinance	<p>This is an ordinance to grant a franchise for the design, construction and operation of a tunnel and associated roads linking Ting Kau to Au Tau. It provides for the maintenance of the works within the area subject to the franchise, the payment of tolls to the franchise holder for the use of that area by motor vehicles and the regulation of vehicular traffic in relation to such use.</p> <p>Major function to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • power to apply the Buildings Ordinance to any of the construction works 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 12. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 13 of Schedule 13	545 Land (Compulsory Sale for Redevelopment) Ordinance	<p>This ordinance enables persons who own a specified majority of the undivided shares in a lot to make an application to the Tribunal for an order for the sale of all of the undivided shares in the lot for the purposes of the redevelopment of the lot; and enables the Tribunal to make such an order if specified criteria are met.</p> <p>Major function to be transferred from SPL to SHPL is:</p> <ul style="list-style-type: none"> • power to make regulations 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 13. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> The relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”. - <u>Chinese text</u> The relevant provision is amended by repealing “規劃地政局局長” and substituting “房屋及規劃地政局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 14 of Schedule 13	563 Urban Renewal Authority Ordinance	<p>This ordinance provides for the establishment of the Urban Renewal Authority for the purpose of carrying out urban renewal and for connected purposes.</p> <p>Major functions to be transferred from SPL to SHPL are:</p> <ul style="list-style-type: none"> • powers and functions on matters relating to planning procedures • powers and functions on matters relating to objection against a project which is to be implemented by way of a development project • power and functions on matters relating to appeal against the decisions of the Secretary made under section 24 of this Ordinance • powers and functions on matters relating to resumption and disposal of land • power to enter, or to authorize any person to enter, any land or premises for the purpose of preparing an assessment on the likely effect brought about by the implementation of a development scheme • power to obtain information from the Authority • power to recommend to the Chief Executive in Council the resumption of any land • functions of SPL under the repealed Land Development Corporation Ordinance (Cap. 15) 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Planning and Lands /規劃地政局局長” and/or “the Secretary/局長” are reproduced at Appendix 14. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - <u>English text</u> <ul style="list-style-type: none"> (a) Section 36 is amended by adding “(10) For the purposes of subsections (4) and (7), the functions of the Secretary for Planning and Lands under the repealed Ordinance shall, on and after 1 July 2002, be performed by the Secretary for Housing, Planning and Lands.”. The new subsection (10) is to transfer SPL’s functions under the repealed Land Development Corporation Ordinance. Section 36(4) and (7) of the Urban Renewal Authority Ordinance provide transitional provisions that a development proposal or scheme that has been prepared in accordance with the repealed Land Development Corporation Ordinance may be continued and completed by the Urban Renewal Authority as if the Land Development Corporation Ordinance had not been repealed. Since the statutory functions of SPL under the repealed Land Development Corporation Ordinance for the purposes of the provisions are saved, the functions of SPL under the repealed Ordinance should also be transferred by the Resolution.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
			<p>(b) Other relevant provision is amended by repealing “Secretary for Planning and Lands” and substituting “Secretary for Housing, Planning and Lands”.</p> <p>- <u>Chinese text</u></p> <p>(a) Section 36 is amended by adding “(10) 為施行第(4)及(7)款，自 2002 年 7 月 1 日起，根據已廢除條例由規劃地政局局長執行的職能須由房屋及規劃地政局局長執行。” for reason specified above.</p> <p>(b) Other relevant provision is amended by repealing “ 規 劃 地 政 局 局 長 ” and substituting “房屋及規劃地政局局長”.</p>

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