

**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 Housing
to Secretary for Housing, Planning and Lands**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Housing 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 Housing 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 12(a) of the revised Resolution provides that statutory functions currently exercisable by the Secretary for Housing by virtue of the ordinances specified in column 2 of Schedule 12 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 12(b) and Schedule 12 of the revised Resolution. Most of the amendments are to replace references to “Secretary for Housing” in the relevant ordinances with references to “Secretary for Housing, Planning and Lands”. Paragraph 12 and Schedule 12 of the revised Resolution are attached at Annexes A and B respectively.

5. The opportunity is also taken to improve the definition clauses of one of the relevant ordinances. In the Estate Agents Ordinance, the definition of “Secretary” is only provided for in the English text. A corresponding definition would be added to the Chinese text.

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

Advice Sought

7. Members are invited to consider paragraph 12 and Schedule 12 of the revised Resolution.

(12) with effect from 1 July 2002 -

(a) the functions exercisable by the Secretary for Housing by virtue of the Ordinances specified in column 2 of Schedule 12 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 12 (other than items 2(b) and 3) be amended by repealing "Secretary for Housing" wherever it appears and substituting "Secretary for Housing, Planning and Lands";

(ii) the Estate Agents Ordinance (Cap. 511) be amended -

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

"Secretary" (局長) means
the Secretary for
Housing, Planning and
Lands;"

(B) in the provisions specified in item 2(b) of Schedule 12, by repealing "房屋局局長" wherever it appears and substituting "局長";

- (iii) the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg.) be amended, in section 7(5), in paragraph (a) of the definition of "compliance with the relevant condition" and the definition of "relevant examination", by repealing "Secretary for Housing" and substituting "Secretary";
- (iv) the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511 sub. leg.) be amended, in the provision specified in item 3 of Schedule 12, by repealing "房屋局局長" and substituting "局長";

SCHEDULE 12 [para. (12)(a) & (b)]

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

Item	Ordinance	Provision
1.	Housing Ordinance (Cap. 283)	Section 7A(1), (3) and (7).
2.	Estate Agents Ordinance (Cap. 511)	(a) Section 1(2). (b) Sections 2(1) (the definition of "訂明"), 3(1), 12(1)(a), (4) and (5), 18(3), 31(1), (2) and (3)(a) and (b), 32(1), (3) and (10), 37(1), 38(5), 44(1), 46(2), 49(3)(b), 53(1) and 56(1).
3.	Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511 sub. leg.)	Section 4(1).

**Statutory functions presently exercisable by Secretary for Housing (S for H)
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 12	283 Housing Ordinance	<p>This ordinance provides for the establishment and functions of the Housing Authority.</p> <p>Major functions to be transferred from S for H to SHPL are:</p> <ul style="list-style-type: none"> • Power to appoint appeal panel • Power to make rules regulating the appeal procedures 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Housing/房屋局局長” and/or “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> Section 7A is amended by repealing “Secretary for Housing” and substituting “Secretary for Housing, Planning and Lands”. – <u>Chinese text</u> Section 7A is amended by repealing “房屋局局長” 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 12	511 Estate Agents Ordinance	<p>This ordinance provides for the establishment and functions of the Estate Agents Authority, the licensing of estate agents and the regulation of estate agency work.</p> <p>Major functions to be transferred from S for H to SHPL are:</p> <ul style="list-style-type: none"> • power to appoint commencement date of the ordinance • power to approve the Estate Agents Authority to grant exemptions • powers and functions relating to audits and the Authority's report • power to approve the determination of the relevant period by the Authority for the purpose of section 18 • functions to receive notices relating to appeals • power to appoint appeal panel • power to make regulations regulating the appeal procedures • power to approve regulations made by the Authority relating to bank accounts, salespersons, advertising, estate agency agreements, procedures for dispute resolution proceedings etc. 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Housing/房屋局局長” and/or “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> <ul style="list-style-type: none"> (a) Section 1 is amended by repealing “Secretary for Housing” and substituting “Secretary for Housing, Planning and Lands”. (b) 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> <ul style="list-style-type: none"> (a) Section 1 is amended by repealing “房屋局局長” and substituting “房屋及規劃地政局局長”. (b) “ “局長” (Secretary) 指房屋及規劃地政局局長” is added to section 2(1). (c) Other relevant provisions are amended by repealing “房屋局局長” and substituting “局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Paragraph (12)(b)(iii)	511A Estate Agents (Licensing) Regulation	<p>This regulation provides for the licensing of estate agents.</p> <p>Major function to be transferred from S for H to SHPL is:</p> <ul style="list-style-type: none"> power to approve the specifications of training courses and examinations by the Estate Agents Authority for the purpose of licensing of estate agents 	<ul style="list-style-type: none"> Provisions containing references to “Secretary for Housing/房屋局局長” and/or “Secretary/局長” are reproduced at Appendix 2A. Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <u>English text</u> Section 7 is amended by repealing “Secretary for Housing” and substituting “Secretary”. <u>Chinese text</u> Section 7 is amended by repealing “房屋局局長” and substituting “局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 12	511C Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation	This regulation provides for the implementation of a code of practice for licensed estate agents. Major function to be transferred from S for H to SHPL is: <ul style="list-style-type: none"> • power to approve the guidelines of professional standards issued by the Authority 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Housing/房屋局局長” and/or “Secretary/局長” are reproduced at Appendix 3. • The provision requiring amendment has been marked-up. The amendment is as follows: <ul style="list-style-type: none"> – The relevant provision is amended by repealing “房屋局局長” and substituting “局長”.

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