

**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 Commerce and Industry  
to Secretary for Commerce, Industry and Technology**

**Introduction**

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Commerce and Industry to the Secretary for Commerce, Industry and Technology 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 Commerce and Industry to Secretary for Commerce, Industry and Technology.

**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 Commerce, Industry and Technology will be responsible for matters relating to commerce, industry, information technology and broadcasting. The relevant statutory functions currently

vested in the Secretary for Commerce and Industry and the Secretary for Information Technology and Broadcasting will be transferred to the Secretary for Commerce, Industry and Technology.

4. Paragraph 1(a) of the revised Resolution provides that statutory functions currently exercisable by the Secretary for Commerce and Industry by virtue of the ordinances specified in column 2 of Schedule 1 to the Resolution be transferred to the Secretary for Commerce, Industry and Technology. To give full effect to the Resolution, incidental, consequential and supplemental amendments, as appropriate, are introduced. Such amendments are provided for in paragraph 1(b) and Schedule 1 of the revised Resolution. Most of the amendments are to replace references to “Secretary for Commerce and Industry” in the relevant ordinances with references to “Secretary for Commerce, Industry and Technology”. Paragraph 1 and Schedule 1 of the revised Resolution are attached at Annexes A and B respectively.

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

### **Advice Sought**

6. Members are invited to consider paragraph 1 and Schedule 1 of the revised Resolution.

Constitutional Affairs Bureau  
June 2002

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

**RESOLUTION OF THE LEGISLATIVE COUNCIL**

Resolution made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) on 2002.

RESOLVED that -

(1) with effect from 1 July 2002 -

- (a) the functions exercisable by the Secretary for Commerce and Industry by virtue of the Ordinances specified in column 2 of Schedule 1 be transferred to the Secretary for Commerce, Industry and Technology;
- (b) for the purpose of giving full effect to subparagraph (a), the provisions specified in Schedule 1 be amended by repealing "Secretary for Commerce and Industry" wherever it appears and substituting "Secretary for Commerce, Industry and Technology";

## SCHEDULE 1

[para. (1)(a) &amp; (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF SECRETARY  
FOR COMMERCE AND INDUSTRY TO SECRETARY FOR  
COMMERCE, INDUSTRY AND TECHNOLOGY

Item	Ordinance	Provision
1.	Import and Export Ordinance (Cap. 60)	Section 39(2).
2.	Dutiable Commodities Ordinance (Cap. 109)	Section 2(5).
3.	Bills of Lading and Analogous Shipping Documents Ordinance (Cap. 440)	Section 7(1) and (2)(a).
4.	Copyright Ordinance (Cap. 528)	Sections 46(1), 70(4), 83(3), 84(2), 121(16), 152, 171(1), (2) and (3) and 189(2).
5.	Prevention of Copyright Piracy Ordinance (Cap. 544)	Sections 38 and 39.
6.	Trade Marks Ordinance (Cap. 559)	Section 1(2).
7.	Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568)	Section 3(2).
8.	Hong Kong Trade Development Council Ordinance (Cap. 1114)	Section 11(1)(b)(vi).
9.	Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001)	Section 1(2).
10.	Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001)	Section 1(2).
11.	Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001)	Section 1.

**Statutory functions presently exercisable by Secretary for Commerce and Industry (SCI)  
to be transferred to Secretary for Commerce, Industry and Technology (SCIT)**

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 1 of Schedule 1	60 Import and Export Ordinance	<p>This ordinance provides for the regulation and control of the import and export of articles into or from Hong Kong, and the handling and carriage of articles within Hong Kong.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to amend Schedule 2 and 3</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 1.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows:               <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 2 of Schedule 1	109 Dutiable Commodities Ordinance	<p>This ordinance amends the law relating to the taxation and control of liquors, tobacco, hydrocarbon oil, methyl alcohol and other substances; and provides for the licensing of certain dealings in liquors.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to amend Schedule 1A and 1B</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 2.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 3 of Schedule 1	440 Bills of Lading and Analogous Shipping Documents Ordinance	<p>This ordinance replaces the Bills of Lading Ordinance with new provisions with respect to bills of lading and certain other shipping documents.</p> <p>Major functions to be transferred from SCI to SCIT are:</p> <ul style="list-style-type: none"> <li>• power to make provision, by way of regulation, for the application of the Ordinance to cases involving transactions effected by a telecommunications system or any other information technology</li> <li>• to determine modifications to be made, by way of regulation, in connection with the application of the Ordinance</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 3.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provisions are amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provisions are amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 4 of Schedule 1	528 Copyright Ordinance	<p>This ordinance restates the law of copyright, with amendments; makes provision as to the rights of performers and others in performances; makes provision about devices designed to circumvent copy-protection of works, rights management information and the fraudulent reception of transmissions.</p> <p>Major functions to be transferred from SCI to SCIT are:</p> <ul style="list-style-type: none"> <li>• power to prescribe conditions and to specify libraries or archives</li> <li>• power to prescribe conditions and designate bodies for song recording</li> <li>• power to designate bodies for provision of sub-titled copies of broadcast or cable programme</li> <li>• power to designate broadcast or cable programme for recording for archival purposes</li> <li>• power to prescribe Copyright Registers by way of regulation</li> <li>• power to prescribe fees for the application for registration and for renewal of registration and to provide for the better carrying into effect of this registration system</li> <li>• power to determine remuneration and allowances for members of the Copyright Tribunal</li> <li>• power to designate bodies for protection and enforcement of copyright in a certain country, territory or area</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 4.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provisions are amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provisions are amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>



<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 5 of Schedule 1	544 Prevention of Copyright Piracy Ordinance	<p>This ordinance makes further provision for the prevention of copyright piracy.</p> <p>Major functions to be transferred from SCI to SCIT are:</p> <ul style="list-style-type: none"> <li>• power to make regulations</li> <li>• power to amend Schedule 1 and 2</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 5.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provisions are amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provisions are amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 6 of Schedule 1	559 Trade Marks Ordinance	<p>This ordinance makes new provision in respect of the registration of trade marks and provides for connected matters.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to appoint a day on which this Ordinance will come into operation</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 6.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 7 of Schedule 1	568 Copyright (Suspension of Amendments) Ordinance 2001	<p>This ordinance provides for the suspension of the operation of certain amendments to the Copyright Ordinance effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to amend the date (31 July 2002 at present) on which section 2 of this Ordinance, relating to suspension of amendments, shall cease to have effect</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 7.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 8 of Schedule 1	1114 Hong Kong Trade Development Council Ordinance	<p>This ordinance provides for the establishment of the Hong Kong Trade Development Council, defines its powers and functions and provides for matters connected therewith or incidental thereto.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• function to serve as an ex-official member of the Council</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 8.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 9 of Schedule 1	2 of 2001 Intellectual Property (Miscellaneous Amendments) Ordinance 2001	<p>This ordinance amends the Patents Ordinance and the Registered Designs Ordinance.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to appoint a day on which this ordinance will come into operation</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 9.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 10 of Schedule 1	19 of 2001 Dutiable Commodities (Amendment) Ordinance	<p>This ordinance amends the Dutiable Commodities Ordinance (Cap. 109).</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>• power to appoint a day on which this ordinance will come into operation</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 10.</li> <li>• Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li>- <u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li>- <u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual Amendments Provided for in the Resolution</b>
Item 11 of Schedule 1	L.N. 248 of 2001 Dutiable Commodities (Amendment) Regulation	<p>This regulation amends the Dutiable Commodities Regulation.</p> <p>Major function to be transferred from SCI to SCIT is:</p> <ul style="list-style-type: none"> <li>power to appoint a day on which this regulation will come into operation</li> </ul>	<ul style="list-style-type: none"> <li>Provisions containing references to “Secretary for Commerce and Industry/工商局局长” and/or “the Secretary/局长” are reproduced at Appendix 11.</li> <li>Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> <li><u>English text</u> The relevant provision is amended by repealing “Secretary for Commerce and Industry” and substituting “Secretary for Commerce, Industry and Technology”.</li> <li><u>Chinese text</u> The relevant provision is amended by repealing “工商局局长” and substituting “工商及科技局局长”.</li> </ul> </li> </ul>

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