

**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 Education and Manpower to Secretary for Economic
Development and Labour**

Introduction

This paper sets out the transfer of relevant statutory functions currently exercisable by the Secretary for Education and Manpower to the Secretary for Economic Development and Labour 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 Education and Manpower to the Secretary for Economic Development and Labour.

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 Economic Development and Labour will be responsible for matters relating to economic services and labour. The relevant statutory functions currently vested in the Secretary for

Economic Services and the Secretary for Education and Manpower will be transferred to the Secretary for Economic Development and Labour.

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

5. The opportunity is also taken to improve the definition clauses of some ordinances. In three ordinances (the Employees Compensation Assistance Ordinance, the Employees’ Compensation Insurance Levies Ordinance and the Occupational Deafness (Compensation) 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 Education and Manpower under existing legislation and the textual amendments to the relevant ordinances are attached as Annex C.

Advice Sought

7. Members are invited to consider paragraph 4 and Schedule 4 of the revised Resolution.

- (4) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Education and Manpower by virtue of the Ordinances specified in column 2 of Schedule 4 be transferred to the Secretary for Economic Development and Labour;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 4 (other than items 4, 6 and 7) be amended by repealing "Secretary for Education and Manpower" wherever it appears and substituting "Secretary for Economic Development and Labour";
 - (ii) the Employees Compensation Assistance Ordinance (Cap. 365) be amended -
 - (A) in section 2, by repealing the definition of "Secretary" and substituting -
 - " "Secretary" (局長) means
the Secretary for
Economic Development
and Labour." ;
 - (B) in the provisions specified in item 4 of Schedule 4, by repealing "教育統籌局局長"

SCHEDULE 4

[para. (4)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF SECRETARY
FOR EDUCATION AND MANPOWER TO SECRETARY FOR
ECONOMIC DEVELOPMENT AND LABOUR

Item	Ordinance	Provision
1.	Factories and Industrial Undertakings Ordinance (Cap. 59)	Section 7(1)(od).
2.	Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59 sub. leg.)	Sections 26(1) and 27(1).
3.	Contracts for Employment Outside Hong Kong Ordinance (Cap. 78)	Section 4(2)(d).
4.	Employees Compensation Assistance Ordinance (Cap. 365)	Section 10(2), (3) and (4).
5.	Occupational Safety and Health Council Ordinance (Cap. 398)	Section 22(5).
6.	Employees' Compensation Insurance Levies Ordinance (Cap. 411)	Sections 8(2)(b) and 9(2) and (3).
7.	Occupational Deafness (Compensation) Ordinance (Cap. 469)	Section 12(1) and Schedule 1 (section 8(1), (2), (3), (5) and (6)) and Schedule 2 (section 1(3)(a) and (b), (4) and (5)).

wherever it appears and
substituting "局長";

(iii) the Employees' Compensation
Insurance Levies Ordinance (Cap.
411) be amended -

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

"Secretary" (局長) means

the Secretary for
Economic Development
and Labour.;"

(B) in the provisions specified in
item 6 of Schedule 4, by
repealing "教育統籌局局長"
wherever it appears and
substituting "局長";

(iv) the Occupational Deafness
(Compensation) Ordinance (Cap. 469)
be amended -

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

"Secretary" (局長) means

the Secretary for
Economic Development
and Labour;";

(B) in the provisions specified in
item 7 of Schedule 4, by
repealing "教育統籌局局長"
wherever it appears and
substituting "局長";

**Statutory functions presently exercisable by Secretary for Education and Manpower (SEM)
to be transferred to Secretary for Economic Development and Labour (SEDL)**

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 1 of Schedule 4	59 Factories and Industrial Undertakings Ordinance	<p>This ordinance amends the law relating to factories and industrial undertakings and to the employment of women, young persons and children therein.</p> <p>Major function to be transferred from SEM to SEDL is:</p> <ul style="list-style-type: none"> • powers to appoint a disciplinary board panel and a disciplinary board 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 provision is amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Economic Development and Labour”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “經濟發展及勞工局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 2 of Schedule 4	59AF Factories and Industrial Undertakings (Safety Management) Regulation	<p>This regulation provides for the management of safety of personnel in industrial undertakings, establishment of safety committees, etc.</p> <p>Major function to be transferred from SEM to SEDL is:</p> <ul style="list-style-type: none"> • powers to appoint a disciplinary board panel and a disciplinary board 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 Education and Manpower” and substituting “Secretary for Economic Development and Labour”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “經濟發展及勞工局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 4	78 Contracts for Employment Outside Hong Kong Ordinance	<p>This ordinance controls contracts of employment entered into in Hong Kong by employees performing primarily manual work and certain other employees who are proceeding outside Hong Kong for employment.</p> <p>Major function to be transferred from SEM to SEDL is:</p> <ul style="list-style-type: none"> • power to set the maximum wage of a person beyond which the ordinance does not apply to the person 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 Education and Manpower” and substituting “Secretary for Economic Development and Labour”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “經濟發展及勞工局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 4 of Schedule 4	365 Employees Compensation Assistance Ordinance	<p>This ordinance provides for the protection of the entitlement of employees and others to compensation or damages for employment-related injury; for the protection of employers against default under policies of insurance in respect of their liability for such compensation or damages; and for the establishment of a board and a fund for those purposes.</p> <p>Major function to be transferred from SEM to SEDL is:</p> <ul style="list-style-type: none"> • power to approve estimates of the Employees Compensation Assistance Fund Board 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Economic Development and Labour”. - <u>Chinese text</u> <ul style="list-style-type: none"> (a) “ “局長” (Secretary) 指經濟發展及勞工局局長” is added to section 2. (b) Other relevant provisions are amended by repealing “教育統籌局局長” and substituting “局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 5 of Schedule 4	398 Occupational Safety and Health Council Ordinance	<p>This ordinance provides for the establishment of the Occupational Safety and Health Council as body corporate for the fostering of safer and healthier working conditions in Hong Kong, and for the payment of a levy by employers.</p> <p>Major function to be transferred from SEM to SEDL is:</p> <ul style="list-style-type: none"> • power to extend the deadline for the Council to notify an objector of the reason of its decision 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 Education and Manpower” and substituting “Secretary for Economic Development and Labour”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “經濟發展及勞工局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 6 of Schedule 4	411 Employees' Compensation Insurance Levies Ordinance	<p>This ordinance provides for the establishment of the Employees' Compensation Insurance Levies Management Board as a body corporate, the imposition of a levy on insured persons and the collection and distribution of the levy remitted by insurers.</p> <p>Major functions to be transferred from SEM to SEDL are:</p> <ul style="list-style-type: none"> • power to approve the maximum level of the contingency fund • power to approve the annual estimates and programme of activities of the Employee's Compensation Insurance Levies Management Board 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Economic Development and Labour”. - <u>Chinese text</u> <ul style="list-style-type: none"> (a) “ “局長” (Secretary) 指經濟發展及勞工局局長” is added to section 2. (b) Other relevant provisions are amended by repealing “教育統籌局局長” and substituting “局長”

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 7 of Schedule 4	469 Occupational Deafness (Compensation) Ordinance	<p>This ordinance provides for the compensation of persons who have been exposed to noise in their working environment and have suffered noise-induced deafness.</p> <p>Major functions to be transferred from SEM to SEDL are:</p> <ul style="list-style-type: none"> • powers relating to the appointment of the Occupational Deafness Medical Committee • power to approve the annual estimates and programme of activities of the Occupational Deafness Compensation Board 	<ul style="list-style-type: none"> • Provisions containing references to “Secretary for Education and Manpower/教育統籌局局長” 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 definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Economic Development and Labour”. - <u>Chinese text</u> <ul style="list-style-type: none"> (a) “ “局長” (Secretary) 指經濟發展及勞工局局長” is added to section 2. (b) Other relevant provisions are amended by repealing “教育統籌局局長” and substituting “局長”.

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