

**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 Education
and Secretary for Commerce, Industry and Manpower**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Education and Manpower to the Secretary for Commerce, Industry and Manpower and to the Secretary for Education with effect from 1 July 2002.

The Resolution

2. The introduction of the accountability system will be accompanied by the reorganization of a number of policy bureaux. As a result, the Secretary for Education will be responsible for matters relating to education while the Secretary for Commerce, Industry and Manpower will take charge of matters relating to commerce, industry and manpower. The relevant statutory functions currently vested in the Secretary for Education and Manpower will be transferred to the Secretary for Commerce, Industry and Manpower and the Secretary for Education respectively.

3. Paragraphs 2(a) and 5(a) of the draft Resolution provide that statutory functions currently exercisable by the Secretary for Education and Manpower by virtue of the ordinances specified in column 2 of Schedules 2 and 5 to the Resolution be transferred to the Secretary for Commerce, Industry and Manpower and the Secretary for Education respectively. To give full effect to the Resolution, incidental,

consequential and supplemental amendments, as appropriate, are introduced. Such amendments are provided for in paragraphs 2(b) and 5(b) as well as Schedules 2 and 5 of the draft Resolution. Most of the amendments are to replace references to “Secretary for Education and Manpower” in the relevant ordinances with references to “Secretary for Commerce, Industry and Manpower” or “Secretary for Education”. Paragraphs 2 & 5 and Schedules 2 & 5 of the draft Resolution are attached at Annexes A and B respectively.

4. The opportunity is also taken to improve the definition clauses of some ordinances. In four ordinances (the Employees Compensation Assistance Ordinance, the Employees’ Compensation Insurance Levies Ordinance, the Employee Retraining 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.

5. A summary of the major statutory functions of the Secretary for Education and Manpower under existing legislation to be transferred to the Secretary for Commerce, Industry and Manpower and the Secretary for Education respectively and the textual amendments to the relevant ordinances are attached as Annexes C and D.

Advice Sought

6. Members are invited to consider paragraphs 2 and 5 and Schedules 2 and 5 of the draft Resolution.

Statutory functions presently exercisable by Secretary for Education and Manpower (SEM)
to be transferred to Secretary for Commerce, Industry and Manpower (SCIM)

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 1 of Schedule 2	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 SCIM 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 Commerce, Industry and Manpower”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “工商及人力資源局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 2 of Schedule 2	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 SCIM 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 Commerce, Industry and Manpower”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “工商及人力資源局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 2	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 SCIM 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 Commerce, Industry and Manpower”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “工商及人力資源局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 4 of Schedule 2	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 SCIM 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"> - English text The definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Commerce, Industry and Manpower”. - Chinese text (a) “ “局長” (Secretary) 指工商及人力資源局局長” 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 2	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 SCIM 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 Commerce, Industry and Manpower”. - <u>Chinese text</u> The relevant provision is amended by repealing “教育統籌局局長” and substituting “工商及人力資源局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 6 of Schedule 2	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 SCIM 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"> - English text The definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Commerce, Industry and Manpower”. - Chinese text (a) “ “局長” (Secretary) 指工商及人力資源局局長” 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 2	423 Employees Retraining Ordinance	<p>This ordinance establishes the Employees Retraining Board as a body corporate, establishes the Employees Retraining Fund, provides for the imposition of a levy payable by employers who employ imported employees, and provides for the collection of the levy by the Director of Immigration from those employers in respect of those employees and the remittance of the levy to the Board for the purposes of the Fund, the defraying of the costs of providing retraining courses for eligible employees, and the payment of retraining allowances by the Board from the Fund to those employees.</p> <p>Major functions to be transferred from SEM to SCIM are:</p> <ul style="list-style-type: none"> • power to approve the annual estimates and programme of activities of the Employee Retraining Board • power to allocate quota on imported employees 	<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"> - English text The definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Commerce, Industry and Manpower”. - Chinese text (a) “ “局長” (Secretary) 指工商及人力資源局局長” 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 8 of Schedule 2	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 SCIM 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 8. • Provisions requiring amendments have been marked-up. The amendments are as follows: <ul style="list-style-type: none"> - English text The definition of “Secretary” in section 2 is repealed and substituted by “ “Secretary” (局長) means the Secretary for Commerce, Industry and Manpower”. - Chinese text (a) “ “局長” (Secretary) 指工商及人力資源局局長” is added to section 2. (b) Other relevant provisions are amended by repealing “教育統籌局局長” and substituting “局長”.

Statutory functions presently exercisable by Secretary for Education and Manpower (SEM)
to be transferred to Secretary for Education (S for E)

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 1 of Schedule 5	159 Legal Practitioners Ordinance	<p>This ordinance provides for the admission and registration of legal practitioners and their employees, and of notaries public.</p> <p>Major function to be transferred from SEM to S for E is:</p> <ul style="list-style-type: none"> • function to serve as a member of the Advisory Committee on Legal Education 	<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 provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 2 of Schedule 5	279C Grant Schools Provident Fund Rules	<p>These rules provide for the maintenance and management of the fund, including payments in the case of the resignation, retirement, dismissal, termination of contract or death of teachers in grant schools and teachers in Direct Subsidy Scheme schools who are contributors and govern the rights and liabilities and procedures in respect of the fund.</p> <p>Major function to be transferred from SEM to S for E is:</p> <ul style="list-style-type: none"> • power to receive auditor’s report 	<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 provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 3 of Schedule 5	279D Subsidized Schools Provident Fund Rules	<p>These rules provide for payments to be made upon resignation, retirement, dismissal or termination of contract to teachers employed in subsidized schools and teachers employed in Direct Subsidy Scheme schools who are contributors, or to their estates in case of death.</p> <p>Major function to be transferred from SEM to S for E is:</p> <ul style="list-style-type: none"> • power to receive auditor’s report 	<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 provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 4 of Schedule 5	493 Non-local Higher and Professional Education (Regulation) Ordinance	<p>This ordinance provides for the regulation of courses of higher and professional education leading to the award of non-local qualifications conducted in Hong Kong.</p> <p>Major functions to be transferred from SEM to S for E are:</p> <ul style="list-style-type: none"> • power to approve the use of public fund by local institutions to conduct courses in collaboration with foreign institutions • power to make rules for regulation of advertisement of courses, application and operation of registered course, fees and premises of courses, etc • power to amend Schedules 	<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 relevant provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 5 of Schedule 5	528 Copyright Ordinance	<p>This ordinance provides for the rights of performers and others in performances; regulates devices designed to circumvent copy-protection of works, makes provisions with respect to rights management information and the fraudulent reception of transmissions.</p> <p>Major function to be transferred from SEM to S for E is:</p> <ul style="list-style-type: none"> • power to amend Schedule 1 which provides for the meaning of “educational establishment” under the Ordinance 	<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 provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 6 of Schedule 5	1140 Sir Edward Youde Memorial Fund Ordinance	<p>This ordinance provides for the establishment of the Sir Edward Youde Memorial Fund and its administration.</p> <p>Major function to be transferred from SEM to S for E is:</p> <ul style="list-style-type: none"> • function to serve as a member of the Sir Edward Youde Memorial Fund Council 	<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 relevant provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 7 of Schedule 5	1150 Hong Kong Council for Academic Accreditation Ordinance	<p>This ordinance provides for the establishment and the functions of the Hong Kong Council for Academic Accreditation as a body corporate.</p> <p>Major functions to be transferred from SEM to S for E are:</p> <ul style="list-style-type: none"> • powers and functions relating to the approval of fees to be charged by the Council • power to approve payment of honoraria to Council members • power to approve borrowing of money by the Council • power to approve conditions of service and remuneration level of employees of the Council • power to approve terms of remuneration of advisers engaged by the Council • power to approve investment by the Council • power to approve annual estimates and programmes of activities of the Council • power to appoint the deadline for submission of annual report by the Council 	<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 relevant provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.

The Resolution	Cap	Description	Textual Amendments Provided for in the Resolution
Item 8 of Schedule 5	1165 Lingnan University Ordinance	<p>This ordinance provides for the establishment of Lingnan University.</p> <p>Major functions to be transferred from SEM to S for E are:</p> <ul style="list-style-type: none"> • functions to receive notice of resignation of Court members and Council members of the University • power to amend the meeting procedures of the Court and the Council 	<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 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 provisions are amended by repealing “Secretary for Education and Manpower” and substituting “Secretary for Education”. - <u>Chinese text</u> The relevant provisions are amended by repealing “教育統籌局局長” and substituting “教育局局長”.