

LEGISLATIVE COUNCIL BRIEF

Interpretation and General Clauses Ordinance (Chapter 1)

INTERPRETATION AND GENERAL CLAUSES ORDINANCE (REPLACEMENT OF SCHEDULE 6) ORDER 2002

INTRODUCTION

At the meeting of the Executive Council on 25 June 2002, the Council ADVISED and the Chief Executive ORDERED that the Interpretation and General Clauses Ordinance (Replacement of Schedule 6) Order 2002, at Annex A, should be made under section 62 of the Interpretation and General Clauses Ordinance (Cap. 1).

BACKGROUND AND ARGUMENT

General Background

2. Section 62(1) of the Interpretation and General Clauses Ordinance provides, among other things, that where any Ordinance confers a power or imposes a duty upon the Chief Executive to make any subsidiary legislation or appointment, give any direction, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may be signified under the hand of any public officer specified in Schedule 6 to the Interpretation and General Clauses Ordinance. A copy of the existing Schedule 6 is at Annex B for ease of reference.

3. The Chief Executive in Council is empowered under section 62(3) of the Interpretation and General Clauses Ordinance to amend Schedule 6 by order published in the Gazette.

4. The implementation of the accountability system will be accompanied by the re-organization of a number of policy bureaux. In order to reflect the change in the portfolios of some of the bureau secretaries, there will be changes to the post titles of the bureau secretaries who are to take charge of the relevant re-organized bureaux. As a result of these changes, we need to make an order to amend the list of public officers specified in Schedule 6 to the Interpretation and General Clauses Ordinance.

THE ORDER

5. The Order sets out the list of public officers who may signify the exercise of certain powers or the performance of certain duties conferred or imposed on the Chief Executive. The list of public officers specified in the new Schedule 6 is largely the same as that specified in the existing Schedule 6 with a number of existing bureau secretaries being replaced by the bureau secretaries who are to take charge of the relevant re-organized bureaux. Permanent Secretaries are also included in the new Schedule 6.

6. To tie in with the implementation of the accountability system, **clause 1** of the Order provides that the Order shall come into force on 1 July 2002. **Clause 2** of the Order provides that the existing Schedule 6 to the Interpretation and General Clauses Ordinance be repealed and replaced by a new Schedule.

LEGISLATIVE TIMETABLE

7. The Order will be published in the Gazette on 28 June 2002 and tabled in the Legislative Council on 3 July 2002 for negative vetting.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Order has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

10. The Order does not affect the current binding effect of the relevant ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

11. The Order has no additional financial or staffing implications.

PUBLIC CONSULTATION

12. The Order, in draft form, has been examined by a Subcommittee of the Legislative Council formed to study the accountability system.

ENQUIREIS

13. Any enquiries on this brief should be addressed to Mrs Philomena Leung, Principal Assistant Secretary for Constitutional Affairs (Special Duty), at 2810 2123 or Miss Katy Fong, Assistant Secretary for Constitutional Affairs (4A), at 2810 2603.

Constitutional Affairs Bureau
26 June 2002