

LEGISLATIVE COUNCIL BRIEF
Interpretation and General Clauses Ordinance (Chapter 1)
SPECIFICATION OF PUBLIC OFFICE

INTRODUCTION

At the meeting of the Executive Council on 22 October 2002, the Council ADVISED and the Chief Executive ORDERED that the Notice of Specification of Public Office, at Annex A, should be made under section 43 of the Interpretation and General Clauses Ordinance to make the office of the Secretary for Education and Manpower (SEM) a specified public office so that he can delegate his powers and duties under various ordinance to other public officers.

BACKGROUND AND ARGUMENT

2. Following the implementation of the Accountability System on 1 July 2002, various statutory powers and duties relating to education and manpower training are vested in the SEM. In the interest of administrative efficiency, SEM should be empowered to delegate some of these statutory powers and duties to other public officers.

3. Following a review of the statutory powers and duties currently vested in him, SEM has decided that the exercise and performance of the statutory powers and duties listed in the table at Annex B, which are mainly administrative in nature, should be delegated to other public officers as indicated in the table.

THE NOTICE

4. The Notice seeks to make SEM a specified public officer for the purposes of statutory powers and duties conferred and imposed by 14 provisions in three Ordinances. With the exception of item 1(c) in Annex B, all the statutory powers and duties are of an administrative nature. They include the power to approve the financial estimates of the Employees Retraining Board, to give consent to the financial arrangements of the Hong Kong Council for Academic Accreditation and regulated courses run by local institution of higher education. Once SEM is made a specified public officer for the purposes of the relevant provisions, he will delegate the exercise and performance of these

powers and duties to the Permanent Secretary for Education and Manpower. In view of the operational nature of the statutory power under the provision in item 2 of Annex B, its exercise will also be delegated to the Deputy Secretary for Education and Manpower.

5. Item 1(c) in Annex B relates to the power to set quota for the number of persons to be employed by an employer under the labour importation scheme. Since the labour portfolio is now under the Permanent Secretary for Economic Development and Labour (Labour) (PSL), SEM will delegate the exercise of the power to PSL once he is made a specified public officer. The Administration will amend the Employees Retraining Ordinance in due course so that the Secretary for Economic Development and Labour is vested with the power.

PUBLIC CONSULTATION

6. Public consultation is not necessary as the proposed delegation of powers is only an internal administrative matter of the Administration.

BASIC LAW IMPLICATIONS

7. The Department of Justice advises that the Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

8. The Department of Justice advises that the Notice has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

9. The Notice does not affect the current binding effect of the legislation referred to.

FINANCIAL AND STAFFING IMPLICATIONS

10. There are no financial or staffing implications arising from the Notice.

LEGISLATIVE TIMETABLE

11. The Notice will be published in the Gazette on 1 November 2002 and tabled at the Legislative Council on 6 November 2002.

PUBLICITY

12. A spokesman will be available to answer media enquiries.

Education and Manpower Bureau
October 2002

SPECIFICATION OF PUBLIC OFFICE

(Made by the Chief Executive in Council under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Specification of public office

The public office mentioned in column 1 of the Schedule is specified for the purposes of the Ordinances mentioned in column 2 of the Schedule.

SCHEDULE

[s. 1]

Public Office	Ordinance for which specified
Secretary for Education and Manpower	Employees Retraining Ordinance (Chapter 423), sections 9(2) and (3) and 14(4).
	Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493), section 8(1)(a)(ii)(B).
	Hong Kong Council for Academic Accreditation Ordinance (Chapter 1150), sections 5(e), (g) and (l), 9(1) and (2), 10, 12, 13(1) and (2) and 17.

Clerk to the Executive Council

COUNCIL CHAMBER

2002

Explanatory Note

The effect of this Notice is to enable the Secretary for Education and Manpower to delegate his powers and duties under the provisions of the legislation listed in the Schedule to this Notice to other public officers.

Proposed Delegation of Statutory Powers of SEM

Title of Legislation	Section	Nature of Power or Duty	Delegation to
1(a) Employees Retraining Ordinance (Chapter 423)	9(2)	To approve and appoint a date for the Employees Retraining Board to adopt estimates of income and expenditure, and programme of activities in respect of the following financial year.	PSEM
1(b)	9(3)	To require the resubmission of estimates of income and expenditure and programme of activities referred to in section 9(2).	PSEM
1(c)	14(4)	To set quota for the number of persons to be employed by an employer under the labour importation scheme.	PSL
2 Non-local Higher and Professional Education (Regulation) Ordinance (Chapter 493)	8(1)(a) (ii)(B)	To give written consent to the funding, from any fund allocated by the Government out of the general revenue, of a course run by a local institution of higher education.	PSEM DSEM

Title of Legislation	Section	Nature of Power or Duty	Delegation to
3(a) Hong Kong Council for Academic Accreditation Ordinance (Chapter 1150)	5(e), (g),(l)	To approve fees, honoraria and the borrowing of money.	PSEM
3(b)	9 (1), (2)	To approve the remuneration of the Executive Director, employees or advisers of the Council and to determine the amount of honorarium.	PSEM
3(c)	10	To consult the Secretary for Financial Services and the Treasury prior to giving approval under section 5(e) or (l), 9, 12 or 13.	PSEM
3(d)	12	To determine the use of surplus funds.	PSEM
3(e)	13(1), (2)	To approve the estimates of the Council's income and expenditure for the next financial year.	PSEM
3(f)	17	To extend the deadline for the Council to submit annual report, statement of accounts and audit report.	PSEM