

# 立法會 *Legislative Council*

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## **Paper for the House Committee on 8 June 2007**

### **Report of the Subcommittee on Legislative Amendments Relating to the Proposed Re-organisation of Policy Bureaux of the Government Secretariat**

#### **PURPOSE**

This paper reports on the deliberations of the Subcommittee on Legislative Amendments Relating to the Proposed Re-organisation of Policy Bureaux of the Government Secretariat.

#### **BACKGROUND**

2. On 3 May 2007, the Chief Executive announced a plan to re-organise the policy bureaux of the Government Secretariat with effect from 1 July 2007, including the creation of an additional post of Director of Bureau. The opportunity is also taken to align the terms of employment of the post of the Director of Chief Executive's Office with those of a Director of Bureau.

3. The following legislative amendments will need to come into force on 1 July 2007 to effect the transfer of statutory functions necessitated by the proposed re-organisation -

- (a) a Resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) - to give effect to the transfer of statutory functions from the affected Directors of Bureau to Directors of Bureau of the re-organised bureaux (including transfer of statutory functions between some Permanent Secretaries); and
- (b) an Order to amend Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1) - after the Resolution has been passed, the Chief Executive in Council will make an order to amend the list of public officers specified in Schedule 6 to Cap. 1, so as to reflect the changes to the post titles of the various Directors of Bureau who are to take charge of the re-organised bureaux.

The draft Resolution and the draft Order are attached to the Legislative Council (LegCo) Brief entitled "Re-organisation of Policy Bureaux of the Government Secretariat : Legislative Amendments" issued by the Administration on 9 May 2007.

#### **THE SUBCOMMITTEE AND RELATED DEVELOPMENTS**

4. After the announcement by the Chief Executive on 3 May 2007, the Panel on Constitutional Affairs held five meetings between 8 and 26 May 2007 to discuss the proposed re-organisation of the policy bureaux and related issues, and received views from organisations/individuals at two of these meetings. The Administration also took the opportunity to brief the Panel on the changes in the civil service organisational structure and the changes to the 2007-08 Estimates of Expenditure consequential to the proposed re-organisation, and the nature of the legislative amendments to be introduced to effect the transfer of statutory functions arising from the re-organisation. As at 6 June 2007, the Panel has received views from a total of 772 organisations/individuals on the proposed re-organisation and related issues (including identical submissions from 734 individuals).

5. At the House Committee meeting on 18 May 2007, Members agreed to form a subcommittee to commence scrutiny of the draft Resolution immediately, in anticipation of the formal notice to be given by the Administration on 23 May 2007. The House Committee would consider whether it was necessary to request the Administration to withdraw the notice for moving the motion at its meeting on 1 June 2007. Hon TAM Yiu-chung and Hon Howard YOUNG are elected Chairman and Deputy Chairman respectively. A membership list of the Subcommittee is in **Appendix I**.

6. On 22 May 2007, the Establishment Subcommittee endorsed the proposed creation of an additional Director of Bureau position and a D2 post as his administrative assistant, the changes to civil service organisational structure arising from the proposed re-organisation, and alignment of the terms of employment of Director of Chief Executive's Office with those of a Director of Bureau. The proposals will be submitted to the Finance Committee for approval on 8 June 2007.

7. On 23 May 2007, the Secretary for Constitutional Affairs gave notice of moving a Resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Council meeting on 13 June 2007. The Resolution attached to the Notice of Motion supersedes the draft Resolution attached to the LegCo Brief issued on 9 May 2007 (paragraph 3 above refers).

8. On 28 May 2007, the Panel on Administration of Justice and Legal Services discussed the proposed transfer of the legal aid portfolio from the Administration Wing of the Chief Secretary for Administration's Office to the Home Affairs Bureau (HAB) and received views from the two legal professional bodies and the Hong Kong Human Rights Monitor.

## **DELIBERATIONS OF THE SUBCOMMITTEE**

9. Under the chairmanship of Hon TAM Yiu-chung, the Subcommittee has held six meetings. Its main deliberations are summarised below.

### **Overall approach**

10. Some members have pointed out that the 11 existing policy bureaux were established when the Accountability System for Principal Officials was implemented in 2002. It was logical and reasonable for the Subcommittee to first discuss the operation of the Accountability System, such as whether it has achieved its objectives, before proceeding to discuss the proposed re-organisation of the existing policy bureaux and the related legislative amendments.

11. The Chairman has advised the Subcommittee that the Panel on Constitutional Affairs has already held five meetings to discuss the proposed re-organisation and relevant issues. Issues relating to the Accountability System should more appropriately be followed up by the Panel separately. The Administration has advised that it will analyse the views received on the Consultation Document entitled "Further Development of the Political Appointment System" and announce its decision on the way forward in the latter half of 2007. The Administration will address any issues relating to the Accountability System in the context of this consultation exercise.

12. Dr Hon Fernando CHEUNG considers that the Chief Secretary for Administration should be the public officer responsible for explaining details of the proposed re-organisation, which involves a reshuffle of responsibilities among various policy bureaux, to the Subcommittee. The Administration has explained that the Secretary for Constitutional Affairs and the Secretary for the Civil Service have been designated to represent the Government in discussion with Members on matters relating to the proposed re-organisation.

### **Proposed re-organisation of the Government Secretariat**

13. The Subcommittee has noted that at present, the Government Secretariat comprises 11 policy bureaux, each headed by a Director of Bureau. The 11 Directors of Bureau are underpinned by 18 Permanent Secretaries. The 11 policy bureaux are -

Civil Service Bureau

Commerce, Industry and Technology Bureau

Constitutional Affairs Bureau

Economic Development and Labour Bureau

Education and Manpower Bureau

Environment, Transport and Works Bureau  
Financial Services and the Treasury Bureau  
Health, Welfare and Food Bureau  
Home Affairs Bureau  
Housing, Planning and Lands Bureau  
Security Bureau.

14. Major changes involved in the proposed re-organisation are set out in the LegCo Brief entitled "Re-organisation of Policy Bureaux of the Government Secretariat" issued on 3 May 2007. The major impact on the structure of the Government Secretariat following the proposed re-organisation is as follows -

- (a) a new bureau (i.e. the Labour and Welfare Bureau) will be created;
- (b) eight existing bureaux (and also the Administration Wing under the Chief Secretary for Administration's Office) will have their policy responsibilities re-organised; and
- (c) three existing bureaux (i.e. the Civil Service Bureau, the Financial Services and Treasury Bureau and the Security Bureau) will not be affected by the proposed re-organisation. Their structures and names will remain unchanged.

15. After the re-organisation, there will be 12 policy bureaux. Each Director of Bureau will be underpinned by one or two Permanent Secretaries. The 12 policy bureaux and the distribution of the 17 Permanent Secretaries are as follows -

| <u>Bureau</u>                              | <u>Permanent Secretaries</u> |
|--|------------------------------|
| Civil Service Bureau                       | 1                            |
| Commerce and Economic Development Bureau   | 2                            |
| Constitutional and Mainland Affairs Bureau | 1                            |
| Development Bureau                         | 2                            |
| Education Bureau                           | 1                            |
| Environment Bureau                         | 1                            |
| Financial Services and the Treasury Bureau | 2                            |
| Food and Health Bureau                     | 2                            |
| Home Affairs Bureau                        | 1                            |
| Labour and Welfare Bureau                  | 1                            |
| Security Bureau                            | 1                            |
| Transport and Housing Bureau               | 2                            |

## **Resolution under section 54A of Cap. 1**

16. The Administration has advised that the Resolution will provide that, with effect from 1 July 2007, the statutory functions currently exercisable by a specified Director of Bureau by virtue of the ordinances set out in the Resolution be transferred to another specified Director of Bureau who will take charge of the relevant policy responsibilities following the re-organisation. The Resolution will not involve substantive amendments to the statutory functions (including powers and duties) provided for in the relevant ordinances. The Resolution will provide for the simple substitution of the current title of the Director of Bureau by the new title of the Director of Bureau to whom policy responsibility for the provisions in question is to be transferred with effect from 1 July 2007.

17. To facilitate the work of the Subcommittee and in response to members' request, the Administration has prepared a summary to set out the statutory functions to be transferred from eight existing Directors of Bureau to nine Directors of Bureau after the re-organisation (**Appendix II**).

### Commerce and Economic Development Bureau - Name of the Bureau

18. The Administration has proposed to merge the portfolio of the present Secretary for Commerce, Industry and Technology with that of the present Secretary for Economic Development and Labour in respect of matters relating to tourism, consumer protection and competition policy. In recognition of the expanded remit of the bureau, it will be retitled the Commerce and Economic Development Bureau.

19. Dr Hon LUI Ming-wah and Hon SIN Chung-Kai consider that the exclusion of "Industry" and "Technology" from the name of the new policy bureau could reflect that the Government does not attach importance to industries and technological innovations. They have proposed that the bureau be retitled as "Commerce, Industry, Technology and Economy Bureau".

20. The Administration has explained that the Commerce and Economic Development Bureau will be responsible for various economy-related areas, and the term "Economic Development" already reflects a portfolio overseeing policy matters on industries (including traditional industries, creative industries and the film industry), tourism, communications (including telecommunications and broadcasting), technology (including information technology), fair competition, intellectual property, consumer rights protection, etc. The Administration has stressed that Government's allocation of resources to the two policy areas will not be reduced. The Administration considers it impractical for the name of the bureau to reflect all its policy areas and has no plan to change it.

21. Mr SIN maintains that the name of the bureau should be changed to "Commerce, Industry, Technology and Economy Bureau" and will move an amendment to the Resolution accordingly.

Development Bureau and Environment Bureau - Sustainable development, environmental protection and energy

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22. The Subcommittee has noted that as pledged by the Chief Executive in his election platform, the structure of government bodies involved in infrastructure projects will be consolidated so as to speed up the implementation of large-scale projects and enhance planning and implementation efficiency. They are proposed to be put under the Development Bureau with effect from 1 July 2007. The bureau will also be in charge of development-related heritage conservation, so as to enable a closer interface at the policy level between development and heritage conservation.

23. The Subcommittee has further noted that policies relating to sustainable development, environmental protection and energy are proposed to be put under the Environment Bureau.

24. Some members have pointed out that it is inappropriate to put sustainable development, which cuts across all policy portfolios, under the Environment Bureau which is only one of the 12 bureaux. The move will undermine the independence and importance of sustainable development and give rise to co-ordination problems in achieving holistic sustainable development for Hong Kong. Ir Dr Hon Raymond HO has suggested that sustainable development should be put under the purview of the Chief Secretary for Administration or the Financial Secretary.

25. Some members have expressed concern whether the projects or initiatives undertaken by the future Development Bureau will pay due regard to the principle of "sustainable development". In order not to give the impression that the Development Bureau may only focus on the implementation of large scale infrastructure projects rather than the sustainable development of Hong Kong as a whole, Hon Audrey EU has requested the Administration to seriously consider changing its name to "Sustainable Development Bureau".

26. The Administration has explained that sustainable development is not possible without a closer interface between the policies relating to environmental protection and energy which help improve the quality of the environment. Placing these portfolios under the Environment Bureau would establish a more focused structure to deal with these closely related policy areas and to make better use of expertise and resources. The transfer of the Sustainable Development Unit from the Administration Wing to the Environment Bureau will allow the Unit to draw on the professional and technical expertise available within the Environmental Protection Department (EPD) to better serve the Council on Sustainable Development.

27. The Administration has further explained that sustainable development means seeking common ground among competing social, economic and environmental values. No matter which bureau is to be responsible for the subject, government-wide efforts straddling different policy areas will be required. The

Environment Bureau will work closely with other bureaux, including the Development Bureau, to ensure a consistent and vigorous adoption of the principle of "sustainable development" in all policy formulation.

28. Regarding members' concerns about co-ordination of policy issues straddling different policy bureaux, the Administration has supplemented that all Directors of Bureau will report on the day-to-day business of their bureaux to either the Chief Secretary for Administration or the Financial Secretary, who will in turn support the Chief Executive in ensuring the effective conduct of Government business. In addition, there are in-built matrix mechanisms whereby co-ordination across bureaux and departments can be re-oriented quickly and resources mobilised flexibly to deal with cross-cutting issues promptly and effectively.

29. Hon Audrey EU has proposed to change the name of the Development Bureau to "Sustainable Development Bureau" and will move an amendment to the Resolution to that effect.

#### Environment Bureau - Post of the Director of Environmental Protection

30. Under the re-organisation proposal, the post of Permanent Secretary for the Environment, Transport and Works (Environment) (PSE), currently pitched at D6, is proposed to be upgraded to D8, and the post holder will continue to assume the title of Director of Environmental Protection (DEP). The D8 post is designated as the Permanent Secretary for Environment (PS(Env))/DEP.

31. As the highest rank of the Environmental Protection Officer grade is currently at D3 level and following the upgrading of the post of PS(Env)/DEP to D8 level, the Environmental Protection Officer Branch of the Hong Kong Chinese Civil Servants' Association has, at a meeting of the Panel on Constitutional Affairs, expressed grave concern about the diminished prospect for departmental grade staff to fill the D8 post. Some members, including Hon CHAN Yuen-han, Hon YEUNG Sum and Hon Audrey EU, share their concern and consider that the post of DEP should be reinstated and filled by a professional grade staff instead of an Administrative Officer (AO) grade staff.

32. Hon Audrey EU has further pointed out that the position of the Civic Party is that apart from considerations such as staff morale and promotion prospect of the Environmental Protection Officer grade, it is a matter of principle that the post of DEP should be filled by a professional grade staff as the post holder is the statutory authority for the various environmental ordinances, such as the Environmental Impact Assessment Ordinance.

33. The Administration has explained that when the Environment Branch of the Environment, Transport and Works Bureau and EPD were merged with effect from 1 April 2005, one D6 post was created and designated as PSE/DEP. In view of the concern expressed by departmental grade staff about their promotion prospect, the

Administration had agreed at that time that there were opportunities for both departmental and Administrative Officer grade staff to fill the post of DEP in future based on proven abilities and competence and operational requirements of the department. Under the re-organisation proposal, the Environment Bureau will also be in charge of two environment-related portfolios, i.e. energy and sustainable development. In view of the additional responsibilities, the post of PS(Env)/DEP is proposed to be upgraded to D8.

34. The Administration has advised that it is aware of the concern of the Environmental Protection Officer grade and will discuss with the management and departmental grade staff of the EPD with a view to addressing the situation in the latter half of 2007. In further response to members, the Administration has confirmed that any proposal to split the post of PS(Env)/DEP into two posts does not involve legislative amendments and only requires the support of the relevant Panel, the endorsement of the Establishment Committee and the approval of the Finance Committee. Hon Audrey EU has requested the Administration to revert to the Panel on Environmental Affairs, in addition to any other relevant Panel, on further development.

#### Education Bureau - Accreditation of academic and vocational qualifications

35. The Subcommittee has noted that functions relating to accreditation of academic and vocational qualifications are proposed to be transferred from the Secretary for Education and Manpower to the Secretary for Education after the re-organisation. Hon WONG Kwok-hing has requested the Administration to consider transferring these functions to the Secretary for Labour and Welfare, as accreditation of academic and vocational qualifications are matters falling within the purview of the labour portfolio.

36. The Administration has explained that the Accreditation of Academic and Vocational Qualifications Ordinance (the Ordinance), enacted on 2 May 2007, provides for a quality assurance mechanism to underpin the Qualifications Framework (QF). The Ordinance empowers the Secretary for Education and Manpower to establish the QF for promoting lifelong learning in Hong Kong. Following the enactment of the Ordinance, the Administration will enter into an intensive phase of implementation. To provide continuity for this complex subject that cuts across academic and vocational education, it is considered advisable for the policy responsibilities for QF to remain in the Education Bureau following the re-organisation of the Government Secretariat.

37. Hon WONG Kwok-hing has suggested that the Administration should establish a mechanism to ensure that the Labour and Welfare Bureau will have a role in matters relating to accreditation of academic and vocational qualifications. The Administration has assured members that the successful development of QF requires close collaboration and interface between the academic and vocational sectors. As with other subjects involving multiple bureaux, the Education Bureau will work

closely with the Labour and Welfare Bureau in developing and implementing the QF. The Administration will also update the Panels on Education and Manpower on the developments relating to the QF on a regular basis.

#### Food and Health Bureau - Agriculture, Fisheries and Conservation Department

38. Hon Audrey EU has pointed out that under the re-organisation proposal, the Director of Agriculture, Fisheries and Conservation (DAFC) is required to report to the Secretary for Food and Health on matters relating to animal welfare such as the keeping, regulation and control of dogs and cats, and to the Secretary for the Environment on matters relating to conservation of wild animals. She considers the arrangement for DAFC to report to different bureaux on matters relating to animals unsatisfactory. Referring to the concerns expressed by some organisations at a meeting of the Panel on Constitutional Affairs, Ms EU has suggested that consideration be given to placing Agriculture, Fisheries and Conservation Department under the Environment Bureau instead of the Food and Health Bureau, and streamlining the situation where a department is required to report to different bureaux on similar policy areas.

39. The Administration has explained that at present, DAFC reports to the Secretary for Health, Welfare and Food on matters relating to agriculture, fisheries, food safety, veterinary public health and animal welfare. The department also reports to the Secretary for the Environment, Transport and Works on matters relating to nature conservation and management of country and marine parks. It is not unusual for a department to report to more than one bureau if its portfolio straddles different policy areas. The department is placed under the Health, Welfare and Food Bureau in the Government's organisation chart to reflect the fact that it has more responsibilities under the charge of this bureau.

40. After the re-organisation, DAFC will report to the Secretary for Food and Health on matters relating to agriculture, fisheries, food safety, veterinary public health and animal welfare and to the Secretary for the Environment on matters relating to nature conservation and management of country and marine parks. The existing arrangement whereby DAFC reports to different bureaux on respective matters will continue.

#### Home Affairs Bureau - Transfer of the legal aid portfolio

41. The Administration has proposed to transfer the legal aid portfolio from the Administration Wing of the Chief Secretary for Administration's Office to the HAB with effect from 1 July 2007 pursuant to the re-organisation plan. The Administration has explained that to ensure continuity, the relevant posts under the Administration Wing will be transferred concurrently with the re-organisation to the HAB on 1 July 2007. As compared with the current set-up in the Administration Wing, the HAB, led by a Director of Bureau and underpinned by a Permanent Secretary, would be able to offer enhanced policy support to legal aid issues.

42. Some members, including Members belonging to the Civic Party and the Democratic Party, have expressed grave concern about the proposal and made the following comments -

- (a) access to justice is a crucial element of the rule of law, and the independence of the provision of legal aid is an integral part of the administration of justice. The actual and perceived independence of the provision of legal aid is of paramount importance to confidence in the rule of law. The proposal will downgrade the status of the Legal Aid Department (LAD) and undermine its independence;
- (b) the Administration has not conducted prior consultation with the Legal Aid Services Council (LASC), the two legal professional bodies and the public on the proposal which may impact on the right of the public to have access to justice. It has only briefed the LASC on the proposal after the Chief Executive formally announced the re-organisation proposal on 3 May 2007;
- (c) the Administration has decided against the establishment of an independent statutory legal aid authority which is supported by some LegCo Members, LASC and the two legal professional bodies. While the existing arrangement to place the legal aid portfolio under the Chief Secretary for Administration's Office is not entirely satisfactory, the move to place it under a "policy bureau" is unprecedented and contrary to the concept that the LAD should be as independent as possible and therefore a retrogression;
- (d) the Secretary for Home Affairs and the Director of Home Affairs are vested with numerous statutory powers, the decisions of which are amenable to judicial review. Putting the legal aid portfolio under the purview of the HAB will give rise to the question of potential conflict of interest when the LAD has to decide whether to grant legal aid to applications for judicial reviews against such decisions; and
- (e) as the Administration has not convinced members that there is any need and urgency for the proposal to be implemented on 1 July 2007, the status quo should be maintained.

43. The Administration has advised that as legal aid is a complex stand-alone policy subject that involves the provision of services to the community, it is considered appropriate for the subject to be placed under the purview of the HAB. The proposal will not affect the legal aid services provided by the LAD in accordance with the relevant legislation and the progress of the various reviews in the pipeline, including the review on criminal legal aid fees and the five-yearly review on the criteria for assessing the legal aid financial eligibility limits.

44. The Administration has further explained that the LAD's powers and functions are not interfered with by the Director of Administration under the current set-up or the Secretary for Home Affairs after the re-organisation. There are safeguards to ensure that the Director of Legal Aid will continue to exercise statutory functions vested in him and to consider legal aid applications according to established criteria. The proposal will not affect the statutory role of the LASC, which is to advise the Chief Executive on legal aid policy and to oversee the provision of legal aid service by the LAD. In addition, legal aid applicants who are aggrieved by the decision of the LAD to refuse legal aid have the right to appeal against the decision to the Registrar of the High Court. The Administration has stressed that these safeguards are unaffected by the proposal.

45. The Subcommittee has discussed whether -

- (a) an amendment could be moved to the Resolution to the effect that the legal aid portfolio will remain under the Administration Wing of the Chief Secretary for Administration's Office; and
- (b) separate voting could be arranged for the proposal relating to the transfer of the legal aid portfolio when the package of proposals endorsed by the Establishment Subcommittee is submitted to the Finance Committee for approval on 8 June 2007 (paragraph 6 above refers).

46. The Administration has advised that the proposals relating to the re-organisation would be submitted as a package to the Finance Committee for approval.

47. The legal adviser to the Subcommittee has advised that -

- (a) the Legal Aid Ordinance (Cap. 91) and the Legal Aid Services Council Ordinance (Cap. 489) have made no reference to the Chief Secretary for Administration or the Director of Administration. The Resolution provides for the transfer of statutory functions currently exercisable by the existing Directors of Bureau by virtue of ordinances to the specified Directors of Bureau after the re-organisation. As the transfer of the legal aid portfolio to the HAB does not involve the transfer of statutory functions by way of amendment to ordinances, any proposed amendment relating to the subject will fall outside the scope of the Resolution; and
- (b) if the financial proposals and the Resolution are voted down by the Finance Committee and the Council respectively, the Administration could, in principle, still proceed with the proposed transfer of the legal aid portfolio to the HAB by way of administrative arrangements.

48. Hon Margaret NG points out that the Administration has not followed due process in making the proposal as no prior consultation with stakeholders has been conducted. While the LegCo should exercise its check and balance functions under the Basic Law on a matter which the public and the legal profession have raised serious concern, it cannot do so on this occasion. Given the implications of the proposed transfer, she has requested the Legal Service Division to provide a paper on whether there are any avenues for the LegCo to further pursue the matter.

49. Dr Hon YEUNG Sum has informed the Administration that while Members belonging to the Democratic Party support some of the changes under the proposed re-organisation and have no strong views on the others, they object strongly to the proposed transfer of the legal aid portfolio to the HAB. Dr YEUNG cautioned that they may have no choice but to vote against the re-organisation proposal should the Administration maintain its stance. Dr Hon Fernando CHEUNG has also indicated that Members belonging to the Civil Party may act likewise. Hon Emily LAU has expressed regret about the situation and indicated that she will discuss with other pan-democratic Members on their position.

#### Labour and Welfare Bureau - Permanent Secretary for the labour portfolio

50. Noting the wide range of functions to be transferred to the Secretary for Labour and Welfare and the priority tasks under the labour portfolio which require to be tackled, such as the review of the Wage Protection Movement and the introduction of a minimum wage for certain services sectors, Hon WONG Kwok-hing and Hon CHAN Yuen-han have expressed concern about the manpower provided for the re-organised bureau. They consider that the proposal to provide a Commissioner for Labour post at D6 level to lead and steer the Labour Department (LD) will downgrade the importance of labour issues, and have requested that two posts of Permanent Secretary be provided to the Labour and Welfare Bureau, with one post dedicated to the labour and welfare portfolios respectively. Hon Fernando CHEUNG shares the concern and has pointed out that of the 12 bureaux after the re-organisation, with the exception of the Labour and Welfare Bureau, those with portfolios in two policy areas are provided with two Permanent Secretaries (paragraph 15 above refers).

51. The Administration takes the view that it is unlikely that any re-organisation proposal can be perfect. The existing Permanent Secretary for Economic Development and Labour (Labour), apart from his policy responsibilities, also performs executive functions by serving as the head of the LD. As this post, to be designated as the Permanent Secretary for Labour and Welfare, will be responsible for both the labour and welfare policy portfolios after the re-organisation, the Administration has proposed to reinstate a D6 post to take over his responsibility as the head of the LD, thus relieving the Permanent Secretary for Labour and Welfare's operational duties. The Administration has stressed that more manpower at senior level will be provided for the labour portfolio under the proposal.

Transport and Housing Bureau - Functions under the Merchants Shipping (Seafarers) Ordinance and Sailors Home and Missions to Seamen Incorporation Ordinance

52. Hon WONG Kwok-hing has requested the Administration to provide justifications for the transfer of functions under the above two Ordinances, which are currently exercisable by the Secretary for Economic Development and Labour, to the Secretary for Transport and Housing, instead of the Secretary for Labour and Welfare.

53. The Administration has explained that the Merchant Shipping (Seafarers) Ordinance (Cap. 478) and its subsidiary legislation regulate the registration, employment, qualification, discipline, health, safety and welfare of Hong Kong seafarers. Such matters are now under the purview of the Marine Department. The Sailors Home and Missions to Seamen Incorporation Ordinance (Cap. 1042) provides for the incorporation of the Sailors Home and Missions to Seamen. Matters relating to the incorporation are now under the purview of the Marine Department.

54. The above arrangements will not be affected by the re-organisation. Since Marine Department is now under the Secretary for Economic Development and Labour and will come under the Secretary for Transport and Housing after the re-organisation, it is appropriate to transfer statutory functions currently exercisable by the Secretary for Economic Development and Labour under the above two Ordinances to the Secretary for Transport and Housing.

Transport and Housing Bureau - Membership of the Airport Authority Board

55. The Administration has proposed that matters relating to internal and external transportation, including air services, maritime transport, land transport and logistics be put under the Secretary for Transport and Housing. Hon Howard YOUNG has requested the Administration to clarify whether the appointment of the Secretary for Transport and Housing to the Airport Authority Board after the re-organisation requires legislative amendments and whether he will report to the Chief Secretary for Administration or the Financial Secretary.

56. The Administration has explained that according to the Airport Authority Ordinance (Cap. 483), the Chairman and the other members of the Authority shall be appointed by the Chief Executive. In accordance with the Ordinance, the Secretary for Economic Development and Labour is appointed by the Chief Executive as a member of the Airport Authority Board. As this role will be taken up by the Secretary for Transport and Housing upon implementation of the re-organisation on 1 July 2007, the Chief Executive will appoint the Secretary for Transport and Housing to replace the Secretary for Economic Development and Labour as member of the Airport Authority. There is no need to amend the law. The Secretary for Transport and Housing will report to the Chief Secretary for Administration on matters under the purview of the Transport and Housing Bureau.

## **Draft Order to amend Schedule 6 to Cap. 1**

57. Members of the Subcommittee have raised no queries on the draft Order.

### **AMENDMENTS TO THE RESOLUTION**

58. The Subcommittee will not move any amendments to the Resolution. Hon SIN Chung Kai has given notice to move an amendment to the Resolution, i.e. to change the name of the Secretary for Commerce and Economic Development to "Secretary for Commerce, Industry, Technology and Economy" (paragraphs 18 to 21 above refer). Hon Audrey EU has also given notice to move an amendment to the Resolution, i.e. to change the name of the Secretary for Development to "Secretary for Sustainable Development" (paragraphs 25 to 29 above refer).

### **RECOMMENDATION**

59. As the Subcommittee has completed its scrutiny of the Resolution and the draft Order, it recommends that there is no need for the House Committee to set up another subcommittee to study the legislative amendments relating to the re-organisation, and for the Administration to withdraw its notice of moving the Resolution at the Council meeting on 13 June 2007.

60. The Chairman of the Subcommittee made a verbal report to the House Committee on 1 June 2007.

### **ADVICE SOUGHT**

61. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Legislative Amendments Relating to the Proposed  
Re-organisation of Policy Bureaux of the Government Secretariat**

**Membership list**

|                        |   |
|------------------------|---|
| <b>Chairman</b>        | Hon TAM Yiu-chung, GBS, JP  |
| <b>Deputy Chairman</b> | Hon Howard YOUNG, SBS, JP   |
| <b>Members</b>         | Hon James TIEN Pei-chun, GBS, JP<br>Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP<br>Dr Hon LUI Ming-wah, SBS, JP<br>Hon Margaret NG<br>Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP<br>Hon CHAN Yuen-han, JP<br>Hon Bernard CHAN, GBS, JP<br>Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP<br>Hon SIN Chung-kai, JP<br>Dr Hon Philip WONG Yu-hong, GBS<br>Hon WONG Yung-kan, JP<br>Hon Jasper TSANG Yok-sing, GBS, JP<br>Dr Hon YEUNG Sum<br>Hon LAU Kong-wah, JP<br>Hon LAU Wong-fat, GBM, GBS, JP<br>Hon Emily LAU Wai-hing, JP<br>Hon CHOY So-yuk, JP<br>Hon Abraham SHEK Lai-him, JP<br>Hon Frederick FUNG Kin-kee, SBS, JP<br>Hon Audrey EU Yuet-mee, SC, JP<br>Hon WONG Kwok-hing, MH<br>Hon Daniel LAM Wai-keung, SBS, JP<br>Hon Alan LEONG Kah-kit, SC<br>Hon LEUNG Kwok-hung<br>Dr Hon Fernando CHEUNG Chiu-hung<br>Hon Ronny TONG Ka-wah, SC<br>Hon CHIM Pui-chung<br>Prof Hon Patrick LAU Sau-shing, SBS, JP<br>Hon KWONG Chi-kin<br>Hon TAM Heung-man |

Total: 32 Members

**Clerk** Mrs Percy MA

**Legal Adviser** Mr Arthur CHEUNG

**Date** 23 May 2007

## Appendix II

### Summary on the transfer of statutory functions from eight existing Directors of Bureau to nine Directors of Bureau after the re-organisation

| Director of Bureau<br>after re-organisation              | Relevant existing<br>Director of Bureau                            | Statutory functions<br>to be transferred on 1 July 2007   |
|--|--|---|
| Secretary for<br>Commerce and<br>Economic<br>Development | Secretary for<br>Commerce,<br>Industry and<br>Technology (SCIT)    | All functions currently exercisable by<br>SCIT.   |
|  | Secretary for<br>Economic<br>Development and<br>Labour (SEDL)      | Functions currently exercisable by SEDL<br>on matters relating to tourism, consumer<br>protection and competition policy. |
| Secretary for<br>Constitutional and<br>Mainland Affairs  | Secretary for<br>Constitutional<br>Affairs (SCA)                   | All functions currently exercisable by<br>SCA.  |
|  | Secretary for Home<br>Affairs (SHA)                                | Functions currently exercisable by SHA<br>on matters relating to human rights and<br>access to information.               |
| Secretary for<br>Development                             | Secretary for the<br>Environment,<br>Transport and<br>Works (SETW) | Functions currently exercisable by SETW<br>on matters relating to public works.   |
|  | SHA  | Functions currently exercisable by SHA<br>on matters relating to development-related<br>heritage conservation.            |
|  | Secretary for<br>Housing, Planning<br>and Lands (SHPL)             | Functions currently exercisable by SHPL<br>on matters relating to planning, land use,<br>buildings and urban renewal.     |
| Secretary for<br>Education                               | Secretary for<br>Education and<br>Manpower (SEM)                   | Functions currently exercisable by SEM<br>on matters relating to education.   |

| <b>Director of Bureau after re-organisation</b> | <b>Relevant existing Director of Bureau</b>   | <b>Statutory functions to be transferred on 1 July 2007</b>  |
|---|---|--|
| Secretary for the Environment *                 | SEDL  | Functions currently exercisable by SEDL on matters relating to energy.   |
|   | SETW  | Functions currently exercisable by SETW on matters relating to the environment.  |
|   | SHPL  | Functions currently exercisable by SHPL under the Sewage Tunnels (Statutory Easements) Ordinance.  |
| Secretary for Food and Health                   | Secretary for Health, Welfare and Food (SHWF) | Functions currently exercisable by SHWF on matters relating to health, environmental hygiene and food safety.  |
| Secretary for Home Affairs *                    | —   | (Note : Functions on matters relating to human rights and access to information will be taken up by the Secretary for Constitutional and Mainland Affairs. ) |
| Secretary for Labour and Welfare                | SEDL  | Functions currently exercisable by SEDL on matters relating to labour.   |
|   | SEM   | Functions currently exercisable by SEM on matters relating to manpower.  |
|   | SHWF  | Functions currently exercisable by SHWF on matters relating to welfare.  |
| Secretary for Transport and Housing             | SETW  | Functions currently exercisable by SETW on matters relating to land transport.   |
|   | SEDL  | Functions currently exercisable by SEDL on matters relating to air services, maritime transport and logistics.   |
|   | SHPL  | Functions currently exercisable by SHPL on matters relating to housing.  |

\* Secretary for the Environment and Secretary for Home Affairs will take over from the Director of Administration policy matters relating to sustainable development and legal aid respectively. However, there is no need to amend legislation to transfer the functions in respect of these two areas.