

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

**Resolution under Section 54A of the  
Interpretation and General Clauses Ordinance (Cap. 1)**

**Transfer of Statutory Functions Currently Exercisable by the  
Secretary for Constitutional Affairs**

**Introduction**

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Constitutional Affairs (SCA) to the Secretary for Constitutional and Mainland Affairs with effect from 1 July 2007.

**Background**

2. Pursuant to the re-organisation plan announced by the Chief Executive on 3 May 2007 and set out in the Legislative Council brief issued to Members on the same day, the SCA will be re-titled the “Secretary for Constitutional and Mainland Affairs” with effect from 1 July 2007. The relevant statutory functions currently vested in SCA will be transferred to the Secretary for Constitutional and Mainland Affairs accordingly.

3. The transfer of statutory functions is to be effected by way of a resolution made under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1). The Administration gave notice on 23 May 2007 in accordance with Rule 29(1) of the Rules of Procedure of the intention to move the Resolution at the Legislative Council meeting of 13 June 2007, and the latest version of the Resolution was attached to the notice. Paragraph (1) of the Resolution, at **Annex A**, provides that statutory functions currently exercisable by the SCA by virtue of the specified

ordinances be transferred to the Secretary for Constitutional and Mainland Affairs.

4. 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 SCA by the new title of the SCMA in whom policy responsibility for the provisions in question is to be vested with effect from 1 July 2007.

5. A summary of the major statutory functions of the SCA under existing legislation to be transferred to the relevant Director of Bureau and the textual amendments to the relevant ordinances is at **Annex B**.

### **Advice Sought**

6. Members are invited to consider paragraph (1) of the Resolution.

Constitutional Affairs Bureau  
May 2007

- (1) the functions exercisable by the Secretary for Constitutional Affairs by virtue of -
  - (a) the Federation of Hong Kong Industries Ordinance (Cap. 321) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 45(5) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";
  - (b) the Electoral Affairs Commission (Registration)(Electors for Legislative Council Functional Constituencies)(Voters for Election Committee Subsectors)(Members of Election Committee) Regulation (Cap. 541 sub. leg. B) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 9(6A)(b) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";
  - (c) the Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (Cap. 541 sub. leg. D) be transferred to the Secretary for

Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 84(6)(b) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";

(d) the Electoral Affairs Commission (Electoral Procedure)(District Councils) Regulation (Cap. 541 sub. leg. F) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 82(4)(b) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";

(e) the Electoral Affairs Commission (Electoral Procedure)(Election Committee) Regulation (Cap. 541 sub. leg. I) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 81(4)(b) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";

- (f) the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 55(b)(ii) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";
- (g) the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Regulation be amended in section 67(1)(b)(ii) by repealing "Secretary for Constitutional Affairs" and substituting "Secretary for Constitutional and Mainland Affairs";
- (h) the Legislative Council Ordinance (Cap. 542) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting

"Secretary for Constitutional and Mainland Affairs" -

- (i) section 3(2A)(a)(ii);
- (ii) section 3(2B);
- (iii) section 20U(2)(b)(ii);
- (iv) section 67(4);
- (v) section 67(5);
- (vi) section 67(6);
- (vii) section 71;
- (viii) section 75(4);

(i) the Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, those Rules be amended in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting "Secretary for Constitutional and Mainland Affairs" -

- (i) rule 5(3)(a);
- (ii) rule 10(4)(d);
- (iii) rule 10(5);
- (iv) rule 13(2)(a);
- (v) rule 13(4);
- (vi) rule 15(2);
- (vii) rule 19(3);

(j) the District Councils Ordinance (Cap. 547) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting "Secretary for Constitutional and Mainland Affairs" -

(i) section 55(4);

(ii) section 55(5);

(iii) section 55(6);

(k) the District Councils (Election Petition) Rules (Cap. 547 sub. leg. C) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, those Rules be amended in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting "Secretary for Constitutional and Mainland Affairs" -

(i) rule 5(2)(a);

(ii) rule 10(4)(d);

(iii) rule 13(2)(a);

(iv) rule 15(2);

(v) rule 19(3);

(l) the Chief Executive Election Ordinance (Cap. 569) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting "Secretary for Constitutional and Mainland Affairs" -

(i) section 1(4)(a)(ii) of the Schedule;

(ii) section 44(4) of the Schedule;

(m) the Chief Executive Election (Election Petition) Rules (Cap. 569 sub. leg. E) be transferred to the Secretary for Constitutional and Mainland Affairs and, for the purpose of giving full effect to such transfer, those Rules be amended -

(i) in the following provisions by repealing "Secretary for Constitutional Affairs" wherever it appears and substituting "Secretary for Constitutional and Mainland Affairs" -

(A) section 7(1)(c);

(B) section 8(4)(d);

(C) section 10(3)(c);



(D) section 11(2)(a)(iii);

(E) section 13(2)(c);

(F) section 14(2)(a)(iv);

(G) section 17(3)(b);

(H) the Schedule;

(ii) in section 17(3), in the Chinese text, by repealing “政制事務局局長” and substituting “政制及內地事務局局長”;

**Statutory functions presently exercisable by the Secretary for Constitutional Affairs (SCA)  
which will be transferred to the Secretary for Constitutional and Mainland Affairs (SCMA)**

<b>The Resolution</b>	<b>Cap</b>	<b>Description</b>	<b>Textual amendments provided for in the Resolution</b>
Paragraph (1)(a)	321 Federation of Hong Kong Industries Ordinance	<p>This ordinance is to provide for the establishment, regulation and management of a federation to be known as the Federation of Hong Kong Industries.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"><li>■ To give approval for any change in the entitlement of any person to vote at a general meeting of the Federation as referred to in the Legislative Council Ordinance (Cap. 542) to take effect.</li></ul>	<p><u>English and Chinese texts</u></p> <p>Section 45(5) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>
Paragraph (1)(b)	541B Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation	<p>This subsidiary legislation is to provide for the registration of electors for functional constituencies and Election Committee subsectors, and Election Committee members.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"><li>■ To approve subsequent amendment to or substitution of the constitution of a body in so far as it relates to (i) the objects of the body; (ii) the criteria and conditions of membership of the body; or (iii) the eligibility of members of the body to vote at a general meeting of the body.</li></ul>	<p><u>English and Chinese texts</u></p> <p>Section 9(6A)(b) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(c)	541D Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation	<p>This subsidiary legislation is to provide for the electoral procedures of Legislative Council elections.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive from the Returning Officer a copy of notice of the result of the election.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>Section 84(6)(b) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>
Paragraph (1)(d)	541F Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation	<p>This subsidiary legislation is to provide for the electoral procedures of District Council elections.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive from the Returning Officer a copy of notice of the result of the election.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>Section 82(4)(b) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>
Paragraph (1)(e)	541I Electoral Affairs Commission (Electoral Procedure)(Election Committee) Regulation	<p>This subsidiary legislation is to provide for the electoral procedures of Election Committee subsector elections.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive from the Returning Officer a copy of notice of the result of the election.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>Section 81(4)(b) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(f)	541J Electoral Procedure (Chief Executive Election) Regulation	<p>This subsidiary legislation is to provide for the electoral procedures of Chief Executive elections.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive from the Returning Officer a copy of notice of the result of the election.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>Section 55(b)(ii) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>
Paragraph (1)(g)	541L Electoral Procedure (Village Representative Election) Regulation	<p>This subsidiary legislation is to provide for the electoral procedures of Village Representative elections.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive from the Returning Officer a copy of notice of the result of the election.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>Section 67(1)(b)(ii) is amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(h)	542 Legislative Council Ordinance	<p>This ordinance is to provide for the constitution, convening and dissolution of the Legislative Council of the Hong Kong Special Administrative Region; and to provide for the election of Members of that Council.</p> <p>Major functions to be transferred from SCA to SCMA are:</p> <ul style="list-style-type: none"> <li>■ To approve subsequent amendment to or substitution of the constitution of a body in so far as it relates to (i) the objects of the body; (ii) the criteria and conditions of membership of the body; or (iii) the eligibility of members of the body to vote at a general meeting of the body;</li> <li>■ To approve subsequent amendment to or substitution of the rules of a recognized exchange company to take effect, in relation to the composition of the financial services functional constituency;</li> <li>■ To publish in the Gazette notice of the appointment of a person as Electoral Registration Officer and the Officer's address; and</li> <li>■ To receive a copy of the certificate of the Court and reports on any matter arising in the course of the trial of an election petition, and request the Court to provide a report on any specified matter arising from the trial of an election petition.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following sections are amended by repealing “Secretary for Constitutional Affairs” / “<b>政制事務局局長</b>” and substituting “Secretary for Constitutional and Mainland Affairs” / “<b>政制及內地事務局局長</b>” :</p> <ul style="list-style-type: none"> <li>■ section 3(2A)(a)(ii);</li> <li>■ section 3(2B);</li> <li>■ section 20U(2)(b)(ii);</li> <li>■ section 67(4);</li> <li>■ section 67(5);</li> <li>■ section 67(6);</li> <li>■ section 71; and</li> <li>■ section 75(4).</li> </ul>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(i)	542F Legislative Council (Election Petition) Rules	<p>This subsidiary legislation is to provide for the handling of Legislative Council election petition.</p> <p>Major functions to be transferred from SCA to SCMA are :</p> <ul style="list-style-type: none"> <li>■ To receive from the Registrar immediately after the lodgement of the petition a certified true copy and to cause that copy to be displayed;</li> <li>■ To receive from the Registrar a notice of the time and place of the trial of petition and to cause it to be displayed; and</li> <li>■ To receive from the petitioner applying for leave to withdraw petition a notice of the intended motion, and to cause it to be displayed.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長” :</p> <ul style="list-style-type: none"> <li>■ rule 5(3)(a);</li> <li>■ rule 10(4)(d);</li> <li>■ rule 10(5);</li> <li>■ rule 13(2)(a);</li> <li>■ rule 13(4);</li> <li>■ rule 15(2); and</li> <li>■ rule 19(3).</li> </ul>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(j)	547 District Councils Ordinance	<p>This ordinance is to provide for the declaration of Districts, the establishment, composition and functions of District Councils, and the procedure for election of persons to be members of District Councils.</p> <p>Major function to be transferred from SCA to SCMA is :</p> <ul style="list-style-type: none"> <li>■ To receive a copy of the certificate of the Court and reports on any matter arising in the course of the trial of an election petition, and request the Court to provide a report on any specified matter arising from the trial of an election petition.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Constitutional Affairs” / “<b>政制事務局局長</b>” wherever it appears and substituting “Secretary for Constitutional and Mainland Affairs” / “<b>政制及內地事務局局長</b>” :</p> <ul style="list-style-type: none"> <li>■ section 55(4);</li> <li>■ section 55(5); and</li> <li>■ section 55(6).</li> </ul>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(k)	547C District Councils (Election Petition) Rules	<p>This subsidiary legislation is to provide for the handling of District Councils election petition.</p> <p>Major functions to be transferred from SCA to SCMA are :</p> <ul style="list-style-type: none"> <li>■ To receive from the Registrar immediately after the lodgement of the election petition a certified true copy;</li> <li>■ To receive from the Registrar a notice of the time and place of the trial of petition; and</li> <li>■ To receive from the petitioner applying for leave to withdraw petition a notice of the intended motion.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” wherever it appears and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長” :</p> <ul style="list-style-type: none"> <li>■ rule 5(2)(a);</li> <li>■ rule 10(4)(d);</li> <li>■ rule 13(2)(a);</li> <li>■ rule 15(2); and</li> <li>■ rule 19(3).</li> </ul>



The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(l)	569 Chief Executive Election Ordinance	<p>This ordinance is to provide for the election of the Chief Executive in accordance with Annex I to the Basic Law of the Hong Kong Special Administrative Region.</p> <p>Major functions to be transferred from SCA to SCMA are :</p> <ul style="list-style-type: none"> <li>■ To approve subsequent amendment to or substitution of the constitution of a body in so far as it relates to (i) the objects of the body; (ii) the criteria and conditions of membership of the body; or (iii) the eligibility of members of the body to vote at a general meeting of the body; and</li> <li>■ To publish in the Gazette a notice of the appointment of a person as Electoral Registration Officer and the Officer's address.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Constitutional Affairs” / “<b>政制事務局局長</b>” wherever it appears and substituting “Secretary for Constitutional and Mainland Affairs” / “<b>政制及內地事務局局長</b>” :</p> <ul style="list-style-type: none"> <li>■ section 1(4)(a)(ii) of the Schedule; and</li> <li>■ section 44(4) of the Schedule.</li> </ul>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (1)(m)	569E Chief Executive Election (Election Petition) Rules	<p>This subsidiary legislation is to provide for the handling of Chief Executive election petition.</p> <p>Major functions to be transferred from SCA to SCMA are :</p> <ul style="list-style-type: none"> <li>■ To receive from the petitioner a notice of the lodgement of the petition and a copy of the petition;</li> <li>■ To receive from the Registrar a notice of the date, time and place for the trial of petition;</li> <li>■ To receive a list of disputed ballot papers after it has been filed under section 10(1) or 10(1A);</li> <li>■ To receive from the petitioner applying for leave to withdraw petition a notice of the intended motion;</li> <li>■ To receive from the petitioner a notice of withdrawal after it has filed under section 13(1); and</li> <li>■ To receive from the respondent applying to stay or dismiss a petition a notice of the intended motion.</li> </ul>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Constitutional Affairs” / “政制事務局局長” wherever it appears and substituting “Secretary for Constitutional and Mainland Affairs” / “政制及內地事務局局長” :</p> <ul style="list-style-type: none"> <li>■ section 7(1)(c);</li> <li>■ section 8(4)(d);</li> <li>■ section 10(3)(c);</li> <li>■ section 11(2)(a)(iii);</li> <li>■ section 13(2)(c);</li> <li>■ section 14(2)(a)(iv);</li> <li>■ section 17(3)(b); and</li> <li>■ the Schedule.</li> </ul> <p><u>Chinese text only</u></p> <p>Section 17(3) is amended by repealing “政制事務局局長” and substituting “政制及內地事務局局長”.</p>