

**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 Commerce, Industry and Technology**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Commerce, Industry and Technology (SCIT) to the Secretary for Commerce and Economic Development (SCED) 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 policy portfolios currently under the SCIT will be taken up by the SCED with effect from 1 July 2007. The relevant statutory functions currently vested in SCIT will be transferred to SCED 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 (2) of the Resolution, at **Annex A**, provides that statutory functions currently exercisable by the SCIT by virtue of the specified ordinances will be transferred to the SCED. Paragraph (3) of the Resolution, at **Annex B**, provides that statutory functions currently

exercisable by the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) by virtue of the specified ordinance will be transferred to the Permanent Secretary for Commerce and Economic Development (Communications and Technology).

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 SCIT by the new title of SCED in whom policy responsibility for the provisions in question is to be vested with effect from 1 July 2007, and that of the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) by the new title of the post with effect from 1 July 2007.

5. A summary of the major statutory functions of the SCIT under existing legislation to be transferred to the SCED and the textual amendments to the relevant ordinances is at **Annex C**. A summary of the major statutory functions of the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) under existing legislation to be transferred to the Permanent Secretary for Commerce and Economic Development (Communications and Technology) and the textual amendments to the relevant ordinance is at **Annex D**.

Advice Sought

6. Members are invited to consider paragraphs (2) and (3) of the Resolution.

Constitutional Affairs Bureau
Commerce, Industry and Technology Bureau
May 2007

- (2) the functions exercisable by the Secretary for Commerce, Industry and Technology by virtue of -
- (a) the Import and Export Ordinance (Cap. 60) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 39(2) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
 - (b) the Telecommunications Ordinance (Cap. 106) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 32U by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
 - (c) the Dutiable Commodities Ordinance (Cap. 109) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 2(5) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";

- (d) the Reserved Commodities Ordinance (Cap. 296) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 2(3) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
- (e) the Film Censorship Ordinance (Cap. 392) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended -
 - (i) in the definition of "Secretary" in section 2(1) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
 - (ii) in section 29(1) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary";
- (f) the resolution of the Legislative Council establishing the Office of the Telecommunications Authority Trading Fund (Cap. 430 sub. leg. D) be transferred to the

Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Resolution be amended in item 1(p) of Schedule 1 by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";

- (g) the Bills of Lading and Analogous Shipping Documents Ordinance (Cap. 440) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the following provisions by repealing "Secretary for Commerce, Industry and Technology" wherever it appears and substituting "Secretary for Commerce and Economic Development" -

(i) section 7(1);

(ii) section 7(2)(a);

- (h) the Copyright Ordinance (Cap. 528) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended -

(i) in the following provisions by repealing "Secretary for Commerce, Industry and

Technology" wherever it appears and substituting "Secretary for Commerce and Economic Development" -

(A) section 46(1);

(B) section 70(4);

(C) section 83(3);

(D) section 84(2);

(E) section 121(16);

(F) section 152;

(G) section 171(1);

(H) section 171(2);

(I) section 171(3);

(J) section 189(2);

(K) paragraph 43 of Schedule 2;

(ii) in section 70(4)(b), in the Chinese text, by repealing "工商及科技局局長" and substituting "商務及經濟發展局局長";

(i) the Prevention of Copyright Piracy Ordinance (Cap. 544) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the following provisions by repealing "Secretary for Commerce, Industry and Technology" wherever it appears and substituting

"Secretary for Commerce and Economic Development" -

(i) section 38;

(ii) section 39;

- (j) the Electronic Transactions Ordinance (Cap. 553) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the definition of "Secretary" in section 2(1) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
- (k) the Entertainment Special Effects Ordinance (Cap. 560) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the definition of "Secretary" in section 2 by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";
- (l) the Broadcasting Ordinance (Cap. 562) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the

following provisions by repealing
"Secretary for Commerce, Industry and
Technology" wherever it appears and
substituting "Secretary for Commerce and
Economic Development" -

(i) section 15(6)(b)(ii) of
Schedule 1;

(ii) section 29(6)(b)(ii) of
Schedule 1;

(m) the Copyright (Suspension of Amendments)
Ordinance 2001 (Cap. 568) be transferred to
the Secretary for Commerce and Economic
Development and, for the purpose of giving
full effect to such transfer, that
Ordinance be amended in section 3(2) by
repealing "Secretary for Commerce,
Industry and Technology" and substituting
"Secretary for Commerce and Economic
Development";

(n) the Chemical Weapons (Convention)
Ordinance (Cap. 578) be transferred to the
Secretary for Commerce and Economic
Development and, for the purpose of giving
full effect to such transfer, that
Ordinance be amended in section 40(1) by
repealing "Secretary for Commerce,
Industry and Technology" and substituting
"Secretary for Commerce and Economic
Development";

- (o) the Hong Kong Trade Development Council Ordinance (Cap. 1114) be transferred to the Secretary for Commerce and Economic Development and, for the purpose of giving full effect to such transfer, that Ordinance be amended in section 11(1)(b)(vi) by repealing "Secretary for Commerce, Industry and Technology" and substituting "Secretary for Commerce and Economic Development";

- (3) the functions exercisable by the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) by virtue of the Electronic Transactions Ordinance (Cap. 553) be transferred to the Permanent Secretary for Commerce and Economic Development (Communications and Technology) and, for the purpose of giving full effect to such transfer, that Ordinance be amended in the definition of "Permanent Secretary" in section 2(1) by repealing "Permanent Secretary for Commerce, Industry and Technology (Communications and Technology)" and substituting "Permanent Secretary for Commerce and Economic Development (Communications and Technology)";

**Statutory functions presently exercisable by the Secretary for Commerce, Industry and Technology (SCIT)
which will be transferred to the Secretary for Commerce and Economic Development (SCED)**

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(a)	60 Import and Export Ordinance	<p>This ordinance is to provide for the regulation and control of the import and export of articles into or from Hong Kong, and the handling and carriage of articles within Hong Kong.</p> <p>Major function to be transferred from SCIT to SCED is the power to amend Schedules 2 and 3.</p>	<p><u>English and Chinese texts</u></p> <p>Section 39(2) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>
Paragraph (2)(b)	106 Telecommunications Ordinance	<p>This ordinance is to make better provision for the licensing and control of telecommunications, telecommunications services and telecommunications apparatus and equipment.</p> <p>Major function to be transferred from SCIT to SCED are –</p> <ul style="list-style-type: none">▪ power to make rules relating to appeals;▪ power to issue order to the Telecommunications Authority;▪ power to make regulations; and▪ power to amend the Schedule to the ordinance.	<p><u>English and Chinese texts</u></p> <p>Section 32U is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(c)	109 Dutiable Commodities Ordinance	<p>This ordinance is to amend the law relating to the taxation and control of liquors, tobacco, hydrocarbon oil, methyl alcohol and other substances; and provides for the licensing of certain dealings in liquors.</p> <p>Major function to be transferred from SCIT to SCED is the power to amend Schedules 1A and 1B.</p>	<p><u>English and Chinese texts</u></p> <p>Section 2(5) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>
Paragraph (2)(d)	296 Reserved Commodities Ordinance	<p>This ordinance is to make provision with respect of reserved commodities.</p> <p>Major function to be transferred from SCIT to SCED is the power to amend Schedule 1 and 2.</p>	<p><u>English and Chinese texts</u></p> <p>Section 2(3) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(e)	392 Film Censorship Ordinance	<p>This ordinance is to provide for the establishment of a Film Censorship Authority, a panel of censors and a panel of advisers, and for regulating and imposing restrictions on the exhibition of films and on the publication of films of certain descriptions; for the approval and classification of films; for the establishment of a Board of Review; for the creation of offences; to make consequential and other amendments to other Ordinances; and for matters connected therewith.</p> <p>Major function to be transferred from SCIT to SCED are –</p> <ul style="list-style-type: none"> ■ power and functions relating to appeals against the decision of the Film Censorship Authority or censor; ■ power to publish guidelines for censors; ■ power to make regulations; and ■ duty to serve as the ex-officio member of the Board of Review. 	<p><u>English and Chinese texts</u></p> <ul style="list-style-type: none"> ■ The definition of “Secretary” / “局長” in section 2(1) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”. ■ Section 29(1) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary” / “局長”.

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(f)	430D The resolution of the Legislative Council establishing the Office of the Telecommunications Authority Trading Fund	<p>The resolution of the Legislative Council establishing the Office of the Telecommunications Authority Trading Fund (430D) is to provide for the establishment of the Office of the Telecommunications Authority Trading Fund.</p> <p>Major function to be transferred from SCIT to SCED is the power to give direction to the Office of the Telecommunications Authority Trading Fund on general telecommunications policy matters.</p>	<p><u>English and Chinese texts</u></p> <p>Item 1(p) of Schedule 1 is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>
Paragraph (2)(g)	440 Bills of Lading and Analogous Shipping Documents Ordinance	<p>This ordinance replaces the Bills of Lading Ordinance with new provisions with respect to bills of lading and certain other shipping documents.</p> <p>Major functions to be transferred from SCIT to SCED are the powers to make provision, by way of regulation, for the application of the Ordinance to cases involving transactions effected by a telecommunications system or any other information technology and to determine modifications to be made, by way of regulation, in connection with the application of the Ordinance.</p>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”—</p> <ul style="list-style-type: none"> ▪ section 7(1); and ▪ section 7(2)(a).

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(h)	528 Copyright Ordinance	<p>This ordinance restates the law of copyright, with amendments; makes provision as to the rights of performers and others in performances; makes provision about devices designed to circumvent copy-protection of works, rights management information and the fraudulent reception of transmissions; and for connected purposes.</p> <p>Major functions to be transferred from SCIT to SCED are –</p> <ul style="list-style-type: none"> ▪ power to prescribe conditions and to specify libraries or archives for the exercise of the permitted acts by librarians and archivists; ▪ power to prescribe conditions and designate bodies for recordings of folksongs; ▪ power to designate bodies for provision of sub-titled copies of classes of broadcast or cable programme; ▪ power to designate classes of broadcast or cable programme that could be recorded and bodies for archiving such recording; ▪ power to prescribe Copyright Registers by way of regulation; ▪ power to prescribe fees for the application for registration of licensing bodies and for renewal of registration and to provide for the better carrying into effect of this registration system; ▪ power to appoint staff for the Copyright Tribunal and to determine remuneration for such staff; and 	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” wherever it appears and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”—</p> <ul style="list-style-type: none"> ▪ section 46(1); ▪ section 70(4); ▪ section 83(3); ▪ section 84(2); ▪ section 121(16); ▪ section 152; ▪ section 171(1); ▪ section 171(2); ▪ section 171(3); ▪ section 189(2); and ▪ paragraph 43 of Schedule 2.

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
		<ul style="list-style-type: none"> ▪ power to designate bodies for protection and enforcement of copyright of anonymous unpublished works. 	<p><u>Chinese text</u></p> <p>Section 70(4)(b) is amended by repealing “工商及科技局局長” and substituting “商務及經濟發展局局長”.</p>
Paragraph (2)(i)	544 Prevention of Copyright Piracy Ordinance	<p>This ordinance makes further provision for the prevention of copyright piracy.</p> <p>Major functions to be transferred from SCIT to SCED are—</p> <ul style="list-style-type: none"> ▪ power to make regulations for the better carrying out of the Ordinance; and ▪ power to amend Schedules 1 and 2. 	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” wherever it appears and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”-</p> <ul style="list-style-type: none"> ▪ section 38; and ▪ section 39.

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(j)	553 Electronic Transactions Ordinance	<p>This ordinance facilitates the use of electronic transactions for commercial and other purposes, provides for matters arising from and related to such use, enables the Postmaster General to provide the services of a certification authority, and provides for connected purposes.</p> <p>Major functions to be transferred from SCIT to SCED are –</p> <ul style="list-style-type: none"> ▪ power and functions relating to appeals against the decisions of the Government Chief Information Officer; ▪ power to make regulations; and ▪ power to amend Schedules. 	<p><u>English and Chinese texts</u></p> <p>The definition of “Secretary” / “局長” in section 2(1) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(k)	560 Entertainment Special Effects Ordinance	<p>This ordinance is to provide for the regulation of the supply, use, conveyance and storage of special effects materials for and incidental to the production of special effects in entertainment programmes.</p> <p>Major functions to be transferred from SCIT to SCED are –</p> <ul style="list-style-type: none"> ▪ power to approve regulations made by the Entertainment Special Effects Licensing Authority; ▪ power and functions relating to appointment of the Appeal Board panel and chairman of appeal boards; ▪ power and functions relating to appeals against the decisions of the Entertainment Special Effects Licensing Authority; and ▪ power to amend Schedules. 	<p><u>English and Chinese texts</u></p> <p>The definition of “Secretary” / “局長” in section 2 is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(1)	562 Broadcasting Ordinance	<p>This ordinance is to license companies to provide broadcasting services, to regulate the provision of broadcasting services by licensees, and to provide for matters incidental thereto or connected therewith.</p> <p>Major function to be transferred from SCIT to SCED is the power to receive confidential information from Licensees.</p>	<p><u>English and Chinese texts</u></p> <p>The following provisions are amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” wherever it appears and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”—</p> <ul style="list-style-type: none"> ■ Schedule 1, section 15(6)(b)(ii); and ■ Schedule 1, section 29(6)(b)(ii).
Paragraph (2)(m)	568 Copyright (Suspension of Amendments) Ordinance 2001	<p>This ordinance is to provide for the suspension of the operation of certain amendments to the Copyright Ordinance effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000.</p> <p>The function to be transferred from SCIT to SCED is the power to specify by way of notice the date by which the suspension arrangement will cease to have effect.</p>	<p><u>English and Chinese texts</u></p> <p>Section 3(2) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (2)(n)	578 Chemical Weapons (Convention) Ordinance	<p>This ordinance is to promote the control of chemical weapons and of certain chemicals capable of being used as chemical weapons, and for matters related thereto or connected therewith.</p> <p>Major function to be transferred from SCIT to SCED is the power to amend Schedules.</p>	<p><u>English and Chinese texts</u></p> <p>Section 40(1) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>
Paragraph (2)(o)	1114 Hong Kong Trade Development Council Ordinance	<p>This ordinance is to provide for the establishment of the Hong Kong Trade Development Council, defines its powers and functions and provides for matters connected therewith or incidental thereto.</p> <p>Major function to be transferred from SCIT to SCED is the function to serve as an ex-official member of the Council.</p>	<p><u>English and Chinese texts</u></p> <p>Section 11(1)(b)(vi) is amended by repealing “Secretary for Commerce, Industry and Technology” / “工商及科技局局長” and substituting “Secretary for Commerce and Economic Development” / “商務及經濟發展局局長”.</p>

**Statutory functions presently exercisable by
the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology)
which will be transferred to the Permanent Secretary for Commerce and Economic Development (Communications and Technology)**

The Resolution	Cap	Description	Textual amendments provided for in the Resolution
Paragraph (3)	553 Electronic Transactions Ordinance	<p>This ordinance facilitates the use of electronic transactions for commercial and other purposes, provides for matters arising from and related to such use, enables the Postmaster General to provide the services of a certification authority, and provides for connected purposes.</p> <p>The major functions to be transferred from the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) to Permanent Secretary for Commerce and Economic Development (Communications and Technology) are :</p> <ul style="list-style-type: none">■ the power to make orders to exclude an Ordinance or a particular requirement or permission in an Ordinance or a class or description of requirements or permissions in an Ordinance from the application of sections 5, 6, 7 or 8 of the Ordinance; and■ the power to specify by notice published in the Gazette the manner and format in which information in the form of an electronic record is to be given, presented or retained or a document in the form of an electronic record is to be served, and the procedure and criteria for verification of the receipt of that information and for ensuring the integrity and confidentiality of the information.	<p><u>English and Chinese texts</u></p> <p>The definition of “Permanent Secretary”/ “常任秘書長” in section 2(1) is amended by repealing “Permanent Secretary for Commerce, Industry and Technology (Communications and Technology)”/ “工商及科技局常任秘書長(通訊及科技)” and substituting “Permanent Secretary for Commerce and Economic Development (Communications and Technology)”/“商務及經濟發展局常任秘書長(通訊及科技)”.</p>