

立法會
Legislative Council

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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 24 June 2009

**Proposed resolution under
the Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Commerce and Economic Development will move at the Council meeting of 24 June 2009 under the Interpretation and General Clauses Ordinance. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both English and Chinese versions, which the Secretary for Commerce and Economic Development will deliver when moving the proposed resolution, is also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1))

RESOLVED that with effect from 26 June 2009 –

- (1) the functions exercisable by the Commissioner for Television and Entertainment Licensing by virtue of the Entertainment Special Effects Ordinance (Cap. 560) be transferred to the Head of Create Hong Kong and, for the purpose of giving full effect to this transfer, that Ordinance be amended in section 3 by repealing “Commissioner for Television and Entertainment Licensing” and substituting “Head of Create Hong Kong”;
- (2) in addition to and without limiting section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) –
 - (a) anything lawfully done before 26 June 2009 by or in relation to the Commissioner for Television and Entertainment Licensing pursuant to or in connection with any function transferred under this Resolution is on and from that date to be regarded, in so far as is necessary for the purpose of or in consequence of

that transfer, as done by or in relation to the Head of Create Hong Kong;

- (b) anything that, immediately before 26 June 2009, may be done and is in the process of being done by or in relation to the Commissioner for Television and Entertainment Licensing pursuant to or in connection with any function transferred under this Resolution may on and from that date be continued by or in relation to the Head of Create Hong Kong;
- (c) anything that, immediately before 26 June 2009, is required to be done and is in the process of being done by or in relation to the Commissioner for Television and Entertainment Licensing pursuant to or in connection with any function transferred under this Resolution is on and from that date to be continued by or in relation to the Head of Create Hong Kong;
- (d) without limiting subparagraphs (a), (b) and (c) –
 - (i) any document, agreement or arrangement creating or giving rise to legal rights or obligations that –
 - (A) refers to the Commissioner for Television and Entertainment Licensing, or was prepared, made or entered into by the Commissioner for Television and Entertainment Licensing on behalf of the Government; and

(B) is in force immediately before, or is to come into force on or after, 26 June 2009,

is on and from that date to be construed, in so far as is necessary for the purpose of or in consequence of the transfer of functions under this Resolution, as if the references to the Commissioner for Television and Entertainment Licensing included the Head of Create Hong Kong;

(ii) in any legal proceedings –

(A) in which the Commissioner for Television and Entertainment Licensing is a party; and

(B) that are subsisting immediately before 26 June 2009,

the Head of Create Hong Kong is on and from that date substituted for the Commissioner for Television and Entertainment Licensing as that party, in so far as is necessary for the purpose of or in consequence of the transfer of functions under this Resolution;

(iii) any –

(A) right of appeal against a decision of the Commissioner for Television and Entertainment Licensing; or

(B) right to have a decision of the Commissioner for Television and Entertainment Licensing reviewed,

that is subsisting immediately before 26 June 2009 may on and from that date be exercised as if the decision were a decision of the Head of Create Hong Kong, in so far as is necessary for the purpose of or in consequence of the transfer of functions under this Resolution;

- (iv) any right of appeal to the Commissioner for Television and Entertainment Licensing that is subsisting immediately before 26 June 2009 is on and from that date to be treated as being a right of appeal to the Head of Create Hong Kong, in so far as is necessary for the purpose of or in consequence of the transfer of functions under this Resolution;
- (v) any right to have anything reviewed by the Commissioner for Television and Entertainment Licensing that is subsisting immediately before 26 June 2009 and is in connection with any function of the Commissioner for Television and Entertainment Licensing transferred under this Resolution is on and from that date to be treated as being a right to have that thing reviewed by the Head of Create Hong Kong;
- (vi) any form that is specified or prescribed before 26 June 2009 for use in connection with any function of the Commissioner for Television and Entertainment Licensing transferred under this Resolution may on and

from that date be used despite the fact that it contains references to the Commissioner for Television and Entertainment Licensing, and those references are to be construed as references to the Head of Create Hong Kong.

DRAFT

Legislative Council sitting on 24 June 2009 Proposed Resolution under the Interpretation and General Clauses Ordinance

Draft Speech of the Secretary for Commerce and Economic Development

President,

I move that the Resolution proposed under section 54A of the Interpretation and General Clauses Ordinance (Cap.1) as set out on the Agenda, be passed. The objective of the resolution is, with effect from 26 June 2009, to effect transfer of statutory functions pursuant to the establishment of Create Hong Kong (CreateHK), a dedicated office set up to drive the development of creative industries.

Having obtained the approval from the Finance Committee of the Legislative Council on 22 May 2009, we established CreateHK on 1 June 2009 through the integration of resources scattered around different Government departments. CreateHK will enable us to respond to the industries' demands more effectively and better serve the different sectors through provision of a one-stop service.

Establishment of CreateHK included, among others, the redeployment of the Special Effects Licensing Unit (the Unit) from the Office of the Television and Entertainment Licensing Authority to CreateHK. The Unit is responsible for regulating the use of special effects materials used in the production of entertainment special effects in films, television programmes and theatrical performances under the Entertainment Special Effects Ordinance (Cap.560) (the Ordinance). The Commissioner for Television and Entertainment Licensing (CTEL) is the Special Effects Licensing Authority as stipulated in section 3 of the Ordinance.

With the establishment of CreateHK and redeployment of the Special Effects Licensing Unit to CreateHK, it is necessary to transfer the statutory functions of the CTEL under the Entertainment Special Effects Ordinance (Cap. 560) to the Head of CreateHK. Legislative amendments are required to give legal effect to the transfer.

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 proposed Resolution provides that the statutory functions currently exercised by the CTEL by virtue of the Entertainment Special Effects Ordinance (Cap.560) be transferred to the Head of CreateHK. The Resolution will not involve any amendments to the statutory functions (including powers and duties) provided for in the Entertainment Special Effects Ordinance. The Resolution will provide for the simple substitution of the CTEL by the Head of CreateHK with effect from 26 June 2009.

After the passage of the proposed Resolution, the Head of CreateHK will exercise the functions under the Entertainment Special Effects Ordinance with effect from 26 June 2009 to regulate the use of special effects materials for producing entertainment special effects in films, television programmes and theatrical performances. To ensure the appropriate supervision over the use of such special effects materials, the CTEL will remain as the Entertainment Special Effects Licensing Authority in the interim, until the transfer is effected with the passage of the Resolution.

The establishment of CreateHK has the general support from the Legislative Council as well as the different sectors of the industry. I would like to appeal to Honourable Members to vote in favour of the Government's Resolution, so as to ensure the smooth operation of CreateHK to provide support to the creative industries.

Thank you.