

LEGISLATIVE COUNCIL BRIEF

Director of Intellectual Property
(Establishment) Ordinance (Cap. 412)

DIRECTOR OF INTELLECTUAL PROPERTY (ESTABLISHMENT) ORDINANCE (AMENDMENT OF SCHEDULE 1) ORDER 2011

INTRODUCTION

A At the meeting of the Executive Council on 17 May 2011, the Council ADVISED and the Chief Executive ORDERED that the Director of Intellectual Property (Establishment) Ordinance (Amendment of Schedule 1) Order 2011 at Annex A (the “Amendment Order”) should be made, pursuant to section 6 of the Director of Intellectual Property (Establishment) Ordinance (the “Ordinance”) for the purpose of empowering the holders of the new Assistant Principal Solicitor office to assist the Director of Intellectual Property in performing his duties.

JUSTIFICATIONS

2. We have earlier obtained approval from the Legislative Council for upgrading two permanent Senior Solicitor (“SS”) posts in the Hearings Team in the Intellectual Property Department (“IPD”) to Assistant Principal Solicitor (“APS”) posts at the DL1 rank. The office of APS is a new legal officer rank in IPD.

3. Section 3(1) of the Ordinance empowers the Chief Executive to appoint a Director of Intellectual Property (the “Director”) and such other officers to hold any of the offices specified in Schedule 1 as may be required to assist the Director in the performance of his duties. Section 5 of the Ordinance further provides that a holder of an office specified in Part 1 of Schedule 1 may, subject to any instructions of the Director, exercise the powers or perform the duties of the office of the Director. Part 1 of Schedule 1 sets out the offices which must be held by legally qualified officers, including the offices of the Deputy Director of

Intellectual Property, Assistant Director of Intellectual Property, SS and Solicitor. Section 6 of the Ordinance empowers the Chief Executive to amend this Schedule by order published in the Gazette.

4. The holders of the new office of APS are to be appointed in accordance with section 3 of the Ordinance. Before doing so, we need to name the new APS office as an office specified in Part 1 of Schedule 1 to the Ordinance.

THE AMENDMENT ORDER

5. The Amendment Order aims at adding a new office of “Assistant Principal Solicitor” ranked between “Assistant Director of Intellectual Property” and “Senior Solicitor” in Part 1 of Schedule 1 to the Ordinance.

6. Copies of the relevant empowering provisions in the Ordinance and the relevant schedule being amended are at Annex B.

B

LEGISLATIVE TIMETABLE

7. The legislative timetable will be –

Publication in the Gazette	20 May 2011
Tabling at the Legislative Council (for negative vetting)	25 May 2011
Commencement of the Amendment Order	1 August 2011

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the existing provisions of the Ordinance. The making of the Amendment Order does not by itself entail financial, economic, civil service, productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

9. This amendment exercise arises from a proposal to upgrade two SS posts in IPD to APS posts. That proposal has the support of the LegCo Panel on Commerce and Industry; the Establishment Subcommittee of the LegCo Finance Committee; and the Finance Committee.

10. The proposed amendment is technical in nature. Separate consultation is not considered necessary.

PUBLICITY

11. A spokesperson will be available to handle enquiries.

ENQUIRIES

12. Enquiries on this brief may be referred to Ms Bonnie Yau, Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry) on 2918 7480.

Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
18 May 2011

Director of Intellectual Property (Establishment) Ordinance (Amendment of
Schedule 1) Order 2011

Director of Intellectual Property (Establishment) Ordinance (Amendment of
Schedule 1) Order 2011

Section 1

1

Explanatory Note
Paragraph 1

2

**Director of Intellectual Property (Establishment)
Ordinance (Amendment of Schedule 1) Order 2011**

Explanatory Note

(Made by the Chief Executive under section 6 of the Director of Intellectual
Property (Establishment) Ordinance (Cap. 412) after consultation with the
Executive Council)

This Order amends Part 1 of Schedule 1 to the Director of
Intellectual Property (Establishment) Ordinance (Cap. 412) by
adding the office of Assistant Principal Solicitor.

1. Commencement

This Order comes into operation on 1 August 2011.

**2. Director of Intellectual Property (Establishment) Ordinance
amended**

The Director of Intellectual Property (Establishment) Ordinance
(Cap. 412) is amended as set out in section 3.

3. Schedule 1 amended

Schedule 1, Part 1, after item 2—

Add

“2A. Assistant Principal Solicitor”.

Chief Executive

2011

Chapter:	412	Title:	DIRECTOR OF INTELLECTUAL PROPERTY (ESTABLISHMENT) ORDINANCE	Gazette Number:	L.N. 272 of 1998
Section:	3	Heading:	Appointment of Director and other officers	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 22 of 1999 s. 3

(1) The Chief Executive may appoint a Director of Intellectual Property and such other officers to hold any of the offices specified in Schedule 1 as may be required to assist the Director in the performance of his duties. (Amended 22 of 1999 s. 3)

(2) No person shall be appointed to any of the offices specified in Part 1 of Schedule 1 unless on the date of such appointment he is legally qualified.

(3) The Director, where he is legally qualified, and the holder of an office specified in Part 1 of Schedule 1 shall be deemed to be legal officers for the purpose of the Legal Officers Ordinance (Cap 87) and shall have all rights conferred upon legal officers by that Ordinance.

(Enacted 1990)

Section:	6	Heading:	Chief Executive may amend Schedules	Version Date:	01/07/1997
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Remarks:

Amendments retroactively made - see 22 of 1999 s. 3

The Chief Executive may, by order published in the Gazette, amend the Schedules.

(Enacted 1990. Amended 22 of 1999 s. 3)

Schedule:	1	Heading:		Version Date:	10/07/1998
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PART 1

1. Deputy Director of Intellectual Property
2. Assistant Director of Intellectual Property
3. Senior Solicitor
4. Solicitor (Added L.N. 272 of 1998)