

**LEGISLATIVE COUNCIL BRIEF**

**ESTABLISHMENT OF A NEW INNOVATION AND TECHNOLOGY  
BUREAU – LEGISLATIVE AMENDMENTS**

**INTRODUCTION**

A At the meeting of the Executive Council on 20 May 2014, the Council ADVISED and the Chief Executive ORDERED that the Legislative Council (LegCo) should be invited to consider the Resolution at **Annex A**, to be made under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) (IGCO) to effect the transfer of statutory functions for the establishment of a new Innovation and Technology Bureau (ITB).

**JUSTIFICATIONS**

2. To fully recognise the importance of innovation and technology to Hong Kong's development and to provide dedicated high level leadership on that front, the Chief Executive announced in the 2014 Policy Address to re-initiate the setting up of a new ITB.

3. Under the proposal, the existing Commerce and Economic Development Bureau (CEDB) will be restructured into two bureaux, namely the CEDB and the new ITB. The new ITB will take over the policy responsibilities relevant to the Innovation and Technology Commission (ITC) and the Office of the Government Chief Information Officer (OGCIO) from the existing Communications and Technology Branch (CTB) of CEDB. Legislative amendments are required to effect the transfer of statutory functions.

## THE RESOLUTION AND RELATED LEGISLATIVE AMENDMENT

4. The establishment of the proposed ITB will involve the transfer of certain statutory functions currently vested with the Secretary for Commerce and Economic Development (SCED) and Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCT) to the new Secretary for Innovation and Technology (S for IT) and Permanent Secretary for Innovation and Technology (PSIT) respectively. This transfer of statutory functions is to be effected by way of a resolution made under section 54A of IGCO. The provision provides, inter alia, that LegCo may by resolution provide for the transfer to any public officer of any functions exercisable by virtue of any Ordinance by another public officer and that such a resolution may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the resolution.

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5. The Resolution at **Annex A** provides for the simple substitution of the current title of the public officers (i.e. SCED and PSCT respectively) by the new title of the public officers in whom policy responsibility for the provision in question will be vested with after the establishment of ITB (i.e. S for IT and PSIT respectively). In order to give full effect to the Resolution, incidental, consequential and supplemental amendments as appropriate are provided for in the Resolution<sup>1</sup>.

6. After the passage of the Resolution, the Chief Executive in Council will make an Order to include S for IT in the list of public officers set out in Schedule 6 of IGCO so that the Secretary may signify the exercise of power or performance of duty by the Chief Executive<sup>2</sup>. A draft Order is at **Annex B**.

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<sup>1</sup> The Resolution will commence on the 14th day after the date on which the Finance Committee approves the financial proposal relating to the establishment of the ITB. If the Resolution is made and passed by the Legislative Council after the date on which the Finance Committee approves the financial proposal, the Resolution will commence on the 14th day after the Resolution is made and passed.

<sup>2</sup> Section 62(1) of IGCO provides, inter alia, that where any Ordinance confers a statutory power or obligation on the Chief Executive, the exercise of such power or the performance of such duty may be signified under the hand of any public officer specified in Schedule 6 of IGCO. All Directors of Bureaux are specified in the existing Schedule. Section 62(3) provides that the Chief Executive in Council may, by order published in the Gazette, amend the Schedule.

## **LEGISLATIVE TIMETABLE**

7. Notice of moving the motion on the Resolution on 18 June 2014 was served to the Legislative Council on 20 May 2014.

## **IMPLICATIONS OF THE PROPOSED ESTABLISHMENT OF ITB**

8. On economic implications, the new ITB will provide dedicated and strategic focus to champion the promotion of innovation and technology in Hong Kong, which should help strengthen our long-term competitiveness and development towards knowledge-based economy. In respect of financial and civil service implications, the proposal will entail a net increase of three politically appointed positions, four permanent civil service directorate posts and 19 other permanent civil service supporting posts. There will also be eight non-directorate civil service posts redeployed from existing resources of CTB, ITC and OGCIO to support the work of the new ITB. The additional staff cost arising from the proposal is estimated to range from \$34,031,000 to \$35,105,000<sup>3</sup> each year. Besides, the proposal will entail an annual administrative cost of \$1,964,000 to support the daily operation of ITB and a one-off set up cost of \$1,119,000 for the establishment of ITB.

9. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, family, environmental, or sustainability implications. It does not affect the current binding effect of the relevant ordinances.

## **PUBLIC CONSULTATION**

10. The proposed establishment of ITB represents a considered response to the views received on the need of providing more dedicated high level leadership to steer the policy in respect of innovation and technology development in Hong Kong. The Panel on Information Technology and Broadcasting (ITB Panel) and the Panel on Commerce and Industry of LegCo

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<sup>3</sup> The estimated annual staff cost includes salary and fringe benefits for the three Politically Appointed Officials as well as the average annual staff cost (salary plus on-cost) for the 23 new civil service posts.

were briefed on the proposal respectively on 14 and 15 April 2014 and a special meeting of the ITB Panel was held on 3 May with deputations giving their views on the proposed establishment of the ITB. Most of the deputations supported the establishment of ITB and both Panels passed motions to support the establishment of the new Bureau as soon as possible.

## **ENQUIRY**

11. For enquiries, please contact Mr Ivanhoe Chang, Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology) at 2810 2713.

**Commerce and Economic Development Bureau**  
**20 May 2014**

## Interpretation and General Clauses Ordinance

### Resolution

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

Resolved that—

(1) in this Resolution—

*commencement date* (生效日期)—

- (a) subject to subparagraph (b), means the 14th day after the day on which the Finance Committee of the Legislative Council (*the Committee*) approves, under section 8 of the Public Finance Ordinance (Cap. 2), the proposal to make changes to the Estimates of Expenditure 2014–15 to provide for the following matters arising from the establishment of the Innovation and Technology Bureau—
  - (i) the creation of a new head of expenditure and new subheads in that head of expenditure;
  - (ii) supplementary provision in those subheads;
  - (iii) variations in the establishment of posts; or
- (b) if this Resolution is made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) after the day on which the Committee approves the proposal mentioned in subparagraph (a), means the 14th day after the day on which this Resolution is made and passed;

(2) with effect from the commencement date—

- (a) the functions exercisable by the Secretary for Commerce and Economic Development under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Secretary* in section 2(1) of that Ordinance be amended by repealing “Secretary for Commerce and Economic Development” and substituting “Secretary for Innovation and Technology”;
- (b) the functions exercisable by the Permanent Secretary for Commerce and Economic Development (Communications and Technology) under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Permanent Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Permanent Secretary* in section 2(1) of that Ordinance be amended by repealing “Permanent Secretary for Commerce and Economic Development (Communications and Technology)” and substituting “Permanent Secretary for Innovation and Technology”; and

(3) in addition to and without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)—

- (a) anything lawfully done before the commencement date by or in relation to a public officer from whom any function is transferred under this Resolution (*former officer*) pursuant to or in connection with that function is, on and from that date, to be regarded, in so far as necessary for the purpose or in consequence of that transfer, as done by or in relation to, as the case may be, the public officer to whom that function is transferred (*new officer*);

- (b) anything that, immediately before the commencement date, may be done and is in the process of being done by or in relation to a former officer 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, as the case may be, the new officer;
- (c) anything that, immediately before the commencement date, is required to be done and is in the process of being done by or in relation to a former officer 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, as the case may be, the new officer;
- (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 a former officer, or was prepared, made or entered into by a former officer on behalf of the Government; and
- (B) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to be construed, in so far as necessary for the purpose or in consequence of the transfer of function under this Resolution from the former officer to the new officer, as if the references to the former officer included references to the new officer;
- (ii) in any legal proceedings—
- (A) in which a former officer is a party; and
- (B) that are subsisting immediately before the commencement date,

- the new officer is, on and from that date, to substitute for the former officer as that party;
- (iii) any—
- (A) right of appeal against a decision of a former officer; or
- (B) right to have the decision reviewed,
- that is subsisting immediately before the commencement date may, on and from that date, be exercised as if the decision were a decision of the new officer;
- (iv) any right of appeal to a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right of appeal to the new officer;
- (v) any right to have anything reviewed by a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right to have that thing reviewed by the new officer;
- (vi) any form that is specified or prescribed before the commencement date for use in connection with any function of a former officer that is transferred under this Resolution may, on and from that date, be used despite the fact that it contains references to the former officer, and those references are to be construed as references to the new officer;
- (e) without limiting subparagraphs (a), (b) and (c), any document, agreement or arrangement that—
- (i) contains any reference to a public officer or a policy bureau (*former officer or bureau*) specified in column 1 of the Schedule;

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- (ii) was prepared, made or entered into by any public officer on behalf of the Government;
  - (iii) does not create or give rise to any legal right or obligation; and
  - (iv) is in force immediately before, or is to come into force on or after, the commencement date,

is, on and from that date, to have effect as if the reference is substituted by a reference to the public officer or policy bureau specified opposite to the former officer or bureau in column 2 of the Schedule in so far as the substitution is necessary for or conducive to the attainment of the purposes of the document, agreement or arrangement.

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**Schedule**

[para. (3)(e)]

**Substitution of References to Public Officer and Policy Bureau**

Secretary for Commerce  
and Economic Development

Secretary for Innovation and Technology

Commerce and Economic  
Development Bureau

Innovation and Technology Bureau

**Interpretation and General Clauses Ordinance  
(Amendment of Schedule 6) Order 2014**

(Made by the Chief Executive in Council under section 62(3) of the  
Interpretation and General Clauses Ordinance (Cap. 1))

**1. Interpretation and General Clauses Ordinance amended**

The Interpretation and General Clauses Ordinance (Cap. 1) is  
amended as set out in section 2.

**2. Schedule 6 amended (public officers)**

Schedule 6, after item “Secretary for Home Affairs”—

**Add**

“Secretary for Innovation and Technology”.

Clerk to the Executive Council

COUNCIL CHAMBER

2014

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### **Explanatory Note**

This Order amends Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1) to add Secretary for Innovation and Technology to the list of public officers who are empowered to signify the exercise of statutory powers and the performance of statutory duties by the Chief Executive.