

LEGISLATIVE COUNCIL BRIEF

Interpretation and General Clauses Ordinance (Cap. 1)

Declaration of Change of Titles (Communications and Technology Branch and Secretaries of Communications and Technology Branch) Notice 2015

INTRODUCTION

On 20 November 2015, the Chief Secretary for Administration made the Declaration of Change of Titles (Communications and Technology Branch and Secretaries of Communications and Technology Branch) Notice 2015 (Notice) under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1) (IGCO) at **Annex A**.

A

JUSTIFICATIONS

2. Section 55 of IGCO provides that “the Chief Secretary for Administration may, by notice (which may be given retrospective effect) in the Gazette, declare a change in title of any public officer or public body, or of any person referred to in any Ordinance, and the notice may contain provisions substituting the new title in any Ordinance relating to the public officer, public body or person and in any instrument, contract or legal proceedings made or commenced before the date on which the notice takes effect.”

3. When the Finance Committee (FC) approved the staffing and funding proposals in respect of the establishment of the Innovation and Technology Bureau (ITB) at its meeting on 6 November 2015, it also approved, among other things, the renaming of the Head of Expenditure 55 from “Government Secretariat : Commerce and Economic Development Bureau (Communications and Technology Branch)” to “Government Secretariat : Commerce and Economic Development Bureau (Communications and Creative Industries Branch)”, with

“Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)” as the Controlling Officer. The above changes will take effect from the commencement date of the resolution made and passed by the Legislative Council (LegCo) under section 54A of IGCO to effect the transfer of statutory functions for the establishment of the ITB on 3 June 2015 (Resolution, at **Annex B**), i.e. the 14th day after the day on which the FC approves the staffing and funding proposals, which is 20 November 2015.

B

4. Accordingly, with effect from the same date, the Communications and Technology Branch (CTB) will be retitled as the Communications and Creative Industries Branch (CCIB), and references to “Communications and Technology” in the post titles of Secretaries of CTB¹ will be replaced with “Communications and Creative Industries”. It is therefore necessary to declare the change of the titles of CTB and the Secretaries of CTB and the substitution of such titles in any instruments, contracts or legal proceedings made or commenced before the retitling of CTB so that CCIB and the Secretaries of CCIB will be able to take over the legal responsibilities and status of CTB and the Secretaries of CTB respectively.

THE NOTICE

5. Section 1 of the Notice specifies that the Notice comes into operation immediately after the Resolution comes into operation. Section 2 of and Schedule 1 to the Notice declare that the title of CTB will be changed to CCIB, and references to “Communications and Technology” in the post titles of the Secretaries of CTB will be replaced with “Communications and Creative Industries”. Section 3 of and Schedule 2 to the Notice declare that the title of CTB will be substituted by CCIB, and references to “Communications and Technology” in the post titles of the Secretaries of CTB will be substituted by “Communications and Creative Industries”, whenever they occur in any

¹ These include the Permanent Secretary for Commerce and Economic Development (Communications and Technology), Deputy Secretary for Commerce and Economic Development (Communications and Technology), two Principal Assistant Secretaries for Commerce and Economic Development (Communications and Technology) and six Assistant Secretaries for Commerce and Economic Development (Communications and Technology).

instrument or contract made before 20 November 2015 or in any legal proceedings commenced before 20 November 2015.

LEGISLATIVE TIMETABLE

6. The Notice will be published in the Gazette on 20 November 2015 and come into operation immediately after the Resolution comes into operation on the same day. It will be tabled at the LegCo on 25 November 2015 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

7. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Notice has no civil service, economic, environmental, family, financial, gender, productivity, or sustainability implications. It does not affect the current binding effect of any Ordinance.

PUBLIC CONSULTATION

8. The renaming of the Head of Expenditure 55 from “Government Secretariat : Commerce and Economic Development Bureau (Communications and Technology Branch)” to “Government Secretariat : Commerce and Economic Development Bureau (Communications and Creative Industries Branch)”, with “Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)” as the Controlling Officer, as from the commencement date of the Resolution was approved by the FC on 6 November 2015.

ENQUIRIES

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

Commerce and Economic Development Bureau
20 November 2015

Declaration of Change of Titles (Communications and Technology Branch and Secretaries of Communications and Technology Branch) Notice 2015

Section 1

1

Declaration of Change of Titles (Communications and Technology Branch and Secretaries of Communications and Technology Branch) Notice 2015

(Made by the Chief Secretary for Administration under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Notice comes into operation immediately after the Resolution made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) on 3 June 2015 and published in the Gazette as Legal Notice No. 120 of 2015 comes into operation.

2. Change of titles of public body and public officers

Each title specified in column 2 of Schedule 1 is declared to be changed to the title specified opposite to it in column 3.

3. Substitution of titles in instruments, contracts or legal proceedings

Subject to paragraph (3) of the Resolution mentioned in section 1, for each title specified in column 2 of Schedule 2, the title specified opposite to it in column 3 is substituted wherever it occurs in an instrument or a contract made before 20 November 2015 or in any legal proceedings commenced before that date.

Declaration of Change of Titles (Communications and Technology Branch and Secretaries of Communications and Technology Branch) Notice 2015
Schedule 1

2

Schedule 1

[s. 2]

Change of Titles of Public Body and Public Officers

Column 1 Item	Column 2 Old title	Column 3 New title
1.	Communications and Technology Branch	Communications and Creative Industries Branch
2.	Permanent Secretary for Commerce and Economic Development (Communications and Technology)	Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)
3.	Deputy Secretary for Commerce and Economic Development (Communications and Technology)	Deputy Secretary for Commerce and Economic Development (Communications and Creative Industries)
4.	Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology)	Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)
5.	Assistant Secretary for Commerce and Economic	Assistant Secretary for Commerce and Economic

Column 1 Item	Column 2 Old title	Column 3 New title
	Development (Communications and Technology)	Development (Communications and Creative Industries)

Schedule 2

[s. 3]

Substitution of Titles in Instruments, Contracts or Legal Proceedings

Column 1 Item	Column 2 Old title	Column 3 New title
1.	Communications and Technology Branch	Communications and Creative Industries Branch
2.	Permanent Secretary for Commerce and Economic Development (Communications and Technology)	Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries)
3.	Deputy Secretary for Commerce and Economic Development (Communications and Technology)	Deputy Secretary for Commerce and Economic Development (Communications and Creative Industries)
4.	Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology)	Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)

Column 1 Item	Column 2 Old title	Column 3 New title
5.	Assistant Secretary for Commerce and Economic Development (Communications and Technology)	Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)



Chief Secretary for Administration

20 November 2015

Explanatory Note

This Notice—

- (a) declares a change in the titles of the Communications and Technology Branch of the Commerce and Economic Development Bureau and the Secretaries of that Branch; and
- (b) provides for the substitution of those titles, in so far as they are not dealt with by the Resolution made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) on 3 June 2015 and published in the Gazette as Legal Notice No. 120 of 2015, in any instruments, contracts or legal proceedings made or commenced before 20 November 2015 with their new titles.

L.N. 120 of 2015

Interpretation and General Clauses Ordinance**Resolution of the Legislative Council**

Resolution made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) on 3 June 2015.

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 2015–16 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), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution—
- (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 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 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;
- (iv) 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), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution, 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;
- (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

Kenneth CHEN Wei-on
Clerk to the Legislative Council

3 June 2015