

LEGISLATIVE COUNCIL BRIEF

The Ombudsman Ordinance
(Chapter 397)

THE OMBUDSMAN ORDINANCE (AMENDMENT OF SCHEDULE 1) ORDER 1999

INTRODUCTION

At the meeting of the Executive Council on 1 June 1999, the Council ADVISED and the Chief Executive ORDERED that The Ombudsman Ordinance (Amendment of Schedule 1) Order 1999 (copy at Annex A) should be made under section 24 of The Ombudsman Ordinance.

A

BACKGROUND AND ARGUMENT

Background

2. The Ombudsman Ordinance empowers The Ombudsman to investigate any action taken by or on behalf of an organization specified in Part I of Schedule 1 to the Ordinance in the exercise of its administrative functions. Apart from having jurisdiction over almost all government departments and agencies, The Ombudsman also has jurisdiction over 14 major statutory bodies. A list of these bodies is at Annex B.

B

The Proposal

3. The Ombudsman proposed to extend her jurisdiction to three other major public bodies - the Employees Retraining Board, The Hong Kong Examinations Authority and the Hong Kong Sports Development Board.

4. The Employees Retraining Board plays an important role in helping the unemployed to re-enter the workforce and the employed to sustain their employability by providing them with market-driven and placement-oriented retraining. The Hong Kong Sports Development Board is responsible for promoting the development of sport and physical recreation in Hong Kong. The Hong Kong Examinations Authority operates two local public examinations (the Hong Kong Certificate of Education Examination and the Hong Kong Advanced Level Examination) and conducts many examinations on behalf of local and overseas examining bodies leading to academic, professional or practical qualifications. The Ombudsman considers that as the work of these organizations is of considerable concern to the public, the inclusion of them into her jurisdiction would inspire more public confidence into the operation of these organizations.

5. The Mandatory Provident Fund Schemes Authority was set up in September 1998. The Authority is responsible for ensuring that the provisions of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) are complied with. As the work of the Authority is of considerable public interest, we propose that The Ombudsman's jurisdiction be expanded to include the Authority as well.

6. We propose that the above bodies be included in Part I of Schedule 1 to The Ombudsman Ordinance. The proposal is in line with our policy to gradually expand The Ombudsman's jurisdiction to other major public bodies to enhance their accountability. To amend Schedule 1, section 24 of the Ordinance provides that -

“The Chief Executive in Council may by order published in the Gazette amend Schedule 1.”.

THE ORDER

7. The Order at Annex A makes the necessary amendments to include in Part I of Schedule 1 to the Ordinance four public bodies set out in paragraphs 4 and 5 above.

PUBLIC CONSULTATION

8. The Employees Retraining Board, The Hong Kong Examinations Authority, the Hong Kong Sports Development Board and the Mandatory Provident Fund Schemes Authority have been consulted and all agree to the proposal. The Office of The Ombudsman also supported our proposal to include the Mandatory Provident Fund Schemes Authority into The Ombudsman's jurisdiction.

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the proposed Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the proposed Order has no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

11. It is estimated that the extension of The Ombudsman's jurisdiction to the Employees Retraining Board, The Hong Kong Examinations Authority, the Hong Kong Sports Development Board and the Mandatory Provident Fund Schemes Authority may cause a small increase of about eighty complaints and enquiries each year to the Office of The Ombudsman. The proposal is unlikely to have significant financial and staffing implications for the Office of The Ombudsman. However, the long term financial and staffing implications will be carefully assessed after the implementation of this proposal with a view to considering the need for adjusting the staffing establishment of the Office having regard to the actual caseload.

12. The resource implications for the public bodies set out in paragraphs 4 and 5 above should be insignificant. Additional resources, if required, will be absorbed from within their global allocation of resources.

BINDING EFFECT

13. The Order does not affect the current binding effect of The Ombudsman Ordinance, which by implication binds the Government bodies listed in Schedule 1 to The Ombudsman Ordinance.

LEGISLATIVE TIMETABLE

14. The Order will be gazetted on 4 June 1999 and will be tabled in the Legislative Council on 9 June 1999 for negative vetting.

PUBLICITY

15. A press release will be issued on 4 June 1999, the day on which the Order is gazetted. A spokesman will be available for answering media enquiries.

OTHERS

16. Enquiries concerning this brief should be directed to Mrs Apollonia Liu, Assistant Director of Administration, on 2810 3503.

Administration Wing
Chief Secretary for Administration's Office
3 June 1999

File Ref : CSO/ADM CR 4/3231/92(98) Pt.5

Annex B

Public bodies which are under the jurisdiction of The Ombudsman

1. Airport Authority
2. Hong Kong Arts Development Council
3. Hong Kong Housing Authority
4. Hong Kong Housing Society
5. Hong Kong Monetary Authority
6. Hospital Authority
7. Kowloon-Canton Railway Corporation
8. Land Development Corporation
9. Legislative Council Secretariat
10. Mass Transit Railway Corporation
11. Provisional Regional Council
12. Securities and Futures Commission
13. Provisional Urban Council
14. Vocational Training Council

THE OMBUDSMAN ORDINANCE (AMENDMENT OF SCHEDULE 1) ORDER 1999

(Made by the Chief Executive in Council under section 24 of The Ombudsman Ordinance
Cap. 397))

1. Organizations to which this Ordinance applies

Part I of Schedule 1 to The Ombudsman Ordinance (Cap. 397) is amended by adding -
"Employees Retraining Board.

The Hong Kong Examinations Authority.

Hong Kong Sports Development Board.

Mandatory Provident Fund Schemes Authority."

Clerk to the Executive Council

COUNCIL CHAMBER

1999

Explanatory Note

This Order adds a further 4 organizations to the list of organizations specified in Part I of Schedule 1 to The Ombudsman Ordinance (Cap. 397) to which the Ordinance applies.