

LEGISLATIVE COUNCIL BRIEF

Environmental Impact Assessment Ordinance
(Chapter 499)

Specification of Public Office under Section 43 of the Interpretation and General Clauses Ordinance (Chapter 1)

INTRODUCTION

At the meeting of the Executive Council on 7 July 1998, the Council ADVISED and the Chief Executive ORDERED that the Specification of Public Office under Section 43 of the Interpretation and General Clauses Ordinance (Cap. 1), at the annex, should be made.

BACKGROUND AND ARGUMENT

2 The Environmental Impact Assessment Ordinance (Cap. 499) (“EIA Ordinance”) was enacted on 5 February 1997 and came into operation on 1 April 1998. The EIA Ordinance provides for the assessment of environmental impacts of designated projects and the implementation of prevention and mitigation measures to protect the environment. The Director of Environmental Protection (“the Director”) is responsible for regulating and enforcing the provisions of the EIA Ordinance.

3 The EIA Ordinance confers powers or imposes duties upon the Director in relation to the exercise of a wide range of functions such as the issue of environmental impact assessment study briefs, the vetting and approval of environmental impact assessment reports submitted under the EIA Ordinance, the issue of environmental permits, and the enforcement of the environmental permit system.

4 The Environmental Impact Assessment (Appeal Board) Regulation (LN 455 1997) (“Regulation”), which came into operation on 1 April 1998, sets out the practice and procedures in relation to appeal matters. The Regulation also confers powers or imposes duties upon the Director, such as to prescribe forms for appeal matters and, as a respondent, to provide particulars of the evidence to be given.

5 With the exception of section 22(1) of the EIA Ordinance which provides that the Director may authorize a public officer to exercise the power of entry, search etc., there is no express provision in the EIA Ordinance that empowers the Director to delegate the other powers conferred and duties imposed upon him under the EIA Ordinance and the Regulation to other public officers. For an efficient and effective implementation of the EIA Ordinance and the Regulation, such powers and duties should be delegated to appropriate levels of staff within the Environmental Protection Department.

THE SPECIFICATION

6 The Specification at the Annex makes the Director of Environmental Protection a public office, for the purposes of the EIA Ordinance and the Regulation, under section 43 of the Interpretation and General Clauses Ordinance so that he can delegate the powers conferred and duties imposed upon him to appropriate officers in the Environmental Protection Department.

LEGISLATIVE TIMETABLE

7. The Specification will be tabled in the Legislative Council for vetting at its sitting on 22 July 1998.

HUMAN RIGHTS IMPLICATIONS

8. The Department of Justice advises that the proposed Specification has no human rights implications.

FINANCIAL AND STAFFING IMPLICATIONS

9. There are no financial and staffing implications.

ENVIRONMENTAL IMPLICATIONS

10. The Specification would facilitate an efficient and effective implementation of the EIA Ordinance and the Regulation which serve to protect the environment.

PUBLIC CONSULTATION

11. The proposed Specification aims to streamline internal administrative procedures and to enhance efficiency. The public at large are unlikely to be interested in the Specification. Public consultation is not necessary.

PUBLICITY

12. The Specification will be published in the Gazette on 17 July 1998.

ENQUIRY

13. For any enquiries on this brief, please contact Mr Howard Chan, Principal Assistant Secretary (Environment), Planning, Environment and Lands Bureau, at 2848 2551.

Planning, Environment and Lands Bureau
July 1998

SPECIFICATION OF PUBLIC OFFICE

(Made by the Chief Executive in Council under section 43 of
the Interpretation and General Clauses Ordinance (Cap. 1))

1. The public office mentioned in column 1 of the Schedule is specified for the purposes of the Ordinance mentioned in column 2 of the Schedule.

SCHEDULE

[s. 1]

Public Office Director of Environmental Protection	Ordinance for which specified Environmental Impact Assessment Ordinance (Chapter 499). Environmental Impact Assessment (Appeal Board) Regulation (L.N. 455 of 1997).
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Clerk to the Executive Council

COUNCIL CHAMBER

1998

Explanatory Note

The effect of this Notice is to enable the Director of Environmental Protection to delegate his powers and duties under the Environmental Impact Assessment Ordinance (Cap. 499)

and the Environmental Impact Assessment (Appeal Board) Regulation (L.N. 455 of 1997) to other public officers.