

立法會
Legislative Council

LC Paper No. LS82/03-04

**Paper for the House Committee Meeting
on 4 June 2004**

**Legal Service Division Report on
Proposed Resolution under section 54A of the
Interpretation and General Clauses Ordinance (Cap. 1)**

The Secretary for Economic Development and Labour ("the Secretary") has given notice to move a motion under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting on 16 June 2004. The motion is to seek the Council's approval to amend the respective provisions of the ordinances set out in the proposed resolution to transfer certain statutory powers and functions of the Chief Secretary for Administration ("CS") and the Financial Secretary under these provisions to the Secretary.

2. According to the draft speech of the Secretary, all of the powers and functions proposed to be transferred fall within the Secretary's policy portfolio, and most of them relate to procedural or administrative matters involving the statutory organizations under the Secretary's purview.

3. Members may refer to the draft speech of the Secretary as well as LC Paper Nos. CB(1)1302/03-04(04) and CB(1)1981/03-04(01) submitted by the Administration to the meetings of the Panel on Economic Services on 24 and 31 May 2004 respectively for details of the statutory powers and functions to be transferred.

4. At the meeting on 24 May 2004, Members raised concerns on two provisions which involve the power of the CS to -

- (a) receive appeals against the decision of the Director of Marine under section 66(1) of the Shipping and Port Control Ordinance (Cap. 313); and
- (b) consider an objection to a decision of the Director of Marine under section 18(1) of the Merchant Shipping (Pleasure Vessels) Regulations (Cap. 313G).

5. The Panel was of the view that this kind of power should vest with CS, an impartial third party, and not to transfer to the Secretary to deal with such appeals to ensure fairness and credibility of the appeal mechanism.
6. At the meeting on 31 May 2004, the Administration agreed to delete the two provisions from the proposed resolution. Members were generally in support of the remaining proposals from the Administration.
7. No difficulties in relation to the legal and drafting aspects of the proposed resolution have been identified.
8. The proposed resolution, if passed by the Legislative Council, will come into operation on the date when it is published in the Gazette.

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