

Legislative Council Panel on Constitutional Affairs

Re-organisation of Policy Bureaux of the Government Secretariat : Legislative Amendments

Introduction

This paper informs Members of the nature of the legislative amendments to be introduced to effect the necessary transfer of statutory functions arising from the re-organisation of policy bureaux of the Government Secretariat with effect from 1 July 2007.

Background

2. The Chief Executive (CE) announced on 3 May 2007 the plan to re-organise the Government Secretariat which is intended to take effect from 1 July 2007. Arising from the re-organisation, there will be 12 bureaux, with the net addition of one, being the Labour and Welfare Bureau. Each bureau will be headed by a Director of Bureau. Legislative amendments will be introduced shortly to reflect the changes to the post titles of the various Directors of Bureau who are to take charge of the relevant re-organised bureaux.

Resolution pursuant to section 54A of Cap.1

3. Pursuant to section 54A¹ of the Interpretation and General Clauses Ordinance (Cap. 1), the Legislative Council may by resolution provide for the transfer of statutory functions vested in one public officer to another public officer.

¹ Section 54A(1) of Cap. 1 provides that,
“The Legislative Council may by resolution provide for the transfer to any public officer of any functions exercisable by virtue of any Ordinance by another public officer.”

Transfer of statutory functions

4. We intend to present the Resolution to the LegCo shortly. The Resolution will provide that, with effect from 1 July 2007, the functions currently exercisable by a certain Director of Bureau by virtue of the ordinances set out in the Resolution be transferred to a specified Director of Bureau who will take charge of the relevant policy responsibilities following the re-organisation of Government Secretariat.

5. The Resolution will not involve substantive amendments to the statutory functions (including powers and duties) provided for in the relevant ordinances. The Resolution will provide for the simple substitution of the current title of the Director of Bureau by the new title of the Director of Bureau in whom policy responsibility for the provisions in question is to be vested with effect from 1 July 2007.

Example for illustration

6. As an example, pursuant to the re-organisation plan, the Secretary for Constitutional Affairs will be re-titled the “Secretary for Constitutional and Mainland Affairs”. The Resolution will transfer the functions exercisable by the “Secretary for Constitutional Affairs” by virtue of the relevant provisions in the legislation at **Annex A** to the “Secretary for Constitutional and Mainland Affairs”.

7. The future Secretary for Constitutional and Mainland Affairs will also take up matters relating to human rights and access to information, which are now under the purview of the Secretary for Home Affairs. The Resolution will transfer the functions exercisable by the “Secretary for Home Affairs” by virtue of the relevant provisions in the legislation at **Annex B** to the “Secretary for Constitutional and Mainland Affairs”.

Next Steps

8. We intend to present the Resolution to the LegCo shortly, and will put the full set of amendments proposed to the Panel on Constitutional Affairs for discussion.

9. After the Resolution has been passed, the Chief Executive in Council will need to make an order to amend the list of public officers specified in Schedule 6 to Cap 1, so as to reflect the changes to the post titles of the various Directors of Bureau who are to take charge of the relevant re-organised bureaux. We intend to present the draft Order to the LegCo panel alongside the Resolution.

10. For the re-organisation to be implemented, both the Resolution and the Order will need to come into force on 1 July 2007.

Constitutional Affairs Bureau
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Annex A

Legislation with statutory functions exercisable by “Secretary for Constitutional Affairs” at present and by “Secretary for Constitutional and Mainland Affairs” after re-organisation

- Federation of Hong Kong Industries Ordinance (Cap. 321)
- Electoral Affairs Commission (Registration)(Electors for Legislative Council Functional Constituencies)(Voters for Election Committee Subsectors)(Members of Election Committee) Regulation (Cap.541 sub. leg. B)
- Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (Cap. 541 sub. leg. D)
- Electoral Affairs Commission (Electoral Procedure)(District Councils) Regulation (Cap. 541 sub. leg. F)
- Electoral Affairs Commission (Electoral Procedure)(Election Committee) Regulation (Cap. 541 sub. leg. I)
- Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)
- Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L)
- Legislative Council Ordinance (Cap. 542)
- Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F)
- District Councils Ordinance (Cap. 547)
- District Councils (Election Petition) Rules (Cap. 547 sub. leg. C)
- Chief Executive Election Ordinance (Cap. 569)
- Chief Executive Election (Election Petition) Rules (Cap. 569 sub. leg. E)
- District Councils (Amendment) Ordinance 2007 (1 of 2007)

Annex B

Legislation with statutory functions exercisable by “Secretary for Home Affairs” at present and by “Secretary for Constitutional and Mainland Affairs” after re-organisation

- Sex Discrimination Ordinance (Cap. 480)
- Personal Data (Privacy) Ordinance (Cap. 486)
- Family Status Discrimination Ordinance (Cap. 527)