

**Subcommittee to Study Issues Relating to the Power of
the Legislative Council to Amend Subsidiary Legislation**

Terms of reference

To study issues relating to the power of the Legislative Council ("LegCo") to amend subsidiary legislation which is subject to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) and the respective roles of Legislature and the Executive Authorities under the Basic Law in the legislative process, and to make recommendations to the House Committee where necessary.

Work plan

2. The Subcommittee will focus its examination on the following areas in relation to subsidiary legislation subject to negative vetting -

- (a) statutory provisions indicating the nature of an instrument as subsidiary legislation;
- (b) statutory provisions empowering the making of subsidiary legislation under which LegCo's power to amend varies;
- (c) enabling provisions in various ordinances in relation to the scrutiny of subsidiary legislation by LegCo;
- (d) the provisions in Cap. 1 in relation to the scrutiny of subsidiary legislation by LegCo;
- (e) proposal for alternative provisions, if any, for LegCo's power to amend (including repeal) subsidiary legislation;
- (f) proposals on procedure and practice to be followed where LegCo and the Administration take different views on the interpretation of provisions impinging on LegCo's jurisdiction to amend an item of subsidiary legislation; and
- (g) principles and policies for delegating legislative powers by way of empowering an Executive Authority to make subsidiary legislation.

Time frame

3. As agreed at the House Committee meeting on 21 January 2011, the Subcommittee aims to complete its work within 12 months of its commencement and report to the House Committee in accordance with rule 26(c) of the House Rules.

Legislative Council Secretariat
25 February 2011