

**Re-organisation of the Government Secretariat:
Timetable for Establishment and Funding Approval
and Legislative Amendments**

Introduction

This note sets out and explains the sequence of the procedural steps that need to be completed at the Legislative Council (LegCo) to implement the new organisation structure of the Government Secretariat on 1 July 2012. The concerned steps include –

- (a) seeking approval of the Establishment Subcommittee (ESC) and the Finance Committee (FC) for the proposed changes in staffing and financial provisions in the 2012-13 Estimates of Expenditure;
- (b) passage of a resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) (the Resolution); and
- (c) making of an order by the Chief Executive-in-Council to amend the post titles of various public officers in Schedule 6 to Cap. 1 (the Order).

Background

2. At the House Committee (HC) meeting held on 11 May 2012, some Members enquired about the sequence of seeking ESC and FC approval and the passage of the Resolution. The HC Chairperson undertook to seek clarification from the Chief Secretary for Administration (CS) at her next regular meeting with him. At his meeting with the HC Chairperson on 15 May 2012, CS explained the rationale of the sequence and undertook to prepare a note for LegCo Members' reference.

Considerations

3. The proposed re-organisation of the Government Secretariat includes creating two Deputy Secretary of Department (DSoD) posts; setting up a new Culture Bureau; re-structuring the existing Commerce

and Economic Development Bureau into two bureaux (i.e. the Commerce and Industries Bureau, and the Technology and Communications Bureau); and re-structuring the existing Development Bureau, and Transport and Housing Bureau into a Housing, Planning and Lands Bureau, and a Transport and Works Bureau.

4. To take forward the proposals, we need to seek approval by ESC and FC for the changes in staffing and financial provisions in the 2012-13 Estimates of Expenditure. In addition, a resolution pursuant to section 54A of Cap. 1 needs to be passed by LegCo to effect the transfer of statutory functions vested in one public officer to another public officer. After the resolution has been passed, an order under Cap. 1 to include the post titles of two DSoDs and to reflect the changes to the post titles of the various public officers needs to be made by Chief Executive-in-Council. All these approvals and legislative amendments have to be completed before 1 July 2012 for them to take effect on 1 July 2012 to implement the new organisation structure of the fourth-term Government.

5. Regarding some LegCo Members' question about the sequence of ESC/FC's approval and passage of the Resolution, it should be noted that the re-organisation exercise entails creation of posts and changes in post titles (and thereby the need to transfer statutory functions), and changes to the 2012-13 Estimates of the affected bureaux before 1 July 2012.

6. Logically speaking, it should make more sense if the creation of post is completed before the transfer of powers. Otherwise, we would be asking LegCo to pass the Resolution to transfer powers to non-existent posts and at the same time taking away powers of existing public officers.

7. In practice, the proposed changes to the Estimates cannot be implemented without the transfer of statutory functions to be effected through the Resolution. When we put the proposed changes to ESC and FC, we will make clear that if FC approves the proposed changes, the changes will only take effect if the Resolution is enacted. Therefore, we consider it appropriate for the ESC/FC process and legislative amendment process to proceed in parallel.

8. The above sequence of seeking ESC/FC's approval before passage of a Cap. 1 resolution was adopted for the re-organisation exercises in 2002 and 2007. This is also similar to a recent example regarding the creation of the post of Head of Create Hong Kong in 2009, whereby the post was approved by ESC and FC before the Resolution was passed to transfer statutory functions to him.

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