

立法會
Legislative Council

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LC Paper No. CB(2)2654/11-12
(These minutes have been seen
by the Administration)

**Subcommittee to Study the Proposed Legislative Amendments Relating to
the Re-organisation of the Government Secretariat**

**Minutes of the second meeting
held on Wednesday, 23 May 2012, at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP (Deputy Chairman)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon CHAN Kin-por, JP
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN

- Members absent** : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon Paul TSE Wai-chun, JP
- Public Officers attending** : Office of the Chief Executive-elect

Mrs Fanny LAW FAN Chiu-fun
Head of the Chief Executive-elect's Office

Ms Alice LAU Yim
Secretary-General of the Chief Executive-elect's Office

Constitutional and Mainland Affairs Bureau

Mr Raymond TAM Chi-yuen
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary
(Constitutional and Mainland Affairs)

Department of Justice

Mr Gilbert MO Sik-keung
Deputy Law Draftsman
(Bilingual Drafting & Administration)
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2)3

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Membership of the Subcommittee

Members noted that Mr Albert CHAN had withdrawn his membership of the Subcommittee with effect from 17 May 2012. Members accepted the late application of Ms Tanya CHAN to join the Subcommittee.

II. Meeting with the Administration

[CMAB F19/6/3/2, LC Paper Nos. CB(2)1908/11-12(01), CB(2)2105/11-12(01) and CB(2)2106/11-12(01) to (03)]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Follow-up actions required

- Admin** 3. The Administration/the Chief Executive-elect's Office were requested to –
- (a) provide papers on the transfer of statutory functions currently exercisable by the Secretary for Development and Secretary for Transport and Housing respectively to the relevant public officers;
 - (b) provide details of policy responsibilities of the respective Directors of Bureaux ("DoBs") after the re-organisation of the Government Secretariat;
 - (c) provide a paper on improvements to the Political Appointment System and whether the next-term Government would introduce a reward-and-punishment mechanism for politically appointed officials and incorporate it into their contracts of employment;

Action

- (d) elaborate on the policy responsibilities of the two proposed Deputy Secretaries of Departments, particularly their role in taking forward cooperation with the Mainland, including liaison with organs set up by the Central People's Government in the Hong Kong Special Administrative Region;
- (e) elaborate on the rationale for the proposed hierarchy of the Government and the justifications for the proposed changes to the work of the bureaux and departments concerned;
- (f) clarify whether the proposed cash remuneration of politically appointed officials of the fourth-term Government would be further adjusted by reference to the outcome of the 2012 civil service pay adjustment exercise; and
- (g) address the query raised regarding the reference to "Financial Secretary" under the Interpretation and General Clauses Ordinance (Cap. 1).

SALA 2 4. The Legal Service Division of the Legislative Council Secretariat was requested to prepare indexes to the marked-up version of the proposed resolution to be moved under the Interpretation and General Clauses Ordinance.

III. Any other business

5. There being no other business, the meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
1 August 2012

**Proceedings of the second meeting of the
Subcommittee to Study the Proposed Legislative Amendments Relating to the
Re-organisation of the Government Secretariat
on Wednesday, 23 May 2012, at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000237 - 000512	Chairman Ms Emily LAU	Opening remarks Membership of the Subcommittee.	
000513 - 001006	Administration	Briefing by the Administration on its papers on the proposed transfer of statutory functions currently exercisable by the Secretary for Commerce and Economic Development and the Secretary for Home Affairs respectively to the directors of bureaux ("DoBs") concerned upon the re-organisation of the Government Secretariat (LC Paper Nos. CB(2)2106/11-12(01) - (02)).	
001007 - 001642	Chairman Ms Emily LAU Administration Chairman Ms Tanya CHAN	Discussion on the approach to scrutinise the legislative amendments relating to the re-organisation of the Government Secretariat.	
001643 - 002120	Chairman Ms Tanya CHAN Administration	Miss Tanya CHAN's enquiry about the transfer of statutory functions currently exercisable by the Secretary for Development. The Administration's response that – (a) the transfer of all statutory functions were set out in the proposed resolution issued to Members vide LC Paper No. CB(3)735/11-12; and (b) papers setting out the transfer of statutory functions currently exercisable by the Secretary for Development and the Secretary for Transport and Housing respectively would be provided very shortly.	Admin (para 3(a) of the minutes)
002121 - 002703	Chairman Mr LAU Kong-wah Administration	Mr LAU Kong-wah's remark of no objection to the creation of two Deputy Secretaries of Department ("DSoDs") as it would be conducive to the	

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	<p>Head of the Chief Executive-elect's Office ("H/CEEO")</p>	<p>long-term planning for the economic development of Hong Kong. Mr LAU's enquiries about –</p> <ul style="list-style-type: none"> (a) the functions to be exercised by the new Deputy Financial Secretary ("DFS") and the relevant considerations for transferring the portfolios of housing and lands planning from the Chief Secretary for Administration's ("CS") side to the Financial Secretary's ("FS") side; (b) the possible impact on housing development if the proposed re-organisation could not be implemented by 1 July 2012; and (c) how the new-term government would sustain the efforts made by the current government to promote the six industries where Hong Kong enjoyed clear advantages. <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) the proposed resolution which sought to effect the transfer of statutory functions currently exercisable by four DoBs to the respective DoBs following the re-organisation of Government Secretariat would not confer any statutory functions on the two new DSoDs; and (b) housing issues were of relevance to FS because lands planning was currently under the purview of the Development Bureau reporting to FS, who had been chairing a Steering Committee on Housing Land Supply, which was tasked to coordinate the efforts of bureaux and departments to increase housing land supply. <p>H/CEEO's explanation that promotion of the six industries was a continuation of existing policy and would not be affected by the proposed re-organisation; but if the re-organisation could not be implemented by 1 July 2012,</p> <ul style="list-style-type: none"> (a) there would be confusion in the work of the relevant DoBs and staffing arrangements of the respective bureaux; (b) work relating to long-term housing strategy would not be able to commence at the earliest time; and 	

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		<p>(c) the new governing team would not be in its full complement for mission alignment and work prioritisation within the first three months of the new-term government.</p>	
002704 - 003242	<p>Chairman Ms Audrey EU Administration H/CEEO</p>	<p>Ms Audrey EU's enquiries about –</p> <p>(a) the number of ordinances being affected arising from the transfer of statutory functions pursuant to the re-organisation of Government Secretariat; and</p> <p>(b) whether the proposed Culture Bureau and the Technology and Communications Bureau would be entrusted with new statutory functions to implement new policy initiatives of the next-term government.</p> <p>The Administration's response that –</p> <p>(a) there were 117 pieces of local legislation involved; and</p> <p>(b) the proposed legislative amendments relating to the re-organisation of Government Secretariat only involved transfer of existing statutory functions.</p> <p>The Administration's undertaking to provide details of the policy responsibilities of all new or affected DoBs after the re-organisation of the Government Secretariat.</p> <p>Ms EU's view that the proposed Culture Bureau could not discharge effectively its responsibilities if it was only to exercise those statutory functions currently exercised by the Secretary for Home Affairs, the Secretary for Commerce and Economic Development and the Secretary for Development.</p>	<p>Admin (para 3(b) of the minutes)</p>
003243 - 003519	<p>Chairman Ms Audrey EU Administration</p>	<p>Ms Audrey EU's query about the justification for the proposed substantial increase in directorate posts and supporting civil service posts if the new DoBs were not going to perform additional statutory functions.</p> <p>The Administration's response that the handling of coordination work did not necessarily require new statutory power; and that specific duties and</p>	

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		responsibilities of respective DoBs were set out in the Annexes to LC Paper CB(2)1908/11-12(01).	
003520 - 003813	Chairman Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's view that in addition to discussion at the Panel on Constitutional Affairs ("CA Panel"), other Panels concerned should follow the established practice to discuss staffing proposals in respect of their policy areas before its submission to the Establishment Subcommittee ("ESC") for endorsement.</p> <p>The Chairman's advice that the CA Panel was briefed on the relevant staffing proposal at its meeting on 21 May 2012.</p> <p>Mr LEE's enquiry about the rationale for transferring Tung Chung Cable Car Ordinance (Cap. 577) to the purview of Secretary for Commerce and Industries, but not to the new Secretary for Transport and Works.</p> <p>The Administration's explanation that Tung Chung Cable Car was regarded as a tourist attraction, not part of the public transportation system.</p>	
003814 – 004904	Chairman Dr Margaret NG Administration H/CEEEO	<p>Dr Margaret NG's expression of dissatisfaction that Members had been asked to study in haste the policy issues and legislative amendments relating to the re-organisation of the Government Secretariat concurrently and the voluminous documents had not been issued in time to facilitate discussion.</p> <p>Dr NG's remarks that –</p> <p>(a) the Administration should have elaborated on the inadequacies of the existing administrative structure before seeking its expansion; and</p> <p>(b) the respective Panels should be consulted on the staffing proposal relating to the proposed re-organisation of the Government Secretariat before its submission to ESC and the Finance Committee respectively.</p>	
004905 - 005812	Chairman Mr IP Kwok-him Administration	Mr IP Kwok-him's enquiry as to whether the 117 pieces of legislation to be amended by the proposed resolution entailed only changes to the specification of public officers.	

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		<p>The Administration's clarification that –</p> <ul style="list-style-type: none"> (a) the number of pieces of legislation to be amended should be 111, instead of 117; and (b) Annexes B and C to the Administration's papers (LC Paper Nos. CB(2)2106/11-12(01)-(02)) provided a summary of the statutory functions of a DoB under existing legislation to be transferred to another DoB and the textual amendments to the relevant legislation. 	
005813 - 010813	<p>Chairman Mr CHEUNG Man-kwong H/CEEO</p>	<p>Mr CHEUNG Man-kwong's views that –</p> <ul style="list-style-type: none"> (a) consultation with the CA Panel did not absolve the Administration from its duty to consult other relevant Panels on policy changes and redistribution of policy responsibilities under their purview as well as the related staffing and financial proposals; (b) the rationale behind the delineation of responsibilities between CS and FS was not sound, and the portfolios of housing, lands planning, transport and works were less related to the remit of FS; and (c) while he personally inclined to support the proposed creation of the Deputy Chief Secretary for Administration ("DCS") in view of the wide span of control of CS, the proposed creation of the DFS was not justified given that the duties to be taken up, which included, inter alia, implementing economic cooperation agreements signed with Mainland authorities, coordinating the formulation and implementation of policies to promote Hong Kong's development set out in the National Five-year Plans, should be performed by the Secretary for Constitutional and Mainland Affairs ("SCMA") and the Secretary for Commerce and Economic Development. <p>H/CEEO's clarification that –</p> <ul style="list-style-type: none"> (a) housing and land supply were of relevance to the remit of FS in that land sale and auction were sources of public finances; and the portfolio of lands planning fell within the 	

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		<p>purview of the existing Development Bureau which reported to FS;</p> <p>(b) the functions performed by those policy bureaux reporting to FS were broadly revenue-generating;</p> <p>(c) there was currently a 3.5% differential in the monthly salary between each of the ranks of CS, FS, the Secretary for Justice ("SJ") and DoBs;</p> <p>(d) the current proposal was to pitch the proposed DSoD rank between SJ and DoBs, to pitch the salary for DSoD midway between that for SJ and DoBs and to align the fringe benefits for the DSoD rank with those for the SoD rank without the provision of official residence; and</p> <p>(e) the proposed DFS would help foster a closer cooperation with Mainland authorities at the central and provincial levels, as well as ensure coordination in the formulation and implementation of policy pertaining to economic development and development of the industries.</p>	
010814 - 011646	<p>Chairman Mrs Sophie LEUNG Administration Dr Margaret NG</p>	<p>Mrs Sophie LEUNG's view that the new-term government should be given the freedom to put in place a structure of the Government Secretariat which could better fulfill the policy objectives and priorities pledged by the CE-elect.</p> <p>Mrs LEUNG's suggestion that the Administration should set out clearly the legislative amendments which involved changes to the specification of the public officers only.</p> <p>The Administration's clarification that four schedules of statutory functions were set out in the draft resolution issued to Members vide LC Paper No. CB(3)735/11-12.</p>	
011647 - 012248	<p>Chairman Ms Miriam LAU H/CEEEO</p>	<p>Ms Miriam LAU's request that the Administration should elaborate on –</p> <p>(a) the rationale for the hierarchy in the proposed new structure of the Government; and</p> <p>(b) how the respective layers of politically appointed officials would be held accountable to</p>	

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		<p>their performance under the proposed new structure.</p> <p>H/CEEO's response that –</p> <p>(a) it would be extremely difficult to draw up an exhaustive list of measures to enhance accountability of politically appointed officials; and</p> <p>(b) the issue should be further deliberated in the community on how the Political Appointment System ("PAS") should be improved.</p>	
012249 - 013018	Chairman Mrs Regina IP H/CEEO	<p>Mrs Regina IP's concern over to whom the two DSoDs report and her suggestion that they should report to the Chief Executive ("CE") direct in order to avoid any bottleneck in decision-making.</p> <p>H/CEEO's response that –</p> <p>(a) DCS was tasked to assist CS in coordinating the development of human resources to meet Hong Kong's various economic and social needs. Specific responsibilities included overseeing manpower planning and addressing manpower mismatch; improving education and cultural literacy; addressing the needs for an ageing population through planning for healthcare, elderly services and retirement protection; formulating policy for the youth and children; and developing welfare planning; and</p> <p>(b) CS was to focus more on other cross-cutting policies requiring longer term planning, e.g. poverty alleviation and sustainable development.</p> <p>Mrs IP's view that the position of those policy bureaux reporting to DSoD might be undermined within the Government structure.</p>	
013019 - 013642	Chairman Ms Emily LAU H/CEEO	<p>Ms Emily LAU's request for H/CEEO to provide a paper on review of PAS and whether a reward and punishment mechanism should be introduced for politically appointed officials to bear political responsibility at varying degrees.</p> <p>Ms LAU's view that the specific duties and responsibilities of the DoBs and DSoDs after the</p>	Admin (para 3(c) of the minutes)

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		<p>proposed re-organisation of the Government Secretariat should be clearly set out.</p> <p>H/CEEO's response that –</p> <p>(a) it was difficult to provide an exhaustive list of the job descriptions of all the politically appointed officials and those set out in the draft ESC paper submitted to the CA Panel on 21 May 2012 were meant to cover the broad principles;</p> <p>(b) it was necessary to consult the current-term government on the proposed introduction of a reward-and-punishment mechanism for politically appointed officials.</p>	
013643 - 014225	Chairman Mr LEUNG Kwok-hung H/CEEO	<p>Mr LEUNG Kwok-hung's enquiries about –</p> <p>(a) whether the contracting-out arrangement of the civil service would be reviewed; and</p> <p>(b) specific measures to improve the livelihood issues to be taken up by the new CE in respect of provision of old age allowance, public housing for single person, retirement protection etc.</p>	
014226 - 014851	Chairman Dr Margaret NG SALA2	<p>Dr Margaret NG's remark that the proposed resolution did not merely involve change of post-titles of the relevant public officers but a fundamental change of policies underlying the relevant legislation; and it would be difficult for the Subcommittee to proceed with studying the textual provisions of the legislative amendments prior to consideration of the policy changes and proposed redistribution of policy responsibilities.</p> <p>Dr NG's request for indexes to the marked-up version of the proposed resolution to be moved under the Interpretation and General Clauses Ordinance (Cap. 1).</p> <p>Dr NG concurred with the view of Mrs Regina IP that the proposed re-organisation of the Government Secretariat would bring about substantial change to the government structure and the proposed creation of additional layers of the administration would result in bureau cratisation.</p>	<p>SALA 2 (para 4 of the minutes)</p>

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>Dr NG's request for provision of information on –</p> <ul style="list-style-type: none"> (a) the political work at a high level to be taken up by DSoDs and whether it would include liaison with organs set up by the Central People's Government in the Hong Kong Special Administrative Region; (b) the new arrangement for the employment of Political Assistants ("PAs"); and (c) the working relationship between PAs and civil servants. 	<p>Admin (para 3(d) of the minutes)</p>
014852 - 015252	H/CEEO Dr Margaret NG	<p>H/CEEO's response that –</p> <ul style="list-style-type: none"> (a) the CE-elect had emphasized the need to strengthen cooperation between Hong Kong and the Mainland at all levels; (b) the roles of DCS and DFS were wide-ranging including sharing the duties of CS and FS in participating in national celebration events of foreign countries and diplomatic liaison; improving the relationship between the executive authorities and the legislature; and enhancing communication with political parties at the policy formulation stage; (c) the proposed re-organisation would not bring any change to the working relationship between PAs and civil servants; and (d) as the CE-elect had stressed the need for the new administration to face the public, PAs were expected to be more active and prominent in the public arena. The selection criteria for the employment of PAs would therefore emphasize vision, commitment, political capability and even emotional intelligence quotient, rather than on academic qualifications. The proposed new arrangement would allow flexibility in engaging suitable talents as PAs. <p>H/CEEO's agreement to provide a written response on the work to be taken up by DSoDs.</p>	<p>Admin (para 3(d) of the minutes)</p>

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015253 - 015806	Chairman Mr LEE Wing-tat H/CEEEO	<p>Mr LEE Wing-tat's advice that the Democratic Party had yet to formulate its stance on the re-organisation proposal.</p> <p>Mr LEE's request for the Administration to explain how politically appointed officials would be held accountable to their decisions and performance including the proposed rewards and punishments mechanism.</p>	<p>Admin (para 3(c) of the minutes)</p>
015807 - 020504	Chairman Ms Audrey EU H/CEEEO	<p>Ms Audrey EU's enquiry on whether the proposed re-organisation of the Government Secretariat had to be accepted as a whole package or could be accepted partially.</p> <p>Ms EU's view that as the proposed re-organisation involved substantial increase in very senior posts, the Administration should elaborate on the inadequacies of the existing administrative structure to justify the proposed changes.</p> <p>H/CEEEO's advice that it was the objective of the next-term Government to secure the LegCo's approval of the proposed re-organisation as a whole in order to facilitate the appointment of the new governing team and related matters.</p>	
020505 - 020809	Chairman Mr CHEUNG Man-kwong	<p>Mr CHEUNG Man-kwong's request for written responses on -</p> <p>(a) the rationale for the proposed hierarchy of the Government;</p> <p>(b) the reasons to justify the proposed changes to the work of the bureaux and departments concerned;</p> <p>(c) whether the proposed cash remuneration of politically appointed officials of the fourth-term Government would be further adjusted by reference to the outcome of the 2012 civil service pay adjustment exercise; and</p> <p>(d) whether the proposed reward and punishment mechanism for politically appointed officials of the next term Government could be incorporated in their contract of employment.</p>	<p>))Admin (para 3(e) of the minutes)</p> <p>(para 3(f) of the minutes)</p> <p>(para 3(c) of the minutes)</p>

Time Marker	Speaker(s)	Subject(s)	Action required
020810 - 020819	Chairman	Extension of the meeting	
020820 - 020942	Chairman Mr LEUNG Kwok-hung	The Administration was to respond to the query raised by Mr LEUNG Kwok-hung relating to reference to "Financial Secretary" which could mean both FS and the Secretary for Financial Services and the Treasury under the Interpretation and General Clauses Ordinance.	Admin (para 3(g) of the minutes)

Council Business Division 2
Legislative Council Secretariat
1 August 2012