

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

**Resolution under Section 54A of the
Interpretation and General Clauses Ordinance (Cap. 1)**

**Transfer of Statutory Functions Currently Exercisable by the
Secretary for Home Affairs**

Introduction

This paper sets out the transfer of statutory functions currently exercisable by the Secretary for Home Affairs (SHA) to the Secretary for Culture (S for C) with effect from 1 July 2012.

Background

2. Pursuant to the re-organisation plan announced by the Chief Executive-elect on 4 May 2012, the policy responsibilities on culture and the Western Kowloon Cultural District currently under SHA will be transferred to S for C. Details of the proposal and rationale are set out in the paper for the Legislative Council (LegCo) Panel for Constitutional Affairs issued on 4 May 2012 (LC Paper No. CB(2)1908/11-12(01)). To implement the new organization structure with effect from 1 July 2012, the relevant statutory functions vested in SHA need to be transferred to S for C.

3. The transfer of statutory functions is to be effected by way of a resolution made under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) (the Resolution). The Administration has served notice of the intention to move the Resolution at the LegCo meeting of 20 June 2012. The Resolution and the draft speech of the Secretary for Constitutional and Mainland Affairs are attached to the paper issued by the LegCo Secretariat on 10 May 2012 (LC Paper No. CB(3)735/11-12). Paragraph (1)(d) of and Schedule 3 to the Resolution provide for the transfer of statutory functions of the relevant public officer pursuant to the restructuring of the Home Affairs Bureau. Paragraph (1)(e) of the Resolution seeks to replace Deputy Secretary for Home Affairs (Recreation and Culture), which is an obsolete title, by Secretary for Culture as an ex officio member of the Council of the Lord Wilson Heritage Trust. Paragraphs (1)(d) and (e) of, and Schedule 3 to the Resolution are at **Annex A**.

4. 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 public officers concerned by the new title of the public officers in whom policy responsibility for the provisions in question is to be vested with effect from 1 July 2012.

5. A summary of the statutory functions of SHA under existing legislation to be transferred to the relevant public officer and textual amendments to the relevant ordinances is at **Annex B**.

Advice Sought

6. Members are invited to consider paragraphs (1)(d) and (e) of, and Schedule 3 to the Resolution.

Constitutional and Mainland Affairs Bureau
Home Affairs Bureau
May 2012

Interpretation and General Clauses Ordinance

Resolution

(Under section 54A of the Interpretation and General Clauses Ordinance
(Cap. 1))

Resolved that—

- (1) with effect from 1 July 2012—
- (d) the functions exercisable by the Secretary for Home Affairs under each enactment specified in column 2 of Part 1 of Schedule 3 be transferred to the public officer specified opposite to that enactment in column 3 of that Part, and to give full effect to the transfer, the enactments specified in Part 2 of Schedule 3 be amended as set out in that Part;
 - (e) the functions exercisable by the Deputy Secretary for Home Affairs (Culture and Sport) under the Lord Wilson Heritage Trust Ordinance (Cap. 425) be transferred to the Secretary for Culture, and to give full effect to the transfer, that Ordinance be amended in section 7(2)(b) by repealing “Deputy Secretary for Home Affairs (Culture and Sport)” and substituting “Secretary for Culture”;
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Schedule 3

[para. (1)(d)]

Transfer of Functions of Secretary for Home Affairs

Part 1

Enactments and Public Officers

Item	Enactment under which functions are transferred	Public officer to whom functions are transferred
1.	Public Health and Municipal Services Ordinance (Cap. 132)	Secretary for Culture
2.	Books Registration Ordinance (Cap. 142)	Secretary for Culture
3.	Lord Wilson Heritage Trust Ordinance (Cap. 425)	Secretary for Culture
4.	Hong Kong Arts Development Council Ordinance (Cap. 472)	Secretary for Culture
5.	West Kowloon Cultural District Authority Ordinance (Cap. 601)	Secretary for Culture

Part 2

Amendments Effecting Transfer to Secretary for Culture

1. “Secretary for Culture” substituted for “Secretary for Home Affairs”

(1) The following provisions—

- (a) Lord Wilson Heritage Trust Ordinance (Cap. 425), section 4(2)(b);
- (b) Hong Kong Arts Development Council Ordinance (Cap. 472), section 3(3)(d);
- (c) West Kowloon Cultural District Authority Ordinance (Cap. 601), sections 32(1), 33(1) and 36(1)—

Repeal

“Secretary for Home Affairs” (wherever appearing)

Substitute

“Secretary for Culture”.

(2) West Kowloon Cultural District Authority Ordinance (Cap. 601), section 36, heading—

Repeal

“Secretary for Home Affairs”

Substitute

“Secretary for Culture”.

2. Amendments to transfer functions under Public Health and Municipal Services Ordinance

(1) Public Health and Municipal Services Ordinance (Cap. 132), section 124J, heading—

Repeal

“Schedule 16”

Substitute

“Schedules 16 and 17”.

- (2) Public Health and Municipal Services Ordinance (Cap. 132), section 124J(1)—

Repeal

“provide for”

Substitute

“prescribe”.

- (3) Public Health and Municipal Services Ordinance (Cap. 132), after section 124J(1)—

Add

“(1A) The Authority may by regulation prescribe the fees and charges payable by an individual as a member of the public in connection with the matters specified in Schedule 17.”.

- (4) Public Health and Municipal Services Ordinance (Cap. 132), section 124J(2)—

Repeal

“subsection (1)”

Substitute

“subsections (1) and (1A)”.

- (5) Public Health and Municipal Services Ordinance (Cap. 132), section 124J(2)(a) and (b), after “Schedule 16”—

Add

“or 17”.

- (6) Public Health and Municipal Services Ordinance (Cap. 132), section 124J—

Repeal subsection (3)

Substitute

“(3) Different fees and charges may be prescribed under subsection (1) or (1A) for persons or cases of different classes or descriptions.”.

- (7) Public Health and Municipal Services Ordinance (Cap. 132), after section 124J(4)—

Add

“(4A) The Authority may by order published in the Gazette amend Schedule 17.”.

- (8) Public Health and Municipal Services Ordinance (Cap. 132), section 124J(5), after “subsection (4)”—

Add

“or (4A)”.

- (9) Public Health and Municipal Services Ordinance (Cap. 132), section 124K(1), after “section 124J(1)”—

Add

“and (1A)”.

- (10) Public Health and Municipal Services Ordinance (Cap. 132), Third Schedule, entries relating to sections 105I, 105L and 105O—

Repeal

“Secretary for Home Affairs”

Substitute

“Secretary for Culture”.

- (11) Public Health and Municipal Services Ordinance (Cap. 132), Third Schedule—

Repeal the entry relating to section 124J

Substitute

“124J(1) and (4)

Secretary for Home Affairs

124J(1A) and (4A)

Secretary for Culture”.

- (12) Public Health and Municipal Services Ordinance (Cap. 132),
Schedule 16, heading—

Repeal

“by Regulation Provide for”

Substitute

“Prescribe”.

- (13) Public Health and Municipal Services Ordinance (Cap. 132),
Schedule 16—

Repeal

“[s. 124J]”

Substitute

“[s. 124J(1), (2)(a) & (b) & (4)]”.

- (14) Public Health and Municipal Services Ordinance (Cap. 132),
Schedule 16—

Repeal items 2 and 3.

- (15) Public Health and Municipal Services Ordinance (Cap. 132),
after Schedule 16—

Add

“Schedule 17

[s. 124J(1A),
(2)(a) & (b) &
(4A)]

**Matters for which Secretary for Culture may
Prescribe Fees and Charges**

1. Museums
Admission
2. Libraries

Admission”.

3. Amendments to transfer functions under Books Registration Ordinance

(1) Books Registration Ordinance (Cap. 142), section 2—

Repeal the definition of *Secretary*

Substitute

“*Secretary* (局長) means the Secretary for Culture.”.

(2) Books Registration Ordinance (Cap. 142), Chinese text, section 3, heading—

Repeal

“民政事務局”.

(3) Books Registration Ordinance (Cap. 142), Chinese text, sections 3(1) and (2), 4 and 5(1) and (2)—

Repeal

“民政事務局” (wherever appearing).

(4) Books Registration Ordinance (Cap. 142), sections 4 and 5(1)—

Repeal

“to him”.

4. Amendments to transfer functions under West Kowloon Cultural District Authority Ordinance

(1) West Kowloon Cultural District Authority Ordinance (Cap. 601), after section 21(13)—

Add

“(14) In relation to a development plan prepared on or after 1 July 2012, subsections (3), (4) and (5) have effect as if any reference to the Secretary for Home Affairs in those subsections was substituted by a reference to the Secretary for Culture.”.

- (2) West Kowloon Cultural District Authority Ordinance (Cap. 601), section 34(2)(e)(i) and (ii)—

Repeal

“to the Secretary for Home Affairs”.

**Statutory functions presently exercisable by the Secretary for Home Affairs (SHA)
which will be transferred to the Secretary for Culture (S for C)**

The Resolution	Cap.	Description	Textual amendments provided for in the Resolution
Paragraph 1(e) and Section 1(1)(a) of Part 2 of Schedule 3	425 Lord Wilson Heritage Trust Ordinance	<p>This Ordinance is to establish the Lord Wilson Heritage Trust and to provide for its administration and related matters.</p> <p>Section 7 prescribes the establishment of the Council. Section 7(2)(b) provides for the Deputy Secretary for Home Affairs (Culture and Sports) or his representative as an ex officio member of the Council. The term “Deputy Secretary for Home Affairs (Culture and Sports)” is obsolete. It is also considered more appropriate for the Secretary for Culture or his representative to serve as the ex officio member.</p>	<p>Section 7(2)(b) is amended by repealing “Deputy Secretary for Home Affairs (Culture and Sport)” and substituting “Secretary for Culture”</p> <p>Section 4(2)(b) is amended by repealing “Secretary for Home Affairs” and substituting “Secretary for Culture”.</p>
Section 1(1)(b) of Part 2 of Schedule 3	472 Hong Kong Arts Development Council Ordinance	<p>This Ordinance is to provide for the establishment and the functions of the Hong Kong Arts Development Council as a body corporate for the purpose of the development of the arts in Hong Kong.</p>	<p>Section 3(3)(d) is amended by repealing “Secretary for Home Affairs” and substituting “Secretary for Culture”.</p>

The Resolution	Cap.	Description	Textual amendments provided for in the Resolution
Sections 1(1)(c), 1(2) and 4 of Part 2 of Schedule 3	601 West Kowloon Cultural District Authority Ordinance	This Ordinance is to establish the West Kowloon Cultural District Authority to develop the land leased to the Authority into an integrated arts and cultural district and to provide, operate, manage, maintain or otherwise deal with, arts and cultural facilities and related facilities in, and ancillary facilities outside, the district; to provide for the powers and functions of the Authority; to provide for planning and financial matters; and to provide for connected matters.	<p>Sections 32(1), 33(1) and 36(1) are amended by repealing “Secretary for Home Affairs”, wherever appearing, and substituting “Secretary for Culture”.</p> <p>The heading of section 36 is amended by repealing “Secretary for Home Affairs” and substituting “Secretary for Culture”.</p> <p>The following is added after section 21(13):</p> <p>“(14) In relation to a development plan prepared on or after 1 July 2012, subsections (3), (4) and (5) have effect as if any reference to the Secretary for Home Affairs in those subsections was substituted by a reference to the Secretary for Culture.”.</p> <p>Section 34(2)(e)(i) and (ii) is amended by repealing “to the Secretary for Home Affairs”.</p>

The Resolution	Cap.	Description	Textual amendments provided for in the Resolution
Section 2 of Part 2 of Schedule 3	132 Public Health and Municipal Services Ordinance	<p>This Ordinance is to make provision for public health and municipal services.</p> <p>Major function to be transferred from SHA to S for C are:</p> <ul style="list-style-type: none"> ■ To prescribe fees and charges for admission to museums and libraries by regulation. 	<p>The heading of section 124J is amended by repealing “Schedule 16” and substituting “Schedules 16 and 17”.</p> <p>Section 124J(1) is amended by repealing “provide for” and substituting “prescribe”.</p> <p>The following is added after section 124J(1):</p> <p>“(1A) The Authority may by regulation prescribe the fees and charges payable by an individual as a member of the public in connection with the matters specified in Schedule 17.”.</p> <p>Section 124J(2) is amended by repealing “subsection (1)” and substituting “subsections (1) and (1A)”.</p> <p>Section 124J(2)(a) and (b) is amended by adding “or 17” after “Schedule 16”.</p> <p>Section 124J is amended by repealing subsection (3) and substituting the following:</p> <p>“(3) Different fees and charges may be prescribed under subsection (1) or (1A) for persons or cases of different classes or descriptions.”.</p> <p>The following is added after section 124J(4):</p> <p>“(4A) The Authority may by order published</p>

The Resolution	Cap.	Description	Textual amendments provided for in the Resolution
			<p>in the Gazette amend Schedule 17.”.</p> <p>Section 124J(5) is amended by adding “or (4A)” after “subsection (4)”.</p> <p>Section 124K(1) is amended by adding “and (1A)” after “section 124J(1)”.</p> <p>Third Schedule is amended by repealing “Secretary for Home Affairs” in entries relating to sections 105I, 105L and 105O and substituting “Secretary for Culture”.</p> <p>Third Schedule is amended by repealing the entry relating to section 124J and substituting the following:</p> <p>“124J(1) and (4) Secretary for Home Affairs 124J(1A) and (4A) Secretary for Culture”.</p> <p>The heading of Schedule 16 is amended by repealing “by Regulation Provide for” and substituting “Prescribe”.</p> <p>Schedule 16 is amended by repealing “[s.124J]” and substituting “[s.124J(1), (2)(a) & (b) & (4)]”.</p> <p>Schedule 16 is amended by repealing items 2 and 3.</p> <p>After Schedule 16, the following is added:</p>

The Resolution	Cap.	Description	Textual amendments provided for in the Resolution
			<p>“Schedule 17 [s.124J(1A), (2)(a) & (b) & (4A)]</p> <p>Matters for which Secretary for Culture may Prescribe Fees and Charges</p> <ol style="list-style-type: none"> 1. Museums <p style="text-align: center;">Admission</p> 2. Libraries <p style="text-align: center;">Admission”.</p>
Section 3 of Part 2 of Schedule 3	142 Book Registration Ordinance	This Ordinance is to provide for the registration and preservation of copies of books first printed, produced or published in Hong Kong.	<p>Section 2 is amended by repealing the definition of <i>Secretary</i> and substituting the following:</p> <p>“<i>Secretary</i> (局長) means the Secretary for Culture.”</p> <p>The Chinese text of the heading of section 3 is amended by repealing “民政事務局”.</p> <p>The Chinese text of sections 3(1) and (2), 4 and 5(1) and (2) is amended by repealing “民政事務局”, wherever appearing.</p> <p>Sections 4 and 5(1) are amended by repealing “to him”.</p>