

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

**Follow up on other issues raised at the meetings on 5 and 7 June 2012**

As requested by Members at the meetings on 5 and 7 June 2012, this paper provides information concerning the ordinances relating to the regulation of chemical weapons and substances, the bills which involve those Directors of Bureaux (“DoBs”) who need to transfer functions arising from the re-organisation proposals, and the transfer of functions relating to the five ordinances concerning the registration of professionals.

**Ordinances relating to the regulation of chemical weapons and substances**

2. The objective of the Chemical Weapons (Convention) Ordinance (“the Ordinance”) is to implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (“the Convention”) in Hong Kong. The Ordinance was enacted in 2003 and came into operation in June 2004.

3. The main purpose of the Ordinance is to prohibit the use and development of chemical weapons. In the Ordinance, the definition of chemical weapons includes any toxic chemicals (excluding those chemicals not prohibited by the Convention). Therefore, the Ordinance stipulates that any person performing activities related to the concerned chemicals should apply for permits from and make declarations to the relevant authority. Before the Ordinance came into operation, the Trade and Industry Department (“TID”), in accordance with the Import and Export Ordinance and Import and Export (Strategic Commodities) Regulations, has been maintaining and implementing a licensing system to control the import and export activities of the concerned chemicals. To facilitate coordination of control, TID is responsible for the implementation of the permit and declaration systems in accordance with the Ordinance. Hong Kong does not store or manufacture any chemical weapons, but only has limited trading activities on the chemicals listed in the Schedule to the Convention, which are mainly imported for local research or industrial use. As a result, the statutory authority of the Ordinance is being exercised by the Secretary for Commerce and Economic Development. After the restructuring of the Government Secretariat, the authority will be transferred to the Secretary for Commerce and Industries.

4. Apart from the Ordinance, United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) and Dangerous Goods Ordinance (Cap. 295) involve the regulation of chemical weapons and substances. Cap. 575 prohibits the supply of weapons to terrorists or terrorist associates. The weapons include chemical, biological, radiological or nuclear weapons. Cap. 295 provides that except under and in accordance with a licence granted under that ordinance, no person shall manufacture, store, convey or use any dangerous goods (i.e. the goods /substances to which that ordinance applies). These two ordinances are under the purview of the Security Bureau.

### **Bills which are being scrutinised by the Legislative Council (“LegCo”)**

5. At present, there are three ordinances (i.e. Competition Bill, Copyright (Amendment) Bill 2011 and Residential Properties (First-hand Sales) Bill) which involve DoBs who need to transfer functions arising from the re-organisation proposals. Those DoBs are the Secretary for Commence and Economic Development and the Secretary for Transport and Housing. If the three ordinances can be passed by the LegCo before the passage of the resolution to effect the transfer of functions, we need to move amendments to the resolution to update the reference of the DoBs concerned in the relevant ordinances. If the resolution has been passed before the passage of the three ordinances, the bureaux concerned need to introduce Committee Stage Amendments to the bills in order to update the reference of the relevant DoBs.

### **Five ordinances relating to the registration of professionals**

6. The five ordinances relating to the registration of professionals (i.e. Architects Registration Ordinance, Engineers Registration Ordinance, Landscape Architects Registration Ordinance, Planners Registration Ordinance and Surveyors Registration Ordinance) were initially under the purview of the Secretary for Works. Following the re-organisation of the Government, the statutory functions under these ordinances were transferred to the Secretary for the Environment, Transport and Works in 2002 and to the Secretary for Development in 2007. The Works Branch under the various bureaux has been assisting the DoBs concerned to exercise the functions. Officers from the Works Branch have also been representing the Government to be the members of the five professional registration boards. We are of the view that there is no need to change this effective arrangement.

7. As the Works Branch will be put under the Transport and Works Bureau following the re-organisation, the “Secretary for Development” should be substituted by the “Secretary for Transport and Works” in the resolution to effect the transfer of functions.

8. We have contacted the five professional registration boards regarding the re-organisation proposal and they have no objection to our proposal.

### **Historical references**

9. Under the re-organisation proposal, the offices of the Secretary for Commerce and Economic Development, the Secretary for Development and the Secretary for Transport and Housing will cease to exist after 30 June 2012. We have examined all references to those titles in the Laws of Hong Kong. Some of the references are “historical references”. The titles appear in the context of a one-off act that has taken place and will not be undone under the re-organisation exercise. For example, a historical building declared under the Antiquities and Monuments Ordinance (Cap. 53) during the term of the current Administration was invariably identified in the notice of declaration by referring to a numbered plan signed and deposited in the Land Registry by the Secretary for Development. This reference is not affected by the re-organisation proposal. All historical references to the three directors of bureau concerned are not included in this amendment exercise.

10. Section 4(1)(a) of the Kowloon-Canton Railway Corporation Ordinance stipulates that the Corporation shall have power to construct the North-west Railway and any other railway that the Secretary for Transport and Housing authorizes the Corporation to construct. The phrase “the Secretary for Transport and Housing authorizes the Corporation to construct” qualifies new railways to be constructed, and not the operating North-west Railway. Hence, the reference to “the Secretary for Transport and Housing” in this section is not a historical reference.

**Constitutional and Mainland Affairs Bureau  
Commerce and Economic Development Bureau  
Security Bureau  
Development Bureau  
Transport and Housing Bureau  
Department of Justice  
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