

**Bills Committee on  
Electronic Health Record Sharing System Bill**

**The Administration's Response to the issues arising from the  
discussion at the meeting on 1 June 2015**

This paper sets out the Administration's response to the issues arising from the discussion of the Bills Committee on the Electronic Health Record Sharing System (eHRSS) Bill on 1 June 2015

**(a) Protection of public officers etc. under Clause 58**

2. Clauses 58(1) and (3) of the bill provide that (a) a public officer or (b) a person appointed by the eHR Commissioner (eHRC) under Clause 48(3) is not civilly liable for an act done or omitted to be done by the person in good faith in (purportedly) performing a function / exercising a power under the eHRSS Ordinance. Clause 58(2) states explicitly that the aforementioned does not affect the liability of the Government for the act or omission.

3. In view of the concerns of members about the scope of application, and upon discussion with the Assistant Legal Advisor (ALA) of this committee, we earlier on worked out a draft Committee Stage Amendment (CSA) to Clause 58(3)(b) to make its application **more specific** for the consideration of this committee (vide LC Paper No. CB(2)1583/14-15(04)). The effect of the draft CSA is that the persons to be protected will be **narrowed down** from "*a person appointed by the eHRC under section 48(3)*" to only "*an employee of the Hospital Authority, or an employee of a body corporate established by the Hospital Authority under Section 5(n) of the Hospital Authority Ordinance (Cap. 113), appointed by the eHRC under section 48(3)*". This amendment makes it clear that the protection is to confer on specific "natural persons" rather than "legal persons" (such as a company).

4. At the meeting on 1 June 2015, the ALA raised further questions over the proposed inclusion of an employee of a body corporate established by the Hospital Authority (HA) for protection. She enquired about our policy intent and requested background information regarding

the body corporates of HA.

### Policy intent and examples of similar provisions in existing ordinances

5. The eHRSS is a new system developed by the Government. The bill provides for the powers and functions of the eHRC in developing, operating and maintaining the system. It also provides for protection from civil liability for those public officers performing the functions and exercising the powers, as well as those relevant persons assisting the eHRC. Similar protection is not uncommon in the local legislation. As reiterated at the meeting, eHRC would need external expertise to assist him in performing / exercising his functions / powers relating to the development, operation and maintenance of the eHRSS. Our policy intent for Clause 58(3)(b), as reflected in the drafting of the original provision and even more specifically in the aforementioned CSA, is to confer protection under Clause 58 upon the concerned **natural persons assisting eHRC**.

6. It is necessary to highlight here that we are not conferring protection upon all employees of HA (or employees of its subsidiaries) per se generally and automatically. In our context, we intend to seek expertise from HA<sup>1</sup> in assisting eHRC to perform particular functions. We accordingly confer the concerned protection against civil liability to the concerned persons only. The persons that eHRC may appoint for assisting him may be HA employees or employees of HA's subsidiaries, and we consider it a **fair and reasonable** arrangement to protect them irrespective of whether they are directly employed by HA. The protection is reasonably **restrictive** given the additional conditions that the protection only applies to those employees **appointed by eHRC in writing** under Clause 48(3) (i.e. not all employees of HA and its subsidiaries) and the concerned act / omission has to be "in good faith". In practice, we anticipate that a limited number of employees specifically

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<sup>1</sup> We have explained previously that the eHRSS is a very special information technology (IT) system. Its development requires heavy input of clinical expertise not readily possessed by IT vendors in the private sector. Fine technical details, which may appear to be trivial from the IT perspective, may well have material implication on the clinical usability of the eHRSS and impact on patient safety. HA is the largest healthcare provider in Hong Kong and possesses rich experience and expertise in the development and operation of its Clinical Management System. It is in the best position, and has accordingly been engaged, to serve as the technical agency for the technical development of the eHRSS.

appointed will be covered by the protection. For example, some information technology (IT) staff working on the eHRSS (but not all HA's IT staff). Moreover, it does not confer any protection on HA or its subsidiaries as a "legal person" at the organizational level.

7. In our previous responses, we have pointed out that **provisions of such nature** (protection against civil liability for act / omissions in good faith in performing / exercising functions / powers of the concerned authority/organization) **are not uncommon in Hong Kong law**. In particular, there are existing provisions that are very similar to our original / amended Clause 58(3)(b) i.e. conferring protection upon persons **other than** public officers and/or the members and/or employees of the concerned authority/organization. In our previous written response, we have cited Section 36 of the Gas Safety Ordinance (Cap. 51), Section 11A of the Personal Data (Privacy) Ordinance (Cap. 486) and Section 133 of the Competition Ordinance (Cap. 619) as examples. Upon more detailed search among existing ordinances, we have identified a number of other examples – Section 127 of the Banking Ordinance (Cap. 155), Section 21 of the Customs and Excise Service Ordinance (Cap. 342), Section 42 of the Employees Compensation Assistance Ordinance (Cap. 365) / Section 30 of the Occupational Safety and Health Council Ordinance (Cap. 398) / Section 28 of the Employees' Compensation Insurance Levies Ordinance (Cap. 411) / Section 32 of the Employees Retraining Ordinance (Cap. 423), Section 18A of the Ombudsman Ordinance (Cap. 397), Section 75 of the Occupational Retirement Schemes Ordinance (Cap. 426), Section 68 of the Sex Discrimination Ordinance (Cap. 480) / Section 64A of the Disability Discrimination Ordinance (Cap. 487) / Section 46A of the Family Status Discrimination Ordinance (Cap. 527) / Section 62 of the Race Discrimination Ordinance (Cap. 602), Section 14 of the Electoral Affairs Commission Ordinance (Cap. 541), Section 33 of the Prevention of Copyright Piracy Ordinance (Cap. 544), Section 32 of the Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565), Section 47 of the Deposit Protection Scheme Ordinance (Cap. 581), Section 51 of the Clearing and Settlement Systems Ordinance (Cap. 584) and Section 127 of the Lifts and Escalators Ordinance (Cap. 618). The relevant provisions set out in **Annex** for Members' reference.

8. For the aforementioned examples as well as our case, the issue of whether the concerned protection against civil liability is to be conferred upon persons other than public officers and/or the members and/or employees of the concerned authority/organization is **a matter of operational merits of individual cases. It is not an issue of an overall “legal policy” as such.**

9. At the meeting, the ALA mentioned Section 23 of the HA Ordinance (Cap. 113), which confers protection upon “member of the Authority or of any committee”, and enquired whether our CSA might constitute a departure from the existing legal policy of that section. We wish to clarify that the protection under section 23 of HA Ordinance and that of our proposed CSAs to Clause 58 are in respect of different context, based on different considerations and is not directly comparable. The protection under Section 23 of the HA Ordinance is concerned with the (purported) performance/exercise of functions/powers of HA under the HA Ordinance, whereas the protection under our Clause 58 is concerned with the (purported) performance/exercise of functions/powers of eHRC under the future eHRSS Ordinance. Our Clause 58 is specific to our own context of eHRSS. It does not constitute any “departure from existing legal policy”.

#### Supplementary information regarding the body corporates of HA

10. The Administration was asked to provide supplementary information regarding the body corporates of HA for reference (viz. nature of the body corporates, relationship with HA, whether there was a contract between HA and the body corporate, whether HA would incur any civil liability for act done or default made by such body corporate and its employees, functions of such body corporates). In this regard, we wish to reiterate that our proposed clause 58 only confers protection to a “natural person” (viz specific employees) selectively appointed by eHRC to assist him in performing a function and exercising a power under the eHRSS Bill. The nature and functions of these body corporates (as a legal person), or whether there exists any contractual relationship at the organizational level between them (as a legal person) and HA is not relevant to the offering of protection to individual employees of HA or of its subsidiaries by clause 58 of the eHRSS Bill.

That said, the supplementary information requested is provided in the ensuing paragraphs for reference.

11. Accordingly to the 2013-14 annual report of HA, HA has **two principal subsidiaries in operation**, namely HACM Limited and eHR HK Limited. Both are companies limited by guarantee and incorporated in Hong Kong. There is no contractual relationship between either subsidiary and HA. The principal activity/function of HACM Limited is to steer the development and delivery of Chinese medicine services, whereas that of eHR HK Limited is to act as a custodian to hold, maintain and license the intellectual property rights and assets related to the electronic Health Record (eHR) Programme. As mentioned at the meeting, depending on the future development of eHRSS and its operation, some employees of both subsidiaries may be identified and appointed by eHRC to help perform eHRSS-related functions in future.

12. As regards the question of whether a body corporate established by HA is “public” or “private” in nature, we would like to point out that there is no legal definition of “public body corporate” or “private body corporate” in Hong Kong law. Meanwhile, the nature of a body corporate established by HA under Section 5(n) of the HA Ordinance, as stated in that section, is to “do any thing which the Authority may do” and to perform / exercise the functions / powers vested in it to “facilitate provision of hospital services by the Authority”.

13. A body corporate is a separate legal entity and can sue or be sued. As an employer, it can be held vicariously liable for a wrongful act of its employee. Whether HA would incur any civil liability for act done or default made by such body corporate and its employees depends on the facts and circumstances of each case. The mere fact that a body corporate established by HA is held liable for the act of its employee does **not** mean that, by virtue of Section 5(n) of the HA Ordinance, HA also has to be held responsible for such act. In general, in the absence of any information on how HA might have contributed to the wrongful act of an employee of the body corporate concerned, it is not possible to say whether HA should be liable for such act. In any case, the proposed Clause 58 of the eHRSS Bill would in no way affect whatsoever liability (if any) of HA and/or its subsidiaries as a legal entity.

**(b) Views expressed by Dr Lam Ching-choi in his submission to this committee (vide LC Paper No. CB(2)1608/14-15(02))**

14. Dr Lam Ching-choi, the Chairman of the Working Group on Long Term Care Model under the Elderly Commission cum Chief Executive Officer of Haven of Hope Christian Service, submitted his written opinion to this committee on 31 May 2015. In essence, he expressed the view that eHR would be an essential tool for efficient care management. He would like to see wider access to eHR, in the light of the trend of medical and social service integration.

15. The Administration is glad to note Dr Lam's support to eHR sharing and his recognition of its benefits. We share the view that implementation of eHRSS would help reduce duplicated tests/treatments and man-hours of healthcare professionals. We also welcome the interest of social service providers in joining the future eHRSS, as many non-governmental organizations (NGOs) will be providing healthcare to elderly citizens under the integrated care approach. In this connection, the eHRSS Bill does not preclude a social service provider that fulfils the criteria set out in the bill from applying to be registered as a healthcare provider (HCP) of the system. Pursuant to clause 17 of the bill, an entity may apply to eHRC for registration as an HCP for eHRSS if it holds a relevant certificate of exemption / license issued under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) or the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and engages a healthcare professional to perform healthcare, or is a specified entity<sup>2</sup> that engages a healthcare professional to perform healthcare, etc. We envisage that many social service NGOs would be able to meet the requirement. In our future publicity, we will also highlight the benefits of eHRSS to elderly patients.

16. In the past few years, the Administration has been implementing the pilot Public-Private Interface - Electronic Patient Record and other initiatives to test and promote the concept of eHR sharing. Upon

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<sup>2</sup> A "specified entity" means an individual, a company, a partnership, a statutory body, a body corporate other than a company, or a society (or a branch of a society) registered or exempted from registration under the Societies Ordinance (Cap. 151).

passage of the eHRSS Bill, we will proceed to commence operation of the new system as soon as possible to bring about expanded accessibility and wider scope of application.

17. As mentioned at the meeting on 1 June 2015, we intend to call on Dr Lam in the near future to exchange views on the use of eHR sharing in medical and social service integrated setting, as well as how the eHRSS can facilitate more efficient care management for the elders.

**Food and Health Bureau  
June 2015**

**Examples of provisions in existing ordinances similar to the original / amended Clause 58(3)(b) of the eHRSS Bill**

(Note: This summary is meant to provide examples and is not necessarily exhaustive.)

Ordinance	Extract of relevant provisions
Cap. 51 Gas Safety Ordinance	<p><u>Section 36 Protection of public officers</u></p> <p>(1) A <b>public officer</b> is not personally liable in respect of any act or omission of his if it was done or made by him in the honest belief that it was required or authorized in the exercise of any function under this Ordinance.</p> <p>(2) The protection conferred on public officers by subsection (1) in respect of any act or omission shall not in any way affect any liability of the Government in tort for that act or omission.</p> <p>(3) For the purposes of this section, <b>“public officer” (公職人員) includes a person assisting a public officer in the exercise of any function under this Ordinance.</b></p>
Cap. 155 Banking Ordinance	<p><u>Section 127 Indemnity</u></p> <p>(1) No liability shall be incurred by-</p> <p style="padding-left: 40px;">(a) any public officer;</p> <p style="padding-left: 40px;">(b) <b>any person appointed under section 5A(3) of the Exchange Fund Ordinance (Cap. 66) to assist the Monetary Authority<sup>1</sup>;</b></p> <p style="padding-left: 40px;">(c) <b>the Advisor of an authorized institution<sup>2</sup> or any person appointed under section 53G(5) by the Advisor<sup>3</sup>;</b></p>

<sup>1</sup> Section 5A(3) of Cap. 66 provides that “**The Financial Secretary may appoint, on such terms and conditions as he thinks fit, persons to assist the Monetary Authority in the performance of the functions of the Monetary Authority specified in subsection (2).**”.

<sup>2</sup> Section 2(1) of Cap. 155 provides that “**Advisor (顧問)**, in relation to an authorized institution, means **the person appointed, pursuant to section 52(1)(B), to be the Advisor of the institution.**” and “**Manager (經理人)**, in relation to an authorized institution, means **the person appointed, pursuant to section 52(1)(C), to be the Manager of the institution**”. Section 52(1) provides that “...the Monetary Authority, after consultation with the Financial Secretary, may exercise such one or more of the following powers as may from time to time appear to him to be necessary-

...

(B) subject to subsection (3E), to give a direction that, during the period for which the direction is in force, **the institution shall seek advice on the management of its affairs, business and property from an Advisor, for which purpose the Monetary Authority shall appoint a person to be the Advisor of that institution;**

(C) subject to subsections (3D) and (3E), to give a direction that, during the period for which the direction is in force, **such of the affairs, business and property of the institution as are specified in the direction shall be managed by a Manager, for which purpose the Monetary Authority shall-**

(I) **appoint a person to be the Manager of that institution...**”

Ordinance	Extract of relevant provisions
	<p>(d) <b>the Manager of an authorized institution<sup>2</sup> or any person appointed under section 53G(5) by the Manager<sup>3</sup>;</b> or (e) <b>any person appointed under section 117(2)<sup>4</sup>,</b> as a result of anything done or omitted to be done by him bona fide in the exercise or purported exercise of any functions conferred or imposed by or under this Ordinance.</p>
<p>Cap. 342 Customs and Excise Service Ordinance</p>	<p><u>Section 21 Protection of members and persons aiding them</u></p> <p>(1) A member shall not be liable for damages for, or in consequence of, any act done or omitted by him while he is exercising in good faith and in the course of his duty any power conferred upon him by law.</p> <p>(2) <b>Any person may act in aid of a member who appears to be lawfully engaged in the performance of his duty upon being requested by the members so to do</b> and without being bound to inquire whether or not the member is acting lawfully or within the scope of his duty.</p> <p>(3) <b>A person acting in good faith in aid of a member under subsection (2)</b> shall not be liable for damages for or in consequence of any act which such first-mentioned person does or omits while so doing.</p> <p>(4) Nothing in subsection (1) shall affect any civil liability of the Government for the wrongful acts of its servants.</p>
<p>Cap. 365 Employees Compensation Assistance</p>	<p><u>Section 42 Protection of members, etc. of Board</u></p> <p>(1) No-</p> <p>(a) member of the Board;</p> <p>(b) member of any committee of the Board;</p>

<sup>3</sup> Section 53G(5) of Cap. 155 provides that “Subject to subsection (6), **an Advisor or Manager may appoint such technical and professional persons (including any person who has been appointed under section 5A(3) of the Exchange Fund Ordinance (Cap 66)) as he thinks fit to assist him in the discharge of his duties and exercise of his powers** in respect of any of the affairs, business or property of the authorized institution concerned.”. Section 5A(3) of Cap. 66 provides that “**The Financial Secretary may appoint, on such terms and conditions as he thinks fit, persons to assist the Monetary Authority in the performance of the functions of the Monetary Authority specified in subsection (2).**”.

<sup>4</sup> Section 117(2) of Cap. 155 provides that “**The Financial Secretary, on receipt of a report under subsection (1), may appoint a competent person to report to him and the Monetary Authority on the state and conduct of the affairs, business and property of the authorized institution or former authorized institution concerned, or any particular aspect thereof specified by the Financial Secretary.**”.

Ordinance	Extract of relevant provisions
Ordinance	<p>(c) employee of the Board; or</p> <p>(d) <b>person exercising powers in association with the Board under section 5(2)(f)<sup>5</sup></b>, acting in good faith is personally liable for any act done or default made by-</p> <p>(i) the Board;</p> <p>(ii) any committee of the Board; or</p> <p>(iii) any such member, employee or person,</p> <p>in the exercise or performance (or the purported exercise or performance) of any of the powers or functions conferred or imposed on the Board under this Ordinance.</p> <p>(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default does not affect any liability of the Board for that act or default.</p>
Cap. 397 The Ombudsman Ordinance	<p><u>Section 18A Immunity</u></p> <p>No <b>person<sup>6</sup></b> acting in good faith shall be personally liable for any civil liability or claim whatever in respect of any act done or omitted to be done in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance.</p>
Cap. 398 Occupational Safety and Health Council Ordinance	<p><u>Section 30 Protection of members of Council</u></p> <p>(1) No-</p> <p>(a) member of the Council;</p> <p>(b) member of any committee of the Council;</p> <p>(c) employee of the Council;</p> <p>(d) <b>person exercising powers in association with the Council under section 5(2)(f)<sup>7</sup></b>,</p>

<sup>5</sup> Section 5(2) of Cap. 365 provides that “Without restricting the generality of subsection (1) **the Board may- ... (f) exercise any of its powers** either alone or **in association with any person.**”.

<sup>6</sup> Section 6A of Cap. 397 provides that “**The Ombudsman may** from time to time **appoint such technical or professional advisers as he considers necessary to assist him in the performance of his functions under this Ordinance.**”.

<sup>7</sup> Section 5(2) of Cap. 398 provides that “Without restricting the generality of subsection (1) **the Council may- ... (f) exercise any of its powers** either alone or **in association with any other person or persons.**”.

Ordinance	Extract of relevant provisions
	<p>acting in good faith shall be personally liable for any act done or default made by-</p> <ul style="list-style-type: none"> <li>(i) the Council;</li> <li>(ii) any committee of the Council;</li> <li>(iii) any such member, employee or person,</li> </ul> <p>in the exercise and performance (or the purported exercise and performance) of the powers and duties conferred and imposed on the Council under this Ordinance.</p> <p>(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Council for that act or default.</p>
<p>Cap. 411 Employees’ Compensation Insurance Levies Ordinance</p>	<p><u>Section 28 Protection of members, etc. of Board</u></p> <p>(1) No-</p> <ul style="list-style-type: none"> <li>(a) member of the Board;</li> <li>(b) member of any committee of the Board;</li> <li>(c) employee of the Board;</li> <li>(d) <b>person exercising powers in association with the Board under section 5(2)(c)<sup>8</sup>,</b></li> </ul> <p>acting in good faith shall be personally liable for any act done or default made by-</p> <ul style="list-style-type: none"> <li>(i) the Board;</li> <li>(ii) any committee of the Board;</li> <li>(iii) any such member, employee or person,</li> </ul> <p>in the exercise and performance (or the purported exercise and performance) of the powers and functions conferred and imposed on the Board under this Ordinance.</p> <p>(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Board for that act or default.</p>

<sup>8</sup> Section 5(2) of Cap. 411 provides that “Without restricting the generality of subsection (1) **the Board may-...(c) exercise any of its powers** either alone or **in association with any person or persons.**”

Ordinance	Extract of relevant provisions
Cap. 423 Employees Retraining Ordinance	<p><u>Section 32 Protection of members and employees of Board</u></p> <p>(1) No-</p> <ul style="list-style-type: none"> <li>(a) member of the Board;</li> <li>(b) member of any committee of the Board;</li> <li>(c) employee of the Board;</li> <li>(d) <b>person exercising powers in association with the Board under section 5(2)(g)<sup>9</sup></b>,</li> </ul> <p>acting in good faith shall be personally liable for any act done or default made by-</p> <ul style="list-style-type: none"> <li>(i) the Board;</li> <li>(ii) any committee of the Board; or</li> <li>(iii) any such member, employee or person,</li> </ul> <p>in the exercise and performance (or the purported exercise and performance) of the powers and functions conferred and imposed on the Board under this Ordinance.</p> <p>(2) The protection afforded under subsection (1) to any member, employee or other person in respect of any act or default shall not affect any liability of the Board for that act or default.</p>
Cap. 426 Occupational Retirement Schemes Ordinance	<p><u>Section 75 Immunity</u></p> <p>(1) No personal liability shall be incurred by <b>any person appointed under section 36(2)<sup>10</sup></b> or public officer in respect of any act done, or omitted to be done, by him in good faith in the performance or purported performance of any function under this Ordinance.</p> <p>(2) The protection conferred on public officers by subsection (1) in respect of any act or omission shall not in any way affect any liability of the Crown in tort for that act or omission.</p>

<sup>9</sup> Section 5(2) of Cap. 423 provides that “Without restricting the generality of subsection (1) **the Board may-...(g) exercise any of its powers either alone or in association with any person or persons**”.

<sup>10</sup> Section 36(2) of Cap. 426 provides that “Where-(a) a requirement relating to a registered scheme made under section 32 is not complied with; or (b) a report is supplied to the Registrar under section 32 and, having regard to the report, he considers it appropriate so to do, **the Registrar may appoint a person to conduct an inquiry** as regards the scheme.”.

Ordinance	Extract of relevant provisions
Cap.480 Sex Discrimination Ordinance	<p data-bbox="349 118 1171 156"><u>Section 68 Protection of members of Commission, etc.</u></p> <p data-bbox="349 169 2148 309">(1) No <b>person</b> to whom this subsection applies, acting in good faith, is personally liable in damages for any act done or default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, imposed or conferred on the Commission under this Ordinance.</p> <p data-bbox="349 322 2148 411">(2) The protection conferred by subsection (1) on any person to whom that subsection applies in respect of any act or default does not in any way affect the liability of the Commission for that act or default.</p> <p data-bbox="349 424 1149 462">(3) <b>Subsection (1) applies to the following persons-</b></p> <ul style="list-style-type: none"> <li data-bbox="416 475 1155 513">(a) a member of the Commission or a committee;</li> <li data-bbox="416 526 965 564">(b) an employee of the Commission;</li> <li data-bbox="416 577 703 616">(c) <b>a conciliator</b><sup>11</sup>.</li> </ul>
Cap. 486 Personal Data (Privacy) Ordinance	<p data-bbox="349 681 685 719"><u>Section 11A Immunity</u></p> <p data-bbox="349 732 2148 917">(1) No civil liability is incurred by the person appointed to be the Commissioner under section 5(3) or a <b>prescribed officer</b><sup>12</sup> in respect of anything done or omitted to be done by the person or officer in good faith in the performance or purported performance of any function, or the exercise or purported exercise of any power, imposed or conferred on the Commissioner or officer under this Ordinance.</p> <p data-bbox="349 930 2148 1023">(2) The protection conferred under subsection (1) on any person in respect of anything done or omitted to be done does not in any way affect the civil liability of the Commissioner as a corporation sole for that thing.</p>
Cap. 487 Disability	<p data-bbox="349 1091 1187 1129"><u>Section 64A Protection of members of Commission etc.</u></p> <p data-bbox="349 1142 2148 1181">(1) No <b>person</b> to whom this subsection applies, acting in good faith, is personally liable in damages for any act done</p>

<sup>11</sup> Section 2(1) of Cap. 480 provides that “conciliator” means “any person engaged by the Commission under section 64(2)(e)”. Section 64(2) provides that “The Commission may do all such things as are necessary for, or incidental or conducive to, the better performance of its functions and in particular but without prejudice to the generality of the foregoing, may-...(e) without prejudice to the generality of paragraph (d), **engage the services of such persons as it thinks fit to carry out any matter relating to the performance of its functions or the exercise of its powers** under section 84”.

<sup>12</sup> Section 2(1) of Cap. 486 provides that “prescribed officer” means “**a person** employed or **engaged under section 9(1)**”. Section 9(1) provides that “**The Commissioner may-**(a) employ such persons (including technical and professional persons); and (b) **engage, other than by way of employment, such technical and professional persons, as he thinks fit to assist him in the performance of his functions, and the exercise of his powers,** under this Ordinance.”.

Ordinance	Extract of relevant provisions
Discrimination Ordinance	<p>or default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, imposed or conferred on the Commission under this Ordinance.</p> <p>(2) The protection conferred by subsection (1) on any person to whom that subsection applies in respect of any act or default does not in any way affect the liability of the Commission for that act or default.</p> <p>(3) <b>Subsection (1) applies to the following persons-</b></p> <ul style="list-style-type: none"> <li>(a) a member of the Commission or a committee;</li> <li>(b) an employee of the Commission;</li> <li>(c) <b>a conciliator<sup>11</sup>.</b></li> </ul>
Cap. 527 Family Status Discrimination Ordinance	<p><u>Section 46A Protection of members of Commission etc.</u></p> <p>(1) No <b>person</b> to whom this subsection applies, acting in good faith, is personally liable in damages for any act done or default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, imposed or conferred on the Commission under this Ordinance.</p> <p>(2) The protection conferred by subsection (1) on any person to whom that subsection applies in respect of any act or default does not in any way affect the liability of the Commission for that act or default.</p> <p>(3) <b>Subsection (1) applies to the following persons-</b></p> <ul style="list-style-type: none"> <li>(a) a member of the Commission or a committee;</li> <li>(b) an employee of the Commission;</li> <li>(c) <b>a conciliator<sup>11</sup>.</b></li> </ul>
Cap. 541 Electoral Affairs Commission Ordinance	<p><u>Section 14 Immunity</u></p> <p>(1) No liability shall be incurred by-</p> <ul style="list-style-type: none"> <li>(a) the Commission in respect of anything done, or omitted to be done, by it in good faith in the performance of a function or the purported performance of a function under this or any other Ordinance; or</li> <li>(b) <b>any other person<sup>13</sup></b> in respect of anything done, or omitted to be done, by him in good faith in the performance</li> </ul>

<sup>13</sup> Section 11 of Cap. 541 provides that “**The Commission may delegate any of its functions**, whether under this or any other Ordinance, other than the power to issue guidelines under section 6(1), make regulations under section 7 a duty to make a report under section 8 or its functions under Part 5, **to** the Chief Electoral Officer, the Director of Home Affairs or **any other**

Ordinance	Extract of relevant provisions
	of a function or the purported performance of a function under this Ordinance.
Cap. 544 Prevention of Copyright Piracy Ordinance	<p data-bbox="349 223 1702 263"><u>Section 33 Protection of the Commissioner, authorized officers and persons assisting them</u></p> <p data-bbox="349 271 2139 406">(1) The Commissioner and authorized officers are not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by them in good faith in the exercise of their powers or the performance of their duties under this Ordinance.</p> <p data-bbox="349 422 2139 614">(2) <b>Any person may act in aid of an authorized officer<sup>14</sup> who appears to be lawfully engaged in the exercise of any power or the performance of any duty under this Ordinance upon being requested by the authorized officer to do so</b> and without being bound to inquire whether or not the authorized officer is acting lawfully or within the scope of his powers or duties.</p> <p data-bbox="349 630 2139 718">(3) <b>A person acting in good faith in aid of an authorized officer under subsection (2)</b> is not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by him while so acting.</p> <p data-bbox="349 734 2016 774">(4) Nothing in this section shall affect any civil liability of the Government for the wrongful acts of its servants.</p>
Cap. 565 Hong Kong Science and Technology Parks Corporation Ordinance	<p data-bbox="349 837 672 877"><u>Section 32 Immunity</u></p> <p data-bbox="349 885 2139 1029">Subject to section 31(5), no personal liability shall be incurred by <b>any individual person<sup>15</sup></b> in respect of anything done or omitted to be done by him in good faith and with reasonable care in the performance or purported performance of any function under this Ordinance.</p>

person it considers fit”.

<sup>14</sup> Section 2(1) of Cap. 544 provides that “authorized officer” means “a public officer authorized by the Commissioner under section 32”.

<sup>15</sup> Section 11(1)(a) of Cap. 565 provides that “**The Board may delegate any of its functions or the Corporation's functions**, other than a function specified in subsection (5), **to-(i) the Chief Executive Officer; (ii) any other person employed or engaged by the Corporation to provide a service for the Corporation; or (iii) a committee.**”

Ordinance	Extract of relevant provisions
Cap. 581 Deposit Protection Scheme Ordinance	<u>Section 47 Immunity</u> (1) The Board, or a person who is, or is acting as, a member, or a <b>related person</b> <sup>16</sup> , of the Board, is not liable for anything done, or omitted to be done, in good faith in the performance, or purported performance, of the functions of the Board. (2) The Monetary Authority, or a <b>person appointed under section 5A(3) of the Exchange Fund Ordinance (Cap 66) to assist the Monetary Authority</b> <sup>17</sup> , is not liable for anything done, or omitted to be done, in good faith in the performance, or purported performance, of the functions imposed on the Authority by or under this Ordinance.
Cap. 584 Clearing and Settlement Systems Ordinance	<u>Section 51 Immunity</u> (1) No civil liability shall be incurred by any of the following persons as a result of anything done or omitted to be done by him in good faith in the exercise or purported exercise of any functions conferred or imposed by or under this Ordinance, namely— (a) any public officer; (b) <b>any person appointed under section 5A(3) of the Exchange Fund Ordinance (Cap 66) to assist the Monetary Authority</b> <sup>17</sup> ; or (c) <b>any person appointed under section 9(3)</b> <sup>18</sup> .
Cap. 602 Race	<u>Section 62 Protection of members of Commission, etc.</u> (1) No <b>person</b> to whom this subsection applies, acting in good faith, is personally liable in damages for any act done or

<sup>16</sup> Section 2(1) of Cap. 581 provides that a “related person”, in relation to the Board, means “(a) a person employed or authorized by the Board under this Ordinance; or (b) **a person appointed as an agent or adviser of the Board** under this Ordinance”. Section 7 provides that “**The Board** has power to do all such things as are necessary for, or incidental or conducive to, the performance of its functions and in particular, but without prejudice to the foregoing, **may—... (g) appoint persons as agents**, or authorize persons—(i) **to assist the Board in the performance of its functions**; or (ii) where the Board is to perform its functions through the Monetary Authority, to assist the Monetary Authority in the performance of such functions; (h) **appoint persons as advisers to assist the Board in the performance of its functions**”.

<sup>17</sup> Section 5A(3) of Cap. 66 provides that “**The Financial Secretary may appoint**, on such terms and conditions as he thinks fit, **persons to assist the Monetary Authority in the performance of the functions of the Monetary Authority specified in subsection (2).**”

<sup>18</sup> Section 9(3) of Cap. 584 provides that “**The Monetary Authority may appoint persons as advisers or consultants to assist him in the performance of his functions** under this Ordinance.”

Ordinance	Extract of relevant provisions
Discrimination Ordinance	<p>default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, imposed or conferred on the Commission under this Ordinance.</p> <p>(2) The protection conferred by subsection (1) on any person to whom that subsection applies in respect of any act or default does not in any way affect the liability of the Commission for that act or default.</p> <p>(3) <b>Subsection (1) applies to the following persons—</b></p> <ul style="list-style-type: none"> <li>(a) a member of the Commission or a committee;</li> <li>(b) an employee of the Commission;</li> <li>(c) <b>a conciliator<sup>11</sup>.</b></li> </ul>
Cap. 618 Lifts and Escalators Ordinance	<p><u>Section 127 Protection of public officers</u></p> <p>(1) A public officer, or <b>a person acting under the direction of a public officer</b>, does not incur any personal liability for anything done or omitted to be done by the officer or the person in good faith in the execution or purported execution of this Ordinance.</p> <p>(2) The protection conferred by subsection (1) does not affect any liability in tort of the Government for the thing done or omitted to be done by the public officer or the person.</p>
Cap. 619 Competition Ordinance	<p><u>Section 133 Personal immunity of members of Commission etc.</u></p> <p>(1) A <b>person</b> to whom this subsection applies is not personally liable for anything done or omitted to be done by the person in good faith in the performance or purported performance of any function of the Commission under this Ordinance.</p> <p>(2) <b>The persons to whom subsection (1) applies are—</b></p> <ul style="list-style-type: none"> <li>(a) members of the Commission;</li> <li>(b) any person who is an officer or employee of the Commission;</li> <li>(c) any person who is a member of any committee of the Commission; and</li> <li>(d) <b>any person who is performing any service for the Commission under a contract of services.</b></li> </ul> <p>(3) The protection conferred by subsection (1) does not affect any liability of the Commission for the act or omission.</p>