

立法會
Legislative Council

LC Paper No. CB(3) 723/13-14

Ref. : CB(3)/M/OR

Tel : 3919 3300

Date : 16 June 2014

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 2 July 2014

**Proposed resolution under section 54A of the
Interpretation and General Clauses Ordinance**

The Secretary for Commerce and Economic Development will move, at the Council meeting of 2 July 2014, the captioned proposed resolution, which is attached for Members' consideration. The President has directed that it be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Secretary will deliver when moving the proposed resolution is also attached.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

Interpretation and General Clauses Ordinance

Resolution

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

Resolved that—

(1) in this Resolution—

commencement date (生效日期)—

- (a) subject to subparagraph (b), means the 14th day after the day on which the Finance Committee of the Legislative Council (*the Committee*) approves, under section 8 of the Public Finance Ordinance (Cap. 2), the proposal to make changes to the Estimates of Expenditure 2014–15 to provide for the following matters arising from the establishment of the Innovation and Technology Bureau—
- (i) the creation of a new head of expenditure and new subheads in that head of expenditure;
 - (ii) supplementary provision in those subheads;
 - (iii) variations in the establishment of posts; or
- (b) if this Resolution is made and passed by the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) after the day on which the Committee approves the proposal mentioned in subparagraph (a), means the 14th day after the day on which this Resolution is made and passed;

- (2) with effect from the commencement date—
- (a) the functions exercisable by the Secretary for Commerce and Economic Development under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Secretary* in section 2(1) of that Ordinance be amended by repealing “Secretary for Commerce and Economic Development” and substituting “Secretary for Innovation and Technology”;
 - (b) the functions exercisable by the Permanent Secretary for Commerce and Economic Development (Communications and Technology) under the Electronic Transactions Ordinance (Cap. 553) be transferred to the Permanent Secretary for Innovation and Technology, and to give full effect to the transfer, the definition of *Permanent Secretary* in section 2(1) of that Ordinance be amended by repealing “Permanent Secretary for Commerce and Economic Development (Communications and Technology)” and substituting “Permanent Secretary for Innovation and Technology”; and
- (3) in addition to and without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)—
- (a) anything lawfully done before the commencement date by or in relation to a public officer from whom any function is transferred under this Resolution (*former officer*) pursuant to or in connection with that function is, on and from that date, to be regarded, in so far as necessary for the purpose or in consequence of that transfer, as done by or in relation to, as the case may be, the public officer to whom that function is transferred (*new officer*);

- (b) anything that, immediately before the commencement date, may be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution may, on and from that date, be continued by or in relation to, as the case may be, the new officer;
- (c) anything that, immediately before the commencement date, is required to be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution is, on and from that date, to be continued by or in relation to, as the case may be, the new officer;
- (d) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution—
- (i) any document, agreement or arrangement creating or giving rise to legal rights or obligations that—
- (A) refers to a former officer, or was prepared, made or entered into by a former officer on behalf of the Government; and
- (B) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to be construed as if the references to the former officer included references to the new officer;
- (ii) in any legal proceedings—
- (A) in which a former officer is a party; and
- (B) that are subsisting immediately before the commencement date,

- the new officer is, on and from that date, to substitute for the former officer as that party;
- (iii) any right of appeal to a former officer that is subsisting immediately before the commencement date is, on and from that date, treated as being a right of appeal to the new officer;
- (iv) any form that is specified or prescribed before the commencement date for use in connection with any function of a former officer that is transferred under this Resolution may, on and from that date, be used despite the fact that it contains references to the former officer, and those references are to be construed as references to the new officer;
- (e) without limiting subparagraphs (a), (b) and (c), and in so far as necessary for the purpose or in consequence of the transfer of functions under this Resolution, any document, agreement or arrangement that—
- (i) contains any reference to a public officer or a policy bureau (*former officer or bureau*) specified in column 1 of the Schedule;
- (ii) was prepared, made or entered into by any public officer on behalf of the Government;
- (iii) does not create or give rise to any legal right or obligation; and
- (iv) is in force immediately before, or is to come into force on or after, the commencement date,
- is, on and from that date, to have effect as if the reference is substituted by a reference to the public officer or policy bureau specified opposite to the former officer or bureau in column 2 of the Schedule in so far as the substitution is necessary for or conducive to the

attainment of the purposes of the document, agreement or arrangement.

Schedule

[para. (3)(e)]

Substitution of References to Public Officer and Policy Bureau

Secretary for Commerce
and Economic Development

Secretary for Innovation and Technology

Commerce and Economic
Development Bureau

Innovation and Technology Bureau

[DRAFT]

Legislative Council Sitting on 2 July 2014
Proposed Resolution under the
Interpretation and General Clauses Ordinance

Speech of the Secretary for Commerce and Economic Development

President,

I move that the resolution proposed under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1), as set out on the Agenda, be passed. The objective of the resolution is to transfer the relevant statutory functions under the Electronic Transactions Ordinance (Cap. 553) from the Secretary for Commerce and Economic Development and Permanent Secretary for Commerce and Economic Development (Communications and Technology) to the Secretary for Innovation and Technology and Permanent Secretary for Innovation and Technology.

2. The Chief Executive announced in the 2014 Policy Address to re-initiate the setting up of an Innovation and Technology Bureau to provide dedicated high level leadership on the development of innovation and technology. The proposed establishment of a new Bureau also demonstrates the importance of innovation and technology to Hong Kong's economic development.

3. The new Innovation and Technology Bureau will take over the policy responsibilities relevant to the Innovation and Technology Commission and the Office of the Government Chief Information Officer from the existing Communications and Technology Branch of the Commerce and Economic Development Bureau. Legislative amendments are required to effect the transfer of the relevant statutory functions. The resolution is solely a technical amendment and will not involve any substantive amendments to the relevant statutory functions.

4. At its meeting on 23 May 2014, the House Committee of the Legislative Council decided to form a Subcommittee to scrutinise the draft resolution. The Subcommittee has completed the scrutiny after holding two meetings. The Government has adopted all the suggestions of the Subcommittee. All the relevant amendments have been incorporated in the proposed resolution. I thank the Subcommittee for their work.

5. After the passage of the resolution and after obtaining the necessary approval of the LegCo Finance Committee on the related staffing and financial proposal, the Chief Executive in Council will make an order to include Secretary for Innovation and Technology to the list of public officers specified in Schedule 6 of the Interpretation and General Clauses Ordinance.

6. The Panel on Information Technology and Broadcasting of the Legislative Council held a special meeting on 3 May to listen to the views of the deputations on the proposed establishment of the Innovation and Technology Bureau. Most of the deputations supported the establishment of the Innovation and Technology Bureau and both the Panel on Information Technology and Broadcasting and the Panel on Commerce and Industry passed motions supporting the establishment of the new Bureau as soon as possible. There is a clear demand from the community that the Innovation and Technology Bureau be established as soon as possible in order to steer the work in respect of innovation and technology development in Hong Kong. I would like to appeal to Members to support the resolution, so that the Innovation and Technology Bureau can be set up soon to inject new impetus to the economic development of Hong Kong.

7. Thank you, President.