



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2511 1458)

28 May 2014

Mr Ivanhoe CHANG
Prin AS for Commerce & Econ Dev
(Communications & Technology)B
21/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr CHANG,

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

Thank you for your letter dated 23 May 2014.

We note on page 3 of your letter that you would remove paragraphs (3)(d)(iii) and (v) of the proposed resolution by way of an amendment.

We also note your confirmation that the matters mentioned in paragraph (3) of the proposed resolution must be read in conjunction with paragraph (2), i.e. transfer of functions currently exercisable by the Secretary for Commerce and Economic Development and Permanent Secretary for Commerce and Economic Development (Communications and Technology) under the Electronic Transactions Ordinance (Cap. 553) (the Ordinance) to the proposed new Secretary for Innovation and Technology and Permanent Secretary for Innovation and Technology respectively. In that case, it is clear that it is the legislative intent that the matters mentioned in paragraph (3) of the proposed resolution are matters related to the proposed transfer of existing statutory functions under the Ordinance.

It is noted that paragraphs (3)(a), (b) and (c) preserve, in general, the act done, or may be done and is in the process of being done, or is required to be done and is in the process of being done pursuant to or in connection with the transfer of statutory functions under the proposed resolution. To contrast, it appears that paragraphs (3)(d) and (e) intend to deal with specific matters in the Ordinance. As such, we are of the view that the matters referred to in paragraphs (3)(d) and (e) should have clear legal basis in the Ordinance. It would be unsatisfactory to rely on the remedial interpretation under section 19 of the Interpretation and General Clauses Ordinance (Cap. 1).

We are glad that you have agreed with us about the ambiguity of the matters referred to in paragraphs (3)(d)(iii) and (v) of the proposed resolution and would make suitable amendments to them. In relation to the remaining sub-paragraphs in paragraph (3) (i.e. paragraphs (3)(d)(i), (ii), (iv) and (vi)) and paragraph (3)(e) of the proposed resolution, it is appreciated that if you would illustrate how the matters referred to in the said sub-paragraphs are related to the corresponding functions or duties of the former officer or bureau provided for in the Ordinance.

Your earliest reply, in both languages, is appreciated.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Winnie LO', written in a cursive style.

(Winnie LO)
Assistant Legal Adviser

c.c. LA
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