

商務及經濟發展局  
通訊及科技科

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27 February 2015

Miss Wendy Kan  
Assistant Legal Adviser  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear Miss Kan,

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

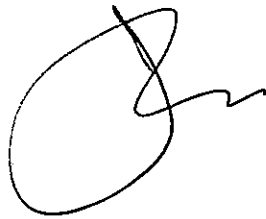
Thank you for your second letter of 26 February 2015.

We have considered the paragraph cited in your letter. Paragraph 10.2.3 of *Craies on Legislation*, Sweet & Maxwell (10th edition, 2012) states that “while an Act of Parliament does not lapse for mere disuse, it is possible for the effect of an Act to lapse because *it depends for its continuing effect on a state of affairs that has permanently ceased to exist.* (italics added)” The Agricultural Research Act 1956 (the 1956 Act) concerned the function and operation of the Agricultural Research Council. It is the author's view that the 1956 Act lapsed because its continuing effect depended on a state of affairs, i.e. the existence of the Agricultural Research Council, which had permanently ceased to exist on the surrender of the

charter of the Council. We considered that the case of the 1956 Act is not pertinent to the present case of the Original Resolution. The subject matter of the 1956 Act had vanished after the commencement of the 1956 Act, while the subject matter of the Original Resolution, i.e. the transfer of statutory functions to the proposed Secretary for Innovation and Technology and proposed Permanent Secretary for Innovation and Technology, has not yet come into operation. The Original Resolution has yet to commence, there is not yet any "continuing effect" and thus no issue of lapse.

The Original Resolution is still valid and subsists. It has not come into operation because the condition provided in the commencement provision could not be fulfilled. However, it is capable of being brought into operation by amending the commencement provision.

Please let us know if you need any further information.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small flourish.

( Ivanhoe Chang )  
for Secretary for Commerce and Economic Development

c.c. DoJ (Attn: Ms Angie Li, SGC (By Fax: 2869 1302))