

Report on Further Development of the Political Appointment System

October 2007

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EXECUTIVE SUMMARY

1. This section sets out our recommendations on the further development of the Political Appointment System, on the basis of the consultation document published in July 2006 and after taking into account the views received.

Creation of New Positions

2. We recommend –
 - (a) that one position of Under Secretary (副局長) at the rank of Deputy Director of Bureau (副局長) and one position of Political Assistant to Director of Bureau be created in each policy bureau (except the Civil Service Bureau (“CSB”)) (paragraph 4.03); and
 - (b) that the title of Political Assistant to Director of Bureau (局長政治助理) be adopted instead of the previous one of “Assistant to Director of Bureau” in order to differentiate their role from that of Administrative Assistants to Directors of Bureau (局長政務助理) (paragraph 4.05).

Job description for the New Positions

3. As regards the job description for the new positions, we recommend that the job description for the Deputy Directors of Bureau should be adjusted to underline the fact that they are expected to assume a full range of political responsibilities (including the handling of Legislative Council (“LegCo”) business). This will reduce the exposure of civil service colleagues from having to deal with politically sensitive issues in LegCo (paragraph 4.07(a)).
4. We recommend that the job description for the Political Assistants to Directors of Bureau be strengthened to make it clear that they will take up various aspects of political liaison work (paragraph 4.07(b)).

5. No substantial changes to the job descriptions for Permanent Secretaries, Administrative Assistants and other directorate officers in the Government Secretariat are proposed. However, in time the roles of civil servants with respect to the conduct of policy research, analysis and formulation of options will become more prominent under the proposed arrangements (paragraph 5.10).
6. We recommend that all the positions of Administrative Assistant and Press Secretary serving the Principal Officials be filled by civil servants on posting. They will continue to come under the civil service stream, and be required to adhere to the principle of political neutrality (paragraphs 5.22 and 5.23).

Appointment of the New Appointees

7. We recommend that the Chief Executive (“CE”) should chair an Appointment Committee to consider nominations and appointments of potential candidates to fill the new political positions, and assess and consider the suitability of these candidates for the positions. The Appointment Committee will comprise the Secretaries of Department, the relevant Director(s) of Bureau and the Director of the Chief Executive’s Office (“DCEO”) (paragraph 7.10).
8. We recommend that Deputy Directors of Bureau and Political Assistants to Directors of Bureau should be appointed and removed by the CE on the advice of the Appointment Committee (paragraph 7.16).
9. In line with the Basic Law, all persons filling the positions in the political stream should be permanent residents of Hong Kong (paragraph 7.12).
10. We also recommend that persons filling the new positions, if selected from the body of serving civil servants, should leave the civil service before taking up political appointments (i.e. no “revolving door” arrangement) (paragraph 5.16).

Remuneration for the New Positions

11. We recommend –
 - (a) that for Deputy Director of Bureau, the level of remuneration should be pitched at a range equivalent to 65% to 75% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau¹; and
 - (b) that for Political Assistant to Director of Bureau, the level of remuneration should be pitched at a range equivalent to 35% to 55% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau² (paragraph 9.02).

The Position of the Secretary for the Civil Service (“SCS”)

12. We recommend that given the unique role of the SCS, he should continue to retain his civil service status and not be obligated to resign or retire from the civil service before taking up the position. He may return to the civil service at his original rank after leaving the office of the SCS if he has not yet reached the retirement age specified for civil servants (paragraphs 5.18 and 5.19).
13. The SCS will not be provided with a politically appointed Deputy Director of Bureau and a Political Assistant to Director of Bureau (paragraph 5.20).

¹ This is broadly equivalent to the remuneration of a D4 to D6 civil servant on agreement terms with all allowances and end-of-contract gratuity encashed.

² This is broadly equivalent to the remuneration of a senior professional to D2 civil servant on agreement terms with all allowances and end-of-contract gratuity encashed.

Private Offices of the Secretaries of Department

14. We recommend that one position each of Political Assistant to Chief Secretary for Administration and Political Assistant to Financial Secretary, both at the rank of Political Assistant to Director of Bureau, should be created in the respective offices and that they should be subject to the same appointment, remuneration and other arrangements as Political Assistants to Directors of Bureau (paragraph 6.03).

Code for Political Appointees

15. We recommend –
 - (a) that the “Code for Principal Officials under the Accountability System” should be adapted as the “Code for Officials under the Political Appointment System”; and
 - (b) that the application of the Code should be extended to cover all political appointees (paragraph 8.03).

Financial Implications and implementation

16. We will seek the approval of the LegCo Finance Committee for the creation of the proposed positions. If necessary, these positions can be filled in phases. It is important that these new positions be filled by individuals of the right calibre (paragraph 10.06).
17. The new positions will not be created at the expense of the civil service establishment (paragraph 10.05).

CHAPTER 1: INTRODUCTION

- 1.01 The Government issued in July 2006 a consultation document on its proposals to canvass views from the community on how best to further develop the Political Appointment System. The Government proposed to create two additional layers of political appointment positions, namely Deputy Directors of Bureau³ and Assistants to Directors of Bureau. The consultation period ended in November 2006. This Report sets out the Government's proposed way forward after taking into account the views received from the public.
- 1.02. In the next chapter, Chapter 2, we set out the Government's objectives and original proposals put forth in the consultation document. Chapter 3 sets out the proceedings of the consultation period, as well as a summary of the views received and the Government's response. Chapters 4 to 10 set out the recommendations, including any modifications to the Government's original proposals after taking into account the views received.

³ "Deputy Director of Bureau" is the rank title in English. The position title in English is "Under Secretary". Please see paragraph 4.04 of this Report.

CHAPTER 2: PROPOSALS SET OUT IN THE CONSULTATION DOCUMENT

2.01 This chapter sets out the Government's objectives and original proposals put forth in the consultation document released in July 2006.

Operation of the System since 2002

2.02. The Political Appointment System was introduced in July 2002. Under the new system, there is a political tier at the top underpinned by the civil service as the backbone of the Government. So far, the Political Appointment System has been confined to the three Secretaries of Department, the 12 Directors of Bureau and the DCEO.

2.03 The consultation document has reviewed the operation of the System since 2002 (Chapter 1 of the consultation document). Whilst the working of the System was not entirely smooth in the initial period, the Political Appointment System has started to run in after several years of operation. The new system has placed the Government in a better position to respond to the modern demands of governance in three aspects :

- (a) Principal Officials⁴ are held accountable in the open and transparent setting of our society;
- (b) it has strengthened the foundation of a professional and politically neutral civil service; and
- (c) it has opened up the top government positions to individuals outside and within the civil service, thereby enabling Hong Kong to draw from a wider pool of political talents.

⁴ In this Report, unless otherwise specified, "Principal Officials" means Principal Officials under the Political Appointment System, i.e. the Secretaries of Department and the Directors of Bureau.

Objectives of further development of the System

- 2.04 As set out in the consultation document and summarised below, the Government considers that there is a case to further develop the Political Appointment System :
- (a) Principal Officials need additional support to meet the demands of **people-based governance**. The existing political layer is too thin to deal effectively with the demands of governance and political work.
 - (b) Additional political appointments will enhance the capacity of the political team to take on political work with the support of civil servants, and will, therefore, be conducive to maintaining the **political neutrality of the civil service**.
 - (c) Political positions at different levels can provide a **more comprehensive career path for political talents** to pursue. The grooming of political talents will tie in with the progressive development of a more democratic political system⁵.

Guiding principles

- 2.05. The consultation document has also set out the following principles which the Government considers should guide the deliberation on the further development of the Political Appointment System.
- (a) The number of additional political appointments should be small.
 - (b) Senior civil servants will continue to provide support to Principal Officials.
 - (c) Additional political layers will not be created at the expense of the civil service.

⁵ Please refer to paragraph 5.08 of the Green Paper on Constitutional Development (July 2007).

- (d) Rules will be put in place to prevent conflict of interests of the new political appointees, both during and after their term of office.

Creation of two additional layers of political appointees and related proposals

- 2.06 In the light of the above considerations and guiding principles, the Government has proposed in the consultation document that new positions dedicated to political work, namely Deputy Directors of Bureau and Assistants to Directors of Bureau, should be created with the aim of strengthening support for Principal Officials in undertaking political work.

- 2.07. The consultation paper has also examined a number of related issues and set out the Government's proposals. These include, for example, the juxtaposition of these political positions in the government structure, the source of appointees, their responsibilities, their term of appointment, cash remuneration and other benefits, the framework governing their performance and behaviour, and their interface with the civil service, etc. The proposals also include the arrangements regarding the Secretary for the Civil Service, and the existing positions of Administrative Assistants and Press Secretaries in the private offices of the Principal Officials.

CHAPTER 3: PROCEEDINGS OF THE CONSULTATION AND VIEWS COLLECTED

3.01 This chapter sets out the main aspects of the consultation exercise, and presents the key views received and the Government's response.

Public Consultation on the Government's Proposal

3.02 Public consultation on the Government's proposals to further develop the Political Appointment System was launched from 26 July to 30 November 2006.

3.03 When the consultation document was launched, the Government had an informal meeting with the LegCo Panel on Constitutional Affairs. This was followed by a formal meeting on 31 July 2006.

3.04 The Government used a wide variety of open channels to collect views from different sectors of the community. To facilitate public understanding of the consultation document, a pamphlet was produced. The Government also made use of various means to publicise the consultation (for example, by Announcement of Public Interests), and appealed to organisations and individuals to forward, by post, facsimile, or e-mail, their views on the proposals. A total of 218 written submissions were received during public consultation period⁶. The collection of the submissions (except a few which requested confidentiality) is in Appendix I to this Report.

3.05 In addition to the submissions received, we have also reached out to different sectors of the community to gauge their views on the proposals put forth in the consultation document. The then

⁶ The Constitutional Affairs Bureau received three more submissions on the public consultation document shortly after the public consultation period ended.

Constitutional Affairs Bureau (“CAB”)⁷ exchanged views with members of the Committee on Governance and Political Development of the Commission on Strategic Development (“CSD”) at a workshop held in September 2006 and attended seminars and dedicated sessions on the subject organised by think-tanks, young professionals, business and professional organisations, as well as other community organisations. Further, CAB briefed members of district focus groups on the proposals at four sessions and listened to their views. The summaries of views expressed at the CSD workshop and the district focus group sessions are set out in Appendix II to this Report.

Overview of public views

3.06 The major views received on the proposals put forth in the consultation document are summarised below.

(1) **Case for further development of the Political Appointment System**

3.07 Many views indicate that the respondents share the need for further development of the Political Appointment System by creating two additional layers of political appointees. The grounds for holding this position are summarised below.

(a) **Complementing Hong Kong’s constitutional development**

Many views indicate that, as we take forward constitutional development of Hong Kong, we need a pool of talents with experience in political affairs and solid background in policy formulation and execution. Those holding this view consider that the new positions in the political tier should be able to broaden the avenues for those who wish to pursue a career in politics, particularly young aspirants, to participate in policy formulation, gain practical experience and knowledge in government operations, and hone their political skills through dealing with LegCo, District Councils (“DCs”), the media and various stakeholders.

⁷ The title of Constitutional Affairs Bureau has been renamed as “Constitutional and Mainland Affairs Bureau” since 1 July 2007, along with the re-organisation of the Government Secretariat to tie in with inauguration of the third term HKSAR Government.

This will also pave the way for further democratic development as Hong Kong moves towards universal suffrage. In overall terms, the Government's proposals should be conducive to the grooming of all-round talents in public affairs⁸.

(b) Wider spectrum of expertise for better governance

There are many views which indicate that, with an increasingly complex political environment, the top echelon of the Government needs to encompass talents with experience and knowledge from more diverse backgrounds. Those holding the above views consider that further development of the Political Appointment System should enable aspirants from a wide social spectrum and professional fields to :

- (i) enrich the composition of the political team;
- (ii) contribute to better governance of Hong Kong; and
- (iii) facilitate exchanges of talents between the Government, academic, business, professional and other sectors⁹.

⁸ For example, the Democratic Alliance for the Betterment and Progress of Hong Kong has indicated that the smooth implementation of universal suffrage will require, among others, a sufficient pool of political talents. The Government's proposal to create more political positions is an appropriate measure to actively respond to the community's call for grooming of political talents; please refer to Appendix I (P019) for details.

⁹ For example, the New Forum and the Hong Kong Professionals and Senior Executives Association have indicated that the Government's proposal to further develop the Political Appointment System can help bring in talents from various sources and strengthen governance; please refer to Appendix I (P099) and (P052) for details. Dr Ray Yep has also indicated that it will no longer be adequate for the Government to rely only on the civil service to cope with the rapid socio-political development of Hong Kong, and the Political Appointment System can help draw new ideas for governance and policy-making; please refer to Appendix I (P098).

(c) Stronger support for political work

There are many views which indicate that respondents share the proposition that the existing political tier of Principal Officials is too thin to cope with the full range of political work effectively¹⁰. There are also views that any such additional support should come from people who share the vision of the political team and have the capability to shoulder the responsibility of defending Government policies and decisions in the public arena¹¹. There are views which indicate that the proposed two additional layers of political appointees should put more emphasis on political lobbying and liaison with LegCo, the media and various interest groups¹². A stronger political team should be able to complement the Government's efforts in taking its initiatives through LegCo and securing public support. Generally, these views agree that enhancing the political capacity of the governing team will be conducive to the pursuit of people-based and effective governance.

¹⁰ For example, the Democratic Alliance for the Betterment and Progress of Hong Kong has indicated that it is difficult for the existing team of 14 politically appointed Principal Officials to effectively cope with all the political work, in respect of which the new political positions proposed by the Government can provide the support required; please refer to Appendix I (P019) for details.

¹¹ For example, the Liberal Party has indicated that the new political positions proposed by the Government can allow the Directors of Bureau to have their own teams of political appointees, which share their vision, to carry out political work; please refer to Appendix I (P021) for details. Ms Zandra Mok Yee-tuen has also indicated that composing a team sharing the vision of the incumbent Chief Executive through political appointments is “a right thing to do”; please refer to Appendix I (P071) for details.

¹² For example, the Democratic Alliance for the Betterment and Progress of Hong Kong has indicated that the public will expect the new political appointees to assist in political work, such as keeping more contact with the community and listening more to the public opinion, and attending LegCo meeting and consulting Members' views, in the early stage of policy formulation; please refer to Appendix I (P019) for details.

(d) Better division of labour between political appointees and civil servants

There are views which note the undesirability for senior civil servants having to take up a political role. Those holding the above views hope that, with a stronger political team backing the Principal Officials, we can leave such political role to the political team and civil servants can focus more on policy work and administrative matters¹³. There are many views which indicate that clearer delineation should be introduced to preserve a permanent, professional and politically impartial civil service, as this is also a crucial element of good governance¹⁴.

3.08 There are views which do not support the creation of the proposed positions. The grounds for holding this position are summarised as follows.

(a) Adequate support from the civil service

There are views which question the need for the proposed political positions, because senior civil servants already provide Principal Officials with sufficient support¹⁵.

¹³ For example, the Kowloon Federation of Associations has indicated that the Government's proposal to increase the number of political appointees can strengthen the political work of the Directors of Bureau, and will enable civil servants to focus on their original administrative work; please refer to Appendix I (P007) for further details.

¹⁴ For example, the Democratic Alliance for the Betterment and Progress of Hong Kong and the Liberal Party have indicated their support to the maintenance of political neutrality of the civil service, and have indicated that the roles and responsibilities of the political appointees and the civil service should be clearly delineated; please refer to Appendix I (P019) and (P021) for details.

¹⁵ Views expressing that political work can be handled by civil servants, and therefore there is no need for any additional political appointees, can be found, for example, in Appendix I (P193) and (P206).

(b) Cost-effectiveness of the proposed positions

There are views which indicate that the creation of the proposed positions would entail additional costs to the taxpayer and go against our efforts in controlling public expenditure under the policy of keeping a “small government”¹⁶. There are also views which indicate that creating additional layers will only make the Government less efficient, and complicate the operations of the Government¹⁷.

(c) Lack of accountability in the absence of universal suffrage

There are views which indicate that the Political Appointment System, in its present form, will not be able to demonstrate the accountability of political appointees to the people because the CE is not elected by universal suffrage¹⁸. Among those taking this view, some consider that a more fundamental review of the Political Appointment System should be undertaken before any expansion is contemplated¹⁹. There are views that the expansion of the Political Appointment System would open the door to a “spoils system” for political parties which have close relations with the Government²⁰.

¹⁶ For example, Mr Chan Kin-shing of the Yau Tsim Mong District Council has indicated that “small government” is the best way of managing the society and it is not necessary for the Government to further expand its establishment; please refer to Appendix I (P079) for details.

¹⁷ Views expressing that the additional layers will undermine the efficiency of the Government can be found, for example, in Appendix I (P028) and (P206).

¹⁸ For example, the Democratic Party and Hon Emily Lau Wai-hing have indicated that development of the Political Appointment System should come after implementation of universal suffrage; please refer to Appendix I (P018) and (P113) for details.

¹⁹ For example, Mrs Anson Chan has indicated that a thorough and open review of the Accountability System should be conducted first as a basis for deciding what the next steps should be; please refer to Appendix I (P143) for details.

²⁰ For example, the Democratic Party has indicated that the Government’s proposal is an arrangement of “spoils system”; please refer to Appendix I (P018) for details.

(d) Adverse implications on the civil service

There are views which indicate that the proposed political positions would create ambiguities in the roles and responsibilities of the political tier and the civil service²¹. There are also views which indicate that the morale of the civil service would be undermined, and the role of civil servants in policy formulation might be marginalised after the new positions have been created²². There are also concerns that if the civil service is a major source of recruits for the new political positions, the civil service may be drained of experienced officers and its capacity to support the Government will be adversely affected²³.

3.09 In overall terms, there are more respondents who take the position of supporting further development of the Political Appointment System through creation of two additional layers of political appointees.

(2) Arrangements for implementation

3.10 Apart from the overall responses as to whether they are in support of further development of the Political Appointment System (paragraphs 3.07 and 3.08 above), respondents have also offered views on details at a more practical level. Views on the specific proposed arrangements have focused on seven main areas, namely delineation of roles and responsibilities, pool of potential political candidates, selection of candidates, appointment procedures, avoidance of conflict of interests, pace of implementation and

²¹ For example, Mrs Anson Chan has indicated that the new political positions proposed by the Government have no clear functional responsibilities, and the roles and lines of responsibility between political appointees and senior civil servants are not clearly defined; please refer to Appendix I (P143) for details.

²² Views expressing that senior civil servants will be further sidelined after the expansion of the Political Appointment System can be found, for example, in Appendix I (P205).

²³ For example, Mrs Anson Chan has indicated that it is possible that a significant number of new political appointees will be drawn from the senior ranks of the civil service, in particular the Administrative Officer (“AO”) grade, and that this will deplete the pool of talent in the AO grade; please refer to Appendix I (P143) for details.

financial implications, as summarised separately below.

(a) Delineation of roles and responsibilities

There are many views which suggest that the Government should clarify the line of command and the duties to be carried out by the new tiers of political appointees, and how these duties would help delineate their roles in practical terms with those of civil servants, especially with the Permanent Secretaries and the Administrative Assistants to Directors of Bureau²⁴. In particular, a few respondents put forward the views that the job duties of Assistants to Directors of Bureau should be more specific to illustrate clearly their role in carrying out the full range of political work²⁵. Relating to this, there are also views that the Government should specify how situations where civil servants consider that they have been instructed to act in a politically partial manner or in contravention of the core values of the civil service should be dealt with²⁶.

²⁴ For example, the Public Service Commission has indicated that, to ensure organisational efficiency and to minimise misunderstanding between the political appointees and the civil servants, clear parameters should be set on what each team can and cannot do; please refer to Appendix I (P168) for details.

Views expressing that it is important to clearly delineate the division of responsibilities between the political tier and the civil service can also be found in, for example, the submissions of the Liberal Party and the Democratic Alliance for the Betterment and Progress of Hong Kong; please refer to Appendix I (P021) and (P019) for details.

²⁵ For example, Dr Cheung Chor-yung has indicated that, according to the description in the consultation document, the duties of Assistants to Directors of Bureau tend to be supportive in nature. They will need to enhance their involvement or influence in the early stage of the policy making process; please refer to Appendix I (P098) for details.

²⁶ For example, the Public Service Commission has indicated its support to the provision of a channel for a civil servant to discuss and escalate his concern about a request from the two new tiers of political appointees through his Permanent Secretary to the Principal Official or the SCS, and finally up to the CE; please see Appendix I (P168) for details.

(b) Pool of potential political appointees

There are views that the composition of the new tiers of political appointees should be balanced, instead of relying on any single source (such as drawing from the civil service or among political parties only)²⁷. There are also views that civil servants appointed to fill political positions should leave the civil service before taking up the appointments, i.e. no “revolving door” to avoid politicising the civil service²⁸. There are also other views which suggest that having a “revolving door” arrangement would help attract more civil servants to take up political appointments²⁹.

(c) Selection of candidates

There are views which highlight the importance of ensuring only capable individuals meeting the requirements are appointed to fill the proposed positions, and indicate that the selection process should be as stringent as possible. There are also views which indicate that the selection process should be open, transparent and merit-based, to inspire confidence among the public and to allay concerns about any “spoils system”³⁰. Some suggestions on the

²⁷ For example, Dr Kitty Poon Kit has indicated that political appointees should be drawn from political parties, civil service, and professional sectors in a ratio which is balanced and beneficial to governance; please refer to Appendix I (P117) for details. The New Forum has also indicated that the Government should recruit people of the right calibre from various backgrounds, such as civil service, business, academic, political, think tank and professional sectors, for the proposed new political positions; please refer to Appendix I (P099) for details.

²⁸ Views expressing objection to the “revolving door” arrangement can be found, for example, in Appendix I (P152) and (P168).

²⁹ Views expressing support to the “revolving door” arrangement can be found, for example, in Appendix I (P008).

³⁰ For example, the Chinese General Chamber of Commerce has indicated that the Government should keep an open mind, follow the principle of selecting only those with talents, and adopt a stringent recruitment system, so as to identify elites from the community to join the political team; please refer to Appendix I (P048) for details. Youth Action 21 has also indicated that the selection process should be fair and transparent to address concerns of the public and inspire their confidence in the Political Appointment System; please refer to Appendix I (P041) for details.

mode of recruitment have emerged from the submissions received. There are some respondents who suggest open recruitment, whereas others suggest the route of forming a selection committee to consider the suitability of candidates³¹.

(d) Appointment procedures

A few respondents raise the issue of whether the Deputy Directors of Bureau should be appointed by the Central People's Government, as they will need to cover the portfolios of their respective Directors of Bureau if the latter are absent from Hong Kong³². There are individual submissions suggesting some sort of consultative sessions with LegCo after the candidates have been identified but before being appointed by the CE³³.

³¹ For example, the Hong Kong Professionals and Senior Executives Association has indicated its support to open recruitment, and that recruitment matters can be decided by a government committee; please refer to Appendix I (P052) for details. However, some have taken a different view on whether open recruitment is appropriate. For example, Hon Jasper Tsang Yok-sing has indicated that, since the political appointees will need to share the vision of the Chief Executive, open recruitment is "incoherent and difficult"; please refer to Appendix I (P084) for details.

³² For example, the New Forum and Mr Wong Siu Yee have raised the issue of whether the Deputy Directors of Bureau should be appointed by the Central People's Government; please refer to Appendix I (P099) and (P014) for details. The Government's position is that the Basic Law does not require that the Deputy Directors of Bureau should be appointed by the Central People's Government. Please see paragraph 7.19 below for details.

³³ For example, the SynergyNet has indicated that nominees for the political positions should attend a session with LegCo and take questions before their appointment; please refer to Appendix I (P098) for details. However, some have taken a different view. For example, the Hong Kong Professionals and Senior Executives Association does not support the idea of requiring the appointees to go through a questioning session by the LegCo; please refer to Appendix I (P052) for details.

(e) Avoidance of conflict of interest during and after serving as political appointees

There are some views which indicate that the political appointees, upon appointment to the new positions, should be subject to a set of rules to prevent conflict of interests during and after their term of office³⁴. A few indicate that briefing sessions (say, by the Independent Commission Against Corruption) should be provided for the appointees on such rules and measures³⁵. A few also indicate that during their terms of office, those with political party background should give up any “leadership” role in the party, so as to avoid any conflict of interest³⁶.

(f) Flexibility and pace of implementation

There are views which indicate that the number of Deputy Directors of Bureau and Assistants to Directors of Bureau for each bureau should be flexible. In particular, for those bureaux covering a span of several portfolios, there should be one Deputy Director of Bureau looking after different portfolios³⁷. There are also views indicating that the new positions should be created in phases, subject to availability of candidates of the right calibre and the need for such

³⁴ For example, the Hong Kong Professionals and Senior Executives Association has indicated that the relevant law and code, such as the Officials Secrets Ordinance, the Prevention of Bribery Ordinance, and the Code for Principal Officials under the Accountability System, should be applied to the politically appointed officials; and the Kowloon Federation of Associations has also indicated that the Government should put in place mechanism to avoid any conflict of interest after these officials have left the Government; please refer to Appendix I (P052) and (P007) for details.

³⁵ For example, Hong Kong Democratic Foundation has indicated that Independent Commission Against Corruption should brief the new political appointees; please refer to Appendix I (P158) for details.

³⁶ This suggestion is made by, for example, the Kowloon City District Resident Association; please refer to Appendix I (P008) for details.

³⁷ This suggestion is made by, for example, the Business and Professionals Federation of Hong Kong and the Kowloon Federation of Associations; please refer to Appendix I (P147) and (P007) for details.

positions in each bureau³⁸. There are a few respondents who advocate the creation of political positions to support the Secretaries of Department³⁹.

(g) Financial implications

There are some views which suggest that the civil service establishment should be reviewed; some propose that the creation of any new political positions should be offset by a corresponding number of civil service posts at the equivalent rank⁴⁰.

(3) Other views on governance

3.11 Among the submissions received, some have expressed views on the wider issue of governance, as follows.

(a) Relationship between the Executive and the Legislature

There are views which indicate that it is important to enhance the relationship between the executive and the legislature, as this is fundamental to effective governance⁴¹. There are also views which indicate that the Government should form a “political alliance” with friendly political parties, and take steps in developing party politics in the

³⁸ For example, the Public Service Commission has indicated that the expanded Political Appointment System should be allowed to be implemented incrementally, if appropriate, to ensure that only those who are suitable and qualified are appointed; please refer to Appendix I (P168) for details.

³⁹ Views advocating the creation of political positions to support the Secretaries of Department can be found, for example, in Appendix I (P036) and (P188).

⁴⁰ For example, the East Kowloon District Residents’ Committee has indicated that the Government should review the civil service establishment; please refer to Appendix I (P036) for details. The views of the Liberal Party are set out in Appendix I (P021).

⁴¹ For example, the SynergyNet has expressed the view that, in the long term, the improvement to the system of political accountability will have to depend on a healthy and good relationship between the executive and the legislature; please refer to Appendix I (P098) for details

longer term⁴².

(b) Training for political talents

There are views that the proposal to further develop the Political Appointment System should be complemented by more comprehensive measures to equip young aspirants with the experience and skills for participation in public affairs⁴³.

(c) Portfolio of Directors of Bureau

There are views which suggest that the portfolios of bureaux needed to be reshuffled as some bureaux are too heavy⁴⁴.

(d) Role of academics and think tanks

There are views which propose the Government to enhance its capacity in policy formulation, research, and analysis by facilitating more frequent exchanges with the academic sector and think tanks, so as to tap their expertise⁴⁵.

⁴² For example, the Liberal Party has indicated that the Government should establish a “political alliance” with friendly political parties to enable the latter to have a greater role in policy formulation; and Hon Emily Lau Wai-hing has indicated support to the formation of “political alliance” between the CE and political parties with close relationship with the Government, and the Government should encourage the development of political parties; please refer to Appendix I (P021) and (P113) for details.

⁴³ For example, the submission at Appendix I (P190) has set out some views on ways to complement the grooming of young political talents, such as strengthening the participation of youth leaders in the advisory bodies.

⁴⁴ For example, the Business and Professionals Federation of Hong Kong and the SnergyNet have expressed their views on how the portfolio of the policy bureaux should be re-organised; please refer to Appendix I (P147) and (P098). In this regard, after this consultation exercise was completed in November 2006, the HKSAR Government has re-organised its 11 policy bureaux into 12 policy bureaux with effect from July 2007.

⁴⁵ For example, the submission at Appendix I (P190) has indicated that the Government should exchange more frequently with think tanks and policy research institutions to enhance its capability in policy analysis.

Analysis of Views and Government's Response

(1) Government's proposals are in the right direction

3.12 The response shows that, in general, the Government's proposals on further development of the Political Appointment System by creating two additional layers of political appointees represent a move in the right direction. The grounds quoted by those supporting the proposals are also in line with the case put forward by the Government in the consultation document.

3.13 As regards the views which do not support the creation of the proposed positions, our response is as follows.

(a) Universal Suffrage not a pre-condition for Political Appointment System

We do not agree with the argument, as suggested by some, that we should further develop the Political Appointment System only after achieving universal suffrage. As pointed out in the Government's Green Paper on Constitutional Development and shared by some of the views received, the further development of the Political Appointment System can complement the progressive development of a more democratic political system. To pave the way for universal suffrage, aside from the hardware of electoral arrangements, we also need to develop the software of political talents. Constitutional development towards universal suffrage should go hand in hand with further development of the Political Appointment System.

(b) Need to rationalise the different roles played by civil servants and political appointees

It is true that senior civil servants have been providing support to the Principal Officials and will continue to do so. However, this does not mean that they can take up fully the role which the proposed political positions will play, as some have suggested. This issue has been discussed in paragraph 2.04 of the consultation document. Such thinking has not taken into account the fundamentally

different yet complementary roles between civil servants and political appointees. In overseas jurisdictions such as Canada and the United Kingdom, the vice-ministers and political aides tender political advice and input to their ministers, whereas senior civil servants provide policy analysis and options. Ministers would amalgamate policy options and political assessment to form government policies. We envisage a similar situation in Hong Kong after expansion of the Political Appointment System.

(c) Importance attached to the principle of small government

As stated in paragraph 2.05(a) of the consultation document⁴⁶, the number of additional political appointments will be small. The annual expenditure is estimated to be \$50 million to \$65 million (see Chapter 9 for details), which we consider will benefit the governance of the HKSAR and will be a worthwhile investment of public resource.

(d) Importance attached to civil service morale

The Government attaches much importance to the issue of civil service morale. As pointed out in paragraph 2.02(b) of the consultation document, at present, there are times when the small team of Principals Officials cannot effectively cope with the full range of political work, even with the support of civil servants. With an increasingly complex political environment, the status quo is not a better guarantee for preserving civil service morale. The government system will need to move with the times. Subject to a clear division of role and responsibility between the civil service and the political team (which will be detailed in Chapter 4), we do not share the view that the further development of the Political Appointment System

⁴⁶ The principles stated in the consultation document are :

- (a) The number of additional political appointments will be small;
- (b) Senior civil servants will continue to provide support to Principal Officials;
- (c) Additional political layers will not be created at the expense of the civil service;
- (d) Rules will be put in place to prevent conflict of interests of the new political appointees, both during and after office.

will necessarily undermine civil service morale.

3.14 In overall terms, despite the reservations raised by some, there is general support from the public views received for the Government's proposals. The need to strengthen the political team and groom political talents is shared by many views received.

(2) **Refinements are required for smooth operation**

3.15 The views received from the public have pointed to a number of important areas which would require further deliberation and, where necessary, refinements. These aspects will be addressed in Chapters 4 to 9 of this Report :

- (a) refinements to the roles and responsibilities of the two additional tiers of political positions (Chapter 4);
- (b) roles and responsibilities of civil servants and their working relationship with politically appointed officials (Chapter 5);
- (c) selection and appointment of candidates (Chapter 7);
- (d) safeguards regarding prevention of conflict of interests, protection of official secrets, and post-office employment (Chapter 8); and
- (e) remuneration package (Chapter 9).

(3) **Further development of the Political Appointment System will support efforts on other fronts to improve governance**

3.16 Some of the issues raised in the written submissions, such as the organisation of government bureaux and the relationship between the executive and the legislature, are issues of paramount importance to Hong Kong.

3.17 Further development of the Political Appointment System is part of the ongoing process of Hong Kong's political evolution. By strengthening the institutional framework, we hope the system will be in a stronger position to meet the challenges arising from the evolution process, and complement our efforts on other fronts in improving governance. Our thinking is set out below.

(a) Relationship between the Executive and the Legislature

It is the Administration's commitment to try as best as we can to field the most appropriate officers to facilitate all deliberations at LegCo, irrespective of rank. In this regard, Principal Officials have tried their very best to join the relevant deliberations in LegCo to explain the views of the Administration. According to the proposals set out in the consultation document, Deputy Directors of Bureau will be responsible for assisting Directors of Bureau in strengthening the working relationship with LegCo. This will include attending committee, subcommittee and panel meetings of LegCo.

(b) Further measures for grooming political talents

We note that, concurrent with the development of the electoral system, some political parties have devoted more attention to the training of political talents. Apart from the proposed creation of two additional layers of political appointees in the Government, we have extended the financial assistance scheme currently applicable to candidates of LegCo election to DC elections with effect from 2007, in order to encourage participation in elections and the development of political talents in Hong Kong.

(c) Portfolios of Directors of Bureau

The Government Secretariat has been re-organised with effect from 1 July 2007. Pursuant to the re-organisation, there are now 12 bureaux, with the net addition of one, being the Labour and Welfare Bureau. The re-organisation is aimed at rationalising the distribution of responsibilities among policy bureaux.

(d) Role of academics and think tanks

We note that, in recent years, academics and think tanks have played an increasingly active role in public policy discussion. Hopefully, the further development of Political Appointment System will facilitate the exchange of both ideas and talents between the academia, think tanks and the senior echelon of the Government.

CHAPTER 4: CREATION OF NEW POLITICAL POSITIONS AND ROLES AND RESPONSIBILITIES OF POLITICALLY APPOINTED OFFICIALS

4.01 This chapter sets out our recommendation on the creation of additional political positions, and the refinements to the roles and responsibilities of the politically appointed officials filling these positions.

Creation of New Political Positions

4.02 The response shows that, in general, the Government's proposals on further development of the Political Appointment System by creating two additional layers of political appointees represent a move in the right direction.

4.03 We **recommend** that one position of Deputy Director of Bureau and one position of Political Assistant to Director of Bureau be provided for each policy bureau, except the CSB. (Please see paragraph 4.05 below on the title of the latter.) The rationale for not providing similar positions for the CSB is explained in Chapter 5.

4.04 “Deputy Director of Bureau” (副局長) is the rank title. The position title in English in the respective policy bureaux will be “Under Secretary”. Both the rank and position titles in Chinese will be “副局長”.

4.05 As regards the title of “Assistant to Director of Bureau” (which serves both as the rank and position title), we **recommend** changing this to “Political Assistant to Director of Bureau” (局長政治助理) to highlight the political nature of the work involved, and to better differentiate the role of this category of political appointees from that of the existing Administrative Assistants to Directors of Bureau (“局長政務助理”).

4.06 By nature, the appointees to these political positions are not civil servants. They will not be subject to the civil service rule of political neutrality. They can enter the Government by direct appointment, and will leave the Government in accordance with the terms in their contracts which are different from those applicable to civil servants.

Roles and Responsibilities of the Deputy Directors of Bureau and Political Assistants to Directors of Bureau

4.07 In order to provide for a clear delineation of the roles and responsibilities of the two new tiers of political appointees, we **recommend** that –

- (a) the job description for the Deputy Directors of Bureau should be adjusted to underline the fact that they are expected to assume a full range of political responsibilities, in particular, as regards LegCo business; and
- (b) the job description for the Political Assistants to Directors of Bureau (hereinafter referred to as “Political Assistants”) should be strengthened to make it clear that they will take up various aspects of political liaison work.

4.08 One of the objectives of expanding the Political Appointment System is to strengthen the support to the politically appointed Principal Officials in undertaking political work, and in maintaining a professional, permanent, and impartial civil service. This will enhance the capacity of the Government to deliver the election manifesto of the CE to the public, and to meet the demands of “people-based governance”. The political team will help conduct political liaison and build up the network of support in the community, whereas civil servants will continue to provide the political team with policy support and to assist in explaining government policies to LegCo and the public.

4.09 There will inevitably be an interface between political work and policy work. The key is to determine the extent to which the political team should take the lead in handling political issues, in attending public meetings, in explaining policies in LegCo, and in dealing with the media. We share the view that the job duties of the Deputy Directors of Bureau and Political Assistants should be

refined to better clarify their responsibilities.

- 4.10 On the other hand, we will also need to preserve the roles of the civil service (in particular the Administrative Service) in policy formulation. Despite the expansion of the Political Appointment System, civil servants will continue to play an important role in implementing, formulating, explaining and defending government policies. For example, where the heads of departments exercise statutory authorities in certain policy areas, such as food safety and environmental hygiene, the concerned civil servants will continue to play their statutory roles and explain operational and technical issues to the public.
- 4.11 To address concerns regarding the respective roles and responsibilities of the political appointees vis-à-vis civil servants working closely to the Directors of Bureau, we will adjust the job duties of the Deputy Directors of Bureau and Political Assistants to differentiate their roles from those of civil servants in a manner as clear-cut as possible.

Deputy Directors of Bureau

- 4.12 Deputy Directors of Bureaus are responsible principally for assisting Directors of Bureau in undertaking the **full range of political work** and **deputising for the Directors of Bureau** during the latter's temporary absence. They are subordinates of Directors of Bureau and work under the latter's direction.
- 4.13 In the consultation document issued in July 2006, we have provided a broad outline of duties of Deputy Directors of Bureau. We have adjusted the job duties of Deputy Directors of Bureau to substantiate their role in assuming the **“full range of political responsibilities”** including, in particular, the handling of LegCo business to address queries as to what their role is in handling political issues in LegCo and the public. The Director of Bureau or the Deputy Director of Bureau will normally attend regular meetings of the relevant LegCo panel.

4.14 We propose to refine the job description of Deputy Directors of Bureaus as follows –

Assisting Directors of Bureau in –

Leadership and Strategies

- (a) setting policy objectives and priorities, formulating policy and legislative initiatives to achieve agreed objective and priorities, scheduling the roll-out of these policies and legislation, and mapping out overall strategies to secure public support for these initiatives;
- (b) coordinating with other bureaux/departments on cross-bureau issues requiring political input to ensure that the objective and priorities of the Government are achieved;

LegCo business and Political liaison

- (c) handling LegCo business and strengthening the working relationship with LegCo by :
 - (i) deputising for Directors of Bureau in their absence;
 - (ii) attending the main meetings of LegCo as assigned by Directors of Bureau to respond to motion debates and LegCo questions, and handling legislative work;
 - (iii) attending committee, subcommittee and panel meetings of the LegCo as assigned by Directors of Bureau to explain and defend the Government's policy decisions and exchange views with Members;
 - (iv) maintaining regular liaison with Members of the LegCo to ensure that the process of policy formulation and implementation benefits from Members' ideas and input, and that Members acquire a fuller understanding of the position taken by the Government; and

- (v) scheduling and securing the passage of bills, motions and subsidiary legislation as well as public expenditure proposals through LegCo, and delivering the Government's legislative and budgetary programme;
- (d) attending public forums and other functions to explain and defend proposals and decisions made by the political team and to answer questions from LegCo Members, stakeholders and the public;
- (e) maintaining close contact with the media for the purpose of enabling the media to be aware of the policy thinking of the Government; and
- (f) maintaining close contact with other stakeholders, such as DCs, political parties/groups, community organisations as well as business, professional and other bodies, and gauging public sentiment and establishing community-wide rapport on government policies and decisions⁴⁷.

Political Assistants

4.15 We have explained in the consultation document that Political Assistants would report to the Directors of Bureau through the Deputy Directors of Bureau. They are mainly responsible for providing **political support and input** to the Directors of Bureau and Deputy Directors of Bureau, and to conduct the necessary **political liaison** at the instruction of the latter. There are views that the proposed job description for Political Assistants in the consultation document is too thin and does not reflect the full aspects of political liaison work which they are expected to carry out. There are also concerns that their duties may overlap with those currently undertaken by civil servants. We agree that emphasis should be placed on the role of the Political Assistants in rendering political advice and political liaison.

⁴⁷ For Items (d) to (f) under paragraph 4.14, civil servants would be required to continue to assist in such work.

- 4.16 We propose to refine the job description of Political Assistants as follows –

Rendering support to Directors of Bureau and Deputy Directors of Bureau in –

Strategies and Political Advice

- (a) providing advice from the political perspective for consideration by Directors of Bureau and Deputy Directors of Bureau;
- (b) contributing to formulation of policy and legislative initiatives, as well as assisting in mapping out overall strategies by giving inputs with a political viewpoint;
- (c) advising on submissions to LegCo and other publications, highlighting any aspect which they consider has political implications, and handling sensitive political points according to the direction of Directors of Bureau and Deputy Directors of Bureau;
- (d) drafting speeches, media statements and other articles, as directed by the Directors of Bureau or the Deputy Directors of Bureau ;

Political liaison

- (e) providing advice on the handling of invitations and correspondence from political parties/groups to Directors of Bureau and Deputy Directors of Bureau;
- (f) assessing from time to time the need for lobbying political parties/groups in dealing with LegCo business and providing advice to Directors of Bureau and Deputy Directors of Bureau accordingly;
- (g) liaising with members of political parties/groups, DCs, community organisations as well as business, professional and other bodies at the instruction of Directors of Bureau and Deputy Directors of Bureau to brief them on issues under the purview of the Directors of Bureau, listen to

their views on issues of concern, and solicit their support for the Government policies concerned;

- (h) liaising with the media according to the direction of the Directors of Bureau and Deputy Directors of Bureau to convey the Government's position on issues and policies concerned; and
- (i) monitoring views from interest groups and the general public on policy issues concerned and assessing the political implications.

Administrative support to Deputy Directors of Bureau and Political Assistants

4.17 To provide support to the new tiers of politically appointed officials, each Deputy Director of Bureau will be supported by a Senior Personal Secretary. Departmental transport for Deputy Directors of Bureau, and secretarial support for Political Assistants, will be provided from within resources currently available to relevant policy bureaux / offices.

Clearer job descriptions, clearer interface

4.18 The revised job descriptions for the Deputy Directors of Bureau and Political Assistants should clarify the interface with their civil service counterparts. It will also help address concerns as to whether the additional political layers will hamper the efficiency of the Government.

4.19 In the next Chapter, we will turn to the other side of the interface, i.e. the roles and responsibilities of the civil service following the expansion of the Political Appointment System.

CHAPTER 5: CIVIL SERVICE UNDER THE POLITICAL APPOINTMENT SYSTEM

5.01 Under the Political Appointment System, the civil service remains the backbone of the Government and continues to assist the political team in the formulation, explanation and implementation of policies, and the delivery of services. As set out in the consultation document, the role and core values of the civil service will remain intact under the further development of the Political Appointment System. Nevertheless, many views received during the consultation period have indicated that there would be a need to provide greater assurance to civil servants by setting out in clearer terms the delineation of duties and interface of work between the political and administrative tiers.

Review of the civil service operation under the Political Appointment System since 2002

5.02 The Political Appointment System has created a new system of government in Hong Kong comprising two streams – the political stream and the civil service. With the Political Appointment System in operation for some five years, civil servants have gradually adapted to the new system of government. In terms of division of roles and responsibilities between the political and civil service streams, it is now well-accepted that Principal Officials are responsible for providing leadership, making policy and political decisions and canvassing community support. They assume political responsibility for the success or failure of matters falling within their respective portfolios and are involved in political work such as defending government policies and lobbying for support from political parties. They actively engage in liaison with LegCo Members, the media and political parties to secure the requisite support for the Government's initiatives. They attend main meetings of LegCo to respond to motion debates, respond to LegCo questions and handle legislative work. Civil servants, on the other hand, focus on assisting Principal Officials in policy formulation, policy explanation, policy implementation and delivery of services to the public. They conduct research and analysis on policy options and make policy

proposals for Principal Officials to consider.

- 5.03 Some have expected that with the introduction of the Political Appointment System, civil servants will not be required to help explain and lobby support for Government policies in LegCo or other public forums as in the case of some overseas jurisdictions. The situation in Hong Kong is however unique. The current thin layer of political appointees means that these appointees are not able to undertake the full range of political work. There remains the need for senior civil servants, in particular, to assist Principal Officials in certain political work, such as explaining policies decided by the Government to political parties and the media, in order to help secure the support of the community and LegCo on these policies.
- 5.04 The established system of appointment, promotion and discipline within the civil service is well preserved under the Political Appointment System. Civil servants continue to be appointed through an open, transparent and competitive process based on merit. Political appointees are not involved in issues affecting civil servants' career such as appointment, promotion, discipline, although their views are sought as an input to performance appraisals of officials directly underpinning them where appropriate. Despite changes in political leadership in the Government in the past few years, we have not witnessed any change to the well established system of appointment, promotion and discipline within the civil service.
- 5.05 In short, the introduction of the Political Appointment System has inevitably changed the way the civil service, in particular its senior echelon, operates in conducting government business but it has not diminished or changed its fundamental importance. The civil service remains a permanent, professional and non-partisan institution contributing to the effective governance of Hong Kong.

Implications of the expansion of the Political Appointment System on the nature and volume of work of civil servants

5.06 There are views that the civil service establishment should be reviewed after an expansion of the Political Appointment System, in order to identify areas which may be trimmed down. It has been the Government's objective to maintain a lean civil service. However, as set out in our consultation document, the further development of the Political Appointment System would not lead to a reduction in the responsibilities or workload of civil servants. We, therefore, do not see a case for reducing civil service posts to offset the creation of the additional political positions. Indeed, we believe the strengthening of the political stream would place more demands on the civil service for policy analysis, information, advice and support.

5.07 There have been concerns that the role of civil servants in policy formulation would be marginalised. In the light of the community's demand for people-based governance to be enhanced, both the political team and the civil service team will complement each other. They will work together in a "symbiotic" relationship. As far as policy formulation is concerned, we envisage that, with the political appointees taking up more political work, senior civil servants can better focus on policy analysis. In turn, this will translate into stronger support for the political team.

Delineation of duties between the political tier and the civil service

5.08 We are encouraged that the core values of the civil service are supported by many of the views received. These core values include -

- (a) commitment to the rule of law;
- (b) honesty and integrity;
- (c) accountability;

- (d) political neutrality or impartiality;
 - (e) impartiality in the execution of public functions;
 - (f) dedication, professionalism and diligence.
- 5.09 There are, however, calls for clarifications and better delineation on some of the duties of Permanent Secretaries, Administrative Assistants and other directorate officers in the Government Secretariat, having regard to their close interaction with the politically appointed officials.
- 5.10 No substantial changes to the job descriptions for Permanent Secretaries, Administrative Assistants and other directorate officers in the Government Secretariat are proposed. However, in time the roles of civil servants with respect to the conduct of policy research, and analysis and formulation of policy options will become more prominent after expansion of the Political Appointment System.

Line of Command

- 5.11 Apart from job descriptions, line of command is another key feature for a clear delineation between the political team and the civil service team underpinning the Directors of Bureau. In this regard, the proposed arrangement set out in paragraph 4.13 of the consultation document is appropriate. Civil servants should continue to report direct, and enjoy direct access, to the Directors of Bureau through their Permanent Secretaries. Deputy Directors of Bureau will have no direct line of command vis-à-vis Permanent Secretaries who will, for the purpose of organisational structure and performance appraisal, continue to report to the Directors of Bureau.
- 5.12 On behalf of their Directors of Bureau, Deputy Directors of Bureau may request civil servants to prepare and provide information and data, including internal analyses and paper and hold meetings with civil servants to discuss the advice being put to the Directors of Bureau. These arrangements will provide Deputy Directors of Bureau with sufficient support in order for them to carry out their work effectively. Any such request by Political Assistants should be channeled through the Directors of

Bureau and the Deputy Directors of Bureau to minimise criss-crossing of lines of communication at the working level.

Guidelines on the working relationship between political appointees and civil servants

- 5.13 In response to the concerns raised in some submissions, the refined job descriptions of the new positions will be promulgated within the Administration to enable the political stream and civil servants to carry out their respective roles efficiently and to avoid uncertainty.
- 5.14 Furthermore, in the code for political appointees (Chapter 8), it will be made clear that at all times they should uphold and promote a clean, permanent, professional, meritocratic and politically impartial civil service. They should give fair consideration and due weight to the advice from civil servants and due regard to rules and regulations which are applicable to civil servants or otherwise regulate the operation of the Government. To mirror this arrangement, a Civil Service Code applicable to civil servants will also be drawn up.

Availability of “revolving door” arrangement

- 5.15 Despite some views which raise doubts about the attractiveness of the new political positions to serving civil servants in the absence of any “revolving door” arrangement, we continue to take the view that there should be no “revolving door” arrangement, in order to ensure that we maintain an apolitical and professional civil service. Otherwise, the distinction between political appointees and civil servants may become blurred over the years, and this would affect the real or perceived political neutrality of the civil service in the longer run.

- 5.16 We **recommend** that persons filling the new positions, if selected from the body of serving civil servants, should leave the civil service before taking up political appointments⁴⁸. The same arrangements for Principal Officials in respect of their pension relating to their civil service career will apply.

Position of the Secretary for Civil Service (“SCS”)

- 5.17 Under the present arrangement, the person filling the SCS position is drawn from the body of serving civil servants and not obligated to resign or retire from the civil service before taking up the position. This unique arrangement for the position of SCS has been put in place having regard to a number of considerations, namely the need for a Principal Official to be accountable for the success or failure of civil service-related policies and matters, the desirability of ensuring the civil service is managed by someone who is familiar with its operation, and the desirability of encouraging suitable serving civil servants to take up the appointment. This unique arrangement also has the advantage of permitting the SCS, as a Principal Official, to serve as a Member of the Executive Council.
- 5.18 SCS is responsible for civil service policy and the management of the civil service. One of the major tasks of SCS is to safeguard the core values of the civil service. It is necessary that the holder of this position can command the respect of the civil service and is perceived by civil servants and the wider public as being able to protect the integrity of the civil service system and defend adequately the interests of the civil service. Requiring a civil servant filling the SCS position to sever his ties with the civil service – either resign or retire from the civil service without the option of reverting to the civil service – is not considered conducive to instilling in the civil service and the wider public

⁴⁸ In other words, a political appointee who is an ex-civil servant would not be permitted to return to his former civil service rank and position automatically upon completion or termination of his political appointment. Should he wish to serve in the civil service again, he would have to go through an open and competitive recruitment process in the usual way.

such a sense of confidence on the holder of this position. We hence **recommend** that the existing arrangement that the person filling the position of SCS be drawn from the body of serving civil servants and not be obligated to resign or retire from the civil service before taking up the position be maintained.

5.19 We have considered the suggestion of making the appointment of SCS on the condition that it would be the person's last civil service appointment. We note that since the implementation of the Political Appointment System, the special arrangement that the SCS be drawn from the serving body of civil servants with a "revolving door" option has been generally accepted by civil servants and the wider public as necessary in view of the unique position of the SCS in comparison with other Directors of Bureau. The arrangement helps maintain a linkage between the holder of SCS position and the civil service. The proposal of making the SCS appointment as the selected person's last appointment, on the other hand, would in effect do away with the "revolving door" arrangement. We believe this is not conducive to instilling a sense of confidence that the holder of the position can protect the integrity of the civil service system and defend adequately the interests of the civil service when facing political pressure. We recognise that under the "revolving door" arrangement, the person who steps down from the position of SCS and reverts to the civil service will have to report to a former colleague who is now filling the position of SCS. We believe individuals at this level of seniority are experienced and mature enough to handle this situation. We therefore **recommend** maintaining the current arrangements applicable to the position of the SCS.

5.20 SCS is underpinned by the Permanent Secretary for the Civil Service and civil servants under the Permanent Secretary as well as a private office comprising, among others, an Administrative Assistant and a Press Secretary. Different from other Directors of Bureau, during the temporary absence of the SCS, the Permanent Secretary in the CSB will exercise the powers and perform the duties of the SCS, including the duty to attend formal meetings of LegCo, its committees, subcommittees and panels and to speak on behalf of the Government. This reflects the unique arrangement for the position of SCS, having regard to the nature of his work. In view of this and the fact that the bulk of the work

of the CSB relates to the management of the civil service, we do not consider it necessary for SCS to have a Deputy Director of Bureau and a Political Assistant as in the case for other Directors of Bureau.

Administrative Assistant and Press Secretary to Principal Officials

5.21 In the consultation document (see its paragraph 3.19), we have set out the following proposals regarding the Administrative Assistant posts in the private offices of the Principal Officials:

- (a) they will continue to come under the civil service stream, and the post holders will be required to adhere to the principle of political neutrality; and
- (b) all such posts can only be filled by civil service on posting.

5.22 To be able to perform the Administrative Assistant role effectively, the post-holders must have experience in government operation and knowledge about the relevant administrative rules and practices. The experience since the introduction of the Political Appointment System in 2002 shows that the Administrative Assistant posts have been invariably filled by civil servants. We **recommend** adopting the proposal as set out in paragraph 5.21 above.

5.23 All Press Secretary posts are now filled by civil service officers of the Information Officer (“IO”) Grade or, in a few cases, officers of the Administrative Service. The IO Grade Association has asked that all Press Secretary posts should only be filled by civil servants in future. In this regard, we note that, since the introduction of the Political Appointment System in 2002, there were only two occasions when the positions were filled by recruitment from outside (with one of them being a former IO Grade officer). The experience of civil servants with the government news machinery and practice has proven to be advantageous to discharge the responsibilities of Press Secretaries. We **recommend** that, similar to the arrangement for Administrative Assistants, all the Press Secretary posts should be filled by civil servants. Similarly, they will continue to come under the civil service stream.

CHAPTER 6: ARRANGEMENTS FOR THE CHIEF EXECUTIVE'S OFFICE AND PRIVATE OFFICES OF THE SECRETARIES OF DEPARTMENT

- 6.01 First of all, this chapter sets out our recommendation on the provision of additional political appointments in the private offices of the Secretaries of Department, i.e. the private offices of the Chief Secretary for Administration (“CS”), Financial Secretary (“FS”) and Secretary for Justice (“SJ”).
- 6.02 The consultation document (see its paragraph 3.09) has stated our view that, with the current organisational set up of the Administration, there is no immediate functional need for the positions of “Deputy CS / Deputy FS / Deputy SJ”. However, we have stated in the consultation document that we will take a view on the provision of additional support for the three Secretaries of Department after the consultation period.
- 6.03 We recognise that there is a practical need to provide additional support for CS and FS for carrying out work with political content, and consider it appropriate to create one position each of Political Assistant to CS and Political Assistant to FS, at the rank of Political Assistant to Director of Bureau, to strengthen the support to them. However, we do not propose to create any political position under SJ, for whom the reinforcement of professional support would be more appropriate, given the nature of his portfolio.
- 6.04 The job description for the Political Assistants to CS / FS is proposed as follows –

Rendering support to CS / FS in coordinating cross-cutting political issues by –

Strategies and Political Advice

- (a) providing advice from the political perspective for consideration by CS / FS;
- (b) contributing to formulation of policy and legislative initiatives, as well as assisting in mapping out overall strategies by giving inputs with a political viewpoint;

- (c) advising on submission to LegCo and other publications, highlighting any aspect which they consider has political implications, and handling sensitive political points according to the direction of CS / FS;
- (d) drafting speeches, media statements and other articles, as directed by CS / FS;

Political liaison

- (e) providing advice on the handling of invitations and correspondence from political parties/groups to CS / FS;
- (f) assessing from time to time the need for lobbying political parties/groups in dealing with LegCo business and providing advice to CS / FS accordingly;
- (g) liaising with members of political parties/groups, District Councils, community organisations as well as business, professional and other bodies at the instruction of CS / FS to brief them on issues under the purview of CS / FS, listen to their views on issues of concern, and solicit their support for the Government policies concerned;
- (h) liaising with the media according to the direction of CS / FS to convey the Government's position on issues and policies concerned ; and
- (i) monitoring views from interest groups and the general public on policy issues concerned and assessing the political implications.

6.05 Apart from the private offices of the Secretaries of Department, the consultation document also touched upon the positions of DCEO, Senior Special Assistant and Special Assistant in the CE's Office. For the position of DCEO, which is a political appointment, its terms of employment have been aligned with those of a Director of Bureau since July 2007. As regards the two positions of Senior Special Assistant and Special Assistant, we consider that the existing arrangement for these two positions to be filled by appointments of persons outside the civil service should continue as their job nature is different from that of the Political Assistants and the existing arrangement has been working well.

CHAPTER 7: SELECTION AND APPOINTMENT OF POLITICALLY APPOINTED OFFICIALS

Overview

- 7.01 In this Chapter we set out our recommendation on the framework for selection and appointment of candidates to fill the new positions of Deputy Director of Bureau and Political Assistant (including the political appointees at the latter rank in the private offices of the Secretaries of Department, as appropriate).
- 7.02 As we have stressed in the consultation document, persons filling the new positions must be of the right calibre. This reflects the views received during the consultation exercise, which indicate that the selection process should be as stringent as possible.

Fundamental principles

- 7.03 As the serving CE has indicated publicly, when selecting candidates to serve as Principal Officials under the Political Appointment System for the third term government, he would look for those who “are patriotic, love Hong Kong, are committed, pragmatic, supportive of his election platform, and competent in delivering the pledges and promises in the election platform” (愛國、愛港、有承擔、務實的人士，能夠支持我的政綱，有能力可以落實這些政綱的承擔和承諾).
- 7.04 The above qualities equally apply to persons filling the proposed political positions. Therefore, their appointment should have regard to the following fundamental principles –
- (a) Deputy Directors of Bureau and Political Assistants will be part of the political team of the HKSAR Government and be responsible for the governance of Hong Kong collectively. Individuals who are appointed to fill these positions must share a common commitment to the country, HKSAR and our community;
 - (b) Deputy Directors of Bureau and Political Assistants are

expected to assist politically appointed Principal Officials in delivering the CE's election manifesto. It is imperative that they share the CE's governing philosophy, subscribe to the CE's election manifesto, share his vision in governance and are willing to work with other members of the political tier as a team;

- (c) the appointment system should enable suitable persons from a variety of backgrounds to have the opportunity to join the political team;
- (d) the appointment system should provide a certain degree of assurance on the capability of the persons chosen as regards their knowledge in the relevant fields as well as their ability to cope with political and government work; and
- (e) Deputy Directors of Bureau and Political Assistants, together with their Directors of Bureau, assume political responsibility for the decision of the political team collectively. The nature of their appointment will be different from that of civil servants.

Source and background of candidates

7.05 The Government's view (see paragraph 1.20 of the consultation paper) is that people with political party, academic, professional, business, civil service and other backgrounds can serve in the new political positions, so as to enrich and broaden the opportunities for political participation. We note the views that the composition of the new tiers of political appointees should be balanced, instead of relying on any single source. However, there is no need to set any specific ratio or limit the number of appointees of certain background. It is important to allow the CE and the Principal Officials maximum flexibility in selecting persons of the right calibre.

7.06 Whilst individuals with civil service background are one source of candidates for the new political positions, they will have to leave the civil service to take part in politics. Some have questioned the attractiveness of the new positions to civil servants, in the absence of any "revolving door" arrangement. We remain of the

view that civil servants aspiring to a political career should leave the civil service to take part in politics, and that such civil servants should resign or retire from the civil service before taking up the political appointment (see paragraphs 5.15 to 5.16 above).

- 7.07 There are a few respondents who hold the view that members of political parties are not suitable for the proposed political positions, or that they should give up any “leadership” role in their party, to ensure that the political appointees will work for the interest of Hong Kong, rather than that of individual parties. Since introducing the Political Appointment System in 2002, we have allowed members of political parties to join the Government. As one of the objectives of creating the proposed political positions is to provide a more comprehensive political career path, this objective will be defeated if members of political parties are to be accorded a lower priority than the others in taking up these positions.
- 7.08 To ensure transparency, appointees will have to declare to the Government whether they are in any way affiliated with any political party. The declaration will be made available for public inspection. When taking part in activities organised by political parties, the appointees should ensure that their participation in such activities is not in conflict with the business of the Government or their official duties, and that it will not cause any embarrassment to the Government. This should provide sufficient safeguards.

Appointment Committee

- 7.09 There are suggestions that candidates for the political positions should be identified by open recruitment. This has been the system used for civil service appointments, but it is not suitable for political appointments, and is not the case for the Principal Officials under the Political Appointment System currently. Since it is one of the fundamental principles for the political appointees to subscribe to the CE’s manifesto and be committed to assuming political responsibilities collectively for the governance of Hong Kong, the mode of open recruitment will not be appropriate.

- 7.10 We **recommend** that the CE should chair an Appointment Committee to consider nominations and appointments of potential candidates to fill the new political positions, and assess and consider the suitability of these candidates for the positions at the two additional layers. The Appointment Committee will also give advice on the remuneration package recommended for individual appointees (see paragraph 9.06 below). The Appointment Committee will comprise the Secretaries of Department, the relevant Director(s) of Bureau, and the DCEO. By having such a mechanism, the CE, the Secretaries of Department and the relevant Director(s) of Bureau can take part in the deliberation and decision-making process, to ensure that an appointee does not only possess the right calibre and qualities required, but can also work well with the Principal Official whom he is to serve.
- 7.11 There have been suggestions that consultation sessions be arranged between the LegCo and the appointees. Currently, there is no such arrangement for the Principal Officials under the Political Appointment System. We do not therefore consider that this is appropriate or necessary.

Appointment criteria

- 7.12 In line with the Basic Law, public servants serving in all departments of the HKSAR Government must be permanent residents of the Region. Persons filling the positions in the political stream of the Government are of no exception, and should all be permanent residents of HKSAR.
- 7.13 The Basic Law provides that the appointment of public servants shall be on the basis of their qualifications, experience and ability. When considering candidates for appointment to the positions of Deputy Directors of Bureau, we should have regard to the following aspects:
- (a) they should be members of considerable standing in their respective fields;

- (b) they should have expertise or experience in the various occupations, professions or sectors relevant to their portfolio;
- (c) they are also expected to have some experience in public service (which may, say, take the form of service on the Government's advisory bodies) as well as in dealing with LegCo and the media;
- (d) they should possess the necessary competencies and communications skills required for handling government work; and
- (e) they should possess the calibre required to deliver the job effectively.

7.14 When considering candidates for appointment to the positions of Political Assistants, we should have regard to the following aspects –

- (a) they should have the relevant network and connection with the respective fields;
- (b) they should have knowledge in their policy portfolio or political affairs in Hong Kong;
- (c) they are expected to have some experience in public service;
- (d) they should possess the necessary competencies and communications skills required for handling government work; and
- (e) they should possess the calibre required to deliver the job effectively.

7.15 The above parameters will serve as guidelines for considering candidates and assessing their suitability. We do not intend to set any hard and fast rules as to what constitute “calibre” required, say, by setting any minimum entry qualifications or requiring the candidates to go through any written tests, as in the case for many civil service positions.

Appointment Authority

- 7.16 The consultation document originally proposed that Deputy Directors of Bureau should be appointed and removed by the CE on the recommendation of the relevant Director of Bureau, whereas Political Assistants should be appointed and removed by the relevant Director of Bureau with the consent of the CE. Now that an Appointment Committee is proposed to be set up to consider nominations and appointments of potential candidates to fill the new political positions, we **recommend** that all Deputy Directors of Bureau and Political Assistants should be appointed and removed by the CE on the advice of the Appointment Committee.
- 7.17 The term of appointment of the Deputy Directors of Bureau and Political Assistants, as stated in their employment contracts, will not exceed the term of office of the incumbent CE⁴⁹.
- 7.18 The Deputy Directors of Bureau will be accountable to the CE through their respective Principal Officials. Like Principal Officials, they are political appointees and are expected to shoulder political responsibility for the success or failure of matters falling within their respective portfolios.
- 7.19 Under the Basic Law, appointments of principal officials are made by the Central People's Government ("CPG") at the nomination of the CE. The Basic Law has not provided for the appointment authority or the specific procedures for other political appointments. In accordance with Articles 43 and 60 of the Basic Law, the CE is the head of the HKSAR, and the head of the HKSAR Government. Our proposed appointment procedures for the two new tiers of political appointments are consistent with the Basic Law and the principle of an "executive-led" system. The fact that the Deputy Directors of Bureau will deputise for Directors of Bureau during the latter's temporary absence does not mean that the former will need to be appointed by CPG in the first place.

⁴⁹ Under Article 46 of the Basic Law, the term of office of the CE of the HKSAR shall be five years. He or she may serve for not more than two consecutive terms.

CHAPTER 8: CODE FOR POLITICALLY APPOINTED OFFICIALS AND OTHER RELATED MATTERS

Code for politically appointed officials

8.01 The consultation document (see its paragraphs 3.15 and 3.16) has proposed that the existing Code for Principal Officials under the Accountability System should, with necessary modifications, apply to the performance and behaviour of the Deputy Directors of Bureau and Political Assistants. In particular, they should observe the following broad principles in carrying out their duties :

- (a) they shall be dedicated to their duties and be responsible to the Government of the HKSAR;
- (b) they shall uphold the rule of law, abide by the law, and protect the integrity of the public office;
- (c) they shall act in the best interests of Hong Kong;
- (d) they shall be as open as possible about the decisions that they make and the actions that they take. They shall be accountable for their decisions;
- (e) they shall observe the highest standards of personal conduct and integrity at all times;
- (f) they shall ensure that no actual or potential conflict arises between their public duties and their private duties;
- (g) they shall at all times actively uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service; and

- (h) they shall not use any public resources for non-government purposes (including purposes relating to any political party or body).
- 8.02 In addition to the above principles, the Deputy Directors of Bureau and Political Assistants should also be subject to requirements on declaration of interests, and disclosure of official information and acceptance of employment after leaving office. At present, insofar as Principal Officials are concerned, further details have already been provided for in the above-mentioned Code.
- 8.03 The views received are in support of governing the two new tiers of political appointees by a set of rules to prevent conflict of interests during and after the term of office. In the light of the above, we **recommend** that -
- (a) the application of the Code should be extended to cover all politically appointed officials, including those at the rank of Deputy Director of Bureau and Political Assistants; and
 - (b) the “Code for Principal Officials under the Accountability System” should be adapted as the “Code for Officials under the Political Appointment System”, to reflect the broader coverage of officials governed by the Code after the expansion of the Political Appointment System. The revised Code is at the Annex.

Post-office employment of politically appointed officials

- 8.04 For post-office employment control, an advisory committee was set up in April 2005, pursuant to the Code for Principal Officials under the Accountability System, to advise politically appointed Principal Officials on their employment plans after leaving office. With effect from April 2007, the terms of reference of the advisory committee have been extended to cover the post-office employment or appointment of former CEs and politically appointed officials. The advisory committee has been renamed as

“Advisory Committee on Post-office Employment for Former Chief Executives and Politically Appointed Officials” and will be in a position to cover all tiers of politically appointed officials.

Legal requirements and other measures

- 8.05 All politically appointed officials, including those at the rank of Deputy Directors of Bureau and Political Assistants, should abide by the provisions in the Prevention of Bribery Ordinance (Cap. 201) and the Official Secrets Ordinance (Cap. 521) applicable to “prescribed officer” and “public servant” respectively.
- 8.06 Integrity checking and medical examination on prospective candidates will be conducted before they are nominated for appointment.

CHAPTER 9: REMUNERATION PACKAGE

9.01 In this Chapter, we set out our recommendations on the remuneration package for the Deputy Directors of Bureau and Political Assistants.

Level of remuneration

9.02 The following sets out our **recommendations**.

- (a) For the proposed positions of Deputy Director of Bureau, the remuneration should be pitched within a range equivalent to 65% to 75% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau⁵⁰.
- (b) For Political Assistants, according to the latest calculations, the remuneration should be pitched within a range equivalent to 35% to 55% of the remuneration package approved by the LegCo Finance Committee in 2002 for a Director of Bureau (instead of the range of 35% to 50% as originally proposed in the consultation document).

⁵⁰ In accordance with the employment package approved by the Finance Committee of the Legislative Council in June 2002, the cash remuneration for each Director of Bureau is \$311,900 per month subject to adjustment according to the 2002 civil service pay cut (-4.42%) i.e. \$298,115 per month. In January 2003, pursuant to the then CE's announcement in the Policy Address, all Directors of Bureau voluntarily accepted a 10% reduction of their remuneration from April 2003 to share the hard times with the community. The 10% cut no longer applies for the new term of government from 1 July 2007. Accordingly, the approved cash remuneration for Director of Bureau is \$298,115 per month. This latter figure is adopted as a basis for calculating the remuneration for Deputy Directors of Bureau and Political Assistants.

- (c) In addition to cash remuneration, the Deputy Directors of Bureau and Political Assistants should also be eligible for annual leave of 22 days per annum (subject to a maximum accumulation limit of 22 days), medical and dental benefits and Mandatory Provident Fund contribution by the Government, on the same basis as those provided to Principal Officials.

9.03 It should be made clear that, as with the Secretaries of Department and Directors of Bureau, officials under the Political Appointment System are not civil servants and their remuneration packages are not linked to those of the civil service. However, for ease of reference, the remuneration for Deputy Directors of Bureau is broadly equivalent to the remuneration of a D4 to D6 civil servant on agreement terms with all allowances and end-of-contract gratuity encashed, whereas that for Political Assistants is broadly equivalent to the remuneration of a senior professional to D2 civil servant on agreement terms with all allowances and end-of-contract gratuity encashed.

Need for a competitive package

9.04 We can understand the concern raised in some of the views received that creation of the proposed positions would entail additional costs. We need to ensure that public money is well spent. At the same time, the remuneration package offered has to be competitive and should reflect the level of responsibility for these positions. We consider that the proposed ranges of remuneration are about right for potential candidates who can meet the stringent requirements set out in Chapter 7. The scale will also maintain reasonable relativity between different tiers of political appointees. We therefore consider it appropriate to set the remuneration at the respective ranges as proposed in paragraph 9.02 above for Deputy Directors of Bureau and Political Assistants. It will enable the Government to offer remuneration commensurate with the experience of the candidates concerned.

Scales of remuneration for politically appointed officials

9.05 Upon joining the Government, the Deputy Directors of Bureau and Political Assistants may be offered remuneration at the following points:

Deputy Directors of Bureau

- | | | | |
|--------------------------|-----|---|--|
| <input type="checkbox"/> | 65% | } | of the remuneration package for a Director of Bureau |
| <input type="checkbox"/> | 70% | | |
| <input type="checkbox"/> | 75% | | |

Political Assistants

- | | | | |
|--------------------------|-----|---|--|
| <input type="checkbox"/> | 35% | } | of the remuneration package for a Director of Bureau |
| <input type="checkbox"/> | 40% | | |
| <input type="checkbox"/> | 45% | | |
| <input type="checkbox"/> | 50% | | |
| <input type="checkbox"/> | 55% | | |

9.06 The remuneration for individual appointee will be determined by the CE on the advice of the Appointment Committee, having regard to the recommendation of the Principal Official to whom these appointees will report. In the middle of each term of government, the remuneration for the Deputy Directors of Bureau and Political Assistants will be reviewed (“mid-term review”) and may be adjusted within the above-mentioned ranges⁵¹. The Appointment Committee will conduct the review and may recommend a revision to the CE for approval.

⁵¹ For the Deputy Directors of Bureau and Political Assistants serving the third term HKSAR Government, the mid-term review will take place around December 2009.

CHAPTER 10: FINANCIAL IMPLICATIONS AND IMPLEMENTATION

10.01 This Chapter sets out the financial implications of the implementation of the expansion of the Political Appointment System, and the implementation timetable.

Financial Implications

10.02 The recommendations in Chapters 4 and 6 of this Report will entail creation of 24 additional political positions. They comprise 11 positions at the rank of Deputy Director of Bureau and 13 at the rank of Political Assistant (i.e. one Deputy Director of Bureau and one Political Assistant in each bureau except the CSB, and one position each of Political Assistant to CS and Political Assistant to FS).

10.03 On the above basis, the full year additional financial implications will range from \$50 million to \$65 million per annum. This includes the costs for the civil service complement providing support to the officials concerned (paragraph 4.17 above). The exact amount will depend on the number of political positions filled, and the actual remuneration offered to individual political appointees within the range proposed.

Implementation

10.04 As we emphasised in the consultation document, the number of additional political appointments will be small. In relative terms, the civil service will continue to constitute a much larger establishment. It will remain the core of the Government to provide stability and continuity within the Administration. The new positions will not be created at the expense of the civil service establishment.

- 10.05 We will seek the approval of the LegCo Finance Committee for creation of the proposed positions. If necessary, these positions will be filled in phases. It is important that these new positions be filled by individuals of the right calibre.
- 10.06 With the creation of the new positions, we envisage a consequential legislative amendment to include the Under Secretaries in the various bureaux into the list of public officers specified in Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1). Section 62(1) of Cap. 1 provides, inter alia, that where any Ordinance confers a statutory power or obligation on the Chief Executive⁵², the exercise of such power or the performance of such duty may be signified under the hand of any public officer specified in Schedule 6. Section 62(3) provides that the CE in Council may, by order published in the Gazette, amend Schedule 6. We will seek the approval of CE in Council to make such an order, after the proposed positions have been approved.
- 10.07 In addition, we will seek the CE's designation of these officials at the rank of Deputy Directors of Bureau so that they may attend meetings of LegCo, its committees and subcommittees. We will also seek the CE's designation of the political officials at the rank of Political Assistants so that they may attend meetings of committees and subcommittees of LegCo.

⁵² Such powers and duties may include, for example, the making of any subsidiary legislation or appointment, issuing of any direction and order, authorising any thing or matter to be done, granting any exemption, remitting any fee or penalty, exercising any other power or performing any other duty.