

LEGISLATIVE COUNCIL BRIEF

Interpretation and General Clauses Ordinance
(Chapter 1)

INTERPRETATION AND GENERAL CLAUSES ORDINANCE (AMENDMENT OF SCHEDULE 6) ORDER 2008

INTRODUCTION

At the meeting of the Executive Council on 19 February 2008, the Council ADVISED and the Chief Executive ORDERED that under section 62 of the Interpretation and General Clauses Ordinance (Cap. 1), the Interpretation and General Clauses Ordinance (Amendment of Schedule 6) Order 2008, at **Annex A**, should be made.

BACKGROUND

2. Section 62(1) of Cap. 1 provides, among other things, that where any Ordinance confers a power or imposes a duty upon the Chief Executive to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, 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 to Cap. 1. A copy of the existing Schedule 6 is attached at **Annex B**. The Chief Executive in Council is empowered under section 62(3) of Cap. 1 to amend Schedule 6 by order published in the Gazette.

3. The Report on Further Development of the Political Appointment System, released on 17 October 2007, has set out the Government's proposed way forward to create two additional layers of political appointment positions, namely Deputy Directors of Bureau¹ and Political Assistants to Directors of Bureau, in the Government. The

1 "Deputy Director of Bureau" (副局長) is the rank title. The position title in English in the respective policy bureaux is "Under Secretary". Both the rank and position titles in Chinese are "副局長".

Finance Committee of the Legislative Council approved on 14 December 2007 the creation of 24 positions at these ranks with effect from 1 April 2008.

4. We consider it appropriate to include Under Secretaries in the list of public officers specified in Schedule 6 to Cap. 1, given that –

- (a) Permanent Secretaries, Deputy Secretaries and Principal Assistant Secretaries, representing a range of officers from D2 to D8, are currently included in the list; and
- (b) by way of general reference, the remuneration for an Under Secretary 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.

THE ORDER

5. To tie in with the timing of creating the Under Secretary positions, **section 1** of the Order provides that the Order shall come into force on 1 April 2008. **Section 2** of the Order provides that the existing Schedule 6 to Cap. 1 be amended by adding “Under Secretary”.

LEGISLATIVE TIMETABLE

6. The Order will be published in the Gazette on 7 March 2008 and tabled in the Legislative Council on 12 March 2008 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

7. The Order is in conformity with the Basic Law, including the provisions concerning human rights. The Order has no additional financial or staffing implications. It has no productivity, environmental or sustainability implications.

8. The Order does not affect the current binding effect of the Ordinance.

PUBLIC CONSULTATION

9. The Report on Further Development of the Political Appointment System has mentioned the need for legislative amendments to include Under Secretaries in various bureaux into the list of public officers specified in Schedule 6 to Cap. 1, consequential to the creation of the new positions. The Legislative Council Panel on Constitutional Affairs discussed the Report on 23 October 2007. Members of the Legislative Council did not raise any particular comment in this respect.

PUBLICITY

10. A Legislative Council Brief has been issued on 5 March 2008.

ENQUIRIES

11. For enquiries about this brief, please contact Miss Wendy AU, Principal Assistant Secretary for Constitutional and Mainland Affairs (Acting), at 2810 2064.

Constitutional and Mainland Affairs Bureau
5 March 2008

File Ref.: CMAB F19/15

**INTERPRETATION AND GENERAL CLAUSES ORDINANCE
(AMENDMENT OF SCHEDULE 6) ORDER 2008**

(Made by the Chief Executive in Council under section 62(3) of the
Interpretation and General Clauses Ordinance (Cap. 1))

1. Commencement

This Order shall come into operation on 1 April 2008.

2. Public Officers

Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1) is amended by adding “Under Secretary” after “Secretary for Transport and Housing”.

Clerk to the Executive Council

COUNCIL CHAMBER

2008

Explanatory Note

This Order amends Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1) to add Under Secretary to the list of public officers who are empowered to signify the exercise of statutory powers and the performance of statutory duties by the Chief Executive.

Annex B

Chapter:	1	INTERPRETATION AND GENERAL CLAUSES ORDINANCE	Gazette Number	Version Date
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Schedule:	6	PUBLIC OFFICERS	L.N. 134 of 2007	01/07/2007
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[section 62]

Chief Secretary for Administration
Financial Secretary
Secretary for Justice
Secretary for the Civil Service
Secretary for Commerce and Economic Development
Secretary for Constitutional and Mainland Affairs
Secretary for Development
Secretary for Education
Secretary for the Environment
Secretary for Financial Services and the Treasury
Secretary for Food and Health
Secretary for Home Affairs
Secretary for Labour and Welfare
Secretary for Security
Secretary for Transport and Housing
Permanent Secretary
Director of Administration
Director of Home Affairs
Deputy Secretary
Deputy Director of Administration
Principal Assistant Secretary
Assistant Director of Administration

(Schedule 6 replaced L.N. 134 of 2007)