

立法會

Legislative Council

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Paper for the House Committee Meeting of the Legislative Council on 8 December 2000

Legal Service Division Report on Resolution under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

The Chief Secretary has given notice to move a motion, at the Legislative Council's meeting to be held on 20 December 2000, pursuant to Article 73(7) of the Basic Law to seek the Legislative Council's endorsement for the appointment of the Honourable Mr. Justice Arthur LEONG Shiu-chung as the Chief Judge of the High Court. It is intended that the appointment will take effect on 1 January 2001. The need for the appointment has arisen from the appointment of the former Chief Judge of the High Court, Mr. Justice Chan as a permanent judge of the Court of Final Appeal since 1 September 2000.

2. Article 73(7) of the Basic Law provides that the Legislative Council shall exercise the power and function to endorse the appointment of the Chief Judge of the High Court.

3. Article 88 of the Basic Law provides that judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors. Article 90 of the Basic Law further provides that in the case of appointment of the Chief Judge of the High Court, the Chief Executive shall, in addition to following the procedures prescribed in Article 88, obtain the endorsement of the Legislative Council and report the appointment to the Standing Committee of the National People's Congress for the record. According to the LegCo Brief File Ref.: CSO/ADM CR 8/4/3222/85(00) of 30 November 2000 from Administration Wing, the Judicial Officers Recommendation Commission has recommended the appointment of Mr. Justice Leong as the Chief Judge of the High Court. The Chief Executive has accepted the recommendation, and subject to the endorsement of the Legislative Council, will make the recommended appointment. Members may wish to refer to the LegCo Brief for detailed background information.

4. Section 9 of the High Court Ordinance (Cap. 4) provides for the professional qualifications of judges including the Chief Judge of the High Court (Annex II to the LegCo Brief). Article 90 of the Basic Law also requires that the Chief Judge of the High Court shall be a Chinese citizen with no right of abode in any foreign country. The LegCo Brief states that Mr. Justice Leong is able and willing to comply with the eligibility requirements including the Chinese nationality requirement.

5. The LegCo Panel on Administration of Justice and Legal Services was briefed about the appointment at its meeting on 28 November 2000.

6. The legal and drafting aspects of the resolution are in order.

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