

For discussion on
31 October 2000

Paper for the Panel on Constitutional Affairs

Proposal to Create a Supernumerary Post of Justice of Appeal of the Court of Appeal of the High Court in relation to the Appointment of Chairman of the Electoral Affairs Commission

Introduction

This paper informs Members of the Administration's proposal to seek the approval of the Establishment Sub-Committee for creating one supernumerary post of Justice of Appeal of the Court of Appeal of the High Court for the period up to 28 September 2003. The proposal aims to ensure that the work of the Judiciary as a whole would not be adversely affected by the appointment of a Justice of Appeal to chair the Electoral Affairs Commission ("EAC").

Background

2. The EAC is a statutory body set up under the Electoral Affairs Commission Ordinance (Cap. 541). It is responsible for making recommendations on the delineation of geographical constituencies and District Council constituencies, and the conduct and supervision of elections. It also supervises the registration of electors and makes regulations, guidelines and arrangements to ensure that elections are conducted openly, fairly and honestly. The Ordinance requires that the Chairman of the EAC be a Judge of the High Court. When the EAC was established in September 1997, the Honourable Mr Justice Woo Kwok-hing was appointed to be the Chairman, and a supernumerary post of Judge of the Court of First Instance of the High Court (as Mr Justice Woo then was) was created as a replacement post to take up Mr Justice Woo's judicial duties. This supernumerary post lapsed on 28 September 2000.

Tasks Ahead

3. In September 2000, the Chief Executive, in consultation with the Chief Justice of the Court of Final Appeal, re-appointed Mr Justice Woo, Justice of Appeal, to be the Chairman of the EAC for another term of three years up to 28 September 2003.

4. We envisage that the workload of the EAC for the next three years will continue to be heavy. For instance, the EAC is to produce a report on the 2000 Legislative Council elections for submission to the Chief Executive by the statutory deadline of December 2000. In early to mid 2001, the EAC will conduct another voter registration exercise to encourage eligible people to sign up as electors, and prepare the voter registers. Similar exercises will be carried out again in both 2002 and 2003.

5. Apart from these exercises, the EAC also plans to conduct a comprehensive review on the overall electoral arrangements, with a view to providing better services to voters and candidates in the next round of elections. The Commission will explore the feasibility of wider application of technology in the polling and counting processes, and also in the registration of electors. It will also review the existing regulations and guidelines for monitoring electoral activities more effectively.

6. The next election cycle will begin with the District Councils election in 2003 and Legislative Council elections in 2004. Preparations for the 2003 District Councils election such as the delineation of constituencies, followed by those for the 2004 Legislative Council elections, will begin as early as in 2002.

7. These scheduled activities require a very heavy commitment of the EAC Chairman. We consider that the work of the Judiciary would be adversely affected if a replacement post is not provided. At present, there are only nine Justices of Appeal in the Court of Appeal. The caseload of the Court of Appeal is consistently heavy for the past few years. In 2000, the number of civil appeal cases filed with the Court increased sharply due to a large number of applications for leave for judicial review and appeals lodged in connection with right of abode cases. Cases handled by the Court are, on the other hand, becoming more complex and require a longer time to dispose of. In the interests of the administration of justice, it is necessary for all nine Justices of Appeal to devote fully to the work of the Court of Appeal. Therefore, we propose to create a replacement post to take up Mr Justice Woo's judicial duties up to 28 September 2003.

Way Forward

8. We welcome Members' views on the proposal.

Constitutional Affairs Bureau
October 2000