

HONG KONG COURT OF FINAL APPEAL (AMENDMENT) BILL 2001

**COMMITTEE STAGE**

Amendments to be moved by the Chief Secretary  
for Administration

<u>Clause</u>	<u>Amendment Proposed</u>
3	In the proposed Division heading, by adding " <b>Appeal relating to Chief Executive Election</b> " at the end.
4	(a) In the proposed section 27B (2) (a), by deleting "the trial" and substituting "a". (b) In the proposed section 27C - (i) in the heading, by deleting " <b>by trial judge</b> "; (ii) in subsection (1) - (A) by adding "hearing the application for a certificate" before "is satisfied"; (B) in paragraph (a), by deleting "his decision" and substituting "a decision of the judge"; (iii) by deleting subsections (2) to (5) and substituting - "(2) For the purposes of subsection (1)(a), the relevant conditions are fulfilled in relation to a decision of the judge in any

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proceedings if a point of law of great general or public importance is involved in that decision and -

(a) where that point of law does not relate wholly or mainly to the construction of the Basic Law, it must -

(i) relate wholly or mainly to the construction of an Ordinance or subsidiary legislation, and has been fully argued in the proceedings and fully considered in the judgment of the judge in the proceedings;  
or

(ii) be one in respect of

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which the  
judge is  
bound by a  
decision of  
the Court of  
Appeal or the  
Court in  
previous  
proceedings,  
and was fully  
considered in  
the judgments  
given by the  
Court of  
Appeal or the  
Court (as the  
case may be)  
in those  
previous  
proceedings;  
and

- (b) where that point of law  
relates wholly or  
mainly to the  
construction of the  
Basic Law, it must be  
one in respect of which  
the judge is bound by a  
decision of the Court

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of Appeal or the Court in previous proceedings, and was fully considered in the judgments given by the Court of Appeal or the Court (as the case may be) in those previous proceedings.

(3) An application for a certificate under this section shall be made to a judge within -

- (a) 14 days from the date on which the judgment is given; or
- (b) such other longer period as may be prescribed by rules of court.

(4) The judge before whom an application for a certificate under this section is made shall, as far as is practicable and convenient, be the trial judge in the proceedings to which the application relates."

(c) In the proposed section 27D(1), by deleting "the judge" and substituting "a judge".

(d) In the proposed section 27F -

- (i) in subsection (1), by deleting "the judge"

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where it secondly appears and substituting  
"a judge";

- (ii) in subsection (3), by deleting "the judge"  
where it secondly appears and substituting  
"a judge".

5 By deleting the clause and substituting -

**"5. Transitional**

An appeal may, subject to the provisions of this amending Ordinance, lie to the Court from a judgment of the Court of First Instance given on or before the commencement of this amending Ordinance."

New By adding immediately after clause 6 -

**"The Rules of the High Court**

**6A. Time for appealing**

Order 59, rule 4 of the Rules of the High Court (Cap. 4 sub. leg.) is amended by adding -

"(2) In the case where an appeal may lie from a judgment of the Court of First Instance under Division 3 of Part II of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), the following period of time shall be disregarded in determining the period referred to in paragraph (1) -

- (a) where an application has been made under section 27C of that Ordinance, the period from the date on which the judgment is

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given to the date on which the application is determined; or  
(b) where an application has been made under section 27D of that Ordinance, the period from the date on which the judgment is given to the date on which the application is determined."."

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