

司法及法律事務委員會
**Panel on Administration of Justice
and Legal Services**

任命法官的程序

諮詢文件

**Consultation Paper on
Process of
Appointment of Judges**

**香港特別行政區
立法會**

**Legislative Council
of the
Hong Kong Special Administrative Region**

**2001年12月
December 2001**

Panel on Administration of Justice and Legal Services

Consultation Paper on Process of Appointment of Judges

This paper is available on the Website of LegCo at <http://www.legco.gov.hk/yr01-02/english/panels/ajls/papers/ajcb2-consult-e.pdf> during the consultation period which expires on 15 March 2002

This Consultation Paper has been prepared by the Panel on Administration of Justice and Legal Services of the Legislative Council. It does not represent the views of the Panel and is circulated for comments only.

*The Panel invites views on the issues identified in this Consultation Paper. You are invited to make your views known to the Panel, in writing, by **15 March 2002**. All correspondence should be addressed to :*

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Unless a request to treat all or part of a response in confidence is made, the Panel will assume that the response is not intended to be privileged. The response may be made available to the media and public.

Anyone who responds to this Consultation Paper may be acknowledged by name in the subsequent report. If any acknowledgement is not desired, please indicate so in the response.

Panel on Administration of Justice and Legal Services

Consultation Paper on Process of Appointment of Judges

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Legislative Council

Panel on Administration of Justice and Legal Services

Terms of Reference

1. To monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Legislative Council

Panel on Administration of Justice and Legal Services

Membership List

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Date	11 October 2001

Chapter 1 - Background

Legal and constitutional provisions

1.1 Before 1 July 1997, the Judicial Service Commission (JSC) gave advice to the Governor on the appointment of judges of the Supreme Court. The Governor appointed the judges by Letters Patent under the Public Seal with the instructions given through a Secretary of State. The Legislative Council (LegCo) was not involved in the process of appointment of judges.

1.2 After 1 July 1997, the Basic Law (BL) provides for the appointment of the Chief Justice and judges of the Court of Final Appeal (CFA) and the Chief Judge of the High Court. BL 48(6) confers on the Chief Executive (CE) the power and function to appoint judges in accordance with procedures. BL 88 provides that judges shall be appointed by CE on the recommendation of an independent commission. The Judicial Officers Recommendation Commission (JORC) was established by the Judicial Officers Recommendation Commission Ordinance (Cap. 92) to reflect the requirement of BL 88. BL 90 provides that CE shall, in addition to following the procedures prescribed in BL 88, obtain the endorsement of LegCo. CE shall also report such appointment to the Standing Committee of the National People's Congress for the record under BL 90. BL 73(7) confers on LegCo the power to endorse the appointment of the CFA judges and the Chief Judge of the High Court.

1.3 Specific provisions for the appointment of CFA judges (sections 7, 7A, 8 and 9) are provided in the Hong Kong Court of Final Appeal Ordinance (Cap. 484), while there are no similar provisions for the appointment of the Chief Judge of the High Court in the High Court Ordinance (Cap. 4).

The two appointment exercises

1.4 Since 1 July 1997, LegCo has so far exercised its power to endorse the appointment of judges by resolution of LegCo under BL 73(7) on two occasions. In June 2000, LegCo endorsed seven CFA appointments. In December 2000, LegCo endorsed the appointment of the Chief Judge of the High Court.

1.5 Having regard to the Panel's concern expressed during the first exercise that more information should be provided and that CE's appointment should not be made prior to seeking LegCo's endorsement, the Administration adopted a different approach for the second exercise. The Administration has agreed that the practice of seeking LegCo's endorsement of a judicial appointment before CE makes the appointment, as adopted in the second exercise, will be followed in future exercises.

The Working Group on Review of Process of Appointment of Judges

1.6 Having gone through the two appointment exercises, the Panel decided to look into the following matters :

- (a) how LegCo could properly discharge its constitutional duty under BL 73(7); and
- (b) how the systems of appointment of judges may be improved to achieve greater transparency and accountability while assuring judicial independence.

1.7 The Panel formed a Working Group to review the process of appointment of judges. The Working Group held a meeting on 9 June 2001 to discuss the relevant issues. In its deliberation, the Working Group considered, inter alia, the Research Reports on the Process of Appointment of Judges in the United States (US), the United Kingdom (UK), Canada and Hong Kong and an Overall Comparison Table published by the Research and Library Services Division of the LegCo Secretariat in the 2000/2001 session (available on the LegCo website at <http://www.legco.gov.hk>), and the comments made by the Hong Kong Bar Association on certain issues.

1.8 The Working Group did not draw any conclusion as to the changes to be adopted. Instead, it sought to set out the key issues identified in a consultation paper to seek the views of the public, in particular the legal community, the Judiciary, the Administration and academics.

1.9 This Consultation Paper was endorsed by the Panel at its meeting on 26 November 2001. The key issues for consultation are set out in Chapters 2 - 4, and a summary of the issues is in Chapter 5.

Chapter 2 - Role of LegCo to endorse judicial appointments under BL 73(7)

Introduction

2.1 From the outset, it was agreed by all concerned that LegCo's power to endorse the appointment and removal of the judges of the CFA and the Chief judge of the High Court is a substantive power. It is also implicit that this power should be exercised in such a way as to be compatible with the protection of judicial independence and quality under the Basic Law. LegCo must exercise its power and perform its constitutional duty responsibly and on an informed basis.

2.2 A major concern of the Panel is that the present system makes no provision for LegCo to secure the necessary information and reach its conclusion through a proper process of deliberation. Information provided by the Administration to LegCo was sketchy and inadequate. Confidentiality on policy and legal grounds was cited as obstacle against further disclosure. This makes it difficult for LegCo to play a meaningful role under BL 73(7). In considering whether improvements can be made in these two aspects, the Panel has made reference to overseas experience.

Overseas and Hong Kong comparison

2.3 The research reports presented to the Panel show that in the US, Congress is actively involved throughout the process of appointment of federal judges. This includes both the selection of candidates and confirmation of nominations. Through this process, Congress is provided with information and the basis of decision. On the other hand, in the UK, Parliament is not involved in the process of appointment of judges on the High Court Bench and above. Likewise, in Canada, Parliament is not involved in the process of appointment of judges of the Supreme Court and the Federal Court.

2.4 Hong Kong is somewhere in between. Under the Hong Kong system, JORC, an independent commission, advises or makes recommendations to the Chief

Executive on the appointment and promotion of judicial officers. BL 73(7) confers on LegCo the power to endorse the appointment of CFA judges and the Chief Judge of the High Court. While BL 73(7) does not specify any mechanism or procedure for the endorsement of judicial appointments by LegCo, LegCo has the power to make any rules of procedure on its own under BL 75, so long as the rules are compatible with the Basic Law. This would include any rules of procedure for the endorsement of judicial appointments.

Options for endorsement procedure

2.5 There are three broad options for consideration -

Option 1 - "Normal Procedure"

2.6 BL 73(7) does not stipulate any formality for the power of endorsement to be exercised. Therefore it can be exercised under the already established practice and procedure of LegCo. It may be thought that the appointment is normally non-controversial, and the "Normal Procedure" set out below would be adequate -

- (a) the Administration advises LegCo's House Committee of CE's acceptance of the recommendation of JORC on a judicial appointment (this should take place before CE makes any public announcement of his acceptance of the recommendation);
- (b) the House Committee refers the matter to the Panel on Administration of Justice and Legal Services or some other Panel(s) or committee(s) for discussion;
- (c) the Panel(s)/committee(s) discusses the matter as soon as possible at a meeting to which all LegCo Members are invited to attend;
- (d) the Panel(s)/committee(s) reports its discussion to the House Committee;
- (e) the Administration seeks the endorsement of LegCo on the recommended appointment by way of a motion;

- (f) the motion is debated and voted on at a Council meeting; and
- (g) if the motion is passed by LegCo, CE will make the appointment.

2.7 In the event that an appointment is controversial and the Panel(s) or committee(s) considers it necessary to inquire into the matter whether or not by means of compelling any persons to testify or documents to be produced, it can, having reported to the House Committee in step (d) above, seek the authorisation of LegCo for it to exercise such powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) by way of a motion. Alternatively, a proposal can be made at that stage for a select committee to be appointed by resolution of LegCo to carry out the inquiry.

2.8 Option 1 involves the least change to the existing practice (it embodies the process actually followed in the second appointment exercise mentioned in para. 1.5) and procedure and does not entail any changes to the Rules of Procedure. However, this is on the assumption that the information provided by the Administration in step (a) above is much improved.

Option 2 - "Expanded Normal Procedure"

2.9 Option 2 expands upon Option 1. In non-controversial cases, the "Normal Procedure" in Option 1 will be followed. In addition, a set procedure will also be provided to deal with cases which may be controversial, where further and more detailed examination or in-depth inquiry is in the public interest.

2.10 The advantage of Option 2 is that a prior established procedure can be invoked immediately when the need arises. However, without the aid of concrete details at this stage, it is difficult to say whether Option 2 will be more efficient than the existing arrangement described in paragraphs 2.6 - 2.7 above. Moreover, this Option lacks the flexibility of Option 1.

2.11 If this Option is preferred, LegCo will further deliberate on the detailed procedure.

Option 3 - "Special Procedure"

2.12 Option 3 proposes to adopt, albeit in modified form, certain features of the US

system, e.g. the practice of the Senate Judiciary Committee of holding open hearings to question nominees.

2.13 The Panel notes that in the US, when a vacancy of federal judge occurs, a prospective nominee will be interviewed by the Department of Justice, investigated by the Federal Bureau of Investigation (FBI) and the American Bar Association (ABA), an independent non-governmental organisation. The nominee is required to complete questionnaires set by the Department of Justice, ABA and Senate. The public has access to a nominee's Senate Questionnaire, except the part under the heading of "Involvement in legal Proceedings/Tax Audits/Other Confidential" (**Appendix II**). If the reports from these bodies are favourable, the Attorney General formally recommends the nomination to the President. A nomination approved by the President will be signed and sent to the Senate which refers the judicial nominee to the Senate Judiciary Committee. The nominee will be investigated and testify at confirmation hearings conducted by the Senate Judiciary Committee which are open to the public and may be broadcast by radio and television. The nomination will be voted in the Senate Judiciary Committee. Confirmation of judicial appointments requires a majority vote of the Senate. When the Senate gives its advice and consent, the President signs the judicial commission which officially appoints the nominee.

2.14 The strength of the US system is its transparency and accountability. However, as US experience demonstrates, at times dramatically, that the system is highly intrusive and political, and a radical departure from Hong Kong's practice to date. The system is controversial in the US. An important consideration for Hong Kong is whether this is likely to be accepted by the community, and whether it will make highly qualified persons reluctant to seek or accept nomination.

2.15 If this option is preferred, LegCo will have to further consider in practical terms how the system may be adopted in the Hong Kong context, taking into account BL 88 which stipulates that judges shall be appointed by the CE on the recommendation of an independent commission.

2.16 *The Panel invites views on the three options or their variations for LegCo to consider adopting for endorsing judicial appointments under BL 73(7).*

Information provided to LegCo

2.17 Independent of the above Options, the Panel also invites views on the following -

- (a) whether more information on a judicial nominee should be made available to LegCo as a matter of course. The standard curriculum vitae of recommended appointees provided to LegCo in the two appointment exercises referred to in paragraphs 1.4 and 1.5 is in **Appendix I**. Comparison may be made of the information contained in the Senate Questionnaire, the application form for appointment to Justice of the High Court in the UK and the application form for judicial vacancies in the District Court and below in Hong Kong (**Appendices II - IV**). It is considered that the information provided to LegCo may be expanded to include as many of the items in these documents as is proper and appropriate; and

- (b) whether LegCo should be exempt explicitly from the application of section 11(1) of the JORC Ordinance in exercising its duty under BL 73(7). Section 11(1) of the JORC Ordinance prohibits disclosure of information relating to specific judicial appointments to any unauthorised person without the permission of CE.

Chapter 3 - Process of appointment of judges

Introduction

3.1 In the course of its negotiations with the Administration to provide adequate information about the nominees and the selection process in order that LegCo may exercise its power of endorsement under BL 73(7), the Panel recognises that much of the difficulty comes from the secrecy of the present system of appointment of judges itself. It is thus necessary to review the system so as to improve the transparency and accountability of the appointment of judges as a whole, not confining to those appointments which require LegCo's endorsement.

3.2 The Panel notes, for example, that no application form is currently required for judicial posts at the High Court level or above where no open recruitment is conducted. For these exercises, performance appraisal reports of candidates within the judiciary would be made available to JORC, and outside candidates would be invited to provide a detailed curriculum vitae to JORC. As regards judicial posts in the District Court, the High Court Registry and the Magistrates' Courts, an applicant is required to complete an application form (**Appendix IV**).

3.3 This contrasts with the US where, following the nomination of a candidate by the President, the Department of Justice will submit the FBI Questionnaire, the results of the FBI background investigation and the entire Senate Questionnaire (**Appendix II**) to the Senate. In the UK, as a result of reforms, open recruitment exercises are held for the appointment of High Court judges since 1997 (application form in **Appendix III**).

Issues for consultation

3.4 As a starting point, the Panel invites views on the membership, accountability and operation of JORC set out below.

Membership of JORC

3.5 BL 88 provides that members of JORC should be composed of local judges, persons from the legal profession and eminent persons from other sectors.

3.6 Under section 3(1) of the JORC Ordinance, JORC shall consist of the Chief Justice (the Chairman), the Secretary for Justice (SJ), and seven members appointed by CE including one barrister, one solicitor, two judges, and three persons who are not, in the opinion of CE, connected in any way with the practice of law.

Membership of Secretary for Justice

3.7 The presence of the Attorney General (AG) as an ex-officio member of the JSC had long been criticised. There was a view that the AG (or SJ, post-1997), being a part of the executive branch of the Government, would undermine the independence of JSC/JORC.

3.8 As a matter of the historical background, the Judicial Service Commission Bill 1975 was introduced into LegCo on 1 October 1975 to establish the JSC to advise the Governor on appointments of all judicial officers. The Bill provided, inter alia, that AG should be a member of JSC. The Bill was passed by LegCo without major amendments. The rationale for AG's seat on JSC as stated in that exercise was as follows -

- (a) the Administration had a responsibility for ensuring that high standards were maintained in the administration of justice in which judicial appointment played an important part. It was appropriate that the AG, as guardian of the public interest in the administration of justice, should participate in judicial appointments;
- (b) since it was ultimately the Administration in the person of the Governor who appointed Judicial Officers, it was appropriate that the Governor should have advice from his principal adviser on legal matters when considering such appointments. That being the case, there were obvious advantages in having the AG on JSC, through which his advice would normally, but not exclusively, be tendered; and
- (c) AG, as head of the Legal Department which employed at the time in

excess of 250 Government lawyers and briefed out a great deal of work to the private sector, was in a unique position to assist JSC in its deliberation concerning both lawyers who sought appointment to the Judiciary and members of the Judiciary who sought, or who were put forward for, advancement. In this regard, the AG possessed considerable knowledge of the abilities within the legal profession of Hong Kong.

3.9 The AG's membership on JSC was replaced by SJ's membership on JORC upon the enactment of the Judicial Service Commission (Amendment) Ordinance 1997 on 1 July 1997 which changed the short title of the JSC Ordinance to JORC Ordinance.

Appointment criteria of JORC members

3.10 Concern has also been raised about the criteria adopted by CE in the appointment of JORC members. According to the Administration, in appointing a person to serve on JORC, consideration will be given to the candidate's integrity, standing in the community, judgment, and ability in carrying out the statutory functions of the Commission independently and impartially. Moreover, there is an additional requirement regarding the appointment of the barrister and solicitor members. According to section 3(1A) of the JORC Ordinance, CE shall consult the Bar Council regarding the appointment of a barrister and the Council of the Law Society regarding the appointment of a solicitor.

3.11 In the view of the Hong Kong Bar Association, the appointment of "political figures" as members of JORC would affect the public's perception of the Judiciary and the credibility of JORC. It is relevant to note that -

- (a) a member of JORC appointed in 2000 is a deputy to the 9th National People's Congress, People's Republic of China; and
- (b) under section 4(1) of the JORC Ordinance, a LegCo Member is ineligible for appointment as a member of JORC.

3.12 *The Panel invites views on whether any changes should be introduced in respect of the composition of JORC and the criteria for appointing members to JORC.*

Accountability of JORC

Annual report of JORC

3.13 The JSC was established on 20 February 1976. From 1976 to 1982, a Chairman's Report was published annually. The reports gave a general account of the composition and functions of the Commission, and the appointments made or considered in the year of the report. It is not clear why this practice stopped. No report has ever been published by JORC.

3.14 The Panel invites views on whether JORC should be required to publish an annual report in order to enhance its transparency and accountability.

Operation of JORC

Open recruitment for judicial vacancies

3.15 Both UK and Canada conduct open recruitment for certain judges, while such practice is not adopted in the US for federal judge appointments. Open recruitment has been adopted in the UK for vacancies in the High Court since 1997. In Hong Kong, open recruitment is limited to vacancies at and below the District Court level.

3.16 A suggestion has been made by the Hong Kong Bar Association that open recruitment should be extended to all levels of court. It agrees that the proposal has pros and cons. On the one hand, having all vacancies advertised would allow interested persons to apply and enhance the public confidence in the process. On the other hand, it may dissuade eligible candidates from applying because an unsuccessful application might cause embarrassment. However, the Bar Association is of the view that the need to increase the transparency of the system should prevail.

3.17 The Panel invites views on whether open recruitment should be extended to judicial vacancies at the High Court level and above.

Consultation by JORC members

3.18 According to the Administration, the normal practice for an appointment exercise is that the secretary to JORC, in consultation with the Chairman, draws up a

list of eligible candidates for JORC's consideration. This may include only those highly experienced candidates instead of all candidates who meet the minimum legal requirements. The proposed list is not meant to be exhaustive and can be amended by any JORC member. After deliberation, JORC would come up with a shortlist of candidates having regard to the responsibilities and the qualities required of the post holder, and decide on the person to be recommended to CE for appointment. It may be necessary for members of JORC to canvass the views and assessments of senior members of the Judiciary and the profession of the candidates.

3.19 One concern raised by the Bar Association is that section 11(1) of the JORC Ordinance governing unauthorised disclosure may hamper the consultation process by JORC members. The Bar Association considers that while it may be difficult to have widespread consultation within the Judiciary and the profession given the need for confidentiality, some system of consultation should be required for appointments to the High Court or above.

3.20 The Panel invites views on whether section 11(1) of the JORC Ordinance should be reviewed and amended in order to enhance the transparency of the operation of JORC.

Voting of JORC

3.21 Before 11 July 1990, every resolution of the JSC has to be passed by the unanimous vote of the Chairman and every member who considers the resolution. On 11 July 1990, the JSC Ordinance was amended to expand the number of members from six to nine, and to provide that two dissenting votes are permissible for a resolution to be effective. This has remained unchanged when the JORC Ordinance was introduced to replace the JSC Ordinance in 1997.

3.22 The 1990 amendment allowing two dissenting votes was against the recommendation of the LegCo Ad Hoc Group set up at the time to scrutinise the Bill. The recommendation was made having regard to the concern that a candidate could still be appointed to the bench even if the two representatives of the legal profession objected to the nomination. At the debate on the resolution of the appointment of the CFA judges at the Council meeting on 21 June 2000, the same criticism was reiterated.

3.23 The Panel invites views on whether any changes should be made to the existing provision governing the number of dissenting votes permissible for a resolution of JORC to be effective.

Chapter 4 - Mechanism for handling complaints against judges

4.1 As a related issue, concern has been expressed that there is at present no established system to handle complaints against judges. The Panel considers this the right time to explore the desirability and feasibility of establishing such a system. If and when such a system is in place, any complaints and subsequent inquiry and its result should be made available to JORC for its consideration of any candidate for recommendation for judicial appointment.

4.2 *The Panel invites preliminary views on the desirability and feasibility of establishing a mechanism for handling complaints against judges.*

Chapter 5 - Summary of issues for consultation

The Panel invites views on the following issues -

Paragraph

I. Procedure for LegCo to endorse judicial appointments under BL 73(7)

A. Options for endorsement procedure

2. 5 - 2.16

- Option 1 -

to maintain the status quo, subject to adequate information to be provided by the Administration on a judicial nominee

- Option 2 -

to expand upon Option 1 by having a set procedure to deal with cases which may be controversial

- Option 3 -

to adopt certain features of the system in the US e.g. the practice of the Senate Judiciary Committee of holding open hearings to question nominees

- Any other variations

B. Information provided to LegCo

2.17

- Whether the information provided to LegCo on a judicial nominee may be expanded to include as many of the items in the documents set out in Appendices I - IV

- Whether LegCo should be exempt explicitly from the application of section 11(1) of the JORC Ordinance

II. Process of appointment of judges

A. Membership of JORC

- Whether any changes should be introduced in respect of the composition of JORC, e.g. the membership of the Secretary for Justice and the criteria for appointing members to JORC 3.5 - 3.12

B. Accountability of JORC

- Whether JORC should be required to publish an annual report 3.13 - 3.14

C. Operation of JORC

- Open recruitment for judicial vacancies - whether open recruitment should be extended to judicial vacancies at the High Court level and above 3.15 - 3.17
- Consultation by JORC members - whether section 11(1) of the JORC Ordinance should be reviewed and amended 3.18 - 3.20
- Voting of JORC - whether any changes should be made to the existing provision governing the number of dissenting votes permissible for a resolution of JORC to be effective 3.21 - 3.23

III. Mechanism for handling complaints against judges

- The desirability and feasibility of establishing a mechanism for handling complaints against judges 4.1 - 4.2

Appendices

- Appendix I** The standard curriculum vitae of recommended appointees provided to LegCo by the Administration in the two appointment exercises
- Appendix II** Questionnaire set by the Senate Judiciary Committee in the US
- Appendix III** Application form for appointment as Justice of the High Court in the UK
- Appendix IV** Application form for judicial vacancies in the District Court and below in Hong Kong

Appendix I

The standard curriculum vitae of recommended appointees provided to LegCo by the Administration in the two appointment exercises

- (1) Name
- (2) Nationality
- (3) Date and place of birth
- (4) Age
- (5) Academic qualifications
- (6) Professional qualifications
- (7) Career history

Appendix II
(English version only)

Questionnaire set by the Senate Judiciary Committee in the United States

**(Extract from "Report of the Commission on the Selection of Federal Judges
1996, Miller Center Commission No. 7, May 1996")**

A. GENERAL PERSONAL QUESTIONS

I.1. Full name and any former names used.

IV.1

I.2. Address (current residence and office).

IV.2

I.3. Date and place of birth.

I.4. Marital status and spouse's name/maiden name (if applicable), occupation and employer's name/address.

I.5. Education (list each college, law school and date of degree).

I.6. Employment record (list by year each business or other enterprise since college).

I.7. Military service (list dates, service, rank, serial number and type of discharge).

I.8. Honors and Awards of interest to the Committee.

I.13. What is present state of your health and when was your last physical exam?

B. LEGAL EXPERIENCE AND BACKGROUND

I.9. Bar Associations (list all legal or judicial committees or conferences with titles and dates).

I.10. Other memberships in organizations which lobby public bodies.

I.11. All courts in which admitted to practice with dates and list any lapses. Same information for administrative bodies requiring special admission.

- I.12 List of all publications with copies of material not readily available and speeches on constitutional law or legal policy with readily available press reports about such speeches.
- I.14 State chronologically any judicial offices held with description.
- I.15 Provide citations for your ten most important opinions (if applicable), same for all appellate opinions reversing or criticizing your rulings, and your significant opinions on state or federal constitutional issues with related appellate rulings (if not readily available, provide copies of these).
- I.16 State any other public offices held with terms of service and descriptions, and list chronologically other candidacies.
- II.6. Ever play a role in a political campaign? If so, identify particulars, including candidate, dates, and your title/responsibilities.
- I.17 Describe chronologically your legal career including :
- a.1 - Clerkships.
 - a.2 - Solo practice.
 - a.3 - Law firms, companies, and government agencies.
 - b.1 - Describe general character of your practice.
 - b.2 - Describe former clients and specialities.
 - c.1 - Frequency of appearances in court? If this varied, give by date.
 - c.2 - Percentage of appearances in (a) federal, (b) state, and (c) other courts.
 - c.3 - Percentage of (a) civil and (b) criminal.
 - c.4 - Number of cases tried to conclusion and state your role.
 - c.5 - Percentage of cases (a) jury and (b) non-jury.

C. FINANCIAL DATA AND CONFLICT OF INTEREST

- II.1. Sources, amounts and dates of all anticipated receipts from business relationships. Describe arrangements for any future compensation.
- II.2. Explain how you will resolve potential conflicts of interest and identify likely areas which may initially pose conflicts.

I.18 Describe ten most significant litigated matters you personally handled. Give citation, summary, identify client, detail nature of your participation. Also : (a) date of representation. (b) name of court and judge. (c) names, addresses and phone numbers of co-counsel and principal counsel for other parties.

I.19 Describe the most significant legal activities you pursued (non-trial or non-litigation). Describe the nature of your participation (unless privileged).

II.3. Do you have plans to pursue outside employment with or without pay if confirmed? If so, explain.

II.4. List all sources of income received in the calendar year prior to nomination.

II.5. FINANCIAL STATEMENT REQUIRED

D. INVOLVEMENT IN LEGAL PROCEEDINGS/TAX AUDITS/OTHER CONFIDENTIAL

IV.3. Ever been discharged or resigned due to impending discharge?

IV.4. Have you and your spouse paid all back taxes? Any tax payments made prior to your nomination? If so, detail.

IV.5. Tax lien or collection procedure ever instituted against you? If so, detail.

IV.6. You or spouse ever subject of any tax audit or inquiry? If so, detail.

IV.7. You or spouse ever declared bankruptcy? If so, give particulars.

IV.8. Have you or any organization you belonged to ever been under investigation for violating any law or regulation? If so, detail.

IV.9. Have you ever been the subject of a complaint to any group, agency or court for breach of ethics or rule of conduct? If so, give particulars.

IV.10 Ever been a party to any litigation?

IV.11 Please advise the Committee of any other adverse information that may affect your nomination.

E. GENERAL/OTHER

III.1. Describe your work to provide those disadvantaged with legal services.

III.2. Any membership in a discriminatory organization? If so, what efforts did you make to try to change such policies?

- III.3. Selection committee in your jurisdiction to recommend nominations? If so, did they recommend you? Describe the entire process you underwent.
- III.4. Did anyone involved in your selection discuss any legal case or issue seeking to learn how you might rule? If so, explain fully.
- III.5. Discuss your views on a criticism of judicial activism.

LORD CHANCELLOR

Application for appointment as
Justice of the High Court

Restricted - Appointments

Please complete this form in type or write clearly in **black** ink. If there is insufficient space on the form please feel free to continue on a separate sheet. **You should complete all parts of this form, even if you have previously supplied some of the details requested.** This will help to ensure that our records are up to date.

Please read the guidance notes before completing this form.

Section A - Personal details

Title (tick as applicable) Mr Mrs Miss Ms Other (please state)

Professional surname

Private surname (if different from professional surname)

Forenames in full
(please underline the name by which you prefer to be known)

Date of birth

Decorations/honours

Professional address

Postcode
Telephone
Email

Private address

Postcode
Telephone
Email

Please indicate which address is to be used for correspondence relating to this application

Professional Private

Please tick one or more as appropriate to indicate whether you are a :

Barrister Solicitor Queen's Counsel
 Holder of full-time judicial office

Please indicate with a tick the Division(s) of the High Court to which you would prefer to be assigned, if appointed :

Queen's Bench Chancery Family

Nationality

Section B - Educational and professional history

1 Further and/or Higher Education

Dates	Colleges and/or Universities attended	Degrees/diplomas/certificates Awarded (please state class of Any degrees)

2 Legal training**Barristers**

Month and year of call to the Bar _____

Inn of Court _____

Circuit membership (if any) _____

Specialist Bar Association (if any) _____

Year Silk taken (if applicable) _____

Solicitors

Month and year of admission as a solicitor _____

Specialist Solicitors' Association (if any) _____

Higher courts (Civil) Date granted _____

Higher courts (Criminal) Date granted _____

Higher courts (All Proceedings) Date granted _____

Year Silk taken (if applicable) _____

All applicants

Please give dates of pupillage and name(s) and address(es) of pupil-master(s) and/or dates of articles and name(s) and address(es) of principal(s) and firm(s) or other organisation(s) (eg local authorities) with whom articles were undertaken, **starting with the earliest.**

Dates	Name of pupil-master or principal and firm or other organisation	Address

All applicants

Please give details of your professional experience since completing pupillage or articles, **starting with the earliest.** Please include dates, addresses (including where appropriate, the name of the Head of Chambers). Please include under 'Particulars' the type of work done.

Dates	Chambers, firm or other organisation and address	Particulars

Barristers and Solicitors

Please give a general indication of the type of your present practice by entering, against each appropriate category below, the approximate percentage of your working time that you spend on that type of work.

%

- Administrative and Public Law (including Judicial Review)
- Arbitration
- Banking and Financial Services
- Chancery
- Commercial and Admiralty
- Common Law - Contract, Sale of Goods
- Common Law - Personal Injury
- Common Law - Product Liability
- Common Law - Professional Negligence
- Common Law - Other
- Company Law
- Conveyancing
- Criminal
- Defamation
- Disciplinary
- Employment and industrial relations
- European and International
- Family
- Housing
- Human Rights
- Immigration
- Insolvency
- Intellectual Property
- Landlord and Tenant
- Parliamentary, Planning and Local Government (including Rating)
- Practice Management
- Restrictive practice and monopolies
- Revenue
- Technology and Construction
- Other (please specify):

If you are no longer in active practice as a barrister or a solicitor, on what date and in what circumstances did you cease to practise?

3 Fees

Please state your personal gross income from practice (exclusive of VAT) in each of the last three completed accounting years, beginning with the most recent (to the nearest £1,000)

Income	Accounting year ending
£	to
£	to
£	to

If you consider that the level of your fees or earnings have been affected by the nature of your or your firm's practice or extraneous factors, please give details in this section

Section C - Judicial experience

Do you now hold, or have you held in the past,
any judicial appointment?
(including part-time appointment)

No

Yes (please state which and give the
date(s) of appointment in the
space below)

If you currently hold a judicial appointment,
please state where you now sit, naming the
court(s) or hearing centre(s).

Please state any locations at which you have
sat in the last 3 years and the court(s) or
hearing centre(s) at which you have sat in that
time.

If you hold or have held any judicial appointment, please describe the work you have done as a holder of
judicial office, including the number of sitting days completed and the jurisdictions exercised.

Section D - General

Character

Have you ever been convicted of, or cautioned for, any criminal offence, other than a minor road traffic offence such as parking, or are any such proceedings pending? No Yes (please give details, including dates, below)

Please note that applicants for judicial appointment are not protected by sections 4(2) and 4(3) of the Rehabilitation of Offenders Act 1974, and convictions which would normally be regarded as 'spent' within the meaning of the Act should therefore be declared. [Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975]

Have you ever been adjudged bankrupt, made a composition with your creditors, or been sued to judgement for any debt, or are any such proceedings pending? No Yes (please give details, including dates, below)

Have you ever had proceedings brought against you, or paid a penalty, or made a composition in respect of failure to pay, or any other default relating to, VAT or any other form of tax or rates, or are any such proceedings pending? No Yes (please give details, including dates, below)

Have you ever had an action brought against you for professional negligence without the matter being dismissed, or are any such proceedings pending? If you are a solicitor and such an action has been brought or is pending against your firm in respect of a matter under your supervision, answer 'yes'. No Yes (please give details, including dates, below)

Are you, or have you ever been, subject to the disciplinary proceedings of the Bar or The Law Society (including the Bar's and The Law Society's procedures in respect of complaints about inadequate professional services or "shoddy work") in respect of a matter involving you personally or under your supervision, without the matter having been dismissed, or are any such proceedings pending? No Yes (please give details, including dates, below)

Are you aware of anything in your private or professional life which would be a source of embarrassment to yourself or the Lord Chancellor if it became known in the event of your appointment as a High Court Judge? No Yes (please give details below or, if you prefer, contact a member of Judicial Group staff as mentioned in the 'Guide for Applicants')

Consultation

You may include here the name(s) and address(es) of up to three members of the judiciary and/or profession who you consider will be able to comment on your qualities and experience. (The arrangements for consultation are outlined in the 'Guide for Applicants': this is an opportunity to name those who would not otherwise be consulted.)

Further information

Please provide any other information which you consider may be relevant to your application, including any matters you wish the Lord Chancellor to be aware of in considering your application. Please assess your own suitability for appointment to the High Court Bench, against the criteria (legal knowledge and experience, skills and abilities, and personal qualities; these are described in more detail in the Guide). You should provide examples of significant achievements to support your assessments. Continue on a separate sheet if necessary.

I declare that the information which I have given on this form is true to the best of my knowledge and belief.

Signature

Date

香港司法機構
HONG KONG JUDICIARY

Appendix IV

職位申請書
APPLICATION FOR APPOINTMENT AS

申請職位名稱 :.....

請只填寫一個職位
(Please fill in one post title only)

- 備註:
Notes:
- (a) 申請人所提供的資料，將用於招聘司法機構司法人員以及其他與聘用有關的事宜上。有關資料可能會送交獲授權處理司法機構職位申請人資料的部門/機構，以便進行與聘用有關的事宜，例如學歷評審、體格查等。
The information provided will be used for appointment to the Hong Kong Judiciary and other employment-related purposes. It may be provided to departments/agencies authorized to process the information for purposes relating to appointment. e.g. qualifications assessment and medical examination.
- (b) 申請人須填妥申請書各項，並提供正確資料。如空位不敷填寫，申請人應另頁詳列有關資料，隨申請書附上。
Please ensure that all parts of the form are completed and the information is accurate. If there is insufficient space, please give details on a separate sheet to be attached to this application.
- (c) 香港司法機構在有需要時，或會按你填報的資料，諮詢你的僱主，包括你現時的僱主。如你反對本機構在現階段作出諮詢，請你在本表格的第四頁的空格內，填上有關僱主姓名/名稱，以及述明反對的原因。
The Hong Kong Judiciary may, if appropriate, ask for references from the employers named by you, including your present employer. If however, you have a specific objection to such enquiries being made at this stage, you should give the names of the employers concerned, and state your objection in the space provided on page 4.
- (d) 香港司法機構不能告知申請人其落選的原因。任何人士如有企圖利用政治或其他影響力，使其獲特別的考慮者，便即喪失申請資格。如有故意誤報資料者，便有可能喪失其申請資格；即使已獲聘用，亦會有遭紀律懲處之虞。
The Hong Kong Judiciary cannot inform unsuccessful candidates of the reason for their rejection. Any attempt to gain special consideration by the use of political or other influence will disqualify the applicant. Any wilful misstatement will render the candidate liable to disqualification or disciplinary proceedings if appointed.
- (e) 提交申請書後，如欲更改或查詢個人資料，請致電☎2825 4208 與委任部人員聯絡。
For correction of or access to personal data after submission of this application, please contact the subject officer at ☎2825 4208.

請用黑色墨水筆或原子筆，以正楷填寫各項。
(Please complete this form in BLOCK LETTERS with black ink)

甲部 個人資料		SECTION 1 PERSONAL HISTORY	
姓氏 Surname	名字 Other names	中文姓名 (如有時) Chinese name (if any)	
住址 Residential address		中文姓名電碼 Chinese name in code	
		香港身份證號碼 H.K. Identity Card No.	
電話號碼 Telephone number		請在此處貼上你近照 (以護照相片的大小為準) Please affix a recent passport size photograph of yourself in this space	
住所 辦事處 Private Business			
國籍 Nationality			
出生地點 Place of birth	出生日期 Date of birth	年齡(以對上一次的生日日期計算) Age last birthday	

<p>A. 你會否投考香港司法機構的職位? Have you ever applied to the Hong Kong Judiciary for employment ?</p>	<p>有/否 Yes/No</p>
<p>If so, (a) 請述明 (i) 職位名稱 please provide title of the post _____ (ii) 申請日期 date of application _____</p>	
<p>(b) 有否邀請你參加面試? were you called for interview?</p>	<p>有/否 Yes/No</p>
<p>B. (a) 你會否獲香港司法機構委任為暫委法官/暫委副司法常務官? Have you ever sat as Deputy Judge/Temporary Deputy Registrar in the Hong Kong Judiciary?</p>	<p>有/否 Yes/No</p>
<p>如有者，請詳述： (i) 職位名稱 If yes, give details title of the post _____ (ii) 任期 period(s) of sitting _____</p>	
<p>(b) 你會否獲香港司法機構委任為常任裁判官(臨時委任)/特委裁判官(臨時委任)? Have you ever sat as Temporary Magistrate/Temporary Special Magistrate in the Hong Kong Judiciary?</p>	<p>有/否 Yes/No</p>
<p>如有者，請詳述： (i) 職位名稱 If yes, give details title of the post _____ (ii) 任期 period(s) of sitting _____</p>	
<p>C. 除渡假外，曾否離開香港境域? Other than for holidays, have you been outside HK?</p>	<p>有/否 Yes/No</p>
<p>如有者，請述明時間，地點及離境目的： If yes, state when, where and purpose of visit: _____ _____</p>	
<p>D. 你會否被 Have you ever been</p>	<p>有/否 Yes/No</p>
<p>(a) 法庭判定罪名成立? 或 convicted in a Court for any offence? Or (d) 你會否成爲涉及債務、破產或贍養費的法庭聆訊的被告人? 或 subject to court proceedings relating to debt, bankruptcy or maintenance? Or (c) 你會否成爲專業團體紀律聆訊的被告人? subject to any disciplinary hearings of a professional body? 如有者，請詳述： If yes, give details _____ _____</p>	
<p>(可選擇是否填寫) (Optional)</p>	
<p>E. 你是否殘疾人士? Are you a candidate with a disability?</p>	
<p>如爲殘疾人士，請註明殘疾性質及程度，以便作出適當的面試安排： If yes, please indicate nature and degree of disability to facilitate arrangement of interview: _____ _____</p>	
<p>(註： 司法機構在遴選時對殘疾人士及其他申請人會一視同仁。) (Note :Candidates with a disability are considered on equal terms with other applicants)</p>	

乙部 學歷及訓練**SECTION II EDUCATION AND TRAINING**

請按日期順序列明曾就讀學校的名稱和詳細地址，包括全日制、兼讀及學徒訓練課程等。 Give the names and full address of schools or colleges attended in date order, including full or part time courses, apprenticeships etc.	入讀日期 Dates of entry		離校日期 Dates of leaving	
	月 Month	年 Year	月 Month	年 Year

丙部 獲取的資格**SECTION III QUALIFICATIONS OBTAINED**

詳列在學校或離校後所獲的學術、技能及專業資格，包括考試的級別及考獲的等級；並請註明加入或獲選加入任何專業團體的日期。 Give here full particulars of educational, technical and professional qualifications acquired at school or since, including level of examination and grade of pass obtained. Please also state dates of admission or election to any professional bodies.	獲授資格的日期 Dates passed	
	月 Month	年 Year

請在此欄填寫本表格未有包括的附加資料 (例如：工作以外的經驗、能操的外語、興趣及嗜好等)
Please use the space below for additional details you wish to give about yourself which are not otherwise covered by this form (e.g. experience gained outside your employment, foreign languages spoken, interests and hobbies etc.)

丁部 個人品德的諮詢人**SECTION IV REFEREES AS TO PERSONAL CHARACTER**

請填上兩位諮詢人的姓名和詳細地址(不得為申請人的僱主、老師、導師或親屬)。諮詢人應為以私人身份認識申請人的人士，並能夠對申請人的無業或不受僱於任何僱主的工期間予以證明。
Please give below the names and full address of two responsible persons (other than employers, teachers, tutors and relatives) who know you personally in private life. They should be able to confirm any period of unemployment or self-employment.

姓名 Name	(1)	(2)
地址 Address		
職業 Occupation		
與申請人認識的期間 Period known		

戊部 就業詳情
SECTION V EMPLOYMENT RECORD

順序列明自工作以來的全部就業詳情，包括學徒訓練、見習及在警隊服務(填上職級和編號)等。如曾不受僱於任何僱主而工作或沒有就業，亦請列明。

Give below full details of all employment in date order, since starting work. Include any apprenticeship, articed service, Force service (give rank and number) and any periods of unemployment or self-employment.

日期 Date 月 年 Month Year	僱主及直屬主管的姓名和詳細地址 Name and full address of employer and name of immediate superior	職位名稱、工作性質和職責 Title of position held, duties and responsibilities	離職原因 Reason for Leaving employer
由 1 From 			
至 To 			
由 2 From 			
至 To 			
由 3 From 			
至 To 			
由 4 From 			
至 To 			
由 5 From 			
至 To 			
由 6 From 			
至 To 			

你不欲本機構在現階段便向其諮詢的僱主姓名/名稱，並述明原因。

Give here names of employers to whom you do NOT wish reference made at this stage, and give the reason.

現時(或最後)工作的年薪：如沒有受僱有工作，列明全年收入：
Annual rate of pay in present (or last) employment: if self-employed state annual income.

如獲聘用，可在接獲通知後多久才可履新?
If offered an employment, how soon after notification of your selection could you leave to take up your duties?

己部 聲明(由申請人簽署)
SECTION VI DECLARATION TO BE SIGNED BY THE APPLICANT

本人謹此証實據本人所知，本人在本表格所填報的資料，全部真確。同時，據本人所知，並無任何事情，若經透露，便會導致本人是否適合受聘一事引起質疑。本人明白如有任何故意誤報資料等事情，便有可能使本人喪失申請資格；即使已獲聘用，亦有遭紀律懲處之虞。

I hereby certify that the information given by me on this form is to the best of my knowledge correct. I am not aware of any circumstances which, if disclosed, might cause my fitness in any respect for employment to be questioned. I understand that any wilful misstatement renders me liable to disqualification or to disciplinary proceedings if appointed.

本人明白並且同意本人的申請受本表格列述的條件限制。本人亦同意香港司法機構可以諮詢本人在此填報的僱主及諮詢人

I understand and accept that my application is subject to the conditions described in this form, and agreed that the Hong Kong Judiciary may approach the referees and employers named herein.

日期_____ 申請人簽署_____