司法人員
推薦委員會報告

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司法人員
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前言

在一國兩制的原則下，一個獨立的、能維護法治的司法機關對於香港來説至為重要。獲任命的法官[1]必須正直不阿、精於法律。故此，選拔司法人才的工作極為重要。

2. 根據《基本法》，香港特別行政區法院的法官，須得到由本地的法官、法律界人士及其他方面的知名人士組成的獨立委員會推薦，並由行政長官任命。1997年7月1日，司法人員推薦委員會成立。這個委員會就是《基本法》中預期會設立的獨立委員會。

3. 發表司法人員推薦委員會報告，旨在交代委員會的重要工作。第一份委員會報告於2003年發表，涵蓋的時段由1997年7月1日起至2002年12月31日止。委員會之後每年發表報告。現在發表的是第五份委員會報告，涵蓋的時段是2006年全年。

4. 雖然在2006年沒有對某些司法職位作出任命，但我們在本報告的第三章至第六章內仍然保留各級法院司法職位的任命的有關描述，讓大家對委員會職權範圍內有關司法職位的任命有全面的了解。

5. 希望這份報告能令你對委員會的工作有更多的了解。

司法人員推薦委員會主席
終審法院首席法官　李國能

[1] “法官”在此包括法官和司法人員。

第一章　　司法人員推薦委員會

司法人員推薦委員會的成立

1.1　《基本法》第四十八(六)條賦予行政長官在依照法定程序下任免各級法院法官的職權。根據《基本法》第八十八條，香港特別行政區（“香港特區”）法院的法官，須得到由本地法官、法律界人士及其他方面的知名人士組成的獨立委員會推薦，並由行政長官任命。

1.2　司法人員推薦委員會（“委員會”或“推薦委員會”）是《基本法》第八十八條預期會設立的獨立委員會。委員會於1997年7月1日根據香港法例第92章《司法人員推薦委員會條例》成立，取替了昔日的司法人員敍用委員會。

推薦委員會的職能

1.3　根據《司法人員推薦委員會條例》，委員會的職能乃就以下事項向行政長官提供意見或作出推薦 —

(a)　司法職位空缺的填補；
(b)　司法人員就服務條件提出的申述，而該申述又經由行政長官轉介予委員會；及
(c)　影響司法人員而可予訂明或可由行政長官轉介予委員會的任何事項。

1.4　所有司法職位均納入委員會的職權範圍，這些職位已詳列於《司法人員推薦委員會條例》附表1。附表載於附錄一內。

推薦委員會的委員

組成及委任

1.5　按照《司法人員推薦委員會條例》，委員會由以下人士組成：由終審法院首席法官出任主席，委員則包括律政司司長及其他7名由行政長官委任的人士。這7名人士分別為2名法官、1名大律師、1名律師，及3名與法律執業無關的人士。

1.6　有關委任大律師及律師方面，行政長官須按《司法人員推薦委員會條例》分別諮詢香港大律師公會執行委員會及香港律師會理事會，惟行政長官最終仍可委任其他沒有獲得上述專業團體推薦的人士。

1.7　根據《司法人員推薦委員會條例》，獲委任的委員可向行政長官給予書面通知而辭職，以及須在任職2年後離職，但有資格再獲委任。

無資格獲委任的人士

1.8 《司法人員推薦委員會條例》規定下述人士不得獲委任為委員會委員：立法會議員，或出任可享有退休金的職位（除法官職位外）的人士，而該職位的薪酬全部或部分是由公共收入繳付的，除非他是正在作退休前度假，並已就其現時所出任的職位或職守的服務期所會付給他的退休金款額獲得正式通知者，則屬例外。

委員

1.9 行政長官於2006年5月委任三名新委員，任期兩年，由2006年7月1日起至2008年6月30日止。現時委員會的成員如下 —

當然主席及當然委員

終審法院首席法官李國能（主席）
黃仁龍資深大律師，JP（律政司司長）

法官

陳兆愷法官（直至2006年6月30日）
彭鍵基法官（直至2006年6月30日）
馬道立法官（2006年7月1日至2008年6月30日）
湯寶臣法官（2006年7月1日至2008年6月30日）

大律師及律師

何沛謙資深大律師（2005年7月1日至2007年6月30日）
史密夫律師（2005年7月1日至2007年6月30日）

與法律執業無關的人士

馮國經博士，GBS （直至2006年6月30日）
徐立之教授（2005年7月1日至2007年6月30日）
王葛鳴博士，JP （2005年7月1日至2007年6月30日）
鄭維健博士，GBS，JP （2006年7月1日至2008年6月30日）

1.10　委員會主席及任期由2005年7月1日至2007年6月30日及由2006年7月1日至2008年6月30日的委員的簡歷載於附錄二。

程序及表決規則

程序

1.11　委員會的程序及表決規則均由《司法人員推薦委員會條例》規管。主席連同不少於6名其他委員可行使及執行委員會的任何職能、權力及職責。為委員會任何會議的目的，如終審法院首席法官不能執行主席職務，出席該次會議的委員可藉決議委任他們其中任何一人署理其職務，並於如此署理職務時，於該會議中行使並履行主席的所有職能。如任何獲委任的委員不在香港或不能執行委員職務，行政長官可委任另一人暫時署理該委員的職務。

表決規則

1.12　在委員會會議中，以下的決議即屬有效 —

(a)　凡有7名委員出席時，最少有5票表決贊成；
(b)　凡有8名委員出席時，最少有6票表決贊成；及
(c)　凡有9名委員出席時，最少有7票表決贊成。

書面決議

1.13　在並無會議舉行的情況下，委員會的決議可藉將決議草案連同表決表格，交予委員傳閱而由委員表決；可藉委員在表決表格上簽署及將其交回委員會秘書而表決；及在以下情況，即屬有效 —

(a)　凡有7名委員在表決表格上簽署時，最少有5票表決贊成；
(b)　凡有8名委員在表決表格上簽署時，最少有6票表決贊成；及
(c)　凡有9名委員在表決表格上簽署時，最少有7票表決贊成。

1.14　即使有1.13段的規定，如有任何委員在表決表格上，通知秘書謂該決議應在會議上討論，則決議即屬無效。

披露意向

1.15 《司法人員推薦委員會條例》規定凡委員會正就《司法人員推薦委員會條例》附表1中所載的司法職位的空缺填補，或就香港法例第484章《香港終審法院條例》第14條所指的終審法院首席法官的任期延期而行使其職能，則被視為或可合理地視為填補有關空缺的候選人的委員，或其任期正獲考慮延期的委員，須披露假若獲選或任期獲推薦延期，他是否願意接受委任或延期，而該項披露須記錄於委員會的會議紀錄內。披露願意接受委任或延期的委員，不得參與委員會就該委任或延期所作的任何商議，亦不得就有關上述事項的任何問題表決；及就委員會對該委任或延期（視屬何情況而定）作出的任何商議或有關上述事項的問題而言，被視為不能執行委員職務。

秘書

1.16 根據《司法人員推薦委員會條例》，委員會秘書須為公職人員，並須由行政長官委任。委員會秘書不得為委員會委員。

1.17 委員會成立以來，行政長官一直都是委任正在擔任司法機構政務長一職的人士出任秘書。司法機構政務長劉嫣華女士於2005年6月15日起獲委任為委員會秘書。

關於委員會運作的法定條文

1.18 《司法人員推薦委員會條例》載有以下有關委員會運作的條文 —

(a) 根據條例，凡作出以下行徑，即屬違法 —

(i) 故意向委員會或任何委員提供虛假資料（第8條）；

(ii) 如未經行政長官許可，向任何未獲授權的人發布或披露在根據《司法人員推薦委員會條例》或與《司法人員推薦委員會條例》有關的執行職責的過程中所知悉的任何文件、通訊或資料的內容或部分內容，或在執行職責的過程以外發布或披露該等內容（第11條）；及

(iii) 影響或企圖影響委員會的決定或任何委員（第12條）。

(b) 委員會在行使其職能或履行其職責時向行政長官或終審法院首席法官提交的報告、陳述書或其他通訊均為享有特權的通訊，不得強制將其在任何法律訴訟程序中呈堂（第9條）。

(c) 在針對委員會委員就其執行委員職責時作出的任何作為的法律行動或訴訟中，該委員會委員享有的保障及特權，與法官執行其職務作出作為時所享有的保障及特權相同（第10條）。

第二章　　委員會的工作

推薦委員會的工作

2.1　委員會於1997年7月1日正式開始運作。有關推薦的討論及決定通常都是通過會議進行，但有時也會藉傳閱文件方式進行。2006年，委員會進行了4次會議，並在該些會議討論了10份文件，從而通過了44項決議。此外，該年度內亦傳閱了一份文件讓各委員考慮，結果委員會在沒有召開會議的情況下，通過了一項決議。

2.2　2006年，委員會曾推薦35位人選，出任11個在高等法院、12個在區域法院及12個在裁判法院的司法職位。此外，委員會亦就裁判官及司法人員在到達正常退休年齡時延長任期（包括是否延長任期，及如延長的話，該延長多久）、聘用條件轉為常額編制及可享退休金條款，以及在他們的聘用合約續期事宜上提出建議。2006年，委員會推薦人選的次數及就其他事宜提出意見的次數，分別列於〈表一〉及〈表二〉內。

〈表一〉：2006年推薦人選出任司法職位的人數

高等法院		區域法院	裁判法院	
原訟法庭法官	原訟法庭特委法官	區域法院法官	主任裁判官	裁判官
6	5	12	1	11

〈表二〉：2006年就非任命的事宜提供建議的次數

作出建議的範疇	次數
轉為常額及可享退休金條款聘用	3
合約續期	6
延長任期	1

第三章　　終審法院首席法官及終審法院

終審法院首席法官

職務及責任

3.1　《香港終審法院條例》（第484章）規定，終審法院首席法官是司法機構之首，負責司法機構的行政管理及執行其他合法地委予他的職能。根據該條例規定，終審法院首席法官須出任終審法院審判庭庭長。

憲法及法例規定

3.2　《基本法》第九十條及《香港終審法院條例》第6條規定，終審法院首席法官須由在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。

3.3　終審法院首席法官所須具備的法定專業資格，在《香港終審法院條例》第12(1)條中已經訂明（見附錄三）。

2006年作出的任命

3.4　2006年沒有作出終審法院首席法官的任命。

終審法院

3.5　終審法院於1997年7月1日根據《基本法》第十九條成立。該條文規定，香港特區享有獨立的司法權，包括終審權。終審法院是香港級別最高的上訴法院，具有根據《香港終審法院條例》賦予它的司法管轄權。

3.6　終審法院成員包括終審法院首席法官及3名常任法官。終審法院可根據需要邀請非常任香港法官和/或其他普通法適用地區的非常任法官參加終審法院的審判（見第3.10段）。

3.7　《香港終審法院條例》規定，上訴須由終審法院審判庭聆訊及裁決，而終審法院審判庭須由以下成員組成 —

(a)　終審法院首席法官，如他由於某一因由以致未能出庭聆訊上訴，則由一名指定的常任法官代替他參加審判；

(b)　3名由終審法院首席法官委派的常任法官；及

(c)　由終審法院首席法官挑選並由終審法院邀請的一名非常任香港法官或一名其他普通法適用地區的非常任法官。

常任法官

法例規定

3.8 常任法官所須具備的法定專業資格，在《香港終審法院條例》第12(1A)條已經訂明（見附錄三）。

2006年作出的任命

3.9 2006年沒有作出終審法院常任法官的任命。

非常任法官

3.10 《香港終審法院條例》規定，訂立 一 "非常任香港法官名單"及 一 "其他普通法適用地區非常任法官名單"，及非常任法官人數不超逾30名。

3.11 《香港終審法院條例》規定，非常任法官的任期為3年，但行政長官可根據終審法院首席法官的建議，將非常任法官的任期延續一次或一次以上，每次續期為3年。

法例規定

3.12 非常任香港法官所須具備的法定專業資格，在《香港終審法院條例》第12(3)條已經訂明（見附錄三）。

3.13 來自其他普通法適用地區的非常任法官所須具備的法定專業資格，在《香港終審法院條例》第12(4)條已經訂明（見附錄三）。

2006年作出的任命

3.14 2006年沒有作出終審法院非常任法官的任命。

終審法院司法常務官

3.15 《香港終審法院條例》規定，終審法院司法常務官負責管理終審法院登記處。

法例規定

3.16 《香港終審法院條例》第42(2)條規定，終審法院司法常務官所須具備的資格，與根據《高等法院條例》（第4章）第37AA(1)條委任高等法院司法常務官所要求的相同（見附錄三）。

2006年作出的任命

3.17 2006年沒有作出終審法院司法常務官的任命。

第四章　　高等法院

高等法院

4.1　高等法院由上訴法庭和原訟法庭組成，其司法管轄權分別在《高等法院條例》（第4章）第13及12條訂明。

4.2　高等法院上訴法庭審理的案件，有不服原訟法庭或區域法院所作出的民事或刑事判決而提出的上訴，亦有不服土地審裁處的判決而提出的上訴。上訴法庭亦就各下級法院提交的法律問題作出裁決。

4.3　原訟法庭的民事及刑事司法管轄權均沒有限制。原訟法庭亦有上訴管轄權，審理不服裁判法院及若干審裁處的裁定而提出的上訴。

高等法院首席法官

職務及責任

4.4　高等法院首席法官是高等法院的領導，也是上訴法庭的庭長。高等法院首席法官負責高等法院的行政管理，向統領司法機構的終審法院首席法官負責。他負責確保司法資源和法庭時間能夠有效地運用，並負責就高等法院的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

憲法及法例規定

4.5　《基本法》第九十條規定，高等法院首席法官應由在外國無居留權的香港特區永久性居民中的中國公民擔任。

4.6　高等法院首席法官所須具備的法定專業資格，與高等法院法官的專業資格相同。有關規定已在《高等法院條例》第9條中訂明（見附錄三）。

2006年作出的任命

4.7　2006年沒有作出高等法院首席法官的任命。

上訴法庭法官

職務及責任

4.8　上訴法庭法官負責聆訊向上訴法庭提出的刑事及民事上訴案件。如有需要，上訴法庭法官可在高等法院原訟法庭開庭，並以原訟法庭法官身分進行聆訊。

法例規定

4.9　高等法院法官（包括上訴法庭法官）所須具備的法定專業資格，在《高等法院條例》第9條已經訂明（見附錄三）。

2006年作出的任命

4.10　2006年沒有作出高等法院上訴法庭法官的任命。

原訟法庭法官

職務及責任

4.11　原訟法庭法官負責聆訊原訟法庭司法管轄權限內的刑事及民事案件，以及聆訊不服裁判法院及審裁處的裁定而提出的上訴。

法例規定

4.12　高等法院法官（包括原訟法庭法官）所須具備的法定專業資格，在《高等法院條例》第9條已經訂明（見附錄三）。

2006年作出的任命

4.13　行政長官按照司法人員推薦委員會的建議，委任以下人士出任原訟法庭法官—

姓名	
馮驊法官	（任命由2006年11月27日起生效）
張慧玲法官	（任命由2006年11月27日起生效）
韋毅志法官	（任命由2006年11月27日起生效）
潘兆初先生	（任命由2006年11月27日起生效）
辛達誠法官	（任命由2006年11月27日起生效）
邵德煒先生	（任命由2007年1月15日起生效）

高等法院原訟法庭特委法官

職務及責任

4.14　特委法官是法律界私人執業的人士，通常每年有數星期在法庭審理案件。特委法官具有並可行使原訟法庭法官的所有司法管轄權、權力及特權，並執行原訟法庭法官的所有職責。

法例規定

4.15　特委法官須具備的法定專業資格，與根據《高等法院條例》第9(1)或9(1A)條委任的高等法院法官所要求的相同（見附錄三）。

2006年作出的任命

4.16　行政長官按照司法人員推薦委員會的建議，再度委任以下五位人士出任高等法院原訟法庭特委法官，為期三年，任期由2006年12月1日至2009年11月30日止 —

姓名

資深大律師梁冰濂女士
資深大律師郭慶偉先生，BBS
資深大律師駱應淦先生
資深大律師余若海先生，JP
資深大律師霍兆剛先生，JP

高等法院聆案官

職務及責任

4.17　高等法院司法常務官、 高級副司法常務官和副司法常務官行使原訟法庭部分的民事司法管轄權。他們執行的司法職務，包括在內庭聆訊非正審或簡易程序的申請，以及在法庭公開進行損害賠償評估及審理互爭權利的訴訟等。他們亦以訟費評定聆案官、海事訴訟司法常務官、民事上訴案司法常務官和刑事上訴案司法常務官身分，分別行使有關的司法審理權。此外，他們還承擔一些職務，包括受委任錄取證據、處理不服法律援助署署長拒絕給予法律援助而提出的上訴，及監督在香港送達域外司法文書的程序等。他們亦負責管理遺產承辦的事宜和陪審員名單。

4.18　除此之外，高等法院司法常務官還負責管理高等法院訴訟人儲存金、小額錢債審裁處訴訟人儲存金和勞資審裁處訴訟人儲存金，又以當然遺產管理官和精神病患者財產賬目聆案官的身分，管理遺產管理官賬目和精神病患者財產賬目。高等法院司法常務官亦負責備存大律師、律師和公證人的專業名冊。

法例規定

4.19　高等法院司法常務官、 高級副司法常務官和副司法常務官所須具備的法定專業資格，在《高等法院條例》第37AA條已經訂明（見附錄三）。

2006年作出的任命

4.20　2006年沒有作出高等法院聆案官的任命。

第五章　　區域法院及土地審裁處

區域法院

5.1　區域法院根據《區域法院條例》（第336章）成立，具有刑事和民事司法管轄權，也包括婚姻訴訟司法管轄權。此外，區域法院亦根據多項條例，對各審裁處和法定團體行使有限的上訴司法管轄權。家事法庭是區域法院內的一個專責法庭。

首席區域法院法官

職務及責任

5.2　首席區域法院法官是區域法院的領導。他除了要履行區域法院法官的職務外，還需要負責區域法院的行政管理，並向統領司法機構的終審法院首席法官負責。他亦負責確保司法資源和法庭時間能夠有效地運用，並負責就區域法院的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

法例規定

5.3　首席區域法院法官所須具備的法定專業資格，與根據《區域法院條例》第5條委任區域法院法官所要求的相同（見附錄三）。

2006年作出的任命

5.4　2006年沒有作出首席區域法院法官的任命。

區域法院法官

職務及責任

5.5　區域法院的刑事及民事司法管轄權都是有限制的。區域法院法官負責聆訊區域法院的案件，作出判決。刑事司法管轄權方面，區域法院法官最高可判處的監禁刑期為7年。自2003年12月1日起，區域法院一般民事訴訟的申索限額已增至港幣100萬元。

法例規定

5.6　區域法院法官所須具備的法定專業資格，在《區域法院條例》第5條已經訂明（見附錄三）。

2006年作出的任命

5.7　行政長官按照司法人員推薦委員會的建議，委任以下人士出任區域法院法官—

姓名	
鮑理賢先生	（任命由2007年2月1日起生效）
陳慶偉先生	（任命由2007年2月1日起生效）
李素蘭女士	（任命由2007年2月1日起生效）
李瀚良先生	（任命由2007年2月1日起生效）
麥健濤先生	（任命由2007年2月1日起生效）
黃一鳴先生	（任命由2007年2月1日起生效）
邱智立先生	（任命由2007年2月1日起生效）
陳廣池先生	（任命由2007年4月2日起生效）
梁俊文先生	（任命由2007年4月16日起生效）
麥莎朗女士	（任命由2007年5月2日起生效）
陳美蘭女士	（任命由2007年6月1日起生效）
區慶祥先生	（任命由2007年7月3日起生效）

區域法院聆案官

職務及責任

5.8　區域法院司法常務官及區域法院副司法常務官這兩個新職級於2000年6月設立，使區域法院建立了聆案官制度。區域法院司法常務官與副司法常務官具有並行使區域法院法官於內庭聆訊及非正審申請和處理所有事務的同等權力和司法管轄權。此外，他們亦負責處理類似司法職務及行政的事宜，包括管理區域法院訴訟人儲存金。

法例規定

5.9　區域法院司法常務官及副司法常務官所須具備的法定專業資格，在《區域法院條例》第14AA條已經訂明（見附錄三）。然而，前者的職位通常由主任裁判官出任，而後者則由裁判官在互相調派的安排下出任。

2006年作出的任命

5.10　2006年沒有作出區域法院聆案官的任命。

土地審裁處

5.11　土地審裁處根據《土地審裁處條例》（第17章）成立，有由不同條例賦予的司法管轄權，可處理租務申索、釐定政府收回土地或地價因發展而減值所須支付的補償、建築物的管理事宜、糾紛、差餉及估值上訴等。土地審裁處由庭長、土地審裁處法官及委任的其他成員組成。

土地審裁處庭長

職務及責任

5.12　土地審裁處庭長是土地審裁處的領導。根據《土地審裁處條例》第9條，為使審裁處在法律施行方面前後一致，如庭長認為任何案件相當可能會涉及任何嶄新或困難的法律論點，或在顧及申索的性質或款額或任何其他因素後是具有特別重要性的，庭長須在切實可行範圍內，盡力就該案件行使審裁處的司法管轄權。庭長除了要開庭聆訊外，還要負責土地審裁處的行政管理，並向終審法院首席法官負責。他亦須負責確保司法資源和法庭時間能夠有效地運用，並須負責就土地審裁處的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

法例規定

5.13 《土地審裁處條例》第4(1)(a)條規定，庭長須由其中一名高等法院法官出任，並須由行政長官委任（見附錄三）。

2006年作出的任命

5.14　2006年沒有作出土地審裁處庭長的任命。

土地審裁處法官

職務及責任

5.15　土地審裁處法官聆訊土地審裁處司法管轄權範圍內的事宜，並就該等事宜作出裁定。

法例規定

5.16 《土地審裁處條例》第4(2)條規定，各區域法院法官及區域法院暫委法官，均憑藉其所任職位出任土地審裁處法官（見附錄三）。

土地審裁處成員

職務及責任

5.17　土地審裁處成員負責聆聽及裁決土地審裁處司法管轄權範圍內的事宜，但法律論點爭議則除外。法律論點的爭議通常由土地審裁處法官裁定。

法例規定

5.18　根據《土地審裁處條例》第4(3)至第4(5)條，土地審裁處成員可由律師或專業測量師或估值師出任（見附錄三）。

5.19　由於法律論點爭議通常是由土地審裁處法官處理，因此，成員一般都是根據《土地審裁處條例》第4（4）條委任，即香港測量師學會的產業測量組的學會正式會員，或具有同等專業資格，並在從事土地估價方面具備最少5年經驗的人士。

2006年作出的任命

5.20　2006年沒有作出土地審裁處成員的任命。

第六章　　裁判法院、審裁處及死因裁判法庭

裁判法院

6.1　裁判法院的刑事司法管轄權範圍廣泛，有權審理多類可公訴罪行和簡易程序罪行。雖然就可公訴罪行，裁判官一般只能判兩年監禁，罰款則以港幣10萬元為限，但是愈來愈多條例賦予裁判官更大的權力，最高可判監禁3年，罰款亦可高達港幣500萬元。

審裁處及死因裁判法庭

6.2　勞資審裁處提供省時、簡便、廉宜的途徑，解決僱主和僱員之間的勞資糾紛。在勞資審裁處所申索的金額沒有上限，但必須在港幣8,000元以上。雙方當事人均不得由律師代表。

6.3　小額錢債審裁處採用簡單、廉宜、不拘形式的程序審理港幣50,000元或以下的金錢申索。雙方當事人均不得由律師代表。

6.4　淫褻物品審裁處有權裁定有關物品是否屬於淫褻或不雅，或某些公開展示的物品是否屬於不雅。該審裁處亦有權將有關物品分為第一類（既非淫褻、亦非不雅）、第二類（不雅）或第三類（淫褻）。

6.5　死因裁判官有權調查在香港須予報告的死亡個案。若有人在官方看管時死亡，或高等法院原訟法庭發出死因研訊指示，又或律政司司長要求進行死因研訊，死因裁判法庭必須就有關個案進行死因研訊。

6.6　各審裁處及死因裁判法庭的司法職位自1988年起便停止委任，其後有關的司法職位空缺由裁判官在互相調派的安排下出任。

總裁判官

職務及責任

6.7　總裁判官是各裁判法院、死因裁判法庭、勞資審裁處、小額錢債審裁處及淫褻物品審裁處的領導，負責這些法院和審裁處的行政管理，並向統領司法機構的終審法院首席法官負責。總裁判官亦負責確保司法資源和法庭時間能夠有效地運用，並負責就其管轄的法院和審裁處在運作和發展方面的政策事宜，向終審法院首席法官提供意見。

法例規定

6.8　總裁判官所須具備的法定專業資格，與根據《裁判官條例》（第227章）第5AA條委任裁判官所要求的相同（見附錄三）。

2006年作出的任命

6.9　2006年沒有作出總裁判官的任命。

主任裁判官

職務及責任

6.10　主任裁判官除了要履行裁判官的司法職務外，還須負責其主管的裁判法院的行政工作。主任裁判官亦須就各裁判法院的行政事宜向總裁判官提供意見。

法例規定

6.11　主任裁判官所須具備的法定專業資格，與根據《裁判官條例》第5AA條委任裁判官所要求的相同（見附錄三）。

2006年作出的任命

6.12　行政長官按照司法人員推薦委員會的建議，委任裁判官林偉權先生出任主任裁判官，任命由2006年6月1日起生效。

裁判官

職務及責任

6.13　裁判官須審理各裁判法院的案件。他們亦可被派往死因裁判法庭、勞資審裁處、小額錢債審裁處及淫褻物品審裁處出任死因裁判官、勞資審裁處審裁官、小額錢債審裁處審裁官及淫褻物品審裁處主審裁判官，或被派往區域法院聆案官法庭出任區域法院副司法常務官。

法例規定

6.14　裁判官所須具備的法定專業資格，在《裁判官條例》第5AA條已經訂明（見附錄三）。

2006年作出的任命

6.15　行政長官按照司法人員推薦委員會的建議，委任以下人士出任裁判官—

姓名	
黃偉權先生	（任命由2006年8月1日起生效）
黎達祥先生	（任命由2006年8月1日起生效）
翁喬奇先生	（任命由2006年8月1日起生效）
麥國昌先生	（任命由2006年8月1日起生效）
杜浩成先生	（任命由2006年8月1日起生效）
陳玉芬女士	（任命由2006年8月1日起生效）
勞杰民先生	（任命由2006年8月1日起生效）
李慶年先生	（任命由2006年8月1日起生效）
鄭紀航先生	（任命由2006年9月1日起生效）
林嘉欣先生	（任命由2006年9月1日起生效）
蘇文隆先生	（任命由2006年10月3日起生效）

特委裁判官

職務及責任

6.16　特委裁判官審理各裁判法院較輕微的罪行案件，例如非法擺賣和交通違例案件等，並可判處一般不超過港幣10萬元的罰款。

法例規定

6.17　1998年作出檢討後，特委裁判官的委任資格，自1999年起為須具有大律師或律師的專業法律資格，並具有5年與法律或司法有關的經驗。特委裁判官所須具備的法定專業資格，在《裁判官條例》第5AB條已經訂明。

2006年作出的任命

6.18　2006年並沒有作出特委裁判官的任命。

附錄一　　《司法人員推薦委員會條例》（第92章）附表1 - 司法職位

終審法院首席法官
終審法院法官
高等法院首席法官
上訴法庭法官
原訟法庭法官
原訟法庭特委法官
首席區域法院法官
區域法院法官
死因裁判官
總裁判官
主任裁判官
裁判官
特委裁判官
土地審裁處庭長
土地審裁處法官
土地審裁處審裁委員(根據《土地審裁處條例》(第17章)第4(1)(c)條委任者)
主任審裁官(勞資審裁處)
勞資審裁處審裁官
主任審裁官(小額錢債審裁處)
小額錢債審裁處審裁官
終審法院司法常務官
高等法院司法常務官
高等法院高級副司法常務官
高等法院副司法常務官
高等法院助理司法常務官
區域法院司法常務官
區域法院副司法常務官
區域法院助理司法常務官

附錄二　司法人員推薦委員會主席及任期由2005年7月1日至2007年6月30日及2006年7月1日至2008年6月30日的委員的簡歷

主席

終審法院首席法官李國能

李國能法官持有劍橋大學文學碩士及法律碩士學位。他在1970年獲得英國大律師執業資格，1973年獲得香港大律師執業資格，1988年獲委任為御用大律師。李國能法官在1997年7月1日獲委任為首任終審法院首席法官，在此之前一直從事私人執業。他於1997年獲選為中殿律師學院名譽委員，並於1999年獲劍橋大學菲茨威廉學院頒授名譽院士名銜。他現時為聖保羅男女中學校董會副主席、清華大學法律系之友慈善信托基金受托人和清華大學客座教授。

當然委員

律政司司長黃仁龍先生，SC，JP

黃仁龍先生畢業於劍橋大學，獲頒劍橋大學學士（法律）及劍橋大學碩士（法律）學位。他於1987年在英國和威爾斯取得大律師執業資格，同年獲得香港大律師執業資格。2002年，他在香港獲委任為資深大律師。黃先生於2005年10月獲委任為律政司司長，領導律政司轄下包括300多名律師的人員。黃先生是香港法律改革委員會及執業律師聯絡委員會的主席，以及撲滅罪行委員會的副主席。在出任律政司司長之前，黃先生是私人執業大律師，於2003年7至8月期間，他出任香港高等法院原訟法庭暫委法官，於1989至1990年，1997至2002年及2003至2005年，他是香港大律師公會執委會委員，並於2003至2005年出任該會法律教育及專業進修委員會主席。黃先生於2007年獲中殿律師學院選為委員。

委員

高等法院首席法官馬道立
(任期由2006年7月1日至2008年6月30日)

馬道立法官於1977年獲頒英國伯明翰大學法學士學位，於1978年在英國和威爾斯取得大律師執業資格，並於1980年獲得香港大律師執業資格。此外，他先後於1983年及1990年在維多利亞州及新加坡取得大律師資格。於1993年他獲委任為御用大律師。馬法官是英國格雷律師學院的名譽委員。他一直從事私人執業，直至於2001年獲委任為高等法院原訟法庭法官。在2002年，他獲委任為高等法院上訴法庭法官。自2003年7月起，他出任高等法院首席法官。馬法官是民事司法制度改革督導委員會的主席，同時亦為高等法院規則委員會、區域法院規則委員會，以及刑事訴訟程序規則委員會的當然主席。

附錄二

高等法院原訟法庭法官湯寶臣
(任期由2006年7月1日至2008年6月30日)

湯寶臣法官獲香港大學頒授法律學士學位及持有該大學頒發的法學專業證書。在1985年，湯法官取得香港大律師執業資格，於1985至1990年期間從事私人執業。在1991年，他加入香港司法機構為裁判官，並分別於1997及1998年獲委任為主任裁判官及總裁判官。自2000年10月起，他獲委任高等法院原訟法庭法官。湯法官是監管下釋囚委員會的主席及長期監禁刑罰覆核委員會的副主席。他亦是香港法律改革委員會轄下的陪審團小組委員會的成員。

何沛謙資深大律師
(任期由2005年7月1日至2007年6月30日)

何沛謙先生為執業資深大律師，在1983年畢業於倫敦大學，取得法律學士學位，並於1985年在劍橋大學取得法律碩士學位。他於1984年在英國和威爾斯取得大律師執業資格，並於同年獲得香港大律師執業資格。在2000年，他獲委任為資深大律師。何先生在2003年至2005年出任香港大律師公會副主席。他現時為空氣污染管制上訴委員會主席及行政上訴委員會副主席，並自2007年8月31日起獲委任為電訊（競爭條文）上訴委員會副主席。

史密夫先生
(任期由2005年7月1日至2007年6月30日)

史密夫先生為事務律師，自1982年至今在香港執業。他於1985年1月成為羅拔臣律師行的合夥人，從1989年起成為該行的資深合夥人。史密夫先生在2004至2005年期間出任香港律師會會長，現在則是該會理事成員。他也是太平洋地區律師公會會員、亞洲與太平洋法律協會會員、法國工商總會成員、香港董事學會及終審法院規則委員會成員。史密夫先生是香港城市大學法律學院院務會會員和香港總商會歐洲委員會的前主席。

徐立之教授
(任期由2005年7月1日至2007年6月30日)

徐立之教授為香港大學第十四任校長，於2002年9月獲委任現職前，曾任多倫多病童醫院研究中心首席遺傳學家，多倫多大學教授及H.E. Sellers囊狀纖維症講座教授。徐教授是基因研究及其他疾病基因研究工作的先驅。其國際及國家獎項包括加拿大皇家學會院士、倫敦皇家學會院士、台灣中央研究院院士、美國國家科學院外籍院士以及英國皇家內科醫學院頒授榮譽院士。又獲頒授加拿大勳章及安大略省勳章。

王葛鳴博士，JP
(任期由2005年7月1日至2007年6月30日)

王葛鳴博士現任香港青年協會總幹事，亦是中國人民政治協商會議全國委員會委員，並擔任香港特別行政區教育統籌委員會主席至2007年4月30日為止。王博士過去曾分別出任行政及立法議會成員；現時亦擔任多個民間慈善及福利服務機構之主席或理事會成員，以及獲邀擔任香港上海滙豐銀行有限公司及長江實業（集團）有限公司的非執行董事。王博士取得香港大學社會科學榮譽學士、加拿大多倫多大學社會工作學碩士、英國倫敦大學倫敦經濟及政治科學學院社會政策及計劃理學碩士、美國加州大學(Davis)社會學碩士、以及美國加州大學(Davis)社會學博士等學位。此外，她亦分別獲得香港中文大學(1996)、加拿大多倫多大學(1999)、香港理工大學(2002)、香港大學(2003)及香港教育學院(2004)頒授榮譽博士學位；2006年更獲頒授倫敦經濟及政治科學學院榮譽院士。王博士曾獲選為香港十大傑出青年，以及獲世界經濟論壇頒予「明日世界領袖」。她亦於1997年獲頒英帝國爵級司令勳銜。

鄭維健博士，GBS，JP
(任期由2006年7月1日至2008年6月30日)

鄭維健博士為環球(香港)投資有限公司主席、中文大學校董會主席及可持續發展委員會主席，同時亦為中國人民政治協商會議第十屆全國委員會委員。鄭博士最初從事醫科教學工作，其後在80年代末期轉投商界。他在多間上市及私營公司均擔任要職，包括由1989年至1998年擔任恒生銀行副主席及非執行董事、由1991年至1994年擔任香港期貨交易所主席、同期亦兼任香港聯合交易所有限公司之理事；其後於1994年至1997年擔任香港聯合交易所理事會主席。在1997年，鄭博士出任國際證券交易所聯會副會長，並於1998年至1999年及1999年至2001年期間，分別出任大學教育資助委員會主席及中央政策組首席顧問。

附錄三　　各項司法職位的有關法例規定

終審法院首席法官

《香港終審法院條例》（第484章）第12(1) 條—

"(1)　任何以下人士均有資格獲委任為首席法官—
　(aa) 常任法官；
　(a)　高等法院首席法官、上訴法庭法官或原訟法庭法官；或
　(b)　在香港以大律師或律師身分執業最少10年的大律師。"

終審法院常任法官

《香港終審法院條例》（第484章）第12(1A)條 —

"(1A)　任何以下人士均有資格獲委任為常任法官-
　(a)　高等法院首席法官、上訴法庭法官或原訟法庭法官；或
　(b)　在香港以大律師或律師身分執業最少10年的大律師。"

終審法院非常任香港法官

《香港終審法院條例》（第484章）第12(3)條 —

"(3)　任何以下人士均有資格獲委任為非常任香港法官，不論他是否通常居住於香港—
　(a)　已退休的高等法院首席法官；
　(b)　已退休的終審法院首席法官；
　(c)　已退休的終審法院常任法官；
　(d)　現職或已退休的上訴法庭法官；或
　(e)　在香港以大律師或律師身分執業最少10年的大律師。"

其他普通法適用地區非常任法官

《香港終審法院條例》（第484章）第12(4)條 —

"(4)　任何符合以下條件的人士均有資格獲委任為其他普通法適用地區法官 —
　(a)　屬其他普通法適用地區的民事或刑事司法管轄權不設限的法院的現職或已退休法官者；而
　(b)　他通常居住於香港以外地方；及
　(c)　他從未在香港擔任過高等法院法官、區域法院法官或常任裁判官。"

終審法院司法常務官

《香港終審法院條例》（第484章）第42(2)條 —

"(2) 司法常務官須由行政長官委任，而他所須具備的資格須與根據《高等法院條例》(第4章)第37AA(1)條委任高等法院司法常務官所要求者相同。"

高等法院法官及高等法院原訟法庭特委法官

《高等法院條例》（第4章）第6A(1)條—

"(1) 總督[2]可委任一名根據第9(1)或(1A)條有資格獲委任為高等法院法官的人為原訟法庭特委法官，任期按藉以作出該委任的文書所指明者而定。"

《高等法院條例》（第4章）第9條 —

"(1) 任何人如符合以下條件，即有資格獲委任為高等法院法官—

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(b) 該人具有(a)段所述的資格，而在此之前則有資格在上述法院之一執業為律師，

而在上述任何一種情況中，該人在上述法院之一執業為大律師、律師或訟辯人最少已有10年。

(1A) 任何人如有資格執業為高等法院律師，並如此執業最少已有10年，亦有資格獲委任為高等法院法官。

(2) 任何人如符合以下條件，亦有資格獲委任為高等法院法官 —

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(b) 該人具有(a)段所述的資格，而在此之前則有資格在上述法院之一執業為律師，

而在上述任何一種情況中，在符合第(3)款的規定下，該人最少曾有10年是 —

(i)-(iii) (由1997年第14號第2條廢除)

(iv) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(iva) 按照《香港終審法院條例》(第484章)第42條委任的香港終審法院司法常務官；

(ivb) 按照第37條委任的司法常務官、高級副司法常務官、副司法常務官或助理司法常務官；

[2] 根據香港法例第2601章《香港回歸條例》，對香港總督的提述，須解釋為對香港特別行政區行政長官的提述。

(ivc) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(va) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(vb) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(vc) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(vi) 《律政人員條例》(第87章)第2條所界定的律政人員；

(vii) (由1993年第8號第6條廢除)

(viii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(ix) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(x) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2A) 任何人如符合以下條件，亦有資格獲委任為高等法院法官 —

(a) 該人是香港或任何其他普通法適用地區的任何法院的律師，而該法院是在民事或刑事事宜上具有無限司法管轄權的；

(b) 該人最少在過去2年內及在現時（而總計最少有5年）受僱於香港官方[3]從事司法或法律工作；及

(c) 在符合第(4)款的規定下，該人最少曾有10年是 —

(i) 在該等法院之一執業為大律師、律師或訟辯人；或

(ii) 受僱從事(b)段所描述的服務。

(3) 為計算第(2)款所提述的10年期間，可將在該款第(iv)至(x)段其中任何一段範圍以內各段不足10年的期間合併計算，並可將在第(2)(a)款所提述的任何一所法院執業為大律師、律師或訟辯人的期間計算在內。

(4) 為計算第(2A)(c)款所提述的10年期間，可將在第(2)款第(iv)至(x)段其中任何一段範圍以內各段不足10年的期間計算在內，並可將在第(2A)(c)款第(i)及(ii)節範圍以內的各段不足10年的期間合併計算。

[3] 根據香港法例第2601章《香港回歸條例》，對官方的提述，須解釋為對香港特別行政區政府的提述。

(5) 為計算第(2)款所指的10年期間，儘管《註冊總署署長（人事編制）條例》（第100章）已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。”

高等法院司法常務官、高級副司法常務官、副司法常務官及助理司法常務官

《高等法院條例》（第4章）第37AA條 —

“(1) 任何人如符合以下條件，即有資格獲委任為司法常務官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照第37條委任的高級副司法常務官、副司法常務官或助理司法常務官；

(iii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(iv) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(vi) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(vii) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(viii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(ix) 《律政人員條例》(第87章)第2條所界定的律政人員；

(x) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(xi) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(xii) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2) 何人如符合以下條件，即有資格獲委任為高級副司法常務官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照第37條委任的副司法常務官或助理司法常務官；

(iii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(iv) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(vi) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(vii) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(viii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(ix) 《律政人員條例》(第87章)第2條所界定的律政人員；

(x) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(xi) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(xii) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(3) 任何人如符合以下條件，即有資格獲委任為副司法常務官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照第37條委任的助理司法常務官；

(iii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(iv) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(vi) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(vii) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(viii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(ix) 《律政人員條例》(第87章)第2條所界定的律政人員；

(x) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(xi) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(xii) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(4) 任何人如符合以下條件，即有資格獲委任為助理司法常務官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(iii) 按照《區域法院條例》(第336章)第14條委任的區域法院司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(iv) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(v) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(vi) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(vii) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(viii) 《律政人員條例》(第87章)第2條所界定的律政人員；

(ix) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(x) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(xi) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(5) 為計算第(1)(b)、(2)(b)、(3)(b)及(4)(b)款提述的5年期間 —

(a) 在第(1)(b)、(2)(b)、(3)(b)或(4)(b)款(視屬何情況而定)任何節範圍以內各段不足5年的期間可合併計算；

(b) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。”

區域法院法官

《區域法院條例》（第336章）第5條 —

“(1) 除下述的人外，任何人不得根據第4條獲委任為區域法院法官—

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為大律師、律師或訟辯人，而該法院是在民事或刑事方面具有無限司法管轄權的；及

(b) 自具有如此的資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在該等法院之一執業為大律師、律師或訟辯人；或

(ia) 按照《高等法院條例》(第4章)第37條委任的高等法院司法常務官、高等法院高級副司法常務官、高等法院副司法常務官或高等法院助理司法常務官；或

(ib) 按照第14條委任的司法常務官、副司法常務官或助理司法常務官；或

(ii)-(iv) (由1997年第14號第3條廢除)

(v) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；或

(va) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；或

(vb) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；或

(vc) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；或

(vi) 《律政人員條例》(第87章)第2條所界定的律政人員；或

(vii) (由1993年第8號第26條廢除)

(viii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；或

(ix) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(x) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2) 為計算上述的5年期間，可將在第(1)款(b)段各節範圍以內各段不足5年的期間合併計算。

(3) 為計算根據第(1)款的5年期間，儘管《註冊總署署長(人事編制)條例》(第100章)已予廢除，但曾擔任該已被廢除條例附表1第I部所指明的職位的期間，亦可計算在內。”

區域法院司法常務官、副司法常務官、及助理司法常務官

《區域法院條例》（第336章）第14AA條 —

“(1) 任何人如符合以下條件，即有資格獲委任為司法常務官、副司法常務官或助理司法常務官—

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(iii) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(iv) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(v) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(vi) 《律政人員條例》(第87章)第2條所界定的律政人員；

(vii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(viii) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(ix) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2) 為計算第(1)(b)款提述的5年期間 —

(a) 在該款任何節範圍以內各段不足5年的期間可合併計算；

(b) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。”

土地審裁處庭長

《土地審裁處條例》（第17章）第4(1)條 —

"(1) 審裁處由以下的成員組成 —

(a) 一名庭長，他須由其中一名高等法院法官出任，並須由行政長官委任；..."

土地審裁處法官

《土地審裁處條例》（第17章）第4(2)條 —

"(2) 各區域法院法官及區域法院暫委法官，均憑藉其所任職位出任法官。"

土地審裁處成員

《土地審裁處條例》（第17章）第4(3)至第4(5)條 —

"(3) 任何人如符合以下條件，即有資格根據第(1)(c)款獲委任為審裁處成員 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 按照《區域法院條例》(第336章)第14條委任的司法常務官、區域法院副司法常務官或區域法院助理司法常務官；

(iii) 按照《裁判官條例》(第227章)第5條委任的常任裁判官；

(iv) 按照《死因裁判官條例》(第504章)第3條委任的死因裁判官；

(v) 按照《小額錢債審裁處條例》(第338章)第4條委任的審裁官；

(vi) 按照《勞資審裁處條例》(第25章)第4條委任的審裁官；

(vii) 《律政人員條例》(第87章)第2條所界定的律政人員；

(viii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(ix) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(x) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(4) 儘管有第(3)款的規定，任何人如為根據《香港測量師學會條例》(第1148章)成立為法團的香港測量師學會的產業測量組的學會正式會員，或具有同等專業資格，並在從事土地估價方面具備最少5年經驗，亦有資格根據第(1)(c)款獲委任為審裁處成員。

(5) 為計算第(3)(b)款提述的5年期間 —

(a) 在該款任何節範圍以內各段不足5年的期間可合併計算；

(b) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。”

常任裁判官

《裁判官條例》（第227章）第5AA條 —

“(1) 任何人如符合以下條件，即有資格獲委任為常任裁判官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 律政人員；

(iii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(iv) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(v) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2) 儘管有第(1)款的規定，任何人如符合以下條件，亦有資格獲委任為常任裁判官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 不論是在具有上述資格之前或之後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是按照第5條委任的特委裁判官。

(3) 為計算第(1)(b)款提述的5年期間-

(c) 在該款任何節範圍以內各段不足5年的期間可合併計算；

(d) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。"

特委裁判官

《裁判官條例》（第227章）第5AB條 —

"(1) 任何人如符合以下條件，即有資格獲委任為特委裁判官—

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 自具有上述資格後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間是 —

(i) 在任何上述法院執業為大律師、律師或訟辯人；

(ii) 律政人員；

(iii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、法律援助署副署長、法律援助署助理署長或法律援助主任；

(iv) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(v) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、知識產權署副署長、知識產權署助理署長、高級律師或律師。

(2) 儘管有第(1)款的規定，任何人如符合以下條件，亦有資格獲委任為特委裁判官 —

(a) 該人有資格在香港或任何其他普通法適用地區的任何法院執業為大律師、律師或訟辯人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；及

(b) 不論是在具有上述資格之前或之後，該人已在一段不少於5年的期間或在不同期間而合共不少於5年的期間，在政府的法庭檢控主任、法庭傳譯主任或司法書記職系任職。

(3) 為計算第(1)(b)款提述的5年期間 —

(a) 在該款任何節範圍以內各段不足5年的期間可合併計算；

(b) 儘管《註冊總署署長(人事編制)條例》(第100章)已被廢除，擔任該已被廢除條例附表1第I部所指明的職位的期間仍可計算在內。"

Judicial Officers Recommendation Commission Report

2006

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Foreword

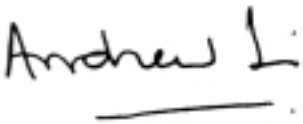
An independent Judiciary upholding the rule of law is of cardinal importance to Hong Kong under the principle of one country two systems. It is crucial that judges[1] appointed have complete integrity and possess high standards of professional competence. The work in relation to judicial appointments is accordingly of great importance.

2. Under the Basic Law, judges of the courts of the Hong Kong Special Administrative Region 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. On 1 July 1997, the Judicial Officers Recommendation Commission was established as the independent commission contemplated by the Basic Law.

3. The objective of publishing a report of the Judicial Officers Recommendation Commission is to give an account of its important work. The first report of the Commission, covering the period 1 July 1997 to 31 December 2002, was published in 2003. Annual reports were issued thereafter. This is the fifth report and covers the year 2006.

4. Although appointments to some judicial offices were not made in the year 2006, we have retained the description of the different levels of courts in Chapters 3 to 6 so that a comprehensive picture of the judicial offices within the responsibility of the Commission is given.

5. I hope that by reading this report, you will have a better understanding of the work of the Commission.



Andrew Li
Chief Justice
Chairman of the Judicial Officers Recommendation Commission

[1] The reference to "judges" includes both judges and judicial officers.

CHAPTER 1 The Judicial Officers Recommendation Commission

Constitution of JORC

1.1 Article 48(6) of the Basic Law confers on the Chief Executive the power and function to appoint or remove judges of the courts at all levels in accordance with legal procedures. Article 88 of the Basic Law provides that judges of the courts of the Hong Kong Special Administrative Region ("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.

1.2 The Judicial Officers Recommendation Commission ("the Commission" or "JORC") is the independent commission contemplated by Article 88 of the Basic Law. It was established on 1 July 1997 under the Judicial Officers Recommendation Commission Ordinance (Cap. 92) ("the JORC Ordinance") in place of the then Judicial Service Commission.

Functions of JORC

1.3 Under the JORC Ordinance, the functions of the Commission are to advise and make recommendations to the Chief Executive regarding —

(a) the filling of vacancies in judicial offices;

(b) such representations from a judicial officer concerning conditions of service as may be referred to it by the Chief Executive; and

(c) any matter affecting judicial officers which may be prescribed or which the Chief Executive may refer to the Commission.

1.4 All Judicial Offices are within the responsibility of the Commission. They are specified in Schedule 1 to the JORC Ordinance. The schedule is at Appendix 1.

Membership of JORC

Composition and Appointment

1.5 As prescribed by the JORC Ordinance, the Commission consists of the Chief Justice as the Chairman, the Secretary for Justice and seven other members appointed by the Chief Executive, consisting of two judges, one barrister, one solicitor and three other persons who are not connected with the practice of law.

1.6 The Chief Executive is required by the JORC Ordinance to consult the Bar Council of the Hong Kong Bar Association and the Council of The Law Society of Hong Kong regarding the appointment of the barrister and the solicitor respectively. The Chief Executive may however appoint a person other than a person recommended by the respective professional bodies.

1.7 As provided by the JORC Ordinance, an appointed member may resign his office by notice in writing to the Chief Executive and shall vacate his office after two years, but shall be eligible for re-appointment.

Certain Persons Ineligible

1.8 The JORC Ordinance provides that a person shall not be appointed to be a member of the Commission if he is a member of the Legislative Council; or he holds a pensionable office (other than the office of a judge) the emoluments whereof are payable wholly or partly out of public revenue, unless he is on leave prior to retirement and has already received official notification of the pension which will be payable to him for service which comprised service in the office or post of which he is the holder.

Membership

1.9 In May 2006, the Chief Executive appointed three new members to the Commission for a term of two years from 1 July 2006 to 30 June 2008. The membership is listed below —

Ex officio Chairman and member

The Honourable Chief Justice Andrew LI Kwok-nang (Chairman)

The Honourable WONG Yan-lung, SC, JP (Secretary for Justice)

Judges

The Honourable Mr Justice Patrick CHAN Siu-oi (up to 30 June 2006)

The Honourable Mr Justice PANG Kin-kee (up to 30 June 2006)

The Honourable Mr Justice Geoffrey MA Tao-li (from 1 July 2006 to 30 June 2008)

The Honourable Mr Justice Louis TONG Po-sun (from 1 July 2006 to 30 June 2008)

Barrister and solicitor

Mr Ambrose Ho, SC (barrister) (from 1 July 2005 to 30 June 2007)

Mr Michael Lintern-Smith (solicitor) (from 1 July 2005 to 30 June 2007)

Persons not connected with the practice of law

Dr Victor FUNG Kwok-king, GBS (up to 30 June 2006)

Professor TSUI Lap-chee (from 1 July 2005 to 30 June 2007)

Dr Rosanna WONG Yick-ming, JP (from 1 July 2005 to 30 June 2007)

Dr Edgar CHENG Wai-kin, GBS, JP (from 1 July 2006 to 30 June 2008)

1.10 Bio-data of the Chairman and members of the Commission for the terms from 1 July 2005 to 30 June 2007 and 1 July 2006 to 30 June 2008 are at Appendix 2.

Procedure and Voting Requirements

Procedure

1.11 The procedure and voting requirements of the Commission are laid down in the JORC Ordinance. The Chairman and no fewer than six other members may exercise and perform any of the functions, powers and duties of the Commission. For the purposes of any meeting of the Commission, if the Chief Justice is unable to act as Chairman, those members present at that meeting may by resolution appoint any of their member to act in his place and in so acting to exercise and perform all the functions of the Chairman at that meeting. If any appointed member is absent from Hong Kong or is unable to act, the Chief Executive may appoint another person to act temporarily as a member.

Voting Requirements

1.12 At a meeting of the Commission, a resolution is effective if —

(a) where 7 members are present, at least 5 vote in favour;

(b) where 8 members are present, at least 6 vote in favour; and

(c) where 9 members are present, at least 7 vote in favour.

Written Resolutions

1.13 A resolution of the Commission without a meeting may be put to the vote of the members by circulating a draft of the resolution with a voting paper; may be voted on by a member by signing the voting paper and returning it to the Secretary to the Commission; and is effective if —

(a) where 7 members sign the voting paper, at least 5 votes are in favour;

(b) where 8 members sign the voting paper, at least 6 votes are in favour; and

(c) where 9 members sign the voting paper, at least 7 votes are in favour.

1.14 Notwithstanding paragraph 1.13, a resolution is not effective where any member notifies the Secretary, on the voting paper, that the resolution should be discussed at a meeting.

Disclosure of Interests

1.15 The JORC Ordinance provides that where the Commission is exercising its functions in relation to the filling of vacancies in judicial offices as specified in Schedule 1 to the JORC Ordinance or to the extension of the term of office of the Chief Justice under section 14 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), a member who is or may reasonably be regarded as a candidate for selection to fill any such vacancy or whose term of office is being considered for extension shall disclose whether or not, if he were to be selected or if the extension of his term of office were to be recommended, he is willing to accept appointment or the extension, and that disclosure shall be recorded in the minutes of the Commission's meeting. A member who discloses a willingness to accept an appointment or extension shall not take part in any deliberation of the Commission with respect to that appointment or extension and shall not vote on any question concerning the same; and shall, with respect to any deliberation of the Commission concerning that appointment or extension as the case may be and any question concerning the same, be treated as being unable to act.

Secretary

1.16 Under the JORC Ordinance, the Secretary to the Commission shall be a public officer appointed by the Chief Executive. The Secretary shall not be a member of the Commission.

1.17 Since the establishment of the Commission, the Chief Executive has appointed the current holder of the Judiciary Administrator post as the Secretary. Miss Emma LAU Yin-wah, the Judiciary Administrator, has been appointed as the JORC Secretary since 15 June 2005.

Statutory Provisions Relating to the Operation of JORC

1.18 The JORC Ordinance contains the following provisions relating to the operation of the Commission —

(a) It is an offence under the Ordinance to —

(i) wilfully give false information to the Commission or any member (section 8);

(ii) publish or disclose, without the permission of the Chief Executive, to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information which has come to his knowledge in the course of his duties under or in connection with the JORC Ordinance (section 11); and

(iii) influence or attempt to influence a decision of the Commission or any member (section 12).

(b) Reports, statements or other communications which the Commission may in the exercise of its functions or the discharge of its duties make to the Chief Executive or to the Chief Justice shall be privileged in that its production may not be compelled in any legal proceedings (section 9).

(c) A member of the Commission shall have the same protection and privileges in proceedings brought against him for any act done in the execution of his duty as such member as a judge has when acting in the execution of his office (section 10).

CHAPTER 2 Work of the Commission

Work of JORC

2.1 The Commission formally commenced operation on 1 July 1997. Discussions and decisions on recommendations were made usually through meetings and occasionally by circulation of papers. In the year 2006, four meetings were held at which ten papers were discussed with 44 resolutions passed. In addition, one paper was circulated for consideration, resulting in the passage of one resolution without a meeting.

2.2 In the year 2006, the Commission made a total of 35 recommendations on judicial appointments - 11 to the High Court, 12 to the District Court and 12 to the Magistrates' Courts. Further, in respect of Magistrates and Judicial Officers, the Commission made recommendations on extensions of service beyond the normal retirement age (that is whether to extend and if so for how long), transfers to permanent and pensionable terms and renewals of contracts. Breakdowns of the recommendations made by the Commission in 2006 are shown in Table 1 and Table 2 respectively.

Table 1: Recommendations on Judicial Appointments Made in 2006

High Court		District Court	Magistrates' Courts	
Judge of the Court of First Instance	Recorder of the Court of First Instance	District Judge	Principal Magistrate	Magistrate
6	5	12	1	11

Table 2: Recommendations on Matters Other Than Appointments Made in 2006

Subject of Recommendations	Number
Transfer to Permanent and Pensionable Terms	3
Renewal of Contract	6
Extension of Service	1

CHAPTER 3 Chief Justice and the Court of Final Appeal

Chief Justice

Duties and Responsibilities

3.1 The Hong Kong Court of Final Appeal Ordinance (Cap. 484) provides that the Chief Justice shall be the head of the Judiciary and shall be charged with the administration of the Judiciary and such other functions as may be lawfully conferred on him. Under the same Ordinance, the Chief Justice shall be President of the Court of Final Appeal.

Constitutional and Statutory Requirements

3.2 Article 90 of the Basic Law and section 6 of the Hong Kong Court of Final Appeal Ordinance stipulate that the Chief Justice of the Court of Final Appeal shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country.

3.3 The statutory professional qualifications for the Chief Justice are stipulated in section 12(1) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 3).

Appointment Made in 2006

3.4 No appointment of the Chief Justice of the Court of Final Appeal was made in 2006.

Court of Final Appeal

3.5 The Court of Final Appeal was established on 1 July 1997 pursuant to Article 19 of the Basic Law, which provides that the HKSAR shall be vested with independent judicial power, including that of final adjudication. It is the highest appellate court in Hong Kong and has jurisdiction in respect of matters conferred on it by the Hong Kong Court of Final Appeal Ordinance.

3.6 The Court of Final Appeal consists of the Chief Justice and three Permanent Judges. It may as required invite non-permanent Hong Kong Judges and/or non-permanent judges from other common law jurisdictions to sit in the Court (see paragraph 3.10).

3.7 Under the Hong Kong Court of Final Appeal Ordinance, an appeal shall be heard and determined by the Court of Final Appeal constituted as follows —

(a) the Chief Justice or a permanent judge designated to sit in his place where the Chief Justice is not available for any cause to hear an appeal;

(b) three permanent judges nominated by the Chief Justice; and

(c) one non-permanent Hong Kong judge or one non-permanent judge from another common law jurisdiction selected by the Chief Justice and invited by the Court.

Permanent Judges

Statutory Requirements

3.8 The statutory professional qualifications for permanent judges are stipulated in section 12(1A) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 3).

Appointments Made in 2006

3.9 No appointment of permanent judge of the Court of Final Appeal was made in 2006.

Non-permanent Judges

3.10 The Hong Kong Court of Final Appeal Ordinance provides for a list of non-permanent Hong Kong judges and a list of non-permanent judges from other common law jurisdictions, and sets a ceiling of 30 on the total number of non-permanent judges.

3.11 In accordance with the Hong Kong Court of Final Appeal Ordinance, a non-permanent judge shall hold office for a term of three years but that term may be extended for one or more periods of three years by the Chief Executive acting in accordance with the recommendation of the Chief Justice.

Statutory Requirements

3.12 The statutory professional qualifications for non-permanent Hong Kong judges are stipulated in section 12(3) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 3).

3.13 The statutory professional qualifications for non-permanent judges from other common law jurisdictions are stipulated in section 12(4) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 3).

Appointments Made in 2006

3.14 No appointment of non-permanent judge of the Court of Final Appeal was made in 2006.

Registrar, Court of Final Appeal

3.15 In accordance with the Hong Kong Court of Final Appeal Ordinance, the Registrar, Court of Final Appeal shall be in charge of the Registry of the Court of Final Appeal.

CHAPTER 3

Statutory Requirements

3.16 Under section 42(2) of the Hong Kong Court of Final Appeal Ordinance, the Registrar, Court of Final Appeal shall possess the same qualifications as are required under section 37AA(1) of the High Court Ordinance (Cap. 4) for appointment as the Registrar of the High Court (see Appendix 3).

Appointment Made in 2006

3.17 No appointment of Registrar, Court of Final Appeal, was made in 2006.

CHAPTER 4 High Court

High Court

4.1 The High Court comprises the Court of Appeal and the Court of First Instance. Their jurisdictions are prescribed in sections 13 and 12 of the High Court Ordinance (Cap. 4) respectively.

4.2 The Court of Appeal hears appeals in civil and criminal matters from the Court of First Instance and the District Court, as well as appeals from the Lands Tribunal. It also makes rulings on questions of law referred to it by lower courts.

4.3 The Court of First Instance has unlimited jurisdiction in both civil and criminal matters. It also operates as an appeal court for cases from Magistrates' Courts and a number of tribunals.

Chief Judge of the High Court

Duties and Responsibilities

4.4 The Chief Judge of the High Court is the Court Leader of the High Court and the President of the Court of Appeal. He is responsible for the administration of the High Court and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the High Court.

Constitutional and Statutory Requirements

4.5 Article 90 of the Basic Law provides that the Chief Judge of the High Court shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country.

4.6 The statutory professional qualifications for the Chief Judge of the High Court are the same as those for a Judge of the High Court. These are stipulated in section 9 of the High Court Ordinance (see Appendix 3).

Appointment Made in 2006

4.7 No appointment of Chief Judge of the High Court was made in 2006.

CHAPTER 4

Justices of Appeal

Duties and Responsibilities

4.8 The duty of a Justice of Appeal is to hear criminal and civil appeals in the Court of Appeal. As circumstances necessitate, he may also be asked to sit as an additional Judge of the Court of First Instance of the High Court.

Statutory Requirements

4.9 The statutory professional qualifications for a judge of the High Court (which includes a Justice of Appeal) are stipulated in section 9 of the High Court Ordinance (see Appendix 3).

Appointments Made in 2006

4.10 No appointment of Justice of Appeal of the High Court was made in 2006.

Judges of the Court of First Instance

Duties and Responsibilities

4.11 A Judge of the Court of First Instance is responsible for the hearing of criminal and civil cases which are within the Court of First Instance's jurisdiction and for hearing appeals from Magistrates' Courts and Tribunals.

Statutory Requirements

4.12 The statutory professional qualifications for a judge of the High Court (which includes a judge of the Court of First Instance) are stipulated in section 9 of the High Court Ordinance (see Appendix 3).

Appointments Made in 2006

4.13 On the recommendation of JORC, the Chief Executive appointed the following persons as Judges of the Court of First Instance —

Name	
His Honour Judge Barnabas FUNG Wah	Effective from 27 November 2006
Her Honour Judge Judianna Wai-ling BARNES	Effective from 27 November 2006
His Honour Judge Alan Raymond WRIGHT	Effective from 27 November 2006
Mr POON Shiu-chor	Effective from 27 November 2006
His Honour Judge John Lonsdale SAUNDERS	Effective from 27 November 2006
Mr Darryl Gordon SAW	Effective from 15 January 2007

Recorders of the Court of First Instance of the High Court

Duties and Responsibilities

4.14 Recorders are practitioners in private practice who usually sit for a few weeks in a year. A Recorder has and may exercise all the jurisdiction, powers and privileges and perform all the duties of a judge of the Court of First Instance.

Statutory Requirements

4.15 The statutory professional qualifications for appointment of Recorders are the same as for High Court Judges as stipulated in section 9(1) or 9(1A) of the High Court Ordinance (see Appendix 3).

Appointments Made in 2006

4.16 On the recommendation of JORC, the Chief Executive re-appointed the following five persons as Recorders of the Court of First Instance of the High Court for three years from 1 December 2006 to 30 November 2009 —

Name

Miss Jacqueline Pamela LEONG, SC

Mr Kenneth KWOK Hing-wai, BBS, SC

Mr Lawrence LOK, SC

Mr Benjamin YU, SC, JP

Mr Joseph P FOK, SC, JP

Master of the High Court

Duties and Responsibilities

4.17 The Registrar, Senior Deputy Registrars and Deputy Registrars of the High Court exercise part of the civil jurisdiction of the Court of First Instance. They carry out judicial duties such as hearing interlocutory and summary applications in chambers and conducting assessment of damages and interpleader trials in court. They also exercise the jurisdiction of a Taxing Master, Admiralty Registrar, Registrar of Civil Appeals and Registrar of Criminal Appeals. In addition, they have duties including taking evidence on commission, determining appeals against the decisions of the Director of Legal Aid on applications for legal aid, and supervising the service of foreign process in Hong Kong. They are also responsible for probate administration and the jury list.

4.18 In addition, the Registrar, High Court administers the High Court Suitors' Funds, the Small Claims Tribunal Suitors' Funds, the Labour Tribunal Suitors' Funds as well as the Official Administrator's Account and the Master-in-Lunacy Account in his ex officio capacity as Official Administrator and Master-in-Lunacy. He also keeps the professional Rolls of Barristers, Solicitors and Notaries Public.

CHAPTER 4

Statutory Requirements

4.19 The statutory professional qualifications for Registrar, Senior Deputy Registrars and Deputy Registrars of the High Court are stipulated in section 37AA of the High Court Ordinance (see Appendix 3).

Appointments Made in 2006

4.20 No appointment of Master was made to the High Court in 2006.

CHAPTER 5 District Court and Lands Tribunal

District Court

5.1 The District Court is established under the District Court Ordinance (Cap. 336). It has both criminal and civil jurisdictions, including matrimonial jurisdiction. It also exercises limited appellate jurisdiction from tribunals and statutory bodies conferred on it by various ordinances. The Family Court is a specialized court within the District Court.

Chief District Judge

Duties and Responsibilities

5.2 The Chief District Judge is the Court Leader of the District Court. Apart from performing the duties of a District Judge, the Chief District Judge is responsible for the administration of the District Court and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the District Court.

Statutory Requirements

5.3 The statutory professional qualifications for the Chief District Judge are the same as those for a District Judge which are stipulated in section 5 of the District Court Ordinance (see Appendix 3).

Appointment Made in 2006

5.4 No appointment of Chief District Judge was made in 2006.

District Judges

Duties and Responsibilities

5.5 The responsibilities of a District Judge are to adjudicate upon cases heard in the District Court which has a limited criminal and civil jurisdiction. As far as criminal jurisdiction is concerned, the maximum sentence that can be imposed by a District Judge is seven years' imprisonment. The general civil jurisdiction of the District Court was raised to $1 million with effect from 1 December 2003.

Statutory Requirements

5.6 The statutory professional qualifications for appointment as a District Judge are stipulated in section 5 of the District Court Ordinance (see Appendix 3).

Appointments Made in 2006

5.7 On the recommendation of JORC, the Chief Executive appointed the following persons as District Judges —

Name	
Mr Kevin Anthony BROWNE	Effective from 1 February 2007
Mr Andrew CHAN Hing-wai	Effective from 1 February 2007
Miss Susana Maria D'ALMADA REMEDIOS	Effective from 1 February 2007
Mr LI Hon-leung	Effective from 1 February 2007
Mr Colin Richard MACKINTOSH	Effective from 1 February 2007
Mr Michael WONG Yat-ming	Effective from 1 February 2007
Mr Joseph YAU Chi-lap	Effective from 1 February 2007
Mr CHAN Kwong-chi	Effective from 2 April 2007
Mr LEUNG Chun-man	Effective from 16 April 2007
Mrs Sharon Dawn MELLOY	Effective from 2 May 2007
Ms Mimmie CHAN Mei-lan	Effective from 1 June 2007
Mr AU Hing-cheung	Effective from 3 July 2007

Masters of the District Court

Duties and Responsibilities

5.8 In June 2000, two new ranks of Registrar, District Court and Deputy Registrar, District Court were created to set up a Master system in the District Court. The Registrar and Deputy Registrar, District Court have the same power to hear and determine all interlocutory applications, transact all businesses and exercise all the authority and jurisdiction that may be transacted and exercised by a District Judge in chambers. In addition, they undertake quasi-judicial and administrative duties which include administering the District Court Suitors' Funds.

Statutory Requirements

5.9 The statutory professional qualifications for appointment as Registrar and Deputy Registrars of the District Court are stipulated in section 14AA of the District Court Ordinance (see Appendix 3). However, the former is normally filled by a Principal Magistrate and the latter by Magistrates under cross-posting arrangements.

Appointments Made in 2006

5.10 No appointment of Master was made to the District Court in 2006.

Lands Tribunal

5.11 The Lands Tribunal is established under the Lands Tribunal Ordinance (Cap. 17). It has jurisdiction under various ordinances and its jurisdiction includes dealing with tenancy claims, compensation assessments when land is resumed by Government or reduced in value by development, building management matters, disputes and rating and valuation appeals. It consists of a president, presiding officers and such other members as may be appointed.

President, Lands Tribunal

Duties and Responsibilities

5.12 The President is the Court Leader of the Lands Tribunal. Section 9 of the Lands Tribunal Ordinance provides that for the purpose of achieving consistency in the application of the law by the Tribunal, the President shall endeavour, wherever practicable, to exercise the jurisdiction of the Tribunal in any case which, in his opinion, is likely to involve any new or difficult point of law or which, having regard to the nature or amount of the claim or any other factor, is of special importance. Apart from sitting, the President is responsible for the administration of the Lands Tribunal and is accountable to the Chief Justice. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the Lands Tribunal.

Statutory Requirements

5.13 Section 4(1)(a) of the Lands Tribunal Ordinance provides that the President shall be one of the Judges of the High Court and shall be appointed by the Chief Executive (see Appendix 3).

Appointment Made in 2006

5.14 No appointment of President, Lands Tribunal, was made in 2006.

Presiding Officers, Lands Tribunal

Duties and Responsibilities

5.15 A Presiding Officer hears and determines matters within the jurisdiction of the Lands Tribunal.

Statutory Requirements

5.16 Section 4(2) of the Lands Tribunal Ordinance provides that every District Judge and deputy District Judge shall by virtue of his office be a presiding officer (see Appendix 3).

Members, Lands Tribunal

Duties and Responsibilities

5.17 A member, Lands Tribunal hears and determines matters within the jurisdiction of the Lands Tribunal other than points of law, which are usually determined by the Presiding Officer.

Statutory Requirements

5.18 In accordance with sections 4(3) to 4(5) of the Lands Tribunal Ordinance, a member of the Lands Tribunal may be a lawyer or a professional surveyor or valuer (see Appendix 3).

5.19 As points of law are usually dealt with by Presiding Officers, a member is usually appointed under section 4(4) of the Lands Tribunal Ordinance, i.e. a Corporate Member in the General Practice Division of The Hong Kong Institute of Surveyors or a holder of an equivalent professional qualification, with at least five years' experience in the practice of land valuation.

Appointments Made in 2006

5.20 No appointment of Member, Lands Tribunal, was made in 2006.

CHAPTER 6 Magistrates' Courts, Tribunals and Coroner's Court

Magistrates' Courts

6.1 The Magistrates' Courts exercise criminal jurisdiction over a wide range of indictable and summary offences. Although there is a general restriction of two years' imprisonment, and a fine of $100,000 for indictable offence, a growing number of ordinances empower Magistrates to impose sentences up to three years' imprisonment and fines up to $5,000,000.

Tribunals and Coroner's Court

6.2 The Labour Tribunal provides a quick, informal and inexpensive means to resolve disputes between employers and employees. There is no upper limit on the amount that may be claimed but the claim has to be over $8,000. Legal representation is not allowed.

6.3 The Small Claims Tribunal provides a simple, inexpensive and informal procedure to deal with monetary claims not exceeding $50,000. Legal representation is not allowed.

6.4 The Obscene Articles Tribunal has jurisdiction to determine whether an article is obscene or indecent, or whether a matter publicly displayed is indecent. It also has the power to classify an article as Class I (neither obscene or indecent), Class II (an indecent article) or Class III (an obscene article).

6.5 Coroners are empowered to investigate reportable deaths in Hong Kong. An inquest must be held in respect of deaths in official custody, or as directed by the Court of First Instance of the High Court or requested by the Secretary for Justice.

6.6 Appointments to judicial offices in Tribunals and the Coroner's Court have ceased since 1988. Judicial vacancies thereof have been filled by Magistrates under cross-posting arrangements.

Chief Magistrate

Duties and Responsibilities

6.7 The Chief Magistrate is the Court Leader of the Magistrates' Courts, the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal. He is responsible for the administration of such Courts and Tribunals and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and advising the Chief Justice on matters of policy concerning the operation and development of the courts and tribunals under his purview.

Statutory Requirements

6.8 The statutory professional qualifications for the Chief Magistrate are the same as those for a Magistrate which are stipulated in section 5AA of the Magistrates Ordinance (Cap. 227) (see Appendix 3).

Appointment Made in 2006

6.9 No appointment of Chief Magistrate was made in 2006.

Principal Magistrates

Duties and Responsibilities

6.10 In addition to the judicial duties of a Magistrate, a Principal Magistrate has administrative responsibilities in the Magistrates' Court where he sits. Principal Magistrates are also called upon to assist the Chief Magistrate on matters relating to the administration of the Magistrates' Courts.

Statutory Requirements

6.11 The statutory professional qualifications for the Principal Magistrate are the same as those for a Magistrate which are stipulated in section 5AA of the Magistrates Ordinance (see Appendix 3).

Appointments Made in 2006

6.12 On the recommendation of JORC, the Chief Executive appointed Mr Josiah LAM Wai-kuen, Magistrate, as Principal Magistrate with effect from 1 June 2006.

Magistrates

Duties and Responsibilities

6.13 Magistrates are required to try cases in the Magistrates' Courts. They may also be posted to the Coroner's Court, Labour Tribunal, Small Claims Tribunal and Obscene Articles Tribunal where they will sit as Coroners, Presiding Officers, Adjudicators and Presiding Magistrates respectively, or to the Masters' Office in the District Court where they will sit as Deputy Registrar, District Court.

Statutory Requirements

6.14 The statutory professional qualifications for appointment of Magistrates are stipulated in section 5AA of the Magistrates Ordinance (see Appendix 3).

Appointments Made in 2006

6.15 On the recommendation of JORC, the Chief Executive appointed the following persons as Magistrates —

Name	
Mr WONG Wai-kuen	Effective from 1 August 2006
Mr Reuden LAI Tat-cheung	Effective from 1 August 2006
Mr George OWN	Effective from 1 August 2006
Mr MAK Kwok-cheung	Effective from 1 August 2006
Mr TO Ho-shing	Effective from 1 August 2006
Miss CHAN Yuk-fan	Effective from 1 August 2006
Mr Simon LO Kit-man	Effective from 1 August 2006
Mr Clement LEE Hing-nin	Effective from 1 August 2006
Mr CHEANG Kei-hong	Effective from 1 September 2006
Mr Gary LAM Kar-yan	Effective from 1 September 2006
Mr Don SO Man-lung	Effective from 3 October 2006

Special Magistrates

Duties and Responsibilities

6.16 Special Magistrates are required to try relatively minor offences in the Magistrates' Courts such as illegal hawking and traffic offences. Their jurisdiction is generally limited to a maximum fine of $100,000.

CHAPTER 6

Statutory Requirements

6.17 Following a review in 1998, the possession of professional legal qualifications as a barrister or solicitor and five years' experience in a field relevant to legal or judicial work have been adopted as the minimum requirements for appointment as a Special Magistrate since 1999. The statutory professional qualifications for appointment of Special Magistrates are stipulated in section 5AB of the Magistrates Ordinance.

Appointments Made in 2006

6.18 No appointment of Special Magistrate was made in 2006.

Appendix 1 Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) - Judicial Office

Chief Justice

Judge of the Court of Final Appeal

Chief Judge of the High Court

Justice of Appeal

Judge of the Court of First Instance

Recorder of the Court of First Instance

Chief District Judge

District Judge

Coroner

Chief Magistrate

Principal Magistrate

Magistrate

Special Magistrate

President, Lands Tribunal

Presiding Officer, Lands Tribunal

Member of the Lands Tribunal appointed under section 4(1)(c) of the Lands Tribunal Ordinance (Cap. 17)

Principal Presiding Officer, Labour Tribunal

Presiding Officer, Labour Tribunal

Principal Adjudicator, Small Claims Tribunal

Adjudicator, Small Claims Tribunal

Registrar of the Court of Final Appeal

Registrar of the High Court

Senior Deputy Registrar, High Court

Deputy Registrar, High Court

Assistant Registrar, High Court

Registrar of the District Court

Deputy Registrar, District Court

Assistant Registrar, District Court

Appendix 2 Bio-data of the Chairman and Members of the Judicial Officers Recommendation Commission for the terms from 1 July 2005 to 30 June 2007 and 1 July 2006 to 30 June 2008

Chairman

The Honourable Chief Justice Andrew LI Kwok-nang

Chief Justice Li holds the degrees of Master of Arts and Master of Laws from Cambridge University. He was called to the English Bar in 1970 and the Hong Kong Bar in 1973. In 1988, he was appointed Queen's Counsel. Chief Justice Li was in private practice before he was appointed as the first Chief Justice of the Court of Final Appeal on 1 July 1997. He was made an Honorary Bencher of the Middle Temple in 1997 and an Honorary Fellow of Fitzwilliam College Cambridge in 1999. He is the Vice Chairman of the Council of St. Paul's Co-Educational College. He is a trustee of the Friends of Tsinghua University Law School Charitable Trust and a Guest Professor of the Tsinghua University.

Ex officio member

The Honourable WONG Yan-lung, SC, JP

Mr Wong graduated from Cambridge University and was conferred Bachelor of Arts (Law) and Master of Arts (Law) Degrees. In 1987, he was called to the Bar of England and Wales and in the same year he was also called to the Bar in Hong Kong. He was appointed as Senior Counsel in Hong Kong in 2002. In October 2005, Mr Wong was appointed as Secretary for Justice. He heads the Department of Justice which has, among other staff, about 300 lawyers. He is the Chairman of the Law Reform Commission and the Legal Practitioners' Liaison Committee, and the Deputy Chairman of the Fight Crime Committee. Before his present appointment, he was a lawyer in private practice. He sat as Deputy High Court Judge of the Court of First Instance in July and August in 2003, and was a Council member of the Council of the Hong Kong Bar Association from 1989 to 1990, from 1997 to 2002 and from 2003 to 2005 and Chairman of the Special Committee on Legal Education of the Hong Kong Bar Association from 2003 to 2005. He was elected a Master of the Bench of the Middle Temple in 2007.

Members

The Honourable Mr Justice Geoffrey MA Tao-li
(from 1 July 2006 to 30 June 2008)

Mr Justice Ma obtained his Bachelor of Laws degree from the University of Birmingham in 1977, and was called to the Bar of England and Wales in 1978. He was called to the Hong Kong Bar in 1980. He was also admitted to the Bar of the State of Victoria in 1983 and to the Singapore Bar in 1990. He became Queen's Counsel in 1993. Mr Justice Ma is an Honorary Bencher of Gray's Inn. He was in private practice until his appointment as Judge of the Court of First Instance of the High Court in 2001. In 2002, he was appointed a Justice of Appeal of the Court of Appeal of the High Court. Since July 2003, he has been the Chief Judge of the High Court. Mr Justice Ma is the Chairman of the Steering Committee on Civil Justice Reform. He is also the ex-officio Chairman of the High Court Rules Committee, District Court Rules Committee and the Criminal Procedure Rules Committee.

The Honourable Mr Justice Louis TONG Po-sun
(from 1 July 2006 to 30 June 2008)

Mr Justice Tong was conferred the Bachelor of Laws degree and the Postgraduate Certificate in Laws from the University of Hong Kong. In 1985, he was called to the Bar in Hong Kong. He was in private practice from 1985 to 1990. He joined the Judiciary as Magistrate in 1991 and was appointed Principal Magistrate in 1997 and Chief Magistrate in 1998. Since October 2000, he has been appointed Judge of the Court of First Instance of the High Court. Mr Justice Tong is the Chairman of the Release under Supervision Board and the Deputy President of the Long-term Prison Sentences Review Board. He is also a member of the Sub-committee on Juries, Law Reform Commission.

Mr Ambrose Ho, SC
(from 1 July 2005 to 30 June 2007)

Mr Ho is a practising Senior Counsel. He graduated from the University of London with a Bachelor of Laws degree in 1983 and obtained his LLM degree from the University of Cambridge in 1985. He was called to the Bar of England and Wales in 1984 and the Hong Kong Bar in the same year. In 2000, he was appointed as Senior Counsel. Mr Ho was the Vice-Chairman of the Hong Kong Bar Association from 2003 to 2005. He is currently serving as the Chairman of the Air Pollution Control Appeal Board, and a Deputy Chairman of the Administrative Appeals Board, and from 31 August 2007 he has been appointed as the Deputy Chairman of the Telecommunications (Competitive Provisions) Appeal Board.

Mr Michael Lintern-Smith
(from 1 July 2005 to 30 June 2007)

Mr Lintern-Smith has practised as a solicitor in Hong Kong since 1982. He was made a Partner of Robertsons in January 1985 and has been the firm's Senior Partner since 1989. Mr Lintern-Smith was the President of The Law Society of Hong Kong in 2004-05 and is a current Council Member of the Society. He is also a member of the Inter-Pacific Bar Association, Lawasia, the French Chamber of Commerce, the Hong Kong Institute of Directors and the Court of Final Appeal Rules Committee. He is a member of the Law School Board, City University of Hong Kong and former Chairman of the European Committee of Hong Kong General Chamber of Commerce.

Professor TSUI Lap-chee
(from 1 July 2005 to 30 June 2007)

Professor Tsui is the fourteenth Vice-Chancellor of The University of Hong Kong. Prior to his present appointment in September 2002, Professor Tsui was Geneticist-in-Chief at The Toronto Hospital for Sick Children, a University Professor and the H.E. Sellers Chair in Cystic Fibrosis at the University of Toronto. Professor Tsui is a pioneer in genomic research and other disease gene studies. His national and international honours include being elected as Fellow of the Royal Society of Canada, Fellow of the Royal Society of London, Fellow of Academia Sinica, Foreign Associate of the National Academy of Sciences (USA), and Honorary Fellow of the Royal College of Physicians (UK), and also awarded the Order of Canada (Officer rank) and the Order of Ontario.

Dr Rosanna WONG Yick-ming, JP
(from 1 July 2005 to 30 June 2007)

Dr Wong is the Executive Director of The Hong Kong Federation of Youth Groups and is a Member of the National Committee of the Chinese People's Political Consultative Committee. She was also the Chairman of the Education Commission of the Hong Kong Special Administrative Region until 30 April 2007. She was a former Member of both the Executive and Legislative Councils. Currently, she is committed to a number of welfare organizations and charities, and serves as Non-Executive Director of two public companies, namely the Hongkong and Shanghai Banking Corporation Limited and the Cheung Kong (Holdings) Limited. Dr Wong holds a B.Soc.Sc. from the University of Hong Kong; an M.S.W. from the University of Toronto; an M.Sc. from the London School of Economics and Political Science, University of London; and an M.A. and Ph.D. from the University of California, Davis. She was awarded Honorary Doctorates from the Chinese University of Hong Kong in 1996, from the University of Toronto in 1999, from the Hong Kong Polytechnic University in 2002, from the University of Hong Kong in 2003 and from the Hong Kong Institute of Education in 2004. In 2006, she was made an Honorary Fellow of the London School of Economics and Political Science. Dr Wong has been the recipient of the Ten Outstanding Young Persons Award in Hong Kong and was honoured as Global Leader for Tomorrow by the World Economic Forum. She was also honoured with the award of Dame Commander of the Most Excellent Order of the British Empire in 1997.

Dr Edgar CHENG Wai-kin, GBS, JP
(from 1 July 2006 to 30 June 2008)

Dr Cheng is the Chairman of The World-Wide Investment Company Limited, the Chairman of the Council of the Chinese University of Hong Kong and Chairman of the Council for Sustainable Development. He is also a member of the 10th Chinese People's Political Consultative Conference National Committee. Dr Cheng started his academic career in the medical profession and later joined the business sector in the late 1980s. He held important positions in a number of listed and private companies, including serving as Non-Executive Director and Vice-Chairman in the Hang Seng Bank from 1989 to 1998, as Director of the Hong Kong Futures Exchange Limited from 1991 to 1994, as Council Member from 1991 to 1994 and then as Chairman of the Council of the Stock Exchange of Hong Kong Limited from 1994 to 1997, as Vice President of the International Federation of Stock Exchanges in 1997, as Chairman of University Grants Committee from 1998 to 1999 and as Head of the Government's Central Policy Unit from 1999 to 2001.

Appendix 3 Statutory Requirements for Various Judicial Offices

Chief Justice of the Court of Final Appeal

Section 12(1) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) —

"(1) A person shall be eligible to be appointed as the Chief Justice if he is —

(aa) a permanent judge;
(a) the Chief Judge of the High Court, a Justice of Appeal or a judge of the Court of First Instance; or
(b) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years."

Permanent Judges of the Court of Final Appeal

Section 12(1A) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) —

"(1A) A person shall be eligible to be appointed as a permanent judge if he is —

(a) the Chief Judge of the High Court, a Justice of Appeal or a judge of the Court of First Instance; or
(b) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years."

Non-permanent Hong Kong Judges of the Court of Final Appeal

Section 12(3) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) —

"(3) A person shall be eligible to be appointed as a non-permanent Hong Kong judge if he is —

(a) a retired Chief Judge of the High Court;
(b) a retired Chief Justice of the Court;
(c) a retired permanent judge of the Court;
(d) a Justice or retired Justice of Appeal; or
(e) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years,

whether or not he is ordinarily resident in Hong Kong."

Non-permanent Judges from Other Common Law Jurisdictions

Section 12(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) —

"(4) A person shall be eligible to be appointed as a judge from another common law jurisdiction if he is —

(a) a judge or retired judge of a court of unlimited jurisdiction in either civil or criminal matters in another common law jurisdiction;

(b) a person who is ordinarily resident outside Hong Kong; and

(c) a person who has never been a judge of the High Court, a District Judge or a permanent magistrate, in Hong Kong."

Registrar of the Court of Final Appeal

Section 42(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) —

"(2) The Registrar shall be appointed by the Chief Executive and shall possess the same qualifications as are required under section 37AA(1) of the High Court Ordinance (Cap. 4) for appointment as the Registrar of the High Court."

Judges of the High Court and Recorders of the Court of First Instance of the High Court

Section 6A(1) of the High Court Ordinance (Cap. 4) —

"(1) The Governor [2] may appoint a person who is eligible to be appointed to be a judge of the High Court under section 9(1) or (1A), to be a recorder of the Court of First Instance for such period as may be specified in the instrument by which the appointment is made."

Section 9 of the High Court Ordinance (Cap. 4) —

"(1) A person shall be eligible to be appointed to be a judge of the High Court if —

(a) he is qualified to practise as a barrister or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

[2] In accordance with provisions of the Hong Kong Reunification Ordinance (Cap. 2601), any reference to the Governor of Hong Kong shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region.

(b) he is qualified as mentioned in paragraph (a) and prior thereto was qualified to practise as a solicitor in such a court,

and, in either case, he has for at least 10 years practised as a barrister, solicitor or advocate in such a court.

(1A) A person shall also be eligible to be appointed to be a judge of the High Court if he is qualified to practise as a solicitor of the High Court and has for at least 10 years practised as such.

(2) A person shall also be eligible to be appointed to be a judge of the High Court if —

(a) he is qualified to practise as a barrister or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

(b) he is qualified as mentioned in paragraph (a) and prior thereto was qualified to practise as a solicitor in such a court,

and, in either case, he has, subject to subsection (3), for at least 10 years —

(i)-(iii) (Repealed 14 of 1997 s. 2)

(iv) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(iva) been the Registrar of the Hong Kong Court of Final Appeal appointed in accordance with section 42 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484);

(ivb) been the Registrar or a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37;

(ivc) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(vii) (Repealed 8 of 1993 s. 6)

(viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2A) A person shall also be eligible to be appointed to be a judge of the High Court if —

(a) he is a solicitor of a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters;

(b) he is and has been for the previous 2 years at least, and in aggregate for at least 5 years, employed in the service of the Crown[3] in Hong Kong on judicial or legal work; and

(c) he has, subject to subsection (4), for at least 10 years either —

(i) practised as a barrister, solicitor or advocate in such a court; or

(ii) been employed in such service as is described in paragraph (b).

(3) For the purposes of calculating the period of 10 years referred to in subsection (2), periods of less than 10 years falling within any of paragraphs (iv) to (x) of that subsection may be combined, and there may be included in such period, any period of practice as a barrister, solicitor or advocate in any of the courts referred to in subsection (2)(a).

(4) For the purposes of calculating the period of 10 years referred to in subsection (2A)(c) there may be included any period of less than 10 years falling within any of paragraphs (iv) to (x) of subsection (2), and periods of less than 10 years falling within subparagraphs (i) and (ii) of subsection (2A)(c) may be combined.

(5) For the purposes of calculating the period of 10 years under subsection (2), periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

[3] In accordance with provisions of the Hong Kong Reunification Ordinance (Cap. 2601), any reference to the Crown shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.

Registrar, Senior Deputy Registrars, Deputy Registrars and Assistant Registrars of the High Court

Section 37AA of the High Court Ordinance (Cap. 4) —

"(1) A person shall be eligible to be appointed as the Registrar if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37;

(iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) A person shall be eligible to be appointed as a senior deputy registrar if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a deputy registrar or assistant registrar appointed in accordance with section 37;

(iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(3) A person shall be eligible to be appointed as a deputy registrar if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been an assistant registrar appointed in accordance with section 37;

(iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(4) A person shall be eligible to be appointed as an assistant registrar if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(iii) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(iv) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(v) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(vi) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(vii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(viii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(ix) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(x) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xi) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(5) For the purposes of calculating the period of 5 years referred to in subsections (1)(b), (2)(b), (3)(b) and (4)(b) —

(a) periods of less than 5 years falling within any of the subparagraphs of subsection (1)(b), (2)(b), (3)(b) or (4)(b), as the case may be, may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

District Judges

Section 5 of the District Court Ordinance (Cap. 336) —

"(1) No person shall be appointed to be a District Judge under section 4 unless —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court; or

(ia) been the Registrar of the High Court or a senior deputy registrar, deputy registrar or assistant registrar of the High Court, appointed in accordance with section 37 of the High Court Ordinance (Cap. 4); or

(ib) been the Registrar or a deputy registrar or assistant registrar appointed in accordance with section 14; or

(ii)-(iv) (Repealed 14 of 1997 s. 3)

(v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227); or

(va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504); or

(vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338); or

(vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25); or

(vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87); or

(vii) (Repealed 8 of 1993 s. 26)

(viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91); or

(ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purpose of calculating such period of 5 years, periods of less than 5 years falling within any of the sub-paragraphs of paragraph (b) of subsection (1) may be combined.

(3) For the purposes of calculating the period of 5 years under subsection (1), periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

Registrar, Deputy Registrars and Assistant Registrars of the District Court

Section 14AA of the District Court Ordinance (Cap. 336) —

"(1) A person shall be eligible to be appointed as the Registrar, a deputy registrar or an assistant registrar if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(iii) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(iv) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(v) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(vii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(viii) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(ix) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) —

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

President, Lands Tribunal

Section 4(1) of the Lands Tribunal Ordinance (Cap. 17) —

"(1) The Tribunal shall consist of the following members —

(a) the President, who shall be one of the Judges of the High Court and shall be appointed by the Chief Executive; ...."

Presiding Officers, Lands Tribunal

Section 4(2) of the Lands Tribunal Ordinance (Cap. 17) —

"(2) Every District Judge and deputy District Judge shall by virtue of his office be a presiding officer."

Members, Lands Tribunal

Sections 4(3) to 4(5) of the Lands Tribunal Ordinance (Cap. 17) —

"(3) A person shall be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been the registrar or a deputy registrar or assistant registrar of the District Court appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

(iii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

(iv) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

(v) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

(vi) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);

(vii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(4) Notwithstanding subsection (3), a person shall also be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if he is a Corporate Member in the General Practice Division of The Hong Kong Institute of Surveyors incorporated by The Hong Kong Institute of Surveyors Ordinance (Cap. 1148), or a holder of an equivalent professional qualification, with at least 5 years' experience in the practice of land valuation.

(5) For the purposes of calculating the period of 5 years referred to in subsection (3)(b) —

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap.100) may be taken into account notwithstanding the repeal of that Ordinance."

Permanent Magistrates

Section 5AA of the Magistrates Ordinance (Cap. 227) —

"(1) A person shall be eligible to be appointed as a permanent magistrate if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a legal officer;

(iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a permanent magistrate if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years been a special magistrate appointed in accordance with section 5.

(3) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) —

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

Special Magistrates

Section 5AB of the Magistrates Ordinance (Cap. 227) —

"(1) A person shall be eligible to be appointed as a special magistrate if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years —

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been a legal officer;

(iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a special magistrate if —

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years served in the grade of Court Prosecutor, Court Interpreter or Judicial Clerk in the Government.

(3) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) —

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

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