

For information

**Legislative Council**  
**Panel on Administration of Justice and Legal Services**

**Proposed Resolution of the Legislative Council to Amend  
the Judicial Officers Recommendation Commission Ordinance**

**PURPOSE**

This paper informs Members of the proposed updating of the list of judicial offices in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (“the Ordinance”) (Cap. 92) in light of the creation of the judicial office of “Principal Family Court Judge”. The amendment is to be made by resolution of the Legislative Council under section 14 of the Ordinance.

**BACKGROUND AND JUSTIFICATIONS**

2. Article 88 of the Basic Law provides that “[j]udges 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 Judicial Officers Recommendation Commission is constituted under the Ordinance. Its functions are stipulated under section 6 of the Ordinance, as follows -

“The Commission shall advise or 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;
- (c) any matter affecting judicial officers which may be prescribed or which the Chief Executive may refer to the Commission.”

Under section 2 of the Ordinance, “judicial office” means “any judicial office specified in Schedule 1” to the Ordinance and “judicial officer” means “the

holder of a judicial office”.

4. In July 2008, the Judiciary obtained approval from the Legislative Council Finance Committee to create the judicial office of “Principal Family Court Judge” in order to enhance the administration of the Family Court of the District Court. It is proposed that the new judicial office be specified in Schedule 1 to the Ordinance. Under section 14 of the Ordinance, amendment of Schedule 1 is to be made by resolution of the Legislative Council. Subject to the passing of the resolution by the Legislative Council, the Judicial Officers Recommendation Commission would be in a position to advise or make recommendations to the Chief Executive regarding the filling of vacancy in the new judicial office.

### **THE PROPOSED AMENDMENT**

5. The proposed amendment seeks to add “Principal Family Court Judge” to the list of judicial offices in Schedule 1 to the Ordinance by resolution of the Legislative Council under section 14 of the Ordinance. Marked-up version of the amended Schedule 1 to the Ordinance is at **Annex**.

### **LEGISLATIVE TIMETABLE**

6. The intention is to seek the passing of the proposed resolution by the Legislative Council on 29 April 2009. Subject to the passing of the resolution by the Legislative Council, the proposed amendment will come into operation upon its publication in the Gazette.

### **IMPLICATIONS OF THE PROPOSED AMENDMENT**

7. The proposed amendment is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance. It has no sustainability and economic implications.

8. As mentioned in paragraph 4 above, the proposed amendment arises from the creation of a new rank/post of “Principal Family Court Judge” to improve the administration of the Family Court following the approval of the Legislative Council Finance Committee in July 2008. The creation of one post of “Principal Family Court Judge” (JSPS 14) was offset by the deletion of one post of “Judge of the District Court” (JSPS 13) in the Family Court, giving rise to additional costs of \$118,200 in terms of notional annual mid-point salary value. Sufficient funding will be earmarked in the respective Estimates to meet the costs of the staffing proposal.

## **PUBLIC CONSULTATION**

9. The Judiciary consulted the Legislative Council Panel on Administration of Justice and Legal Services on a package of proposals to create, among others, the judicial office of “Principal Family Court Judge” at its meeting on 26 May 2008. The Judiciary also obtained the endorsement of the Legislative Council Establishment Subcommittee of the Finance Committee and the approval of the Legislative Council Finance Committee to create the judicial office of “Principal Family Court Judge” at their meetings on 20 June 2008 and 4 July 2008 respectively.

Judiciary Administration  
March 2009

**Marked-up version of the Amended Schedule 1  
to the Judicial Officers Recommendation Commission Ordinance**

[section 2]

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  
**Principal Family Court 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