

立法會
Legislative Council

LC Paper No. CB(2)2448/08-09(01)

Ref : CB2/PL/AJLS

Panel on Administration of Justice and Legal Services

**Background brief prepared by the Legislative Council Secretariat on
procedure for endorsement of judicial appointment by the Legislative Council
under Article 73(7) of the Basic Law**

Purpose

This paper provides information on the procedure for endorsement of judicial appointment by the Legislative Council (LegCo) under Article 73(7) of the Basic Law (BL 73(7)).

Relevant provisions of the Basic law

2. BL 48(6) confers on the Chief Executive (CE) the power and function to appoint judges of the courts at all levels in accordance with legal procedures. In accordance with BL 88, judges shall be appointed by CE on the recommendation of an independent commission, namely the Judicial Officers Recommendation Commission (JORC)^{Note}.
3. In the case of the appointment of judges of the Court of Final Appeal (CFA) and the Chief Judge of the High Court, BL 90 provides that CE shall, in addition to following the procedures prescribed in BL 88, obtain the endorsement of LegCo. BL 73(7) correspondingly confers on LegCo the power and function to endorse the appointment of CFA judges and the Chief Judge of the High Court.

Consultation exercise conducted by the Panel on Administration of Justice and Legal Services (the AJLS Panel)

Options for the endorsement procedure put forward by the AJLS Panel for consultation

4. The AJLS Panel formed a Working Group to study the process of appointment of judges in June 2001. The Working Group proposed three options on the procedure for LegCo to endorse judicial appointment under BL73(7). The Working Group also

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

identified a number of issues for review including information required to be provided by the Administration to LegCo on a judicial nominee; the membership, accountability and operation of JORC; and the desirability and feasibility of establishing a mechanism for handling complaints against judges. The Working Group recommended that the views of the public, in particular the legal community, should be sought.

5. The AJLS Panel subsequently published the Consultation Paper on Process of Appointment of Judges [issued vide LC Paper No. CB(2)662/01-02 on 12 December 2001] to invite views from the public, in particular the legal community, the Judiciary, the Administration and academics. The Panel put forward in the Consultation Paper, among others, the following options on the procedure for LegCo to endorse judicial appointment under BL 73(7) -

(a) *Option 1 - "Normal Procedure"*

- As BL 73(7) does not stipulate any formality for the power of endorsement to be exercised, it can be exercised under the already established practice and procedure of LegCo.

(b) *Option 2 - "Expanded Normal Procedure"*

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

(c) *Option 3 - "Special Procedure"*

- Option 3 proposes to adopt, albeit in modified form, certain features of the United States (US) system, e.g. the practice of the Senate Judiciary Committee of holding open hearings to question nominees.

6. An extract from the Consultation Paper setting out details of these options is in **Appendix I**.

Responses received

7. The Panel received views from the Judiciary Administration, the Director of Administration, the Law Society of Hong Kong, the Hong Kong Bar Association and a legal professional on the Consultation Paper during the consultation period. The views of the relevant parties are summarized in the following paragraphs.

8. The Bar Association strongly supports Option 1, subject to sufficient information on the candidates to be provided to LegCo. The Bar Association does not support Option 2 and considers that there is no need to provide for any specific procedure in controversial cases as Option 1 is already sufficient to cover any such contingency.

9. The Bar Association is of the view that LegCo is given the power to endorse the appointment of CFA judges and the Chief Judge of the High Court under BL 73(7) because of the importance of the posts. LegCo is not given the power to make recommendations as to appointment. LegCo should as a matter of convention accept the recommendation of JORC and it is not intended that LegCo should duplicate the process of consultation undertaken by JORC. The Bar Association believes that Option 3 is not suitable for Hong Kong as it tends to politicise the appointment and also runs the risk of duplicating the process gone through by JORC.

10. The Law Society has not made any specific comments on either Option 1 or Option 2 but notes that the two Options follow substantially the existing procedure. The Law Society considers Option 3 inappropriate for Hong Kong for a number of reasons. It is of the view that the necessary assessment of judicial qualities of a candidate, a matter of prime concern in judicial appointments, should best be done by JORC on a confidential basis, with LegCo exercising a supervisory role by way of its power of endorsement. The process of judicial appointment must not become politicised and intrusion into the private life of a candidate must be strictly controlled. A system which may cause unnecessary embarrassment to candidates is objectionable as it would deter suitable candidates from being considered for appointment.

11. The Judiciary considers that Option 1 should be preferred over Option 2. This would enable any case to be dealt with flexibly and appropriately having regard to its features. It may be difficult to establish a prior procedure which would be satisfactory for all cases.

12. The Judiciary also considers that the practical effect of adopting Option 3 would be that suitable candidates for senior appointments would be deterred from being willing to be considered. This would be the case for both the permanent positions as well as the non-permanent positions, including non-permanent judges from common law jurisdictions, most of which do not have features of the US system. Moreover, Option 3 would have an adverse impact on recruitment of lower levels of the Judiciary since one of the attractions of joining the Bench may well be regarded by some to be the potential to be elevated to one of the senior positions for which LegCo endorsement is necessary.

13. The Administration shares the Judiciary's objection to the option of adopting certain features of the US system in Hong Kong.

Endorsement procedure recommended by the Panel

14. Taking into account the views from the legal professional bodies, the Judiciary and the Administration on the procedure for LegCo to endorse judicial appointment under BL73(7), the AJLS Panel recommended in its Report on Process of Appointment of Judges [issued vide LC Paper No. CB(2)2798/01-02 on 20 September 2002] that Option 1 with the following steps be adopted -

- (a) the Administration advises the House Committee (HC) of CE's acceptance of the recommendation of JORC on a judicial appointment (this should take place before CE makes any public announcement of his acceptance of the recommendation);
- (b) HC refers the matter to the AJLS Panel or some other Panel(s) or committee(s) for discussion;
- (c) the Panel(s)/committee(s) discusses the matter as soon as possible at a meeting to which all LegCo Members are invited to attend;
- (d) the Panel(s)/committee(s) reports its discussion to HC;
- (e) the Administration gives notice of a motion to seek the endorsement of LegCo of the recommended appointment;
- (f) the motion is moved, debated and voted on at a Council meeting; and
- (g) if the motion is passed by LegCo, CE makes the appointment.

15. The AJLS Panel had also requested the Committee on Rules of Procedure (CRoP) to study whether the existing rules were adequate for implementing the procedure set out in the preceding paragraph.

Views of CRoP

16. CRoP discussed the matter at its meeting on 6 March 2003. On the question of whether LegCo's existing rules are adequate for implementing the procedure recommended by the AJLS Panel for LegCo to endorse judicial appointment under BL73(7), CRoP's views are as follows -

- (a) Part G of the Rules of Procedure (RoP) governing "Motions" should be applicable to the endorsement resolution for the appointment of the judges concerned;
- (b) RoP need not be amended since HC could refer the proposed appointment to a subcommittee for discussion under Rule 75 of RoP; and

- (c) as proposals for the appointment of judges are not policy matters that could be referred to Panels for discussion, should HC wish to refer these proposals to a Panel, be it the AJLS Panel or any other Panel, RoP would have to be amended in order that the Panel might consider such proposals.

17. Some CRoP members consider that it would be more preferable for HC to refer appointment proposals to a subcommittee, instead of a Panel, for discussion.

The Panel's Report to the House Committee

18. Having regard to the views of CRoP, the AJLS Panel had no objection to HC referring the proposals on appointment of judges to a subcommittee, instead of a Panel, for discussion, and modified its recommendations accordingly in its Report to HC [LC Paper No. CB(2)2059/02-03]. The AJLS Panel also recommended that in seeking LegCo's endorsement of a judicial appointment under BL73(7), the information provided by the Administration should include as many as possible of the items contained in the questionnaire set by the US Senate Judiciary Committee and the application form for appointment as Justice of the High Court in the United Kingdom (**Appendices II and III**). The Panel further informed HC that the Judiciary had agreed that in future appointment exercises, JORC would be asked to consider the appropriate information that should be supplied to CE, to enable CE to supply sufficient information to LegCo. The recommendations were endorsed by HC on 16 May 2003.

Procedure for endorsement of judicial appointment by LegCo under BL 73(7)

19. The procedure for endorsement of appointment of judges by LegCo under BL 73(7) as agreed by HC is summarised as follows –

- (a) the Administration advises HC of the acceptance by CE of the recommendation of JORC and provides sufficient information on the recommended judicial appointee(s) to LegCo (this should take place before CE makes any public announcement of his acceptance of the recommendation);
- (b) HC refers the matter to a subcommittee for discussion;
- (c) the subcommittee discusses the matter as soon as possible;
- (d) the subcommittee reports its deliberation to HC;
- (e) the Administration gives notice of a motion to seek the endorsement of LegCo of the recommended appointment;

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

Regarding paragraph 19(b) above, it was agreed at the HC meeting on 28 May 2004 that it would be for HC to decide whether or not a subcommittee should be appointed.

Appointment exercises since the adoption of the procedure for endorsement of judicial appointment by LegCo under BL 73(7)

The appointment exercise in 2003

20. The procedure for endorsement of judicial appointment by LegCo set out in the preceding paragraph was adopted for the first time for the appointment exercise in July 2003. A Subcommittee was formed to consider the proposed judicial appointments of three non-permanent common law judges to CFA and the Chief Judge of the High Court. The Subcommittee held one meeting with the Administration and the Judiciary Administration to discuss the proposed judicial appointments and related issues.

21. In that appointment exercise, the curriculum vitae of the recommended appointees provided by the Administration had covered various aspects, including personal background, education, legal experience, judicial experience, services and activities, awards, and publications. In response to the Subcommittee's request, the Administration had provided the following supplementary information for members' reference –

- (a) copies of major publications of the recommended appointees; and
- (b) a selection of judgments given by the recommended appointees.

22. Having considered all the available information, the Subcommittee agreed that the recommended appointees had extensive legal and judicial experience and eminent standing and supported the proposed appointments, which were subsequently endorsed by LegCo on 3 July 2003.

The appointment exercise in 2006

23. In her letter dated 6 January 2006 to the HC Chairman, the Director of Administration advised that CE had accepted the recommendation of JORC on the appointment of two non-permanent common law judges to CFA. Attached to the letter were –

- (a) an advance copy of the press statement on the appointment; and

- (b) a paper entitled "Appointment of Non-Permanent Judges to the Court of Final Appeal" which contained the curriculum vitae of the proposed appointees and information on the relevant appointment exercise.

24. At the meeting of 13 January 2006, a subcommittee was formed by HC to consider the proposed judicial appointments. The Subcommittee held one meeting with the Administration and the Judiciary Administration to discuss the proposed judicial appointment and related issues. At the Subcommittee's request, the Administration had provided additional information on the appointees. The Subcommittee supported the proposed appointments, which were subsequently endorsed by LegCo on 3 May 2006.

The appointment exercise in 2008

25. In her letter dated 7 November 2008 to the HC Chairman, the Director of Administration advised that CE had accepted the recommendation of JORC on the appointment of three non-permanent common law judges to CFA. Attached to the letter were also –

- (a) an advance copy of the press statement on the appointment; and
- (b) a paper entitled "Appointment of Non-Permanent Judges to the Court of Final Appeal".

26. The letter was considered at the House Committee meeting on 14 November 2008. Members did not raise objection to the proposed appointments, which were subsequently endorsed by LegCo on 7 January 2009.

Relevant papers

27. A list of relevant papers available on the LegCo website (<http://www.legco.gov.hk>) is in **Appendix IV**.

**An extract from the Consultation Paper on
Process of Appointment of Judges setting out details of the three options**

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Options for endorsement procedure

2.5 There are three broad options for consideration -

Option 1 - "Normal Procedure"

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

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

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

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

Option 2 - "Expanded Normal Procedure"

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

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

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

Option 3 - "Special Procedure"

2.12 Option 3 proposes to adopt, albeit in modified form, certain features of the US system, e.g. the practice of the Senate Judiciary Committee of holding open hearings to question nominees.

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

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

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

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Questionnaire set by the Senate Judiciary Committee in the United States

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

A. GENERAL PERSONAL QUESTIONS

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

IV.1

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

IV.2

I.3. Date and place of birth.

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

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

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

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

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

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

B. LEGAL EXPERIENCE AND BACKGROUND

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

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

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

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

C. FINANCIAL DATA AND CONFLICT OF INTEREST

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

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

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

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

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

II.5. FINANCIAL STATEMENT REQUIRED

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

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

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

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

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

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

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

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

IV.10 Ever been a party to any litigation?

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

E. GENERAL/OTHER

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

- III.2. Any membership in a discriminatory organization? If so, what efforts did you make to try to change such policies?
- III.3. Selection committee in your jurisdiction to recommend nominations? If so, did they recommend you? Describe the entire process you underwent.
- III.4. Did anyone involved in your selection discuss any legal case or issue seeking to learn how you might rule? If so, explain fully.
- III.5. Discuss your views on a criticism of judicial activism.

LORD CHANCELLOR

Application for appointment as
Justice of the High Court

Restricted - Appointments

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

Please read the guidance notes before completing this form.

Section A - Personal details

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

Professional surname

Private surname (if different from
professional surname)

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

Date of birth

Decorations/honours

Professional address

Postcode
Telephone
Email

Private address

Postcode
Telephone
Email

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

Professional Private

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

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

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

Queen's Bench Chancery Family

Nationality

Section B - Educational and professional history

1 Further and/or Higher Education

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

2 Legal training**Barristers**

Month and year of call to the Bar

Inn of Court

Circuit membership (if any)

Specialist Bar Association (if any)

Year Silk taken (if applicable)

Solicitors

Month and year of admission as a solicitor

Specialist Solicitors' Association (if any)

Higher courts (Civil)

Date granted

Higher courts (Criminal)

Date granted

Higher courts (All Proceedings)

Date granted

Year Silk taken (if applicable)

All applicants

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

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

All applicants

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

Dates	Chambers, firm or other organisation and address	Particulars

Barristers and Solicitors

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

%

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

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

3 Fees

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

Income	Accounting year ending
£	to
£	to
£	to

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

Section C - Judicial experience

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

No

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

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

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

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

Section D - General

Character

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

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

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

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

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

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

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

Consultation

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

Further information

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

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

Signature

Date

**Procedure for endorsement of judicial appointment by the Legislative Council
under Article 73(7) of the Basic Law**

Relevant documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
Panel on Administration of Justice and Legal Services (AJLS Panel)	15 May 2001	<p>Research Reports on the process of appointment of judges in some foreign countries [RP01/00-01], [RP02/00-01], [RP07/00-01], [RP08/00-01]</p> <p>An overall comparison on the process of appointment of judges in UK, USA, Canada and Hong Kong [LC Paper No. CB(2)1530/00-01]</p> <p>Minutes of meeting [LC Paper No. CB(2)152/01-02]</p>
	--	<p>Consultation Paper on Process of Appointment of Judges published by the AJLS Panel on 12 December 2001 (the Consultation Paper) [LC Paper No. CB(2)662/01-02]</p>
	22 April 2002	<p>Submission from the Director of Administration on the Consultation Paper [LC Paper No. CB(2)1617/01-02(02)]</p> <p>Submission from the Judiciary Administration on the Consultation Paper [LC Paper No. CB(2)1617/01-02(03)]</p> <p>Submission from the Hong Kong Bar Association on the Consultation Paper [LC Paper No. CB(2)1624/01-02(01)] (English version only)</p> <p>Submission from the Law Society of Hong Kong on the Consultation Paper [LC Paper No. CB(2)1617/01-02(04)] (English version only)</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
		<p>Submission from Mr Tony YUEN Tat-tong [LC Paper No. CB(2)1617/01-02(05)] <i>(English version only)</i></p> <p>Summary of written submissions on the Consultation Paper [LC Paper No. CB(2)1624/01-02(02)] <i>(English version only)</i></p> <p>Minutes of meeting [LC Paper No. CB(2)2545/01-02]</p>
	--	<p>A supplemental response dated 31 May 2002 from the Bar Council on "Process of appointment of judges" [LC Paper No. CB(2)2350/01-02(01)] <i>(English version only)</i></p>
	22 July 2002	<p>Paper prepared by the Legislative Council Secretariat on the process of appointment of judges [LC Paper No. CB(2)2544/01-02(01)]</p> <p>Paper prepared by Legal Service Division on "Rules of Procedure for the Endorsement of the Appointment of Judges under Article 73(7) of the Basic Law" [LC Paper No. LS123/01-02]</p> <p>Minutes of meeting [LC Paper No. CB(2)119/02-03]</p>
	--	<p>Report on Process of Appointment of Judges prepared by the AJLS Panel [issued vide LC Paper No. CB(2)2798/01-02 on 20 September 2002]</p>
Committee on Rules of Procedure	6 March 2003	<p>Progress Report of the Committee on Rules of Procedure for the period from July 2002 to June 2003 (pages 16 to18)</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
House Committee	16 May 2003	<p>Report of the AJLS Panel on "Procedure for endorsement of appointment of judges by the Legislative Council under Article 73(7) of the Basic Law" [LC Paper No. CB(2)2059/02-03]</p> <p>Director of Administration's letter dated 2 May 2003 on "Senior Judicial Appointments"</p> <p>Minutes of meeting [LC Paper No. CB(2)2118/02-03]</p>
Subcommittee on proposed senior judicial appointments under the House Committee	27 May 2003	<p>Director of Administration's letter dated 2 May 2003 on "Senior Judicial Appointments" [LC Paper No. CB(2)2135/02-03(04)]</p> <p>Minutes of meeting [LC Paper No. CB(2)2407/02-03]</p> <p>Report of the Subcommittee on proposed senior judicial appointments to the House Committee on 13 June 2003 [LC Paper No. CB(2)2417/08-09]</p>
House Committee	28 May 2004	<p>Minutes of meeting (paragraph 43) [LC Paper No. CB(2)2597/03-04]</p>
	13 January 2006	<p>Director of Administration's letter dated 6 January 2006 on "Senior Judicial Appointment"</p> <p>Minutes of meeting [LC Paper No. CB(2)936/05-06]</p>
Subcommittee on Proposed Senior Judicial Appointment under the House Committee	16 February 2006	<p>Director of Administration's letter dated 6 January 2006 on "Senior Judicial Appointment" [LC Paper No. CB(2)1133/05-06(03)]</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
		<p>Background Brief prepared by the Legislative Council Secretariat [LC Paper No. CB(2)1133/05-06(02)]</p> <p>Letter dated 1 March 2006 from the Judiciary Administration on the supplementary information requested by the Subcommittee at the meeting on 16 February 2006 [LC Paper No. CB(2)1288/05-06(01)] <i>(English version only)</i></p> <p>Copy of the Inaugural Sir Anthony Mason Lecture on Constitutional Law at the University of Sydney on "The Constitutional Jurisprudence of the High Court of Australia (1989-2004)" by Mr Michael McHugh AC [LC Paper No. CB(2)1288/05-06(02)] <i>(English version only)</i></p> <p>Letter dated 24 February 2006 from the Hong Kong Bar Association, in response to the invitation of the Subcommittee to express views on the proposed senior judicial appointment [LC Paper No. CB(2)1256/05-06(01)] <i>(English version only)</i></p> <p>Letter dated 28 February 2006 from the Chairman of the Subcommittee to the Hong Kong Bar Association [LC Paper No. CB(2)1280/05-06(01)] <i>(English version only)</i></p> <p>Letter dated 10 March 2006 from the Law Society of Hong Kong, in response to the invitation of the Subcommittee to express views on the proposed senior judicial appointment [LC Paper No. CB(2)1397/05-06(01)] <i>(English version only)</i></p> <p>Minutes of meeting [LC Paper No. CB(2)1418/05-06]</p>

<u>Meeting</u>	<u>Meeting Date</u>	<u>Paper</u>
		Report of the Subcommittee on proposed senior judicial appointments to the House Committee on 31 March 2006 [LC Paper No. CB(2)1557/05-06]
House Committee	14 November 2008	Director of Administration's letter dated 7 November 2008 on "Senior Judicial Appointments" [issued to Members vide LC Paper No. CB(2)242/08-09 on 7 November 2008] Minutes of meeting [LC Paper No. CB(2)306/08-09]

Council Business Division 2
Legislative Council Secretariat
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