LC Paper No. CB(4)329/13-14(01)

For discussion
on 28 January 2014

Legislative Council Panel on Administration of Justice and Legal Services

The Administration of Justice (Miscellaneous Provisions) Bill : Supplementary Information

PURPOSE

This paper seeks to provide supplementary information on and responses to matters raised by Members regarding some of the legislative proposals relating to court operations in the Administration of Justice (Miscellaneous Provisions) Bill ("Bill").

BACKGROUND

2. On 23 July 2013, Members discussed the legislative amendments proposed in the Bill. The Bill consists of proposals relating to, among others, appeals in civil matters to the Court of Final Appeal ("CFA"), the mode of delivery of reasons for verdicts and sentences in criminal proceedings in the District Court, the calculation of qualifying experience for appointment of Permanent Magistrates and improvement of the operation of the Labour Tribunal.

3. Members requested further information and clarifications on certain issues at the meeting, which are set out below.

SUPPLEMENTARY INFORMATION AND RESPONSES

(i) Appeals in Civil Matters to the CFA

Proposed Legislative Amendments

4. Before responding to the issues raised by Members, the Judiciary would like to recap the proposal which is to repeal section

22(1)(a) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)[1] so that appeals in civil matters would no longer lie to the CFA as of right, and all such appeals, whether or not the matter in dispute amounts to or is worth more than $1 million, would become subject to discretionary leave.

5. As the Judiciary has indicated before, the present as of right appeal system in civil matters is objectionable as a matter of principle. Linking a right of appeal to an arbitrary financial limit means that litigants involved in litigation beyond the threshold limit in effect have more rights than the other litigants with smaller claims, regardless of the merits of their cases. A continuation of the present system of appeals as of right therefore continues this inequality.

6. Further, under the present system of appeals as of right, the CFA has to handle many unmeritorious cases. This leads to uncertainty, delay, additional cost and worst of all, justice being denied (or delayed) to the other party who has merits in a case. This also prevents the CFA from hearing in good time genuine and meritorious appeals (which are often in the public law sphere). This is highly undesirable, not to mention a waste of public resources. For cases in other areas such as those relating to applications for judicial review involving constitutional and public law issues, leave of the court is also required before such applications can be formally made[2]. In fact, the present as of right system is an anomaly among the common law jurisdictions to which Hong Kong has the closest affinity.

7. In this connection, both the Chief Justice and Permanent Judges of the CFA have frequently remarked on section 22(1)(a) of Cap. 484 as being anachronistic. There are instances where the appeals as of right were devoid of merit, and if leave had been required, there would have

---

[1] Section 22(1)(a) and (b) of Cap. 484 reads :

(a) an appeal lies to the CFA as of right from any final judgment of the Court of Appeal, where the matter in dispute amounts to or is worth HK$1 million or more; and

(b) for other Court of Appeal judgments, appeals to the CFA will only be allowed if, in the opinion of the CFA or Court of Appeal, the question involved is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the CFA for decision.

[2] See Order 53, rule 3 of the Rules of the High Court (Cap. 4A).

been no prospect of such leave being granted[3]. However, they were listed before the CFA for a full hearing making use of the existing mechanism. Such cases are inherently wasteful of judicial resources. Following the Civil Justice Reform introduced in 2009, this kind of wastage should no longer be tolerated. It is unfair to not only the successful parties in litigation, but also other litigants who have deserving cases before the CFA. It is ultimately unfair to the community as well.

8. As a matter of fact, the workload and resources for dealing with a leave application and a substantive appeal by the CFA are different. For consideration of leave applications, they may be disposed of on paper under the procedures of rule 7 of the Hong Kong Court of Final Appeal Rules (Cap. 484A) (please see paragraphs 16 to 18 below). If the court directs for a hearing, the hearing time normally lasts for about one to two hours (though the amount of time needed by the Judges to prepare for the hearing is much longer) and only three Judges are involved. For substantive appeals, apart from the judicial and administrative time spent on those pre-hearing procedural matters, the hearing bundles involved are normally much more substantial and the hearing time normally lasts for one or more days and five Judges are involved.

Successful and Unsuccessful Substantive Appeals to the CFA

9. Members asked for the numbers of as of right appeals to the CFA whereby lower courts' decisions were overturned, as well as the numbers of successful appeals to the CFA for other civil and criminal cases in the past five years.

10. The Judiciary would like to reiterate that as a matter of policy, the Judiciary does not normally maintain statistics on the results of appeal cases. The success of the appeals can be attributed to a large variety of reasons, depending very much on individual merits and circumstances of each appeal case. In some of these successful appeal cases, the CFA may take a different view from the lower courts' judgment on facts or on law. But, in the other cases, the appeal is allowed because there are changes of circumstances after trial, new evidence is adduced, new or novel points of law are involved, or the CFA is invited to overrule previous binding decisions of the Court of Appeal ("CA"). The Judiciary is therefore of

[3] The most recent example is Kwok Chin Wing v. 21 Holdings Ltd & others (FACV 9/2012, judgment handed down on 30 September 2013).

the strong view that statistics of such nature, if not interpreted carefully and correctly, can be misleading.

11. That said, given Members' request, the Judiciary has taken special steps to compile, as far as possible, some recent statistics for 2008 to 2012 at **Annexes A and B** respectively to provide a snapshot picture for Members. For the as of right appeals, figures for the recent five years at **Annex A** show that except for 2008, the percentage of unsuccessful appeals exceeded 66% of the number of cases filed for the respective year.

Statistics on Leave Applications to the CFA

12. Members requested more information about the outcomes of the leave applications to the CFA. Specifically, Members would like to have the following statistics for the past five years –

(a) the numbers of applications for leave to appeal to the CFA for civil and criminal cases;

(b) the respective numbers of applications mentioned in (a) above which had been granted and dismissed; and

(c) of the applications for leave to appeal dismissed by the CFA for civil and criminal cases, the respective numbers of applications heard and not heard by oral hearing held by the CFA.

13. The requisite statistics for 2008 to 2012 are at **Annex C**.

Reasons for Dismissing Leave Applications

14. On the reasons for dismissing the leave applications, the Judiciary would like to first clarify that there are indeed two types of cases –

(a) for cases dismissed under rule 7 of Cap. 484A, the reasons normally are that the leave applications disclose no reasonable grounds for leave to appeal, or are frivolous; and

(b) for cases dismissed after an oral hearing, the reasons are in general provided in the relevant determinations of the Appeal Committee. Given the diversity, it would be difficult to summarize the reasons for all the dismissed applications.

15. Some Members suggested that reasons be given for unsuccessful applications for leave to appeal to the CFA. The Judiciary believes that they refer to those cases disposed of under rule 7 of Cap. 484A. The Judiciary would like to clarify the procedure under this rule first.

16. According to rule 7 of Cap. 484A, where the Registrar of the CFA is of the opinion that an application discloses no reasonable grounds for leave to appeal, or is frivolous or fails to comply with Cap. 484A, he may issue a summons to the applicant calling upon the applicant to show cause before the Appeal Committee why the application should not be dismissed. After considering the matter, the Appeal Committee may order that the application be dismissed or give such other directions as the justice of the case may require.

17. If the Appeal Committee decides that a leave application should be dismissed on any of the grounds specified in rule 7, the practice is that it will make an order dismissing the application without an oral hearing and the relevant ground(s) will be set out in the order. For instance, the order may state that the application "discloses no reasonable grounds for leave to appeal".

18. The practice under the rule 7 procedure is set out in detail in the decision of the Appeal Committee in *Chow Shun Yung v Wei Pih & another*[4]. It was held that –

(a) Rule 7 :

(i) does permit the Registrar to restrict the manner of showing cause to the filing of written submissions;

(ii) does permit the Appeal Committee to consider and determine leave applications within the rule on the papers and without an oral hearing;

(iii) is not inconsistent with any section of Cap. 484 or any other provision of Cap. 484A; and

---

[4] (2003) 6 HKCFAR 300

(b) the determination of applications for leave to appeal on the papers and without an oral hearing does not contravene Article 10 of the Hong Kong Bills of Rights[5].

19. In short, there are indeed reasons spelt out in the orders for cases dismissed under rule 7 of Cap. 484A. For the other cases which are dismissed after an oral hearing, as indicated in paragraph 14(b) above, the reasons are more detailed and set out in the respective determinations.

Background of the Existing Mechanism and Latest Development

20. Members asked for more information about the background for the existing as of right appeal mechanism to the CFA and the current development of the appeal procedures of the Privy Council in the United Kingdom ("Privy Council").

21. The historical origin of appeals as of right in civil matters in Hong Kong lies in the system of appeals to the Judicial Committee of the Privy Council, the highest appellate court of Hong Kong before 1 July 1997. This system applied not only to Hong Kong but also to all Commonwealth jurisdictions with rights of appeal to the Privy Council.

22. Before 1 July 1997, appeals in civil matters lay as of right to the Privy Council where the matter in dispute amounted to $500,000 or more. When the Hong Kong Court of Final Appeal Bill was introduced into the Legislative Council in 1995, the as of right appeal mechanism was preserved so that the then prevailing appeal system would continue unchanged as far as possible[6], but the threshold was raised to $1 million to reflect the inflation factor.

---

[5] The relevant Article reads "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children".

[6] Legislative Council, *Official Record of Proceedings*, 26 July 1995, page 6036.

23. In the 1930s, the Privy Council was said to be the final court of appeal for more than a quarter of the world. This position has however changed as a large number of Commonwealth countries have now terminated the rights to appeal to the Privy Council in respect of judgments from their local Courts. While the Privy Council still hears as of right appeals from a number of Commonwealth countries or territories such as Bahamas, Jamaica and Saint Lucia, most of the Commonwealth countries like Australia, New Zealand and Canada etc. have abolished any such right of appeal to the Privy Council and have established their own highest court of final appeal to hear final appeals. Details of the final appeal mechanisms in such countries are set out in Annex A to the earlier Panel paper on this subject in July 2013.

24. The Judiciary wishes to take this opportunity to emphasize that whatever good historical reasons there might have been for the as of right provision, it no longer has any validity or proper purpose. This has led other common law jurisdictions to abolish similar provisions because hopeless appeals brought as of right result in injustice, unfairness and waste of public and judicial resources. Under the circumstances, Hong Kong should be in line with other common law jurisdictions by abolishing appeals as of right.

Considerations for Rejecting Leave Applications

25. Some Members asked the Judiciary to make reference to relevant legislation in overseas jurisdictions and consider whether it is necessary to amend local legislation to the effect that the reasons/considerations for considering an application for leave to appeal to the CFA should be more clearly set out, especially if the as of right appeal mechanism were to be abolished.

26. Following the proposed abolition of the as of right appeal mechanism, all appeals in civil matters to the CFA would be subject to discretionary leave. All such appeals should be heard by the CFA only if the question involved in the appeal is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the CFA for decision.

27. The Judiciary wishes to reiterate that the CFA is the final appellate court in Hong Kong. It does not operate as a second court of appeal operating on the same basis as the CA. While the CFA primarily deals with questions of “great general or public importance”, there is also

an "or otherwise" provision. Existing case law has established the "or otherwise" limb as an exceptional one with a limited scope of application, for example, when there is perceived grave injustice. Instead of rigidly setting out the considerations for approving or rejecting an application for leave under this limb, the Judiciary considers it more appropriate to let the jurisprudence on this limb further develop on its own, just like all case law. If the Judiciary spells out other factors such as "general commercial significance" in the legislation like some other jurisdictions, it would still offend the matter of principle set out in paragraph 5 above in that commercial cases with a higher monetary value would then seem to enjoy more rights.

(ii) Delivery of Reasons for Verdicts and Sentences in Criminal Proceedings in the District Court

Original Proposed Legislative Amendments

28. Under section 80 of the District Court Ordinance (Cap. 336), a District Judge is at present required to orally deliver the verdict and any sentence, as well as the reasons, in criminal proceedings. The Judge is also required to reduce the reasons to writing within 21 days after the hearing or the trial.

29. As the Judiciary pointed out in the earlier Panel paper in July 2013, the present arrangement does not provide any flexibility for a District Judge to directly hand down the reasons for the verdict and any sentence in writing. They have to deliver the reasons orally, which would be reduced to writing thereafter. This arrangement may be unnecessary and represents a waste of legal costs and court resources in many cases.

30. The Judiciary has therefore proposed to amend section 80 of Cap. 336 to dispense with the requirement for a District Judge to orally deliver the reasons for the verdict and any sentence. As such, the Judges would have the flexibility to hand down the reasons for both the verdict and sentence in writing direct in appropriate cases.

Revised Proposal

31. Some Members asked whether the Judiciary should extend the proposed arrangements above to the other levels of criminal court. The Judiciary would like to point out that the arrangements for different levels of court are not necessarily the same, given the different nature,

complexity and volume of court cases that they are dealing with. It may not be appropriate to align their arrangements altogether.

32. That said, the Judiciary has reviewed the existing arrangements for the Court of First Instance ("CFI") of the High Court and the proposed arrangements for the District Court. For the CFI, there are no reasons for verdicts as the jury does not give reasons. As far as sentences are concerned, the CFI Judges give oral reasons for sentences with the convicted defendants present in court. There is a strong element of public admonition in this arrangement, especially since the CFI deals with the most serious crimes.

33. While the criminal cases in the District Court are less serious in nature, the Judiciary considers that the proposed arrangements for the District Court should be refined so that a District Judge should, as at present, continue to deliver oral reasons for any sentence before reducing them to writing.

34. In short, the Judiciary now proposes to provide flexibility for a District Judge to hand down direct the reasons for verdicts only. There would not be any changes to the present mode of delivery for the reasons for sentences.

Determination of Mode of Delivery for Verdict

35. Members suggested that the circumstances under which a District Judge would directly deliver the reasons for the verdict in writing or orally first should be clearly spelt out in the Bill. As the Judiciary explained at the last meeting, a District Judge would give due consideration to such factors as the likely duration needed for the oral delivery, the complexity of a case, availability of legal representation and background of the parties concerned (e.g. language fluency and any other special needs). However, the Judiciary does not consider it appropriate to spell out such factors in the Bill.

36. The Judiciary appreciates the need for defendants to fully understand the reasons for verdicts. The Judiciary would like to stress that a District Judge would still have the discretion to orally deliver the reasons for a verdict. This can be arranged upon the request of a defendant and/or if the Judge considers it desirable.

A Separate Issue

37. As a separate issue, irrespective of the mode of delivery, some Members were concerned whether a defendant may be unnecessarily kept in custody because of the time required for the delivery of the verdict and/or the sentence, especially in cases where the defendant intends to appeal. Some Members also suggested that the time limit to require the District Judge to deliver the reasons for the verdict and any sentence, if the reasons are delivered in writing, should be provided in Cap. 336.

38. It should be noted that the time needed to deliver the verdict and sentence in general depends on the facts and circumstances of each case. It is inappropriate or impracticable to fix the duration of such delivery in the Bill. In fact, at the District Court, judges are normally able to deliver the verdict for criminal cases within a relatively short period of time, except due to for example the need to accommodate the diaries of counsel.

39. For defendants intending to appeal, at the District Court, as the reasons for the verdict/sentence are orally delivered at the same time when the verdict/sentence is delivered, they should be able to form a view as to whether to appeal (without waiting for the reasons to be reduced to writing). In the future, after the proposed legislative amendments, the written reasons for verdict may be handed down direct together with the verdict. This would further help defendants to consider possible appeals.

(iii) Calculation of Qualifying Experience for Appointment as Permanent Magistrates

40. The Judiciary proposes to amend section 5AA of the Magistrates Ordinance (Cap. 227) to allow a person's period(s) of experience as a Special Magistrate to be combined with period(s) of other types of qualifying professional experience to fulfill the requisite minimum five-year period for the eligibility to be appointed as a Permanent Magistrate.

41. Some members suggested that section 5AB of Cap. 227 be similarly amended so as to allow a person's period(s) of experience as a Court Prosecutor, Court Interpreter or Judicial Clerk in the Government to be combined with period(s) of other types of qualifying professional experience to fulfill the requisite minimum five-year period for

appointment as a Special Magistrate. Such a proposal should be studied separately.

(iv) Improving the Operation of the Labour Tribunal

Right of Audience and Disclosure of Documents

42. Members suggested the examination of the granting of leave by the Labour Tribunal ("Tribunal") for an officer of a registered trade union to appear as a party's authorized representative in recent years. Members also requested clarifications on the role of trade union representatives in the proceedings of the Tribunal after the proposed legislative amendments, including clarifications on whether they have the rights to speak and access documents produced by the employee and/or employer, as well as the limitations (if any) on such rights.

43. According to section 23(1)(e) of the Labour Tribunal Ordinance (Cap. 25), an office bearer of a registered trade union or of an association of employers shall have a right of audience before the Tribunal. However, such an office bearer must be authorized in writing by a claimant or defendant to appear as his representative and leave of the Tribunal must be obtained before the officer bearer could exercise the right of audience. The Judiciary has not suggested changes to this well-established arrangement.

44. It is understood that most of the applications for right of audience by the trade union representatives are granted. While such decisions are judicial ones and are dependent on the circumstances of each case, our Judicial Officers normally take account of various factors in considering such applications, e.g. whether the other party opposes to representation by trade union and the reasons for such opposition, as well as whether the party concerned needs any assistance. Any party who is not satisfied with the decision may appeal against such decision.

45. On disclosure of documents, under the proposed legislative amendments, the Judiciary suggests that the receiving party be imposed a general statutory restriction or prohibition not to use the documents and information disclosed for any purpose other than for the purpose of the relevant Tribunal proceedings, unless the document has been put into the public domain. Moreover, similar to the other levels of court such as the High Court and the District Court, the Judiciary proposes that a breach of

this statutory restriction or prohibition in the Tribunal would give rise to a liability of contempt of court.

46. The reason for parties making discovery by disclosing documents in the proceedings is for the fair disposal of cases before the Tribunal. Accordingly, the documents disclosed should, as a matter of general principle, only be used for the purpose of the proceedings in which they are disclosed. To use the documents or to disclose them to other people for any other purpose runs the risk of deterring litigants from making full discovery of relevant documents and information as well as undermining openness in the parties' approach to litigation. This will have an undesirable impact on the administration of justice. The proposed restriction or prohibition on disclosure is therefore to promote openness in the Tribunal proceedings and to ensure the fair disposal of cases before the Tribunal.

47. As regards the issues of whether a party may disclose to a trade union office bearer the documents disclosed to him in the Tribunal proceedings, and whether a party or trade union office bearer may use documents disclosed in the Tribunal proceedings will have to be considered having due regard to the rationale underlying the proposed restriction or prohibition. For instance, if a party uses a document disclosed to him in the Tribunal proceedings for the purpose of the proceedings in which the document is disclosed, the proposed restriction or prohibition on disclosure would not be contravened. Similarly, disclosure to a trade union office bearer for the purpose of the proceedings in which the document is disclosed would not amount to a contravention of the restriction or prohibition.

48. A party may seek permission from the Tribunal before disclosing or using documents disclosed in Tribunal proceedings, and the Tribunal will consider the application, having regard to the general law and the rationale underlying the proposed restriction or prohibition.

Procedures for Claims Involving Death of a Party

49. Members asked about the procedures for handling claims which involve prolonged absence or death of one of the parties to the claims, the employers in particular. Members asked that the Judiciary consider amending the law if it does not provide for such circumstances.

50. The present arrangements for such circumstances are clear. Where either an employee or an employer has died before the commencement of or during the proceedings in the Tribunal and the claimant is aware that probate or administration has been granted in respect of the estate of the deceased, the claim is dealt with in the Tribunal in the same way as the other claims.

51. Where the claimant does not know whether probate or administration has been granted or the identity of the executor or personal representative appointed to represent the estate of the deceased, he could carry out a search at the Probate Registry in the High Court. If the search shows that probate or administration has been granted, the claim could be made or amended to name the executor or personal representative representing the estate of the deceased as a party so that a future award or order can be enforced against the estate. Thereafter, the claim will proceed in the Tribunal in the same way as the other claims.

52. Where no probate or administration is granted, the claimant may not wish to continue with the claim as he does not know whether the estate has any asset to satisfy the award. If he would still like to pursue the claim, the case will be transferred to either the District Court or the CFI depending on the amount of the claim, and the Rules of the District Court (Cap. 336H) and the Rules of the High Court (Cap. 4A) would apply to the claim as appropriate[7].

53. Given the present arrangements, the Judiciary does not consider it necessary to amend the law. It may be worth pointing out that there are very few claims in the Tribunal where a deceased party is involved. The number of such claims being transferred to the District Court or the CFI is even smaller.

Details on Consultation Exercise

54. Members requested further information on the minor and technical comments raised by other stakeholders as mentioned in paragraph 64 of the earlier Panel paper on this subject in July 2013. As the Judiciary informed Members at the meeting in July 2013, these

[7] Order 15, rule 6A of Cap. 336H and that of Cap. 4A contain a set of provisions dealing with different scenarios arising from the death of a party before the commencement of the action, whereas Order 15, rule 7 of Cap. 336H and that of Cap. 4A deal with the situation where a party died during the proceedings.

comments were mainly related to the drafting aspect and whether or not legal representation should be allowed for proceedings in the Tribunal.

55. In gist, a member of the Labour Advisory Board ("LAB") has suggested that the Judiciary consider whether the Tribunal should be given discretion to grant leave to have legal representation at the Tribunal hearings, especially in complex cases. With the proposed new measures such as security for payment of award/order and early disclosure of information, the member took the view that even simple cases might become more complex and legal representation might be desirable.

56. The Judiciary has considered this suggestion. In the first place, legal representation has not been allowed since the establishment of the Tribunal. This is to achieve the objective of establishing the Tribunal, namely to provide a quick, simple, cheap and informal forum for resolving employment disputes. The presence of lawyers would inevitably bring with it increased complexity of procedures and add substantially to the expense of settling claims and to the time needed to dispose of them.

57. There are also concerns about the unequal economic power between employers and employees. With legal representation, proceedings in the Tribunal may become costly and employees in general are less likely to be able to afford private representation. Employees may therefore feel disadvantaged if the Tribunal is given discretion to permit legal representation.

58. Under the current system, if the complexity of the case warrants, the Presiding Officer of the Tribunal will transfer the claim to either the District Court or the CFI. The parties may then, if they like, either engage their own lawyers or apply for legal aid.

59. In the Judiciary's view, the proposed amendments to Cap. 25 are primarily to improve the case management power of the Tribunal with a view to enhancing the efficiency of the proceedings. They are not intended to, and should not, make cases more complex. Neither should they give rise to a need for legal representation.

60. Having regard to the considerations set out in paragraphs 56 to 59 above, the Judiciary has decided not to take forward the suggestion of the LAB member and have relayed its views to him accordingly.

WAY FORWARD

61. Subject to any further views that Members may have, the Administration aims at introducing the Bill, with the necessary changes, to the Legislative Council within the 2013-14 legislative year.

Administration Wing
Chief Secretary for Administration's Office

Judiciary Administration
January 2014

Annex A

Successful and Unsuccessful Rates of As of Right Appeals
Disposed of in the Court of Final Appeal (filed in the years from 2008 to 2012)
(as at December 2013)

Year	Total No. of Civil Cases filed	No. of civil appeal heard purely on "As of Right" grounds	Outcome of the pure "As of Right" Appeals				
			No. of appeal withdrawn	No. of appeal allowed	*Rate of allowed appeals*	No. of appeal dismissed	*Rate of dismissed appeals*
2008	30	6	1	4	*66%*	1	*17%*
2009	22	7	1	1	*14%*	5	*71%*
2010	17	7	1	0	*0%*	6	*86%*
2011	21	5	0	1	*20%*	4	*80%*
2012	27	6	0	2	*33%*	4	*66%*

Remarks :

(1) Some of the appeal cases might have been submitted to the Court of Final Appeal under both limbs of section 22(1)(a) (as of right mechanism) and section 22(1)(b) (after obtaining leave) of the Hong Kong Court of Final Appeal Ordinance (Cap 484). The above table only captures the results of those appeals submitted solely under section 22(1)(a).

Annex B

Criminal and Civil Substantive Appeals (including as of right appeals) Disposed of in the Court of Final Appeal (2008-2012)

Disposal Year	Substantive Appeals	Number of Appeals disposed of *(% against Total)*			
		Appeal Allowed (a)	Appeal Dismissed (b)	Appeal Withdrawn (c)	Total (a+b+c)
2008	**Criminal**	3 (*37.5%*)	4 (*50%*)	1 (*12.5%*)	**8**
	Civil	12 (*33%*)	19 (*53%*)	5 (*14%*)	**36**
	Total	**15 (*34%*)**	**23 (*52%*)**	**6 (*14%*)**	**44**
2009	**Criminal**	3 (*30%*)	7 (*70%*)	0 (*0%*)	**10**
	Civil	11 (*42%*)	13 (*50%*)	2 (*8%*)	**26**
	Total	**14 (*39%*)**	**20 (*55.5%*)**	**2 (*5.5%*)**	**36**
2010	**Criminal**	7 (*54%*)	6 (*46%*)	0 (*0%*)	**13**
	Civil	6 (*46%*)	5 (*39%*)	2 (*15%*)	**13**
	Total	**13 (*50%*)**	**11 (*42%*)**	**2 (*8%*)**	**26**
2011	**Criminal**	9 (*75%*)	3 (*25%*)	0 (*0%*)	**12**
	Civil	8 (*35%*)	14 (*61%*)	1 (*4%*)	**23**
	Total	**17 (*48.5%*)**	**17 (*48.5%*)**	**1 (*3%*)**	**35**
2012	**Criminal**	10 (*77%*)	3 (*23%*)	0 (*0%*)	**13**
	Civil	4 (*27%*)	11 (*73%*)	0 (*0%*)	**15**
	Total	**14 (*50%*)**	**14 (*50%*)**	**0 (*0%*)**	**28**

<u>Annex C</u>

Leave Applications Disposed of in the Court of Final Appeal (2008-2012)

Year	Leave Applications	Allowed	Dismissed		Withdrawn	Total
			Written [1]	After Oral Hearing[2]		
2008						
	Criminal	12	45	14	3	74
	Civil	13	40	12	1	66
	Total	***25***	***85***	***26***	***4***	***140***
		18%	**61%**	**18%**	**3%**	**100%**
2009						
	Criminal	11	41	17	6	75
	Civil	8	42	35	1	86
	Total	***19***	***83***	***52***	***7***	***161***
		12%	**52%**	**32%**	**4%**	**100%**
2010						
	Criminal	14	55	16	4	89
	Civil	5	30	6	0	41
	Total	***19***	***85***	***22***	***4***	***130***
		15%	**65%**	**17%**	**3%**	**100%**
2011						
	Criminal	11	49	13	0	73
	Civil	12	20	16	1	49
	Total	***23***	***69***	***29***	***1***	***122***
		19%	**56%**	**24%**	**1%**	**100%**
2012						
	Criminal	14	35	7	1	57
	Civil	15	13	16	3	47
	Total	***29***	***48***	***23***	***4***	***104***
		28%	**46%**	**22%**	**4%**	**100%**

[1] These cases are disposed of on paper under Rule 7 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484A).
[2] These include cases where Rule 7 summons were issued but an oral hearing was directed by the Appeal Committee.