HONG KONG BAR ASSOCIATION
Secretariat: LG2 Floor, High Court, 38 Queensway, Hong Kong
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24th January 2014

Ms. Mary So
Clerk to Panel
Panel on Administration of Justice and Legal Services
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong.

Dear Ms. So,

Panel on Administration of Justice and Legal Services
Meeting on 28 January 2014

I refer to your letter dated 30th December 2013.

The views of the Hong Kong Bar Association (HKBA) on the various topics under the Administration of Justice (Miscellaneous Provisions) Bill (Item IV on the Agenda) are set out in its letters to the Judiciary Administrator during the consultation process last year.

For ease of reference, I enclose herewith copies of 2 letters dated 7th and 22nd May 2013 from the HKBA to the Judiciary Administrator. There is nothing the HKBA can usefully add. As such, the HKBA will not be represented at the forthcoming meeting of the Panel on 28th January 2014.

Thank you for your kind attention.

Yours sincerely,

Dora Chan
Administrator

Encl.

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(Our ref: GC/al/045)
(Your ref: SC/CR/2/1/65)

7th May 2013

The Judiciary Administration
Judiciary
Room LG256, High Court
38 Queensway, Hong Kong.

Attn: Mr. Esmond Lee
for Judiciary Administrator

Dear Esmond,

Supplementary Consultation Paper on the Administration of Justice (Miscellaneous Provisions) Bill:

Rights of Appeal to the Court of Final Appeal in Civil Matters

I refer to your letter of 23rd April 2013 which has been considered at the Bar Council Meeting held on 2nd May 2013.

The Hong Kong Bar Association supports the proposal set out in the Judiciary's Supplemental Consultation Paper dated 23rd April 2013 ("the Consultation Paper") for the repeal of section 22(1)(a) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484). ("the Ordinance"). Specifically, the Judiciary proposes that all appeals in civil matters to the CFA would be subject to discretionary leave.

Yours sincerely,

Paul Shieh SC
Chairman

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22 May 2013

Judiciary Administrator
Hong Kong Judiciary
38 Queensway,
Hong Kong

Attention: Esmond Lee

Dear Mr. Lee

Proposal by Judiciary: Consultation Paper on the Administration of Justice (Miscellaneous Provisions Bill

Thank you for your letter dated 27 March 2013.

The Bar Council has reviewed the proposals in the Administration of Justice (Miscellaneous Provisions) Bill. Our comments are as follows:

Proposal 1: rationalising the calculation of qualifying experience for the appointment of Magistrates. The Bar supports this proposal.

Proposal 2: a proposal which would permit a judge of the District Court to hand down his Reasons for Verdict rather than read it out. We support this proposal subject to the following observations. Long experience reveals that in large cases reading out of Reasons for Verdict can

take 2 and possibly 3 days. This proposal will go a long way towards achieving the stated policy aims of saving of court and professional time. However, the public reading of reasons has a number of important features including enabling the accused person to hear the reasons why he or she is acquitted or convicted. Equally there is a public process to be gone through so that the community knows the reasons why the accused person is acquitted or convicted. Accordingly, we think that either by practice direction or some other means it would be highly desirable, where this expedient of handing down reasons for verdict is adopted, that the accused and his or her representatives be given time to read, understand and digest the reasons in order to prepare for consequential hearings such as (where the verdict is guilty) the sentence hearing or (where the verdict is not guilty) applications for costs and the like. It need hardly be said that such consequential proceedings may depend very heavily on what is said in the Reasons for Verdict. The other dimension is the public nature of proceedings and there must be steps to ensure that the Reasons for Verdict are publicly available as soon as possible after the verdict is announced court.

Proposal 3: a proposal to amend the provisions of Part IIIA of the Criminal Procedure Ordinance, Cap 221 to widen scope of taking evidence by live television link. We support the proposal.

Proposal 4: a proposal to improve/provide the legal basis for the administration of suitors' funds at various levels of courts and tribunals, and enhancement of the detailed rules across-the-board as a second step later. We have no comment on this proposal.

Proposal 5: a proposal to improve the operation of the Labour Tribunal. We support the proposal.

Yours sincerely,

Paul Shieh, SC
Chairman