

立法會
Legislative Council

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Date : 14 March 2017

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 29 March 2017

**Proposed resolution under
Article 73(7) of the Basic Law and
section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)**

The Chief Secretary for Administration will move the proposed resolution in **Appendix 1** under Article 73(7) of the Basic Law and section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) at the above meeting. The President has directed that the proposed resolution be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Chief Secretary for Administration will deliver when moving the proposed resolution is in **Appendix 2**.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

**Basic Law of the Hong Kong Special Administrative
Region of the People's Republic of China
and
Hong Kong Court of Final Appeal Ordinance**

Resolution

(Under Article 73(7) of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China and section 7A of
the Hong Kong Court of Final Appeal Ordinance (Cap. 484))

Resolved that the following appointments be endorsed—

- (a) the appointment of Mr. Robert French as a judge of the Hong Kong Court of Final Appeal from another common law jurisdiction pursuant to section 9 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (*the Ordinance*); and
- (b) the appointment of the Right Honourable Lord Reed as a judge of the Hong Kong Court of Final Appeal from another common law jurisdiction pursuant to section 9 of the Ordinance.

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 29 March 2017**

**Resolution under Article 73(7) of the Basic Law and
Section 7A of the Hong Kong Court of Final Appeal Ordinance**

**Appointment of Non-permanent Judges from other common
law jurisdictions to the Court of Final Appeal**

Mr President,

I move that the motion under my name, as printed in the Agenda, be passed, that this Council endorses the appointments of Mr Robert French and The Right Honourable Lord Reed (Lord Reed) to the Court of Final Appeal (CFA) as non-permanent judges from other common law jurisdictions (CLNPIs).

Constitutional and statutory framework

2. CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice (CJ) and the permanent judges. Non-permanent judges may be invited to sit and they may come from Hong Kong or from other common law

jurisdictions. When hearing and determining appeals, CFA is constituted by five judges, comprising CJ, three permanent judges, and one non-permanent Hong Kong judge or one non-permanent judge from another common law jurisdiction.

3. Pursuant to Article 88 of the Basic Law and the Judicial Officers Recommendation Commission Ordinance (Cap. 92), judges of the courts of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive (CE) on the recommendation of the Judicial Officers Recommendation Commission (JORC). In addition, Article 90 of the Basic Law provides that in the case of the appointment of judges of CFA, CE shall obtain the endorsement of the Legislative Council (LegCo).

The current appointments

4. Pursuant to Article 88 of the Basic Law and section 6(a) of JORC Ordinance, JORC has recommended the appointments of Mr Robert French and Lord Reed as CLNPs of CFA.

5. Mr Robert French had been the Chief Justice of the High Court of Australia since September 2008 until he retired from the office on 29 January 2017. Lord Reed has been a Justice of the Supreme Court of the United Kingdom since December 2011. They are judges of eminent standing and reputation and their

appointment will be a great asset to CFA. If they are appointed, the total number of CLNPIs will increase from the existing 10 to 12. This gives greater flexibility for dealing with CFA's caseload and ensures its effective operation.

6. CE is pleased to accept the recommendations of JORC on the appointments of the two judges as CLNPIs of CFA. Subject to the endorsement of this Council, the appointments of the two CLNPIs shall take effect in May 2017 for a term of three years.

7. In accordance with the procedures previously endorsed by the LegCo House Committee, the Government issued a paper on 17 January 2017 to inform the House Committee that CE had accepted the recommendations of JORC on the appointments. The curriculum vitae of the two judges were also set out in the paper. Representatives from the Government and the Secretary to JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments on 14 February 2017 and answered Members' questions. I would like to thank the Dr Honourable Priscilla Leung Mei-fun, Chairman of the Subcommittee, and other Members of the Subcommittee for their support of the proposed appointments.

8. I invite Members to endorse the appointments.