

## **M E M O**

To : Mrs. Sharon Tong, Clerk of the Subcommittee  
From : Bernice Wong, Assistant Legal Adviser  
Ref : LS/S/8/99-00  
Tel : 2869 9204  
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### **Immigration (Amendment) Regulation 1999**

At the meeting of the Subcommittee on 10 December 1999, the Chairman requested an advice on the impact of the judgment of the Court of Final Appeal in *Lau Kong Yung v The Director of Immigration* on the above Amendment Regulation.

2. I would supplement the advice given by the Administration in the letter dated 13 December 1999 with the following remarks made by the Chief Justice at page 47 of the judgment :

"An illegal immigrant, whether he entered illegally or has contravened a condition of stay, does not have, as a general rule, a right to a hearing, conducted fairly and in accordance with the rules of natural justice, before a removal order is made against him. ... A person claiming to be a permanent resident by descent who has landed unlawfully or is contravening or has contravened a condition of stay is in a similar position in this regard."

3. The Chief Justice referred to two decisions of the Court of Appeal. In one of those cases that went to the Privy Council, the Lordships assumed this general rule to be correct and held that a right to a hearing would depend on the particular circumstances of the case.

(Bernice Wong)  
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