

**HONG KONG BAR ASSOCIATION'S
COMMENTS ON
PUBLIC OFFICERS PAY ADJUSTMENTS (2004/2005) BILL**

1. The Bar confines its consideration to whether the exclusion in clause 3 of the captioned Bill is sufficiently wide to cover all judicial officers.
2. The provision in clause 3(1) seeking to exclude judicial officers from the operation of the captioned Bill is in the following terms:

"This Ordinance does not apply to (b) the pay or allowance of a judicial officer - (i) holding a judicial office - (A) specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap 92); or (B) known as Senior Deputy Registrar, High Court; or (ii) appointed by the Chief Justice."
3. The provision in clause 3(1) encompasses most, but not all, judicial officers.
4. The provision in clause 3(1) does not include the Registrar of the Court of Final Appeal, who is obviously a judicial officer, performing functions under the rules of the Court of Final Appeal, such as examining the merits of applications for leave to appeal and taxation of costs. The position at present is held by a legally qualified person. However, the Registrar of the Court of Final Appeal is appointed by the Chief Executive, not the Chief Justice but that position is not specified in Schedule 1 of the Judicial Officers Recommendation Ordinance. This omission should be remedied by the introduction at the Committee Stage of a clause 3(1)(b)(i)(C) in the following terms: "known as Registrar of the Hong Kong Court of Final Appeal".
5. Consideration should also be given to amend Schedule 1 of the Judicial Officers Recommendation Ordinance to include in it the office of Registrar of the Hong Kong Court of Final Appeal.

6. The provision in clause 3(1) might not include all members of the Lands Tribunal appointed pursuant to s 4(4) of the Lands Tribunal Ordinance (Cap 17). The reason is that such members are appointed by the Chief Executive but Schedule 1 of the Judicial Officers Recommendation Ordinance only lists the following description: "Member of the Lands Tribunal (being a member who is in full-time service of the Government)". It may be that the description in Schedule 1 is an attempt to make the distinction between a member appointed under s 4(4) and a member appointed on a temporary basis by the Chief Justice under s 6A of that Ordinance. The Bar takes the view that there is an ambiguity that needs to be clarified.

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