

立法會
Legislative Council

LC Paper No. CB(3) 232/08-09

Ref. : CB(3)/M/OR

Tel : 2869 9205

Date : 15 December 2008

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 7 January 2009

**Proposed 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**

I forward for Members' consideration a proposed resolution which the Chief Secretary for Administration will move at the Council meeting of 7 January 2009 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. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

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

(Mrs Justina LAM)
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 appointment of –

- (a) Mr Murray Gleeson;
- (b) the Right Honourable The Lord Walker of Gestingthorpe;
and
- (c) the Right Honourable The Lord Neuberger of Abbotsbury,
as judges of the Hong Kong Court of Final Appeal from other
common law jurisdictions pursuant to section 9 of the Hong Kong
Court of Final Appeal Ordinance (Cap. 484) be endorsed.

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 7 January 2009**

**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 to the Court of Final Appeal

Mr President,

I move that the appointment of Mr Murray Gleeson, The Right Honourable The Lord Walker of Gestingthorpe and The Right Honourable The Lord Neuberger of Abbotsbury to the Court of Final Appeal as non-permanent judges from other common law jurisdictions (hereinafter referred to as “non-permanent common law judges”) be endorsed by this Council.

Constitutional and statutory framework

2. The Court of Final Appeal is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice and the permanent judges. Non-permanent judges may be invited to sit. At present, there are 16 non-permanent judges. Six of them come from Hong Kong and ten come from other common law jurisdictions.

3. When hearing and determining appeals, the Court of Final Appeal is constituted by five judges, which include the Chief Justice, three permanent judges, and one non-permanent Hong Kong judge or one non-permanent common law judge.

4. 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 on the recommendation of the Judicial Officers Recommendation Commission. Article 90 of the Basic Law provides that in the case of the appointment of judges of the Court of Final Appeal and the Chief Judge of the High Court, the Chief Executive shall, in addition to following the procedures prescribed in Article 88 of the Basic Law, obtain the endorsement of the Legislative Council.

Recommendation of the Judicial Officers Recommendation Commission

5. The Judicial Officers Recommendation Commission has recommended to the Chief Executive the appointment of Mr Murray Gleeson, The Right Honourable The Lord Walker of Gestingthorpe and The Right Honourable The Lord Neuberger of Abbotsbury as non-permanent common law judges to the Court of Final Appeal.

6. The curriculum vitae of the three judges have been set out in our paper issued on 7 November 2008. Mr Gleeson was appointed Chief Justice of the High Court of Australia in May 1998. In accordance with the Australian Constitution, he retired from that office on 30 August 2008 when he reached the age of 70. Lord Walker was appointed Lord of Appeal in Ordinary in the United Kingdom in 2002. Lord Neuberger was promoted to the House of Lords and appointed Lord of Appeal in Ordinary in the United Kingdom in January 2007.

7. The three judges have eminent standing and reputation in the legal sector. The Chief Executive is pleased to accept the recommendation of the Judicial Officers Recommendation Commission on their appointment as non-permanent common law judges to the Court of Final Appeal. Subject to the endorsement of this Council, the appointment would take effect in early 2009.

8. In accordance with the procedures previously endorsed by the House Committee, the Administration informed the House Committee of the recommended appointments on 7 November 2008. At the House Committee meeting on 14 November, Members agreed that it was not necessary to form a subcommittee to consider the recommended appointments.

9. I now invite Members to endorse the appointments.