



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2501 5779)

1 April 2019

Ms CHEUNG Mei-yee, Vivian  
Assistant Director of Administration 3  
Chief Secretary for Administration's Office  
Administration Wing  
25/F, Central Government Offices  
2 Tim Mei Avenue  
Tamar, Hong Kong

Dear Ms CHEUNG,

**Judicial Officers (Extension of Retirement Age)  
(Amendment) Bill 2019**

We are scrutinizing the Judicial Officers (Extension of Retirement Age)(Amendment)Bill 2019 ("the Bill") with a view to advising Members on its legal and drafting aspects. To facilitate Members' consideration of the Bill, we should be grateful if you could clarify the following matters:

- (a) Please confirm whether the retirement age extension arrangements for the judges and judicial officers ("JJOs") engaged on terms that do not attract pension benefits under the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) would be identical with the relevant arrangements for JJOs appointed on pensionable terms under the Bill. If not, please clarify the details and the reasons for the difference(s) made in the arrangements concerned.
- (b) By virtue of the new section 11A(2A) of the District Court Ordinance (Cap. 336) proposed in the Bill, the District Judges who have not opted for the new retirement age (extension)

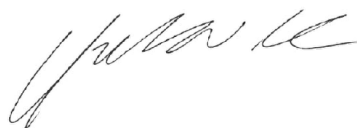
arrangement under the Bill ("the extension arrangement") would be excluded to the new discretionary extension of term of office (not exceeding five years in aggregate) under the amended section 11A(3) of Cap. 336. Please explain the reason(s) for providing such exclusion in the Bill for the District Judges mentioned above.

- (c) Please clarify whether the normal retirement age for the Registrar of the Court of Final Appeal ("CFA") appointed under section 42 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is provided in the Bill under section 6(b) (i.e. age 65) or the amended section 6(c) (i.e. age 60 or 65) of Cap. 401.
- (d) The proposed new section 11A of Cap. 401 provides for the specified JJOs who may opt for the extension arrangement, please clarify that whether on the commencement date of the Bill, JJOs who would have attained normal retirement age but continue in office for as long as necessary to enable them to deliver judgments in relation to proceedings that were commenced before the JJOs' respective normal retirement age (respectively pursuant to section 11A(2) of the High Court Ordinance (Cap. 4), section 11A(2) of Cap. 336 or section 6(4) of Cap. 401) would be entitled to opting for the extension arrangement under that new section.
- (e) Under the proposed new section 11B of Cap. 401, JJOs may opt for the extension requirement by delivering a written notice in the specified form to the Judicial Administrator, please clarify if such form would be specified by the Judicial Administrator or the Circular to be issued by the Chief Justice ("CJ") under the new section 11C of Cap. 401.
- (f) Please clarify if the Circulars to be issued by the CJ respectively under the proposed new section 11AA of Cap. 4, new section 11A(5) of Cap. 336, new section 5A(4) of Cap. 401, new section 11C of Cap. 401 and new section 13A(2) of Cap. 484 would be subsidiary legislation subject to the negative vetting of the Legislative Council under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).
- (g) Regarding the new discretionary early retirement for the CJ, the permanent judges of the CFA and the High Court Judges

introduced in the Bill by the proposed new section 12A of Cap. 401, please clarify if an application for discretionary early retirement is refused by the CJ (or the Chief Executive ("CE"), in case of the CJ's application), (i) whether such refusal may be reviewed by the CJ himself (or the CE, as the case may be) upon a request made by the applicant for a review; and (ii) whether after the refusal of the first application, the applicant may submit another application under the new section 12A of Cap. 401 before he (or she) attains the age of 65 years.

It is appreciated that your reply could reach us as soon as possible, preferably by **12 April 2019**.

Yours sincerely,



(W K YICK)

Senior Assistant Legal Adviser

c.c. Judiciary

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