

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

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# A BILL

## To

Amend the High Court Ordinance, the District Court Ordinance, the Pension Benefits (Judicial Officers) Ordinance and the Hong Kong Court of Final Appeal Ordinance to provide for the extension of retirement age, extension of terms of office and related arrangements for certain judicial officers; to introduce a discretionary early retirement arrangement for certain judicial officers; and to provide for transitional and related matters.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

**1. Short title**

This Ordinance may be cited as the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019.

**2. Enactments amended**

- (1) The High Court Ordinance (Cap. 4) is amended as set out in Part 2.

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- (2) The District Court Ordinance (Cap. 336) is amended as set out in Part 3.
  - (3) The Pension Benefits (Judicial Officers) Ordinance (Cap. 401) is amended as set out in Part 4.
  - (4) The Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended as set out in Part 5.
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## Part 2

### Amendments to High Court Ordinance

#### 3. Section 11AA added

After section 11—

##### Add

#### “11AA. Interpretation of this section and sections 11A and 11B

In this section and sections 11A and 11B—

***Circular*** (《通告》) means a Circular issued by the Chief Justice on the details of the retirement age (extension) arrangement for judicial officers engaged on terms that do not attract pension benefits under the Pension Benefits (Judicial Officers) Ordinance (Cap. 401);

***judge of the High Court*** (高等法院法官) means a judge of the High Court (other than a judge appointed under section 8, a recorder and a deputy judge);

***retirement age (extension) arrangement*** (退休年齡(延展)安排) means the arrangements in relation to the extension of the ages of retirement and terms of office for judicial officers as provided by the amendments contained in the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 ( of 2019).”.

#### 4. Section 11A amended (term of office of judges)

(1) Section 11A(1), English text—

##### Repeal

“shall”

**Substitute**

“must”.

- (2) Section 11A(1), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (3) Section 11A(2), English text—

**Repeal**

“retiring” (wherever appearing)

**Substitute**

“retirement”.

- (4) Section 11A(2), Chinese text—

**Repeal**

everything after “年齡，”

**Substitute**

“但如在其未屆退休年齡時，已有法律程序在其席前展開，則該法官可於已屆退休年齡後，在情況所需的期間內繼續留任，以使該法官能就該等法律程序宣告判決或作出任何其他事情。”.

- (5) Section 11A(3)—

**Repeal paragraph (a)**

**Substitute**

- “(a) a person who has attained the age of 70 years may be appointed to be a judge of the High Court (whether or not the person has previously held office as such) for a specified period or periods not exceeding 5 years in the aggregate by the Chief

Executive acting in accordance with the recommendation of the Judicial Officers Recommendation Commission; and”.

- (6) Section 11A(3)(b)—

**Repeal**

“Governor”

**Substitute**

“Chief Executive”.

- (7) Section 11A(3)(b)—

**Repeal**

“Judicial Service Commission”

**Substitute**

“Judicial Officers Recommendation Commission”.

- (8) Section 11A(3), English text—

**Repeal**

“shall accordingly”

**Substitute**

“is accordingly to”.

- (9) Section 11A(3), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (10) Section 11A(4)—

**Repeal**

“Governor”

**Substitute**



“Chief Executive”.

(11) Section 11A—

**Repeal subsection (5)**

**Substitute**

“(5) In this section—

*retirement age* (退休年齡), for a judge of the High Court, means—

- (a) unless paragraph (b) applies—the age of 70 years;
- (b) if the judge could have opted for the retirement age (extension) arrangement pursuant to section 11A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) or the Circular, and has not so opted—the age of 65 years.”.

**5. Section 11B added**

Part II, after section 11A—

**Add**

**“11B. Transitional provisions relating to retirement age (extension) arrangement**

(1) In this section—

*specified judge* (指明法官) means a judge of the High Court—

- (a) whose term of office has been extended under section 11A(3)(b) before the commencement date of the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 ( of 2019); and

- (b) who has opted for the retirement age (extension) arrangement pursuant to section 11A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) or the Circular.
  - (2) If, but for this section, the extended term of office of a specified judge would have expired before the judge attains the age of 70 years, the judge's term of office is extended to the date immediately before the judge attains the age of 70 years.
  - (3) When a specified judge attains the age of 70 years, the judge's term of office may be further extended under section 11A(3)(b) for a specified period or periods not exceeding 5 years in the aggregate, as if the judge's term of office had not previously been extended.”.
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## Part 3

### Amendments to District Court Ordinance

#### 6. Section 11A amended (term of office of District Judges)

(1) Section 11A(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(2) Section 11A(1), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

(3) Section 11A(1), Chinese text—

**Repeal**

“到達”

**Substitute**

“年屆”.

(4) Section 11A(2), English text—

**Repeal**

“retiring” (wherever appearing)

**Substitute**

“retirement”.

(5) Section 11A(2), Chinese text—

**Repeal**

everything after “某法官”

**Substitute**

“已屆退休年齡，但如在其未屆退休年齡時，已有法律程序在其席前展開，則該法官可於已屆退休年齡後，在情況所需的期間內繼續留任，以使該法官能就該等法律程序宣告判決或作出任何其他事情。”.

- (6) After section 11A(2)—

**Add**

“(2A) Subsection (3) applies to a judge—

- (a) who is subject to the retirement age (extension) arrangement under section 5A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401); or
- (b) who, pursuant to the Circular, has opted for the retirement age (extension) arrangement.”.

- (7) Section 11A(3)—

**Repeal**

“who was appointed to be such judge before 1 January 1987”.

- (8) Section 11A(3)—

**Repeal**

“Judicial Service Commission”

**Substitute**

“Judicial Officers Recommendation Commission”.

- (9) Section 11A(3), English text—

**Repeal**

“shall accordingly”

**Substitute**

“is accordingly to”.

- (10) Section 11A(3), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (11) Section 11A(3), Chinese text—

**Repeal**

“到達”

**Substitute**

“屆”.

- (12) Section 11A—

**Repeal subsection (5)**

**Substitute**

“(5) In this section—

***Circular*** (《通告》) means a Circular issued by the Chief Justice on the details of the retirement age (extension) arrangement for judicial officers engaged on terms that do not attract pension benefits under the Pension Benefits (Judicial Officers) Ordinance (Cap. 401);

***judge*** (法官) means a District Judge;

***retirement age*** (退休年齡) means the age of 65 years;

***retirement age (extension) arrangement*** (退休年齡(延展)安排) means the arrangements in relation to the extension of the ages of retirement and terms of office for judicial officers as provided by the amendments contained in the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 (        of 2019).”.

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## Part 4

### Amendments to Pension Benefits (Judicial Officers) Ordinance

#### 7. Section 2 amended (interpretation)

- (1) Section 2(1), before the definition of *additional pension*—  
**Add**

“**2019 Ordinance** (《2019年條例》) means the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 ( of 2019);”.

- (2) Section 2(1)—

**Add in alphabetical order**

“**Cap. 4** (《第4章》) means the High Court Ordinance (Cap. 4);

**Cap. 336** (《第336章》) means the District Court Ordinance (Cap. 336);

**Cap. 484** (《第484章》) means the Hong Kong Court of Final Appeal Ordinance (Cap. 484);

**High Court Judge** (高等法院法官) means a judge of the High Court but does not include—

- (a) a judge appointed under section 8 of Cap. 4; or
- (b) a recorder or a deputy judge of the Court of First Instance appointed under section 6A or 10, as the case may be, of Cap. 4;

**non-pensionable terms** (不可享有退休金的條款) means the terms of appointment to service under the Government that do not attract pension benefits under this Ordinance;

***pensionable terms*** (可享有退休金的條款) means the terms of appointment to service under the Government that attract pension benefits under this Ordinance;

***permanent judge*** (常任法官) has the meaning given by section 2(1) of Cap. 484;

***retirement age (extension) arrangement*** (退休年齡(延展)安排) means the arrangements in relation to the extension of the ages of retirement and terms of office for officers as provided by the amendments contained in the 2019 Ordinance;”.

## 8. Section 3 amended (application)

- (1) Section 3(1)(a), English text—

### **Repeal**

“who is”.

- (2) Section 3(1)(a), after “1 July 1987”—

### **Add**

“on pensionable terms”.

- (3) Section 3(1)(a)—

### **Repeal**

“, on terms which attract pension benefits under this Ordinance”.

- (4) Section 3(2), English text—

### **Repeal**

“shall”

### **Substitute**

“must”.

- (5) Section 3(2), English text—

### **Repeal**



“in respect of”

**Substitute**

“for”.

**9. Section 5A added**

After section 5—

**Add**

**“5A. Officers subject to retirement age (extension) arrangement**

- (1) An officer is subject to the retirement age (extension) arrangement if—
  - (a) the officer has opted for that arrangement by delivering a notice in accordance with section 11B;
  - (b) subject to subsection (2), the officer is first appointed on pensionable terms on or after the commencement date of the 2019 Ordinance (*commencement date*); or
  - (c) the officer is re-appointed on pensionable terms on or after the commencement date following a break in service with the Judiciary.
- (2) An officer first appointed on pensionable terms on or after the commencement date is not subject to the retirement age (extension) arrangement if—
  - (a) the officer was the Chief Justice, a permanent judge, a High Court Judge or a District Judge as at the commencement date;
  - (b) immediately before the officer’s appointment on pensionable terms (*pensionable appointment*), the officer was engaged on non-pensionable terms; and

- (c) the officer, while engaged on non-pensionable terms, could have opted for the retirement age (extension) arrangement pursuant to the Circular in relation to the officer's pensionable appointment, and has not so opted.
- (3) An officer subject to the retirement age (extension) arrangement under subsection (1) remains subject to that arrangement throughout the officer's continuous service with the Judiciary, regardless of any change in the judicial office held by the officer during the service.
- (4) In this section—  
*Circular* (《通告》) means a Circular issued by the Chief Justice on the details of the retirement age (extension) arrangement for officers engaged on non-pensionable terms.”.

## 10. Section 6 amended (normal retirement age)

- (1) Section 6(1), English text—

### **Repeal**

“of—”

### **Substitute**

“is—”.

- (2) Section 6(1)(a)—

### **Repeal**

“the Chief Justice or a permanent judge of the Court of Final Appeal is when he attains the age of 65 years”

### **Substitute**

“for the Chief Justice or a permanent judge—the retirement age as defined in section 13A of Cap. 484”.

- (3) Section 6(1)(a)—

**Repeal**

“the Hong Kong Court of Final Appeal Ordinance (Cap. 484)”

**Substitute**

“Cap. 484”.

- (4) Section 6(1)(a), English text—

**Repeal**

“shall be”

**Substitute**

“is to be”.

- (5) Section 6(1)—

**Repeal paragraph (aa)**

**Substitute**

“(aa) for a High Court Judge—the retirement age as defined in section 11A of Cap. 4;

(ab) for a District Judge—the retirement age as defined in section 11A of Cap. 336;”.

- (6) Section 6(1)(b), English text, before “the Registrar”—

**Add**

“for”.

- (7) Section 6(1)(b)—

**Repeal**

“is when he attains the age of 65 years; or”

**Substitute**

“—the age of 65 years;”.

- (8) After section 6(1)(b)—

**Add**

“(ba) for a special magistrate—the age of 60 years; or”.

(9) Section 6(1)—

**Repeal paragraph (c)**

**Substitute**

“(c) for an officer not referred to in the preceding paragraphs—

- (i) if subject to the retirement age (extension) arrangement—the age of 65 years;
- (ii) otherwise—the age of 60 years.”.

(10) Section 6(2)—

**Repeal**

“or (aa), shall”

**Substitute**

“, (aa) or (ab), must”.

(11) Section 6(3)—

**Repeal**

“or (aa)”

**Substitute**

“, (aa) or (ab)”.

(12) Section 6(4)—

**Repeal**

“or (aa)”

**Substitute**

“, (aa) or (ab)”.

(13) Section 6(4)—

**Repeal**

everything after “enable”

**Substitute**

“the officer to deliver judgement or to do any other thing in relation to proceedings that were commenced before the officer before—

- (a) the officer’s normal retirement age; or
- (b) the end of the continued service approved under subsection (3) or provided for in section 6A.”.

(14) Section 6(5)—

**Repeal**

everything after “service under”

**Substitute**

“—

- (a) subsection (3) or (4) or section 6A;
- (b) section 11A(2) or (3)(b) or 11B of Cap. 4;
- (c) section 11A(2) or (3) of Cap. 336; or
- (d) section 14(2) or 14A of Cap. 484,

the continued service is to be regarded as pensionable service.”.

(15) Section 6(5), Chinese text—

**Repeal**

“凡人員”

**Substitute**

“凡某人員”.

(16) Section 6—

**Repeal subsection (6).**

**11. Section 6A added**

After section 6—

**Add**

**“6A. Transitional provisions relating to retirement age (extension) arrangement for certain officers**

(1) In this section—

*specified officer* (指明人員) means an officer referred to in section 6(1)(c)—

(a) whose service was approved for continuation under section 6(3) before the commencement date of the 2019 Ordinance; and

(b) who has opted for the retirement age (extension) arrangement in accordance with section 11B.

(2) If, but for this section, the approved continued service of a specified officer would have ended before the officer attains the age of 65 years, the officer’s approved continued service is extended to the date immediately before the officer attains the age of 65 years.

(3) When a specified officer attains the age of 65 years, the officer’s service may be further approved for continuation under section 6(3) for an aggregate of 5 years plus accrued leave, as if the officer’s service had not previously been approved for continuation.”.

**12. Section 7 amended (circumstances in which pension may be granted)**

(1) Section 7(1), English text—

**Repeal**

“shall be granted in respect of”

**Substitute**

“is to be granted for”.

- (2) Section 7(1)(a)—

**Repeal**

everything after “completion of”

**Substitute**

“the specified period of qualifying service;”.

- (3) Section 7(1)(b)—

**Repeal**

“qualifying service of not less than the relevant period specified in paragraph (a)”

**Substitute**

“the specified period of qualifying service”.

- (4) Section 7(1)(b)(ii)—

**Repeal**

“age of 60 years”

**Substitute**

“specified age”.

- (5) After section 7(1)(b)—

**Add**

“(ba) subject to section 29(2), on the officer’s discretionary early retirement approved under section 12A and after completion of the specified period of qualifying service;”.

- (6) Section 7(1)(d), English text—

**Repeal**

“judge of the High Court or District Court”

**Substitute**

“High Court Judge or a District Judge”.

- (7) Section 7(1)(d), Chinese text—

**Repeal**

everything after “該人員”

**Substitute**

“已完成不少於 2 年的符合領取退休金利益資格的服務期後，在其職位被取消時退休；”.

- (8) Section 7(1)(da), English text—

**Repeal**

“of the Court of Final Appeal”.

- (9) Section 7(1)(da)—

**Repeal**

“the Hong Kong Court of Final Appeal Ordinance (Cap. 484)”

**Substitute**

“Cap. 484”.

- (10) Section 7(1)(da)—

**Repeal**

“qualifying service of not less than the relevant period as specified in paragraph (a)”

**Substitute**

“the specified period of qualifying service”.

- (11) Section 7(1)(e), English text—

**Repeal**

“judge of the High Court or District Court”



**Substitute**

“High Court Judge or a District Judge”.

- (12) Section 7(1)(e)—

**Repeal**

“qualifying service of not less than the relevant period specified in paragraph (a)”

**Substitute**

“the specified period of qualifying service”.

- (13) Section 7(1)(f), English text—

**Repeal**

“judge of the High Court or District Court”

**Substitute**

“High Court Judge or a District Judge”.

- (14) Section 7(1)(f)—

**Repeal**

“qualifying service of not less than the relevant period specified in paragraph (a)”

**Substitute**

“the specified period of qualifying service”.

- (15) Section 7(1)(g), English text—

**Repeal**

“judge of the High Court or District Court”

**Substitute**

“High Court Judge or a District Judge”.

- (16) Section 7(1)(g), Chinese text—

**Repeal**

everything after “該人員”

**Substitute**

“已完成不少於 2 年的符合領取退休金利益資格的服務期後，遭迫令退休而退休，而該迫令退休是為利便改善司法機構的組織，藉以提高工作效率或更符合經濟效益者；”。

- (17) Section 7(1)(i)—

**Repeal**

“qualifying service of not less than the relevant period specified in paragraph (a)”

**Substitute**

“the specified period of qualifying service”。

- (18) Section 7(2) and (3), English text—

**Repeal**

“shall”

**Substitute**

“is to”。

- (19) After section 7(3)—

**Add**

“(4) In this section—

***specified age*** (指明年齡) means—

- (a) for the Chief Justice, a permanent judge or a High Court Judge—
  - (i) if subject to the retirement age (extension) arrangement—the age of 65 years;
  - (ii) otherwise—the age of 60 years; and
- (b) for any other officer—the age of 60 years;

***specified period*** (指明期間) means—

- (a) for an officer appointed before the age of 50 years—a period of not less than 10 years; or
- (b) for an officer appointed on or after the age of 50 years—a period of not less than 5 years.”.

**13. Section 8 amended (time of pension payments)**

- (1) Section 8(1)(a)(ii)—

**Repeal**

“age of 60 years”

**Substitute**

“specified age”.

- (2) Section 8(2), English text—

**Repeal**

“shall”

**Substitute**

“is to”.

- (3) After section 8(2)—

**Add**

“(3) In this section—

*specified age* (指明年齡) means—

- (a) for the Chief Justice, a permanent judge or a High Court Judge—
  - (i) if subject to the retirement age (extension) arrangement—the age of 65 years;
  - (ii) otherwise—the age of 60 years; and
- (b) for any other officer—the age of 60 years.”.

**14. Section 9 heading amended (application regarding previous pensionable service)**

Section 9, heading—

**Repeal**

**“previous pensionable service”**

**Substitute**

**“service attracting pension under Pensions Ordinance”.**

**15. Section 10 heading amended (option of person already retired)**

Section 10, heading, after “retired”—

**Add**

**“regarding service attracting pension under Pensions Ordinance”.**

**16. Section 11 heading amended (deemed application/option)**

Section 11, heading, after “option”—

**Add**

**“regarding service attracting pension under Pensions Ordinance”.**

**17. Sections 11A, 11B and 11C added**

After section 11—

**Add**

**“11A. Specified officers may opt for retirement age (extension) arrangement**

**(1) A specified officer may opt for the retirement age (extension) arrangement if—**

- (a) the officer was appointed on pensionable terms before the commencement date of the 2019 Ordinance (*commencement date*); and
  - (b) on the commencement date—
    - (i) the officer has not yet attained the normal retirement age under section 6 as in force immediately before that date; or
    - (ii) the officer's existing term of office has not yet expired.
- (2) In this section—  
*specified officer* (指明人員) means—
- (a) the Chief Justice or a permanent judge (other than one appointed under section 14(2)(b) of Cap. 484);
  - (b) a High Court Judge (other than one appointed under section 11A(3)(a) of Cap. 4);
  - (c) a District Judge; or
  - (d) an officer other than the Chief Justice, a permanent judge, a High Court Judge, a District Judge or a special magistrate.

#### **11B. Notice for opting for retirement age (extension) arrangement**

- (1) An officer may opt for the retirement age (extension) arrangement by delivering a written notice in the specified form to the Judiciary Administrator.
- (2) The officer is subject to the retirement age (extension) arrangement only when the notice is delivered to the Judiciary Administrator before the earliest of the following times—

- (a) the expiry of 2 years from the commencement date of the 2019 Ordinance (*commencement date*);
  - (b) the officer attaining the normal retirement age under section 6 as in force immediately before the commencement date;
  - (c) if the officer's term of office is extended under section 14(2)(a) of Cap. 484 or section 11A(3)(b) of Cap. 4—the expiration of the officer's extended term of service;
  - (d) if the officer's service is approved for continuation under section 6(3)—the end of the officer's continued service;
  - (e) if the officer has submitted a notice for resignation or retirement—the effective date of resignation or retirement specified in the notice.
- (3) Once delivered, the notice is irrevocable.

**11C. Circular on retirement age (extension) arrangement**

The Chief Justice may issue a Circular providing details of the retirement age (extension) arrangement.”.

**18. Sections 12A and 12B added**

After section 12—

**Add**

**“12A. Discretionary early retirement**

- (1) The Chief Justice, a permanent judge or a High Court Judge who is subject to the retirement age (extension) arrangement may, at any time, apply to retire during the period—

- (a) beginning on the date when the judge attains the age of 60 years; and
  - (b) ending on the date immediately before the judge attains the age of 65 years.
- (2) An application under subsection (1) must be made—
  - (a) for an application by the Chief Justice—to the Chief Executive; or
  - (b) for an application by a permanent judge or a High Court Judge—to the Chief Justice.
- (3) The Chief Executive or the Chief Justice, as the case may be, may approve an application under subsection (1) in exceptional circumstances.

**12B. Delegation by Chief Justice in relation to application under section 12A**

- (1) If the Chief Justice considers that there is a conflict of interest in relation to the Chief Justice exercising the power to approve an application under section 12A, the Chief Justice must delegate the power to—
  - (a) firstly, among the permanent judges who are eligible to be appointed as the Chief Justice and are not subject to any conflict of interest, the most senior judge;
  - (b) secondly, if there is no judge to whom the power may be delegated under paragraph (a)—among the permanent judges who are not eligible to be appointed as the Chief Justice and are not subject to any conflict of interest, the most senior judge; and

- (c) thirdly, if there is no judge to whom the power may be delegated under paragraph (b)—any other officer who is considered suitable by the Chief Justice and is not subject to any conflict of interest.
- (2) The seniority of a permanent judge is to be determined in accordance with the order of precedence prescribed in section 11(b) of Cap. 484 with the judge having the highest precedence being regarded as the most senior judge.
- (3) In this section—  
***conflict of interest*** (利益衝突) means an actual or apparent conflict of interest.”.

**19. Section 29 amended (power not to grant, or to cancel or reduce, pension)**

Section 29(2)—

**Repeal**

“(k) or (j)”

**Substitute**

“(ba), (j) or (k)”.

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## Part 5

### Amendments to Hong Kong Court of Final Appeal Ordinance

#### 20. Section 13A added

After section 13—

##### Add

#### “13A. Meaning of *retirement age* etc.

(1) In sections 14 and 15—

*retirement age* (退休年齡), for the Chief Justice or a permanent judge, means—

- (a) unless paragraph (b) applies—the age of 70 years;
- (b) if the Chief Justice or the permanent judge could have opted for the retirement age (extension) arrangement pursuant to section 11A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) or the Circular, and has not so opted—the age of 65 years.

(2) In this section and section 14A—

*Circular* (《通告》) means a Circular issued by the Chief Justice on the details of the retirement age (extension) arrangement for judicial officers engaged on terms that do not attract pension benefits under the Pension Benefits (Judicial Officers) Ordinance (Cap. 401);

*retirement age (extension) arrangement* (退休年齡(延展)安排) means the arrangements in relation to the extension of the ages of retirement and terms of

office for judicial officers as provided by the amendments contained in the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 ( of 2019).”.

**21. Section 14 amended (tenure of office)**

- (1) Section 14, English text, heading—

**Repeal**

“**Tenure**”

**Substitute**

“**Term**”.

- (2) Section 14(1), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (3) Section 14(1), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (4) Section 14(1), Chinese text—

**Repeal**

“到達”

**Substitute**

“年屆”.

- (5) Section 14(2)(a), English text—

**Repeal**

“shall accordingly”

**Substitute**

“is accordingly to”.

- (6) Section 14(2)(a), English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (7) Section 14(2)(a), Chinese text—

**Repeal**

“達”

**Substitute**

“屆”.

- (8) Section 14(2)(b)—

**Repeal**

“65”

**Substitute**

“70”.

- (9) Section 14(3), English text—

**Repeal**

“shall be no retiring”

**Substitute**

“is no retirement”.

- (10) Section 14(4), English text—

**Repeal**

“shall”

**Substitute**

“is to”.

(11) Section 14(6), English text—

**Repeal**

“shall”

**Substitute**

“must”.

(12) Section 14(10), English text—

**Repeal**

“shall in any case”

**Substitute**

“in any case is to”.

(13) Section 14—

**Repeal subsection (11).**

**22. Section 14A added**

After section 14—

**Add**

**“14A. Transitional provisions relating to retirement age (extension) arrangement**

(1) In this section—

*specified judge* (指明法官) means the Chief Justice or a permanent judge—

- (a) whose term of office has been extended under section 14(2)(a) before the commencement date of the Judicial Officers (Extension of Retirement

- Age) (Amendment) Ordinance 2019 ( of 2019) (*commencement date*); and
- (b) who has opted for the retirement age (extension) arrangement pursuant to section 11A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) or the Circular.
- (2) If, but for this section, the term of office of a specified judge, as extended before the commencement date, would have expired before the judge attains the age of 70 years, the judge’s term of office is extended to the date immediately before the judge attains the age of 70 years.
- (3) A specified judge’s term of office may be further extended under section 14(2)(a) for not more than 2 periods of 3 years, as if the judge’s term of office had not previously been extended—
- (a) if the judge’s term of office is extended under subsection (2)—when the judge attains the age of 70 years; or
  - (b) if the judge’s term of office, as extended before the commencement date, expires after the judge attains the age of 70 years—when the judge’s extended term of office expires.”.

**23. Section 15 amended (continuing powers of judges)**

- (1) Section 15, English text—

**Repeal**

“retiring”

**Substitute**

“retirement”.

- (2) Section 15, Chinese text—

**Repeal**

“達” (wherever appearing)

**Substitute**

“屆”.

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## Explanatory Memorandum

The main objects of this Bill are—

- (a) to extend the normal retirement age for certain judicial officers;
- (b) to provide for a mechanism under which certain judicial officers may opt for the arrangement relating to the extension of the ages of retirement and terms of office (*retirement age (extension) arrangement*);
- (c) to correspondingly adjust the voluntary early retirement age for certain judicial officers as a result of the extension of the normal retirement age;
- (d) to introduce a new discretionary early retirement arrangement for certain judicial officers; and
- (e) to provide for transitional and related matters.

- 2. Part 1 sets out the short title.
- 3. Part 2 amends the High Court Ordinance (Cap. 4) (*Cap. 4*) to extend the retirement age for a judge of the High Court (*H CJ*) from 65 to 70. Transitional arrangements are also provided for a H CJ who is serving on extended term under section 11A(3)(b) of Cap. 4 and has opted for the retirement age (extension) arrangement.
- 4. Part 3 amends the District Court Ordinance (Cap. 336) to provide that for District Judges who are subject to the retirement age (extension) arrangement under section 5A of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) (*Cap. 401*) or have opted for the retirement age (extension) arrangement, their terms of office may be extended for a

specified period or periods not exceeding 5 years in the aggregate.

5. Part 4 amends Cap. 401—

- (a) to set out the judicial officers subject to the retirement age (extension) arrangement in the new section 5A of Cap. 401 (see clause 9);
- (b) to extend the normal retirement age for the Chief Justice (**CJ**), permanent judges (**PJ**) and HCJs from 65 to 70, and that for other officers (other than special magistrates) whose normal retirement age are 60, to 65 (see clause 10);
- (c) to provide for transitional arrangements for specified judicial officers whose services are approved for continuation under section 6(3) of Cap. 401 and have opted for the retirement age (extension) arrangement (see clause 11);
- (d) to include the “discretionary early retirement” in section 7 of Cap. 401 as one of the circumstances under which pension may be granted (see clause 12);
- (e) to provide for a mechanism under which certain specified judicial officers may opt for the retirement age (extension) arrangement and for the issue by the Chief Justice of a Circular providing details of the arrangement (see new sections 11A to 11C of Cap. 401 added by clause 17);
- (f) to introduce a discretionary early retirement arrangement for the CJ, PJs and HCJs (see new section 12A of Cap. 401 added by clause 18); and
- (g) to include a delegation provision for the CJ to delegate the power to process an application for discretionary early retirement if the CJ considers that



there is an actual or apparent conflict of interest (see new section 12B of Cap. 401 added by clause 18).

6. Part 5 amends the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (**Cap. 484**) to extend the retirement age for the CJ and PJs from 65 to 70. Transitional arrangements are also provided for the CJ or PJs serving on extended term under section 14(2)(a) of Cap. 484 and have opted for the retirement age (extension) arrangement.