



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

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By Fax (3918 4799)

29 April 2020

Ms MA Ka-wai, Joey  
Senior Government Counsel  
Department of Justice  
Legal Policy Division  
5/F, East Wing, Justice Place  
18 Lower Albert Road  
Central, Hong Kong

Dear Ms MA,

### **Statute Law (Miscellaneous Provisions) Bill 2019**

We are scrutinizing the legal and drafting aspect of the Statute Law (Miscellaneous Provisions) Bill 2019, and should be grateful if you could clarify the following matters.

Clause 6(1) of the Bill seeks to amend section 34B(4)(aa) of the High Court Ordinance (Cap. 4) so that two Justices of Appeal (“JAs”) may hear or determine any application for leave to appeal to the Court of Final Appeal (“CFA”) against a decision made by the Court of Appeal (“CA”) consisting of less than three JAs. Please clarify if a two JAs' bench could hear or determine the application under that section for leave to appeal to CFA against a decision made by the same JAs themselves. If it is the case, would it be more desirable to stipulate that for the application for leave to CFA under section 34B(4)(aa) of Cap. 4, such application shall be heard by two JAs other than the JAs who have made the decision under appeal?

Clause 6(4) of the Bill seeks to amend section 34B(5) of Cap. 4 so that if CA which is duly constituted under section 34B(4) of Cap. 4 (i.e. a two JAs court) becomes equally divided in an appeal, the appeal may be

re-argued before an uneven number of JAs not less than three, before any appeal to CFA. Please clarify whether by virtue of the amendment proposed in clause 6(4), the re-argument arrangement before an uneven number of JAs not less than three would be no longer applicable to CA that consists of four JAs under section 34B(3) of Cap. 4 (e.g. one JA of CA that consists of five JAs cannot continue to hear an appeal). If it is the case, please explain the reason(s) why there is a need to disapply the re-argument arrangement under section 34B (5) of Cap. 4 to the equally divided CA in an appeal which consists of four JAs.

It is appreciated that your reply could reach us as soon as possible, preferably by **22 May 2020**.

Yours sincerely,



(W K YICK)

Senior Assistant Legal Adviser

c.c. Department of Justice  
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Mr Michael CHOI) (By Fax: 3918 4613)  
Legal Adviser  
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