

律政司  
法律政策科  
中環下亞厘畢道18號東座5樓  
圖文傳真：852-3918 4799  
網址：www.doj.gov.hk



DEPARTMENT OF JUSTICE  
Legal Policy Division  
5/F., East Wing, Justice Place,  
18 Lower Albert Road, Central  
Fax: 852-3918 4799  
Web Site: www.doj.gov.hk

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Mr W Y Yick  
Senior Assistant Legal Adviser  
Legal Services Division  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr Yick,

**Statute Law (Miscellaneous Provisions) Bill 2019 (“Bill”)**

Thank you for your letter of 29 April 2020. We have consulted the Judiciary regarding the queries on the proposed amendments to the High Court Ordinance, Cap. 4 and set out below our response.

Clause 6(1) of the Bill

According to the Judiciary, it is their established practice for an application for leave to appeal to the Court of Final Appeal (“CFA”) to be, as far as practicable, heard and determined by the same Justices of Appeal (“JAs”) against whose judgment or order leave to appeal to the CFA is sought. The reason being that if the application for leave to appeal to the CFA is heard by other JAs, the proceedings might inevitably be prolonged before its final conclusion, as the other JAs, who have not participated in the determination of the appeal to be impugned, would have to take time to familiarize himself or

herself with the detailed facts and merits of the case before considering the application for leave to appeal to the CFA. In fact, the practice of having the same JAs hear the application for leave to appeal to the CFA has all along been followed in Hong Kong.

The Judiciary also wishes to highlight that the applicant for leave to appeal from the Court of Appeal ("CA") may also apply to the Appeal Committee of the CFA for such leave pursuant to the relevant provisions under the Court of Final Appeal Ordinance (Cap. 484) should the CA decides against the application for leave to appeal to the CFA.

In light of the above, the Judiciary considers that no further amendment to section 34B(4)(aa) of Cap. 4 is needed.

Clause 6(4) of the Bill

It is the Judiciary's understanding that the CA had rarely (if at all) been constituted pursuant to section 34B(3) of Cap. 4. That said, it is not the Judiciary's intention to disapply the present re-argument arrangement under section 34B(5) of Cap. 4 to a CA duly constituted pursuant to section 34B(3) of Cap. 4 by initiating the current proposed amendments.

As such, suitable committee stage amendments would be introduced to ensure that the re-argument arrangement under section 34B(5) of Cap. 4 would apply to a CA duly constituted under either sections 34B(3) or 34B(4) of Cap. 4 upon commencement of the operation of the proposed amendments to Cap. 4 introduced by the Bill.

Yours sincerely,



( Miss S K LEE )

Deputy Solicitor General (Policy Affairs)

cc. Legal Adviser  
Clerk to the Bills Committee  
JA (Attn: Mr David Lau)