

立法會
Legislative Council

LC Paper No. CB(3) 760/18-19

Ref. : CB(3)/M/OR

Tel : 3919 3300

Date : 27 June 2019

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 10 July 2019

**Debate and voting arrangements for two proposed resolutions
under Article 73(7) of the Basic Law and
section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)**

The Chief Secretary for Administration (“CS”) will move the captioned two proposed resolutions at the above meeting, which respectively seek the Council’s endorsement to appoint:

- (a) the Right Honourable Lord Jonathan SUMPTION as a judge of the Hong Kong Court of Final Appeal from another common law jurisdiction (“the first proposed resolution”) (**Appendix 1**); and
- (b) the Honourable Mr Justice Jeremy POON Shiu-chor as the Chief Judge of the High Court of Hong Kong (“the second proposed resolution”) (**Appendix 2**).

The President has directed that the proposed resolutions be printed in the terms in which they were handed in on the Agenda of the Council. The speech which CS will deliver when moving the proposed resolutions is in **Appendix 3**.

2. As both of the two proposed resolutions concern judicial appointments and were scrutinized by the same subcommittee, to make more effective use of the Council’s time and avoid repetition of arguments, the President has decided that **a joint debate** be held on the two proposed resolutions and they be **voted upon one by one**. Under the following proceedings, the President will:

- (a) first call upon CS to speak and move the first proposed resolution, and then propose the question on it for kicking off the joint debate;
- (b) invite the chairman of the subcommittee to speak;
- (c) invite other Members to speak;
- (d) call upon CS to reply and order that the debate will come to a close;
- (e) put to vote the question on the first proposed resolution; and
- (f) irrespective of whether the first proposed resolution is passed, invite CS to move the second proposed resolution and put to vote the question on it.

3. Members are invited to note that each Member may only speak once in the above joint debate and the speaking time limit is 15 minutes. The public officer will not be subject to any speaking time limit.

(Dora WAI)
for Clerk to the Legislative Council

Encls.

**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 the Right Honourable Lord Jonathan
Sumption as a judge of the Hong Kong Court of Final Appeal from another
common law jurisdiction pursuant to section 9 of the Hong Kong Court of
Final Appeal Ordinance (Cap. 484) be endorsed.

**Basic Law of the Hong Kong Special Administrative
Region of the People's Republic of China**

Resolution

(Under Article 73(7) of the Basic Law of the Hong Kong Special
Administrative Region of the People's Republic of China)

Resolved that the appointment of the Honourable Mr. Justice Jeremy Poon
Shiu-chor as the Chief Judge of the High Court of Hong Kong be endorsed.

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 10 July 2019**

**Resolution under Article 73(7) of the Basic Law and Section 7A of
the Hong Kong Court of Final Appeal Ordinance (Cap. 484) and
Resolution under Article 73(7) of the Basic Law**

**Appointment of Non-permanent Judge of the Court of Final
Appeal and the Chief Judge of the High Court**

Mr President,

I move that the first motion under my name, as printed in the Agenda, be passed, that this Council endorses the appointment of the Right Honourable Lord Jonathan Sumption (Lord Sumption) as a non-permanent judge from another common law jurisdiction (CLNPJ) of the Court of Final Appeal (CFA). I will subsequently move that the second motion under my name, as printed in the Agenda, be passed, that this Council endorses the appointment of the Honourable Mr Justice Jeremy Poon Shiu-chor (Mr Justice Poon) as the Chief Judge of the High Court (CJHC).

Constitutional and statutory framework

2. The CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice (CJ) and the permanent judges (PJs). Non-permanent judges may be invited to sit and they may come from Hong Kong or other common law jurisdictions. When hearing and determining appeals, the CFA is constituted by five judges, comprising the CJ, three PJs, and one non-permanent Hong Kong judge (HKNPJ) or one CLNPJ. Since 1 July 1997, apart from very few exceptions, one of the judges has invariably been drawn from the list of CLNPJs to hear a substantive appeal on the CFA.

3. CJHC is the President of the Court of Appeal and the Court Leader of the High Court. CJHC presides in the Court of Appeal in the most important appeals. As the Court Leader of the High Court, CJHC has to lead the High Court administratively and is accountable to the Chief Justice who is the Head of the Judiciary and is charged with the administration of the Judiciary.

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 (HKSAR) shall be appointed by the Chief Executive on the recommendation of the Judicial Officers Recommendation Commission (JORC). Pursuant to Article 92 of the Basic Law, judges of the HKSAR shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. In addition, Article 90 of the Basic Law provides that CJHC shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country; and the Chief Executive shall obtain the endorsement of the Legislative Council (LegCo) in the case of the appointment of judges of the CFA and CJHC.

The current appointments

Non-permanent Judge of the Court of Final Appeal

5. At present, there are 18 non-permanent judges, comprising four HKNPJs and 14 CLNPJs. A CLNPJ is normally required to come to Hong Kong for a period of four weeks each time. The JORC noted that the availability of the 14 CLNPJs to come to Hong Kong for four weeks to sit on the CFA is somewhat limited. All of them have extensive professional commitments, including judicial duties, arbitration, mediation and lecturing work, as well as personal and family commitments. In addition, most of the judges have particular expertise in certain areas. When a judge who has an expertise in a particular area of law is not available to sit on the CFA, the listing of the case may have to be delayed. In order to give greater flexibility for dealing with the heavy caseload of the CFA and

to ensure its effective operation, there is a need to increase the number of CLNPIs.

6. The JORC has recommended the appointment of Lord Sumption as a CLNPJ for a term of three years. Lord Sumption had been a Justice of the Supreme Court of the United Kingdom since January 2012 until he retired from the office in December 2018. He is a judge of eminent standing and reputation and his appointment will be a great asset to the CFA. With the appointment of Lord Sumption, the panel of CLNPIs will consist of 15 eminent judges from the United Kingdom, Australia and Canada. The presence of these non-permanent judges manifests the judicial independence of Hong Kong.

Chief Judge of the High Court

7. The office of CJHC became vacant on 25 October 2018 when the Honourable Mr Justice Andrew Cheung Kui-nung, who was the CJHC immediately prior to that date, assumed office as PJ of the CFA and vacated the office of CJHC on the same date. The Honourable Mr Justice Wally Yeung Chun-kuen, Vice-President and Justice of Appeal of the Court of Appeal of the High Court, has been acting in the office of CJHC to meet essential operational requirements with effect from 25 October 2018 until the CJHC vacancy is substantively filled.

8. The JORC has recommended the appointment of Mr Justice Poon as CJHC. Mr Justice Poon joined the Judiciary as Magistrate in 1993. He was appointed as Deputy Registrar of the High Court in 1999, Judge of the Court of First Instance of the High Court in 2006, and Justice of Appeal of the Court of Appeal of the High Court in 2015.

9. Mr Justice Poon is a highly competent judge of high integrity who commands respect within the Judiciary and from the legal profession. He is experienced in both civil and criminal appeals and possesses rich administrative experience. We are confident that Mr Justice Poon, if appointed, will discharge his duties as the Court Leader of the High Court with distinction.

10. The Chief Executive has accepted the recommendations of the JORC on the appointment of Lord Sumption as a CLNPJ and the appointment of Mr Justice Poon as CJHC. Subject to the endorsement of this Council, the two appointments shall take effect in August 2019.

11. In accordance with the procedures previously endorsed by the House Committee of LegCo, the Government informed the House Committee on 22 May 2019 that the Chief Executive had accepted the recommendations of the JORC on the two appointments. Representatives from the Government and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments on 11 June 2019 and answered Members' questions. I would like to thank Dr Honourable Priscilla Leung Mei-fun, Chairman of the Subcommittee, and other Members of the Subcommittee for scrutinising and supporting the two appointments.

12. I invite Members to endorse the two appointments.

立法會
Legislative Council

(issued by e-mail only)
LC Paper No. CB(3) 55/19-20

Ref. : CB(3)/M/OR

Tel : 3919 3300

Date : 21 October 2019

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 23 October 2019

**Two proposed resolutions
under Article 73(7) of the Basic Law and
section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)**

Chief Secretary for Administration's revised speech

Further to LC Paper No. CB(3) 760/18-19 issued on 27 June 2019, the above two proposed resolutions originally scheduled to be dealt with at the Council meeting of 10 July 2019 will stand over until the captioned Council meeting. The Chief Secretary for Administration has updated and made certain textual changes to the speech which he will deliver when moving the proposed resolutions. I attach the revised speech for Member's information.

(Dora WAI)
for Clerk to the Legislative Council

Encl.

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 23 October 2019**

**Resolution under Article 73(7) of the Basic Law and Section 7A of
the Hong Kong Court of Final Appeal Ordinance (Cap. 484) and
Resolution under Article 73(7) of the Basic Law**

**Appointment of Non-permanent Judge of the Court of Final
Appeal and the Chief Judge of the High Court**

Mr President,

I move that the first motion under my name, as printed in the Agenda, be passed, that this Council endorses the appointment of the Right Honourable Lord Jonathan Sumption (Lord Sumption) as a non-permanent judge from another common law jurisdiction (CLNPJ) of the Court of Final Appeal (CFA). I will subsequently move that the second motion under my name, as printed in the Agenda, be passed, that this Council endorses the appointment of the Honourable Mr Justice Jeremy Poon Shiu-chor (Mr Justice Poon) as the Chief Judge of the High Court (CJHC).

Constitutional and statutory framework

2. The CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice (CJ) and the permanent judges (PJs). Non-permanent judges may be invited to sit and they may come from Hong Kong or other common law jurisdictions. When hearing and determining appeals, the CFA is constituted by five judges, comprising the CJ, three PJs, and one non-permanent Hong Kong judge (HKNPJ) or one CLNPJ. Since 1 July 1997, apart from very few exceptions, one of the judges has invariably been drawn from the list of CLNPJs to hear a substantive appeal on the CFA.

3. CJHC is the President of the Court of Appeal and the Court Leader of the High Court. CJHC presides in the Court of Appeal in the most important appeals. As the Court Leader of the High Court, CJHC has to lead the High Court administratively and is accountable to the Chief Justice who is the Head of the Judiciary and is charged with the administration of the Judiciary.

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 (HKSAR) shall be appointed by the Chief Executive on the recommendation of the Judicial Officers Recommendation Commission (JORC). Pursuant to Article 92 of the Basic Law, judges of the HKSAR shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. In addition, Article 90 of the Basic Law provides that CJHC shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country; and the Chief Executive shall obtain the endorsement of the Legislative Council (LegCo) in the case of the appointment of judges of the CFA and CJHC.

The current appointments

Non-permanent Judge of the Court of Final Appeal

5. At present, the CFA has 18 non-permanent judges, comprising four HKNPJs and 14 CLNPJs. A CLNPJ is normally required to come to Hong Kong for a period of four weeks each time. The JORC noted that the availability of the 14 CLNPJs to come to Hong Kong for four weeks to sit on the CFA is somewhat limited. All of them have extensive professional commitments, including judicial duties, arbitration, mediation and lecturing work, as well as personal and family commitments. In addition, most of the judges have particular expertise in certain areas. When a judge who has an expertise in a particular area of law is not available to sit on the CFA, the listing of the case may have to be delayed. In order to give greater flexibility for dealing with the heavy caseload of the CFA and

to ensure its effective operation, there is a need to increase the number of CLNPIs.

6. The JORC has recommended the appointment of Lord Sumption as a CLNPJ for a term of three years. Lord Sumption had been a Justice of the Supreme Court of the United Kingdom since January 2012 until he retired from the office in December 2018. He is a judge of eminent standing and reputation and his appointment will be a great asset to the CFA. With the appointment of Lord Sumption, the panel of CLNPIs will consist of 15 eminent judges from the United Kingdom, Australia and Canada. The presence of these non-permanent judges manifests the judicial independence and international status of Hong Kong.

Chief Judge of the High Court

7. The office of CJHC became vacant on 25 October 2018 when the Honourable Mr Justice Andrew Cheung Kui-nung, who was the CJHC immediately prior to that date, assumed office as PJ of the CFA and vacated the office of CJHC on the same date. To meet essential operational needs, the Honourable Mr Justice Wally Yeung Chun-kuen, Vice-President and Justice of Appeal of the Court of Appeal of the High Court, acted in the office of CJHC for the period from 25 October 2018 to 31 July 2019. With effect from 1 August 2019, Mr Justice Poon, Justice of Appeal of the Court of Appeal of the High Court, has been acting in the office of CJHC until the CJHC vacancy is substantively filled.

8. The JORC has recommended the appointment of Mr Justice Poon as CJHC. Mr Justice Poon joined the Judiciary as Magistrate in 1993. He was appointed as Deputy Registrar of the High Court in 1999, Judge of the Court of First Instance of the High Court in 2006, and Justice of Appeal of the Court of Appeal of the High Court in 2015.

9. Mr Justice Poon is a highly competent judge of high integrity who commands respect within the Judiciary and from the legal profession. He is experienced in both civil and criminal appeals and possesses rich administrative experience. We are confident that Mr Justice Poon, if appointed, will discharge his duties as the Court Leader of the High Court with distinction.

10. The Chief Executive has accepted the recommendations of the JORC on the appointment of Lord Sumption as a CLNPJ and the appointment of Mr Justice Poon as CJHC. Subject to the endorsement of this Council, the two appointments shall take effect in November 2019.

11. In accordance with the procedures previously endorsed by the House Committee of LegCo, the Government informed the House Committee on 22 May 2019 that the Chief Executive had accepted the recommendations of the JORC on the two appointments. Representatives from the Government and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments on 11 June 2019 and answered Members' questions. I would like to thank Dr Honourable Priscilla Leung Mei-fun, Chairman of the Subcommittee, and other Members of the Subcommittee for scrutinising and supporting the two appointments.

12. I invite Members to endorse the two appointments.