

香港特別行政區政府
政務司司長辦公室轄下行政署



The Government of
The Hong Kong Special Administrative Region
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12 May 2021

The Hon Starry LEE Wai-king, SBS, JP
Chairman of the House Committee
Legislative Council
Room 602, Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Chairman,

Senior Judicial Appointment

I write to inform you that the Chief Executive has accepted the recommendation of the Judicial Officers Recommendation Commission (JORC) on the appointment of the Honourable Mr Justice Johnson Lam Man-hon as a Permanent Judge of the Court of Final Appeal. Subject to the endorsement of the Legislative Council (LegCo), the Chief Executive will make the appointment under Article 88 of the Basic Law.

The Chief Executive will announce her acceptance of the JORC's recommendation today. An advance copy of the press statement on the above appointment is at **Enclosure A** for Members' reference. I should be grateful if Members could observe the confidentiality of the issue, pending the Chief Executive's public announcement.

Pursuant to Article 90 of the Basic Law, the Chief Executive shall obtain the endorsement of LegCo of the appointment. Following the procedures for endorsement of appointment of judges agreed by the House Committee in May 2003, a paper on the appointment of the Permanent Judge is at **Enclosure B** for Members' reference. Subject to the deliberation of the House Committee, the Government will move the motion to seek LegCo's endorsement of the appointment at the earliest opportunity.

Yours sincerely,



(Daniel Cheng)
Director of Administration

Encl.

c.c. All LegCo Members
Clerk to the House Committee

Press Statement

**Senior Judicial Appointment:
Permanent Judge of the Court of Final Appeal**

The Chief Executive, Mrs Carrie Lam, has accepted the recommendation of the Judicial Officers Recommendation Commission (JORC) on the appointment of the Honourable Mr Justice Johnson LAM Man-hon (Mr Justice Lam), Vice-President and Justice of Appeal of the Court of Appeal of the High Court, as a permanent judge of the Court of Final Appeal. Subject to the endorsement of the Legislative Council, the Chief Executive will make the appointment under Article 88 of the Basic Law.

Mrs Lam said, “I am pleased to accept the JORC’s recommendation on the appointment of Mr Justice Lam as a permanent judge of the Court of Final Appeal. Mr Justice Lam is an all-rounded appellate Judge who possesses rich experience and expertise in handling civil cases of all types, including in particular public law and constitutional law cases. His judgments are well-reasoned and balanced. They are regularly reported in the law reports and cited in arguments and judgments. He also has extensive experience in steering reforms to improve on the administration of justice. He will be a great asset to the Court of Final Appeal.”

Article 90 of the Basic Law provides that the Chief Executive shall obtain the endorsement of the Legislative Council on the appointment of the judges of the Court of Final Appeal. The Government will seek the endorsement of the Legislative Council of the recommended appointment in due course.

The curriculum vitae of Mr Justice Lam is at Annex.

**Curriculum Vitae of
The Honourable Mr Justice Johnson LAM Man-hon**

1. Personal Background

Mr Justice Johnson LAM Man-hon (Mr Justice Lam) was born in Hong Kong in August 1961 (now 59). He is married and has one child.

2. Education

Mr Justice Lam received his education in Hong Kong. He obtained a Bachelor of Laws degree and a Postgraduate Certificate in Laws from the University of Hong Kong in 1983 and 1984 respectively.

3. Legal Experience

Mr Justice Lam was called to the Hong Kong Bar in 1984. He was in private practice in Hong Kong since 1985 until he joined the Judiciary as a District Judge in 2001.

4. Judicial Experience

Mr Justice Lam was appointed as a District Judge in 2001. He was appointed as a Judge of the Court of First Instance of the High Court in 2003 and a Justice of Appeal of the Court of Appeal of the High Court in 2012. He was appointed as a Vice-President of the Court of Appeal of the High Court on 2 September 2013.

5. Services and Activities related to the Legal Field

2003-2009	President of the Lands Tribunal
2003-2013	Member, Civil Court Users' Committee
2008-2011	Probate Judge
2009-2015	Member, Civil Justice Reform Monitoring Committee – Core Group

2009-2015	Member, Civil Justice Reform Monitoring Committee
2011-2013	Judge in charge of the Constitutional and Administrative Law List
2012-2015	Member, Accreditation Sub-committee under Secretary for Justice's (SJ's) Steering Committee on Mediation
2013-2019	Chairman, Civil Court Users' Committee
Since 2007	Chairman, Working Party on Mediation
Since 2010	Chairman, Working Group on Court Record Management under the Committee on Information Technology
Since 2012	Member, SJ's Steering Committee on Mediation
Since 2012	Member, High Court Rules Committee
Since 2014	Chairman, Working Group on Family Arbitration
Since 2017	Chairman, Family Proceedings Court Users' Committee

APPOINTMENT OF PERMANENT JUDGE OF THE COURT OF FINAL APPEAL

INTRODUCTION

Pursuant to Article 90 of the Basic Law of the Hong Kong Special Administrative Region (“HKSAR”) and section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (“the Ordinance”), the Government intends to give notice in due course to move a motion to obtain the endorsement of the Legislative Council (“LegCo”) of the appointment of the Honourable Mr Justice Johnson LAM Man-hon (“Mr Justice Lam”), Vice-President and Justice of Appeal (“JA”) of the Court of Appeal of the High Court, as a Permanent Judge (“PJ”) of the Court of Final Appeal (“CFA”) for filling a vacancy arising from the appointment of the Chief Justice as from 11 January 2021. The curriculum vitae of Mr Justice Lam is at *Appendix*.

Appendix

BACKGROUND

Court of Final Appeal

2. The CFA is the final appellate court in Hong Kong. The CFA hears appeals in civil and criminal matters and may confirm, reverse or vary decisions of the lower courts.
3. The CFA consists of the Chief Justice and the PJs. Non-permanent judges may be invited to sit. There are two lists of non-permanent judges –
 - (a) the list of non-permanent Hong Kong judges (“HKNPJs”); and
 - (b) the list of non-permanent judges from other common law jurisdictions (“CLNPJs”).
4. In accordance with section 16 of the Ordinance, the CFA is constituted by five judges when hearing and determining appeals, as follows –
 - (a) the Chief Justice or a PJ designated to sit in his place under subsection (2);

- (b) three PJs unless otherwise provided for under subsection (4); and
- (c) one HKNPJ or one CLNPJ (selected by the Chief Justice and invited by the CFA).

Section 16(2) of the Ordinance provides that where the Chief Justice is not available to hear an appeal, he shall designate a PJ to preside at the appeal in his place. Section 16(4) of the Ordinance provides that where a sufficient number of PJs are not available to hear an appeal, the Chief Justice shall nominate a HKNPJ to sit in place of a PJ.

Duties, Requirements and Qualifications for PJs

Duties

5. The duty of a PJ is to hear civil and criminal appeals in the CFA. As circumstances necessitate, a PJ may be designated to sit in place of the Chief Justice and be President of the Court. The CFA deals with appeals in –

- (a) any civil cause or matter that falls under the civil jurisdiction of the CFA under Part II of the Ordinance as set out in sections 21 and 22 of the Ordinance; and
- (b) any criminal cause or matter that falls under the criminal jurisdiction of the CFA under Part III of the Ordinance as set out in sections 30 and 31 of the Ordinance.

Basic Law Requirements

6. Article 92 of the Basic Law stipulates that 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.

Statutory Qualifications

7. Section 12(1A) of the Ordinance stipulates that a person shall be eligible to be appointed as a PJ if he is –

- (a) the Chief Judge of the High Court (“CJHC”);

- (b) a JA;
- (c) a judge of the Court of First Instance (“CFI Judge”); or
- (d) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years.

Tenure of Office of PJs

8. Under section 14(1) of the Ordinance, PJs shall vacate their offices when they attain the retirement age. Section 13A(1) of the Ordinance^(Note) stipulates that the “retirement age” for a PJ means the age of 70 years, except that for a PJ who 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 issued by the Chief Justice on such arrangement for judicial officers engaged on terms that do not attract pension benefits under Cap. 401, and has not so opted, the “retirement age” means the age of 65 years.

9. Under section 14(2)(a) of the Ordinance, the terms of office of PJs may be extended for not more than two periods of three years.

The Judiciary’s Policy on Appointment to the CFA

10. The Judiciary’s current policy is to consider only internal candidates for appointments to the CFA, including appointments as PJs and HKNPJs but not as the Chief Justice. For appointments at such a senior level, it is the Judiciary’s position that the appointees should have proven judicial experience.

Constitutional and Legal Framework for the Appointment

Chief Executive

11. Article 48(6) of the Basic Law stipulates that the Chief Executive shall exercise the power and function to appoint judges of the courts at all levels in accordance with legal procedures.

^(Note) The Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance 2019 to extend the statutory retirement ages of Judges and Judicial Officers came into effect on 6 December 2019. It amends Cap. 484 by adding a section 13A which gives effect to the revision of the retirement age of the Chief Justice and permanent judges from 65 to 70.

12. Article 88 of the Basic Law stipulates that judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission. The Judicial Officers Recommendation Commission (“JORC”) is the statutory body constituted by the Judicial Officers Recommendation Commission Ordinance (Cap. 92) (“JORC Ordinance”) to perform the functions of the independent commission referred to in Article 88 of the Basic Law.

13. In the case of the appointment of CFA judges, Article 90 of the Basic Law provides that the Chief Executive shall, in addition to following the procedures prescribed in Article 88 of the Basic Law, obtain the endorsement of LegCo and report such appointment to the Standing Committee of the National People’s Congress for the record. These requirements in relation to CFA judges are also stipulated in section 7A of the Ordinance.

JORC

14. Pursuant to Article 88 of the Basic Law and the JORC Ordinance, JORC is entrusted with the function of making recommendations to the Chief Executive regarding the appointment of judges. JORC consists of the Chief Justice as the Chairman, the Secretary for Justice and seven other members appointed by the Chief Executive (two judges, one barrister appointed after consultation with the Bar Council of the Hong Kong Bar Association, one solicitor appointed after consultation with the Council of the Law Society of Hong Kong and three persons not connected with the practice of law). Under section 3(3A) of the JORC Ordinance, a resolution at a meeting of JORC is not effective if there are more than two votes which are not in favour. The recommendation of JORC is then communicated to the Chief Executive.

LegCo

15. Article 73(7) of the Basic Law stipulates that the LegCo shall exercise the power and function to endorse the appointment of the judges of the CFA. Article 90 of the Basic Law provides that the Chief Executive shall obtain the endorsement of LegCo for the appointment of CFA judges.

THE CURRENT APPOINTMENT EXERCISE

JORC's Recommendation

16. Pursuant to Article 88 of the Basic Law and section 6(a) of the JORC Ordinance, JORC has recommended the appointment of Mr Justice Lam as a PJ of the CFA. The recommendation has been communicated to the Chief Executive.

Chief Executive's Acceptance of JORC's Recommendation

17. In accordance with Article 88 of the Basic Law and section 7(1) of the Ordinance, the Chief Executive has accepted the recommendation of JORC on the appointment of Mr Justice Lam as a PJ of the CFA. Subject to the endorsement of LegCo pursuant to Article 90 of the Basic Law and section 7A of the Ordinance, the Chief Executive will make the recommended appointment.

JORC Process

JORC Meetings

18. Following meetings held in 2020 and early 2021, JORC made the recommendation on the appointment of Mr Justice Lam as a PJ.

Quorum

19. A quorum as required by section 3(3) of the JORC Ordinance was present at the JORC meeting at which the recommended appointment was considered.

Statutory Disclosure

20. Under section 12(1A) of the Ordinance (please see paragraph 7 above), a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years is eligible to be appointed as a PJ. As the Judiciary's current policy is to consider only internal candidates for appointment as PJs (please see paragraph 10 above), with which JORC agrees, the Secretary for Justice and the barrister Member of JORC from outside the Judiciary could not reasonably be regarded as candidates for the PJ position and they had not been invited, under section 3(5B) of the JORC Ordinance, to declare their interest in filling such position.

21. Mr Justice Poon, CJHC and Madam Justice Carlye Chu, JA of the Court of Appeal of the High Court are the only Members of JORC who are eligible candidates. In accordance with section 3(5B) of the JORC Ordinance, they had been asked to indicate in writing whether they wished to be considered as a candidate for appointment as a PJ of the CFA on this occasion. As they had replied in the negative, the relevant paper was issued to them and they took part in the deliberations on the matter.

JORC's deliberations

22. JORC noted that having regard to the professional requirements for PJs (paragraph 7 above) and in accordance with the Judiciary's policy to consider only internal candidates for appointment as PJs (paragraph 10 above), all High Court judges (i.e., the CJHC, JAs and CFI Judges) were eligible candidates for consideration.

23. JORC noted that the long list of candidates comprised all serving Judges of the High Court including the two JORC Members who had made declarations, i.e. Mr Justice Poon, CJHC and Madam Justice Carlye Chu (paragraph 21 above).

24. In view of the importance of the judicial duties of PJs in determining appeals in the highest appellate court of Hong Kong, JORC agreed that it was essential that only Judges of the highest calibre should be further considered for appointment as a PJ.

25. Taking into account the above factors, JORC made detailed deliberations on the suitability of three Judges shortlisted for consideration. Having regard to the qualities required of a PJ and all relevant factors, as well as the shortlisted candidates' willingness to be considered for appointment, JORC came to the view that Mr Justice Lam was the most suitable candidate for the PJ vacancy.

26. Mr Justice Lam is an all-rounded appellate Judge who possesses rich experience and expertise in handling civil cases of all types including in particular public law and constitutional law cases where he has made significant contributions. His judgments are well-reasoned and balanced. They are regularly reported in the law reports and cited in arguments and judgments. He also has extensive experience in steering reforms to improve on the administration of justice.

JORC's Resolution

27. JORC resolved to recommend to the Chief Executive the appointment of Mr Justice Lam as a PJ of the CFA.

The Chief Executive's Acceptance of the Recommendation

28. The Chief Executive has accepted the recommendation of JORC.

ENDORSEMENT OF THE LEGISLATIVE COUNCIL

29. Subject to the endorsement of LegCo, the Chief Executive will make the recommended appointment and will report the appointment to the Standing Committee of the National People's Congress for the record.

Administration Wing
Chief Secretary for Administration's Office
May 2021

The Honourable Mr Justice Johnson LAM Man-hon

1. Personal Background

Mr Justice Johnson LAM Man-hon (“Mr Justice Lam”) was born in Hong Kong in August 1961 (now 59). He is married and has one child.

2. Education

Mr Justice Lam received his education in Hong Kong. He obtained a Bachelor of Laws degree and a Postgraduate Certificate in Laws from the University of Hong Kong in 1983 and 1984 respectively.

3. Legal Experience

Mr Justice Lam was called to the Hong Kong Bar in 1984. He was in private practice in Hong Kong since 1985 until he joined the Judiciary as a District Judge in 2001.

4. Judicial Experience

Mr Justice Lam was appointed as a District Judge in 2001. He was appointed as a Judge of the Court of First Instance of the High Court in 2003 and a Justice of Appeal of the Court of Appeal of the High Court in 2012. He was appointed as a Vice-President of the Court of Appeal of the High Court on 2 September 2013.

5. Services and Activities related to the Legal Field

- 2003-2009 President of the Lands Tribunal
- 2003-2013 Member, Civil Court Users' Committee
- 2008-2011 Probate Judge
- 2009-2015 Member, Civil Justice Reform Monitoring Committee – Core Group
- 2009-2015 Member, Civil Justice Reform Monitoring Committee
- 2011-2013 Judge in charge of the Constitutional and Administrative Law List
- 2012-2015 Member, Accreditation Sub-committee under Secretary for Justice's ("SJ's") Steering Committee on Mediation
- 2013-2019 Chairman, Civil Court Users' Committee
- Since 2007 Chairman, Working Party on Mediation
- Since 2010 Chairman, Working Group on Court Record Management under the Committee on Information Technology
- Since 2012 Member, SJ's Steering Committee on Mediation
- Since 2012 Member, High Court Rules Committee
- Since 2014 Chairman, Working Group on Family Arbitration
- Since 2017 Chairman, Family Proceedings Court Users' Committee
