

# 立法會

## *Legislative Council*

LC Paper No. LS183/98-99

### **Paper for the Administration of Justice and Legal Services Panel on 18 May 1999**

#### **Leapfrog Appeals to the Court of Final Appeal**

##### **Purpose**

The purpose of this paper is to facilitate discussion by the Panel on leapfrog appeals to the Court of Final Appeal (CFA) by providing some background information.

##### **Hong Kong CFA Ordinance**

2. Under the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (the Ordinance), an appeal lies to the CFA in any civil cause or matter only from a judgment of the Court of Appeal. The detailed provisions are set out in section 22 of the Ordinance (**Annex A**).

3. During the passage of the Ordinance at the former Legislative Council in 1995, a leapfrog procedure was mooted by the Hong Kong Bar Association and the Law Society of Hong Kong to the Bills Committee examining the relevant bill. Extracts of their submissions are at **Annex B** and **C** respectively.

4. In response, the Administration issued a paper entitled “Court of Final Appeal Possibility of “Leapfrog” Appeals”. The paper set out its views on the pros and cons of a leapfrog procedure and concluded that the Administration did not agree to amend the Bill to provide for a leapfrog procedure and preferred to allow the court to operate, at least initially, according to the system then prevailing in respect of the Privy Council (to which there was no leapfrogging of appeals). However, the observation was made that “after the court has been established for a number of years and its reputation established, the possibility of introducing a leapfrog procedure could be looked at again”. A copy of the paper is at **Annex D**.

5. The matter was discussed and its deliberations reported on by the Bills Committee. Extracts of the relevant records of meetings and its report are at **Annex E** and **F** respectively.

### **Leapfrogging to the House of Lords**

6. In certain civil proceedings, leapfrog appeals may be made to the House of Lords. The procedure is explained in paragraphs 741-2, Volume 10 in Halsbury's Laws of England (4th Edition), a copy of which is attached at **Annex G**.

7. The leapfrog procedure was introduced by the Administration of Justice Act 1969. As the Attorney-General explained in the House of Commons when the Bill was moved for second reading, the "leapfrog" proposals "derive from difficulties which arise when a judge of first instance is bound by an existing decision of the Court of Appeal or the House of Lords. Although the judge may think that the decision of the higher court is wrong, it is useless for the unsuccessful party to appeal, unless he is prepared to go to the expense and trouble of taking the case to the House of Lords. An appeal to the Court of Appeal would, in any event be wasted, because the Court of Appeal is, at present at any rate, bound by its decisions and by those of the House of Lords".

8. Extracts of the parts on the leapfrog proposals from the House of Commons debate on the Administration of Justice Bill are reproduced at **Annex H**.

Prepared by  
Legal Service Division  
Legislative Council Secretariat  
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