

司法人員  
推薦委員會報告

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**Judicial Officers  
Recommendation Commission  
Report**

**2004**

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## 前言 Foreword

在一國兩制的原則下，一個獨立的、能維護法治的司法機關對於香港來說至為重要。獲任命的法官<sup>1</sup>必須正直不阿、精於法律。故此，選拔司法人才的工作極為重要。

2. 根據《基本法》，香港特別行政區法院的法官，須得到由本地的法官、法律界人士及其他方面的知名人士組成的獨立委員會推薦，並由行政長官任命。1997年7月1日，司法人員推薦委員會成立。這個委員會就是《基本法》中預期會設立的獨立委員會。

3. 發表司法人員推薦委員會報告，旨在交代委員會的重要工作。第一份委員會報告已於2003年發表，涵蓋的時段由1997年7月1日起至2002年12月31日止。第二份委員會報告於2004年發表，而涵蓋的時段是2003年全年。現在發表的是第三份委員會報告，涵蓋的時段是2004年全年。

4. 雖然在2004年沒有對某些司法職位作出任命，但我們在本報告的第三章至第六章內仍然保留各級法院司法職位的任命的有關描述，讓大家對委員會職權範圍內有關司法職位的任命有全面的了解。

5. 希望這份報告能令你對委員會的工作有更多的了解。



司法人員推薦委員會主席  
終審法院首席法官 李國能


An independent Judiciary upholding the rule of law is of cardinal importance to Hong Kong under the principle of one country two systems. It is crucial that judges<sup>1</sup> appointed are of complete integrity and high standards of professional competence. The work in relation to judicial appointments is accordingly of great importance.

2. Under the Basic Law, judges of the courts of the Hong Kong Special Administrative Region shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors. On 1 July 1997, the Judicial Officers Recommendation Commission was established as the independent commission contemplated by the Basic Law.

3. The objective of publishing a report of the Judicial Officers Recommendation Commission is to give an account of the important work of the Commission. The first report of the Commission, covering the period 1 July 1997 to 31 December 2002, was published in 2003. The second report which covers the year 2003 was published in 2004. This is the third report and covers the year 2004.

4. Although appointments to some judicial offices were not made in the year 2004, we have retained the description of the different levels of courts in Chapters 3 to 6 so that a comprehensive picture of the judicial offices within the purview of the Commission is given.

5. I hope you will enjoy reading this report and that you will have a better understanding of the work of the Commission.



Andrew Li  
Chief Justice  
Chairman of the Judicial Officers Recommendation  
Commission

<sup>1</sup> “法官”在此包括法官和司法人員。  
The reference to “judges” includes both judges and judicial officers.

### 司法人員推薦委員會的組成

1.1 《基本法》第四十八（六）條賦予行政長官在依照法定程序下任免各級法院法官的職權。根據《基本法》第八十八條，香港特別行政區（“香港特區”）法院的法官，須得到由本地法官、法律界人士及其他方面的知名人士組成的獨立委員會推薦，並由行政長官任命。

1.2 司法人員推薦委員會（“委員會”或“推薦委員會”）是《基本法》第八十八條預期會設立的獨立委員會。委員會於1997年7月1日根據香港法例第92章《司法人員推薦委員會條例》成立，取替了昔日的司法人員敍用委員會。

### 推薦委員會的職能

1.3 根據《司法人員推薦委員會條例》，委員會的職能乃就以下事項向行政長官提供意見或作出推薦—

- (a) 司法職位空缺的填補；
- (b) 司法人員就服務條件提出的申述，而該申述又經由行政長官轉介予委員會；及
- (c) 影響司法人員而可予訂明或可由行政長官轉介予委員會的任何事項。

1.4 所有司法職位均納入委員會的職權範圍，這些職位已詳列於《司法人員推薦委員會條例》附表1。

### Constitution of JORC

1.1 Article 48(6) of the Basic Law confers on the Chief Executive the power and function to appoint or remove judges of the courts at all levels in accordance with legal procedures. Article 88 of the Basic Law provides that judges of the courts of the Hong Kong Special Administrative Region (“HKSAR”) shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors.

1.2 The Judicial Officers Recommendation Commission (“the Commission” or “JORC”) is the independent commission contemplated by Article 88 of the Basic Law. It was established on 1 July 1997 under the Judicial Officers Recommendation Commission Ordinance (Cap. 92) (“the JORC Ordinance”) in place of the then Judicial Service Commission.

### Functions of JORC

1.3 Under the JORC Ordinance, the functions of the Commission are to advise and make recommendations to the Chief Executive regarding –

- (a) the filling of vacancies in judicial offices;
- (b) such representations from a judicial officer concerning conditions of service as may be referred to it by the Chief Executive; and
- (c) any matter affecting judicial officers which may be prescribed or which the Chief Executive may refer to the Commission.

1.4 All Judicial Offices are within the purview of the Commission. They are specified in Schedule 1 to the JORC Ordinance.

## 推薦委員會的委員

### 組成及委任

1.5 按照《司法人員推薦委員會條例》，委員會由以下人士組成：由終審法院首席法官出任主席，委員則包括律政司司長及其他7名由行政長官委任的人士。這7名人士包括2名法官、1名大律師、1名律師，及3名與法律執業無關的人士。

1.6 有關委任大律師及律師方面，行政長官須按《司法人員推薦委員會條例》分別諮詢香港大律師公會執行委員會及香港律師會理事會，惟行政長官最終仍可委任其他沒有獲得上述專業團體推薦的人士。

1.7 根據《司法人員推薦委員會條例》，獲委任的委員可向行政長官給予書面通知而辭職，以及須在任職2年後離職，但有資格再獲委任。

### 無資格獲委任的人士

1.8 《司法人員推薦委員會條例》規定下述人士不得獲委任為委員會委員：立法會議員，或出任可享有退休金的職位（除法官職位外）的人士，而該職位的薪酬全部或部分是由公共收入繳付的，除非他是正在作退休前度假，並已就其現時所出任的職位或職守的服務期所會付給他的退休金款額獲得正式通知者，則屬例外。

## Membership of JORC

### Composition and Appointment

1.5 As prescribed by the JORC Ordinance, the Commission consists of the Chief Justice as the Chairman, the Secretary for Justice and seven other members appointed by the Chief Executive, consisting of two judges, one barrister, one solicitor and three other persons who are not connected with the practice of law.

1.6 The Chief Executive is required by the JORC Ordinance to consult the Bar Council of the Hong Kong Bar Association and the Council of the Law Society of Hong Kong regarding the appointment of the barrister and the solicitor respectively. The Chief Executive may however appoint a person other than a person recommended by the respective professional bodies.

1.7 As provided by the JORC Ordinance, an appointed member may resign his office by notice in writing to the Chief Executive and shall vacate his office after two years, but shall be eligible for re-appointment.

### Certain Persons Ineligible

1.8 The JORC Ordinance provides that a person shall not be appointed to be a member of the Commission if he is a member of the Legislative Council; or he holds a pensionable office (other than the office of a judge) the emoluments whereof are payable wholly or partly out of public revenue, unless he is on leave prior to retirement and has already received official notification of the pension which will be payable to him for service which comprised service in the office or post of which he is the holder.

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### 委員

1.9 所有任期由2001年7月1日至2003年6月30日的委員會委員都由行政長官於2003年6月再度委任，任期2年，由2003年7月1日起至2005年6月30日止。現時委員會的成員如下—

#### 當然主席及當然委員

##### Ex officio chairman and member

終審法院首席法官李國能（主席）

The Honourable Chief Justice Andrew LI Kwok-nang (Chairman)

梁愛詩女士, GBM, JP（律政司司長）

The Honourable Elsie LEUNG Oi-sie, GBM, JP (Secretary for Justice)

#### 法官

##### Judges

陳兆愷法官

The Honourable Mr Justice Patrick CHAN Siu-oi

彭鍵基法官

The Honourable Mr Justice PANG Kin-kee

#### 大律師及律師

##### Barrister and solicitor

李志喜資深大律師, JP

Ms Gladys Veronica LI Chi-hei, SC, JP (barrister)

蔡克剛律師, JP

Mr Herbert TSOI Hak-kong, JP (solicitor)

#### 與法律執業無關的人士

##### Persons not connected with the practice of law

馮國經博士, GBS

Dr Victor FUNG Kwok-king, GBS

陳永棋先生, GBS, JP

Mr CHAN Wing-kee, GBS, JP

張信剛教授, GBS, JP

Professor CHANG Hsin-kang, GBS, JP

1.10 主席及委員的簡歷載於附錄一。

### Membership

1.9 In June 2003, the Members of the Commission for the term from 1 July 2001 to 30 June 2003 were re-appointed by the Chief Executive for another two-year period from 1 July 2003 to 30 June 2005. The current membership is as follows –

1.10 Bio-data of the Chairman and members are at Appendix 1.

## 程序及表決規則

### 程序

1.11 委員會的程序及表決規則均由《司法人員推薦委員會條例》規管。主席連同不少於6名其他委員可行使及執行委員會的任何職能、權力及職責。為委員會任何會議的目的，如終審法院首席法官不能執行主席職務，出席該次會議的委員可藉決議委任他們其中任何一人署理其職務，並於如此署理職務時，於該會議中行使並履行主席的所有職能。如任何獲委任的委員不在香港或不能執行委員職務，行政長官可委任另一人暫時署理該委員的職務。

### 表決規則

1.12 在委員會會議中，以下的決議即屬有效—

- (a) 凡有7名委員出席時，最少有5票表決贊成；
- (b) 凡有8名委員出席時，最少有6票表決贊成；及
- (c) 凡有9名委員出席時，最少有7票表決贊成。

### 書面決議

1.13 在並無會議舉行的情況下，委員會的決議可藉將決議草案連同表決表格，交予委員傳閱而由委員表決；可藉委員在表決表格上簽署及將其交回委員會秘書而表決；及在以下情況，即屬有效—

- (a) 凡有7名委員在表決表格上簽署時，最少有5票表決贊成；
- (b) 凡有8名委員在表決表格上簽署時，最少有6票表決贊成；及

## Procedure and Voting Requirements

### Procedure

1.11 The procedure and voting requirements of the Commission are laid down in the JORC Ordinance. The Chairman and no fewer than six other members may exercise and perform any of the functions, powers and duties of the Commission. For the purposes of any meeting of the Commission, if the Chief Justice is unable to act as Chairman, those members present at that meeting may by resolution appoint any of their number to act in his place and in so acting to exercise and perform all the functions of the Chairman at that meeting. If any appointed member is absent from Hong Kong or is unable to act, the Chief Executive may appoint another person to act temporarily as a member.

### Voting Requirements

1.12 At a meeting of the Commission, a resolution is effective if –

- (a) where 7 members are present, at least 5 vote in favour;
- (b) where 8 members are present, at least 6 vote in favour; and
- (c) where 9 members are present, at least 7 vote in favour.

### Written Resolutions

1.13 A resolution of the Commission without a meeting may be put to the vote of the members by circulating a draft of the resolution with a voting paper; may be voted on by a member by signing the voting paper and returning it to the Secretary to the Commission; and is effective if –

- (a) where 7 members sign the voting paper, at least 5 votes are in favour;
- (b) where 8 members sign the voting paper, at least 6 votes are in favour; and

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(c) 凡有 9 名委員在表決表格上簽署時，最少有 7 票表決贊成。

1.14 即使有 1.13 段的規定，如有任何委員在表決表格上，通知秘書謂該決議應在會議上討論，則決議即屬無效。

### 披露權益

1.15 《司法人員推薦委員會條例》載有有關披露權益的條文。凡委員會正就香港法例第 484 章《香港終審法院條例》第 7 及 8 條（有關委任終審法院常任法官和非常任香港法官）所指的空缺填補，或就該條例第 14 條所指的終審法院首席法官的任期延期而行使其職能，則被視為或可合理地視為填補有關空缺的候選人的委員，或其任期正獲考慮延期的委員，須披露倘若獲選或任期獲推薦延期，他是否願意接受委任或延期，而該項披露須記錄於委員會的會議紀錄內。披露願意接受委任或延期的委員，不得參與委員會就該委任或延期所作的任何商議，亦不得就有關上述事項的任何問題表決；及就委員會對該委任或延期（視屬何情況而定）作出的任何商議或有關上述事項的問題而言，被視為不能執行委員職務。

1.16 雖然法例並無規定，但委員會實際上在其他情況下也有遵守類似的披露權益的規則，例如在填補高等法院首席法官和上訴法庭法官的空缺時，過去便曾用上這些規則。

(c) where 9 members sign the voting paper, at least 7 votes are in favour.

1.14 Notwithstanding paragraph 1.13, a resolution is not effective where any member notifies the Secretary, on the voting paper, that the resolution should be discussed at a meeting.

### Disclosure of Interests

1.15 The JORC Ordinance contains provisions relating to the disclosure of interests. Where the Commission is exercising its functions in relation to the filling of vacancies under sections 7 and 8 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (which provide for the appointment of permanent judges and non-permanent Hong Kong judges of the Court of Final Appeal) or to the extension of the term of office of the Chief Justice under section 14 of that Ordinance, a member who is or may reasonably be regarded as a candidate for selection to fill any such vacancy or whose term of office is being considered for extension shall disclose whether or not, if he were to be selected or if the extension of his term of office were to be recommended, he is willing to accept appointment or the extension, and that disclosure shall be recorded in the minutes of the Commission's meeting. A member who discloses a willingness to accept an appointment or extension shall not take part in any deliberation of the Commission with respect to that appointment or extension and shall not vote on any question concerning the same; and shall, with respect to any deliberation of the Commission concerning that appointment or extension as the case may be and any question concerning the same, be treated as being unable to act.

1.16 Although not required by law, the Commission has in practice applied similar requirements for disclosure of interests to other situations. The situations where such requirements have been relevant have been the filling of vacancies of the office of the Chief Judge of the High Court and vacancies of the Court of Appeal.



## 秘書

1.17 根據《司法人員推薦委員會條例》，委員會秘書須為公職人員，並須由行政長官委任。委員會秘書不得為委員會委員。

1.18 委員會成立以來，行政長官一直都是委任當前擔任司法機構政務長一職的人士出任秘書。司法機構政務長徐志強先生自1999年6月15日起獲委任為委員會秘書。

## 關於委員會運作的法定條文

1.19 《司法人員推薦委員會條例》載有以下有關委員會運作的條文—

- (a) 根據條例，凡作出以下行徑，即屬違法—
- (i) 故意向委員會或任何委員提供虛假資料（第8條）；
  - (ii) 如未經行政長官許可，向任何未獲授權的人發布或披露在根據《司法人員推薦委員會條例》或與《司法人員推薦委員會條例》有關的執行職責的過程所知悉的任何文件、通訊或資料的內容或部分內容，或在執行職責的過程以外發布或披露該等內容（第11條）；及
  - (iii) 影響或企圖影響委員會的決定或任何委員（第12條）。

## Secretary

1.17 Under the JORC Ordinance, the Secretary to the Commission shall be a public officer appointed by the Chief Executive. The Secretary shall not be a member of the Commission.

1.18 Since the establishment of the Commission, the Chief Executive has appointed the current holder of the Judiciary Administrator post as the Secretary. Mr Wilfred TSUI Chi-keung, the Judiciary Administrator, has been appointed as the JORC Secretary since 15 June 1999.

## Statutory Provisions Relating to the Operation of JORC

1.19 The JORC Ordinance contains the following provisions relating to the operation of the Commission –

- (a) It is an offence under the Ordinance to –
- (i) wilfully give false information to the Commission or any member (section 8);
  - (ii) publish or disclose, without the permission of the Chief Executive, to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information which has come to his knowledge in the course of his duties under or in connection with the JORC Ordinance (section 11); and
  - (iii) influence or attempt to influence a decision of the Commission or any member (section 12).

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- (b) 委員會在行使其職能或履行其職責時向行政長官或終審法院首席法官提交的報告、陳述書或其他通訊均為享有特權的通訊，不得強制將其在任何法律訴訟程序中呈堂（第 9 條）。
  - (c) 在針對委員會委員就其執行委員職責時作出的任何作為的法律行動或訴訟中，該委員會委員享有的保障及特權，與法官執行其職務作出作為時所享有的保障及特權相同（第 10 條）。
- (b) Reports, statements or other communications which the Commission may in the exercise of its functions or the discharge of its duties make to the Chief Executive or to the Chief Justice shall be privileged in that its production may not be compelled in any legal proceedings (section 9).
  - (c) A member of the Commission shall have the same protection and privileges in proceedings brought against him for any act done in the execution of his duty as such member as a judge has when acting in the execution of his office (section 10).

## 委員會的工作 Work of the Commission

### 推薦委員會的工作

2.1 委員會於1997年7月1日正式開始運作。有關推薦的討論及決定通常都是通過會議進行，但有時也會藉傳閱文件方式進行。2004年，委員會進行了1次會議，並在該會議討論了1份文件，從而通過了3項決議。此外，該年度內亦傳閱了6份文件，其中1份屬通知形式，其餘5份則作考慮用，結果委員會在沒有召開會議的情況下，共通過了13項決議。

2.2 2004年，委員會曾推薦3位人選，出任高等法院司法職位。此外，委員會亦就裁判官及司法人員的聘用條件轉為常額編制及可享退休金條款時，以及在他們的聘用合約續期事宜上提出建議。2004年，委員會推薦人選的次數及就其他事宜提出意見的次數，分別列於〈表一〉及〈表二〉內。還須一提的是，委員會可就在任法官在到達正常退休年齡時應否延長任期提出建議，但委員會在2004年並沒有作出此等延長法官任期的考慮。

### Work of JORC

2.1 The Commission formally commenced operation on 1 July 1997. Discussions and decisions on recommendations were made usually through meetings and occasionally by circulation of papers. In the year 2004, one meeting was held at which one paper was discussed with three resolutions passed. In addition, six papers were circulated with one for information and the remaining five for consideration, resulting in the passage of 13 resolutions without a meeting.

2.2 In the year 2004, the Commission made three recommendations on judicial appointments to the High Court. Further, in respect of Magistrates and Judicial Officers, the Commission made recommendations on transfers to permanent and pensionable terms and renewals of contracts. Breakdowns of the recommendations made by the Commission in 2004 are shown in Table 1 and Table 2 respectively. It should be noted that the Commission may also make recommendations on extensions of service for judges beyond the normal retirement age but no such extension was considered in 2004.

〈表一〉：2004年推薦人選出任司法職位的人數

**Table 1 : Recommendations on Judicial Appointments Made in 2004**

高等法院 High Court	
上訴法庭法官 Justice of Appeal	原訟法庭特委法官 Recorder of Court of First Instance
1	2

〈表二〉：2004年就非任命的事宜提供建議的次數

**Table 2 : Recommendations on Matters Other Than Appointment Made in 2004**

作出建議的範疇 Subject of Recommendations	次數 Number
轉為常額及可享退休金條款聘用 Transfer to permanent and pensionable terms	6
合約續期 Renewal of contract	7

# 終審法院首席法官及終審法院

## Chief Justice and the Court of Final Appeal

### 終審法院首席法官

#### 職務及責任

3.1 《香港終審法院條例》(第484章)規定，終審法院首席法官是司法機構之首，負責司法機構的行政管理及執行其他合法地委予他的職能。根據該條例規定，終審法院首席法官須出任終審法院審判庭庭長。

#### 憲法及法例規定

3.2 《基本法》第九十條及《香港終審法院條例》第6條規定，終審法院首席法官須由在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。

3.3 終審法院首席法官所須具備的法定專業資格，在《香港終審法院條例》第12(1)及(2)條中已經訂明（見附錄二）。

#### 2004年作出的任命

3.4 2004年沒有作出終審法院首席法官的任命。

### Chief Justice

#### Duties and Responsibilities

3.1 The Hong Kong Court of Final Appeal Ordinance (Cap. 484) provides that the Chief Justice shall be the head of the Judiciary and shall be charged with the administration of the Judiciary and such other functions as may be lawfully conferred on him. Under the same Ordinance, the Chief Justice shall be President of the Court of Final Appeal.

#### Constitutional and Statutory Requirements

3.2 Article 90 of the Basic Law and section 6 of the Hong Kong Court of Final Appeal Ordinance stipulate that the Chief Justice of the Court of Final Appeal shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country.

3.3 The statutory professional qualifications for the Chief Justice are stipulated in sections 12(1) and (2) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 2).

#### Appointment Made in 2004

3.4 No appointment of the Chief Justice of the Court of Final Appeal was made in 2004.

## 終審法院

3.5 終審法院於1997年7月1日根據《基本法》第十九條成立。該條文規定，香港特區享有獨立的司法權，包括終審權。終審法院是香港級別最高的上訴法院，具有根據《香港終審法院條例》賦予它的司法管轄權。

3.6 終審法院成員包括終審法院首席法官及3名常任法官。終審法院可根據需要邀請非常任香港法官和/或其他普通法適用地區的非常任法官參加終審法院的審判（見第3.10段）。

3.7 《香港終審法院條例》規定，上訴須由終審法院審判庭聆訊及裁決，而終審法院審判庭須由以下成員組成—

- (a) 終審法院首席法官，如他由於某一因由以致未能出庭聆訊上訴，則由一名指定的常任法官代替他參加審判；
- (b) 3名由終審法院首席法官委派的常任法官；及
- (c) 由終審法院首席法官挑選並由終審法院邀請的1名非常任香港法官或1名其他普通法適用地區的非常任法官。

## Court of Final Appeal

3.5 The Court of Final Appeal was established on 1 July 1997 pursuant to Article 19 of the Basic Law, which provides that the HKSAR shall be vested with independent judicial power, including that of final adjudication. It is the highest appellate court in Hong Kong and has jurisdiction in respect of matters conferred on it by the Hong Kong Court of Final Appeal Ordinance.

3.6 The Court of Final Appeal consists of the Chief Justice and three Permanent Judges. It may as required invite non-permanent Hong Kong Judges and/or non-permanent judges from other common law jurisdictions to sit in the Court (see paragraph 3.10).

3.7 Under the Hong Kong Court of Final Appeal Ordinance, an appeal shall be heard and determined by the Court of Final Appeal constituted as follows –

- (a) the Chief Justice or a permanent judge designated to sit in his place where the Chief Justice is not available for any cause to hear an appeal;
- (b) three permanent judges nominated by the Chief Justice; and
- (c) one non-permanent Hong Kong judge or one non-permanent judge from another common law jurisdiction selected by the Chief Justice and invited by the Court.

## 常任法官

### 法例規定

3.8 常任法官所須具備的法定專業資格，在《香港終審法院條例》第 12(1)及(2)條已經訂明（見附錄二）。

### 2004 年作出的任命

3.9 2004 年沒有作出終審法院常任法官的任命。

## 非常任法官

3.10 《香港終審法院條例》規定，訂立一“非常任香港法官名單”及一“其他普通法適用地區非常任法官名單”，及非常任法官人數不超過 30 名。

3.11 《香港終審法院條例》規定，非常任法官的任期為 3 年，但行政長官可根據終審法院首席法官的建議，將非常任法官的任期延續一次或一次以上，每次續期為 3 年。

### 法例規定

3.12 非常任香港法官所須具備的法定專業資格，在《香港終審法院條例》第 12(3)條已經訂明（見附錄二）。

3.13 來自其他普通法適用地區的非常任法官所須具備的法定專業資格，在《香港終審法院條例》第 12(4)條已經訂明（見附錄二）。

## Permanent Judges

### Statutory Requirements

3.8 The statutory professional qualifications for permanent judges are stipulated under sections 12(1) and (2) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 2).

### Appointments Made in 2004

3.9 No appointment of permanent judge of the Court of Final Appeal was made in 2004.

## Non-permanent Judges

3.10 The Hong Kong Court of Final Appeal Ordinance provides for a list of non-permanent Hong Kong judges and a list of non-permanent judges from other common law jurisdictions, and sets a ceiling of 30 on the total number of non-permanent judges.

3.11 In accordance with the Hong Kong Court of Final Appeal Ordinance, a non-permanent judge shall hold office for a term of three years but that term may be extended for one or more periods of three years by the Chief Executive acting in accordance with the recommendation of the Chief Justice.

### Statutory Requirements

3.12 The statutory professional qualifications for non-permanent Hong Kong judges are stipulated under section 12(3) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 2).

3.13 The statutory professional qualifications for non-permanent judges from other common law jurisdictions are stipulated in section 12(4) of the Hong Kong Court of Final Appeal Ordinance (see Appendix 2).

#### **2004 年作出的任命**

3.14 2004 年沒有作出非常任香港法官或其他普通法適用地區的非常任法官的任命。

#### **終審法院司法常務官**

3.15 《香港終審法院條例》規定，終審法院司法常務官負責管理終審法院登記處。

#### **法例規定**

3.16 《香港終審法院條例》第 42(2)條規定，終審法院司法常務官所須具備的資格與委任高等法院司法常務官所要求的相同（見附錄二）。

#### **2004 年作出的任命**

3.17 2004 年沒有作出終審法院司法常務官的任命。

#### **Appointments Made in 2004**

3.14 No appointment of non-permanent judge from Hong Kong or other common law jurisdictions was made to the Court of Final Appeal in 2004.

#### **Registrar, Court of Final Appeal**

3.15 In accordance with the Hong Kong Court of Final Appeal Ordinance, the Registrar, Court of Final Appeal shall be in charge of the Registry of the Court of Final Appeal.

#### **Statutory Requirements**

3.16 Under section 42(2) of the Hong Kong Court of Final Appeal Ordinance, the Registrar, Court of Final Appeal shall possess the same qualifications as are required for appointment as the Registrar of the High Court (see Appendix 2).

#### **Appointment Made in 2004**

3.17 No appointment of Registrar, Court of Final Appeal, was made in 2004.



## 高等法院

4.1 高等法院由上訴法庭和原訟法庭組成，其司法管轄權分別在《高等法院條例》(第4章)第13及12條訂明。

4.2 高等法院上訴法庭審理的案件，有不服原訟法庭或區域法院所作出的民事或刑事判決而提出的上訴，亦有不服土地審裁處的判決而提出的上訴。上訴法庭亦就各下級法院提交的法律問題作出裁決。

4.3 原訟法庭的民事及刑事司法管轄權均沒有限制。原訟法庭亦有上訴管轄權，審理不服裁判法院及若干審裁處的裁定而提出的上訴。

## 高等法院首席法官

### 職務及責任

4.4 高等法院首席法官是高等法院的領導，也是上訴法庭的庭長。高等法院首席法官負責高等法院的行政管理，向統領司法機構的終審法院首席法官負責。他負責確保司法資源和法庭時間能夠有效地運用，並負責就高等法院的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

### 憲法及法例規定

4.5 《基本法》第九十條規定，高等法院首席法官應由在外國無居留權的香港特區永久性居民中的中國公民擔任。

## High Court

4.1 The High Court comprises the Court of Appeal and the Court of First Instance. Their jurisdictions are prescribed in sections 13 and 12 of the High Court Ordinance (Cap. 4) respectively.

4.2 The Court of Appeal hears appeals in civil and criminal matters from the Court of First Instance and the District Court, as well as appeals from the Lands Tribunal. It also makes rulings on questions of law referred to it by lower courts.

4.3 The Court of First Instance has unlimited jurisdiction in both civil and criminal matters. It also operates as an appeal court for cases from Magistrates' Courts and a number of tribunals.

## Chief Judge of the High Court

### Duties and Responsibilities

4.4 The Chief Judge of the High Court is the Court Leader of the High Court and the President of the Court of Appeal. He is responsible for the administration of the High Court and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the High Court.

### Constitutional and Statutory Requirements

4.5 Article 90 of the Basic Law provides that the Chief Judge of the High Court shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country.

## 第四章 CHAPTER 4

4.6 高等法院首席法官所須具備的法定專業資格，與高等法院法官的專業資格相同。有關規定已在《高等法院條例》第9條中訂明（見附錄二）。

### 2004年作出的任命

4.7 2004年沒有作出高等法院首席法官的任命。

### 上訴法庭法官

#### 職務及責任

4.8 上訴法庭法官負責聆訊向上訴法庭提出的刑事及民事上訴案件。如有需要，上訴法庭法官可在高等法院原訟法庭開庭，並以原訟法庭法官身分進行聆訊。

#### 法例規定

4.9 高等法院法官（包括上訴法庭法官）所須具備的法定專業資格，在《高等法院條例》第9條已經訂明（見附錄二）。

### 2004年作出的任命

4.10 行政長官按照司法人員推薦委員會的建議，委任原訟法庭法官鄧楨為高等法院上訴法庭法官，任命由2005年1月3日起生效。

4.6 The statutory professional qualifications for the Chief Judge of the High Court are the same as those for a Judge of the High Court. These are stipulated in section 9 of the High Court Ordinance (see Appendix 2).

### Appointment Made in 2004

4.7 No appointment of Chief Judge of the High Court was made in 2004.

### Justices of Appeal

#### Duties and Responsibilities

4.8 The duty of a Justice of Appeal is to hear criminal and civil appeals in the Court of Appeal. As circumstances necessitate, he may also be asked to sit as an additional Judge of the Court of First Instance of the High Court.

#### Statutory Requirements

4.9 The statutory professional qualifications for a judge of the High Court (which includes a Justice of Appeal) are stipulated in section 9 of the High Court Ordinance (see Appendix 2).

### Appointments Made in 2004

4.10 On the recommendation of JORC, the Chief Executive appointed the Honourable Mr Justice Robert Ching TANG as Justice of Appeal of the High Court with effect from 3 January 2005.

## 原訟法庭法官

### 職務及責任

4.11 原訟法庭法官負責聆訊原訟法庭司法管轄權限內的刑事及民事案件，以及聆訊不服裁判法院及審裁處的裁定而提出的上訴。

### 法例規定

4.12 高等法院法官（包括原訟法庭法官）所須具備的法定專業資格，在《高等法院條例》第9條已經訂明（見附錄二）。

### 2004 年作出的任命

4.13 行政長官按照司法人員推薦委員會的建議，委任資深大律師鄧楨先生，JP<sup>2</sup> 為原訟法庭法官，任命由2004年4月2日起生效[鄧楨法官於2005年1月3日獲委任為上訴法庭法官（參看前文第4.10段）]。

4.14 此項任命，連同另外6位法官的任命（分別由2003年8月及9月起生效），是依據2002年11月高等法院原訟法庭法官首次公開招聘而作出的。在此之前，只有區域法院或以下級別的法院的職位空缺才會作公開招聘。2002年，司法機構與司法人員推薦委員會對法官的任命曾作檢討，決定高等法院原訟法庭的職位空缺也應公開招聘。

## Judges of the Court of First Instance

### Duties and Responsibilities

4.11 A Judge of the Court of First Instance is responsible for the hearing of criminal and civil cases which are within the Court of First Instance's jurisdiction and for hearing appeals from Magistrates' Courts and Tribunals.

### Statutory Requirements

4.12 The statutory professional qualifications for a judge of the High Court (which includes a judge of the Court of First Instance) are stipulated in section 9 of the High Court Ordinance (see Appendix 2).

### Appointments Made in 2004

4.13 On the recommendation of JORC, the Chief Executive appointed Mr Robert Ching TANG, SC, JP<sup>2</sup> as Judge of the Court of First Instance with effect from 2 April 2004 [Mr Justice Tang was subsequently appointed Justice of Appeal on 3 January 2005 (see paragraph 4.10)].

4.14 This appointment, together with six other appointments which took effect in August and September 2003, were made pursuant to the first open recruitment exercise for judges of the Court of First Instance of the High Court launched in November 2002. Open recruitment had hitherto been limited to vacancies at and below the District Court level. A review conducted in 2002 by the Judiciary together with JORC, concerning the appointment of judges, had concluded that open recruitment should be extended to vacancies at the Court of First Instance of the High Court.

<sup>2</sup> 資深大律師鄧楨先生，JP，獲委任為高等法院原訟法庭法官時即停止出任高等法院原訟法庭特委法官。  
Mr Robert Ching TANG, SC, JP, ceased to be a Recorder of the Court of First Instance of the High Court upon his appointment as Judge of the Court of First Instance.

## 高等法院原訟法庭特委法官

### 職務及責任

4.15 特委法官是法律界私人執業的人士，通常每年有數星期在法庭審理案件。特委法官具有並可行使原訟法庭法官的所有司法管轄權、權力及特權，並執行原訟法庭法官的所有職責。

### 法例規定

4.16 特委法官須具備的法定專業資格，與根據《高等法院條例》第9(1)或9(1A)條委任的高等法院法官所要求的相同（見附錄2）。

### 2004年作出的再度任命

4.17 行政長官按照司法人員推薦委員會的建議，再度委任以下人士出任高等法院原訟法庭特委法官—

姓名

Name

資深大律師陳景生先生, JP  
Mr Edward CHAN King-sang, SC, JP

資深大律師黃福鑫先生, JP  
Mr Ronny WONG Fook-hum, SC, JP

## Recorders of the Court of First Instance of the High Court

### Duties and Responsibilities

4.15 Recorders are practitioners in private practice who usually sit for a few weeks in a year. A Recorder has and may exercise all the jurisdiction, powers and privileges and perform all the duties of a judge of the Court of First Instance.

### Statutory Requirements

4.16 The statutory professional qualifications for appointment of Recorders are the same as for High Court Judges as stipulated under section 9(1) or 9(1A) of the High Court Ordinance (see Appendix 2).

### Re-appointments Made in 2004

4.17 On the recommendation of JORC, the Chief Executive re-appointed the following persons as Recorders of the Court of First Instance of the High Court –

任期

Term of Appointment

2004年9月25日 – 2007年9月24日  
25 September 2004 – 24 September 2007

2004年9月25日 – 2007年9月24日  
25 September 2004 – 24 September 2007

## 高等法院聆案官

### 職務及責任

4.18 高等法院司法常務官、高級副司法常務官和副司法常務官行使原訟法庭部分的民事司法管轄權。他們執行的司法職務，包括在內庭聆訊非正審或簡易程序的申請，以及在法庭公開進行損害賠償評估及審理互爭權利的訴訟等。他們亦以訟費評定聆案官、海事訴訟司法常務官、民事上訴案司法常務官和刑事上訴案司法常務官身分，分別行使有關的司法審理權。此外，他們還承擔一些職務，包括受委任錄取證據、處理不服法律援助署署長拒絕給予法律援助而提出的上訴，及監督在香港送達域外司法文書的程序等。他們亦負責管理遺產承辦的事宜和陪審員名單。

4.19 除此之外，高等法院司法常務官還負責管理高等法院訴訟人儲存款、小額錢債審裁處訴訟人儲存款和勞資審裁處訴訟人儲存款，又以當然遺產管理官和精神病患者財產賬目聆案官的身分，管理遺產管理官賬目和精神病患者財產賬目。高等法院司法常務官亦負責備存大律師、律師和公證人的專業名冊。

### 專業要求

4.20 高等法院聆案官的委任資格為不少於 10 年的大律師或律師專業經驗。

### 2004 年作出的任命

4.21 2004 年沒有作出高等法院聆案官的任命。

## Masters of the High Court

### Duties and Responsibilities

4.18 The Registrar, Senior Deputy Registrars and Deputy Registrars of the High Court exercise part of the civil jurisdiction of the Court of First Instance. They carry out judicial duties such as hearing interlocutory and summary applications in chambers and conducting assessment of damages and interpleader trials in court. They also exercise the jurisdiction of a Taxing Master, Admiralty Registrar, Registrar of Civil Appeals and Registrar of Criminal Appeals. In addition, they have duties including taking evidence on commission, determining appeals against the decisions of the Director of Legal Aid on applications for legal aid, and supervising the service of foreign process in Hong Kong. They are also responsible for probate administration and the jury list.

4.19 In addition, the Registrar, High Court administers the High Court Suitors' Funds, the Small Claims Tribunal Suitors' Funds, the Labour Tribunal Suitors' Funds as well as the Official Administrator's Account and the Master-in-Lunacy Account in his ex officio capacity as Official Administrator and Master-in-Lunacy. He also keeps the professional Rolls of Barristers, Solicitors and Notaries Public.

### Professional Requirements

4.20 Ten years' professional experience as a barrister or solicitor has been adopted as the minimum requirement for appointment as a Master of the High Court.

### Appointments Made in 2004

4.21 No appointment of Master was made to the High Court in 2004.

## 區域法院及土地審裁處 District Court and Lands Tribunal

### 區域法院

5.1 區域法院根據《區域法院條例》(第336章)成立，具有刑事和民事司法管轄權，也包括婚姻訴訟司法管轄權。此外，區域法院亦根據多項條例，對各審裁處和法定團體行使有限的上訴司法管轄權。家事法庭是區域法院內的一個專責法庭。

### 首席區域法院法官

#### 職務及責任

5.2 首席區域法院法官是區域法院的領導。他除了要履行區域法院法官的職務外，還需要負責區域法院的行政管理，並向統領司法機構的終審法院首席法官負責。他亦負責確保司法資源和法庭時間能夠有效地運用，並負責就區域法院的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

#### 法例規定

5.3 首席區域法院法官所須具備的法定專業資格，與根據《區域法院條例》第5條委任區域法院法官所要求的相同(見附錄二)。

#### 2004年作出的任命

5.4 2004年沒有作出首席區域法院法官的任命。

### District Court

5.1 The District Court is established under the District Court Ordinance (Cap. 336). It has both criminal and civil jurisdictions, including matrimonial jurisdiction. It also exercises limited appellate jurisdiction from tribunals and statutory bodies conferred on it by various ordinances. The Family Court is a specialized court within the District Court.

### Chief District Judge

#### Duties and Responsibilities

5.2 The Chief District Judge is the Court Leader of the District Court. Apart from performing the duties of a District Judge, the Chief District Judge is responsible for the administration of the District Court and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the District Court.

#### Statutory Requirements

5.3 The statutory professional qualifications for the Chief District Judge are the same as those for a District Judge which are stipulated in section 5 of the District Court Ordinance (see Appendix 2).

#### Appointment Made in 2003

5.4 No appointment of Chief District Judge was made in 2004.

## 區域法院法官

### 職務及責任

5.5 區域法院的刑事及民事司法管轄權都是有限制的。區域法院法官負責聆訊區域法院的案件，作出判決。刑事司法管轄權方面，區域法院法官最高可判處的監禁刑期為7年。自2003年12月1日起，區域法院一般民事訴訟的申索限額已增至港幣100萬元。

### 法例規定

5.6 區域法院法官所須具備的法定專業資格，在《區域法院條例》第5條已經訂明（見附錄二）。

### 2004年作出的任命

5.7 2004年沒有作出區域法院法官的任命。

## 區域法院聆案官

### 職務及責任

5.8 區域法院司法常務官及區域法院副司法常務官這兩個新職級於2000年6月設立，使區域法院建立了聆案官制度。區域法院司法常務官與副司法常務官具有，並行使區域法院法官於內庭聆訊及非正審申請和處理所有事務的同等權力和司法管轄權。此外，他們亦負責處理類似司法職務及行政的事宜，包括管理區域法院訴訟人儲存金。

## District Judges

### Duties and Responsibilities

5.5 The responsibilities of a District Judge are to adjudicate upon cases heard in the District Court which has a limited criminal and civil jurisdiction. As far as criminal jurisdiction is concerned, the maximum sentence that can be imposed by a District Judge is seven years' imprisonment. The general civil jurisdiction of the District Court was raised to \$1 million with effect from 1 December 2003.

### Statutory Requirements

5.6 The statutory professional qualifications for appointment as a District Judge are stipulated in section 5 of the District Court Ordinance (see Appendix 2).

### Appointments Made in 2004

5.7 No appointment of District Judge was made in 2004.

## Masters of the District Court

### Duties and Responsibilities

5.8 In June 2000, two new ranks of Registrar, District Court and Deputy Registrar, District Court were created to set up a Master system in the District Court. The Registrar and Deputy Registrar, District Court have the same power to hear and determine all interlocutory applications, transact all businesses and exercise all the authority and jurisdiction that may be transacted and exercised by a District Judge in chambers. In addition, they undertake quasi-judicial and administrative duties which include administering the District Court Suitors' Funds.

### **專業要求**

5.9 委任區域法院司法常務官及區域法院副司法常務官所須具備的資格並沒有法例訂明。前者的職位通常由主任裁判官出任，而後者則由裁判官在互相調派的安排下出任。

### **2004 年作出的任命**

5.10 2004 年沒有作出區域法院聆案官的任命。

### **土地審裁處**

5.11 土地審裁處根據《土地審裁處條例》(第 17 章) 成立，有由不同條例賦予的司法管轄權，可處理租務申索、釐定政府收回土地或地價因發展而減值所須支付的補償、建築物的管理事宜、糾紛、差餉及估值上訴等。土地審裁處由庭長、土地審裁處法官及委任的其他成員組成。

### **土地審裁處庭長**

#### **職務及責任**

5.12 土地審裁處庭長是土地審裁處的領導。根據《土地審裁處條例》第 9 條，為使審裁處在法律施行方面前後一致，如庭長認為任何案件相當可能會涉及任何嶄新或困難的法律論點，或在顧及申索的性質或款額或任何其他因素後是具有特別重要性的，庭長須在切實可行範圍內，盡力就該案件行使審裁處的司法管轄權。庭長除了要開庭聆訊外，還要負責土地審裁處的行政管理，並向終審法院首席法官負責。

### **Professional Requirements**

5.9 There are no statutory requirements on the qualifications for appointment as Registrar, District Court and Deputy Registrar, District Court. The former was normally filled by a Principal Magistrate and the latter by Magistrates under the cross-posting arrangement.

### **Appointments Made in 2004**

5.10 No appointment of Master was made to the District Court in 2004.

### **Lands Tribunal**

5.11 The Lands Tribunal is established under the Lands Tribunal Ordinance (Cap. 17). It has jurisdiction under various ordinances and its jurisdiction includes dealing with tenancy claims, compensation assessments when land is resumed by Government or reduced in value by development, building management matters, disputes and rating and valuation appeals. It consists of a president, presiding officers and such other members as may be appointed.

### **President, Lands Tribunal**

#### **Duties and Responsibilities**

5.12 The President is the Court Leader of the Lands Tribunal. Section 9 of the Lands Tribunal Ordinance provides that for the purpose of achieving consistency in the application of the law by the Tribunal, the President shall endeavour, wherever practicable, to exercise the jurisdiction of the Tribunal in any case which, in his opinion, is likely to involve any new or difficult point of law or which, having regard to the nature or amount of the claim or any other factor, is of special importance. Apart from sitting, the President is responsible for the



## 第五章 CHAPTER 5

他亦須負責確保司法資源和法庭時間能夠有效地運用，並須負責就土地審裁處的運作和發展方面的政策事宜，向終審法院首席法官提供意見。

### 法例規定

5.13 《土地審裁處條例》第4(2)條規定，庭長須由其中一名高等法院法官出任，並須由行政長官委任（見附錄二）。

### 2004 年作出的任命

5.14 2004 年沒有作出土地審裁處庭長的任命。

### 土地審裁處法官

#### 職務及責任

5.15 土地審裁處法官聆訊土地審裁處司法管轄權範圍內的事宜，並就該等事宜作出裁定。

### 法例規定

5.16 《土地審裁處條例》第4(3)條規定，各區域法院法官及區域法院暫委法官，均憑藉其所任職位出任土地審裁處法官（見附錄二）。

administration of the Lands Tribunal and is accountable to the Chief Justice. He is responsible for ensuring the efficient utilization of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the Lands Tribunal.

### Statutory Requirements

5.13 Section 4(2) of the Lands Tribunal Ordinance provides that the President shall be one of the Judges of the High Court and shall be appointed by the Chief Executive (see Appendix 2).

### Appointment Made in 2004

5.14 No appointment of President, Lands Tribunal, was made in 2004.

### Presiding Officers, Lands Tribunal

#### Duties and Responsibilities

5.15 A Presiding Officer hears and determines matters within the jurisdiction of the Lands Tribunal.

### Statutory Requirements

5.16 Section 4(3) of the Lands Tribunal Ordinance provides that every District Judge and deputy District Judge shall by virtue of his office be a presiding officer (see Appendix 2).

## 土地審裁處成員

### 職務及責任

5.17 土地審裁處成員負責聆聽及裁決土地審裁處司法管轄權範圍內的事宜，但法律論點爭議則除外。法律論點的爭議通常由土地審裁處法官裁定。

### 法例規定

5.18 根據《土地審裁處條例》第4(4)條，土地審裁處成員可由律師或專業估值師出任（見附錄二）。

5.19 由於法律論點爭議通常是由土地審裁處法官處理，因此，估值師成員一般是香港測量師學會會員，或持有同等專業資格，並具有最少5年從事土地估價經驗的人士。

### 2004年作出的任命

5.20 2004年沒有作出土地審裁處成員的任命。林潮義先生於2002年8月12日獲委任土地審裁處成員，以填補一個因西九龍鐵路計劃預料土地審裁處案件會增加而加設的編制以外職位，任期為兩年。林先生已於2004年8月11日完成該兩年的合約。

## Members, Lands Tribunal

### Duties and Responsibilities

5.17 A member, Lands Tribunal hears and determines matters within the jurisdiction of the Lands Tribunal other than points of law, which are usually determined by the Presiding Officer.

### Statutory Requirements

5.18 In accordance with section 4(4) of the Lands Tribunal Ordinance, a member of the Lands Tribunal may be a lawyer or a professional valuer (see Appendix 2).

5.19 As points of law are usually dealt with by Presiding Officers, a valuer member is usually a Member of the Hong Kong Institute of Surveyors or holds an equivalent professional qualification, with at least five years' experience in the practice of land valuation.

### Appointments Made in 2004

5.20 No appointment of Member, Lands Tribunal, was made in 2004. Mr LAM Chiu-ye who was appointed on 12 August 2002 to fill a supernumerary post of Member, Lands Tribunal, created for two years to cope with the expected increase in caseload of the Lands Tribunal associated with the West Rail Project, completed his two-year agreement on 11 August 2004.

## 裁判法院、審裁處及死因裁判法庭 Magistrates' Courts, Tribunals and Coroner's Court

### 裁判法院

6.1 裁判法院的刑事司法管轄權範圍廣泛，有權審理多類可公訴罪行和簡易程序罪行。雖然就可公訴罪行，裁判官一般只能判兩年監禁，罰款則以港幣 10 萬元為限，但是愈來愈多條例賦予裁判官更大的權力，最高可判監禁3年，罰款亦可高達港幣 500 萬元。

### 審裁處及死因裁判法庭

6.2 勞資審裁處提供省時、簡便、廉宜的途徑，解決僱主和僱員之間的勞資糾紛。在勞資審裁處所申索的金額沒有上限，但必須在港幣8,000元以上。雙方當事人均不得由律師代表。

6.3 小額錢債審裁處採用簡單、廉宜、不拘形式的程序審理港幣 50,000 元或以下的金錢申索。雙方當事人均不得由律師代表。

6.4 淫褻物品審裁處有權裁定有關物品是否屬於淫褻或不雅，或某些公開展示的物品是否屬於不雅。該審裁處亦有權將有關物品分為第一類（既非淫褻、亦非不雅）、第二類（不雅）或第三類（淫褻）。

6.5 死因裁判官有權調查在香港須予報告的死亡個案。若有人在官方看管時死亡，或高等法院原訟法庭發出死因研訊指示，又或律政司司長要求進行死因研訊，死因裁判法庭必須就有關個案進行死因研訊。

### Magistrates' Courts

6.1 The Magistrates' Courts exercise criminal jurisdiction over a wide range of indictable and summary offences. Although there is a general restriction of two years' imprisonment, and a fine of \$100,000 for indictable offence, a growing number of ordinances empower Magistrates to impose sentences up to three years' imprisonment and fines up to \$5,000,000.

### Tribunals and Coroner's Court

6.2 The Labour Tribunal provides a quick, informal and inexpensive means to resolve disputes between employers and employees. There is no upper limit on the amount that may be claimed but the claim has to be over \$8,000. Legal representation is not allowed.

6.3 The Small Claims Tribunal provides a simple, inexpensive and informal procedure to deal with monetary claims not exceeding \$50,000. Legal representation is not allowed.

6.4 The Obscene Articles Tribunal has jurisdiction to determine whether an article is obscene or indecent, or whether a matter publicly displayed is indecent. It also has the power to classify an article as Class I (neither obscene or indecent), Class II (an indecent article) or Class III (an obscene article).

6.5 Coroners are empowered to investigate reportable deaths in Hong Kong. An inquest must be held in respect of deaths in official custody, or as directed by the Court of First Instance of the High Court or requested by the Secretary for Justice.

## 第六章 CHAPTER 6

6.6 各審裁處及死因裁判法庭的司法職位自 1988 年起便停止委任，其後有關的司法職位空缺改由裁判官在互相調派的安排下出任。

### 總裁判官

#### 職務及責任

6.7 總裁判官是各裁判法院、死因裁判法庭、勞資審裁處、小額錢債審裁處及淫褻物品審裁處的領導，負責這些法院和審裁處的行政管理，並向統領司法機構的終審法院首席法官負責。總裁判官亦負責確保司法資源和法庭時間能夠有效地運用，並負責就其管轄的法院和審裁處在運作和發展方面的政策事宜，向終審法院首席法官提供意見。

#### 2004 年作出的任命

6.8 2004 年沒有作出總裁判官的任命。

### 主任裁判官

#### 職務及責任

6.9 主任裁判官除了要履行裁判官的司法職務外，還須負責其主管的裁判法院的行政工作。主任裁判官亦須就各裁判法院的行政事宜向總裁判官提供意見。

6.6 Appointments to judicial offices in Tribunals and the Coroner's Court have ceased since 1988. Judicial vacancies thereof have been filled by the cross-posting of Magistrates instead.

### Chief Magistrate

#### Duties and Responsibilities

6.7 The Chief Magistrate is the Court Leader of the Magistrates' Courts, the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal and the Obscene Articles Tribunal. He is responsible for the administration of such Courts and Tribunals and is accountable to the Chief Justice who is the head of the Judiciary. He is responsible for ensuring the efficient utilization of judicial resources and court time, and advising the Chief Justice on matters of policy concerning the operation and development of the courts and tribunals under his purview.

#### Appointment Made in 2004

6.8 No appointment of Chief Magistrate was made in 2004.

### Principal Magistrates

#### Duties and Responsibilities

6.9 In addition to the judicial duties of a Magistrate, a Principal Magistrate has administrative responsibilities in the Magistrates' Court where he sits. Principal Magistrates are also called upon to assist the Chief Magistrate on matters relating to the administration of the Magistrates' Courts.

### **2004 年作出的任命**

6.10 2004 年沒有作出主任裁判官的任命。

### **裁判官**

#### **職務及責任**

6.11 裁判官須審理各裁判法院的案件。他們亦可被派往死因裁判法庭、勞資審裁處、小額錢債審裁處及淫褻物品審裁處出任死因裁判官、勞資審裁處審裁官、小額錢債審裁處審裁官及淫褻物品審裁處主審裁判官，或被派往區域法院聆案官法庭出任區域法院副司法常務官。

#### **專業要求**

6.12 裁判官的委任資格為必須具有不少於5年作為大律師或律師的專業經驗的人士。

### **2004 年作出的任命**

6.13 2004 年沒有作出裁判官的任命。

### **特委裁判官**

#### **職務及責任**

6.14 特委裁判官審理各裁判法院較輕微的罪行案件，例如非法擺賣和交通違例案件等，並可判處一般不超過港幣 10 萬元的罰款。

### **Appointments Made in 2004**

6.10 No appointment of Principal Magistrate was made in 2004.

### **Magistrates**

#### **Duties and Responsibilities**

6.11 Magistrates are required to try cases in the Magistrates' Courts. They may also be posted to the Coroner's Court, Labour Tribunal, Small Claims Tribunal and Obscene Articles Tribunal where they will sit as Coroners, Presiding Officers, Adjudicators and Presiding Magistrates respectively, or to the Masters' Office in the District Court where they will sit as Deputy Registrar, District Court.

#### **Professional Requirements**

6.12 Not less than five years' professional experience as a barrister or solicitor has been adopted as the minimum requirement for appointment as a Magistrate.

### **Appointments Made in 2004**

6.13 No appointment of Magistrate was made in 2004.

### **Special Magistrates**

#### **Duties and Responsibilities**

6.14 Special Magistrates are required to try relatively minor offences in the Magistrates' Courts such as illegal hawking and traffic offences. Their jurisdiction is generally limited to a maximum fine of \$100,000.

## 第六章 CHAPTER 6

### 專業要求

6.15 1998 年作出檢討後，特委裁判官的委任資格，自 1999 年起為須具有大律師或律師的專業法律資格，並具有 5 年與法律或司法有關的經驗。

### 2004 年作出的任命

6.16 2004 年並沒有作出特委裁判官的任命。

### Professional Requirements

6.15 Following a review in 1998, the possession of professional legal qualifications as a barrister or solicitor and five years' experience in a field relevant to legal or judicial work have been adopted as the minimum requirements for appointment as a Special Magistrate since 1999.

### Appointments Made in 2004

6.16 No appointment of Special Magistrate was made in 2004.

**2003年7月1日至2005年6月30日任期內司法人員推薦  
委員會主席及委員的簡歷**  
**Bio-data of the Chairman and Members of the Judicial  
Officers Recommendation Commission for the term  
1 July 2003 to 30 June 2005**

**主席**

**終審法院首席法官李國能**

李國能法官持有劍橋大學文學碩士及法學碩士學位。他在1970年獲得英國大律師執業資格，1973年獲得香港大律師執業資格，1988年獲委任為御用大律師。李國能法官在1997年7月1日獲委任為首任終審法院首席法官，在此之前他一直從事私人執業。他於1997年獲選為中殿律師學院名譽委員，並於1999年獲劍橋大學菲茨威廉學院頒授名譽院士名銜。他現時為聖保羅男女中學校董會副主席、清華大學法律系之友慈善信托基金受托人和清華大學客座教授。

**當然委員**

**律政司司長梁愛詩女士, GBM, JP**

梁愛詩女士在1968年取得律師資格後開始私人執業。她於1988年取得香港大學法學碩士學位，並於1997年7月1日成為首任香港特別行政區律政司司長，掌管律政司的人員，當中包括約300名律師。她現時為法律改革委員會、雙語法律制度委員會和執業律師聯絡委員會的主席。

**委員**

**終審法院常任法官陳兆愷**

陳兆愷法官在1974年畢業於香港大學，取得法學學士學位，並於1975年取得法學專業證書。他在1976年獲得香港大律師執業資格，1987年11月獲委任為地方

**Chairman**

**The Honourable Chief Justice Andrew LI Kwok-nang**

Chief Justice Li holds the degrees of Master of Arts and Master of Laws from the Cambridge University. He was called to the English Bar in 1970 and the Hong Kong Bar in 1973. In 1988, he was appointed Queen's Counsel. Chief Justice Li was in private practice before he was appointed as the first Chief Justice of the Court of Final Appeal on 1 July 1997. He was made an Honorary Bencher of the Middle Temple in 1997 and an Honorary Fellow of Fitzwilliam College Cambridge in 1999. He is the Vice Chairman of the Council of St. Paul's Co-Educational College. He is a trustee of the Friends of Tsinghua University Law School Charitable Trust and a Guest Professor of the Tsinghua University.

**Ex officio member**

**The Honourable Elsie LEUNG Oi-sie, GBM, JP**

Ms Leung was qualified as a solicitor and started her practice in 1968. She obtained her LLM degree from the University of Hong Kong in 1988. She became the first Secretary for Justice of the Hong Kong Special Administrative Region in July 1997. She heads the Department of Justice which has, among other staff, about 300 lawyers. She is currently the Chairman of the Law Reform Commission, the Committee on Bilingual Legal System, and the Legal Practitioners' Liaison Committee.

**Members**

**The Honourable Mr Justice Patrick CHAN Siu-oi**

Mr Justice Chan graduated from the University of Hong Kong with a Bachelor of Law degree in 1974 and a Postgraduate Certificate in Law in 1975. He was called to the Hong Kong Bar in 1976 and was in private practice

法院法官，在此之前他一直從事私人執業。陳兆愷法官於1991年1月獲委任為最高法院副經歷司，1992年5月獲委任為高等法院法官，1997年7月獲委任為高等法院首席法官，並於2000年9月獲委任為終審法院常任法官。陳兆愷法官是內殿律師學院的名譽委員，並為終審法院首席法官所設立的民事司法制度改革工作小組的主席和終審法院規則委員會成員。他亦是香港大學及香港城市大學法學專業證書改革學術委員會成員。

#### 高等法院法官彭鍵基

彭鍵基法官獲加拿大皇后大學頒授文學學士學位。他於1978年在英國和威爾斯取得大律師資格，1979年獲香港大律師執業資格，並於1983年在澳洲維多利亞省取得大律師執業資格。彭鍵基法官在1985年5月出任裁判司，在此之前他一直從事私人執業。他於1987年8月獲委任為地方法院法官，並在1997年1月獲委任為高等法院法官。彭鍵基法官現時為刑事法庭使用者委員會的主席，及司法機構的司法人員培訓委員會及資訊科技工作小組的成員，亦是退休公務員就業申請諮詢委員會及香港善導會的主席。彭鍵基法官也是香港大學和香港城市大學法學專業證書課程的總校外考試委員、香港大學專業法律教育系名譽講師、及由香港律師會主辦的海外律師資格考試的總考核委員。

until his appointment as a District Judge in November 1987. He was appointed Deputy Registrar, Supreme Court in January 1991 and a Judge of the High Court in May 1992. In July 1997, he was appointed Chief Judge of the High Court. In September 2000, he was appointed a Permanent Judge of the Court of Final Appeal. Mr Justice Chan is an Honorary Bencher of the Inner Temple. He was the Chairman of the Chief Justice's Working Party on Civil Justice Reform and a member of the Court of Final Appeal Rules Committee. He also sits on the Academic Boards on PCLL Reform of the University of Hong Kong and the City University of Hong Kong.

#### The Honourable Mr Justice PANG Kin-kee

Mr Justice Pang was awarded a Bachelor of Arts degree from the Queen's University, Canada. He was called to the Bar of England and Wales in 1978, and was admitted to the Hong Kong Bar in 1979 and the Bar of the State of Victoria, Australia in 1983. Mr Justice Pang was in private practice before joining the Judiciary as Magistrate in May 1985. He was appointed District Judge in August 1987 and Judge of the High Court in January 1997. Mr Justice Pang is the Chairman of the Criminal Court Users' Committee, and a member of the Judicial Studies Board and the Technology Working Group of the Judiciary. He is the Chairman of the Advisory Committee on Post-retirement Employment and the Society of Rehabilitation and Crime Prevention, Hong Kong. Mr Justice Pang is the Chief External Examiner of the PCLL courses of the University of Hong Kong and the City University of Hong Kong, and is an Honorary Lecturer in the Department of Professional Legal Education of the University of Hong Kong. He is also the Chief Examiner of the Overseas Lawyers Qualification Examination conducted by the Law Society of Hong Kong.



**李志喜資深大律師, JP**

李志喜女士為執業資深大律師，持有劍橋大學文學學士學位（法學文學士榮譽學位考試）。她於1971年在英國和威爾斯取得大律師執業資格，1978年獲得香港大律師執業資格，1990年獲委任為御用大律師，並於1994年取得新加坡最高法院訴訟代理人及律師資格。李志喜女士在1994年至1995年及1995年至1997年分別先後出任香港大律師公會副主席及主席。她現時為國際司法組織香港分會委員及主席、國際司法組織會員，及法學學士和法學碩士考試‘香港人權’科校外考試委員。

**蔡克剛先生, JP**

蔡克剛先生是執業律師，並為蔡克剛律師事務所合夥人。他於1976年分別在英國和威爾斯及香港取得律師執業資格，並在2000年5月至2002年5月期間出任香港律師會會長。蔡克剛先生現為法律改革委員會代陷於昏迷人士作決定及預先指示小組委員會成員，也是廉政公署審查貪污舉報諮詢委員會委員。他亦參予多項社會事務。

**馮國經博士, GBS**

馮國經博士為利豐行集團主席，持有美國麻省理工學院電機工程學學士及碩士學位，及哈佛大學商業經濟學博士學位。他現時為香港機場管理局主席和香港大學校務委員會主席。他在1991年至2000年期間出任香港貿易發展局主席。馮國經博士

**Ms Gladys Veronica LI Chi-hei, SC, JP**

Ms Li is a practising Senior Counsel. She holds the degree of Bachelor of Arts (Law Tripos) from the Cambridge University. She was called to the Bar of England and Wales in 1971 and the Hong Kong Bar in 1978. In 1990, she was appointed Queen's Counsel. She was admitted as an advocate and solicitor of the Supreme Court of Singapore in 1994. Ms Li was the Vice-Chairman and Chairman of the Hong Kong Bar Association from 1994 to 1995 and from 1995 to 1997 respectively. She serves as member of the Council and Chairman of 'JUSTICE', the Hong Kong Section of the International Commission of Jurists (the ICJ); Commission Member of the ICJ; and External Examiner in 'Human Rights in Hong Kong' for the LLB and LLM degree examinations.

**Mr Herbert TSOI Hak-kong, JP**

Mr Tsoi is a practising solicitor and is a Partner of Herbert Tsoi & Partners. He was admitted as Solicitor in England and Wales and in Hong Kong in 1976. Mr Tsoi was the President of the Law Society of Hong Kong from May 2000 to May 2002. He is a member of the Law Reform Commission Sub-committee on Decision-making for Comatose Persons and Advance Directives and the Operations Review Committee of the Independent Commission Against Corruption. He also participates in a number of community activities.

**Dr Victor FUNG Kwok-king, GBS**

Dr Fung is the Group Chairman of the Li & Fung group of companies. He was awarded a Bachelor and a Master Degree in Electrical Engineering from the Massachusetts Institute of Technology, and was made a Doctorate in Business Economics from Harvard University. Dr Fung is Chairman of the Hong Kong Airport Authority and

於 1995 年在香港商業年獎選舉中獲頒該年的商家獎，並於 1998 年獲選為該年的香港傑出領袖。

**陳永祺先生, GBS, JP**

陳永祺先生是長江製衣廠有限公司董事總經理、長江貿易有限公司董事、香港織造有限公司董事、亞洲電視有限公司行政總裁及美國銀行(亞洲)有限公司董事。他是香港貿易發展局前任理事(1991年至2003年)，現時為香港中華廠商聯合會永遠名譽會長、香港工商專業聯會副主席，及多個貿易團體的名譽主席/會長。

**張信剛教授, GBS, JP**

張信剛教授是香港城市大學校長及大學講座教授，持有國立台灣大學土木工程理學學士學位、史丹福大學結構工程理學碩士學位和西北大學生物醫學工程哲學博士學位。張信剛教授曾於北美洲多所著名大學學府任教，又曾服務於多個在美國和香港的科技組織和公眾諮詢團體。張教授在2000年至2003年曾出任香港文化委員會主席，及在2000年至2004年為創新科技顧問委員會成員。張信剛教授曾發表超過100篇科學論文，是兩份專題研究著作的編輯，並取得一項加拿大的專利註冊。他有5本著作，亦有多篇以中文撰寫的文章。

Chairman of the Hong Kong University Council. He was Chairman of the Hong Kong Trade Development Council from 1991 to 2000. Dr Fung was voted Businessman of the Year in the Hong Kong Business Awards in 1995 and was also chosen Hong Kong Leader of the Year in 1998.

**Mr CHAN Wing-kee, GBS, JP**

Mr Chan is the Managing Director of Yangtzekiang Garment Manufacturing Co Ltd; Director of YGM Trading Ltd; Director of Hong Kong Knitters Ltd; Chief Executive Officer of Asia Television Ltd and Director of Bank of America (Asia) Ltd. Mr Chan is the ex-Council Member of Hong Kong Trade Development Council (1991 to 2003). He is the Permanent Honorary President of The Chinese Manufacturers' Association of Hong Kong; Vice-Chairman of Business and Professional Federation of Hong Kong; and honorary chairman/president of a number of trade associations.

**Professor CHANG Hsin-kang, GBS, JP**

Professor Chang is the President and University Professor of City University of Hong Kong. He received his B.Sc. in Civil Engineering from National Taiwan University, M.S. in Structural Engineering from Stanford University and Ph.D. in Biomedical Engineering from Northwestern University. Professor Chang has taught at several major universities in North America, and has served in a number of science and technology organizations and public advisory bodies in both the US and Hong Kong. He was Chairman of the Culture and Heritage Commission from 2000 to 2003 and member of the Council of Advisors on Innovation and Technology from 2000 to 2004. He has published over 100 scientific articles, is the editor of two research monographs, and holds one Canadian patent. He is also the author of five books and many articles in Chinese.

### 終審法院首席法官及常任法官

### Chief Justice and Permanent Judges of the Court of Final Appeal

#### 《香港終審法院條例》(第484章)第12(1)及(2)條—

#### Sections 12(1) and (2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) –

- “(1) 任何以下人士均有資格獲委任為首席法官或常任法官—
- (a) 高等法院首席法官、上訴法庭法官或原訟法庭法官；或
  - (b) 在香港以大律師或律師身分執業最少 10 年的大律師。
- (2) 即使第(1)款已有規定，任何以下人士亦有資格獲委任為首任首席法官或為常任法官，且將會在終審法院聆訊首宗上訴前獲得委任—
- (a) 已退休的高等法院首席法官；
  - (b) 已退休的上訴法庭法官；或
  - (c) 已退休的原訟法庭法官。”

- “(1) A person shall be eligible to be appointed as the Chief Justice or as a permanent judge if he is –
- (a) the Chief Judge of the High Court, a Justice of Appeal or a judge of the Court of First Instance; or
  - (b) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years.
- (2) Notwithstanding subsection (1) a person shall also be eligible to be appointed as the first Chief Justice to be appointed or as a permanent judge to be appointed prior to the hearing of the first appeal by the Court if he is –
- (a) a retired Chief Judge of the High Court;
  - (b) a retired Justice of Appeal; or
  - (c) a retired judge of the Court of First Instance.”

### 終審法院非常任香港法官

### Non-permanent Hong Kong Judges of the Court of Final Appeal

#### 《香港終審法院條例》(第484章)第12(3)條—

#### Section 12(3) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) –

- “(3) 任何以下人士均有資格獲委任為非常任香港法官，不論他是否通常居住於香港—
- (a) 已退休的高等法院首席法官；
  - (b) 已退休的終審法院首席法官；
  - (c) 已退休的終審法院常任法官；

- “(3) A person shall be eligible to be appointed as a non-permanent Hong Kong judge if he is –
- (a) a retired Chief Judge of the High Court;
  - (b) a retired Chief Justice of the Court;
  - (c) a retired permanent judge of the Court;

- (d) 現職或已退休的上訴法庭法官；或
- (e) 在香港以大律師或律師身分執業最少 10 年的大律師。”

- (d) a Justice or retired Justice of Appeal; or
- (e) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years,  
whether or not he is ordinarily resident in Hong Kong.”

### **其他普通法適用地區非常任法官**

### **Non-permanent Judges from Other Common Law Jurisdictions**

#### **《香港終審法院條例》(第 484 章) 第 12(4) 條—**

#### **Section 12(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) –**

- “(4) 任何符合以下條件的人士均有資格獲委任為其他普通法適用地區法官—
- (a) 屬其他普通法適用地區的民事或刑事司法管轄權不設限的法院的現職或已退休法官者；而
  - (b) 他通常居住於香港以外地方；及
  - (c) 他從未在香港擔任過高等法院法官、區域法院法官或常任裁判官。”

- “(4) A person shall be eligible to be appointed as a judge from another common law jurisdiction if he is –
- (a) a judge or retired judge of a court of unlimited jurisdiction in either civil or criminal matters in another common law jurisdiction;
  - (b) a person who is ordinarily resident outside Hong Kong; and
  - (c) a person who has never been a judge of the High Court, a District Judge or a permanent magistrate, in Hong Kong.”

### **終審法院司法常務官**

### **Registrar of the Court of Final Appeal**

#### **《香港終審法院條例》(第 484 章) 第 42(2) 條—**

#### **Section 42(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) –**

- “(2) 司法常務官須由行政長官委任，而他所須具備的資格須與委任高等法院司法常務官所要求者相同。”

- “(2) The Registrar shall be appointed by the Chief Executive and shall possess the same qualifications as are required for appointment as the Registrar of the High Court.”

**高等法院法官及高等法院原訟法庭  
特委法官**

**《高等法院條例》（第4章）第6A(1)條—**

“(1) 總督<sup>3</sup>可委任一名根據第9(1)或(1A)條有資格獲委任為高等法院法官的人為原訟法庭特委法官，任期按藉以作出該委任的文書所指明者而定。”

**《高等法院條例》（第4章）第9條—**

“(1) 任何人如符合以下條件，即有資格獲委任為高等法院法官—

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為出庭代訟人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(b) 該人具有(a)段所述的資格，而在此之前則有資格在上述法院之一執業為律師，

而在上述任何一種情況中，該人在上述法院之一執業為出庭代訟人或律師最少已有10年。

(1A) 任何人如有資格執業為高等法院律師，並如此執業最少已有10年，亦有資格獲委任為高等法院法官。

**Judges of the High Court and Recorders of  
the Court of First Instance of the High Court**

**Section 6A(1) of the High Court Ordinance (Cap. 4) –**

“(1) The Governor<sup>3</sup> may appoint a person who is eligible to be appointed to be a judge of the High Court under section 9(1) or (1A), to be a recorder of the Court of First Instance for such period as may be specified in the instrument by which the appointment is made.”

**Section 9 of the High Court Ordinance (Cap. 4) –**

“(1) A person shall be eligible to be appointed to be a judge of the High Court if –

(a) he is qualified to practise as an advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

(b) he is qualified as mentioned in paragraph (a) and prior thereto was qualified to practise as a solicitor in such a court,

and, in either case, he has for at least 10 years practised as an advocate or solicitor in such a court.

(1A) A person shall also be eligible to be appointed to be a judge of the High Court if he is qualified to practise as a solicitor of the High Court and has for at least 10 years practised as such.

<sup>3</sup> 根據香港法例第2601章《香港回歸條例》的條文，對香港總督的提述，須解釋為對香港特別行政區行政長官的提述。  
In accordance with provisions of the Hong Kong Reunification Ordinance (Cap. 2601), any reference to the Governor of Hong Kong shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region.

(2) 任何人如符合以下條件，亦有資格獲委任為高等法院法官—

(a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為出庭代訟人，而該法院是在民事或刑事事宜上具有無限司法管轄權的；或

(b) 該人具有(a)段所述的資格，而在此之前則有資格在上述法院之一執業為律師，

而在上述任何一種情況中，在符合第(3)款的規定下，該人最少曾有10年是一—

(i) – (iii) (由1997年第14號第2條廢除)

(iv) 按照《區域法院條例》(第336章)第4或7條委任的區域法院法官；

(v) 根據《裁判官條例》(第227章)第5條以令狀委任的常任裁判官；

(vi) 《律政人員條例》(第87章)第2條所界定的律政人員；

(vii) (由1993年第8號第6條廢除)

(viii) 按照《法律援助條例》(第91章)第3條委任的法律援助署署長、副署長或助理署長或法律援助主任；

(ix) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或

(2) A person shall also be eligible to be appointed to be a judge of the High Court if –

(a) he is qualified to practise as an advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; or

(b) he is qualified as mentioned in paragraph (a) and prior thereto was qualified to practise as a solicitor in such a court,

and, in either case, he has, subject to subsection (3), for at least 10 years –

(i) – (iii) (Repealed 14 of 1997 s. 2)

(iv) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);

(v) been a permanent magistrate appointed by warrant under section 5 of the Magistrates Ordinance (Cap. 227);

(vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

(vii) (Repealed 8 of 1993 s. 6)

(viii) been a Director, Deputy Director, Assistant Director of Legal Aid or Legal Aid Officer appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

(ix) been an Official Receiver, Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

- (x) 按照《知識產權署署長（設立）條例》（第 412 章）第 3 條委任的知識產權署署長、副署長或助理署長或高級律師。
- (2A) 任何人如符合以下條件，亦有資格獲委任為高等法院法官—
- (a) 該人是香港或任何其他普通法適用地區的任何法院的律師，而該法院是在民事或刑事事宜上具有無限司法管轄權的；
- (b) 該人最少在過去 2 年內及在現時（而總計最少有 5 年）受僱於香港官方<sup>4</sup>從事司法或法律工作；及
- (c) 在符合第(4)款的規定下，該人最少曾有 10 年是一—
- (i) 在該等法院之一執業為出庭代訟人或律師；或
- (ii) 受僱從事(b)段所描述的服務。
- (3) 為計算第(2)款所提述的 10 年期間，可將在該款第(iv)至(x)段其中任何一段範圍以內各段不足 10 年的期間合併計算，並可將在第(2)(a)款所提述的任何一所法院執業為出庭代訟人或律師的期間計算在內。
- (4) 為計算第(2A) (c)款所提述的 10 年期間，可將在第(2)款第(iv)至(x)段其中任何一段範圍以內各段不足 10 年的期間計算在內，並可將在第(2A) (c)款第(i)及(ii)節範圍以內的各段不足 10 年的期間合併計算。
- (x) been a Director, Deputy Director or Assistant Director of Intellectual Property or a Senior Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).
- (2A) A person shall also be eligible to be appointed to be a judge of the High Court if –
- (a) he is a solicitor of a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters;
- (b) he is and has been for the previous 2 years at least, and in aggregate for at least 5 years, employed in the service of the Crown<sup>4</sup> in Hong Kong on judicial or legal work; and
- (c) he has, subject to subsection (4), for at least 10 years either –
- (i) practised as an advocate or solicitor in such a court; or
- (ii) been employed in such service as is described in paragraph (b).
- (3) For the purposes of calculating the period of 10 years referred to in subsection (2), periods of less than 10 years falling within any of paragraphs (iv) to (x) of that subsection may be combined, and there may be included in such period, any period of practice as an advocate or solicitor in any of the courts referred to in subsection (2)(a).
- (4) For the purposes of calculating the period of 10 years referred to in subsection (2A)(c) there may be included any period of less than 10 years falling within any of paragraphs (iv) to (x) of subsection (2), and periods of less than 10 years falling within subparagraphs (i) and (ii) of subsection (2A)(c) may be combined.

<sup>4</sup> 根據香港法例第 2601 章《香港回歸條例》的條文，對官方的提述，須解釋為對香港特別行政區政府的提述。  
In accordance with provisions of the Hong Kong Reunification Ordinance (Cap. 2601), any reference to the Crown shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.

- (5) 為計算第(2)款所指的 10 年期間，儘管《註冊總署署長（人事編制）條例》（第 100 章）已被廢除，擔任該已被廢除條例所指明的職位的期間仍可計算在內。”

### 區域法院法官

#### 《區域法院條例》（第 336 章）第 5 條—

- “(1) 除下述的人外，任何人不得根據第 4 條獲委任為區域法院法官—
- (a) 該人在香港或任何其他普通法適用地區的任何法院有資格執業為出庭代訟人或律師，而該法院是在民事或刑事方面具有無限司法管轄權的；及
  - (b) 自具有如此的資格後，該人已有一段不少於 5 年的期間或在不同期間而合共不少於 5 年的期間是—
    - (i) 在該等法院之一執業為出庭代訟人或律師；或
    - (ii) – (iv) (由 1997 年第 14 號第 3 條廢除)
    - (v) 根據《裁判官條例》（第 227 章）第 5 條以令狀委任的常任裁判官；或
    - (vi) 《律政人員條例》（第 87 章）第 2 條所界定的律政人員；或
    - (vii) (由 1993 年第 8 號第 26 條廢除)
    - (viii) 按照《法律援助條例》（第 91 章）第 3 條委任的法律援助署署長、副署長、助理署長或法律援助主任；或

- (5) For the purposes of calculating the period of 10 years under subsection (2), periods served in an office specified in the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.”

### District Judges

#### Section 5 of the District Court Ordinance (Cap. 336) –

- “(1) No person shall be appointed to be a District Judge under section 4 unless –
- (a) he is qualified to practise as an advocate or as a solicitor in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
  - (b) since becoming so qualified he has for a period of or periods totalling not less than 5 years –
    - (i) practised as an advocate or solicitor in such a court; or
    - (ii) – (iv) (Repealed 14 of 1997 s. 3)
    - (v) been a permanent magistrate appointed by warrant under section 5 of the Magistrates Ordinance (Cap. 227); or
    - (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87); or
    - (vii) (Repealed 8 of 1993 s. 26)
    - (viii) been a Director, Deputy Director, Assistant Director of Legal Aid or Legal Aid Officer appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91); or



- (ix) 按照《破產條例》(第6章)第75條委任的破產管理署署長、助理破產管理署署長(法律)、助理首席律師、高級律師或律師；或
- (x) 按照《知識產權署署長(設立)條例》(第412章)第3條委任的知識產權署署長、副署長或助理署長或高級律師。

(2) 為計算上述的5年期間，可將在第(1)款(b)段各節範圍以內各段不足5年的期間合併計算。

(3) 為計算根據第(1)款的5年期間，儘管《註冊總署署長(人事編制)條例》(第100章)已予廢除，但曾擔任該已被廢除條例所指明而只限由具有法律專業資格的人擔任的職位的期間，亦可計算在內。”

### 土地審裁處庭長

#### 《土地審裁處條例》(第17章)第4(2)條—

“(2) 庭長須由其中一名高等法院法官出任，並須由行政長官委任。”

- (ix) been an Official Receiver, Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (x) been a Director, Deputy Director or Assistant Director of Intellectual Property or a Senior Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purpose of calculating such period of 5 years, periods of less than 5 years falling within any of the sub-paragraphs of paragraph (b) of subsection (1) may be combined.

(3) For the purposes of calculating the period of 5 years under subsection (1), periods served in an office specified in the repealed Registrar General (Establishment) Ordinance (Cap. 100) appointment to which was restricted to legally qualified persons may be taken into account notwithstanding the repeal of that Ordinance.”

### President, Lands Tribunal

#### Section 4(2) of the Lands Tribunal Ordinance (Cap. 17)–

“(2) The President shall be one of the Judges of the High Court and shall be appointed by the Chief Executive.”

**土地審裁處法官**

《土地審裁處條例》(第17章)第4(3)條—

“(3) 各區域法院法官及區域法院暫委法官，均憑藉所任職位出任法官。”

**土地審裁處成員**

《土地審裁處條例》(第17章)第4(4)條—

“(4) 除第(2)及(3)款及第6A條另有規定外，審裁處的成員須為由行政長官所委任的符合以下說明的人士—

- (a) 具有法律專業資格；或
- (b) 行政長官認為是在從事土地估價方面或在關乎審裁處法律程序的某些其他範疇具備足夠經驗出任審裁處成員的。”

**Presiding Officer, Lands Tribunal**

**Section 4(3) of the Lands Tribunal Ordinance (Cap. 17) –**

“(3) Every District Judge and deputy District Judge shall by virtue of his office be a presiding officer.”

**Members, Lands Tribunal**

**Section 4(4) of the Lands Tribunal Ordinance (Cap. 17) –**

“(4) Subject to subsections (2) and (3) and section 6A, members of the Tribunal shall be such persons appointed by the Chief Executive who are –

- (a) qualified in law; or
- (b) in the opinion of the Chief Executive, sufficiently experienced in the practice of land valuation or some other subject relevant to the proceedings of the Tribunal to sit as members of the Tribunal.”