

LCQ22: Non-permanent judges from other common law jurisdictions

Following is a question by the Hon Tony Tse and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (December 18):

Question:

Under the Basic Law, the Hong Kong Court of Final Appeal Ordinance (Cap. 484) and the Judicial Officers Recommendation Commission Ordinance (Cap. 92), the Chief Executive may, on the recommendation of the Judicial Officers Recommendation Commission (JORC) and upon the endorsement of the Legislative Council, appoint judges from the common law jurisdictions outside Hong Kong as non-permanent judges from other common law jurisdictions (other CLJ judges) of the Court of Final Appeal (CFA). The candidates for such judges are generally put forward by the Judiciary for JORC's consideration. Since the reunification of Hong Kong, only judges/retired judges from the United Kingdom (UK), Australia, New Zealand and Canada have been appointed as other CLJ judges, and 10 out of the 15 current other CLJ judges come from UK. In this connection, will the Government inform this Council:

- (1) whether it knows, since the reunification of Hong Kong, the jurisdiction from which each of the appointed other CLJ judges came and the number of CFA cases heard by each of them;
- (2) whether it knows the criteria and procedures based on which the Judiciary identifies the candidates for other CLJ judges;
- (3) whether it knows, since the reunification of Hong Kong, if the Judiciary has put forward candidates from jurisdictions other than UK, Australia, New Zealand and Canada for other CLJ judges; if the Judiciary has not, of the reasons for that;
- (4) whether it knows if JORC may consider candidates for other CLJ judges, apart from those put forward by the Judiciary, put forward by other persons or those who nominate themselves; if JORC may, whether JORC has considered any candidate of this type since the reunification of Hong Kong; if JORC may not, of the reasons for that; and
- (5) whether the Government and the Judiciary conducted any review in the past 10 years of the procedure for identifying and recommending candidates for other CLJ judges; if so, of the review outcome; if not, whether they will conduct such a review shortly?

Reply:

President,

Based on the information provided by the Judiciary, the Government

should like to reply to the Question as follows:

(1) The non-permanent Judges from other common law jurisdictions of the Court of Final Appeal (CLNPs) have come from the United Kingdom, Australia, New Zealand and Canada. Details are at Annex.

The Court of Final Appeal (CFA) has invited a CLNP to sit on the Court to hear and determine almost all of the substantive appeals, save for a few exceptions, since July 1, 1997. The Judiciary does not have readily available statistics on the number of CFA cases heard by each CLNP.

(2) In accordance with Article 92 of the Basic Law (BL 92), judges of the HKSAR shall be chosen on the basis of their judicial and professional qualities. The Judicial Officers Recommendation Commission (JORC) makes recommendations to the Chief Executive (CE) on all judicial appointments in strict accordance with BL 92.

All CLNPs are judges or retired judges of the most eminent standing with profound judicial experience who enjoy the highest professional status and reputation, with good track records of judicial services in their respective jurisdictions, all of which are common law jurisdictions with whose legal systems Hong Kong has the closest connection. Many of them were/are retired Chief Justices of their respective jurisdictions.

(3) and (4) The discussions of JORC should be kept strictly confidential and should not be disclosed. According to section 11 of the Judicial Officers Recommendation Commission Ordinance (Cap. 92), if any JORC member or other person, without the CE's permission, publishes or discloses to any unauthorised person 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 Ordinance, he shall be guilty of an offence.

(5) According to Article 88 of the Basic Law, judges of the courts of the Hong Kong Special Administrative Region (including CLNPs) shall be appointed by the CE on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors. The JORC is the independent commission. The mechanism has been working satisfactorily. The Chief Justice has advised the Government that there is no need to review the existing mechanism at the moment. The Government agrees with the position of the Chief Justice.

LCQ20: Compliance with the Water Pollution Control Ordinance by the

catering industry

Following is a question by the Hon Steven Ho and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (December 18):

Question:

At present, the Environmental Protection Department (EPD) regulates the discharge of wastewater from restaurants and food factories through the Water Pollution Control Ordinance (WPCO) (Cap. 358) and the relevant licencing system. A licence under WPCO (Licence) specifies, for compliance by the licensee, the effluent standards and relevant terms and conditions, including the quantitative limits on oil and grease in wastewater that may be discharged. For instance, restaurants and food factories are required to use grease traps to separate oil and grease from wastewater before discharging wastewater into communal sewers. The EPD has published a booklet entitled "Grease Traps for Restaurants and Food Processors" to help members of the catering industry understand and comply with the requirements of the licence. Some members of the catering industry have pointed out that some new technologies for oil and grease treatment have emerged in the market in recent years (e.g. grease separators, biological treatment and chemical treatment), which are more effective than the grease traps currently in use. As such new technologies are not mentioned in the EPD's guidelines and the aforesaid booklet, members of the industry are worried that the EPD may refuse to grant a Licence in respect of sewage treatment systems using those new technologies. This situation has restrained the application of such new technologies, rendering it impossible for the industry to reduce their operation costs and hindering the industry's development. In addition, members of the industry are unfamiliar with the law relating to sewage discharge and therefore rely heavily on the Government providing guidelines via the aforesaid booklet. In this connection, will the Government inform this Council:

(1) of the number of enquiries about the Licence that the EPD received from members of the catering industry in the past five years, and the relevant follow-up actions;

(2) of the details of the EPD's law enforcement in the past five years regarding the compliance with the requirements under Cap. 358 by the catering industry (including the numbers of inspections conducted, complaints handled, prosecutions instituted and convicted cases); whether, in addition to taking law enforcement actions, the EPD has rendered support to members of the industry to assist them in complying with the relevant requirements;

(3) of the amount of resources allocated by the EPD in the past five years for the development of new technologies for treating the oil and grease in wastewater;

(4) when the EPD compiled the aforesaid booklet; when the booklet was being compiled by the EPD, of the criteria adopted and whether members of the public were consulted on its contents; whether the booklet has been amended or updated; if so, of the number of times for which amendments were made so far and the date on which amendments were last made; if not, whether the EPD will update the booklet on a regular basis to facilitate the promotion of new and effective oil and grease treatment technologies; if the EPD will, of the details; if not, the reasons for that; and

(5) whether the EPD organised any seminar in the past five years to promote new oil and grease treatment technologies to the catering industry; if not, of the channels through which the industry may learn of such new technologies?

Reply:

President,

Reply to the question raised by the Hon Steven Ho is as follows:

(1) Figures on the enquiries received by the Environmental Protection Department (EPD) from members of the catering industry between 2014 and 2019 (as at November) regarding the licence granted under the Water Pollution Control Ordinance (WPCO) for the discharge of wastewater (Licence) are as follows:

Year	2014	2015	2016	2017	2018	2019
						(as at November)
Enquiries	18	27	30	41	36	43

The enquiries mainly concerned whether a Licence would be required and the related application procedures. Upon receipt of enquiries from the catering sector, the EPD always explains in detail the particulars required for making applications and renders necessary assistance.

(2) Statistics on the EPD's enforcement actions taken under the WPCO in relation to the catering industry from 2014 to 2019 (as at November) are as follows:

Year	2014	2015	2016	2017	2018	2019
						(as at November)
Inspections	1 823	1 598	1 897	1 696	1 653	1 587
Complaints	186	202	161	207	229	338
Prosecutions (Convictions)	5 (4)	10 (10)	6 (5)	3 (3)	3 (3)	7 (7)

In addition to taking enforcement actions, the EPD officers will also

brief restaurant operators on the legal requirements concerned during their inspections. Relevant information on environmental protection as well as the WPCO provisions will also be provided through various channels such as seminars, dedicated websites and information leaflets to facilitate the catering sector's access to necessary green information and guidelines on pollution control technologies. The relevant websites are as follows:

Green Restaurant:

www.epd.gov.hk/epd/english/greenrestaurant/

Guidelines and References:

www.epd.gov.hk/epd/english/greenrestaurant/guidelines/guidelines.html

When processing applications for a Licence, the EPD will not mandate the types of or technologies for the grease removal devices to be installed by the applicants. Having regard to their individual circumstances such as the quantity and quality of wastewater to be generated and the space available, as well as the corresponding treatment efficacy required, the applicants may select suitable grease traps or other grease removal devices/technologies, with a view to meeting the statutory effluent standards. Apart from the booklet on "Grease Traps for Restaurants and Food Processors" as mentioned in the question, the EPD also jointly prepared the "Environmental Guidebook for the Restaurant Trade" (the Guidebook) with the catering sector in 2002, covering practical green measures, latest technologies and management tips. New technologies on oil and grease treatment as mentioned in the question are also covered in the Guidebook, including the use of chemical coagulants, air flotation, and grease removal devices adopting biological agents and electro-coagulation. In recent years, certain newly developed grease removal devices (e.g. grease separators, biological treatment and chemical treatment) basing on the oil and grease treatment technologies introduced in the Guidebook have also emerged in the market to provide solutions to meet different requirements of the sector.

(3) Under the Recycling Fund, the Government supports the upgrading of the operational capabilities and efficiency of the recycling sector to promote the recovery, treatment and recycling of waste, including oil and grease in wastewater. The recycling sector is welcome to apply for subsidies under the Fund to develop new technologies for treating oil and grease in wastewater. Separately, if tertiary institutes and non-profit-making organisations are interested in conducting research and development projects in relation to new technologies for treating oil and grease in wastewater, they may also apply for funding through the Environmental Research, Technology Demonstration and Conference Projects under the Environment and Conservation Fund.

(4) To facilitate compliance with the WPCO by the catering sector, the EPD has prepared and disseminated various publicity posters, green information booklets, guidelines and leaflets. All these have been uploaded to the Green Restaurant website, furnishing members of the sector with recommendations on and solutions to pollution control. As these materials are prepared for the purposes of reference and not policy-making, they are generally compiled in consultation or collaboration with the catering sector only, without any

public consultation. The EPD duly updates the websites and information concerned to advise the sector on the latest green information and technologies. The booklet on "Grease Traps for Restaurants and Food Processors" as mentioned in the question was prepared by the EPD in 1996 with a view to meeting the needs of the majority of restaurants and eateries, taking into account factors such as the quality and quantity of wastewater generation, space available of the restaurants, efficacy of the treatment facilities, cost effectiveness, operation and maintenance requirements etc. Based on experience gained and feedback from the catering sector, the booklet was revised and supplemented in 1999 and 2000.

(5) Through regular participation in the bi-monthly Seminar on Restaurant Licensing organised by the Food and Environmental Hygiene Department, the EPD delivers briefings and reference materials on relevant green information to the catering sector to facilitate their environmental compliance, including that with the WPCO requirements. Besides, the Green Restaurant website set up by the EPD also duly uploads and updates green information relating to the catering industry for its members' reference. To further enhance the sector's access to the latest pollution control equipment and technical support available in the market, the EPD has compiled the List of Environmental Pollution Control Equipment Suppliers/Contractors for the catering industry. The wastewater treatment facilities set out therein includes relevant devices such as grease traps. The List has been uploaded to the Green Restaurant website

(www.epd.gov.hk/epd/sites/default/files/epd/english/greenrestaurant/suppliers/files/sc_contractorlist_&_disclaimer_201906p.pdf).

LCQ17: Importation of foreign workers in catering industry

Following is a question by the Hon Poon Siu-ping and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-king, in the Legislative Council today (December 18):

Question:

All along, employers may apply for importation of foreign workers under the Supplementary Labour Scheme. It is learnt that the number of cooks imported through the Scheme has continued to rise in recent years. In this connection, will the Government inform this Council:

(1) Of the respective numbers of foreign workers in the catering industry the importation of whom (a) was applied for by employers and (b) was approved, in each of the past five years and from January to November this year, and set out by position the (i) numbers and (ii) median monthly wages of the foreign

workers who were approved to come to work in Hong Kong, and a breakdown of the number of cooks among such workers by the cuisine in which they are specialised (e.g. Sichuan cuisine, Thai cuisine); and

(2) As some employees in the catering industry have pointed out that the economic downturn in Hong Kong in recent months has led to salary reduction for or dismissal of a large number of employees in the industry, whether the authorities will consider suspending the vetting and approval of applications for importation of foreign cooks, so as not to further reduce the employment opportunities of local workers; if so, of the details; if not, the reasons for that?

Reply:

President,

My reply to the Member's question is as follows:

(1) During 2014 to 2018, employers of the catering industry applied to import 146, 224, 275, 315 and 302 cooks respectively each year under the Supplementary Labour Scheme (SLS). The numbers of imported cooks approved respectively in each of these five years were 90, 85, 94, 126 and 155. The vetting of applications received towards year-end may be completed in the following year, and hence the number of imported workers approved in the year does not correspond to the number of imported workers applied for in the same year. As the statistics of SLS are compiled on a yearly basis, the collation of the relevant statistics of 2019 will be completed in the first quarter of 2020. The Labour Department (LD) does not keep statistics of imported workers by other job titles in the catering industry or by the cuisine in which the cooks are specialised.

According to the requirements of SLS, imported workers must be remunerated at not less than the median monthly wages of the relevant job titles as published by the Census and Statistics Department. The median monthly wages applicable to the job title of cooks as at the end of the above five years are as follows:

As at the end of the year	Median monthly wage*
2014	\$12,650 to \$16,610
2015	\$13,350 to \$17,170
2016	\$13,540 to \$17,880
2017	\$14,230 to \$18,950
2018	\$14,730 to \$19,440

* The median monthly wages of the job title of cooks depend on the duties and skill levels. For example, the median monthly wages applicable to the job

title of cooks as at the end of 2018 ranged from \$14,730 (Pantry Cook/Saucier) to \$19,440 (Barbecue Cook/No. 2 Cook).

LD does not keep statistics on the median monthly wages of imported workers approved for the catering industry under SLS.

(2) It is the established policy of the Government that employers must accord employment priority to local workers. Only employers with genuine difficulties in local recruitment may be allowed to import workers.

For the purpose of upholding employment priority for local workers, employers are required under SLS to launch a four-week open recruitment exercise to accord priority to filling job vacancies with local workers. Upon completion of the above recruitment procedures by employers, LD will analyse each application so as to assess whether the employer has sincerity to recruit/train local workers, its genuine need for manpower, size of its local workforce, and the views of training bodies/professional organisations on the local manpower supply situation of the job title concerned, etc. LD will then invite members of the Labour Advisory Board (LAB) to give views on the recommendation made by LD. The Commissioner for Labour will thoroughly assess various factors and the views and justifications provided by LAB members, before approving or refusing the application concerned for importation of labour as appropriate.

LD will continue to uphold the principle of according employment priority to local workers and prudently process SLS applications.

LCQ19: Settling government bills

Following is a question by the Hon Alvin Yeung and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (December 18):

Question:

At present, the Government provides a number of payment channels for members of the public to settle government bills. In this connection, will the Government inform this Council:

(1) whether the operators of the various payment channels have charged the Government for any transaction fees; if so, of the methods for calculating such fees (e.g. calculated on a yearly or a per-transaction basis) and the levels of such fees (e.g. a flat fee or a certain percentage of the transaction amount), and set out the relevant information according to the payment channels as set out in the table below; and

Payment channel (if there is more than one operator in respect of the same payment channel, and the various operators have put in place different arrangements, please set them out one by one)	Method for calculating fees	Level of fees
PPS		
Faster Payment System		
Internet banking		
Phone banking		
e-Cheque		
Convenience store		
Others (please specify)		

(2) of the public expenditure incurred by the Government in each of the past five years for the provision of online payment services?

Reply:

President,

My reply to the two parts of the question is as follows:

(1) The Government currently provides various payment channels for members of the public to settle government bills. Transaction fees are paid to the operators according to the contracts. The relevant payment channels and methods for calculating the transaction fees are as follows:

Payment channel	Method for calculating transaction fees
PPS	Fixed fee per transaction
Faster Payment System	
Internet banking (including credit card, bank transfer etc.)	
Phone banking	
Convenience store	
Others (Autopay, automatic teller machine, Electronic Bill Presentment and Payment service, post office and postal remittance)	

Information of the transaction fee level of individual payment channels

above are commercially sensitive and hence could not be provided. Overall speaking, the average expenditure incurred by the Government for each transaction settled through the payment channels above is around \$3.

e-Cheques are collected through the "Pay e-Cheque" portal operated by the Government. No transaction fee to the operator is involved.

(2) The expenditure incurred by the Government in each of the past five years for the provision of electronic payment services through the payment channels mentioned above is as follows:

Financial year	\$ (Million)
2014-15	17.4
2015-16	17.9
2016-17	18.8
2017-18	21.8
2018-19	22.0

Fraudulent website related to China CITIC Bank International Limited

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) wishes to alert members of the public to a press release issued by China CITIC Bank International Limited on fraudulent website, which has been reported to the HKMA. Hyperlink to the press release is available on the [HKMA website](#) for ease of reference by members of the public.

Anyone who has provided his or her personal information to the website concerned or has conducted any financial transactions through the website should contact the bank concerned using the contact information provided in the press release, and report to the Police or contact the Cyber Security and Technology Crime Bureau of the Hong Kong Police Force at 2860 5012.