

Commencement Notice for Part 2 of Statute Law (Miscellaneous Provisions) Ordinance 2020 concerning amendments to High Court Ordinance (Cap. 4) gazetted

The following is issued on behalf of the Judiciary:

The Commencement Notice to give effect to Part 2 of the Statute Law (Miscellaneous Provisions) Ordinance 2020 (the Ordinance) which introduces amendments to the High Court Ordinance (Cap. 4) was published in the Gazette today (November 13).

The Chief Justice has appointed January 18, 2021, as the day on which Part 2 of the Ordinance comes into operation. In this regard, relevant sections in Cap. 4 are amended to streamline court procedures and to facilitate the processing of cases. Specifically, Part 2 of the Ordinance seeks to:

(a) amend section 34B(4) of Cap. 4 to extend the use of a 2-Judge bench of the Court of Appeal (i.e. "2-Judge CA") to determine:

(i) applications for leave to appeal to the Court of Final Appeal against the decisions made by the Court of Appeal (CA) consisting of less than 3 Justices of Appeal; and

(ii) appeals against the Court of First Instance (CFI)'s decisions to refuse to grant leave to apply for judicial review or to grant such leave on terms;

(b) amend section 34B(5) of Cap. 4 so that when the "2-Judge CA" in various types of proceedings cannot reach a unanimous decision, in addition to a party being allowed to apply to re-argue the case before a "3-Judge CA", the Court may also make such an order on its own motion; and

(c) amend sections 4(2) and 5(2) of Cap. 4 to clarify that an additional judge in the CFI or the CA has the power to dispose of cases on paper without physically "sitting" in court.

A spokesman for the Judiciary said, "The amendments seek to facilitate the processing of cases in the CA, including judicial review involving non-refoulement claims. If more cases are to be heard by a '2-Judge CA' instead of a '3-Judge CA', it would increase the flexibility in deployment of judicial manpower for taking up other court cases, hence putting judicial resources to their best use.

"Furthermore, the amendments also clarify the powers of the additional CFI or CA judge, as the case may be, to dispose of cases on paper. This

provides a clear legal basis for the Judiciary to promote just, expeditious and economical disposals of proceedings on paper where appropriate, thus increasing the overall efficiency of case handling."

The Commencement Notice will be tabled in the Legislative Council for negative vetting on November 18, 2020.