

LC: Opening remarks by CS for proposed resolution on appointment of the Chief Justice of the Court of Final Appeal

Following is the opening remarks (translated from Chinese) made by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in moving the proposed resolution under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) on appointment of the Chief Justice of the Court of Final Appeal in the Legislative Council meeting today (June 18):

Mr President,

I move that the motion under my name, as printed in the Agenda, be passed, that is, this Council endorses the appointment of the Honourable Mr Justice Andrew Cheung Kui-nung as the Chief Justice of the Court of Final Appeal (CFA).

Constitutional and statutory framework

The CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. The Chief Justice is the President of the CFA and the head of the Judiciary. He is charged with the administration of the Judiciary and the execution of various statutory powers and functions vested in him.

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. The Judicial Officers Recommendation Commission (JORC) is the statutory body constituted by the Judicial Officers Recommendation Commission Ordinance (Cap. 92) to perform the functions of the independent commission referred to in Article 88 of the Basic Law.

In the case of the appointment of the Chief Justice, Article 90 of the Basic Law provides that the Chief Executive shall, in addition to following the procedures prescribed in Article 88 of the Basic Law, obtain the endorsement of the Legislative Council (LegCo) and report such appointment to the Standing Committee of the National People's Congress for the record.

Pursuant to Article 92 of the Basic Law, judges of the HKSAR shall be chosen on the basis of their judicial and professional qualities. Further, Article 90 of the Basic Law stipulates that the Chief Justice of the CFA of the HKSAR shall be a Chinese citizen who is a permanent resident of the HKSAR with no right of abode in any foreign country.

The Judicial Officers Recommendation Commission Ordinance stipulates that the JORC should consist of the Chief Justice as the Chairman, the Secretary for Justice (SJ) and seven other members appointed by the Chief Executive. They include two judges, one barrister appointed after consultation with the Bar Council of the Hong Kong Bar Association, one solicitor appointed after consultation with the Council of the Law Society of Hong Kong, and three persons not connected in any way with the practice of law.

The current appointment

The incumbent Chief Justice, Mr Geoffrey Ma, will retire on January 11, 2021. The JORC held three meetings during the period from November 2019 to January 2020 to decide on the selection procedures and the appointment criteria for shortlisting candidates suitable for appointment as the next Chief Justice, and to consider the recommendation of a suitable candidate for such appointment. Having completed the selection process in accordance with the agreed procedures, the JORC has recommended to the Chief Executive the appointment of Mr Justice Cheung, Permanent Judge of the CFA, as the Chief Justice of the CFA with effect from January 11, 2021.

Mr Justice Cheung was a pre-eminent barrister when he joined the Judiciary in 2001. He was appointed the Chief Judge of the High Court in 2011, leading the High Court both judicially and administratively. He was later appointed as a Permanent Judge of the CFA in October 2018.

Mr Justice Cheung is a judge of high integrity and is widely respected both within the Judiciary and the legal profession. Mr Justice Cheung is a highly competent judge. He has written many important and landmark judgments on major and complicated cases, including constitutional and public law cases. As the Chief Judge of the High Court from 2011 to 2018, Mr Justice Cheung had to discharge very onerous administrative duties. He is also the key advisor to the Chief Justice on strategic matters and court operation issues. It is evident that Mr Justice Cheung possesses rich administrative experience and exemplary leadership qualities to discharge the responsibilities as the head of the Judiciary.

The Chief Executive has accepted the recommendation of the JORC on the appointment of Mr Justice Cheung as the Chief Justice of the CFA. Subject to the endorsement of this Council, the appointment shall take effect on January 11, 2021.

In accordance with the procedures previously endorsed by the the House Committee of LegCo, the Government informed the House Committee on March 24, 2020 that the Chief Executive had accepted the recommendation of the JORC on this appointment. Representatives from the Government and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointment on May 26, 2020 and answered Members' questions. I would like to thank Dr Honourable Priscilla Leung Mei-fun, Chairman of the Subcommittee, and other Members of the Subcommittee for their support of the proposed appointment.

With these remarks, I invite Members to endorse the appointment. Thank you.