

## HONG KONG COURT OF FINAL APPEAL ORDINANCE

## 香港終審法院條例

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## HONG KONG

ORDINANCE NO. 79 OF 1995

L.S.

I assent.

Mrs. Anson CHAN,  
Acting Governor.  
3 August 1995

An Ordinance to establish a Court of Final Appeal for Hong Kong, and for matters incidental thereto and connected therewith.

[1 July 1997]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

## PART I

## GENERAL

## 1. Short title and commencement

(1) This Ordinance may be cited as the Hong Kong Court of Final Appeal Ordinance.

(2) This Ordinance shall not come into operation on or before 30 June 1997 and the following day shall be the day for the coming into operation of the Ordinance, which shall be amended as necessary to ensure that it is in full conformity with the Basic Law.

## 2. Interpretation

In this Ordinance, unless the context otherwise requires—

“Appeal Committee” (上訴委員會) means the Appeal Committee established under section 18;

“barrister” (大律師) has the same meaning as in the Legal Practitioners Ordinance (Cap. 159);

“Chief Justice” (首席大法官) means the Chief Justice of the Court;

“civil cause or matter” (民事訟案或事項) means a cause or matter other than a criminal cause or matter;

“Court” (終審法院、終審法院審判庭) means the Hong Kong Court of Final Appeal;

“High Court” (高等法院) means the High Court of Justice;

香 港

1995年第79號條例

公印位置

本人批准。

陳方安生，  
署理總督  
1995年8月3日

本條例旨在設立香港終審法院，以及就附帶及相關事宜，訂定條文。

[1997年7月1日]

由香港總督參照立法局意見並得該局同意而制定。

## 第I部

## 一般規定

## 1. 簡稱及生效日期

(1) 本條例可引稱為《香港終審法院條例》。

(2) 本條例不得在1997年6月30日當日或之前實施，而翌日須為本條例的實施日期。本條例並須經過必需的修改，以確保完全符合《基本法》。

## 2. 釋義

在本條例中，除文意另有所指外——

“大法官”(judge)指終審法院大法官，包括首席大法官、常任大法官及非常任大法官；

“大律師”(barrister)的涵義與《執業律師條例》(第159章)中該詞的涵義相同；

“上訴委員會”(Appeal Committee)指根據第18條設立的上訴委員會；

“司法常務官”(Registrar)指根據第42條委任的終審法院司法常務官；

“民事訟案或事項”(civil cause or matter)指非刑事性的訟案或事項；

“其他普通法適用地區大法官”(judge from another common law jurisdiction)指根據第9條委任為其他普通法適用地區大法官的大法官；

“非常任大法官”(non-permanent judge)指非常任香港大法官或獲委任為其他普通法適用地區大法官的大法官；

- “judge” (大法官) means a judge of the Court, including the Chief Justice, a permanent judge and a non-permanent judge;
- “judge from another common law jurisdiction” (其他普通法適用地區大法官) means a judge appointed as a judge from another common law jurisdiction under section 9;
- “legal officer in the Attorney General’s Chambers” (律政署的律政人員) means a person holding one of the offices in the Attorney General’s Chambers mentioned in the Schedule to the Legal Officers Ordinance (Cap. 87);
- “non-permanent Hong Kong judge” (非常任香港大法官) means a judge appointed as a non-permanent Hong Kong judge under section 8;
- “non-permanent judge” (非常任大法官) means a non-permanent Hong Kong judge or a judge appointed as a judge from another common law jurisdiction;
- “permanent judge” (常任大法官) means a judge appointed as a permanent judge under section 7;
- “Registrar” (司法常務官) means the Registrar of the Court appointed under section 42;
- “solicitor” (律師) has the same meaning as in the Legal Practitioners Ordinance (Cap. 159).

### 3. Establishment of the Court

There shall be a Hong Kong Court of Final Appeal which shall be a superior court of record.

### 4. Jurisdiction of the Court

(1) The Court shall have the jurisdiction conferred on it under this Ordinance and by any other law.

(2) The Court shall have no jurisdiction over acts of state such as defence and foreign affairs.

(3) The Court shall obtain a certificate from the Governor on questions of fact concerning acts of state whenever such questions arise in the adjudication of cases, and that certificate shall be binding on the Court.

(4) Before issuing such a certificate the Governor shall obtain a certifying document from the Government of the United Kingdom of Great Britain and Northern Ireland.

### 5. Constitution of the Court

- (1) The following shall be the judges of the Court—
- (a) the Chief Justice; and
  - (b) the permanent judges.

- “非常任香港大法官” (non-permanent Hong Kong judge) 指根據第 8 條委任為非常任香港大法官的大法官；
- “律政署的律政人員” (legal officer in the Attorney General’s Chambers) 指在律政署中擔任《律政人員條例》(第 87 章) 附表所述的其中某一職位的人員；
- “律師” (solicitor) 的涵義與《執業律師條例》(第 159 章) 中該詞的涵義相同；
- “首席大法官” (Chief Justice) 指終審法院的首席大法官；
- “常任大法官” (permanent judge) 指根據第 7 條委任為常任大法官的大法官；
- “終審法院”、“終審法院審判庭” (Court) 指香港終審法院、香港終審法院審判庭。

### 3. 終審法院的設立

現設立一香港終審法院，該法院是一所高級紀錄法院。

### 4. 終審法院的司法管轄權

(1) 終審法院具有根據本條例及其他法律賦予它的司法管轄權。

(2) 終審法院對國防、外交等國家行為無司法管轄權。

(3) 終審法院在審理案件中遇有涉及國家行為的事實問題，須取得總督就該等問題發出的證明文件，而上述證明文件對終審法院具約束力。

(4) 在發出該證明文件前，總督須自大不列顛及北愛爾蘭聯合王國政府取得證明書。

### 5. 終審法院的組成

- (1) 以下大法官為終審法院的大法官——
- (a) 首席大法官；及
  - (b) 常任大法官。

(2) The Court may as required invite non-permanent Hong Kong judges to sit on the Court.

(3) The Court may as required invite judges from other common law jurisdictions to sit on the Court.

(4) When sitting as a member of the Court pursuant to subsection (2) or (3) a judge shall be deemed to be a member of the Court.

(5) Subject to section 7(2) there shall be not less than 3 permanent judges.

(6) Where the Chief Justice is ill or absent for any cause, the Governor shall appoint the next most senior permanent judge who is eligible to be appointed as the Chief Justice, to act as Chief Justice, with all the powers and functions of the Chief Justice, that seniority being determined in accordance with the order of precedence prescribed in section 11 with the judge having the highest precedence being regarded as the most senior.

## 6. Chief Justice

(1) The Chief Justice shall be appointed by the Governor acting in accordance with the recommendation of the Judicial Officers Recommendation Commission.

(2) 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 from time to time be lawfully conferred on him.

(3) A Justice of Appeal or a judge of the High Court appointed as Chief Justice shall cease to be a Justice of Appeal or a judge of the High Court.

## 7. Appointment of permanent judges

(1) The permanent judges of the Court shall be appointed by the Governor acting in accordance with the recommendation of the Judicial Officers Recommendation Commission.

(2) If the office of any permanent judge becomes vacant, by death or otherwise and the number of permanent judges is thereby reduced to less than 3, the Governor acting in accordance with the recommendation of the Judicial Officers Recommendation Commission shall as soon as reasonably possible after the office becomes vacant appoint another permanent judge to fill the vacancy.

(3) A Justice of Appeal or a judge of the High Court appointed as a permanent judge shall cease to be a Justice of Appeal or a judge of the High Court.

## 8. List of non-permanent Hong Kong judges

(1) There shall be a list to be known as the list of non-permanent Hong Kong judges.

(2) 終審法院可根據需要邀請非常任香港大法官參加終審法院的審判。

(3) 終審法院可根據需要邀請其他普通法適用地區大法官參加終審法院的審判。

(4) 當一名大法官依據第(2)或(3)款以終審法院成員身分參加審判時，他須被當作為終審法院的成員。

(5) 在不抵觸第7(2)條的條文下，常任大法官的人數不得少於3名。

(6) 凡首席大法官患病或因任何因由缺勤，總督須委任一名有資格獲委任為首席大法官且在首席大法官之下資歷最高的常任大法官擔任署理首席大法官，並在署理期間擁有首席大法官的所有權力及職能；有關大法官的資歷高低，須按照第11條訂明的排名方法決定，排名最前者視為資歷最高。

## 6. 首席大法官

(1) 首席大法官須由總督根據司法人員推薦委員會的推薦委任。

(2) 首席大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不時委予他的職能。

(3) 任何上訴法院大法官或高等法院大法官，一經獲委任為首席大法官，即終止擔任上訴法院大法官或高等法院大法官的職位。

## 7. 常任大法官的委任

(1) 終審法院常任大法官須由總督根據司法人員推薦委員會的推薦委任。

(2) 如任何常任大法官的職位因該常任大法官去世或其他原因而出缺，以致常任大法官的人數減至不足3名，則總督須根據司法人員推薦委員會的推薦，在該職位出缺後，在合理可能的範圍內盡快委任另一名常任大法官填補該空缺。

(3) 任何上訴法院大法官或高等法院大法官，一經獲委任為常任大法官，即終止擔任上訴法院大法官或高等法院大法官的職位。

## 8. 非常任香港大法官名單

(1) 現設一稱為“非常任香港大法官名單”的名單。

(2) The list shall consist of judges appointed by the Governor acting in accordance with the recommendation of the Judicial Officers Recommendation Commission, as non-permanent Hong Kong judges.

#### 9. List of judges from other common law jurisdictions

(1) There shall be a list to be known as the list of judges from other common law jurisdictions.

(2) The list shall consist of judges appointed by the Governor acting in accordance with the recommendation of the Judicial Officers Recommendation Commission, as judges from other common law jurisdictions.

#### 10. Limit on number of non-permanent judges

The total number of persons holding office as non-permanent judges shall not at any one time exceed 30.

#### 11. Precedence of judges

The judges of the Court, the non-permanent Hong Kong judges and the judges from other common law jurisdictions shall take precedence in the following order—

- (a) the Chief Justice;
- (b) the permanent judges who amongst themselves shall rank according to the priority of their respective appointments;
- (c) the non-permanent Hong Kong judges who amongst themselves shall rank according to the priority of their respective appointments to the list of non-permanent Hong Kong judges; and
- (d) the judges from other common law jurisdictions who amongst themselves shall rank according to the priority of their respective appointments to the list of judges from other common law jurisdictions.

#### 12. Qualifications of judges

(1) A person shall be eligible to be appointed as the Chief Justice or as a permanent judge if he is—

- (a) the Chief Justice of the Supreme Court, a Justice of Appeal or a judge of the High Court; or
- (b) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years.

(2) 該名單須由獲總督根據司法人員推薦委員會的推薦委任為非常任香港大法官的大法官所構成。

#### 9. 其他普通法適用地區大法官名單

(1) 現設一稱為“其他普通法適用地區大法官名單”的名單。

(2) 該名單須由獲總督根據司法人員推薦委員會的推薦委任為其他普通法適用地區大法官的大法官所構成。

#### 10. 非常任大法官人數的限制

擔任非常任大法官職位的人士的總人數，無論在任何時候均不得超逾 30 名。

#### 11. 大法官的排名次序

終審法院大法官、非常任香港大法官及其他普通法適用地區大法官的排名須按以下次序——

- (a) 首席大法官；
- (b) 常任大法官，而他們之間的排名須按他們獲委任該職的日期先後決定；
- (c) 非常任香港大法官，而他們之間的排名須按他們獲委列入非常任香港大法官名單的日期先後決定；及
- (d) 其他普通法適用地區大法官，而他們之間的排名須按他們獲委列入其他普通法適用地區大法官名單的日期先後決定。

#### 12. 大法官所須具備的資格

(1) 任何以下人士均有資格獲委任為首席大法官或常任大法官——

- (a) 最高法院首席大法官、上訴法院大法官或高等法院大法官；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) 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 Justice of the Supreme Court;
- (b) a retired Justice of Appeal; or
- (c) a retired judge of the High Court.

(3) A person shall be eligible to be appointed as a non-permanent Hong Kong judge if he is—

- (a) a retired Chief Justice of the Supreme Court;
- (b) a retired Chief Justice of the Court;
- (c) a retired permanent judge of the Court;
- (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.

(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 Supreme Court, a District Judge or a permanent magistrate, in Hong Kong.

### 13. Prohibition on practice as barrister or solicitor

A person who has been appointed as the Chief Justice, a permanent judge or a non-permanent judge shall not be entitled to practise as a barrister or solicitor in Hong Kong either while he holds office as such a judge or at any time after he ceases for any reason to hold office as such a judge and shall be deemed upon and by virtue of such appointment to be not qualified to practise as a barrister or solicitor.

### 14. Tenure of office

(1) The Chief Justice and permanent judges shall vacate their offices when they attain the retiring age.

(2) Notwithstanding subsection (1)—

- (a) subject to paragraphs (b) and (c) the terms of office of the Chief Justice and of permanent judges may be extended for not more than 2 periods of 3 years by the Governor acting, in the case of the Chief Justice, in accordance with the recommendation of the

(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大法官或為常任大法官，且將會在終審法院聆訊首宗上訴前獲得委任——

- (a) 已退休的最高法院首席大法官；
- (b) 已退休的上訴法院大法官；或
- (c) 已退休的高等法院大法官。

(3) 任何以下人士均有資格獲委任為非常任香港大法官，不論他是否通常居住於香港——

- (a) 已退休的最高法院首席大法官；
- (b) 已退休的終審法院首席大法官；
- (c) 已退休的終審法院常任大法官；
- (d) 現職或已退休的上訴法院大法官；或
- (e) 在香港以大律師或律師身分執業最少10年的大律師。

(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大法官——

- (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最高法院大法官、地方法院法官或常任裁判官。

### 13. 禁止以大律師或律師身分執業

已獲委任為首席大法官、常任大法官或非常任大法官的人士，無權在他擔任上述大法官職位的期間內或在他由於任何原因終止擔任上述大法官職位之後的任何時間，在香港以大律師或律師身分執業，而且須當作自獲委任為上述大法官之日起，並由於該項委任之故，沒有資格以大律師或律師身分執業。

### 14. 任期

(1) 首席大法官及常任大法官須於到達退休年齡時離任。

(2) 即使第(1)款已有規定——

- (a) 除(b)及(c)段另有規定外，首席大法官的任期可由總督根據司法人員推薦委員會的建議延期，常任大法官的任期則可由總督根據首席大法官的建議延期，而兩者的任期均可延續不超過2次，每次續期為3年，並在此

Judicial Officers Recommendation Commission and, in the case of permanent judges, in accordance with the recommendation of the Chief Justice and in any such case the Chief Justice or permanent judge, as the case may be, shall accordingly be regarded as having attained the retiring age at the expiration of that extended period;

- (b) subject to paragraph (c) a person who has attained the age of 65 years may be appointed to be the Chief Justice or to be a permanent judge for a term of 3 years and that term may be extended for one period of 3 years by the Governor acting, in the case of the Chief Justice, in accordance with the recommendation of the Judicial Officers Recommendation Commission and, in the case of a permanent judge, in accordance with the recommendation of the Chief Justice;
- (c) a person may be appointed pursuant to section 12(2) to be the Chief Justice or to be a permanent judge for a term of 3 years.

(3) There shall be no retiring age for a non-permanent judge.

(4) A non-permanent judge shall hold office for a term of 3 years but that term may be extended for one or more periods of 3 years by the Governor acting in accordance with the recommendation of the Chief Justice.

(5) A judge may at any time resign his office by notice in writing addressed to the Governor.

(6) A judge may be removed from office only for inability to discharge his duties (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (7), (8) or (9).

(7) The Chief Justice may be removed only by the Governor, on the recommendation of a tribunal of judges appointed by the Governor and consisting of not fewer than 5 members each one of whom is either a permanent judge or a non-permanent Hong Kong judge.

(8) A permanent or non-permanent judge may be removed only by the Governor, on the recommendation of a tribunal of judges appointed by the Chief Justice and consisting of not fewer than 3 members each one of whom is either a permanent judge or a non-permanent Hong Kong judge.

(9) If the question of removing a judge from office is being investigated by a tribunal the Governor may suspend the judge from performing the functions of his office.

(10) Any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect if the tribunal recommends that the judge ought not to be removed from office.

(11) In this section and section 15 “retiring age” (退休年齡) means the age of 65 years.

續期情況下，當續期屆滿時，首席大法官或常任大法官(視屬何情況而定)須被視為已達退休年齡；

- (b) 除(c)段另有規定外，可獲委任為首席大法官或常任大法官而已達65歲的人士，其任期為3年，而首席大法官的任期可由總督根據司法人員推薦委員會的建議延期，常任大法官的任期則可由總督根據首席大法官的建議延期，而兩者的任期均可延續一次，為期3年；

(c) 可依據第12(2)條獲委任為首席大法官或常任大法官的人士，其任期為3年。

(3) 對於非常任大法官，並無指定退休年齡。

(4) 非常任大法官的任期為3年，但總督可根據首席大法官的建議，將非常任大法官的任期延續一次或一次以上，每次續期為3年。

(5) 大法官可隨時以書面通知總督而辭職。

(6) 大法官只可因他無力履行其職責(不論是否因其體力或智力衰弱或其他因由所致)或其行為不檢而被免職，但須按照第(7)、(8)或(9)款的規定被免職。

(7) 首席大法官只可由總督根據其所委任的大法官審議庭的建議予以免職；審議庭由不少於5名常任大法官或非常任香港大法官的成員所組成。

(8) 常任大法官或非常任大法官只可由總督根據首席大法官所委任的大法官審議庭的建議予以免職；審議庭由不少於3名常任大法官或非常任香港大法官的成員所組成。

(9) 如審議庭正就某大法官的免職問題進行調查，總督可着令該大法官暫停執行其職能。

(10) 總督可隨時將上述暫停執行職能事撤銷，而如審議庭建議某大法官不應被免職，則無論如何，該項暫停執行職能事須即停止生效。

(11) 在本條及第15條中，“退休年齡”(retiring age)指65歲。



## 15. Continuing powers of judges

Notwithstanding the fact that he has attained the retiring age or that his term of office has for any reason expired, a judge may continue to sit as and perform all the functions of a member of the Court for as long as may be necessary to enable the Court to deliver judgment or do any other thing in relation to proceedings that were commenced, before he attained that age or before his term of office expired, in the Court of which he was then sitting as a member.

## 16. Hearing of appeals

(1) Subject to subsection (4), an appeal shall be heard and determined by the Court constituted as follows—

- (a) the Chief Justice or a permanent judge designated to sit in his place under subsection (2);
- (b) 3 permanent judges nominated by the Chief Justice; and
- (c) 1 non-permanent Hong Kong judge or 1 judge from another common law jurisdiction selected by the Chief Justice and invited by the Court.

(2) The Chief Justice shall be President of the Court, and where he is not available for any cause to hear an appeal he shall designate a permanent judge to sit in his place and be President.

(3) Where pursuant to subsection (2) a judge is sitting in place of the Chief Justice the Court must still consist of 5 judges.

(4) Where a sufficient number of permanent judges are not available for any cause to hear an appeal, the Chief Justice shall nominate a non-permanent Hong Kong judge to sit in place of a permanent judge.

(5) The judgment or order which is that of the majority of the judges sitting shall be deemed to be the judgment or order of the Court.

(6) If there is no judgment or order which is that of the majority of the judges sitting, a rehearing shall be ordered.

(7) If a judge is absent for any cause after the hearing of the appeal has commenced but before the determination of the appeal, the appeal may with the consent of all the parties be continued with the remaining judges being not less than 4.

(8) No judge shall sit as a member of the Court on the hearing of, or on the determination of any application in proceedings incidental or preliminary to—

- (a) an appeal from a judgment or order made by him or by a court in which he was sitting as a member;
- (b) an appeal against a conviction before him or a sentence passed by him.

## 15. 大法官的持續權力

即使某大法官已達退休年齡，或其任期因某一原因而屆滿，但倘若該大法官在他未達退休年齡前或其任期未屆滿前，以終審法院成員身分參加審判的案件的程序已開始，則他可以該身分繼續參加審判及執行其所有職能，直至終審法院對該案件作出判決或就該案件作出其他處理為止。

## 16. 上訴的聆訊

(1) 在符合第(4)款的規定下，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) 首席大法官或根據第(2)款指定代替首席大法官參加審判的常任大法官；
- (b) 3名由首席大法官委派的常任大法官；及
- (c) 由首席大法官挑選並由終審法院邀請的1名非常任香港大法官或1名其他普通法適用地區大法官。

(2) 首席大法官須出任終審法院審判庭庭長，但如他由於某一因由以致未能出庭聆訊上訴，則他須指定一名常任大法官代替他參加審判並擔任終審法院審判庭庭長。

(3) 凡依據第(2)款由某名大法官代替首席大法官參加審判，終審法院審判庭仍須由5名大法官組成。

(4) 凡由於某一因由以致出庭聆訊上訴的常任大法官人數不足，則首席大法官須委派一名非常任香港大法官代替一名常任大法官參加審判。

(5) 任何由過半數參加審判的大法官所作的判決或命令，須當作為終審法院審判庭所作的判決或命令。

(6) 如未能由參加審判的大法官作出過半數的判決或命令，則須命令重新聆訊。

(7) 如某大法官由於某一因由以致在一宗上訴聆訊開始後但未作出判決前在該聆訊中缺席，則在該上訴案中各方的同意下，可由餘下的大法官繼續審判，但大法官人數不得少於4名。

(8) 任何大法官不得就以下上訴的聆訊，或就在以下上訴的附帶或初步法律程序中有關申請的裁定，以終審法院審判庭的成員身分參加審判——

- (a) 就由他作出或由他以成員身分參加審判的法庭所作出的判決或命令而提出的上訴；
- (b) 針對在他席前所作判罪或針對由他所作判刑而提出的上訴。

**17. Powers of the Court**

(1) The Court may confirm, reverse or vary the decision of the court from which the appeal lies or may remit the matter with its opinion thereon to that court, or may make such other order in the matter, including any order as to costs, as it thinks fit.

(2) For the purpose of disposing of an appeal, the Court may exercise any powers of the court from which the appeal lies (including the power to order a retrial), or may remit the case to that court.

(3) Where the Court restores a conviction, it may make—

(a) any order for the restitution of property which the court of trial could have made; and

(b) any compensation order which the court of trial could have made under section 73 of the Criminal Procedure Ordinance (Cap. 221).

(4) The Court may from time to time adjourn the hearing of any appeal.

(5) Any provision in this or any other Ordinance which authorizes or requires the taking of any steps for the execution or enforcement of a judgment or order of the Court of Appeal or the High Court applies in relation to a judgment or order of the Court as it applies in relation to a judgment or order of the Court of Appeal or the High Court.

**18. Appeal Committee**

(1) There shall be an Appeal Committee consisting of—

(a) the Chief Justice and 2 permanent judges nominated by the Chief Justice; or

(b) 3 permanent judges nominated by the Chief Justice.

(2) The power of the Court to hear and determine any application for leave to appeal shall be exercised by the Appeal Committee.

(3) The decision of the Appeal Committee shall be final and not itself subject to appeal.

**PART II****CIVIL****19. Interpretation**

In this Part, unless the context otherwise requires—

“appeal” (上訴) means appeal to the Court in any civil cause or matter;

“Court of Appeal” (上訴法院) includes a single judge of the Court of Appeal, where the matter in question is one which properly appertains to a single judge of the Court of Appeal;

**17. 終審法院的權力**

(1) 終審法院可確認、推翻或更改上訴所針對的法院決定，或將有關事項發還該法院處理並附上終審法院的指引意見，或對有關事項作出它認為適當的其他命令，包括就訟費作出命令。

(2) 為處理上訴，終審法院可行使上訴所針對的法院所具有的任何權力（包括命令重審的權力），或可將案件發還該法院處理。

(3) 凡終審法院回復定罪的裁決，可作出以下命令——

(a) 原審法庭本可作出的復還財產令；及

(b) 原審法庭本可根據《刑事訴訟程序條例》(第221章)第73條作出的補償令。

(4) 終審法院可不時將上訴的聆訊押後。

(5) 在本條例或其他條例的條文中准許或規定採取步驟以執行或強制執行上訴法院或高等法院的判決或命令者，均適用於終審法院的判決或命令，一如該等條文適用於上訴法院或高等法院的判決或命令。

**18. 上訴委員會**

(1) 現設立一上訴委員會，由以下成員組成——

(a) 首席大法官及2名由首席大法官委派的常任大法官；或

(b) 3名由首席大法官委派的常任大法官。

(2) 終審法院聆訊及決定是否接納上訴許可申請的權力，須由上訴委員會行使。

(3) 上訴委員會的決定是最終的決定，而對上訴委員會的決定不得提出上訴。

**第II部****民事****19. 釋義**

在本部中，除文意另有所指外——

“上訴”(appeal)指就任何民事訟案或事項向終審法院提出的上訴；

“上訴法院”(Court of Appeal)包括上訴法院的單一名大法官，如有關上訴事項是可適當地由上訴法院的單一名大法官處理者；

“judgment” (判決) includes decree, order or decision;  
 “record” (紀錄) means the aggregate of papers relating to an appeal (including the pleadings, evidence and judgments) proper to be laid before the Court on the hearing of the appeal.

## 20. Application

This Part applies to appeals in any civil cause or matter.

## 21. Civil jurisdiction

The civil jurisdiction of the Court shall consist of appeals under this Part and under any other law.

## 22. Civil appeals

- (1) An appeal shall lie to the Court in any civil cause or matter—
- (a) as of right, from any final judgment of the Court of Appeal, where the matter in dispute on the appeal amounts to or is of the value of \$1,000,000 or more, or where the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of \$1,000,000 or more; and
  - (b) at the discretion of the Court of Appeal or the Court, from any other judgment of the Court of Appeal, whether final or interlocutory, if, in the opinion of the Court of Appeal or the Court, as the case may be, the question involved in the appeal is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the Court for decision.

(2) The Governor in Council may by order published in the Gazette amend subsection (1) to vary the amounts specified.

## 23. Leave to appeal

- (1) No appeal shall be admitted unless either—
- (a) leave to appeal has been granted by the Court of Appeal; or
  - (b) in the absence of such leave, leave has been granted by the Court.
- (2) Where an appeal lies of right, leave to appeal shall not be refused but shall, in the first instance, be granted as conditional leave in accordance with section 25.

“判決” (judgment) 包括判令、命令或決定；  
 “紀錄” (record) 指與某一上訴有關而積存的文件 (包括申訴答辯書、證供及判決書)，而該等文件是在終審法院聆訊上訴時適宜呈堂者。

## 20. 適用範圍

本部適用於就任何民事訟案或事項提出的上訴。

## 21. 民事司法管轄權

終審法院的民事司法管轄權包含處理根據本部及根據任何其他法律提出的上訴。

## 22. 民事上訴

- (1) 在以下情況下，可就任何民事訟案或事項向終審法院提出上訴——
- (a) 如上訴是就上訴法院的最終判決提出，而上訴爭議的事項所涉及的款額或價值達 \$1,000,000 或以上，或上訴是直接或間接涉及對財產的申索或有關財產的問題，或直接或間接涉及民事權利，而所涉及的款額或價值達 \$1,000,000 或以上，則終審法院須視提出該上訴為一項當然權利而受理該上訴；及
  - (b) 如該上訴是就上訴法院的其他判決提出，不論是最終判決或非正審判決，而上訴法院或終審法院 (視屬何情況而定) 認為上訴所涉及的問題具有重大廣泛的或關乎公眾的重要性，或因其他理由，以致應交由終審法院裁決，則上訴法院或終審法院須酌情決定終審法院是否受理該上訴。
- (2) 總督會同行政局可在憲報刊登命令，修訂第 (1) 款以更改其內所指明的款額。

## 23. 上訴許可

- (1) 終審法院不得受理任何上訴，除非——
- (a) 上訴法院已給予上訴許可；或
  - (b) 終審法院已給予上訴許可 (如上訴法院未給予此項許可)。
- (2) 如提出某一上訴是一項當然的權利，則有關法院不得拒絕給予上訴許可，而須首先按照第 25 條給予有條件的許可。

## 24. Applications for leave to appeal

(1) Applications to the Court of Appeal or the Court for leave to appeal shall be made by motion.

(2) Notice of a motion for the purpose of subsection (1) shall be filed within 28 days from the date of the judgment to be appealed from, and the applicant shall give the opposite party 7 days notice of his intended application and such notice may be given at any time during the period of 28 days.

(3) If an application for leave is refused by the Court of Appeal, an application may be made to the Court for leave and such application shall be made by motion.

(4) Notice of a motion for the purpose of subsection (3) shall be filed within 28 days from the date on which the application for leave is refused by the Court of Appeal, and the applicant shall give the opposite party 7 days notice of his intended application and that notice may be given at any time during the period of 28 days.

(5) The Court of Appeal or the Court, as the case may be, may, on such terms as it considers appropriate, by order extend the period within which the applicant is required or authorized by subsection (2) or (4) to do any act.

(6) The Court of Appeal or the Court, as the case may be, may extend any such period as is referred to in subsection (5) even though the application for extension is not made until after the expiration of that period.

## 25. Grant of leave to appeal

(1) Where the Court of Appeal or the Court decides or is required to grant leave to appeal pursuant to an application made under section 24 it may grant leave subject to such conditions as it considers necessary.

(2) Without restricting the generality of subsection (1) leave granted under subsection (1) may be granted—

(a) upon a condition that the appellant shall enter into good and sufficient security, for the due prosecution of the appeal, and the payment of all such costs as may become payable to the respondent in the event of the appeal being dismissed for non-prosecution, or of the Court ordering the appellant to pay the respondent's costs of the appeal; and

(b) upon such other conditions (if any) as to the time or times within which the appellant shall procure the preparation of the record as the Court of Appeal or the Court considers appropriate.

(3) The security required under subsection (2)(a) shall—

(a) be entered into within a period to be fixed by the Court of Appeal or the Court, but not exceeding 3 months from the date on which the application for leave to appeal is granted; and

## 24. 申請上訴許可

(1) 向上訴法院或終審法院提出上訴許可申請，須以動議形式提出。

(2) 第(1)款所指的動議的通知，須在上訴所針對的判決作出當日起計28日內提交，而申請人亦須給予該案中的對方7日時間通知，知會其意欲提出該申請，而此項通知可在上述的28日內任何時間發出。

(3) 如上訴許可申請遭上訴法院拒絕，則申請人可向終審法院申請許可，而此項申請須以動議形式提出。

(4) 第(3)款所指的動議的通知，須在自申請遭上訴法院拒絕當日起計28日內提交，而申請人亦須給予該案中的對方7日時間通知，知會其意欲提出該申請，而此項通知可在上述的28日內任何時間發出。

(5) 上訴法院或終審法院(視屬何情況而定)可作出命令，以其認為適當的條件，延長就申請人在第(2)或(4)款規定下所須或獲准辦理之事的指定辦理期限。

(6) 縱使申請人是在指定的期限過後始申請延期，上訴法院或終審法院(視屬何情況而定)可延長第(5)款所提述的期限。

## 25. 給予上訴許可

(1) 凡上訴法院或終審法院決定或需要就根據第24條提出的申請，給予上訴許可，則有關法院可在給予許可時附加其認為有需要的條件。

(2) 上訴法院或終審法院根據第(1)款給予許可時，在不限制第(1)款的概括性原則下，可附加以下條件——

(a) 有關上訴人作出保證的條件，而根據該條件，上訴人須作出一項妥善而足夠的保證，承諾會妥為進行上訴，及承諾如上訴因遲滯進行而被駁回，或終審法院命令上訴人付予答辯人在上訴案中的訟費，則上訴人會就上述承諾付給答辯人他應收取的所有訟費；及

(b) 上訴法院或終審法院認為適當的其他條件(如有的話)，而該等條件是有關上訴人須在某一時間內或某些時間內安排製備有關紀錄。

(3) 根據第(2)(a)款須作出的保證——

(a) 須在上訴法院或終審法院指定的期間內作出，但不得遲於由給予上訴許可當日起計3個月；及

(b) be to the satisfaction of the Court of Appeal or the Court in a sum not exceeding \$400,000 in respect of each respondent.

(4) The Court of Appeal or the Court, as the case may be, may vary any conditions it has imposed under this section in such manner as it considers fit.

(5) The Governor in Council may by order published in the Gazette amend subsection (3)(b) to vary the amount specified.

(6) Without prejudice to subsection (2) the Court of Appeal or the Court, as the case may be, may when granting leave under subsection (1) impose a timetable on any party for the prosecution of the appeal and may either on the application of a party or of its own motion vary that timetable.

## 26. Stay of execution

(1) Where a judgment appealed from requires the appellant to pay money or perform a duty, the Court of Appeal or the Court, as the case may be, shall have power, when granting leave to appeal or subsequently, either to direct that the judgment shall be carried into execution or that the execution shall be suspended pending the appeal.

(2) Where the Court of Appeal or the Court directs the judgment appealed from to be carried into execution, the person in whose favour it was given shall, before the execution, enter into good and sufficient security, to the satisfaction of the Court of Appeal or the Court, as the case may be, for the due performance of such order as the Court shall make in respect of the appeal.

(3) Where the Court of Appeal or the Court directs that the execution of the judgment appealed from shall be suspended pending the appeal, the appellant shall enter into good and sufficient security, to the satisfaction of the Court of Appeal or the Court, as the case may be, for the due performance of such order as the Court shall make in respect of the appeal.

## 27. Notice of application

(1) On an application for final leave to appeal, the Court of Appeal or the Court, as the case may be, may inquire whether notice or sufficient notice of the application has been given by the appellant to all parties concerned.

(2) If the Court of Appeal or the Court, as the case may be, is not satisfied that notice or sufficient notice of an application for final leave to appeal has been given, it may defer the granting of the final leave to appeal or may give such other directions in the matter as it thinks fit.

(b) 須令上訴法院或終審法院感到滿意，而保證款額按每名答辯人計不超過 \$400,000。

(4) 上訴法院或終審法院(視屬何情況而定)，可按其認為適當的方式更改其已根據本條附加的任何條件。

(5) 總督會同行政局可在憲報刊登命令，修訂第(3)(b)款以更改其內所指明的款額。

(6) 在不損害第(2)款的原則下，上訴法院或終審法院(視屬何情況而定)，在根據第(1)款給予許可時，可就上訴的進行對任何一方附加時限規定，並且可應某方的申請或自行更改該時限規定。

## 26. 擱置執行判決

(1) 凡上訴所針對的判決規定上訴人須繳付款項或履行責任，上訴法院或終審法院(視屬何情況而定)有權在給予上訴許可時或在其後，指示該判決須予執行，或指示在上訴待決期間暫緩執行該判決。

(2) 凡上訴法院或終審法院指示上訴所針對的判決須予執行，則因該指示而受惠的人，須在該判決未予執行前，作出一項妥善而足夠的保證，承諾會妥為履行終審法院就該上訴所作出的命令，而此項保證須令上訴法院或終審法院(視屬何情況而定)感到滿意。

(3) 凡上訴法院或終審法院指示上訴所針對的判決在上訴待決期間暫緩執行，則上訴人須作出一項妥善而足夠的保證，承諾會妥為履行終審法院就該上訴所作出的命令，而此項保證須令上訴法院或終審法院(視屬何情況而定)感到滿意。

## 27. 申請的通知

(1) 凡有人申請最終的上訴許可，上訴法院或終審法院(視屬何情況而定)可查詢上訴人是否已向上訴案中各方發出有關該申請的通知或足夠通知。

(2) 如上訴法院或終審法院(視屬何情況而定)並不信納上訴人已就該申請最終的上訴許可事宜發出通知或足夠通知，則有關法院可延遲給予最終的上訴許可，或發出它認為在該事項中適當的其他指示。

## PART III

## CRIMINAL

## 第III部

## 刑事

**28. Interpretation**

In this Part, unless the context otherwise requires—  
 “appeal” (上訴) means appeal to the Court under this Part, and “appellant” (上訴人) has a corresponding meaning, and includes a person who has given notice of application for leave to appeal;  
 “court of trial” (原審法庭), in relation to an appeal, means the court from which the appeal lies to the Court of Appeal or the High Court;  
 “defendant” (被告人) means, in relation to an appeal, the defendant before the court of trial, and references to the prosecutor shall be construed accordingly.

**29. Application**

This Part applies to appeals in any criminal cause or matter.

**30. Criminal jurisdiction**

The criminal jurisdiction of the Court shall consist of appeals under this Part.

**31. Criminal appeals**

An appeal shall, at the discretion of the Court, lie to the Court in any criminal cause or matter, at the instance of any party to the proceedings, from—

- (a) any final decision of the Court of Appeal;
- (b) any final decision of the High Court (not being a verdict or finding of a jury) from which no appeal lies to the Court of Appeal.

**32. Leave to appeal**

(1) No appeal shall be admitted unless leave to appeal has been granted by the Court.

(2) Leave to appeal shall not be granted unless it is certified by the Court of Appeal or the High Court, as the case may be, that a point of law of great and general importance is involved in the decision or it is shown that substantial and grave injustice has been done.

(3) Where the Court of Appeal or the High Court declines to certify as mentioned in subsection (2), the Court may so certify and grant leave to appeal.

**28. 釋義**

在本部中，除文意另有所指外——  
 “上訴”(appeal)指根據本部向終審法院提出的上訴，而“上訴人”(appellant)具有相應的涵義，並包括已就申請上訴許可事宜發出通知的人；  
 “被告人”(defendant)，就一宗上訴而言，指在原審法庭應訊的被告人，而凡有提述檢控人之處，亦須據此解釋；  
 “原審法庭”(court of trial)，就一宗上訴而言，指審訊案件而引致向上訴法院或高等法院上訴的法庭。

**29. 適用範圍**

本部適用於就任何刑事訟案或事項提出的上訴。

**30. 刑事司法管轄權**

終審法院的刑事司法管轄權包含處理根據本部提出的上訴。

**31. 刑事上訴**

對於在任何刑事訟案或事項中由法律程序的任何一方所提出針對以下決定的上訴，終審法院須酌情決定是否受理——

- (a) 上訴法院的最終決定；
- (b) 高等法院的最終決定(不包括陪審團的裁決或裁定)，而就此項決定是不能向上訴法院提出上訴的。

**32. 上訴許可**

(1) 除非終審法院已給予上訴許可，否則不得受理有關上訴。

(2) 除非上訴法院或高等法院(視屬何情況而定)證明有關案件的決定是涉及具有重大而廣泛的重要性的法律論點，或顯示曾有實質及嚴重的不公平情況，否則終審法院不得給予上訴許可。

(3) 凡上訴法院或高等法院拒絕按第(2)款所述予以證明，則終審法院可給予證明，並給予上訴許可。

(4) The Court may when granting leave under subsection (1) impose a timetable on any party for the prosecution of the appeal and may either on the application of a party or of its own motion vary that timetable.

### 33. Application for leave to appeal

(1) An application to the Court for leave to appeal shall be made within 28 days from the date of the decision of the Court of Appeal or the High Court, as the case may be.

(2) The Court may, upon application made at any time by any party to the appeal, extend the time within which an application may be made to the Court under subsection (1).

(3) An appeal to the Court shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of.

### 34. Bail

(1) The Court, the Court of Appeal or the High Court, as the case may be, may on the application of a person appealing or applying for leave to appeal or on the application of a person in custody pending the determination of the appeal, grant the person in custody bail pending the determination of the appeal.

(2) A grant of bail under subsection (1) may be made subject to such conditions as the Court, the Court of Appeal or the High Court, as the case may be, considers necessary.

(3) If a person is refused bail on an application made under subsection (1), he shall not thereafter be entitled to make a fresh application for bail—

- (a) before the commencement of the hearing of the appeal, except to the Court, the Court of Appeal or the High Court and only if he satisfies the Court, the Court of Appeal or the High Court that since the refusal, there has been a material change in relevant circumstances; or
- (b) during the hearing of the appeal, except to the Court.

### 35. Detention on appeal by prosecutor

(1) The following provisions apply where, immediately after a decision of the Court of Appeal or the High Court, as the case may be, from which an appeal lies to the Court, the prosecutor is granted or gives notice that he intends to apply for, leave to appeal.

(4) 終審法院在根據第(1)款給予許可時，可就上訴的進行對任何一方附加時限規定，並且可應某方的申請或自行更改該時限規定。

### 33. 申請上訴許可

(1) 向終審法院提出上訴許可申請，須自上訴法院或高等法院(視屬何情況而定)作出決定當日起計28日內提出。

(2) 終審法院可應上訴案中任何一方在任何時間提出的申請，將根據第(1)款向其提出申請的期限延長。

(3) 向終審法院提出的上訴須視為待決案件，直至上訴許可申請獲得處理；如已獲給予上訴許可，則直至上訴獲得處理為止。

### 34. 保釋

(1) 終審法院、上訴法院或高等法院(視屬何情況而定)，可應一名提出上訴或申請上訴許可的人所提出的申請，或應一名在上訴待決期間被扣留的人所提出的申請，准該名被扣留的人在上訴待決期間保釋。

(2) 終審法院、上訴法院或高等法院(視屬何情況而定)在根據第(1)款准予保釋時，可附加其認為有需要的條件。

(3) 如根據第(1)款提出申請的人被拒絕保釋，其後他即無權——

- (a) 在上訴聆訊尚未開始前重新申請保釋，但如他向終審法院、上訴法院或高等法院提出該申請，並使終審法院、上訴法院或高等法院信納自上次保釋申請被拒絕後，有關情況有關鍵性的改變，則屬例外；或
- (b) 在上訴聆訊期間重新申請保釋，但如他向終審法院提出該申請，則屬例外。

### 35. 在檢控人提出上訴後將被告人羈留

(1) 凡上訴法院或高等法院(視屬何情況而定)就某一案件作出的決定引致向終審法院上訴，而在緊接着該決定作出後檢控人獲給予上訴許可或發出通知表示意欲申請上訴許可，則以下的條文須予適用。

(2) If, but for the decision of the Court of Appeal or the High Court, as the case may be, the defendant would be liable to be detained, the Court of Appeal or the High Court, as the case may be, may, on the application of the prosecutor made within 7 days of that decision, make an order providing for his detention, or directing that he shall not be released except on bail (which may be granted as under section 34), as long as an appeal to the Court is pending.

(3) An order under this section shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the Court of Appeal or the High Court, as the case may be.

(4) Where an order is made under this section in the case of a defendant who, but for the decision of the Court of Appeal or the High Court, as the case may be, would be liable to be detained in pursuance of—

(a) an order under Part IV of the Mental Health Ordinance (Cap. 136); or

(b) an order under section 76(1) of the Criminal Procedure Ordinance (Cap. 221),

the order under this section shall be one authorizing his continued detention in pursuance of the order referred to in paragraph (a) or (b); and the provisions of the Mental Health Ordinance (Cap. 136) with respect to persons liable to be detained as mentioned in this subsection shall apply accordingly.

### 36. Presence of defendant

The defendant shall be entitled to be present at the hearing of an application for leave to appeal and an appeal unless the Court, where it considers it necessary in the interests of justice or public order or security to do so, orders otherwise.

### 37. Effect of appeal on sentence

(1) Where a person subject to a sentence is granted bail under section 34 or 35, the time during which he is released on bail shall be disregarded in computing the term of his sentence unless the Court, the Court of Appeal or the High Court, as the case may be, otherwise directs.

(2) Subject to subsection (1), any sentence passed on an appeal to the Court in substitution for another sentence shall, unless the Court, the Court of Appeal or the High Court, as the case may be, otherwise directs, begin to run from the time when the other sentence should have begun to run.

(3) In this section “sentence” (判刑) includes any order made by a court when dealing with an offender (including a hospital order under Part IV of the Mental Health Ordinance (Cap. 136)).

(2) 如被告人若非由於上訴法院或高等法院(視屬何情況而定)所作的決定,是會被羈留的,則上訴法院或高等法院(視屬何情況而定)可應檢控人在該決定作出後7日內提出的申請,作出命令,規定在向終審法院提出的上訴仍在待決期間,將被告人羈留,或指示在上述期間被告人須獲准保釋始可離開(該項保釋是可根據第34條獲得批准的)。

(3) 根據本條作出的命令,在被告人本會被羈留的期間屆滿時即不再生效(上訴已獲處理者則除外),而有關羈留期是指假定若非由於上訴法院或高等法院所作的決定,被告人本會被判羈留的期間。

(4) 如被告人若非由於上訴法院或高等法院的決定,本會依據以下命令被羈留的——

(a) 根據《精神健康條例》(第136章)第IV部所作出的命令;或

(b) 根據《刑事訴訟程序條例》(第221章)第76(1)條所作出的命令,

則根據本條作出的命令須授權繼續依據(a)或(b)段所提述的命令羈留該被告人,而在《精神健康條例》(第136章)中有關如本款所述會被羈留的人的條文,須據此適用。

### 36. 被告人的出席

除非終審法院認為基於司法公正或因公安或保安理由而有必要時另有命令,否則被告人有權出席上訴許可申請的聆訊,亦有權出席上訴的聆訊。

### 37. 上訴對判刑的影響

(1) 如被判刑的人根據第34或35條獲准保釋外,則在計算其刑期時,該段保釋期間不得作服刑期計算,但如終審法院、上訴法院或高等法院(視屬何情況而定)另作指示,則屬例外。

(2) 如終審法院在審理上訴時以某一判刑取代另一判刑,則除非終審法院、上訴法院或高等法院(視屬何情況而定)另有指示,否則在符合第(1)款的規定下,該新判刑開始執行之日,須是該另一判刑原應開始執行之日。

(3) 在本條中,“判刑”(sentence)包括某一法庭在處理犯罪者時所作出的任何命令(包括根據《精神健康條例》(第136章)第IV部所作出的入院令)。



## PART IV

## 第IV部

## MISCELLANEOUS

## 雜項規定

**38. Withdrawal**

(1) An appellant may at any time with leave of the Court withdraw his appeal.

(2) Where an appeal has been withdrawn under subsection (1) the respondent shall, subject to any agreement between himself and the appellant to the contrary, be entitled to apply to the Court for his costs of and incidental to the appeal.

**39. Rules**

The Court of Final Appeal Rules Committee constituted under section 40 may make rules of court regulating and prescribing the procedure and the practice to be followed in the Court in all causes and matters in or with respect to which the Court has jurisdiction and any matters incidental to or relating to that procedure or practice, and it may make rules of court providing generally for the better carrying out of the provisions of this Ordinance.

**40. Rules Committee**

(1) There shall be a Court of Final Appeal Rules Committee which shall consist of—

- (a) the Chief Justice;
- (b) 2 permanent judges;
- (c) the Registrar;
- (d) 2 barristers nominated by the Hong Kong Bar Association;
- (e) 2 solicitors nominated by The Law Society of Hong Kong;
- (f) the Attorney General or a legal officer in the Attorney General's Chambers appointed by him.

(2) The Registrar shall be the secretary of the Court of Final Appeal Rules Committee.

(3) A quorum for a meeting of members of the Court of Final Appeal Rules Committee shall be constituted by a barrister, a solicitor, the Attorney General or a legal officer in the Attorney General's Chambers appointed by him and not less than 2 other members.

**38. 撤回上訴**

(1) 上訴人可隨時在終審法院許可下撤回上訴。

(2) 凡上訴人根據第(1)款撤回上訴，則在不抵觸答辯人與上訴人達成任何相反的協議下，答辯人有權向終審法院申請其在上訴案中的訟費及上訴案的附帶訟費。

**39. 規則**

根據第40條組成的終審法院規則委員會，可訂立法院規則，規管及訂明須在終審法院遵行的程序及常規，以處理終審法院有司法管轄權的訟案及事項，以及規管及訂明有關程序或常規所附帶引起或涉及的事宜，委員會亦可訂立法院規則，對更有效地施行本條例，作出概括性的規定。

**40. 規則委員會**

(1) 現設立一終審法院規則委員會，由以下成員組成——

- (a) 首席大法官；
- (b) 2名常任大法官；
- (c) 司法常務官；
- (d) 2名由香港大律師公會提名的大律師；
- (e) 2名由香港律師會提名的律師；
- (f) 律政司或一名由律政司委派的律政署的律政人員。

(2) 司法常務官出任終審法院規則委員會秘書。

(3) 終審法院規則委員會成員會議的法定人數須由一名大律師、一名律師、律政司或一名由他委任的律政署的律政人員，以及不少於2名其他成員所構成。

**41. Registry**

There shall be a Registry of the Court, which shall be in the charge of the Registrar.

**42. The Registrar**

- (1) There shall be attached to the Court a Registrar.
- (2) The Registrar shall be appointed by the Governor and shall possess the same qualifications as are required for appointment as the Registrar of the Supreme Court.
- (3) The Registrar shall have and may exercise and perform such jurisdiction, powers and duties as may be conferred or imposed on him by or under rules of court or any other law.
- (4) The Chief Justice may appoint such other officers of the Court as may be required for the conduct of business of the Court who may exercise and perform such jurisdiction, powers and duties as may be conferred or imposed on them by or under rules of court or any other law.
- (5) The Chief Justice shall, in the absence of the Registrar for any cause, appoint a person to act in his place.

**43. Costs**

Costs, including costs in the courts below or before a magistrate, shall be paid by such party or person as the Court shall order, and such costs shall be taxed by the Registrar, or some other officer of the Court to whom the Registrar may delegate this function.

**44. Non-prosecution of appeal**

- (1) Where an appellant, who has obtained final leave to appeal under Part II or leave to appeal under Part III, fails to prosecute his appeal with due diligence, the Court may dismiss the appeal for non-prosecution, or give such other directions as it thinks fit.
- (2) An appellant whose appeal has been dismissed for non-prosecution may apply to the Court for an order that his appeal be restored.
- (3) Where an appeal has been dismissed under this section a respondent may apply to the Court for an order for costs.

**45. Appeal from decision on taxation**

- (1) Any party aggrieved by a decision on a taxation of costs may appeal to the Court in accordance with rules of court.
- (2) A permanent judge may exercise all the powers of the Court to hear and determine an appeal under this section.

**41. 登記處**

現設立一終審法院登記處，由司法常務官負責管理。

**42. 司法常務官**

- (1) 須有一名司法常務官隸屬於終審法院。
- (2) 司法常務官須由總督委任，而他所須具備的資格須與委任最高法院司法常務官所要求者相同。
- (3) 司法常務官具有並可行使及履行由或根據法院規則或任何其他法律授予或委予他的司法管轄權、權力及職責。
- (4) 首席大法官可委任所需的終審法院其他人員，以執行終審法院的事務；該等人員可行使及履行由或根據法院規則或任何其他法律授予或委予他們的司法管轄權、權力及職責。
- (5) 遇有司法常務官因任何因由而缺勤時，首席大法官須委派另一人署理其職務。

**43. 訟費**

訟費(包括由終審法院以下的法院或由裁判官審理時引致的訟費)，須由終審法院指令的一方或人士繳付，而有關的訟費須由司法常務官或獲他轉委其職能的終審法院其他人員評定。

**44. 上訴的遲滯進行**

- (1) 凡上訴人在獲得根據第II部給予的最終的上訴許可或根據第III部給予的上訴許可後，並沒有盡其應盡的努力進行上訴，則終審法院可因上訴遲滯進行而駁回其上訴，或發出其認為適當的其他指示。
- (2) 上訴人可就其上訴因遲滯進行被駁回，向終審法院申請命令，以恢復聆訊其上訴。
- (3) 凡根據本條將上訴駁回，答辯人可向終審法院申請判給訟費的命令。

**45. 對評定訟費的決定提出的上訴**

- (1) 任何一方如因評定訟費的決定而感到受屈，可按照法院規則向終審法院提出上訴。
- (2) 常任大法官可行使終審法院的所有權力，以聆訊及裁決根據本條提出的上訴。

**46. Powers of single permanent judge**

- (1) A single permanent judge may exercise the powers of the Court—
- (a) to extend the time for making an application for leave to appeal; and
- (b) to make an order for or in relation to bail under Part III,

but where the judge refuses an application to exercise any of these powers, the applicant shall be entitled to have the application determined by the Appeal Committee which for the purposes of this section may exercise all the powers of the Court.

(2) In an application for leave to appeal or an appeal, any incidental order or direction, not involving the decision of the application or appeal, any interim order necessary to prevent prejudice to the parties and any order for security for costs or for the dismissal of an application or appeal for default in furnishing security so ordered, may be made or given at any time by a single permanent judge.

(3) Any order made under subsection (2) may be discharged or varied by the Appeal Committee.

(4) The powers exercisable by a single permanent judge under this section may, subject to rules of court, be exercised in chambers.

**47. Sittings and business**

(1) The Court shall sit at such times and at such places as the Chief Justice shall appoint.

(2) All proceedings before the Court or the Appeal Committee shall be held in open court to which the public shall have access.

(3) The Court or the Appeal Committee may, if it considers it necessary in the interests of justice or public order or security, direct that, save as provided in subsection (4), no person, other than a person nominated by the Court or the Committee, shall be in court or in the building in which the Court or the Committee sits.

(4) Subsection (3) shall not apply to a person who is required to be in the Court or building by virtue of his office or profession or an order of a court or who is otherwise required for the purposes of any proceedings to be in the Court or building or to any one person representing a newspaper or news agency.

(5) Any person who contravenes a direction under subsection (3) commits an offence and is liable on conviction to a fine of \$5,000 and to imprisonment for 6 months and may be forcibly removed by any police officer from the Court or building.

(6) The distribution of business of the Court shall be made in accordance with directions given by the Chief Justice.

**46. 單一名常任大法官的權力**

- (1) 單一名常任大法官可行使以下終審法院的權力——
- (a) 延長申請上訴許可的期限；及
- (b) 根據第 III 部作出保釋令或作出與保釋有關的命令，

但如該大法官拒絕應申請行使上述權力，申請人有權要求上訴委員會就他的申請作出裁定，而為施行本條，上訴委員會可行使終審法院的所有權力。

(2) 在聆訊上訴許可申請或聆訊上訴時，單一名常任大法官可在任何時間作出不涉及有關申請或上訴決定的附帶命令或指示，任何為防止對上訴案中各方造成損害而有需要作出的臨時命令，及任何關於繳付訟費保證的命令或任何因不依照命令提出有關保證而駁回申請或上訴的命令。

(3) 上訴委員會可撤銷或更改根據第(2)款作出的命令。

(4) 根據本條由單一名常任大法官行使的權力，在不抵觸法院規則的條文下，可由該大法官在內庭行使。

**47. 開庭及法院事務**

(1) 終審法院審判庭開庭的時間及地點，由首席大法官指定。

(2) 所有終審法院審判庭或上訴委員會的法律程序須公開進行，讓公眾人士列席旁聽。

(3) 終審法院審判庭或上訴委員會如認為基於司法公正或因公安或保安理由而有必要時，可作出指示，不准許有任何未經終審法院審判庭或上訴委員會提名的人在法庭內或在終審法院審判庭或上訴委員會開庭聆訊的建築物內，但第(4)款所規定者除外。

(4) 第(3)款不適用於因其職務或專業或因法庭命令或因其他理由而需要為法律程序的目的在終審法院審判庭或在有關建築物內的人，亦不適用於任何代表報章或新聞通訊社的人。

(5) 任何人違反根據第(3)款作出的指示，即屬犯罪，一經定罪，可處罰款 \$5,000 及監禁 6 個月，而該人可被警務人員強行帶出終審法院審判庭或有關建築物之外。

(6) 終審法院的事務須按照首席大法官的指示而分派。

**48. Seal**

- (1) The Court shall use such seal as the Chief Justice may direct.
- (2) All judgments, orders, documents and exemplifications or copies thereof, shall be sealed with the seal referred to in subsection (1).
- (3) Any judgment, order, document and any exemplification or copy thereof, shall, when purporting to be sealed under subsection (2), be admitted in evidence in any criminal or civil proceedings before any court on its production without further proof.

**49. Transitional**

Any appeal in respect of which the Judicial Committee of the Privy Council or the Court of Appeal has granted conditional, final or special leave to appeal to that Committee and the appeal has not been finally disposed of on or before 30 June 1997 shall proceed in the Court, and the Court may give such directions as to the continuation of the prosecution of the appeal as it thinks fit and shall have full power to determine by whom and the extent to which costs in relation thereto are to be paid.

**50. Schedule of amendments**

The enactments specified in the Schedule are amended to the extent and in the manner specified in that Schedule in relation to each such enactment.

Item	Enactment	Amendment
		[s. 50]
1.	Interpretation and General Clauses Ordinance (Cap. 1)	In section 3— (a) in the definition of “Chief Justice”, by repealing “Hong Kong” and substituting “the Court of Final Appeal”; (b) in the definition of “judge”, by repealing “the Chief Justice” and substituting— “the Chief Justice, a judge of the Hong Kong Court of Final Appeal, the Chief Justice of the Supreme Court”; (c) by adding— ““Court of Final Appeal” (終審法院) means the Hong Kong Court of Final Appeal established by section 3 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995); “judge of the Court of Final Appeal” (終審法院大法官) means the Chief Justice, a permanent judge and a non-permanent judge of the Court of Final Appeal.”.
2.	Jury Ordinance (Cap. 3)	In section 5(o), by adding— “(ia) a judge of the Court of Final Appeal.”.

**48. 印章**

- (1) 終審法院須使用首席大法官所指示使用的印章。
- (2) 所有判決書、命令、文件及其正式文本或副本，均須蓋上第(1)款所提述的印章。
- (3) 任何判決書、命令、文件及其正式文本或副本，如看來是根據第(2)款規定蓋上印章的，則在任何法庭所審理的刑事或民事法律程序中，一經呈堂，即須獲接納為證據而無須再加證明。

**49. 過渡性條文**

任何上訴，如已獲樞密院司法委員會或上訴法院給予有條件的、最終的或特別的上訴許可而得以向該司法委員會提出，而在1997年6月30日當日或之前尚未獲得最終的處理，則該上訴須在終審法院進行，而終審法院可就該上訴的繼續進行，發出其認為適當的指示，並具有全面的權力裁決該上訴所涉的訟費須由誰人繳付及須予繳付的範圍。

**50. 附表所載的修訂**

在附表中所指明的成文法則，須以該附表就每條成文法則所指明的範圍及方式，予以修訂。

項	成文法則	附表	修訂
			〔第50條〕
1.	《釋義及通則條例》(第1章)	在第3條中——	(a) 在“首席大法官”的定義中，廢除“香港”而代以“終審法院”； (b) 在“大法官”的定義中，廢除“首席大法官”而代以—— “首席大法官、終審法院大法官、最高法院首席大法官”； (c) 加入—— ““終審法院”(Court of Final Appeal)指由《香港終審法院條例》(1995年第79號)第3條設立的香港終審法院； “終審法院大法官”(judge of the Court of Final Appeal)指首席大法官、終審法院常任大法官及終審法院非常任大法官；”。
2.	《陪審團條例》(第3章)	在第5(o)條中，加入——	“(ia) 終審法院大法官；”。

Item	Enactment	Amendment	項	成文法則	修訂
3.	Supreme Court Ordinance (Cap. 4)	<p>(a) In section 4(1)(a), by adding “of the Supreme Court” after “Justice”.</p> <p>(b) In section 5(1)(a), (1A) and (3), by adding “of the Supreme Court” after “Justice”.</p> <p>(c) In section 7(1)(a), by adding “of the Supreme Court” after “Justice”.</p> <p>(d) In section 8(1) and (2), by adding “of the Supreme Court” after “Chief Justice”.</p> <p>(e) In section 34B(5), by repealing “Privy Council” and substituting “Court of Final Appeal”.</p> <p>(f) In section 36—</p> <p>(i) by adding “or by the Chief Justice of the Supreme Court” after “Justice”;</p> <p>(ii) by adding “other than an act in the performance of or relating to the performance of a function under the Hong Kong Court of Final Appeal Ordinance (79 of 1995)” after “such act”.</p>	3.	《最高法院條例》(第4章)	<p>(a) 在第4(1)(a)條中，在“Justice”之後加入“of the Supreme Court”。</p> <p>(b) 在第5(1)(a)、(1A)及(3)條中，在“Justice”之後加入“of the Supreme Court”。</p> <p>(c) 在第7(1)(a)條中，在“Justice”之後加入“of the Supreme Court”。</p> <p>(d) 在第8(1)及(2)條中，在“Chief Justice”之後加入“of the Supreme Court”。</p> <p>(e) 在第34B(5)條中，廢除“Privy Council”而代以“Court of Final Appeal”。</p> <p>(f) 在第36條中——</p> <p>(i) 在“Justice”之後加入“or by the Chief Justice of the Supreme Court”；</p> <p>(ii) 在“such act”之後加入“other than an act in the performance of or relating to the performance of a function under the Hong Kong Court of Final Appeal Ordinance (79 of 1995)”。</p>
4.	Bankruptcy Ordinance (Cap. 6)	In paragraph 11(3)(b) of Schedule 1, by repealing “Privy Council” and substituting “Court of Final Appeal”.	4.	《破產條例》(第6章)	在附表1第11(3)(b)段中，廢除“樞密院”而代以“終審法院”。
5.	Evidence Ordinance (Cap. 8)	By repealing section 59(4)(c) and substituting— “(c) proceedings before the Court of Final Appeal.”.	5.	《證據條例》(第8章)	廢除第59(4)(c)條而代以—— “(c) proceedings before the Court of Final Appeal.”。
6.	Oaths and Declarations Ordinance (Cap. 11)	In the Third Schedule, in Part I, by adding— “Chief Justice Permanent judge of the Court of Final Appeal Non-permanent Hong Kong judge of the Court of Final Appeal Judge of the Court of Final Appeal from another common law jurisdiction”.	6.	《宣誓及聲明條例》(第11章)	在附表3第I部中，加入—— “Chief Justice Permanent judge of the Court of Final Appeal Non-permanent Hong Kong judge of the Court of Final Appeal Judge of the Court of Final Appeal from another common law jurisdiction”。
7.	Co-operative Societies Ordinance (Cap. 33)	In section 50(2), by adding “of the Supreme Court” after “Justice”.	7.	《合作社條例》(第33章)	在第50(2)條中，在“Justice”之後加入“of the Supreme Court”。
8.	Pensions Ordinance (Cap. 89)	In sections 2 and 14, by repealing “Judicial Service” wherever it appears and substituting “Judicial Officers Recommendation”.	8.	《退休金條例》(第89章)	在第2及14條中，廢除所有出現的“Judicial Service”而均代以“Judicial Officers Recommendation”。
9.	Legal Aid Ordinance (Cap. 91)	<p>(a) In section 2(1)—</p> <p>(i) in the definition of “counsel”, by repealing everything after “from practice” where it first appears and substituting a semicolon;</p> <p>(ii) in the definition of “court”, by repealing “Privy Council” and substituting “Court of Final Appeal”;</p> <p>(iii) in the definition of “order for costs”, by repealing “Privy Council” and substituting “Court of Final Appeal”;</p> <p>(iv) by repealing the definition of “Privy Council”;</p> <p>(v) in the definition of “Registrar”, by repealing “Privy Council, includes the Registrar of the Privy Council” and substituting “Court of Final Appeal, includes the Registrar of the Court of Final Appeal”;</p> <p>(vi) in the definition of “solicitor”, by repealing everything after “is not suspended from practice” where it first appears and substituting a semicolon.</p>	9.	《法律援助條例》(第91章)	<p>(a) 在第2(1)條中——</p> <p>(i) 在“大律師”的定義中，廢除首次出現的“資格的人；”之後所有的字句；</p> <p>(ii) 在“法院”的定義中，廢除“樞密院”而代以“終審法院”；</p> <p>(iii) 在“繳付訟費命令”的定義中，廢除“樞密院”而代以“終審法院”；</p> <p>(iv) 廢除“樞密院”的定義；</p> <p>(v) 在“司法常務官”的定義中，廢除兩度出現的“樞密院”而均代以“終審法院”；</p> <p>(vi) 在“律師”的定義中，廢除首次出現的“資格的人；”之後所有的字句。</p>

Item	Enactment	Amendment	項	成文法則	修訂
	(b)	In section 2(2), by repealing "Privy Council" and substituting "Court of Final Appeal".			(b) 在第2(2)條中，廢除兩度出現的“樞密院”而均代以“終審法院”。
	(c)	In section 3(3), by adding "or the Court of Final Appeal" after "court".			(c) 在第3(3)條中，在“法院”之後加入“或終審法院”。
	(d)	In section 8(4), by adding "or the Court of Final Appeal" after "court".			(d) 在第8(4)條中，在“法院”之後加入“或終審法院”。
	(e)	In section 9(d), by repealing "if the application does not relate to an appeal to, or an application for leave to appeal to, the Privy Council."			(e) 在第9(d)條中，廢除“如該項申請與向樞密院提出上訴或申請向樞密院提出上訴的許可無關，”。
	(f)	By repealing section 9(da).			(f) 廢除第9(da)條。
	(g)	In section 12(1), in proviso (a), by repealing "Privy Council" and substituting "Court of Final Appeal".			(g) 在第12(1)條的但書(a)段中，廢除“樞密院”而代以“終審法院”。
	(h)	In section 13(1), by repealing everything from "in Hong Kong" up to and including "(b) in other proceedings," and substituting "and".			(h) 在第13(1)條中，廢除由“香港”起至“如受助人”止所有的字句而代以“任何法律程序中或法律程序任何部分中行事，而受助人如”。
	(i)	In section 14, by adding— “(5) In this section, "court" (法院) includes the Court of Final Appeal.”			(i) 在第14條中，加入—— “(5) 在本條中，“法院”(court)包括終審法院。”。
	(j)	By repealing section 15(1).			(j) 廢除第15(1)條。
	(k)	By repealing section 16(1).			(k) 廢除第16(1)條。
	(l)	In section 16A, by repealing "Privy Council" and substituting "Court of Final Appeal".			(l) 在第16A條中，廢除兩度出現的“樞密院”而均代以“終審法院”。
	(m)	In section 16B(c) and (d), by repealing "except in Privy Council proceedings,".			(m) 在第16B(c)及(d)條中，廢除“除在樞密院進行的法律程序外，”。
	(n)	In section 16C(1)(b), by repealing "Privy Council" wherever it appears and substituting "Court of Final Appeal".			(n) 在第16C(1)(b)條中，廢除所有出現的“樞密院”而均代以“終審法院”。
	(o)	In section 16C(1)(c), by repealing "Privy Council" and substituting "Court of Final Appeal".			(o) 在第16C(1)(c)條中，廢除“樞密院”而代以“終審法院”。
	(p)	By repealing section 16C(4).			(p) 廢除第16C(4)條。
	(q)	In section 17, by adding— “(6) In this section, "court" (法院) includes the Court of Final Appeal.”			(q) 在第17條中，加入—— “(6) 在本條中，“法院”(court)包括終審法院。”。
	(r)	In section 18A(3B), by adding "or the Court of Final Appeal" after "court".			(r) 在第18A(3B)條中，在“法院”之後加入“或終審法院”。
	(s)	In section 18A(4), by adding "or the Court of Final Appeal" after "court".			(s) 在第18A(4)條中，在兩度出現的“法院”之後均加入“或終審法院”。
	(t)	In section 19(1), by adding "or the Court of Final Appeal" after "A court".			(t) 在第19(1)條中，在“法院”之後加入“或終審法院”。
	(u)	In section 19(1A)(a), by repealing "Privy Council" and substituting "Court of Final Appeal".			(u) 在第19(1A)(a)條中，廢除“樞密院”而代以“終審法院”。
	(v)	By repealing section 19(3).			(v) 廢除第19(3)條。
	(w)	In section 19A(1)(a), (c) and (d), by repealing "Privy Council" and substituting "Court of Final Appeal".			(w) 在第19A(1)(a)、(c)及(d)條中，廢除“樞密院”而代以“終審法院”。
	(x)	In section 19A(2), by adding "or the Court of Final Appeal" after "court" wherever it appears.			(x) 在第19A(2)條中，在兩度出現的“法院”之後均加入“或終審法院”。
	(y)	In section 19B(1)(b), by adding "or the Registrar of the Court of Final Appeal" after "Supreme Court".			(y) 在第19B(1)(b)條中，在“司法常務官”之後加入“或終審法院司法常務官”。
	(z)	In section 19B, by adding— “(3) In this section, "court" (法院) includes the Court of Final Appeal.”			(z) 在第19B條中，加入—— “(3) 在本條中，“法院”(court)包括終審法院。”。
	(aa)	In section 20A(2), by adding "the Hong Kong Court of Final Appeal Ordinance (79 of 1995)," after "made under".			(aa) 在第20A(2)條中，在“根據”之後加入“《香港終審法院條例》(1995年第79號)”。
	(ab)	In section 24, by adding—			(ab) 在第24條中，加入——

Item	Enactment	Amendment	項	成文法則	修訂
10.	Judicial Service Commission Ordinance (Cap. 92)	<p>“(4) In this section, “court” (法院) includes the Court of Final Appeal.”</p> <p>(ac) In section 26(1A), by repealing “Privy Council” and substituting “Court of Final Appeal”.</p> <p>(ad) In section 26A(1), by repealing “Privy Council” and substituting “Court of Final Appeal”.</p> <p>(ae) In Part I of Schedule 2—</p> <p>(i) by repealing paragraph 1(a), (b) and (c) and substituting—</p> <p>“(a) Court of Final Appeal;</p> <p>(b) Court of Appeal;</p> <p>(c) High Court;</p> <p>(d) District Court.”;</p> <p>(ii) by repealing paragraph 3.</p> <p>(a) In the long title, sections 1, 2 and 3 and the Second Schedule by repealing “Judicial Service” wherever it appears and substituting “Judicial Officers Recommendation”.</p> <p>(b) In section 3, by adding—</p> <p>“(5B) Where the Commission is exercising its functions under section 6(a) of this Ordinance in relation to the filling of vacancies under sections 7 and 8 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995) 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 as the case may be, he is willing to accept appointment or the extension and that disclosure shall be recorded in the minutes of the Commission.</p> <p>(5C) A member who, under subsection (5B), discloses a willingness to accept an appointment or extension—</p> <p>(a) shall not take part in any deliberation of the Commission with respect to that appointment or extension as the case may be and shall not vote on any question concerning the same; and</p> <p>(b) shall, for the purposes of subsection (6), 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.</p> <p>(5D) 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.”</p> <p>(c) In section 6, by adding “or make recommendations to” after “advise”.</p> <p>(d) In the First Schedule, by adding—</p> <p>“Chief Justice Judge of the Court of Final Appeal”.</p>	10.	《司法人員敘用委員會條例》(第92章)	<p>“(4) 在本條中，“法院”(court)包括終審法院。”。</p> <p>(ac) 在第26(1A)條中，廢除兩度出現的“樞密院”而均代以“終審法院”。</p> <p>(ad) 在第26A(1)條中，廢除兩度出現的“樞密院”而均代以“終審法院”。</p> <p>(ae) 在附表2第I部中——</p> <p>(i) 廢除第1(a)、(b)及(c)段而代以——</p> <p>“(a) 終審法院；</p> <p>(b) 上訴法院；</p> <p>(c) 高等法院；</p> <p>(d) 地方法院。”；</p> <p>(ii) 廢除第3段。</p> <p>(a) 在詳題及第1、2及3條以及附表2中，廢除所有出現的“Judicial Service”而均代以“Judicial Officers Recommendation”。</p> <p>(b) 在第3條中，加入——</p> <p>“(5B) Where the Commission is exercising its functions under section 6(a) of this Ordinance in relation to the filling of vacancies under sections 7 and 8 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995) 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 as the case may be, he is willing to accept appointment or the extension and that disclosure shall be recorded in the minutes of the Commission.</p> <p>(5C) A member who, under subsection (5B), discloses a willingness to accept an appointment or extension—</p> <p>(a) shall not take part in any deliberation of the Commission with respect to that appointment or extension as the case may be and shall not vote on any question concerning the same; and</p> <p>(b) shall, for the purposes of subsection (6), 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.</p> <p>(5D) 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.”。</p> <p>(c) 在第6條中，在“advise”之後加入“or make recommendations to”。</p> <p>(d) 在附表1中，加入——</p> <p>“Chief Justice Judge of the Court of Final Appeal”。</p>

Item	Enactment	Amendment	項	成文法則	修訂
11.	Public Service Commission Ordinance (Cap. 93)	In section 2, by repealing "Judicial Service" and substituting "Judicial Officers Recommendation".	11.	《公務員絀用委員會條例》(第93章)	在第2條中，廢除"Judicial Service"而代以"Judicial Officers Recommendation"。
12.	Inland Revenue Ordinance (Cap. 112)	In section 69(7), by repealing "Privy Council" and substituting "Court of Final Appeal".	12.	《稅務條例》(第112章)	在第69(7)條中，廢除"樞密院"而代以"終審法院"。
13.	Criminal Procedure Ordinance (Cap. 221)	(a) In section 83P, by adding— " (3) For the avoidance of doubt, it is hereby declared that this section also applies in a case where an appeal has been heard and determined by the Court of Final Appeal." (b) By repealing section 83R(2). (c) By repealing section 83U(1) and (2) and substituting— " (1) A defendant shall be entitled to be present at the hearing of an application for leave to appeal and an appeal unless the Court of Appeal, where it considers it necessary in the interests of justice or public order or security to do so, orders otherwise." (d) By repealing section 83ZA. (e) In section 84B(4)(b), by repealing "special leave to appeal to the Privy Council" and substituting "leave to appeal to the Court of Final Appeal". (f) In section 84B(4)(c), by repealing "Privy Council" and substituting "Court of Final Appeal". (g) In section 84B(5)— (i) by repealing "Privy Council" and substituting "Court of Final Appeal"; (ii) by repealing "special leave" wherever it appears and substituting "leave".	13.	《刑事訴訟程序條例》(第221章)	(a) 在第83P條中，加入—— " (3) For the avoidance of doubt, it is hereby declared that this section also applies in a case where an appeal has been heard and determined by the Court of Final Appeal." (b) 廢除第83R(2)條。 (c) 廢除第83U(1)及(2)條而代以—— " (1) A defendant shall be entitled to be present at the hearing of an application for leave to appeal and an appeal unless the Court of Appeal, where it considers it necessary in the interests of justice or public order or security to do so, orders otherwise." (d) 廢除第83ZA條。 (e) 在第84B(4)(b)條中，廢除"special leave to appeal to the Privy Council"而代以"leave to appeal to the Court of Final Appeal"。 (f) 在第84B(4)(c)條中，廢除"Privy Council"而代以"Court of Final Appeal"。 (g) 在第84B(5)條中—— (i) 廢除"Privy Council"而代以"Court of Final Appeal"; (ii) 廢除所有出現的"special leave"而均代以"leave"。
14.	Magistrates Ordinance (Cap. 227)	(a) In section 113A, by adding— " (4) For the avoidance of doubt, it is hereby declared that this section also applies in a case where an appeal has been heard and determined by the Court of Final Appeal." (b) In section 118(1)(e), by adding "of the Supreme Court" after "Justice" where it twice appears.	14.	《裁判官條例》(第227章)	(a) 在第113A條中，加入—— " (4) 為免生疑問，現聲明本條亦適用於上訴已由終審法院聆訊及裁決的案件。" (b) 在第118(1)(e)條中，在"首席大法官"之前加入"最高法院"。
15.	Compulsory Service Ordinance (Cap. 246)	In section 5(b), by repealing "the Puisne Judges" and substituting "judges of the Court of Final Appeal and the Supreme Court".	15.	《強制服役條例》(第246章)	在第5(b)條中，廢除"the Puisne Judges"而代以"judges of the Court of Final Appeal and the Supreme Court"。
16.	Control of Obscene and Indecent Articles Ordinance (Cap. 390)	In section 31(b), by adding "of the Supreme Court" after "Justice" where it twice appears.	16.	《淫褻及不雅物品管制條例》(第390章)	在第31(b)條中，在兩度出現的"首席大法官"之前均加入"最高法院"。
17.	Pension Benefits (Judicial Officers) Ordinance (Cap. 401)	(a) In section 6— (i) in subsection (1)— (A) by renumbering the existing paragraph (a) as paragraph (aa); (B) by adding, before paragraph (aa)— " (a) the Chief Justice or a permanent judge of the Court of Final Appeal is when he attains the age of 65 years unless he is appointed under section 14(2)(b) or (c) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995) in which case his age at the expiration of his term of 3 years shall be regarded as the normal retirement age;"	17.	《退休金及有關利益(司法人員)條例》(第401章)	(a) 在第6條中—— (i) 在第(1)款中—— (A) 將現有的(a)段重訂為(aa)段； (B) 在(aa)段之前加入—— " (a) the Chief Justice or a permanent judge of the Court of Final Appeal is when he attains the age of 65 years unless he is appointed under section 14(2)(b) or (c) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995) in which case his age at the expiration of his term of 3 years shall be regarded as the normal retirement age;"



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		(ii) in subsections (2) and (3), by adding “or (aa)” after “subsection (1)(a)”;			(ii) 在第(2)及(3)款中，在“subsection (1)(a)”之後加入“or (aa)”；
		(iii) in subsection (4), by adding “or before the expiration of any extension granted under section 14(1)(a) or (b) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995)” at the end;			(iii) 在第(4)款中，在末處加入“or before the expiration of any extension granted under section 14(1)(a) or (b) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995)”；
		(iv) in subsection (5), by adding “or under section 14(2)(a) or (b) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995)” after “Letters Patent”.			(iv) 在第(5)款中，在“Letters Patent”之後加入“or under section 14(2)(a) or (b) of the Hong Kong Court of Final Appeal Ordinance (79 of 1995)”。
		(b) In section 7—			(b) 在第7條中——
		(i) in subsection (1), by adding—			(i) 在第(1)款中，加入——
		“(da) in the case of the Chief Justice or a permanent judge of the Court of Final Appeal, on retirement after removal from office under section 14 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995), whether or not he has completed qualifying service of not less than the relevant period as specified in paragraph (a);”;			“(da) in the case of the Chief Justice or a permanent judge of the Court of Final Appeal, on retirement after removal from office under section 14 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995), whether or not he has completed qualifying service of not less than the relevant period as specified in paragraph (a);”；
		(ii) in subsection (2), by repealing “(1)(e)” and substituting “(1)(da), (e)”.			(ii) 在第(2)款中，廢除“(1)(e)”而代以“(1)(da), (e)”。
		(c) In section 8(1)(a), by repealing “7(1)(e)” and substituting “7(1)(da), (e)”.			(c) 在第8(1)(a)條中，廢除“7(1)(e)”而代以“7(1)(da), (e)”。
		(d) In section 21(5)(a), by repealing “7(1)(e)” and substituting “7(1)(da), (e)”.			(d) 在第21(5)(a)條中，廢除“7(1)(e)”而代以“7(1)(da), (e)”。
		(e) In section 29, by repealing “Judicial Service” wherever it appears and substituting “Judicial Officers Recommendation”.			(e) 在第29條中，廢除所有出現的“Judicial Service”而均代以“Judicial Officers Recommendation”。
18.	Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)	(a) By repealing section 2(13)(a). (b) In section 2(13)(b), by repealing “in any other case.”.	18.	《販毒(追討得益)條例》(第405章)	(a) 廢除第2(13)(a)條。 (b) 在第2(13)(b)條中，廢除“對其他案件來說，”。
19.	Judicial Officers (Tenure of Office) Ordinance (Cap. 433)	(a) In section 2, by adding “judge of the Court of Final Appeal,” after “include a”. (b) In sections 2, 5, 7, 8 and 11, by repealing “Judicial Service” wherever it appears and substituting “Judicial Officers Recommendation”.	19.	《司法人員(職位任期)條例》(第433章)	(a) 在第2條中，在“包括”之後加入“終審法院大法官、”。 (b) 在第2、5、7、8及11條中，廢除所有出現的“司法人員敍用”而均代以“司法人員推薦”。
20.	Organized and Serious Crimes Ordinance (82 of 1994)	(a) By repealing section 2(17)(a). (b) In section 2(17)(b), by repealing “in any other case.”.	20.	《有組織及嚴重罪行條例》(1994年第82號)	(a) 廢除第2(17)(a)條。 (b) 在第2(17)(b)條中，廢除“就其他案件而言，”。
21.	The Rules of the Supreme Court (Cap. 4 sub. leg.)	In Order 32, rule 10, by repealing “Privy Council” and substituting “Court of Final Appeal”.	21.	《最高法院規則》(第4章，附屬法例)	在第32號命令第10條規則中，廢除“Privy Council”而代以“Court of Final Appeal”。
22.	Legal Aid Regulations (Cap. 91 sub. leg.)	(a) In regulation 9(7), by repealing “Except in proceedings in relation to an appeal to, or an application for leave to appeal to, the Privy Council, where” and substituting “Where”. (b) In regulation 10(1), by repealing “Privy Council” and substituting “Court of Final Appeal”. (c) In regulation 18(1), by adding “the Hong Kong Court of Final Appeal Rules (L.N. of 1995) and” before “Order 62”. (d) In regulation 18(2), by adding “the Hong Kong Court of Final Appeal Rules (L.N. of 1995) and” before “the Rules”.	22.	《法律援助規則》(第91章，附屬法例)	(a) 在第9(7)條中，廢除“除關乎向樞密院提出上訴或申請向樞密院提出上訴的許可的法律程序外，”。 (b) 在第10(1)條中，廢除“樞密院”而代以“終審法院”。 (c) 在第18(1)條中，在“均由”之後加入“《香港終審法院規則》(1995年第 號法律公告)及”。 (d) 在第18(2)條中，在“施行”之後加入“《香港終審法院規則》(1995年第 號法律公告)及”。
23.	Legal Aid (Scale of Fees) Regulations (Cap. 91 sub. leg.)	In regulation 2— (a) in the definition of “rules of court”, by adding “the Hong Kong Court of Final Appeal Ordinance (79 of 1995),” after “made under”;	23.	《法律援助(費用計算)規例》(第91章，附屬法例)	在第2條中—— (a) 在“法院規則”的定義中，在“根據”之後加入“《香港終審法院條例》(1995年第79號)、”；

Item	Enactment	Amendment	項	成文法則	修訂
		(b) in the definition of "taxing master", by adding "the officer acting under section 43 of the Hong Kong Court of Final Appeal Ordinance (79 of 1995) or" after "means".			(b) 在“主理訟費評定事務聆案官”的定義中，在“指”之後加入“根據《香港終審法院條例》(1995年第79號)第43條行事的人員或”。
24.	Matrimonial Causes Rules (Cap. 179 sub. leg.)	In rule 2(2), in the definition of "judge", in paragraph (b), by adding "of the Supreme Court" after "Justice".	24.	《婚姻訴訟規則》(第179章，附屬法例)	在第2(2)條中，在“法官”的定義(b)段中，在“首席大法官”之前加入“最高法院”。
25.	Domestic Violence Rules (Cap. 189 sub. leg.)	In rule 2, in the definition of "judge", in paragraph (a), by adding "of the Supreme Court" after "Chief Justice".	25.	《家庭暴力規則》(第189章，附屬法例)	在第2條中，在“法官”的定義(a)段中，在“首席大法官”之前加入“最高法院”。
26.	Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg.)	(a) In rule 2(1)— (i) in the definition of "counsel", by repealing everything after "from practice" where it first appears and substituting a semicolon; (ii) by repealing the definition of "Privy Council"; (iii) in the definition of "Registrar", by repealing "Privy Council, includes the Registrar of the Privy Council" and substituting— "Court of Final Appeal, includes the Registrar of the Court of Final Appeal"; (iv) in the definition of "solicitor", by repealing everything after "is not suspended from practice" where it first appears and substituting a full stop. (b) In rule 2(2)(c), by repealing "Privy Council" and substituting "Court of Final Appeal". (c) In rule 4(1)(h), by repealing "Privy Council" and substituting "Court of Final Appeal". (d) In rule 8(3), by repealing "Privy Council" where it twice appears and substituting "Court of Final Appeal". (e) In rule 12(1A), by repealing "Privy Council" and substituting "Court of Final Appeal". (f) In rule 13(1)(c), by repealing "Privy Council" and substituting "Court of Final Appeal". (g) In rule 14A(2), by repealing "Privy Council" and substituting "Court of Final Appeal". (h) In rule 14B(1) and (2), by repealing "Privy Council" and substituting "Court of Final Appeal".	26.	《Legal Aid in Criminal Cases Rules》(第221章，附屬法例)	(a) 在第2(1)條中—— (i) 在“counsel”的定義中，廢除首次出現的“from practice”之後所有的字句而代以分號； (ii) 廢除“Privy Council”的定義； (iii) 在“Registrar”的定義中，廢除“Privy Council, includes the Registrar of the Privy Council”而代以—— “Court of Final Appeal, includes the Registrar of the Court of Final Appeal”； (iv) 在“solicitor”的定義中，廢除首次出現的“is not suspended from practice”之後所有的字句而代以句號。 (b) 在第2(2)(c)條中，廢除“Privy Council”而代以“Court of Final Appeal”。 (c) 在第4(1)(h)條中，廢除“Privy Council”而代以“Court of Final Appeal”。 (d) 在第8(3)條中，廢除兩度出現的“Privy Council”而均代以“Court of Final Appeal”。 (e) 在第12(1A)條中，廢除“Privy Council”而代以“Court of Final Appeal”。 (f) 在第13(1)(c)條中，廢除“Privy Council”而代以“Court of Final Appeal”。 (g) 在第14A(2)條中，廢除“Privy Council”而代以“Court of Final Appeal”。 (h) 在第14B(1)及(2)條中，廢除“Privy Council”而代以“Court of Final Appeal”。