

# 終審法院

## COURT OF FINAL APPEAL



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statement of law or court practice.

## 終審法院

終審法院是香港特別行政區最高的上訴法院，根據香港法例第484章《香港終審法院條例》及其他法例所賦予的權力，處理針對高等法院（上訴法庭及原訟法庭）的民事及刑事判決而作出的上訴及有關事項。

### 終審法院有哪些權力？

終審法院的權力範圍已在《香港終審法院條例》第17條內列明。終審法院既可確認、推翻、或更改上訴所針對的法院的決定，又可附上指引意見，將有關事項發還該法院處理，又可對有關事項作出它認為適當的其他命令。

### 終審法院審理哪些案件？

#### 民事方面的上訴：

- 當然權利上訴：不服上訴法庭的最終判決，而爭議的事項所涉及的金額或價值達港幣100萬元或以上。
- 酌情上訴：所有其他民事事項，如上訴法庭或終審法院認為該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，則上訴法庭或終審法院須酌情決定終審法院是否受理該上訴。

## 刑事方面的上訴：

- 終審法院可酌情決定是否受理：
  - 上訴法庭的最終決定
  - 原訟法庭的最終決定（不包括陪審團的裁定或決定），而就此項決定是不能向上訴法庭提出上訴的。

## 須得到上訴許可嗎？

得到上訴許可的批准，才可上訴。

提出民事案件的上訴，須得到上訴法院或終審法院的上訴許可。如提出該上訴是一項當然權利，則有關法院不得拒絕給予上訴許可，而須首先給予有條件的許可。

提出刑事案件的上訴，須得到終審法院的上訴許可。除非上訴法庭或原訟法庭（視屬何種情況而定）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，否則終審法院不得給予上訴許可。凡上訴法庭或原訟法庭拒絕作出證明，終審法院仍可作出證明，並給予上訴許可。如申請人只是以有關案件的決定顯示曾有實質及嚴重的不公平情況，必須直接向終審法院申請上訴許可。

## 甚麼時候提出上訴許可的申請？

上訴許可的申請必須在上訴所針對的判決或決定作出當日起計28天內提出。如屬民事上訴，申請人須於這28天內給訴訟對方7日時間通知，讓對方知道其有意提出上訴申請。

## 誰來聆訊上訴許可的申請？

上訴委員會聆訊上訴許可的申請，成員一般包括首席法官及兩位常任法官，或由首席法官委派三名常任法官進行聆訊。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。

如司法常務官認為某項申請並沒有顯示合理的給予上訴許可的理由，或是瑣屑無聊，或不符合規則的，則可以發出傳票給申請人，傳召他提交書面陳辭，在上訴委員會席前提出不應駁回其申請的因由。上訴委員會在考慮後，可以下令駁回申請，或發出在案中秉持公正所需的其他指示。

## 誰來聆訊上訴？

上訴由終審法院審理聆訊和作出裁定。聆訊的法官一般是首席法官、三位常任法官、和一位非常任香港法官或一位其他普通法適用地區的法官。

## 如何索取更多有關上訴程序的資料?

有關終審法院的上訴程序，已列明在《香港終審法院規則》內；此外，你亦可向終審法院登記處索取進一步資料。

## 如何聯絡我們?

地址：香港中環炮台里一號

查詢熱線：2123 0123

傳真：2121 0300

- 有關公眾人士的來信，司法機構會盡可能立即回覆。否則，我們會於收到信件後10天內作出簡覆，然後於30天內作出詳盡回覆。
- 為使服務更趨完善，歡迎各界人士提出意見及建議，來信可寄交香港金鐘道38號高等法院司法機構政務長收。

## 不提供法律意見

司法機構必須保持公平中立，因此本機構職員不會提供任何法律意見，或就個別案件的進行或勝訴機會作出評論。

如需要法律意見或援助，請聯絡律師或向提供免費法律諮詢服務的機構尋求協助。

## 辦公時間

### \*登記處 / 會計部

星期一至五

上午九時至下午一時

下午二時至五時

星期六

上午九時至中午十二時

\* (公眾假日休息)

司法機構

二〇一一年八月

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## COURT OF FINAL APPEAL

The Court of Final Appeal is the highest appellate court in the Hong Kong Special Administrative Region. It has jurisdiction in respect of matters conferred on it by the Hong Kong Court of Final Appeal Ordinance, Cap. 484 and by any other law.

It hears appeals on civil and criminal matters from the High Court (the Court of Appeal and the Court of First Instance).

### What are the powers of the Court of Final Appeal?

The powers of the Court of Final Appeal are set out in section 17 of the Hong Kong Court of Final Appeal Ordinance. This court may confirm, reverse or vary the decision of the court from which the appeal lies or may remit the matter with its opinion to that court, or may make such other order in the matter as it thinks fit.

### What type of cases can be heard by the Court of Final Appeal?

#### For civil matters:

- Appeals as of right from any final judgment of the Court of Appeal, where the matter in dispute amounts to or is worth \$1 million or more.

- Appeals at the discretion of the Court of Appeal or the Court of Final Appeal in any other civil matter if, in the opinion of either court, the question involved in the appeal is one which, because of its great general or public importance, or otherwise, ought to be submitted to the Court of Final Appeal for decision.

#### For criminal matters:

- Appeals, at the discretion of the Court of Final Appeal from:
  - any final decision of the Court of Appeal,
  - any final decision of the Court of First Instance (not being a verdict or finding of a jury) from which no appeal lies to the Court of Appeal.

### Is leave to appeal required?

Leave, i.e. permission, to appeal is required.

For civil appeals, no appeal shall be admitted unless leave to appeal has been granted either by the Court of Appeal or the Court of Final Appeal. Where an appeal lies as of right, leave to appeal shall not be refused but shall, in the first instance, be granted as conditional leave.

For criminal appeals, no appeal shall be admitted unless leave has been granted by the Court of Final Appeal. Leave will only be granted if it is certified by the Court of Appeal or the Court of First Instance

(as the case may be) that a point of law of great and general importance is involved in the decision. Where the Court of Appeal or the Court of First Instance declines to certify, the Court of Final Appeal may so certify the matter and grant leave to appeal. Where an applicant relies only on the substantial and grave injustice ground, he must apply directly to the Court of Final Appeal for leave.

### **When should an application for leave to appeal be filed?**

An application for leave to appeal must be filed within 28 days from the date of the judgment or decision to be appealed from. In the case of civil appeals, the applicant must also give the opposite party 7 days' notice of his intended application which may be given at any time during the period of 28 days.

### **Who hears the application for leave to appeal?**

Application for leave to appeal is heard by the Appeal Committee, which usually consists of the Chief Justice and two permanent judges, or three permanent judges nominated by the Chief Justice. The decision of the Appeal Committee shall be final and not itself subject to appeal.

Where the Registrar is of the opinion that an application discloses no reasonable grounds for leave to appeal, or is frivolous or fails to comply with the Rules, he may issue a summons to the applicant, calling upon him to file written submissions and show cause before the Appeal Committee why the application should not be dismissed. The Appeal Committee may, after considering the matter, order that the application be dismissed or give such other directions as the justice of the case may require.

### **Who hears the appeal?**

An appeal is heard and determined by the Court of Final Appeal, which is usually made up of the Chief Justice, three permanent judges and either one non-permanent Hong Kong judge or one judge from another common law jurisdiction.

### **How can I obtain further information on the appeal procedure?**

The procedures of the Court are set out in the Rules of the Court of Final Appeal. You may ask the Court of Final Appeal Registry for further information.

## How to Contact Us?

Address: 1 Battery Path, Central, Hong Kong

Hotline Number: 2123 0123

Fax: 2121 0300

- Whenever possible, the Judiciary will reply at once to correspondence from members of the public. If that is not possible, an interim reply will be provided within 10 days and a full response within 30 days of receipt.
- Comments and suggestions for improving our services are welcome. Please send them to the Judiciary Administrator at the High Court, 38 Queensway, Hong Kong.

## No Legal Advice

In order to maintain the impartial role of the Judiciary, our staff will not provide any legal advice or offer any comment on the conduct or merits of specific court cases and proceedings.

Please note that you should consult a legal practitioner or approach free legal advisory bodies for assistance if you require legal advice or assistance.

## Business Hours

### \*Registry / Accounts Office

Monday to Friday 9:00 a.m. to 1:00 p.m.

2:00 p.m. to 5:00 p.m.

Saturday 9:00 a.m. to 12:00 noon

\*(Closed on Public Holidays)

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