

**Replies to written questions raised by Finance Committee Members in examining the
Estimates of Expenditure 2002-03**

**Bureau Secretary : Secretary for Justice
Session No. : 7 File name : SJ-e1.doc**

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**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

SJ001

Question Serial No.

0002

Head: 92 Department of Justice Subhead(No. & title):

Programmes: (1) Prosecutions (2) Civil (3) Legal Policy (4) Law Drafting
(5) International Law

Controlling Officer: Director of Administration and Development

Question:

Regarding consultancy studies for policy making and assessment under the above programmes commissioned by your department, please provide the following details of the consultancy studies for which financial provision have been allocated in 2001-02:

Names of consultants (if available)	Contents of studies	Consultancy fees	Progress and follow-up action (under planning/ in progress/ finished)	Government's follow-up action (if available)

(2) will there be any financial provision allocated for commissioning consultancy studies in 2002-03? If yes, please provide the following details:

Names of consultants (if available)	Contents of studies	Consultancy fees	Status of consultancy studies (under planning/ in progress/ finished)

Asked by: Hon. HO Sau-lan, Cyd

Reply:

(1) Consultancy studies in 2001-02: Review of Legal Education and Training

Names of consultants (if available)	Contents of studies	Consultancy fees	Progress and follow-up action (under planning/ in progress/ finished)	Government's follow-up action (if available)
A consultancy study was undertaken as part of a full-scale review of all stages of the legal education and training of legal professionals in Hong Kong.				
(a) Professor Paul Redmond, Dean of the Faculty of Law at the University of New South Wales, Australia	Two consultants were appointed to undertake a preliminary review of the current system of legal education and training and to make recommendations for improvement.	The consultancy fees incurred were about \$1 million. This was funded by a grant from the Innovation and Technology Fund.	The consultants published their report in August 2001, making altogether 160 recommendations.	Taking into account the submissions made in response to the consultants' report, the Steering Committee of the study has to date examined, in some depth, some of the major recommendations in it (e.g. the reform of the LLB and the PCLL courses). It will continue meeting, for at least the next six months, to finalise its consideration of the report.
(b) Christopher Roper, formerly Director of the Centre for Legal Education and now Director of The College of Law Alliance, England & Australia				

(2) **Consultancy studies in 2002-03: Access to Justice Survey**

Names of consultants (if available)	Contents of studies	Consultancy fees	Status of consultancy studies (under planning/ in progress/ finished)
Not yet available	The purpose of the consultancy is to ascertain, through an empirical study, the nature of legal problems commonly faced by members of the community and how those problems are handled. When this information is obtained, further policy formulation in relation to access to justice and legal education will be more soundly based, and can be better directed to improving the current arrangements.	Since the review is in its planning stage and the scope of work has not been determined, no detailed costing has yet been worked out.	Under planning. A Steering Group is being formed, which will include representatives of the Bar Association, Law Society, the faculties of the two universities, the Judiciary and the Department.

Signature _____
Name in block letters Kevin C M Ho
Post Title Director of Administration
Date and Development
21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ002

Question Serial No.

0338

Head: 92 Department of Justice Subhead (No. & title):

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Question :

Regarding the Adaptation of Laws Programme, 7% of the adaptation work has yet to be completed. connection, will the Administration brief us on—

- (1) the number and titles of the ordinances involved and the scheduled time for these ordinances to be submitted to the Legislative Council for consideration;
- (2) which of these ordinances have policy implications; and
- (3) which of these ordinances having policy implications require discussion with the Central People's Government; if there is any, what is the progress of the discussion?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

- (1) A list of 42 Ordinances (Annex A) and another of 11 transport-related Ordinances (Annex B) that have not yet been adapted are attached.

The adaptation for the Prevention of Bribery Ordinance (Cap. 201) and the Independent Commission Against Corruption Ordinance (Cap. 204) (items 13 and 14 in the list of 42 Ordinances) has been dealt with by the Adaptation of Laws Bill 2001, which is now being scrutinised by the Legislative Council (LegCo).

The Law Drafting Division will commence drafting work once the policy issues have been resolved and Drafting Instructions issued to the Division. The Administration would introduce the relevant Adaptation of Laws Bills into LegCo when concrete legislative proposals have been formulated.

- (2) All these Ordinances require further deliberation on policy implications arising from adaptation.
- (3) The decision as to whether the Central People's Government shall be consulted on a particular Ordinance or any provisions in an Ordinance rests with individual bureaux responsible for the Ordinance concerned.

That said, it is established practice for the Government to consult relevant parties that may be affected by any proposed enactment of or amendment to legislation. This applies equally to the Central People's Government in respect of the Adaptation of Laws Programme. For example, in our legislation, there are still many references to "Her Majesty's Forces" as well as other military references. These references will be dealt with in an Adaptation of Laws Bill related to the Garrison matters. In the course of drafting the Bill, the Department has been liaising with the Garrison on various adaptation issues.

Similarly, the Administration needs to discuss with the Ministry for Foreign Affairs with regard to the provisions on reciprocal enforcement of judgments.

Signature	_____
Name in block letters	<u>Kevin C M Ho</u>
	<u>Director of Administration</u>
Post Title	<u>and Development</u>
Date	<u>21 March 2002</u>

**List of 42 Ordinances that require further deliberation on
policy implications arising from adaptation**

Item	Chapter No.	Short Title
1.	4	High Court Ordinance
2.	6	Bankruptcy Ordinance
3.	8	Evidence Ordinance
4.	9	Judgments (Facilities for Enforcement) Ordinance
5.	21	Defamation Ordinance
6.	23	Law Amendment and Reform (Consolidation) Ordinance
7.	76	Recognition of Trusts Ordinance
8.	98	Post Office Ordinance
9.	106	Telecommunication Ordinance
10.	115	Immigration Ordinance
11.	122	Audit Ordinance
12.	179	Matrimonial Causes Ordinance
*13.	201	Prevention of Bribery Ordinance
*14.	204	Independent Commission Against Corruption Ordinance
15.	252	Enforcement of Rights (Extension of Time) Ordinance
16.	257	Perpetuities and Accumulations Ordinance
17.	284	Misrepresentation Ordinance
18.	300	Crown Proceedings Ordinance
19.	311	Air Pollution Control Ordinance
20.	314	Occupiers Liability Ordinance
21.	317	Industrial Training (Construction Industry) Ordinance
22.	319	Foreign Judgments (Reciprocal Enforcement) Ordinance
23.	336	District Court Ordinance
24.	338	Small Claims Tribunal Ordinance
25.	347	Limitation Ordinance
26.	354	Waste Disposal Ordinance
27.	358	Water Pollution Control Ordinance
28.	360	Pneumoconiosis (Compensation) Ordinance
29.	369	Merchant Shipping (Safety) Ordinance
30.	377	Civil Liability (Contribution) Ordinance
31.	400	Noise Control Ordinance
32.	429	Parent and Child Ordinance
33.	434	Merchant Shipping (Limitation of Ship-owners Liability) Ordinance
34.	437	Foreign Corporations Ordinance
35.	460	Security and Guarding Services Ordinance
36.	469	Occupational Deafness (Compensation) Ordinance
37.	484	Hong Kong Court of Final Appeal Ordinance
38.	500	Carriage by Air Ordinance
39.	521	Official Secrets Ordinance
40.	1034	Masonic Benevolence Fund Incorporation Ordinance
41.	1055	Zetland Hall Trustees Incorporation Ordinance
42.	1133	The Methodist Church, Hong Kong, Incorporation Ordinance

* dealt with in the Adaptation of Laws Bill 2001

List of 11 Transport-related Ordinances

Item	Chapter No.	Short Title
1.	215	Eastern Harbour Crossing Ordinance
2.	237	Fixed Penalty (Traffic Contraventions) Ordinance
3.	240	Fixed Penalty (Criminal Proceedings) Ordinance
4.	272	Motor Vehicles Insurance (Third Party Risks) Ordinance
5.	368	Road Tunnels (Government) Ordinance
6.	370	Roads (Works, Use and Compensation) Ordinance
7.	393	Tate's Cairn Tunnel Ordinance
8.	436	Western Harbour Crossing Ordinance
9.	474	Tai Lam Tunnel and Yuen Long Approach Road Ordinance
10.	498	Tsing Ma Control Area Ordinance
11.	520	Discovery Bay Tunnel Link Ordinance

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ003

Question Serial No.

0339

Head: 92 Department of Justice Subhead(No. & title):

Programme: (5) International Law

Controlling Officer: Director of Administration and Development

Question :

Please provide the number of requests to and from the HKSAR in 2000 and 2001 for surrender of fugitive offenders, mutual legal assistance in criminal matters, transfer of sentenced persons and enforcement of confiscation orders. Please also list out the requested jurisdictions and the requesting jurisdictions of these requests. Regarding the surrender of fugitive offenders and the transfer of sentenced persons cases, please brief us on the outcome of each of these cases.

Asked by: Hon. HO Sau-lan, Cyd

Reply:

Tables showing the number of requests to and from the HKSAR in 2000 and 2001 by country are attached –

Surrender of Fugitive Offenders – **Annex A**

Mutual Legal Assistance – **Annex B**

Regarding the surrender of fugitive offenders, details on the requests to and from HKSAR by country and the outcome of each case are shown in **Annex C**.

Regarding the enforcement of confiscation orders, during the years 2000 and 2001, Hong Kong received six new formal requests from overseas jurisdictions for the restraint and confiscation of assets either under the Mutual Legal Assistance in Criminal Matters Ordinance, Cap. 525 or the Drug Trafficking (Recovery of Proceeds) Ordinance, Cap. 405.

One request (from Australia) has been fully processed, resulting in an order in Hong Kong registering the external confiscation order. Two requests (from Thailand and Myanmar) are pending. Three other requests (two from Switzerland and one from Thailand) could not be fully processed – in one case the request did not meet Hong Kong's minimum legal requirements while in the other two the funds had left Hong Kong before appropriate action could be taken.

There were no outgoing requests for the confiscation of assets for the years 2000 and 2001.

As far as transfer of sentenced persons cases are concerned, the International Law Division of the Department advises the Security Bureau on legal aspects of applications for transfer into and out of Hong Kong. The Mutual Legal Assistance Unit also prepares the necessary legal documents to effect the transfer if approved. The Secretary for Security is the central authority under the Transfer of Prisoners Ordinance for receiving transfer of sentenced persons applications and for approving inward and outward transfers. The relevant statistics provided by the Security Bureau are shown in **Annex D**.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration
	and Development
Post Title	_____
Date	21 March 2002

Statistics on new requests for Surrender of Fugitive Offenders Cases in 2000 and 2001

	<u>2000</u>		<u>2001</u>	
	In	Out	In	Out
Australia	2	0	1	0
Canada	0	2	0	1
India	1	0	0	0
New Zealand	0	2	0	0
United Kingdom	0	2	0	1
USA	11	2	4	3
Total	14	8	5	5

Statistics on new requests for Mutual Legal Assistance Cases in 2000 and 2001

	2000		2001	
	<u>In</u>	Out	In	Out
Australia	7	0	5	1
Belgium	3	0	0	0
Brazil	1	0	0	0
Canada	4	2	2	0
Denmark	1	0	0	0
France	2	0	4	1
Germany	1	0	2	0
India	2	0	3	0
Israel	2	0	0	0
Italy	0	0	1	0
Japan	3	1	3	0
Jersey	0	0	0	1
Korea	3	0	1	0
Lithuania	0	0	1	0
Myanmar	0	0	1	0
Netherlands	2	0	2	1
New Zealand	1	1	1	0
Nigeria	0	0	1	0
Philippines	1	0	1	0
Poland	0	0	7	0
Russia	2	1	1	0
South Africa	0	0	1	0
Spain	0	0	2	0
Switzerland	2	0	6	0
Tajikistan	1	0	0	0
Thailand	0	0	3	0
Turkey	0	0	1	0
Ukraine	2	0	2	0
United Kingdom	9	1	11	1
USA	12	0	11	3
Yugoslavia	0	1	0	0
<u>Total</u>	<u>61</u>	<u>7</u>	<u>73</u>	<u>8</u>

2000
**Incoming requests for provisional arrest and
surrender of fugitives**

Country	No. of cases	Status
USA	11	6 pending, 4 surrendered, 1 died before surrender
India	1	pending
Australia	2	1 surrendered, 1 withdrawn
Total	14	

**Outgoing requests for provisional arrest and
surrender of fugitives**

Country	No. of cases	Status
New Zealand	2	1 surrendered, 1 pending
UK	2	1 pending, 1 order discharged
USA	2	1 surrendered, 1 withdrawn
Canada	2	1 deported, 1 pending
Total	8	

2001
Incoming requests for provisional arrest and
surrender of fugitives

Country	<u>No. of cases</u>	Status
USA	4	3 surrendered, 1 pending
Australia	1	pending
Total	5	

Outgoing requests for provisional arrest and
surrender of fugitives

Country	No. of cases	Status
USA	3	all pending
UK	1	pending
Canada	1	surrendered
Total	5	

**Statistics on Applications for Transfer of Sentenced Persons Processed by the
Hong Kong Special Administrative Region**

Progress of applications	Jurisdictions	Number of prisoners			
		Application for transfer into Hong Kong		Application for transfer out of Hong Kong	
		2000	2001	2000	2001
Already transferred	United States United Kingdom Nigeria	1		1	1
Insufficient time to finish processing the applications before the release of the prisoners concerned (there is one case in which the prisoner passed away).	Thailand	2			
Failed to make satisfactory special arrangements or reach an agreement on the transfer arrangements	Malaysia United States	1		1	
The applicant withdrew his/her application	Thailand				1
Application under processing	Indonesia Lebanon Nepal Thailand Vietnam	14	1	5 1 3	1

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ004

Question Serial No.

0340

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

(A) Can the Government provide details on the percentages of prosecution work briefed out to private counsel amongst all proceedings in the following courts in 2000 and 2001 -

- (1) Court of Final Appeal;
- (2) Court of Appeal;
- (3) Court of First Instance;
- (4) District Court; and
- (5) Magistrates' Court.

What are the criteria for briefing out prosecution work to private counsel instead of assigning work to the Prosecutions Division? What is the expenditure on briefing out prosecution work?

(B) Will any specific measures be taken in 2002-03 to enhance the ability of in-house counsel in conducting prosecutions at various levels of courts? What expenditure will be involved?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

(A) The percentages of prosecution work briefed out to private counsel in 2000 and 2001 in different levels of courts are as follows –

	<u>2000</u>	<u>2001</u>
(1) Court of Final Appeal	2.5%	2.9%
(2) Court of Appeal	0%	0.3%
(3) Court of First Instance	8%	13.4%
(4) District Court	33.3%	41.7%
(5) Magistrates' Courts		
- in place of Government Counsel	32.4%	27.7%
- in place of Court Prosecutors	0.9%	5.2%

The Department has not set a fixed ceiling for briefing out. The actual amount of work to be briefed out will necessarily be determined by various factors, including the workload, the availability of counsel, the nature of the cases and the desirability of employing outside counsel for a particular case. In 2002-03, it is estimated that an amount of \$58m will be required to meet the expenditure on briefing out prosecution work.

- (B) The Department recognises the need to keep its prosecutors up-to-date with developments in the areas of legislation, case law and procedure. In 2002, there are plans to conduct 16 in-house seminars for the Department's counsel to enhance their advocacy skills and professional knowledge. There will be 6 workshops/seminars aimed at sharpening the skills of new bilingual counsel in using Chinese in court. One twelve-week Criminal Advocacy Course will be organized for counsel newly posted to the Prosecutions Division and legal trainees, which covers lectures, seminars and practical experience of prosecuting in Magistracies. Junior counsel will be assigned on rotation as juniors in trials and appeals to give them direct exposure to advocacy at higher levels. Since these are in-house training programmes, the Department will not require any addition resources.

Apart from running in-house training, the Department will also send counsel to attend the Advanced Legal Education Courses organized by the Hong Kong Bar Association, the workshops organized by the Advocacy Institute of Hong Kong and the seminars organized by the Law Society or by the Society's approved providers of the Continuing Professional Development Scheme. The Department has earmarked a provision of \$100,000 in 2002-03 to meet the necessary expenditure.

Signature	_____
Name in block letters	<u>Kevin C M Ho</u>
	<u>Director of Administration</u>
Post Title	<u>and Development</u>
Date	<u>21 March 2002</u>

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ005

Question Serial No.

0341

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

Please provide the number of Court Prosecutors in 2000 and 2001. How many of them have professional qualifications for legal practice?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

There were 109 Court Prosecutors (CPs) in 2000 and 104 in 2001. Nine of them have been admitted as barristers, of whom, two are fully qualified barristers. In addition, 26 CPs hold law degrees, and one holds a Postgraduate Certificate in Laws.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ006

Question Serial No.

0344

Head: 92 Department of Justice Subhead(No. & title): 234 Court Costs

Programme: (1) Prosecutions

(2) Civil

Controlling Officer: Director of Administration and Development

Question :

Please provide the amount of court costs which various government departments were ordered to pay in 2000-01 and 2001-02 as a result of civil and criminal proceedings.

Asked by: Hon. HO Sau-lan, Cyd

Reply:

A table showing the amount of court costs awarded against the Government in 2000-01 and 2001-02 (11 months to 28 February 2002) is attached.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

List showing the amount of court costs awarded against the Government

Client Department	Civil Cases		Criminal Cases	
	2000-01 \$'000	2001-02# \$'000	2000-01 \$'000	2001-02# \$'000
1. Agriculture, Fisheries and Conservation Department	-	-	-	163
2. Architectural Services Department	450	-	-	-
3. Buildings Department	2,341	1	-	850
4. Customs and Excise Department	1,050	557	2,403	4,858
5. Correctional Services Department	503	648	-	-
6. Department of Health	137	-	12	4
7. Department of Justice	-	540	-	-
8. Drainage Services Department	5,450	429	-	-
9. Education Department	41	669	-	-
10. Electrical and Mechanical Services Department*	170	-	-	-
11. Environmental Protection Department	40	-	190	421
12. Food and Environmental Hygiene Department	69	433	118	1
13. Fire Services Department	434	2,078	-	-
14. Government Secretariat – Civil Service Bureau	95	118	-	-
15. Government Secretariat – Transport Bureau	-	1,361	-	-
16. Home Affairs Department	267	-	-	-
17. Hong Kong Police Force	1,355	1,370	21,408	8,681
18. Highways Department	45,123	132	-	-
19. Independent Commission Against Corruption	-	-	3,748	24,974
20. Immigration Department	-	68	130	42
21. Inland Revenue Department	240	1,425	-	-
22. Judiciary	240	-	-	-
23. Labour Department	682	52	1,568	1,967
24. Lands Department	504	3,091	-	-
25. Land Registry*	251	-	-	-
26. Leisure and Cultural Services Department	57	250	-	-
27. Office of the Telecommunications Authority*	-	640	-	-
28. Post Office*	63	-	-	-
29. Television and Entertainment Licensing Authority	41	400	-	30
30. Territory Development Department	-	3,388	-	-
31. Water Supplies Department	190	400	-	-
32. Other departments (cases below \$50,000 each)	12	2	1	19
	<u>59,805</u>	<u>18,052</u>	<u>29,578</u>	<u>42,010</u>

Notes

Actual payments for eleven months (1 April 2001 to 28 February 2002).

* These costs are recovered from Trading Fund departments and credited to Head 9 Subhead 110 Payments made by Trading Funds.

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ007

Question Serial No.

0345

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

Have any resources been allocated in this financial year for conducting research, drafting law or offering advice in connection with the legislative work for Article 23 of the Basic Law to ensure compliance with the human rights provisions of the international treaties applicable to Hong Kong? If yes, what is the amount of the provision?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

The Department will continue to assist the Security Bureau with research and advice in relation to Article 23 of the Basic Law. The work, which involves the Basic Law and Human Rights Units of the Legal Policy Division, will be carried out within existing resources.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ008

Question Serial No.

0542

Head: 92 Department of Justice Subhead(No. & title):

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question :

(a) Regarding the earlier dispute arising from the contract between Kowloon-Canton Railway Corporation (KCRC) and Siemens AG, has the Government reviewed the provisions of commercial contracts drafted and vetted by the government departments to ascertain whether the interests of the Government are reasonably safeguarded, so as to avoid the occurrence of cases in which extra payments have to be made even though the Government is not at fault? If yes, what is the progress of the review? What resources are involved? If no, why?

(b) Has the Government formulated any new provisions to safeguard the commercial contracts signed by government departments in future from any similar disputes as the one arising from the KCRC contract?

Asked by: Hon. TSANG Yok-sing, Jasper

Reply:

The contract between Kowloon-Canton Railway Corporation (KCRC) and Siemens AG is a private contract. Government will keep abreast of development of the up-to-date practice in the private sector so as to adopt any appropriate development to its own contract administration work.

Counsel in the Department dealing with commercial contracts have from time to time discussed with relevant departments on a number of issues such as liquidated and general damages, contracts with low-bidding tenderers and third party commitments to safeguard the interests of Government.

For construction contracts, Government takes into account the tenderer's technical and financial capability and past performance in addition to price in the tender evaluation. A suitable performance bond will be imposed where the contract involves a large sum or there is a substantial degree of risk involved.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ009

Question Serial No.

0543

Head: 92 Department of Justice Subhead(No. & title):

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question :

Why does the estimated expenditure for 2002-03 increase sharply by 10% despite the fact that there is no increase in service items?

Asked by: Hon. TSANG Yok-sing, Jasper

Reply:

The increased provision in 2002-03 is mainly attributable to the increase in provision for court costs, the net cost of 3 posts and additional provision for engagement of non-civil service contract staff.

The increase in provision for court costs accounts for a considerable portion of the entire increased provision. The estimated increase in provision is to provide for payment that may be required to meet the costs awarded Government by the courts including several major or long-running litigation cases which have recently concluded, subject to negotiation on costs which have yet to be confirmed.

Additional staff resources are required to cope with the increase in the workload of various units of the Division, particularly in relation to the following -

- (a) on the litigation side, the "mega" litigation cases with large groups of Plaintiffs or Applicants have stretched the resources of Civil Litigation Unit to its limits in recent years. Many of these cases require a dedicated team of staff, including directorate and senior government counsel, to work full time on them. In addition to these mega cases, there is also an increase in the volume of work in other cases, for example, judicial reviews, personal injuries, etc. These cases have become more complex and require more time and effort to conclude; and
- (b) on the advisory side, partly as a result of new technology and partly because of new initiatives of the Government, the issues which the Advisory Unit and Commercial Unit have advised on are also increasingly complicated in nature. Such issues include, for example, implementation of the information systems strategy of the Immigration Department, Company Law Reform initiatives, the run-off of insider dealing cases and the anticipated establishment of the Market Misconduct Tribunal.

The Department will continue to regularly monitor its workload and review its staffing requirements to ensure that its services are delivered in the most cost-effective and efficient manner.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ010

Question Serial No.

0551

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

- (a) Will the Government brief us on the number of counsel as at 1 March 2002 in the Prosecutions Division who can conduct prosecution work in Chinese and English and the percentage of this to the total number of counsel carrying out prosecution work?
- (b) In 2002-03, what specific measures will be taken to enhance the ability of prosecutors to conduct prosecution in Chinese? What is the expenditure involved?

Asked by: Hon. EU Yuet-mee, Audrey

- (a) As at 1 March 2002, there were 110 counsel in the Prosecutions Division, of whom, 86 counsel (78%) were bilingual.
- (b) In 2002-03, the Department will organise 6 in-house workshops/seminars to sharpen the skills of its new bilingual counsel in using Chinese in court. In addition, it will send counsel to attend suitable courses run by the Civil Service Training and Development Institute (CSTDI), the Hong Kong Bar Association, the Law Society of Hong Kong, or by the Society's approved course providers of the Continuing Professional Development Scheme.

In respect of the training courses to be organised in-house or provided by CSTDI, the Department will not require additional resources. In respect of the external training courses, the Department has earmarked a provision of \$12,000 in 2002-03 for the purpose.

Apart from the training programmes mentioned above, a Committee on Glossary of Legal Terms for Criminal Proceedings was established in 1998 within the Prosecutions Division to develop a legal language in Chinese for use in criminal proceedings in court; to provide reference materials for use by prosecutors in criminal proceedings conducted in Chinese; and to compile and update the Glossary of Legal Terms for Criminal Proceedings on a regular basis.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ011

Question Serial No.

0552

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

- (a) Will the Government brief us on the number of Court Prosecutors as at 1 March 2002 who hold Bachelor of Laws Degrees or have professional qualifications for legal practice, and the percentage of this to the total number of Court Prosecutors?
- (b) In 2002-03, what specific measures will be taken to enhance the professional ability of Court Prosecutors?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

- (a) As at 1 March 2002, out of 104 Court Prosecutors (CPs), nine were admitted as barristers, of whom, two were fully qualified barristers. In addition, 26 CPs held law degrees, and one held a Postgraduate Certificate in Laws. They altogether accounted for 34.6% of the grade.
- (b) The Department recognises the need to keep its Court Prosecutors up-to-date with developments in the areas of legislation, case law and procedure. In 2002-03, refresher courses on 'Cross examination', 'Making submissions' and 'Legal arguments' will be organised to strengthen their advocacy skills. There will also be in-house seminars on subjects such as 'Mandatory Provident Fund Offences', 'Techniques in leading evidence from expert witnesses', 'Dealing with proceeds on indictable offence and related offences', 'Trade control/Dutiable commodities offences', and 'Hackers in Hong Kong'. Visits to law enforcement agencies and government departments, including the Government Laboratory, Trade and Industry Department, and Customs and Excise Department, will be organised to enhance their understanding of the working procedures and duties of these bodies. Court Prosecutors will also be attached to counsel in Magistracy Appeals in order to strengthen their knowledge about the grounds to be taken on appeal.

Apart from running in-house training, the Department will also send Court Prosecutors to attend suitable courses organised by the Law Society, or by the Society's approved course providers.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ012

Question Serial No.

0603

Head: 92 Department of Justice Subhead(No. & title): 243 Hire of legal services and related professional fees

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

- (a) Can the Government provide details on the expenditure in 2001-02 and the estimated expenditure in 2002-03 on prosecution work briefed out to private counsel?
- (b) Can the Government provide details on the expenditure in 2001-02 and the estimated expenditure in 2002-03 on prosecution work carried out by Government Counsel?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

The expenditure incurred in briefing out prosecution work to private practitioners for the period 1 April 2001 to 28 February 2002 was \$55,016,649.

- (a) A provision of \$58 million has been made for briefing out prosecution work to private practitioners in 2002-03.
- (b) The Department has not kept separate record on the expenditure of prosecution work carried out by Government Counsel.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ013

Question Serial No.

0604

Head: 92 Department of Justice Subhead(No. & title):

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question :

Can the Government provide details on the ranks of the three posts to be created in the Civil Division in 2002-03 and the reasons for their creation?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

In 2002-03, Civil Division has obtained resources for the net creation of 3 posts (i.e. creation of 5 Senior Government Counsel posts, and the deletion of 1 Government Counsel and 1 Office Assistant posts). These posts are required to cope with the increase in the workload of various units of the Civil Division -

- (a) on the litigation side, the "mega" litigation cases with large groups of Plaintiffs or Applicants have stretched the resources of Civil Litigation Unit to its limits in recent years. Many of these cases require a dedicated team of staff, including directorate and senior government counsel, to work full time on them. From these mega cases, there is also an increase in the volume of work in other cases, for example, judgments, reviews, personal injuries, etc. These cases have become more complex and require more time and effort to conclude; and
- (b) on the advisory side, partly as a result of new technology and partly because of new initiatives of the Government, the issues which the Advisory Unit and Commercial Unit have advised on are also increasingly complicated in nature, such as the anticipated establishment of the Market Misconduct Tribunal.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ014

Question Serial No.

0605

Head: 92 Department of Justice Subhead(No. & title): 234 Court costs

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question :

Can the Government provide details on the estimated increase in court costs for civil proceedings brought by and against the Government in 2002-03 as compared with those of last year and the reasons for the increase in expenditure?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

The total estimate of court costs for civil proceedings in 2002-03 has increased from \$34M (2001-02) to \$50M (2002-03). The increase is 47%. The estimated increase in provision is to provide for payment that may be required to meet the costs awarded against Government by the courts including several major or long-running litigation cases which have recently been concluded, subject to negotiations on costs which have yet to be confirmed. The estimates for court costs were done on a global basis without breakdown into court costs for civil proceedings brought by or against the Government.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ015

Question Serial No.

0606

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

Will the Government provide details on the manpower and provision set aside in 2002-03 for taking forward the comprehensive review of legal education and training?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

The Department will continue to participate in the Steering Committee on the Review of Legal Education and Training in order to present final recommendations on the way ahead. In view of the progress made so far, the Steering Committee has no current plans for a second stage of the review to be undertaken as originally planned. As a result, the Department's work in respect of the Review will be carried out within existing resources.

The implementation of the final recommendations will be largely a matter for the law faculties of the University of Hong Kong and the City University, which are expected to bid for extra resources from the University Grants Committee. The amount of those extra resources has yet to be worked out.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ016

Question Serial No.

0607

Head: 92 Department of Justice Subhead(No. & title): 514 Promotion of rule of law and Hong Kong's legal system

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

Can the Government provide details on the specific programme(s) to be launched in China and overseas during 2002-03 to promote Hong Kong's rule of law and legal system and the expenditure involved?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

As in previous years, the Department will promote better understanding of the rule of law and legal system in the Mainland and overseas through various means. The Department is considering ways in which information in respect of the Basic Law can best be provided for overseas audience and about \$270,000 is available under Capital Account 514 in 2002-03. Funds under other Capital Account Items and the departmental expenditure vote will be used for further promotional activities. These include overseas duty visits, speaking engagements and visits by counsel to meet their counterparts in the Mainland, e.g. the Director of Public Prosecutions will lead a delegation to visit neighbouring cities in April 2002 to promote mutual understanding. A symposium comprising a mock trial of a Hong Kong case and a seminar on the litigation systems is being planned to be conducted in the Mainland. The Department organises annual programmes comprising courses at the University of Hong Kong and placements in law-related departments for Mainland officials working in the legal field. The Department often receives and briefs delegations from the Mainland on the rule of law and the Hong Kong legal system, including delegations referred to the Department by various organisations, including the Law Society of Hong Kong. It is also expected that the Department will continue to explain and promote to members of the public (local and international) the rule of law in Hong Kong in its reports to the United Nations Human Rights Treaties Monitoring Bodies in 2002-03 in respect of the Rights of the Child and the Elimination of All Forms of Racial Discrimination.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ017

Question Serial No.

0608

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

Will the Government brief us on the manpower and provision set aside in 2002-03 for the evaluation and review of the public's demand for legal and related services and the time-table for the study?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

The Department is planning to engage consultants to conduct a survey on the public's demand for legal and related services. Since this exercise is still in its planning stage, details of the consultancy and the funding involved have yet to be worked out. We will try to meet any expenditure arising from the Study within the existing provision.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ018

Question Serial No.

0609

Head: 92 Department of Justice Subhead(No. & title):

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Question :

- (1) Can the Government provide a list of Ordinances which have yet to be adapted and the reasons why they have not been adapted so far?
- (2) Has the Government laid down any time-table for the adaptation of these Ordinances? If yes, what are the details?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

- (1) A list of 42 Ordinances (Annex A) and another of 11 transport-related Ordinances (Annex B) that have not yet been adapted are attached. All these Ordinances require further deliberation on policy implications arising from adaptation.

The adaptation for the Prevention of Bribery Ordinance (Cap. 201) and the Independent Comm Against Corruption Ordinance (Cap. 204) (items 13 and 14 in the list of 42 Ordinances) ha dealt with by the Adaptation of Laws Bill 2001, which is now being scrutinised by the Legi Council (LegCo).

- (2) The relevant bureaux are studying the policy implications that are related to the matters under their respective purviews. The Administration is giving these matters very careful consideration. The Law Drafting Division will commence drafting work once the policy issues have been resolved and Drafting Instructions received. The Administration would introduce the relevant Adaptation of Laws Bills into LegCo when concrete legislative proposals have been formulated.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

**List of 42 Ordinances that require further deliberation on
policy implications arising from adaptation**

Item	Chapter No.	Short Title
1.	4	High Court Ordinance
2.	6	Bankruptcy Ordinance
3.	8	Evidence Ordinance
4.	9	Judgments (Facilities for Enforcement) Ordinance
5.	21	Defamation Ordinance
6.	23	Law Amendment and Reform (Consolidation) Ordinance
7.	76	Recognition of Trusts Ordinance
8.	98	Post Office Ordinance
9.	106	Telecommunication Ordinance
10.	115	Immigration Ordinance
11.	122	Audit Ordinance
12.	179	Matrimonial Causes Ordinance
*13.	201	Prevention of Bribery Ordinance
*14.	204	Independent Commission Against Corruption Ordinance
15.	252	Enforcement of Rights (Extension of Time) Ordinance
16.	257	Perpetuities and Accumulations Ordinance
17.	284	Misrepresentation Ordinance
18.	300	Crown Proceedings Ordinance
19.	311	Air Pollution Control Ordinance
20.	314	Occupiers Liability Ordinance
21.	317	Industrial Training (Construction Industry) Ordinance
22.	319	Foreign Judgments (Reciprocal Enforcement) Ordinance
23.	336	District Court Ordinance
24.	338	Small Claims Tribunal Ordinance
25.	347	Limitation Ordinance
26.	354	Waste Disposal Ordinance
27.	358	Water Pollution Control Ordinance
28.	360	Pneumoconiosis (Compensation) Ordinance
29.	369	Merchant Shipping (Safety) Ordinance
30.	377	Civil Liability (Contribution) Ordinance
31.	400	Noise Control Ordinance
32.	429	Parent and Child Ordinance
33.	434	Merchant Shipping (Limitation of Ship-owners Liability) Ordinance
34.	437	Foreign Corporations Ordinance
35.	460	Security and Guarding Services Ordinance
36.	469	Occupational Deafness (Compensation) Ordinance
37.	484	Hong Kong Court of Final Appeal Ordinance
38.	500	Carriage by Air Ordinance
39.	521	Official Secrets Ordinance
40.	1034	Masonic Benevolence Fund Incorporation Ordinance
41.	1055	Zetland Hall Trustees Incorporation Ordinance
42.	1133	The Methodist Church, Hong Kong, Incorporation Ordinance

* dealt with in the Adaptation of Laws Bill 2001

List of 11 Transport-related Ordinances

Item	Chapter No.	Short Title
1.	215	Eastern Harbour Crossing Ordinance
2.	237	Fixed Penalty (Traffic Contraventions) Ordinance
3.	240	Fixed Penalty (Criminal Proceedings) Ordinance
4.	272	Motor Vehicles Insurance (Third Party Risks) Ordinance
5.	368	Road Tunnels (Government) Ordinance
6.	370	Roads (Works, Use and Compensation) Ordinance
7.	393	Tate's Cairn Tunnel Ordinance
8.	436	Western Harbour Crossing Ordinance
9.	474	Tai Lam Tunnel and Yuen Long Approach Road Ordinance
10.	498	Tsing Ma Control Area Ordinance
11.	520	Discovery Bay Tunnel Link Ordinance

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ019

Question Serial No.

0610

Head: 92 Department of Justice Subhead(No. & title):

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Question :

The Law Drafting Division previously conducted a pilot scheme to study the feasibility of re-writing the existing legislation in plain language. Can the Government provide details on whether the study will continue? If yes, what will be the manpower and provision set aside to carry out the work in 2002-03? If no, what are the reasons?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

At the submission of the Law Draftsman, the programme to re-draft legislation in plain language was discussed at a meeting of the Administration of Justice and Legal Services Panel of the Legislative Council held in March 2001. Members of the Panel who attended the meeting generally endorsed the ideas and thoughts behind the programme. However, they opined that due caution must be exercised. The programme should be woven into the normal legislative programme of the Administration and undertaken on a step-by-step basis. No timetable should be set for individual ordinances. No resources should be allocated to re-enact legislation solely to make improvement in the legal language.

The Law Draftsman accepted the Members' views. No timetable is therefore set for the legislative work under the programme and no provision of manpower is made for related work.

However, the programme will not be terminated. At the said meeting, the Law Draftsman drew up a list of 8 so-called "archaic" ordinances and recommended a pilot scheme to improve their language and presentation. Once the Administration proposes to introduce legislative amendments to the 8 ordinances, the drafting will be done in plain language.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ020

Question Serial No.

0617

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions (2) Civil (3) Legal Policy
(4) Law Drafting (5) International Law

Controlling Officer: Director of Administration and Development

Question : Will the Government brief us on the establishment of the Department of Justice -

- (1) The Department plans to delete one directorate post in 2002-03. Is there any plan to further reduce the number of directorate posts? If yes, what are the details? If no, what are the reasons?
- (2) Is there any plan to reduce the number of non-directorate counsel posts? If yes, what are the details? If no, what are the reasons?
- (3) Is there any plan to increase the percentage of briefing-out work? If yes, what are the details? If no, what are the reasons?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

- (1) There is at present no plan to further reduce the number of directorate posts in the Department. The demand for professional and managerial input at the directorate level has not decreased either in quantity or in complexity. The Department will continue to monitor its workload and review ways to ensure service delivery in a most cost-effective manner.
- (2) There is at present no plan to reduce the number of non-directorate counsel posts in the Department. The requirement for professional input from the five legal divisions has not declined. In some areas there has even been an increase in workload. The existing manpower has been fully stretched and any reduction in the number of posts would unduly affect the Department's capacity to deliver its service effectively and efficiently.
- (3) The estimated levels of expenditure for the two briefing out votes for 2002-03 are broadly similar to the revised estimate for 2001-02. In general, the Department may resort to briefing out when
 - (a) there is a need for expert assistance where the requisite skill is not available in the Department;
 - (b) there is no suitable in-house counsel to appear for the Government;
 - (c) there is a need for advice or proceedings involving members of the Department who are in conflict or dispute with the Government;
 - (d) there is a need for continuity and economy; and
 - (e) the size, complexity, quantum and length of a case so dictate.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ021

Question Serial No.

0618

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

On the work of the Law Reform Commission, can the Government provide details on-

- (1) Since 1997, how many recommendations put forward by the Law Reform Commission have been accepted (with legislation being drafted or to be drafted) by the Government and how many of them have been implemented (with relevant legislation enacted)? What is the ratio between them?
- (2) Is there any plan to increase the manpower of the Law Reform Commission to enhance its research work on law reform? If yes, what are the details? If no, what are the reasons?

Asked by: Hon. EU Yuet-mee, Audrey

Reply:

(1) The Law Reform Commission has published eight reports since 1 July 1997. Their titles and dates of publication, together with details of any implementing legislation or other relevant activities, are shown below -

- (a) Description of flats on sale: Overseas uncompleted residential property (September 1997)
- (b) Civil liability for unsafe products (February 1998): Economic Services Bureau is reviewing a working draft of a Bill.
- (c) Insolvency: Winding-up provisions of the Companies Ordinance (July 1999): Companies (Amendment) Bill was introduced to LegCo in January 2002 to implement a number of straightforward technical amendments. The major recommendations are still under consideration by the Financial Services Bureau.
- (d) Age of criminal responsibility in Hong Kong (May 2000): Juvenile Offenders (Amendment) Bill was introduced to LegCo in November 2001.
- (e) Procedure governing admissibility of confession statements in criminal proceedings (July 2000): this report did not recommend any changes requiring legislation.
- (f) Privacy: Stalking (October 2000)
- (g) Guardianship of children (January 2002)
- (h) Contracts for the supply of goods (February 2002)

None of the seven reports recommending legislative change has so far been implemented by enacted legislation.

(2) Members of the Commission are appointed from the community. They serve part-time, and volunteer their expertise unpaid to the work of the Commission and its sub-committees. There is a limit to the amount of work which those members can reasonably be expected to undertake. The existing manpower of the Commission's Secretariat is appropriate to the Commission's needs.

Signature	
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ022

Question Serial No.

0757

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

Regarding the matter "continue to provide training for counsel to conduct court proceedings in Chinese" by the Prosecutions Division, can the Director of Administration and Development brief us on the estimated expenditure in this financial year? Please also provide details on the actual expenditure in the last two financial years for our reference.

Asked by: Hon. LEE Chu-ming, Martin

Reply:

The actual expenditure of providing training for counsel to conduct court proceedings in Chinese was \$8,515 in 2000-01 and \$11,605 in 2001-02. The estimated expenditure for 2002-03 is \$12,000. The above figures were/are for external training courses run by the Hong Kong Advocacy Institute, the Law Society of Hong Kong, or other approved course providers. No additional expenditure was/will be incurred by the Department for relevant training courses organized in-house or provided by the Civil Service Training and Development Institute.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ023

Question Serial No.

0758

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

Regarding the matter "take forward the comprehensive review of legal education and training" at Paragraph 18, can the Director of Administration and Development provide details on the areas it covers? What are the target persons or organizations? What is the estimated expenditure? Please also provide details on the actual expenditure in the last two financial years for comparison.

Asked by: Hon. LEE Chu-ming, Martin

Reply:

The comprehensive review encompasses all stages of the legal education and training of legal professionals in Hong Kong, including the detailed components and content of undergraduate legal education, vocational training (including traineeship and pupillage as well as the professional stage of university of legal education) and post-qualification continuing legal education. It also covers legal education for those who intend to pursue a career in areas other than legal practice.

The Department has played an active part in the review through its participation in the Steering Committee on the Review of Legal Education and Training, a body set up in late 1999 to oversee the review. Apart from some lay members, the Department, the Law Society, the Bar Association, and the law faculties of the University of Hong Kong and the City University all have representatives sitting in the Steering Committee.

In 2002-03, the Department will continue to participate in the Steering Committee and the review in order to present final recommendations on the way ahead. In view of the progress made so far, the Steering Committee has no current plans for a second stage of the review to be undertaken as originally planned. As a result, the Department's work in respect of the review will be carried out within existing resources.

The implementation of the final recommendations will be largely a matter for the two law faculties, which are expected to bid for extra resources from the University Grant Committee. The amount of those extra resources has yet to be worked out.

In the financial years 2000-01 and 2001-02 (as at 15 March 2002), the Department's actual expenditure on the project was \$210,937 and \$209,503 respectively. These figures do not include staff costs.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ024

Question Serial No.

1055

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

- 1.(a) What is the establishment and strength respectively of court prosecutors at different ranks and how are the senior staff in the grade deployed?
- (b) What are the salary scales of court prosecutors at different ranks and what are the qualifications and criteria for promotion?
- (c) How many court prosecutors were recruited and promoted respectively last year and
- (i) what is the total staff cost related to these newly recruited or promoted court prosecutors?
- (ii) what is the justification in view of fact that there is no significant increase in the estimated number of court days or trials?

Asked by: Hon. NG Margaret

Reply:

- (a) The current establishment and strength of the Court Prosecutor grade are as follows -

Rank	Establishment	Strength
Chief Court Prosecutors (CCP)	2	1
Senior Court Prosecutors I (SCP I)	8	8
Senior Court Prosecutors II (SCP II)	28	25
Court Prosecutors (CP)	<u>74</u>	<u>70</u>
Total :	112	104

The deployment of the senior staff in the grade is as follows-

- (i) The two CCPs oversee matters relating to the human resource management, training and development and general administration of the CP grade. They ensure the effective implementation of departmental instructions and prosecution policy as well as the efficiency and quality of the prosecution service rendered by CPs and fiat counsel at the magistracy level.
- (ii) Each of the Prosecutions Offices in the Magistracies is overseen by one SCP I, except for Prosecutions Offices at the Kwun Tong and Western Magistracies which together are supervised by one SCP I. The SCPs I assess the decisions made by magistrates to facilitate recommendations for appeal in appropriate cases, co-ordinate with the management and case officers of the departments to decide the appropriate ways in disposing the cases, and examine case reports and
- (iii) In each of the nine Prosecutions Offices, there is one SCP II responsible for handling the day administrative work, such as monitoring arrival of case documents/files from client departments, vetting the cases and assessing the adequacy of evidence, clarifying omissions or unclear points in client departments, in order to ensure efficient and effective trial. In addition, there is one SCP I headquarters providing administrative support to the CCPs.
- (iv) The remaining SCPs II prosecute in the plea court and serious or complicated cases in trial courts.

- (b) The starting salary of the Court Prosecutor rank is \$14,300 per month, i.e. point 9 of the delinked Master Pay Scale (MPS). As regards serving Court Prosecutors, the salary scales at different ranks are as follows –

Rank	Pay Scale
CP	MPS 9 - 27 (omitted Pt 18) (\$14,645 - \$36,125)
SCP II	MPS 28 - 33 (\$37,820 - \$47,590)
SCP I	MPS 34 - 39 (\$50,365 - \$63,195)
CCP	MPS 40 - 44 (\$65,915 - \$77,500)

Selection of officers for promotion to the higher ranks of the CP grade is decided on the criteria of character, ability, and experience.

- (c) No CP was recruited in 2001. In the recent recruitment exercise, the Department has selected eight candidates for appointment on 2 April 2002. Details of promotion to the various ranks in the CP grade in 2001 are as follows –

Promoted to the rank of	No. of Officers Promoted
CCP	1
SCP I	1
SCP II	<u>4</u>
<i>Total</i>	6

The officers were promoted on service needs to fill the vacancies that arose from natural wastage. No additional staff cost was incurred.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ025

Question Serial No.

1056

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question :

Taken into account total staff costs (salaries, benefits, accommodation, supporting staff, etc) of court prosecutors, including the staff costs of supervising officers, what is the cost per day of magistrates' court prosecution?

Asked by: Hon. NG Margaret

Reply:

As at 31 December 2001 -

- (a) the cost per court day of a Court Prosecutor (CP) grade officer conducting prosecution was \$
- (b) the cost per court day of 19 CP grade officers (2 Chief Court Prosecutors, 7 Senior Prosecutors I and 10 Senior Court Prosecutors II) responsible for administrative and super duties was \$1,285; and
- (c) there were 86 supporting staff (9 Clerical Officers, 10 Assistant Clerical Officers, 59 Clerical Assistants, 7 contract general assistants and one Personal Secretary II) who provided administrative support to CP and counsel on fiat, such as assisting them in court proceedings and providing photocopying service. The cost of the supporting staff was \$1,390 per court day.

The costs in (b) and (c) above have to be incurred for vetting of case files in relation to charges and summons, seeking clarification from client departments, examining case reports and results, as well as providing logistic support no matter whether the cases are prosecuted by CPs, Government Counsel or counsel on fiat.

Signature	_____
Name in block letters	Kevin C M Ho

Post Title	Director of Administration and Development

Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ026

Question Serial No.

1057

Head: 92 Department of Justice Subhead(No. & title):

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

How many court days or cases in Magistrates' Courts have been briefed out to private practitioners, and what is the cost per day or case as appropriate? What is the minimum qualification and experience of practitioners briefed?

Asked by: Hon. NG Margaret

Reply:

In 2001, a total of 179 cases and 797 court days were briefed out to fiat counsel in place of Government Counsel and Court Prosecutors respectively in the Magistrates' Courts.

For routine cases, the fees are paid in accordance with the approved scale of fees, as follows -

(a) For fiat counsel in place of Government Counsel -

Brief	:	\$8,530
Refresher	:	\$4,260

(b) For fiat counsel in place of Court Prosecutors : \$5,670 per day.

For cases of unusual complexity, length or sensitivity, the Prosecutions Division Selection Board adopts a system seeking quotations from practitioners. The Selection Board seeks to achieve the best possible rate, consistent with its duty to ensure that prosecutions are conducted to the required standard by counsel of appropriate experience and standing.

Fiat counsel instructed to prosecute at the Magistrates' Courts must be qualified for at least one year.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ027

Question Serial No.

1093

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

What is the reason for the decrease in the estimated items of legal advice given on human right issues, and on Mainland law respectively, as compared with the figure of 2000?

Asked by: Hon. NG Margaret

Reply:

The Department provides advice upon request by bureaux or departments. The number of pieces of advice for any topic including human rights or Mainland law depends on the number of requests. This is not something over which the Department has control. The aim is to provide good advice on time.

The estimated figures for 2002 are based on the actual demand for advice in these two areas in 2001. Such a basis seems more reliable than a comparison with the year 2000.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ028

Question Serial No.

1124

Head: 92 Department of Justice Subhead(No. & title):

Programme: (4) Law Drafting

Controlling Officer: Director of Administration and Development

Question :

What is the reason for the increase in the estimated provision of 2.6% for the Division? What is the establishment and strength of the Division? Are the remuneration and qualifications for each grade and rank broadly commensurate with other jurisdictions?

Asked by: Hon. NG Margaret

Reply:

The reason for the increase in the estimated provision of 2.6% for the Law Drafting Division is the provision for employment of non-civil service contract staff to undertake general drafting work and work related to the publication of the loose-leaf edition of the Laws of Hong Kong. Whether funds will be committed depends on the actual workload.

A statement of establishment and strength of the Division is attached.

The Department does not keep information on remuneration and qualifications of legislative draftsmen and other staff of other jurisdictions.

Signature	_____
Name in block letters	Kevin C M Ho
Post Title	Director of Administration and Development
Date	21 March 2002

**Establishment and Strength of the Law Drafting Division
Department of Justice
(position as at 15 March 2002)**

(a) Government Counsel grade

Rank	Establishment	Strength
Law Officer	1	1
Principal Government Counsel	2	2
Deputy Principal Government Counsel	13	11
Senior Government Counsel	16	17
Government Counsel	9	8
Sub-total (a)	41	39

(b) Other grades

Grade	Establishment	Strength
Law Translation Officer	10	5*
Law Clerk	20	18
Executive Officer	1	1
Secretarial	26	25
Clerical	27	25
Calligraphist	11	10
Sub-total (b)	95	84

Total (a)+(b)	136	123
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* excludes four officers deployed to the Civil Division

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ029

Question Serial No.

1175

Head: 92 Department of Justice Subhead(No. & title):

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question :

What are the factors constituting the 10.2% increase of provision? In making the estimate of 10.2%, how much expenditure is estimated for the right of abode claims? Has the estimates taken into account the Court of Final Appeal's decision in *Ng Siu Tung v Director of Immigration*?

Asked by: Hon. NG Margaret

Reply:

The increased provision in 2002-03 is mainly attributable to the increase in provision for court costs, the net cost of 3 posts and additional provision for engagement of non-civil service contract staff.

The increase in provision for court costs accounts for a considerable portion of the entire increased provision. The estimated increase in provision is to provide for payment that may be requested to meet the costs awarded Government by the courts including several major or long-running litigation cases which have recently concluded, subject to negotiations on costs which have yet to be confirmed.

Additional staff resources are required to cope with the general increase in the workload of various units of the Division, particularly in relation to the following -

- (a) on the litigation side, the "mega" litigation cases with large groups of Plaintiffs or Applicants have stretched the resources of the Civil Litigation Unit to its limits in recent years. Many of these cases require a dedicated team of staff, including directorate and senior government counsel, to work full time on them. From these mega cases, there is also an increase in the volume of work in other cases, for example, judicial reviews, personal injuries, etc. These cases have become more complex and require more time and effort to conclude; and
- (b) on the advisory side, partly as a result of new technology and partly because of new initiatives of the Government, the issues which the Advisory Unit and Commercial Unit have advised on are also increasingly complicated in nature. Such issues include, for example, implementation of the information systems strategy of the Immigration Department, Company Law Reform initiatives, the run-off of insider dealing cases and the anticipated establishment of the Market Misconduct Tribunal.

Additional provision had been obtained in 2001-02 to cater for the expenditure on the right of abode judicial review cases. Similar provision for the same purpose has been included in the estimates for 2002-03. The provision for 2002-03 will be used to deal with numerous pending right of abode judicial review cases which have been activated following the handing down of the Court of Final Appeal's judgment in the case of *Ng Siu Tung v Director of Immigration* on 10 January 2002 and any new right of abode judicial review cases if instituted.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration and Development
Post Title	_____
Date	21 March 2002

Examination of Estimates of Expenditure 2002-03
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Reply Serial No.

SJ030

Question Serial No.

1263

Head: 92 Department of Justice Subhead(No. & title):

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question :

On (a) exploring opportunities for legal profession to provide service in the Mainland; and (b) developing working relationship with counterpart in the Mainland in particular areas which call for co-operation between the HKSAR and the Mainland, please state the specific work plan for 2002-03, the related expenditure and manpower resources estimated as well as the progress and results achieved so far.

Asked by: Hon. NG Margaret

Reply:

The Department is working closely with the Law Society and the Bar Association to explore the opportunities for the legal profession upon the accession of China to the World Trade Organisation. One of the major tasks of the sub-committee chaired by the Solicitor General is to examine how legal services could be provided in the Mainland.

The sub-committee is gathering the views of the two professional bodies and formulating proposals regarding the proposed new regulations that will govern the setting up of Hong Kong law firms in the Mainland. The issues covered include ways –

- (a) in which Hong Kong lawyers may take the lawyers' qualifying examination in the Mainland;
- (b) to enable Hong Kong residents who have already passed the lawyers' qualifying examination to practise Chinese Law in the Mainland; and
- (c) to implement the new regulations regarding foreign law firms in China. Proposals are being submitted to the relevant Mainland authorities for consideration.

The sub-committee will also gather views from the two professional bodies to further explore ways for the legal profession to provide services in the Mainland.

Related activities include the initiative taken by the Secretary for Justice to develop Hong Kong as a centre for the resolution of international disputes. Efforts have been made, and will continue to be made to persuade parties to international trade agreements to choose Hong Kong law as the applicable law of their contracts, or to choose Hong Kong as the place where disputes will be resolved – whether by litigation or arbitration. To this end, the Department will work together with the legal profession, as well as the Trade Development Council (TDC) and overseas Economic and Trade Offices, to explain and promote the attributes of Hong Kong being a dispute resolution centre. The programmes include seminars and visits, e.g. one to be held in Shenzhen in April this year.

As regards the proposed new regulations, the progress so far is that the wishes of the professional bodies and the Administration have been effectively communicated to relevant authorities in the Mainland.

The initiative to develop Hong Kong as a dispute resolution centre has been actively promoted by the Department and the TDC, and is being well-received.

The development of working relationships with counterparts in the legal field in the Mainland has always been a target of the Department. The various visits to and from the Mainland are part and parcel of this initiative, in particular, visits by delegations from lawyers associations from the Mainland and visits to and from the Ministry of Justice are conducive to the explorations of opportunities for the legal profession. Such visits enhance mutual understanding and provide the basis for the building up of working relationships in a variety of areas. Another regular activity that requires working co-operation is the annual symposium to be held in the Mainland. The Department has been developing good working relationship with the tertiary educational institutes and professional bodies in the Mainland by co-organising the symposium, which consists of a mock trial and a seminar. Another symposium will be held in the coming financial year. In the year 2001, the total number of visitors from the Mainland the Department received was 353, and visitors to the Mainland under the aegis of the Department amounted to 128. A similar programme of visits will be arranged for 2002.

The Department is seeking to put in place an arrangement for the mutual enforcement of judgments between the HKSAR and the Mainland, and in the next financial year we hope to hold working meetings with the appropriate law agencies in the Mainland on this subject.

We intend to cover the items of work mentioned above within existing resources for the year 2002-03.

Signature	_____
Name in block letters	Kevin C M Ho
	Director of Administration
Post Title	and Development
Date	21 March 2002