

**SJ's Opening Statement at
Special Meeting of the Finance Committee
to examine the Estimates of Expenditure 2005-06
on 13 April 2005**

Chairman and Members, Good Morning,

The mission of the Department of Justice is to uphold the rule of law, to provide efficient and effective legal service to the Government and to maintain and improve the present legal system. Our work is delivered through five programmes, each of which is led by a Law Officer. I would like to highlight some of our major areas of work in each of these five programmes for 2005-06.

Programme 1 – Prosecutions

2. In the year ahead, we shall continue to prosecute cases in a firm and principled way. Prosecution policies will be applied in a manner which is fair, open and just. We shall act at all times in accordance with international practice.

3. Prosecutors these days face formidable challenges. Organized crime is a global security threat. Criminals are more sophisticated and better financed than ever before. The new development of recent prosecution work covers money laundering, confiscation of assets, various forms of fraud, false accounting, trade descriptions, infringement of intellectual property rights, abuse of power, computer crimes etc. The Prosecutions Division will therefore work closely with its counterparts in the International Association of Prosecutors to develop anti-crime strategies, to share expertise, and to raise the standards of criminal justice.

4. Public expectations of prosecutors have never been higher. Transparency in the area of public prosecutions will continue therefore to be actively promoted in the year ahead. The prosecution policy guidelines will be used to make the decision-making process understandable to the public at large. The work of the prosecutor will be explained to interested bodies. To the extent that this is compatible with the interests of the suspect, the basis of particular decisions will be indicated to concerned individuals. Our approach will be one which recognises that a successful prosecution service is one which is firmly rooted in the community it serves, and which is open, accessible and understanding.

Programme 2 – Civil

5. The workload of Civil Division has been on the increase over the past few years and the increase is expected to continue in the year ahead. On the litigation side, we have experienced another challenging year in 2004-05 in terms of the complexity and the volume of work. During 2004, there were 1,313 civil proceedings (including non-construction arbitrations) brought by the Government, and 1,962 civil proceedings were brought by the public against the Government. There were 15,284 items of civil legal advice provided, and 603 commercial tenders, consultancy briefs, contracts, licences and franchises were drafted and vetted by us. Some of the heavier commercial transactions handled by the Department in 2004 were the issuance of Government bonds [totaling \$26 billion] in respect of Government owned tunnels and bridge, the sale of some 260 civil service loans, the proposed merger of MTRCL and KCRC, the proposed privatization of the Airport Authority and the proposed development of the West Kowloon Cultural District. Major civil law work also included the Deposit Protection Scheme and Clearing Settlement Bill in the banking sector. Considerable advice was given on amendments to the Companies Ordinance as part of the Government's corporate governance

initiatives. We expect that the demand for legal input and requests for drafting and vetting of commercial documents will increase in 2005-06. The increase will arise from such work as the privatization and outsourcing of the Government's commercial activities and major projects such as the West Kowloon Cultural District, the proposed Hong Kong - Zhuhai - Macao bridge and the implementation of the Hong Kong Disneyland. Civil Division is ready to meet the challenges within the resources available and will continue to provide quality legal services that are required.

Programme 3 – Legal Policy

(1) Closer Economic Partnership Arrangement (CEPA)

6. The Department of Justice continues to assist the legal profession in developing its services in the Mainland. 2004 was the first year of implementation of CEPA I. It also saw the beginning of CEPA II, when an agreement to further liberalize trade in goods and services between Hong Kong and the Mainland was reached on 27 August 2004. CEPA is a platform for future co-operation, and the two sides have agreed to broaden and enrich its content, including legal services, through continuous and further liberalization. Our Department will continue to consult legal practitioners with a view to assisting them in further developing Mainland-related services.

(2) The Consultancy Study of the Supply of and Demand for Legal Services

7. I have previously informed Legislative Councillors of my department's plans to conduct a comprehensive survey of the supply of and demand for legal services in Hong Kong. The findings from this survey will be extremely useful for the future development of legal services. The Legal Policy Division of my department has commissioned a consultant firm to undertake that survey. The latest position is that a Consultative Committee

under the chairmanship of the Solicitor General has been set up to oversee the survey study, which has been progressing smoothly.

(3) The Bilingual Community Legal Information Website

8. Another initiative of the Legal Policy Division has been to commission the establishment of a bilingual community legal information website. This will help members of the community to obtain practical advice about common problems that are encountered. The China Information Technology and Law Centre, Hong Kong University, is developing the initial version of the website, which will take about two years to complete.

Programme 4 – Law Drafting

9. In the last few months before LegCo dissolved for its general election held in 2004, the Law Drafting Division was heavily engaged in work relating to the scrutiny of bills by bills committees. 27 bills were enacted from 1 April 2004 to 10 July 2004, amongst which were a number of substantial items that attracted keen public interest, for example, the Land Titles Ordinance, the Education (Amendment) Ordinance 2004 and the Construction Workers Registration Ordinance.

10. As compared with last year, there should be less demand on the services of the Law Drafting Division in respect of bills committee work in 2005/06. It is anticipated that the Division would channel more of its resources to regular drafting work i.e. drafting bills and subsidiary legislation required in the implementation of various Government policies.

Programme 5 – International Law

11. In the coming year, the International Law Division will continue to provide advice on international law issues, negotiate international agreements or contribute as legal advisers in negotiations and handle requests for international

legal co-operation to bring benefits to the HKSAR. The Mutual Legal Assistance Unit under this Division will continue to handle and co-ordinate requests to and from the HKSAR concerning surrender of fugitive offenders, mutual legal assistance and transfer of sentenced persons.

Expenditure

12. Like most other parts of the Government, the Department of Justice will be given a smaller financial envelope in 2005-06. Our financial provision for the whole Department for 2005-06 is \$888.2 M which is 0.3% (or \$2.4 M in dollar terms) less than our revised estimated expenditure for 2004-05 (which is \$890.6 M). We will endeavour to provide a cost effective service within this financial provision.

13. We remain minded to brief out cases to private sector lawyers if deemed necessary and appropriate. For example, the number of cases conducted by counsel instructed to prosecute in all courts has increased from 726 in 2003 to 849 in 2004. For 2005-06, our total provision for briefing-out expenditure is \$178.2 M. This is slightly higher than the corresponding revised estimates of \$172.1 M for 2004-05.

Conclusion

14. I hope I have given you an overview of the major work in the Department in the coming financial year. My colleagues and I will be pleased to provide any further information Members may require on our estimated expenditure for the next financial year.

15. Thank you.

Department of Justice

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