

**SJ's Opening Statement at
the Special Meeting of Finance Committee
to examine the Estimates of Expenditure 2007-08
on 22 March 2007 (2:00 p.m. – 3:15 p.m.)**

Chairman and Members, Good Afternoon,

The Department of Justice carries the important mission of upholding the rule of law, providing efficient and effective legal service to the Government and maintaining and improving the present legal system. Our work is delivered through five programmes areas, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. To put our estimates of expenditure of \$906.6 million for 2007-08 in context, let me highlight some of our work in the coming financial year.

Programme 1 - Prosecutions

2. In the year ahead, we will continue to prosecute cases firmly and fairly, in accordance with our established prosecution policy guidelines, and to account for our decisions in a way which is transparent and understandable.

3. New prosecutors will be joining the department during the year, and they will receive intensive training in all aspects of prosecutorial responsibility. We are committed to ensuring that they are learned in the law, familiar with ethical standards, and able to conduct cases in a professional way. The programme of continuing legal education for existing prosecutors will continue apace. A third seminar for new fiat counsel is also envisaged, at which barristers and solicitors who wish to conduct summary level prosecutions will receive

tailor-made guidance as to what is expected of those who prosecute in the magistracies.

4. The Prosecutions Division will continue to use its position in the International Association of Prosecutors (IAP) to contribute to global strategies to combat crime. In September this year, we will be hosting the 12th annual conference of the IAP, during which we will have the opportunity of showcasing Hong Kong to the prosecutors of the World.

Programme 2 – Civil

5. The Civil Division provides litigation support and advisory services to Government bureaux and departments as may be required on a wide range of civil law issues. In 2006 we experienced again a challenging year in terms of volume and complexity of work.

6. On the Civil Litigation side, we expect the trend of increasing workload will continue in 2007. During 2006, 1,305 civil proceedings were brought by the Government, and 919 civil proceedings were brought against the Government. Major litigation handled in the year included judicial review proceedings raising constitutional law and human rights issues, common law claims in connection with Civil Service Regulations, highly complex Government rent appeals and insider dealing inquiries. Many of these cases will continue into 2007, and we expect that approximately 2,500 new civil proceedings of varying complexity will arise in 2007.

7. Turning to the Civil Advisory side, the workload in terms of the size and significance of matters is expected to increase in the coming financial year. Some of the more significant civil advisory matters include the rewriting of the

Companies Ordinance, the considerations to prohibit anti-competitive practice, the regulation of television broadcasting and telecommunications and the establishment of the Communications Authority, the regulation of securities, the new initiatives in relation to the Cruise Terminal at part of the former Kai Tak airport site. Moving forward the merger of the MTRCL and KCRC, settling the legal contracts for the procurement of goods and services, the regulation of utilities under the respective schemes of control.

Programme 3 – Legal Policy

8. Under the Legal Policy Programme area, the latest Supplement to the Closer Economic Partnership Arrangement (CEPA), namely CEPA IV, came into effect on 1 January 2007. CEPA IV contains a number of new liberalization measures. They include further relaxing the requirements of Mainland law firms who wish to form association with Hong Kong law firms and lifting the residency requirement for representatives stationed in representative offices of Hong Kong law firms in the Mainland. They also permit Hong Kong residents who have acquired Mainland lawyer qualifications to engage in activities as agents in matrimonial and succession cases relating to Hong Kong in the capacity of Mainland lawyers, and to undergo internship in a branch office of a Mainland law firm set up in Hong Kong as well as allowing Hong Kong barristers to act as agents in civil litigation cases in the Mainland in the capacity of citizen. These liberalization measures may encourage more Hong Kong legal professionals to develop practices in the Mainland, and will facilitate legal professionals of both jurisdictions to explore and enhance their cooperation in professional practices.

9. The consultancy study on the demand for and supply of legal services has been progressing smoothly. It is expected that the survey will be completed within this year. The findings from the survey will provide a useful

reference in understanding the demand for and supply of, legal services in Hong Kong.

10. In parallel with the completion of that study, I have invited a number of legal practitioners and academic lawyers to assist me to identify ways in which mediation can be developed and promoted as an alternative form of dispute resolution; building on the success of the Judiciary's pilot scheme for the resolution of family disputes and its well-established use in the construction industry.

11. The official launch of the fully established bilingual Community Legal Information (CLIC) Website is scheduled to be held in May 2007. By that time, the website will contain legal information on 21 separate topics, enabling members of the public to have greater access to free legal information.

12. The Mainland Judgments (Reciprocal Enforcement) Bill was introduced into the Legislative Council on 7 March 2007. The bill when enacted will benefit members of the business community who are doing business with the Mainland as the court judgments of one jurisdiction can be enforced in the other without the need to start fresh time consuming and costly litigation proceedings. I look forward to the early enactment of the Bill.

Programme 4 – Law Drafting

13. The Law Drafting Division went through a busy year in 2006. A total of 5,252 pages of bills and subsidiary legislation were published in the Gazette, as compared with 2,796 pages in 2004 and 3,484 pages in 2005. The marked increase was partly attributable to the completion of a number of mammoth items [e.g. the 900-page Banking (Capital) Rules], we expect the

growth rate to subside in the coming year.

Programme 5 – International Law

14. 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. We will also 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

15. At mentioned earlier on, the financial provision for the whole Department for 2007-08 is \$906.6M which is 7.9% (or \$66.7M in dollar terms) higher than our revised estimated expenditure for 2006-07 (which is \$839.9M). This increase is mainly due to the creation of 38 non-directorate posts at the Senior Government Counsel and Government Counsel level together with supporting staff to cope with increasing demand for legal services.

16. We will continue our practice of briefing out cases to private sector lawyers if deemed appropriate. Our total provision for briefing-out expenditure in 2007-08 is \$170.5M. This is slightly higher than the corresponding 2006-07 original estimates of \$165.6M.

Staffing

17. In 2006, 18 new Government Counsel recruits have joined us. This year, we have conducted another recruitment exercise. 38 candidates have been

recommended for appointment to fill existing and anticipated government counsel vacancies. We look forward to welcoming them later in the year and will provide the necessary familiarisation and training programmes to help them settle into their jobs. On-going training and development opportunities will also be provided.

Conclusion

18. The above outlines the major work in the Department in the coming financial year. My colleagues and I will be pleased to provide further information Members may require on our estimated expenditure for 2007-08.

19. Thank you.

Department of Justice

22 March 2007