

**SJ's Opening Statement at
the Special Meeting of Finance Committee
to examine the Estimates of Expenditure 2008-09
on 1 April 2008 (2:30 p.m. – 3:45 p.m.)**

Chairman and Members, Good Afternoon,

The Department of Justice performs the important functions of upholding the rule of law, making decisions in respect of prosecutions free from any interference and providing efficient and effective legal service to the Government. We also seek to improve the present legal system. Our work is delivered through five programmes areas, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. For 2008-09, our estimated expenditure amount to \$949.2 million. Let me highlight some of our major activities.

Programme 1 - Prosecutions

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

3. We will seek to develop closer co-operation with the prosecutors of the world at the international level, and shall use our membership of the International Association of Prosecutors, and of its Executive Committee, to promote more effective anti-crime strategies. Through constructive liaison with our counterparts in other jurisdictions, we will hone our capacity to combat all types of crime, whether traditional or new.

4. We will pursue our programme to promote better community engagement. Meetings with victims groups will be used to explain our practices when necessary, and victims of crime will be informed of the progress of cases and consulted as part of the decision-making process. Liaison with law enforcement agencies will be conducted at the strategic level in the interests of forward planning, and at the operational level in the interests of effective case preparation. Prosecution practice and procedure will be explained through publications, interviews and lectures, and we shall do all we can to make the public more aware of what we do and why.

5. New prosecutors will arrive during the year, and they will receive intensive training in all aspects of prosecutorial responsibility. We are committed to ensuring that they fully appreciate the standards to be expected of the modern prosecutor, and the extent to which they must at all times apply the highest levels of professionalism. At the same time, our programme of continuing legal education for existing prosecutors will proceed apace.

Programme 2 – Civil

6. 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. Last year we experienced a challenging year in terms of volume and complexity of work.

7. In 2008, on civil litigation, we expect a continuing trend of increasing workload in terms of civil proceedings were brought by and against the Government. The number of judicial review proceedings raising constitutional law and human rights issues, Government rent appeals are expected to remain on the rise.

8. On the Civil Advisory side, the workload in terms of the size and significance of matters is expected to remain substantial in 2008. Some of the more significant civil advisory matters include the on-going reform of the Companies Ordinance, the regulation of television broadcasting and telecommunications, the legislation to establish and in due course to implement the West Kowloon Cultural District Authority, and advice concerning the continued operation of the Disney Theme Park are some examples on the agenda.

Programme 3 – Legal Policy

9. In a common effort of the consultants and Consultative Committee members, the consultancy study on the demand and supply of legal services was completed at the end of January 2008. In the meantime, we are finalising the Chinese version of the report and aim to publish it in the first half of 2008. The findings of the consultancy study will help us understand the present demand for, and supply of, legal and related services in Hong Kong, and will provide reference information for stakeholders in the legal field when examining how best the gap could be filled.

10. The liberalisation of the Mainland markets has created a strong demand among Mainland enterprises and foreign investors in the Mainland for high standard legal services. The Legal Policy Division has been keeping abreast of this development and has initiated specific measures to facilitate the resolution of cross-boundary civil and commercial disputes. Towards this end, I am pleased to note that the second Reading of the Mainland Judgments (Reciprocal Enforcement) Bill will be resumed later this month. The passage of the Bill will make enforcement of certain Mainland court judgments, in accordance with the provisions of the REJ Arrangements, easier and less costly. I take this

opportunity to thank the Bills Committee for their hard work in scrutinising the Bill.

11. In the coming financial year, the Legal Policy Division will continue to dedicate effort to promote alternative dispute resolution in Hong Kong, with a view to further enhancing Hong Kong's position as an ADR hub. As stated in our Policy Agenda, we have been forging closer ties with international arbitral bodies. Members will be aware that the International Chamber of Commerce decided in early March to open a branch of the Secretariat of its International Court of Arbitration in Hong Kong. The branch secretariat, the first in Asia, will have a case management team to administer cases in the region under the ICC Rules of Arbitration. It is expected to be fully operational by the end of the year. The ICA's presence will enhance the provision of arbitration services in Hong Kong. Furthermore, the Department of Justice has recently published a Consultation Paper on reform of the law of arbitration in Hong Kong and draft Arbitration Bill. The reforms proposed in the Consultation Paper and reflected in the draft bill, will improve our legal infrastructure for arbitration services.

12. Using mediation has become a global trend in the resolution of disputes. In this connection, I have set up a Working Group to make recommendations on how mediation can be more effectively and extensively used to resolve disputes in Hong Kong. The Working Group had its first meeting in February 2008, and in the coming financial year, it will continue to examine the issues in greater detail.

Programme 4 – Law Drafting

13. The Law Drafting Division will continue to provide efficient law drafting services with professionalism to the Government. In the coming year,

under the leadership of our new Law Draftsman, Mr Eamon Moran, QC efforts will also be placed on training and professional development of colleagues in the Division.

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.

15. Hong Kong has a good record of implementing the Hague Conventions applicable to the HKSAR and we have also participated actively in the work of the Hague Conference on Private International Law (“Hague Conference”) as members of the Chinese delegation. In collaboration with the Permanent Bureau of the Hague Conference, we will be jointly hosting the Third Asia Pacific Regional Conference in September this year, which aims at enhancing awareness of the work of the Hague Conference, improving legal cooperation and strengthening the networking among authorities at a regional level.

Expenditure

16. As mentioned earlier on, the financial provision for the whole Department for 2008-09 is \$949.2M which is 9.0% (or \$78.4M in dollar terms) higher than our revised estimated expenditure for 2007-08 (which is \$870.8M).

This increase is mainly due to the creation of 26 non-directorate posts at the Senior Government Counsel and Government Counsel level together with supporting staff to cope with increasing demand for legal services.

17. We will continue our practice of briefing out cases to private sector lawyers where appropriate. Our total provision for briefing-out expenditure in 2008-09 is \$178.6M, which is 6.2% higher than the corresponding 2007-08 revised estimates of \$168.1M.

Staffing

18. In 2007-08, 29 new Government Counsel have joined the Department. This year, we have conducted another recruitment exercise with 29 candidates recommended for appointment to fill existing and anticipated government counsel vacancies.

Conclusion

19. 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 2008-09.

20. Thank you.

Department of Justice
1 April 2008