

The Judiciary's statement on the Administration's decision on the new system for the determination of judicial remuneration

The Chief Justice welcomed the decision of the Chief Executive-in-Council to accept all the major recommendations of the Standing Committee on Judicial Salaries and Conditions of Service ("the Judicial Committee") in respect of the institutional framework and mechanism for the determination of judicial remuneration.

The Administration's decision in effect accepts to a large extent the Judiciary's proposals based on the Consultancy Report of Sir Anthony Mason ("the Mason report") which was submitted to the Administration in April 2003.

The Chief Justice noted that the independent status of the Judiciary is constitutionally guaranteed by the Basic Law and is a cornerstone of our society. He stated that the Administration's decision on the new system, with the fixing of judicial remuneration by the Executive after considering recommendations by an independent body, and the provision of a standing appropriation to meet the payment of judicial salaries to be enacted by statute, represents an important recognition of the Judiciary's independent status. He said that the new system is consistent with that adopted in many jurisdictions in recognition of the independent status of the Judiciary.

The Chief Justice noted that the Administration has neither accepted nor rejected the Judiciary's proposal that the new system with an independent advisory body should be established by legislation. He noted that the Judicial Committee had accepted that such legislation should be enacted in due course, leaving the timing of its introduction to the Administration. The Chief Justice stated that a statutory foundation would enhance the independence and permanence of the independent advisory body on judicial remuneration and urged the Administration to introduce the necessary legislation.

The Chief Justice welcomed the Administration's decision that the civil service pay reductions in the past should be permanently set aside in considering judicial service pay adjustments this year and in the future. But he expressed disappointment that the Judiciary's proposal that there should be a statutory prohibition against reduction in judicial salaries has not been accepted. The Chief Justice recognized that this

proposal is not free from controversy and he respected the contrary view. But he noted that as pointed out in the Mason report, such a prohibition by law is a common safeguard in many jurisdictions for judicial independence. He expressed the hope that it will one day be accepted in Hong Kong.

The Chief Justice stated that he appreciates the careful consideration which the Administration and the Judicial Committee have given to the Judiciary's proposals.

For the judicial pay adjustment exercise in 2008-09, the Chief Justice noted that the Administration has adopted the interim arrangement (pending the establishment of the new system) that a pay rise should be offered for Judges and Judicial Officers ("JJOs") to bring their pay to the same levels as their civil service counterparts in dollar terms, if the 2008-09 pay adjustment rate for the upper band and directorate civil servants results in civil service pay higher than that of the JJOs at comparable level(s). The Chief Justice noted that this is consistent with the Judiciary's position in the last pay adjustment exercise in 2007-08.

For information, the current pay differentials between JJOs and the civil service are as follows: for the JJOs at the equivalent ranks of D3 (i.e. District Judges) and above, their salaries are higher than those of their counterparts in the civil service by 0.03%; and for the JJOs at the equivalent ranks of D2 and below, their salaries are higher by 6.06% to 6.09%.

Ends/Tuesday, May 20, 2008

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