

**SJ's Opening Statement at
the Special Meeting of Finance Committee
to examine the Estimates of Expenditure 2011-12
on 23 March 2011 (11:25 a.m. – 12:55 p.m.)**

Chairman and Members,

Thank you, Chairman and Members. The work of the Department of Justice is delivered through five programmes areas, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. As reflected in the Estimates and in our replies to the questions raised by Members, there is a general increase in our caseload, in both the prosecutions and civil litigation arena. Apart from the number of cases conducted, the complexity of the subject matter and legal issues raised also have an important bearing on the workload of the Department. The 2010-11 financial year had been a busy one for colleagues. I am grateful to Finance Committee members for their understanding of the growing complexity of the work of the Department and our need to upgrade 15 Senior Government Counsel posts to the DL1 level to enhance professional legal support at the directorate level. With Members' support, 15 DL1 posts were created and filled in March this year.

2. In 2011-12, the estimated expenditure of the Department amount to \$1,043.2M. Let me highlight some of our major activities in the coming financial year.

Programme 1 - Prosecutions

3. The Prosecutions Division will continue to prosecute cases firmly and fairly and in accordance with published prosecution policy guidelines. As prosecutors, we are mindful that we must at all times apply the highest levels of professionalism. A review of the Division was conducted last year and changes have been implemented with a view to enhancing the quality of work and the efficiency of the Division.

4. During the year, new counsel will report duty and they will receive intensive training in all aspects of prosecutorial responsibility. At the same time, continuing legal education focussing on current trends and issues will be provided to serving prosecutors. To fulfil our pledge to help new lawyers, we have also worked with the Bar Association and the Law Society to provide a one-day training course followed by a two week supervised engagement to prosecute in the Magistrates' Courts for new

lawyers who wish to join our fiat lists. This arrangement which has just commenced and will continue in the coming financial year will provide advocacy training and opportunities for court work to young barristers and solicitors alike.

Programme 2 – Civil

5. The Civil Division provides legal advice and litigation support to various Government bureaux and departments in civil law matters and represents them in courts and tribunals in all forms of civil litigation and dispute resolution. The workload of the Civil Division remains heavy; the requests for advice and litigation cases are on the rise and they often raise a wide spectrum of legal issues which tread into new legal territories.

6. The year 2010 marks the first anniversary of the implementation of the Civil Justice Reform and many of the changes brought about by the reform are beginning to take root. It is apparent that there is an increase in the awareness of litigants in the use of mediation as an important alternative to full-fledged civil litigation.

7. The Civil Division is also assisting me and the Mediation Task Force to further the development of mediation in Hong Kong. In the coming financial year, amongst other issues, we will be working out the details of the proposed mediation legislation taking into account the development of the mediation landscape and working with stakeholders to keep in view the development of the system of accrediting mediators.

8. As in previous years, we expect public law cases will continue to form a major part of the work of the Civil Division. In particular, applications for judicial review raising arguments covering matters of constitutional importance will remain a core part of the work of the Division.

Programme 3 – Legal Policy

9. One of the prime policy objectives of the Department of Justice is to enhance Hong Kong's status as a regional centre for legal services and dispute resolution. The new Arbitration Ordinance, which was enacted on 10 November 2010, will come into effect on 1 June 2011. In the coming financial year, the Legal Policy Division will work closely with the relevant stakeholders to promote the new Ordinance to disseminate, in

particular, the message on the added advantages brought about by the new Ordinance to users of Hong Kong arbitration services.

10. The Legal Policy Division will start exploratory discussion with the Macao authorities on the proposed arrangement for the reciprocal enforcement of arbitral awards. At present, there exists no arrangement between Hong Kong and Macao on this subject. A formal arrangement between the two places would add certainty to the enforceability of Hong Kong arbitral awards in Macao and *vice versa*, which would in turn enhance Hong Kong's appeal as a regional arbitration centre for commercial disputes.

11. On the legislative front, the Legal Practitioners (Amendment) Bill 2010, which will make it possible for solicitors to practise in the form of limited liability partnership, is now being scrutinised by a Bills Committee and we are hopeful that it would be enacted within the current legislative session. Apart from that, we propose to introduce another Bill in the coming financial year: the Enduring Powers of Attorney (Amendment) Bill which seeks to relax the existing requirement that an enduring power of attorney be signed at the same time before a medical practitioner and a solicitor.

Programme 4 – Law Drafting

12. The Law Drafting Division will continue to provide a professional drafting and related advisory service on demand by policy bureaux.

13. Since July 2010 we have been implementing a range of changes to the appearance of our legislation with a view to giving it a more modern and user-friendly look. We have also revised our amending formulas to enable readers to grasp more quickly the nature of an amendment.

14. We are continuing to review how we might make our legislation even more accessible. Included in this review is consideration of the use of examples and of the numbering system used in very large items of legislation.

15. The proposal to establish a verified and authenticated electronic database of Hong Kong legislation was endorsed by the Finance Committee in 2010. The Legislation Publication Bill, which seeks to give a legal status to the database, was introduced into the Legislative Council in

October and is now being scrutinized by a Bills Committee. We target to have the Bill enacted by the Legislative Council in 2011-12.

Programme 5 – International Law

16. 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, transfer of sentenced persons and international child abduction cases.

Expenditure

17. Chairman, As mentioned earlier on, the financial provision for the whole Department for 2011-12 is \$1,043.2M which is 5.8% (or \$56.9M in dollar terms) higher than our revised estimated expenditure for 2010-11 (which is \$986.3M). This increase is mainly due to the filling of vacancies, creation of 26 posts and upgrading of 14 posts to cope with increasing demand for legal services. With the posts that we would be creating in the coming financial year, we believe that the Department will be better placed in terms of manpower to rise up to the work challenges.

18. We will continue our practice of briefing out cases to private sector lawyers where appropriate. Our total provision for briefing-out expenditure in 2011-12 is \$210.0M, which is 1.5% higher than the corresponding 2010-11 revised estimates of \$206.8M.

Staffing

19. In 2010, we have recruited 17 new Government Counsel. Another Government Counsel recruitment exercise is currently being conducted.

Conclusion

20. The above outlines the major work in the Department in the coming financial year. Chairman, my colleagues and I will be pleased to provide further information.

21. Thank you.