

## ITEM FOR FINANCE COMMITTEE

### 2011-12 JUDICIAL SERVICE PAY ADJUSTMENT

Members are invited to –

- (a) approve, with effect from 1 April 2011, an increase in pay by 4.22% for judges and judicial officers; and
- (b) note the financial implications of about \$11.902 million in 2011-12 arising from item (a) above.

### PROBLEM

We need to adjust the pay for judges and judicial officers<sup>1</sup> (JJOs) in accordance with the decision of the Chief Executive (CE)-in-Council.

### PROPOSAL

2. We propose that, with effect from 1 April 2011, the pay for JJOs be increased by 4.22%.

Encl. 3. Upon approval of the proposal in paragraph 2 above, the revised judicial service pay scale will be as set out at Enclosure.

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<sup>1</sup> “Judges” comprise Judges of the Court of Final Appeal, Justices of Appeal of the Court of Appeal, Judges of the Court of First Instance and District Judges. “Judicial officers” are those who serve in Magistrates’ Courts and Tribunals, as well as registrars and masters of the High Court and District Court.

## JUSTIFICATION

### Judicial Service Pay Mechanism

4. As approved by the CE-in-Council in May 2008, judicial remuneration is determined according to a mechanism separate from that of the civil service. Specifically, judicial remuneration is determined by the CE-in-Council after considering the recommendations of the independent Standing Committee on Judicial Salaries and Conditions of Service (Judicial Committee)<sup>2</sup>. The mechanism comprises an annual review and a regular benchmark study which seeks to check whether judicial pay is kept broadly in line with the movements of legal sector earnings over time. In coming up with the recommendations, the Judicial Committee would take into account the basket of factors approved by the CE-in-Council in May 2008, the principle of judicial independence and the position of the Judiciary. The basket of factors include the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice; recruitment and retention in the Judiciary; retirement age and retirement benefits of JJOs; unique features of the judicial service; prohibition against return to private practice in Hong Kong; benefits and allowances enjoyed by JJOs; cost of living adjustment; general economic situation in Hong Kong; budgetary situation of the Government; overseas remuneration arrangements; private sector pay levels and trends; and public sector pay as a reference.

### The 2011 Judicial Remuneration Review

5. In conducting the 2011 judicial remuneration review, the Judicial Committee examined the basket of factors listed in paragraph 4 above, and exercised its best judgment in analysing and balancing all relevant considerations in formulating its recommendation that judicial pay should be increased by 4.22% in 2011-12.

6. In considering private sector pay levels and trends, the Judicial Committee continues to make reference to the Pay Trend Indicators (PTIs) from the

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<sup>2</sup> The Judicial Committee is appointed by the Chief Executive. At present, it is chaired by Mr Bernard Chan. Other members are Professor Chan Yuk-shee, Mr C K Chow, Mr Lester Huang, Ms Jacqueline Pamela Leong, Mr Brian Li and Mrs Ayesha Macpherson Lau.

annual Pay Trend Survey (PTS)<sup>3</sup>, which reflect the overall private sector pay trend. Since the gross PTIs include merit and in-scale increment in the private sector, the Judicial Committee considers that the cost of increment for JJOs should be subtracted from the relevant gross PTI to arrive at a private sector pay trend suitable for comparison in the context of the judicial remuneration review. The private sector pay trend indicator as adjusted by the cost of increment for JJOs are -5.03% in 2009, +1.86% in 2010 and +7.74% in 2011. As judicial pay was frozen in 2009 and 2010 (i.e. it has not been adjusted since 2008), the Judicial Committee considers it appropriate to take into account the cumulative effect of the private sector pay trends in 2009, 2010 and 2011 in succession. Assuming private sector pay was 100 in 2008, the cumulative effect of the private sector pay trend for judicial remuneration review purpose in 2009, 2010 and 2011 would mean that private sector pay has increased to 104.22<sup>4</sup>, i.e. exceeding the 2008 pay by +4.22%.

7. The Judicial Committee has also commissioned a consultant to conduct the 2010 Benchmark Study on Earnings of Legal Practitioners in Hong Kong to check whether judicial pay was kept broadly in line with the movements of legal sector earnings over time. Noting among others that no clear trends in differentials between judicial pay and legal sector earnings could be established from the Study, the Judicial Committee considers that there is no strong argument for proposing adjustment to judicial pay based on the findings of the 2010 Benchmark Study.

8. Apart from considering the basket of factors above, the Judicial Committee continues to premise its deliberations on the need to uphold the principle of judicial independence. In particular, the Judicial Committee considers it essential to ensure that judicial remuneration is sufficient to attract and retain talents in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law and commands confidence within and outside Hong Kong.

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<sup>3</sup> PTS measures the year-on-year average pay movements of full-time employees in the private sector over a 12-month period from 2 April of the previous year to 1 April of the current year. PTIs derived from the PTS are divided into three salary bands, reflecting the average pay movements of private sector employees in three salary ranges. Using the 2011 PTS as an example, the ranges of the three salary bands are as follows -

- (i) Lower Band covering employees in the salary range below \$15,875 per month;
- (ii) Middle Band covering employees in the salary range of \$15,875 to \$48,670 per month; and
- (iii) Upper Band covering employees in the salary range of \$48,671 to \$96,885 per month (the range was \$48,401 to \$95,360 in the 2010 PTS, and \$48,401 to \$97,545 in the 2009 PTS).

In the absence of a comprehensive or representative pay trend survey on the legal sector, the PTI for the Upper Band in the PTS is considered a suitable reference for comparison with judicial salaries, which start at JSPS 1, currently at \$59,495 in dollar terms.

<sup>4</sup>  $100 \times (100 - 5.03)\% \times (100 + 1.86)\% \times (100 + 7.74)\% = 104.22$

9. The Judicial Committee has also considered the Judiciary's views. The Judiciary considers that any adjustment accumulated since 2009 that were not applied to the judicial service should be taken into account in subsequent judicial pay adjustment exercises. Taking into account such cumulative effect in 2009, 2010 and 2011, the Judiciary seeks a pay increase of 4.23%<sup>5</sup> for the judicial service in 2011-12.

10. Having considered all the factors above, the Judicial Committee submitted its report to the CE on 30 June 2011, recommending a 4.22% increase in the pay for JJOs for 2011-12. The Judiciary subsequently indicated that it would leave it to the Administration to decide on whether the judicial pay increase should be 4.23% or 4.22% as proposed by the Judicial Committee.

### **Judicial Service Pay Adjustment Rate**

11. After consideration of the Judicial Committee's recommendation and the Judiciary's position, the CE-in-Council decided on 20 September 2011 that the pay for JJOs for 2011-12 should be increased by 4.22% with effect from 1 April 2011.

### **FINANCIAL IMPLICATIONS**

12. The financial implications arising from the proposed 4.22% pay increase for JJOs in 2011-12 is about \$11.902 million.

13. We have not made provision in Head 80 – Judiciary in the 2011-12 Estimates for the proposed pay adjustment. We expect that the Judiciary's savings in the current year should be sufficient to cover the additional expenditure arising from the proposed pay adjustment in 2011-12. Subject to Members' approval of the proposal, in case supplementary provision is required, we shall approve it under delegated authority.

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<sup>5</sup> The Judiciary worked out the cumulative effect of the private sector pay trends on a year-by-year basis as follows –

Year 1:  $100 \times (100 - 5.03)\% = 94.97$

Year 2:  $94.97 \times (100 + 1.86)\% = 96.736$  (Rounded up to 96.74)

Year 3:  $96.74 \times (100 + 7.74)\% = 104.227$  (Rounded up to 104.23)

**PUBLIC CONSULTATION**

14. We briefed the Legislative Council Panel on Administration of Justice and Legal Services on the 2011-12 judicial service pay adjustment exercise at its meeting held on 20 October 2011. Members noted that we will seek approval of the proposed adjustment from the Finance Committee.

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Administration Wing  
Chief Secretary for Administration's Office  
November 2011

**Enclosure to FCR(2011-12)49**

**Judicial Service Pay Scale**

<b>Point</b>	<b>(As at 31.3.2011)</b>	<b>(w.e.f. 1.4.2011)</b>
	\$	\$
<b>19</b>	241,750	251,950
<b>18</b>	235,100	245,000
<b>17</b>	211,900	220,850
<b>16</b>	202,000	210,500
<b>15</b>	166,900	173,950
	(161,500)	(168,300)
	(156,800)	(163,400)
<b>14</b>	152,200	158,600
	(151,200)	(157,600)
	(146,950)	(153,150)
<b>13</b>	142,700	148,700
	(130,300)	(135,800)
	(126,500)	(131,850)
<b>12</b>	122,700	127,900
	(119,900)	(124,950)
	(116,550)	(121,450)
<b>11</b>	113,100	117,850
	(109,700)	(114,350)
	(106,400)	(110,900)
<b>10</b>	103,400	107,750
<b>9</b>	96,015	100,065
<b>8</b>	93,770	97,725
<b>7</b>	91,530	95,395
<b>6</b>	70,295	73,260
<b>5</b>	67,035	69,865
<b>4</b>	63,925	66,625
<b>3</b>	62,430	65,065
<b>2</b>	60,955	63,525
<b>1</b>	59,495	62,005

Note: Figures in brackets represent increments.

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