

ITEM FOR FINANCE COMMITTEE

2013-14 JUDICIAL SERVICE PAY ADJUSTMENT

Members are invited to –

- (a) approve, with effect from 1 April 2013, an increase in pay by 3.15% for judges and judicial officers; and
- (b) note the financial implications of about \$10.16 million in 2013-14 arising from item (a) above.

PROBLEM

We need to adjust the pay for judges and judicial officers¹ (JJOs) in accordance with the decision of the Chief Executive in Council.

PROPOSAL

2. We propose that, with effect from 1 April 2013, the pay for JJOs be increased by 3.15%.

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

/JUSTIFICATION

¹ “Judges” refer to officers in the grades of Chief Justice, Court of Final Appeal; Judge, Court of Final Appeal; Judge of the High Court; and Judge of the District Court. “Judicial officers” refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

JUSTIFICATION

Judicial Service Pay Mechanism

4. As approved by the Chief Executive 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 Chief Executive in Council after considering the recommendations of the independent Standing Committee on Judicial Salaries and Conditions of Service (Judicial Committee)². 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 adopts a balanced approach, taking into account the basket of factors approved by the Chief Executive in Council in May 2008, the principle of judicial independence and the position of the Judiciary. The basket of factors includes the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice; the recruitment and retention in the Judiciary; retirement age and retirement benefits of JJOs; benefits and allowances enjoyed by JJOs; unique features of the judicial service; prohibition against return to private practice in Hong Kong; overseas remuneration arrangements; cost of living adjustment; general economic situation in Hong Kong; budgetary situation of the Government; private sector pay levels and trends; and public sector pay as a reference.

The 2013 Judicial Remuneration Review

5. In conducting the 2013 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 on whether and, if so, how judicial pay should be adjusted in 2013-14.

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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² 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 Chow Chung-kong, Mr Lester Huang, Mr Brian Li, Mrs Ayesha Macpherson Lau and Mr Benjamin Yu.

annual Pay Trend Survey (PTS)³, which reflect the overall year-on-year change of private sector pay. Since the gross PTIs include merit and in-scale increment in the private sector, the Judicial Committee considers it appropriate to subtract the cost of increments for JJOs from the gross PTI for the upper salary band to arrive at a private sector pay trend indicator suitable for comparison with judicial pay. Accordingly, the private sector pay trend indicator as adjusted by the cost of increment for JJOs is + 3.15% in 2013 (i.e. the relevant gross PTI at 3.38% less the consolidated cost of increments for JJOs at 0.23%).

7. The Judicial Committee notes that there is no comprehensive or representative pay trend survey on the legal sector. It also considers that direct comparison between judicial pay and legal sector pay is inappropriate having regard to the uniqueness of judicial work. The Judicial Committee takes the view that a benchmark study on the level of earnings of legal practitioners should be conducted on a regular basis to check whether judicial pay was kept broadly in line with the movements of legal sector earnings over time. In September 2010, the Judicial Committee commissioned a consultant to conduct the 2010 Benchmark Study on Earnings of Legal Practitioners in Hong Kong. The 2010 Study concluded that no clear trends in differentials between judicial pay and legal sector earnings could be established. The Study also reaffirmed that remuneration was not an important factor in considering judicial appointment. The Judicial Committee has decided that a benchmark study should in principle be conducted every five years, with its frequency subject to periodic review.

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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³ The annual 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 grouped into three salary bands, reflecting the average pay movements of private sector employees in three salary ranges. Using the 2013 PTS as an example, the ranges of the three salary bands are as follows –

- (i) Lower Band covering employees in the salary range below \$17,835 per month;
- (ii) Middle Band covering employees in the salary range of \$17,835 to \$54,665 per month; and
- (iii) Upper Band covering employees in the salary range of \$54,666 to \$109,365 per month.

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 as a suitable reference for comparison with judicial salaries, which start at Point 1 of the Judicial Service Pay Scale, currently at \$65,515.

9. The Judicial Committee has also considered the Judiciary's views. The Judiciary seeks a pay increase of 3.15% for the judicial service in 2013-14 which is in line with the private sector pay trend indicator as adjusted by the cost of increment for JJOs (see paragraph 6 above). The Judiciary also reiterates its position that there should not be any reduction in judicial pay as a matter of principle.

10. Having considered all the above factors, the Judicial Committee submitted its report to the Chief Executive on 28 June 2013, recommending a 3.15% increase in the pay for JJOs for 2013-14.

Judicial Service Pay Adjustment Rate

11. After consideration of the Judicial Committee's recommendation and the Judiciary's position, the Chief Executive in Council decided on 24 September 2013 that the pay for JJOs for 2013-14 should be increased by 3.15% with effect from 1 April 2013.

12. The review of judicial pay is a regular exercise conducted on an annual basis. It has been the established practice that proposed adjustments, if any, will take effect from 1 April (i.e. the beginning of a financial year). The last pay adjustment for 2012-13, as approved by the Finance Committee (FC), took effect from 1 April 2012.

FINANCIAL IMPLICATIONS

13. The financial implications arising from the proposed 3.15% pay increase for JJOs in 2013-14 are about \$10.16 million.

14. We have not made provision in Head 80 – Judiciary in the 2013-14 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 2013-14. FC approved on 9 March 1983 vide FIN B 1/2/50 IV that the Financial Secretary be delegated the authority to approve supplementary provision without limit in personal emoluments subheads, provided that the supplementary provision is required for salaries and allowances in accordance with approved pay scales and rates of allowances, and in respect of approved posts.

PUBLIC CONSULTATION

15. We briefed the Legislative Council Panel on Administration of Justice and Legal Services on the 2013-14 judicial service pay adjustment exercise at its meeting held on 26 November 2013. Members had no objection to the proposed adjustment and noted that we would seek approval from FC.

Administration Wing
Chief Secretary for Administration's Office
December 2013

Enclosure to FCR(2013-14)46

Judicial Service Pay Scale

Point	(As at 31.3.2013)	(w.e.f. 1.4.2013)
	\$	\$
19	266,200	274,600
18	258,850	267,000
17	233,350	240,700
16	222,400	229,400
15	183,800	189,600
	(177,850)	(183,450)
	(172,650)	(178,100)
14	167,600	172,900
	(166,500)	(171,750)
	(161,800)	(166,900)
13	157,100	162,050
	(143,500)	(148,000)
	(139,300)	(143,700)
12	135,150	139,400
	(132,000)	(136,150)
	(128,300)	(132,350)
11	124,500	128,400
	(120,800)	(124,600)
	(117,200)	(120,900)
10	113,850	117,450
9	105,730	109,060
8	103,255	106,510
7	100,795	103,970
6	77,405	79,845
5	73,820	76,145
4	70,395	72,610
3	68,750	70,915
2	67,120	69,235
1	65,515	67,580

Note: Figures in brackets represent increments.
