

**Opening Remarks of the Secretary for Justice
at the Special Meeting of the Finance Committee
of the Legislative Council on 27 March 2015
to Examine the 2015-16 Estimates of Expenditure**

Chairman and Members,

For 2015-16, the total estimated expenditure of the Department of Justice (DoJ) is \$1,980 million, which involves an increase of 14.8% (or \$254.7 million) over the revised estimated expenditure for 2014-15. This increase is partly due to the filling of vacancies which could not be filled previously, and the net creation of eight posts to cope with the increasing demand of government departments for legal services. We also expect an increase in court costs and briefing-out fees payable to barristers, solicitors and other professionals (such as expert witnesses) in private practice, and hence have made a provision of \$432 million and \$530 million respectively in 2015-16 for providing the necessary support for anticipated legal proceedings and related matters.

2. The expenditure on court costs and briefing out depends on the number of the cases involved, their complexity and development. The estimated expenditure for 2015-16 was worked out on the information available at the time of preparing the estimates; the ultimate actual amount of expenditure will depend on the development and outcome of the cases concerned. These factors are not within the control of the Government, nor the DoJ. However, we will strive to exercise maximum prudence in controlling the relevant expenditure, subject to the overriding principle that the DoJ's provision of high-quality service shall not be compromised.

3. I will now outline the DoJ's major work in the new financial year.

Programme (1) - Prosecutions

4. In the context of prosecutions, the upholding of the rule of law and professionalism will remain our overarching working principle, so as to maintain a top quality modern prosecution team.

5. Looking ahead, we anticipate that cases related to the earlier “Occupy Movement” will form a significant part of the works of the Prosecutions Division in 2015-16. Our prosecutors will act in accordance with the established prosecution policy when they consider and analyse the evidence of the cases on the basis of the applicable law, so as to process each and every case in a fair and impartial manner. In preparing the 2015-16 estimates, we have already assessed the resources required by the DoJ for handling the related cases, so as to ensure that sufficient resources can be made available to the DoJ for the purpose. We will continue to arrange our manpower resources in an appropriate manner and, where necessary, engage barristers or solicitors in private practice so as to effectively manage our overall caseload.

6. At the same time, we will also continue to take forward initiatives to enhance the quality of prosecution service, including providing various continuous trainings for our in-house prosecutors and staging the biannual Joint Training Programme for newly qualified lawyers in private practice in conjunction with the two legal professional bodies in Hong Kong. Moreover, we will continue to run the “Meet the Community” programme and the annual “Prosecution Week” with a view to enhancing the public’s understanding of the prosecution and criminal justice system of Hong Kong.

Programme (2) - Civil

7. The Civil Division will continue to provide advice to all government bureaux and departments on civil law matters, assist in the

drafting of documents and contracts, and represent the Government in civil litigation and other dispute resolution proceedings such as arbitration and mediation. Moreover, the Mediation Team of the Division will continue to support the Steering Committee on Mediation in the promotion and development of mediation. In this regard, the Steering Committee on Mediation will continue to take forward various initiatives. These include, in respect of the legal framework, the issue of a consultation paper shortly on the need for introducing an apology legislation in Hong Kong; the continued monitoring of the operation and effectiveness of the Mediation Ordinance; and in terms of the professional ethics and professionalism of mediators, ensuring that the industry-led Hong Kong Mediation Accreditation Association Limited fulfils its mission and gains the confidence of both the mediation sector and the general public. For promotion, we hope to build up a healthy mediation culture, enhancing the public's understanding of mediation, as well as focusing on the development of mediation service in respect of specific sectors (such as Small and Medium Enterprises and intellectual properties). As regards training within the Government, the Mediation Team earlier this year published a *Mediation Handbook*, which was specifically compiled for administrators in the Government, and will also continue to organise mediation training courses and seminars for civil servants.

Programme 3 – Legal Policy

8. On legal policy, in discharging the important function of the DoJ to uphold the rule of law and justice, we will continue to provide legal advice on *Basic Law*, human rights as well as constitutional and other relevant issues to the Government, so as to ensure that all legislative proposals and measures of the Government are fully in compliance with *Basic Law* and other legal requirements.

9. We will also continue to co-ordinate and actively participate in the work of two working groups separately set up to study the protection of the

legal rights of transsexual persons and class actions, to facilitate the working groups to submit their recommendations to the Government on these two controversial topics.

10. On legislative work, we introduced the *Arbitration (Amendment) Bill 2015* into the Legislative Council in February this year to improve the existing arbitration law. As for implementing the recommendations made by the Law Reform Commission in its two Reports on *Enduring Powers of Attorney: Personal Care* and on *Criteria for Service as Jurors*, we are drawing up the bills for public consultation within this year.

11. We will continue to work proactively to consolidate and enhance Hong Kong's status as a leading centre for international legal and dispute resolution services in the Asia Pacific region. Apart from the abovementioned amendments to the *Arbitration Ordinance*, we will continue to work with the legal and arbitration sectors to promote Hong Kong's legal and dispute resolution services in the Mainland and overseas. Arrangement will also be made to provide certain office space to international legal or dispute resolution institutions in the West Wing of the former Central Government Offices and the former French Mission Building (after the Court of Final Appeal has moved out).

12. Furthermore, we have set up an Advisory Committee on Promotion of Arbitration in late 2014, with members comprising representatives of key stakeholders, for providing advice and overall co-ordination on the development and promotion of Hong Kong's arbitration services at the international level. We will also continue to take forward a study on the development and prospect of arbitration in Hong Kong, as well as on the challenges and opportunities that Hong Kong faces as a regional centre for international arbitration in the Asia Pacific region.

Programme (4) – Law Drafting

13. In the 2015-16 financial year, the Law Drafting Division will strive to gear its work to support the legislative programme of the Government. The current term of the Legislative Council will end next year. Based on past experience, legislative scrutiny work will often reach a peak in the last year of a Legislative Council term. In view of this, the Law Drafting Division will draft the legislation required by the relevant bureaux for introduction into Legislative Council according to the legislative timetables, and provide professional support in the legislative process.

14. Despite the anticipated increase in workload, we will still endeavour to ensure that statutory provisions can accurately reflect the relevant policies and are easy to read and comprehend. To enhance the professional capability of law drafters, we will actively provide them with opportunities for training, development and external exchange.

15. The work on the establishment of an electronic database of legislation with legal status is ongoing. Together with the contractor, we are now carrying out function tests on the Phase 1 system.

Programme (5) – International Law

16. In the past year, the International Law Division actively participated in the works of international organisations, and also provided support to the Asia Pacific Regional Office of the Hague Conference on Private International Law (HCCH) in its work. For example, in conjunction with the said Office we co-organised a HCCH Asia Pacific Week in October last year. In the coming year, we will continue with our efforts in this area and organise more international law conferences with the HCCH and other international organisations, so as to further enhance Hong Kong's status as an international legal service centre.

17. In addition, as reported in the 2015 Policy Initiatives of the DoJ, early this year, the Central People's Government and the HKSAR Government respectively signed with the Permanent Court of Arbitration (PCA) a host country agreement on the conduct of dispute settlement proceedings by the PCA in the HKSAR and a related memorandum of administrative arrangements. We will try our best to implement the arrangements with the PCA, so as to provide as much convenience as is possible for the conduct of PCA-administered arbitrations in Hong Kong, thereby further enhancing Hong Kong' attractiveness as a venue for international investment arbitrations.

Conclusion

18. The above outlines the major work of the DoJ in the coming financial year. My colleagues and I will be pleased to answer Members' questions and listen to your views. Thank you.