

ITEM FOR FINANCE COMMITTEE

2015-16 JUDICIAL SERVICE PAY ADJUSTMENT

Members are invited to approve, with effect from 1 April 2015, an increase in pay by 4.41% for judges and judicial officers.

PROBLEM

We need to adjust the pay scales 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 2015, the dollar value of the pay points for JJOs be increased by 4.41%.

Encl. 3. Upon approval of the proposal in paragraph 2 above, the judicial service pay scale will be revised 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 following –

- (a) the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice;
- (b) the recruitment and retention in the Judiciary;
- (c) retirement age and retirement benefits of JJOs;
- (d) benefits and allowances enjoyed by JJOs;
- (e) unique features of the judicial service;
- (f) prohibition against return to private practice in Hong Kong;
- (g) overseas remuneration arrangements; cost of living adjustment;
- (h) general economic situation in Hong Kong;
- (i) budgetary situation of the Government;
- (j) private sector pay levels and trends; and
- (k) public sector pay as a reference.

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² The Judicial Committee is appointed by the Chief Executive. At present, it is chaired by the Hon Bernard Chan. Other members are the Hon Chow Chung-kong, Mr Lester Garson Huang, Mrs Ayesha Macpherson Lau, Ms May Tan Siew-boi, Professor Wong Yuk-shan and Mr Benjamin Yu.

The 2015 Judicial Remuneration Review

5. In conducting the 2015 judicial remuneration review (JRR), 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 2015-16.

6. In considering private sector pay levels and trends, the Judicial Committee continues to make reference to the Pay Trend Indicators (PTIs) from the 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 +3.91% in 2015 (i.e. the relevant gross PTI at 4.46% less the consolidated cost of increments for JJOs at 0.55%).

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 (2010 Study). The 2010 Study concluded that no clear trends in differentials between judicial pay

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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. The 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 2015 PTS as an example, the wages of the three salary bands are as follows –

- (i) Lower Salary Band covering employees in the salary range below \$19,410 per month;
- (ii) Middle Salary Band covering employees in the salary range of \$19,410 to \$59,485 per month; and
- (iii) Upper Salary Band covering employees in the salary range of \$59,486 to \$118,840 per month.

In the absence of a comprehensive or representative pay trend survey on the legal sector, the PTI for the Upper Salary 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 \$72,155.

and legal sector earnings could be established. The 2010 Study also reaffirmed that remuneration was not a key concern for legal practitioners in considering judicial appointment. The Judicial Committee decides that the next benchmark study should be conducted in 2015 (2015 Study). The 2015 Study is currently under way and its findings would be considered alongside the basket of factors in the 2016 JRR.

8. The judicial pay adjustment mechanism is now delinked from that of the civil service. Public sector pay is only one of the factors for consideration under the balanced approach in determining judicial pay. In the 2015 JRR, the Judicial Committee made reference to the decision of the Chief Executive in Council in June 2015 to increase the pay for civil servants in the directorate and upper salary band by 3.96% (equal to the net PTI for the Upper Salary Band (3.46%) plus 0.5%) with effect from 1 April 2015. The Judicial Committee also notes the findings of the 2013 Pay Level Survey (PLS) and the decision of the Chief Executive in Council in February 2015 that the salaries of senior civil servants remunerated on Master Pay Scale points 45 or above and directorate officers should be increased by 3% with retrospective effect from 1 October 2014. The Judicial Committee notes that while the PLS is conducted at six-yearly intervals for civil servants to ascertain whether the level of civil service pay is broadly comparable with the level of private sector pay at a particular reference point in time, the benchmark study is conducted every five years to monitor the changes in the pay differentials between the levels of judicial pay and the earning levels of legal practitioners under the existing mechanism for the determination of judicial remuneration. The Judicial Committee considers it appropriate to examine the level of judicial pay vis-à-vis the earnings levels in the private sector in the 2015 Study as mentioned in paragraph 7.

9. 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.

10. The Judicial Committee has also considered the Judiciary's views. The Judiciary seeks a pay increase of 4.41% for the judicial service in 2015-16. This is equivalent to the addition of 0.5% to the private sector pay trend indicator as adjusted by the cost of increments for JJOs (net PTI for JJOs) at 3.91% in 2015 (see paragraph 6 above). The Judiciary considers that if the civil service pay adjustment

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is based on the net PTI plus 0.5%, the same approach should be adopted for the judicial pay adjustment in 2015. If the “plus 0.5%” is not adopted for the judicial pay adjustment in 2015, it would put the position of judicial remuneration in a disadvantaged position when compared to the public sector pay adjustment as a whole. The Judiciary also reiterates its position that there should not be any reduction in judicial pay as a matter of principle.

11. Having considered all the above factors, the Judicial Committee submitted its report to the Chief Executive on 13 July 2015, recommending a 4.41% increase in the pay for JJOs for 2015-16.

Judicial Service Pay Adjustment Rate

12. After consideration of the Judicial Committee’s recommendation and the Judiciary’s position, the Chief Executive in Council decided on 29 September 2015 that the pay for JJOs for 2015-16 should be increased by 4.41% with effect from 1 April 2015.

13. 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 2014-15, as approved by the Finance Committee (FC) on 20 March 2015, took effect from 1 April 2014.

FINANCIAL IMPLICATIONS

14. The financial implication arising from the proposed 4.41% pay increase for JJOs in 2015-16 is \$15.9 million.

15. We have not made extra provision in Head 80 – Judiciary in the 2015-16 Estimates for the proposed pay adjustment. We expect that the Judiciary’s savings in the current financial year should be sufficient to cover the additional expenditure arising from the proposed pay adjustment in 2015-16. On 9 March 1983 (vide Item B170), FC delegated to the Financial Secretary (FS) 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. Subject to FC’s approval of the proposal, FS shall approve under delegated authority the supplementary provisions, if required, by the Judiciary.

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PUBLIC CONSULTATION

16. We briefed the Legislative Council Panel on Administration of Justice and Legal Services on the 2015-16 judicial service pay adjustment exercise at its meeting held on 23 November 2015. 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 2015

Judicial Service Pay Scale

Point	(As at 31.3.2015)	(w.e.f. 1.4.2015)
	\$	\$
19	293,200	306,150
18	285,100	297,650
17	257,000	268,350
16	244,950	255,750
15	202,450	211,400
	(195,850)	(204,500)
	(190,150)	(198,550)
14	184,600	192,750
	(183,400)	(191,500)
	(178,200)	(186,050)
13	173,000	180,650
	(158,000)	(164,950)
	(153,450)	(160,200)
12	148,850	155,400
	(145,350)	(151,750)
	(141,300)	(147,550)
11	137,100	143,150
	(133,050)	(138,900)
	(129,100)	(134,800)
10	125,400	130,950
9	116,445	121,580
8	113,720	118,735
7	111,010	115,905
6	85,250	89,010
5	81,300	84,885
4	77,525	80,945
3	75,715	79,055
2	73,920	77,180
1	72,155	75,335

Note: Figures in brackets represent increments.
