

NOTE FOR FINANCE COMMITTEE

Legal expenses for briefing out cases not covered by approved fee schedules (2014-15)

INTRODUCTION

At the Finance Committee (FC) meeting on 14 October 1981, Members delegated to the then Attorney General (now Secretary for Justice) and the Solicitor General the authority to negotiate and approve payment of higher fees for engaging barristers in private practice in cases of unusual complexity or length; and fees for professionals on matters briefed out which are not covered by the approved scale of fees. At the same meeting, the Government agreed to provide Members with periodic reports indicating the levels of fees so negotiated and approved. This note reports on the expenditure incurred by the Department of Justice (DoJ) within 2014-15 on briefing out cases not covered by the approved fee schedules.

2. The DoJ has been briefing out certain criminal and civil cases, according to the fee schedules approved by the FC¹, or at negotiated fees in specified circumstances. Briefing out is mainly to meet operational needs. In general, the DoJ may resort to briefing out when –

- (a) there is a need for expert assistance where the requisite skill is not available in the DoJ;
- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) the size, complexity, quantum and length of a case so dictate;

/(d)

¹ At the FC meeting held on 13 June 2003, Members gave approval for the Director of Administration to exercise the delegated authority to make adjustments to the approved fees provided that the extent of adjustment was no greater than the movement of the Consumer Price Index (C). Members also approved at the same meeting a downward adjustment to the rates of the approved fees by 4.3%. The adjusted rates have been effective since 4 July 2003. On 12 June 2007, the authority for approving adjustments to the approved fees was re-delegated to the Permanent Secretary for Home Affairs.

- (d) as a matter of prudence, it is deemed appropriate to obtain independent outside counsel's advice or services so as to address possible perception of bias or issues of conflict of interest;
- (e) there is a need for continuity and economy, e.g. where a former member of the DoJ who is uniquely familiar with the subject matter is in private practice at the time when legal services are required; and
- (f) there is a need for advice or proceedings involving members of the DoJ.

In addition, some criminal cases are briefed out with the objective of promoting a strong and independent local Bar by providing work, particularly to the junior Bar, and of securing a pool of experienced prosecutors to supplement those within the DoJ. This practice is also intended to help change the commonly-held perception that all prosecutors must be government lawyers whereas the private Bar can represent only the defence in criminal cases.

Encl. 1 3. The approved schedule of fees for 2014-15 is at Enclosure 1.

LEGAL EXPENSES NOT COVERED BY APPROVED FEE SCHEDULES FOR THE YEAR ENDING 31 MARCH 2015

4. During the year ending 31 March 2015, the DoJ paid out a total of \$334,963,972 in briefing out expenses. The breakdown of expenditure under *Subhead 000 Operational expenses* is as follows –

	\$
Payment for hire of legal services and related professional fees	
(a) Briefing out of cases according to approved fee schedule	87,967,246
(b) Briefing out of cases at fees not covered by the approved scales	143,705,101
	231,672,347
Payment for legal services for construction dispute resolution	
(c) Briefing out of construction dispute resolution cases at fees not covered by approved scales ²	103,291,625
Total expenditure for 2014-15	334,963,972

/5.

² There is no approved scale of fee for construction dispute resolution because it is not possible to fix scale fees for construction or other civil cases which vary by complexity and nature.

5. Regarding paragraph 4(b), the DoJ briefed out various matters which were not covered by the approved scale of fees to lawyers, accountants, expert witnesses, consultants and appointed arbitrators. The amount of \$143,705,101 incurred in 2014-15 involved 528 cases. Details are set out at Enclosure 2.

Encl. 2

6. As regards paragraph 4(c), the DoJ briefed out various matters which were not covered by any approved scale of fees to private practitioners engaged to undertake specialised work relating to construction dispute resolution. The amount of \$103,291,625 incurred in 2014-15 involved 22 cases. Details are set out at Enclosure 3.

Encl. 3

Department of Justice
December 2015

**Approved scale of maximum fees for briefing out cases
(rate effective since 29.11.2013[#])**

(a) Court of Appeal

	\$
(i) brief fee	32,700
(ii) refresher fee per day	16,350

(b) Court of First Instance

	\$
(i) brief fee	24,520
(ii) refresher fee per day	12,260
(iii) conference per hour	1,270

Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.

(c) District Court

	\$
(i) brief fee	16,320
(ii) refresher fee per day	8,160
(iii) conference per hour	1,040

Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant.

(iv) brief fee for attending sentencing hearings or procedural applications	3,240
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(d) Magistrates' Court

	\$
(i) brief fee	9,800
(ii) refresher fee per day	4,890
(iii) brief fee on daily basis	6,520

[#] On 29 November 2013, with Legislative Council's endorsement, the rates of the approved criminal legal aid fees were adjusted upward by around 9.3%. As the DoJ uses the same scale of fees for briefing out, the briefing out fees for cases briefed since that date were adjusted accordingly.

Enclosure 2 to FCRI(2015-16)10

**Hire of legal services and related professional fees
Breakdown of cases briefed out at fees
not covered by the approved scales in 2014-15**

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
Civil		
<p>1. Appeal to the Board of Review (Inland Revenue Ordinance) by a company (Board of Review B/R 29/12, MIS 496/2012)</p> <p>Fees and expenses incurred in relation to briefing a London Queen's Counsel (QC), a local Senior Counsel (SC) and an expert to resist the taxpayer's appeal to the Board of Review against assessment of profits tax. The main issue involved was whether certain transactions were carried out for the sole or dominant purpose to obtain a tax benefit within the meaning of s. 61A of the Inland Revenue Ordinance. The case was settled before the hearing scheduled for 7 to 8 July 2014.</p>	3	2,670,913
<p>2. Appeal to the Board of Review (Inland Revenue Ordinance) by a company (Board of Review B/R13/12, MIS 307/2012)</p> <p>Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to resist the taxpayer's appeal to the Board of Review against assessment of profits tax. The main issue involved was the locality of the profits or loss. Hearing took place from 12 to 23 May 2014. Decision of the Board is pending.</p>	3	2,923,518

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>3. Hong Kong Television Network Limited v The Chief Executive in Council (CEIC) (HCAL 3/2014)</p> <p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the CEIC in resisting a judicial review (JR) application instituted by Hong Kong Television Network Limited (HKTVN) against the CEIC's decision announced on 15 October 2013 rejecting HKTVN's application of 31 December 2009 for a domestic free television programme service licence. The substantive hearing was held from 27 to 29 August 2014. The Court of First Instance (CFI) handed down its judgment on 24 April 2015 allowing the JR, quashing the said CEIC's decision and remitting the matter to the CEIC for reconsideration.</p>	2	2,418,800
<p>4. Arjun Singh v Commissioner of Police (CP) and Hung Kai Kam (DCEO 9/2011)</p> <p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to advise and appear on behalf of the CP and Police Constable Hung Kai Kam ("PC Hung") in a claim brought by the Plaintiff, an ethnic-Indian boy born in Hong Kong, for relief under the Race Discrimination Ordinance (Cap. 602) and damages for the alleged unlawful arrest by the Police and refusal by PC Hung to provide policing services to the Plaintiff when he had a scuffle with another person in Wan Chai MTR Station on 6 January 2010. Substantive hearing lasted for a total of 16 days from April to September 2014 with judgment reserved.</p>	2	2,323,000

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>5. Law Chi Yuen (formerly known as Law O Ki) by Wong Sin his next friend v Secretary for Education (SED) (HCAL 91/2011)</p> <p>Fees and expenses incurred in engaging a local SC and a local junior counsel to advise and appear on behalf of the SED, and two experts from the United Kingdom (UK) on special education to provide advice, in the JR application taken out by the Applicant, who was a student suffering from intellectual disability and studying in a special school. The Applicant challenged the SED's decision to refuse his school's application for employment of a Native-Speaking English Teacher. The Applicant's grounds for review included that the SED's decision amounted to discriminatory treatment under the Disability Discrimination Ordinance (Cap. 487), and that the decision was inconsistent with Articles 25 and 39 of the Basic Law and Article 22 of the Hong Kong Bill of Rights (regarding equality before the law and without discrimination). The substantive hearing was held from 9 to 11 March 2015 with judgment reserved.</p>	4	1,889,475
<p>6. Gutierrez Joseph James, a minor by Gutierrez Josephine B, also known as Gutierrez Josephine Baland, his mother and next friend v The Commissioner of Registration & Another (FACV 2/2014)</p> <p>Fees and expenses incurred in relation to briefing a London QC, a local SC and a local junior counsel to act for the Commissioner of Registration in resisting the appeals by a foreign domestic helper and her son against the judgment of the CFI handed down on 10 November 2011 refusing their respective JRs challenging (a) the Commissioner of Registration's refusal to issue Hong Kong permanent identity cards to them; and (b) the Registration of Persons Tribunal's dismissal of their respective appeals against the Commissioner's refusal. The mother's appeal (CACV 21/2012) was subsequently</p>	3	1,549,403

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>withdrawn in the light of a binding Court of Final Appeal (CFA) judgment handed down in another JR case before the hearing of her substantive appeal. The son's appeal (CACV 22/2012) was dismissed by the Court of Appeal (CA) on 7 June 2013. Leave to appeal to the CFA was granted by the Appeal Committee (FAMV 46/2013) on 24 January 2014 after the CA's refusal on 9 October 2013. The CFA dismissed the appeal (FACV 2/2014) on 18 September 2014 with costs to the Commissioner of Registration.</p>		
<p>7. Designing Hong Kong Limited (DHKL) v Town Planning Board (TPB) (HCAL 49/2014)</p>	3	1,548,535
<p>Fees and expenses incurred in relation to briefing an overseas counsel, a local SC and a local junior counsel to act for the TPB in resisting the application by DHKL for leave to apply for JR, interim relief and a Protective Costs Order (PCO). The application for JR challenged the TPB's decision to uphold the amendments to the zoning of the "Central Military Dock" site under the draft Central District (Extension) Outline Zoning Plan (OZP) from "Open Space" to "Other Specified Uses" annotated "Military Use (1)". Leave to apply for JR was granted on 21 July 2014 and interim stay was granted on 23 July 2014. On 30 April 2015, the CFI refused the PCO application. On 28 July 2015, the CFI granted leave for the Applicant to appeal to the CA against the PCO's decision.</p>		
<p>8. Jade's Realm Limited v Director of Lands (D of Lands) (HCA 1509/2012)</p>	2	1,302,900
<p>Fees and expenses incurred in relation to briefing a local senior junior counsel and a local junior counsel to act for the D of Lands in resisting Jade's Realm Limited's claim for adverse possession/encroachment of the subject Government land and in counterclaiming for possession of the subject</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>Government land, mesne profits and damages. Interlocutory applications (specific discovery and striking out part of the defence) were heard by the CFI on 23 May, 18 June and 7 August 2014 and in the judgments handed down on 10 June 2014 and 9 and 19 January 2015, the CFI ruled on the applications in favour of the D of Lands.</p>		
<p>9. Tsan Luk Yuk Yin v D of Lands (LDMR 3/2005)</p>	<p>2</p>	<p>1,188,800</p>
<p>Fees and expenses incurred in relation to briefing a local senior junior counsel and a local junior counsel to act for the D of Lands in resisting the Applicant's claim for compensation pursuant to the Roads (Works, Use and Compensation) Ordinance (Cap. 370) upon resumption of the subject lots. The hearing was held from 24 to 27 March 2014 and the Lands Tribunal handed down its judgment on 9 May 2014 on the appropriate development scheme for assessing compensation which was in favour of the D of Lands. Upon considering the parties' written submissions, the Lands Tribunal further handed down its judgment on interest, costs and professional fees on 4 September 2014.</p>		
<p>10. Appeal to the Board of Review (Inland Revenue Ordinance) by two individuals (Board of Review B/R 16/13 & B/R 17/13, MIS 255/2013)</p>	<p>2</p>	<p>1,310,366</p>
<p>Fees and expenses incurred in relation to briefing a local SC and a local junior counsel to act for the Commissioner of Inland Revenue (CIR) in two appeals lodged by two taxpayers respectively to the Board of Review against the additional tax assessments issued by the CIR to them pursuant to section 82A of the Inland Revenue Ordinance (Cap. 112) in respect of the incorrect profits tax returns previously signed by them as directors of a company. The appeals were heard together from 26 to 30 January 2015 and on 6 March 2015. Decision of the Board was reserved.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
11. Regal Shining Limited v Secretary for Justice (SJ) (HCMP 2781/2012)	3	1,005,250
<p>Fees and expenses incurred in relation to briefing a local SC, a local junior counsel and an expert to act for SJ (on behalf of D of Lands and TPB) in an appeal lodged by a private columbarium operator against the judgment of the CFI of 21 October 2014 which ruled in favour of the Government and rejected the Plaintiff's application for declarations that (a) General Condition 15 of the Government lease (i.e. the Human Remains Clause) does not prohibit the storage of cremated ashes on the subject Lot in Kwai Chung; and (b) the private columbarium Hong Dao Tang is a "Religious Institution" and is a user always permitted under the Kwai Chung OZP. The Plaintiff lodged an appeal which was heard on 13 October 2015 and the appeal was dismissed on 16 November 2015.</p>		
12. Oriental Generation Limited (OGL) v TPB (CACV 127/2012 & CACV 129/2012)	4	1,065,484
<p>Fees and expenses incurred in relation to briefing a London QC, a local SC, a local junior counsel and an expert to act for the TPB in its appeal and in OGL's cross-appeal against the CFI judgment dated 11 May 2012. In the appeals, the TPB sought to challenge the CFI judgment quashing certain planning restrictions imposed on OGL's Kai Tak Mansion Site in the subject Draft OZP, while OGL argued in its cross-appeal that the CFI had erred in dismissing its grounds of JR (illegality, procedural impropriety, etc.) on which it failed in the three JR applications (HCAL 62/2011, HCAL 109/2011 and HCAL 34/2012). The appeals were heard by the CA from 18 to 20 February 2014. On 13 November 2014, the CA handed down its judgment dismissing the TPB's appeal and holding it unnecessary to grant the relief sought by OGL in its cross-appeal.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>13. China Field Limited v Building Authority (BA) (FACV 7/14)</p> <p>Fees and expenses incurred in relation to briefing a local senior junior counsel and a local junior counsel to act for the BA in an appeal lodged by the Interested Party (China Field Limited) against the judgment of the CA dated 3 January 2014, dismissing China Field’s appeal and remitting the matter to the Appeal Tribunal (Buildings) for rehearing of the building appeal in respect of the proposed development at Wang Fung Terrace. The issue concerned the construction of section 16(1)(g) of the Buildings Ordinance (Cap. 123), namely, in the exercise of BA’s discretion under the said section 16(1)(g), whether consideration could be given to health and safety issues, or town planning aspects; and the extent to which such considerations have any spatial or causal limitations. The appeal was heard on 23 February 2015 and was dismissed on 13 March 2015 by the CFA.</p>	2	1,389,050
<p>14. Pagtama Victorina Alegre and Kong Jessril Prayudi a minor by his next friend and legal guardian Pagtama Victorina Alegre (HCAL 13/2014); Comilang Milagros Tecson and Ahmed Zabrah Noor a minor by her next friend and mother Comilang Milagros Tecson (HCAL 45/2014); & Luis Desiree Rante and Luis David John Rante a minor by his next friend and mother Luis Desiree Rantee (HCAL 56/2014) v Director of Immigration (D of Imm)</p> <p>Fees and expenses incurred in relation to briefing a local SC and a junior counsel to act for the D of Imm in three similar JRs against the Director’s decisions refusing the applications of the legal guardian/grandparent/parents in these cases who do not have the right to continue to stay in Hong Kong as primary carers to look after their grandchild/children who are Hong Kong Residents/Hong Kong Permanent Residents and for</p>	2	2,681,438

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>them to live as families here. The Applicants seek, <i>inter alia</i>, a declaration that the Director, when making decisions under the Immigration Ordinance on whether to allow the Applicants to stay, is obliged, as a matter of law, to take into account the status and best interests of the minor and the applicable rights of each Applicant under the Basic Law, Hong Kong Bill of Rights, common law and relevant international conventions. The Applicants also made interlocutory applications for discovery and cross-examination and amendment of the notices of application for leave to apply for JR in respect of HCAL 45 & 56/2014. On the other hand, the Director applied to set aside the leave granted to apply for JR in HCAL 45 & 56/2014 on the ground of delay and to dispose of HCAL 13/2014 as permission to stay had been granted upon reconsideration of the case. All the applications and the substantive hearing of the three JRs were heard by the CFI from 8 to 11 December 2014. The judgment is pending.</p>		
<p>15. First Global Funds Limited PCC & First Capital Management Limited (Applicants) v The Financial Services Commission of Mauritius, Secretary for Justice of Hong Kong (sic) and the Government of the Republic of Indonesia (Respondents) (Supreme Court of Mauritius No. 1726/2013)</p>	2	1,143,379
<p>Fees and expenses incurred in relation to briefing a SC qualified in Australia and practising in London to provide legal advice on subjects relating to state immunity, and also a law firm in Mauritius to represent HKSARG to oppose the application by the Applicants before the Supreme Court of Mauritius, including the filing of affirmation evidence and the making of written submissions.</p>		
<p>The Mauritius proceedings are related to Hong Kong proceedings HCMP 2557/2010 concerning mutual legal assistance requests from Indonesia. Upon an initial request and a supplementary request for</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>mutual legal assistance from Indonesia respectively in 2009 and 2012, SJ has been acting for the Government of Indonesia in the Hong Kong proceedings under Part VI of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) to restrain certain properties and to register a confiscation order against those properties.</p> <p>The Applicants in the Mauritius proceedings sought an order from the Mauritius Court declaring that the cellular assets concerned belonged to the relevant cells of the First Applicant which were the sole beneficial owner of the cellular assets, and that D1 and D2 in the Hong Kong proceedings had no interest in them. The Mauritius proceedings were issued out of the Supreme Court in Mauritius against various parties, with SJ and the Government of the Republic of Indonesia as the Respondents. In the course of case preparation for the hearing, the Applicants applied for the withdrawal of SJ as one of the Respondents, which application was approved by the Supreme Court of Mauritius on 19 May 2014.</p>		
16. Fees and expenses incurred in 468 other civil cases under \$1 million each	-	49,158,274
Sub-total: 483 cases		75,568,585

Criminal

17. HKSAR v Hui Rafael Junior & Four Others (ESCC 2530/2012) (HCCC 98/2013)	5	45,318,768
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Defendant (D)1 was a former Chief Secretary for Administration of HKSAR. D2 and D3 were the Vice-Chairmen and Managing Directors of a publicly listed company while D4 was an Executive Director of the company. D5 was the former Chief Operating Officer of the Hong Kong Exchanges and a long-time friend of D1. The case involved

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>eight charges – three of misconduct in public office, contrary to Common Law; three of conspiracy to commit misconduct in public office, contrary to Common Law and Section 159A of the Crimes Ordinance (Cap. 200); one of conspiracy to offer an advantage to a public servant, contrary to Section 4(1)(a) of the Prevention of Bribery Ordinance (Cap. 201) and Section 159A of the Crimes Ordinance; and one of furnishing false information, contrary to Section 19(1)(b) of the Theft Ordinance (Cap. 210). The Defendants were charged on 13 July 2012. After amendments made to the charges in February 2014, D1 faced all eight charges, D2 faced three of the charges, D3 faced four of the charges, and each of D4 and D5 faced two of the charges. On 8 March 2013, the Defendants were committed for trial before the CFI which commenced on 8 May 2014.</p> <p>Having regard to the background of the Defendants and the company in question, the complexity of the case given its nature and the gravity of the crime involved, as well as the extensive array of local SC and juniors as well as overseas QC engaged by the Defendants, we needed to handle this case with a high level of professional competency to ensure that due care and attention were being exercised in every step we took. Apart from setting up a dedicated team internally to manage the case, we also needed to engage outside lawyers (including local SC and overseas QC, plus junior counsel) to handle the actual prosecution work. Thus, we have engaged an overseas QC, a local SC, an overseas junior plus a local junior to conduct the prosecution of the case before the CFI.</p> <p>The trial concluded after 133 days of hearing. After having deliberated the verdicts for five days and four nights, the jury returned their verdicts on 19 December 2014. Four of the five Defendants were convicted and on 23 December 2014 were sentenced to imprisonment terms ranging from five to seven and a half years. D2 and D4 were also</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
fined \$500,000 each and disqualified from being directors of any company for periods same as their imprisonment terms. In addition, each of D2 and D4 had to pay \$12.5 million of the prosecution's costs. D1 was further ordered to return \$11.182 million to the HKSAR Government.		
18. HKSAR v Hui Rafael Junior & Three Others (CACC 444/2014 on appeal from HCCC 98/2013)	4	1,283,335

Following their convictions and sentences handed down by the court, the four defendants in HCCC 98/2013 (see item 17 above) have since filed notices of application for leave to appeal.

D2 filed a Notice of Application for leave to appeal against conviction on 29 December 2014. He also filed an application for bail pending appeal on 30 December 2014 which was dismissed by the CA on 16 March 2015.

On 30 December 2014, D4 filed a Notice of Application for leave to appeal against both conviction and sentence. On 18 March 2015, he also filed an application for bail pending appeal which was dismissed by the CA on 28 May 2015.

On 15 January 2015, D1 and D5 both filed their Notices of Application for leave to appeal against conviction.

The appeal by D1, D2, D4 and D5 were heard from 2 to 5 November 2015 before the CA, with judgment reserved. For continuity and economy, the Prosecution has engaged the same team of overseas QC, local SC, overseas junior and local junior which conducted the trial to handle the appeal and related proceedings.

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
19. HKSAR v Yeung Ka Sing Carson (DCCC 860/2011)	3	4,200,000

The Defendant was charged with five counts of “money laundering” offences in relation to the bank accounts controlled by him. The offences covered a period of six years involving a total of around \$721 million. At trial, the Defendant was represented by a SC and a junior (and at a later stage three junior counsel) and he engaged two forensic accountants as his expert witnesses.

In view of the sensitivity and complexity of the case, in particular that the expert evidence was in serious dispute, it was necessary to engage a local SC of sufficiently high calibre and with rich experience in commercial crime cases and a local junior counsel to prosecute.

A forensic accountant was also engaged by the prosecution to examine the pattern of the relevant bank transactions in the bank account of the Defendant and his father to ascertain if there were any hallmarks of money laundering and to deal with the evidence of the two defence experts.

The trial took place between 29 April 2013 and 12 December 2013. After a 55-day trial, the Defendant was convicted on 28 February 2014 of all charges.

The Defendant’s subsequent appeal against convictions was heard on 11 and 12 March 2015. By its judgment handed down on 13 May 2015, the CA dismissed the appeal against convictions. On 15 May 2015, the appeal against sentence was also dismissed.

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
20. HKSAR v Chow Chi Wai (D1) & Lai Sai Ming (D2) (HCCC 458/2013)	6	3,939,850

On 1 October 2012, two vessels (Sea Smooth and the Lamma IV) collided with each other near the Lamma Island, causing Lamma IV to sink, resulting in the deaths of 39 of its passengers. The coxswains of the two vessels were prosecuted and the trial started in November 2014.

Given the sensitivity and complexity of the case, a local SC and a local junior counsel were engaged to prosecute the case. The Prosecution also engaged a number of experts, including two expert mariners to comment on the navigation of the two Defendants; one UK naval architect to comment on the structure of Lamma IV and the angle of blow; and one forensic scientist to comment on forensic matters. These four experts were called to give oral evidence during the trial.

The trial concluded in mid February 2015. The coxswain of Lamma IV (D1) was convicted of one count of “Endangering the safety of others at sea” and was sentenced to imprisonment for nine months; while the coxswain of Sea Smooth (D2) was convicted of 39 counts of “Manslaughter” and one count of “Endangering the safety of others at sea” and was sentenced to imprisonment for a total of eight years.

21. HKSAR v Lo King Fat (D1) & Others (HCCC 476/2012) (formerly ESCC 778 & 3849/2012)	2	2,634,000
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This is a corruption case involving a publicly listed company investigated by the Independent Commission Against Corruption. D1 and D2 were jointly charged in ESCC 778/2012 with one charge of conspiracy to defraud. D2 was additionally charged with one charge of conspiracy to offer advantages to an agent. The co-conspirators

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>(D3 to D6) were the defendants in ESCC 3849/2012 who were jointly charged with the same charge. The prosecution applied for the consolidation of the two cases and the application was granted. The consolidated case (HCCC 476/2012) was committed to the CFI for trial.</p> <p>As the offences were perpetrated on a listed company, the case had wide public interest consideration. Moreover, the whole scheme of fraud and corruption was elaborate, and the facts were complicated. A wide variety of evidence was involved (including witnesses' accounts, bank transaction records, share transaction records, email correspondence etc.) and the amount of materials was voluminous (comprising over 13 000 pages of witness statements and documentary exhibits plus about 120 ring-folders of unused material). The case also heavily relied on an immunised witness whose evidence had to be handled with care. Given the complexity of the case, a local SC was engaged by the Prosecution.</p> <p>The trial concluded on 9 October 2014 after a total of 74 days. D1, D2 and D5 were convicted of various charges whilst D3, D4 and D6 were acquitted of all charges after trial.</p>	2	1,215,000
<p>22. HKSAR v Hung Ching Kuen & Seven others (HCCC 113/2012) (formerly ESCC 3773/2011)</p> <p>The eight defendants in the captioned case were tried in the CFI for 27 offences of fraud and money laundering.</p> <p>It was the prosecution case that the eight defendants had through seven companies used a total of 390 bogus sale and purchase invoices to apply for 380 loans from eight banks totalling HK\$280.5 million with a total sum of HK\$144 million granted and paid. The scam operated for over a year between September 2007 and October 2008.</p>		

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
Due to the complexity of the case and the substantial amount of evidence involved (including expert forensic accounting evidence), two local outside counsel were briefed to prosecute the trial (HCCC 113/2012) which took a total of 58 days.		
D2 was convicted of one count of fraud and four counts of money laundering and was sentenced to a total of six and a half years' imprisonment. Her subsequent appeal against conviction was dismissed on 29 January 2015 (CACC 9/2014). The remaining seven defendants were all acquitted after trial.		
23. Fees and expenses incurred in 39 other criminal cases under \$1 million each	-	9,545,563
Sub-total: 45 cases		68,136,516
Total expenditure	(528 cases)	143,705,101

Enclosure 3 to FCRI(2015-16)10

**Legal services for construction dispute resolution
Breakdown of cases briefed out at fees
not covered by the approved scales in 2014-15**

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>1. Stonecutters Bridge - Contract No. HY/2002/26 Arbitration between Maeda-Hitachi-Yokogawa-Hsin Chong Joint Venture and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator and engaging a solicitors' firm, a London Queen's Counsel (QC), a local junior counsel, a quantum expert, a programming expert, a general bridge engineering expert and an engineering expert in wind and structural health monitoring system in two consolidated arbitrations in respect of claims brought by the Contractor against the Government for missing items, variations and requests for variations and the Final Account claims.</p>	8	56,880,335
<p>2. Rehabilitation of Shek O Quarry - Contract No. GE/93/14 Arbitration between Shek O Quarry Limited and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator and engaging a solicitors' firm, a London QC, a local counsel, a quarry expert, a quantum expert, a programming expert, a site formation engineering expert and a geomaterials engineering expert in an arbitration in respect of claims brought by the Contractor against the Government for additional costs, loss of profits, management costs and interest.</p>	9	17,303,349

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
<p>3. Sha Tin New Town, Stage II Road Work at Areas 34 & 52 in Shui Chuen O and Area 56A in Kau To - Contract No. ST/2005/02 Arbitration between Penta Ocean-Peako Joint Venture and the Government of the HKSAR</p> <p>Fees and expenses incurred in relation to appointing an arbitrator and engaging a solicitors' firm, a local counsel, a quantum expert, a civil and geotechnical engineering expert and an interpreter in an arbitration in respect of claims brought by the Contractor against the Government for the cost of extensions of time, prolongation, delay, measurement and valuation, variations, additional works and Final Account items.</p>	6	19,187,140
<p>4. Route 8 between Cheung Sha Wan and Sha Tin – Design and Construction Assignment - Consultancy Agreement No. CE 50/98 Arbitration between the Government of the HKSAR and AECOM Asia Company Limited (formerly known as Maunsell Consultants Asia Limited) and Hyder Consulting Limited trading as Maunsell Hyder JV</p> <p>Fees and expenses incurred in relation to engaging a solicitors' firm, a London QC, a local junior counsel and a quantum expert in an arbitration in respect of claims brought by the Government against the Engineer in relation to the works of the Lai Chi Kok Viaduct.</p>	4	4,901,719
<p>5. Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (“XRL”)</p> <p>Fees and expenses incurred in relation to engaging a local SC to provide legal advice on matters relating to the XRL Project.</p>	1	1,602,000

Brief description of case/matter	Number of counsel/ legal firms/other professionals involved	Expenditure \$
6. Fees and expenses incurred in 17 other civil cases under \$1 million each	-	3,417,082
Total expenditure	(22 cases)	<u>103,291,625</u>
