

**Special Meeting of the Finance Committee
to examine the draft Expenditure Estimates 2000-2001
24 March 2000**

Opening Statement by the Secretary of Justice

INTRODUCTION

The Department of Justice's role is to provide legal services to the Government of the Hong Kong Special Administrative Region (SAR). It also makes independent prosecution decisions and conducts prosecutions in court. In the financial year 2000-2001, a total provision of \$956 million is sought.

HIGHLIGHTS

2. I would like to highlight some of the areas of work of the Department of Justice.

Constitutional Litigation

3. The establishment of the Hong Kong SAR, in accordance with the Basic Law, has added a new constitutional dimension to the work of the Department of Justice. Since the reunification in July 1997, numerous applications for judicial review have been made to challenge the constitutionality of various legislative and executive acts.

4. Recently, there has been an upsurge in litigation brought by persons who claim to have a right of abode here and in appeals to the Immigration Tribunal against the Director's refusal to issue Certificates of Entitlement. Apart from the legal issues, many of these cases involve factual disputes which have to be examined on a case by case basis. Many will need to be dealt with initially at tribunal level and subsequently before the Court of First Instance by way of judicial review. Some inevitably will go all the way up the Court of Final Appeal. The Department has redeployed staff to cope with the increased workload.

Promotion of Basic Law

5. In the coming year, we will continue to take concerted action with other parts of the Government in the promotion of the Basic Law. In April 2000, we will organise a Constitutional Law Conference, jointly with the Faculty of Law of the University of Hong Kong, to commemorate the 10th Anniversary of the promulgation of the Basic Law. The theme of the Conference will be “Implementation of the Basic Law: A Comparative Perspective”. It will provide an opportunity for members of the Hong Kong legal profession as well as those having an interest in comparative constitutional law to keep abreast of the latest constitutional developments from a comparative perspective.

Establishment of a new Legal Advisory Team

6. In respect of advisory services, a new legal advisory team has been set up in the Civil Division of the Department. Prior to 1 January 2000, both the Provisional Urban Council and the Provisional Regional Council had their own legal units staffed by counsel seconded from this Department. The posts of the two legal units lapsed upon the dissolution of the two Provisional Municipal Councils on 1 January 2000. To cope with the demand for legal services by the newly created Environment and Food Bureau, the Food and Environmental Hygiene Department and the Leisure and Cultural Services Department, a new legal advisory team headed by a Deputy Principal Government Counsel has been set up and is now functioning effectively.

Legislative Work

7. My department is currently providing substantial legal assistance to policy bureaux in respect of a number of complex bills. There are two bills which, having been published for consultation in the form of a white bill, have now been introduced as bills into LegCo; they are the Town Planning Bill (170 pages) and the Urban Renewal Authority Bill (65 pages). The proposed Securities & Futures Bill (about 1500 pages) will, subject to ExCo approval, be published shortly as a white bill for public consultation. Both the complexity and the substantial volume of work involved in these bills are amply reflected in the fact that they are being issued as white bills. They are not the only complex bills, though. Other major bills include : the Broadcasting Bill, the Telecommunication (Amendment) Bill, the Companies (Amendment) Bill, the Trade Marks

Bill, and the District Court (Amendment) Bill. Whilst bureaux are responsible for policy issues, the Department of Justice will have to give advice on numerous legal issues raised by the bureaux or by Honourable Members, attend Bills Committees and draft the necessary CSAs. Such legislative work draws on the resources of Legal Policy Division, Civil Law Division, the Law Drafting Division and, occasionally, other Divisions. The workload of my Department will increase considerably during the coming year and beyond.

Prosecution of Crime

8. On the prosecution side, we will continue to marshal our resources to the best possible advantage. Our strengthened Commercial Crime Unit will be at the forefront of efforts to combat fraud and corruption. The new Computer Crime Team will provide expertise in terms of advice and case presentation, and will promote liaison at the international level. The revamped Appeals Unit will work to ensure the highest levels of preparation and representation in the Court of Final Appeal and the intermediate appellate courts. Our objective at all times must be to prosecute all forms of criminality with diligence and vigour.

9. By modernising and developing our capacity to cope with crime, we plan to send out a clear message to the international community. We wish it to be understood that Hong Kong is a safe place to do business, that corruption will not be tolerated, that investment will be safe, and that the financial system is properly regulated. Wherever necessary, firm measures will be taken to deal with computer crime so as to ensure that the status of Hong Kong as a major centre for e-commerce is not compromised.

International Law

10. In the area of international law, we will continue our efforts in expanding Hong Kong's legal co-operation with other jurisdictions to bring benefits to the Hong Kong SAR. In particular our plans for the year 2000-2001 are –

- (a) to bring into force seven agreements in the area of legal co-operation in criminal matters;

- (b) to negotiate a further nine agreements; and
- (c) to continue our legal support for the Hong Kong SAR's discussion with the Mainland on rendition arrangements with a view to putting in place an arrangement for the surrender of fugitive offenders.

Review of Legal Education

11. In order to strengthen legal education and improve both the quality and efficiency of legal services, my Department (in collaboration with the Law Society, the Bar Association, the University of Hong Kong and the City University and others) is steering a comprehensive review of legal education and training in Hong Kong. The first stage of the review, which started in January this year, is being conducted by two overseas consultants with funds provided by the Innovation and Technology Fund. We expect that, in the summer, the consultants will issue a public consultation document, setting out the issues that need to be addressed.

CONCLUSION

12. I would like to conclude my introductory statement this morning by emphasizing that the Department of Justice in all its work will be guided by an unconditional commitment to the rule of law and the independence of the judiciary. We will continue our efforts to promote those vital concepts, and to enhance confidence in the legal system. We are also committed to provide efficient and effective legal services to the Hong Kong SAR Government, and to maintain and improve the present legal system.

Department of Justice
March 2000