

**For discussion on  
20 June 2000**

**LegCo Panel on Administration of Justice and Legal Services**

**Appointment to the post of Solicitor General  
Department of Justice**

The post of Solicitor General (SG) has been vacant since 1 September 1998 following the completion of agreement of the former SG, Mr Daniel Fung, SC. As head of the Legal Policy Division of the Department of Justice (D of J), SG is responsible, under the Secretary for Justice (SJ), for the following duties –

- (a) the development of legal policy issues;
- (b) advising on a wide range of complex and sensitive legal issues, and, if necessary, appearing in court;
- (c) acting as Chairman of relevant departmental boards and committees; and
- (d) overseeing personnel and administrative issues of the Legal Policy Division.

2. To identify the best talent and most suitable candidate to fill the post of SG, a recruitment exercise was launched in July 1998 in parallel among in-service candidates and private practitioners. An advertisement was placed in the local press on 4 July 1998 and interested candidates were invited to submit their applications on or before 14 August 1998. A total of 10 applications were received and there were both in-service candidates and private practitioners.

3. A Selection Board chaired by SJ, with members consisting of senior officers of the D of J and the Acting Secretary for the Civil Service, met in September/October 1998. All applicants for the post were interviewed. The Chairman, Public Service Commission (PSC) was present throughout the Selection Board meetings as an observer and a member of the PSC also attended as an observer at one of the meetings of the Board. The recommendation of the Selection Board was forwarded to the Civil Service Bureau in October 1998. In June 1999, a candidate withdrew his application for the SG post on personal grounds. The selection exercise was concluded in September 1999 with no

offer of appointment made to the SG post.

4. In view of the general freeze of recruitment to the Civil Service in 1999-2000 and with the need to restructure the Legal Policy Division to enhance its capability to cope with the increased work demand, the Department had not launched another selection exercise in late 1999 to fill the post of SG. Instead, the vacant post of SG has, since September 1998, been filled on an acting basis in accordance with normal Civil Service practice. The purpose and effect of such an acting arrangement is to ensure that the functions of the post are properly carried out, despite there being no substantive post-holder.

5. In the case of the vacant post of the SG, the Secretary for Justice has ensured that those who have acted in that position have performed the essential functions of the post. For example, the work of those officers has included the following –

- (a) assisting in the preparation of Hong Kong reports, and attending UN Committee meetings, in respect of –
  - (i) the Elimination of Discrimination against Women (February 1999);
  - (ii) the CCPR (October 1999); and
  - (iii) the Convention against Torture (April 2000);
- (b) organising the Constitutional Law Conference on Implementation of the Basic Law : A Comparative Perspective (April 2000);
- (c) organising mock trials in Beijing (January 1999) and Guanzhou (May 2000);
- (d) co-ordinating the Review of Legal Education and chairing the Steering Committee on that subject;
- (e) overseeing significant legislative programmes during two LegCo sessions (see attached list of Bills);
- (f) chairing a sub-committee on the impact for the legal profession of China's proposed entry to the WTO;
- (g) restructuring the Legal Policy Division;
- (h) chairing the Department of Justice's Basic Law Litigation

Committee;

- (i) delivering numerous speeches and writing numerous articles, both in Hong Kong and overseas;
- (j) providing advice to Government departments and bureaux on projects having important legal policy or human rights implications (including advice on BL 23); and
- (k) overseeing all work in the Legal Policy Division.

6. Following the near completion of a restructuring exercise of the Legal Policy Division, SJ proposed in April 2000 that an open recruitment exercise be conducted in parallel with consideration of the applications of qualified and eligible serving officers in the legal/judicial group of departments. In accordance with the Government's announcement on containing the size of the civil service, retention of vacancies and recruitment of outside candidates to any office on the civil service establishment on civil service terms and conditions should only be made in 2000-01 with the prior approval of the Central Joint Panel of the Civil Service Bureau and the Finance Bureau. The Department has already applied to the Joint Panel and the proposal is being processed within the Administration in accordance with the established procedures. Provided that the necessary approval is obtained, the Department will launch the open recruitment cum promotion exercise as soon as the necessary procedures are completed.

**Department of Justice**  
**June 2000**

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**List of Bills**

Adaptation of Laws (No. 3) Bill 1998

Adaptation of Laws (No. 4) Bill 1998

Adaptation of Laws (No. 12) Bill 1998

Evidence (Amendment) Bill 1998

Theft (Amendment) Bill 1998

Evidence (Amendment) Bill 1999

Interpretation and General Clauses (Amendment) Bill 1999

Legal Practitioners (Amendment) Bill 1999

Statute Law (Miscellaneous Provisions) Bill 1999

Arbitration (Amendment) Bill 1999

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