

**Replies to supplementary questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2004-05**

Controlling Officer : Director of Administration and Development

Session No. : 8

File name : S-SJ-e.doc

| Reply Serial No. | Question Serial No. | Name of Member | Head | Programme |
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| S-SJ001 | S033 | HO Sau-lan, Cyd | 92 | (1) Prosecutions |
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Examination of Estimates of Expenditure 2004-05
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-SJ001

Question Serial No.

S033

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Regarding *Matters Requiring Special Attention in 2004-05* under Programme (1), the Administration states that it will devise practical steps which prosecutors can take to avoid miscarriages of justice. Please provide the details of these practical steps, the time-table for their implementation, and the staffing and expenditure involved.

Asked by : Hon. Ho Sau-lan, Cyd

Reply :

A working group of prosecutors has very recently made recommendations to the Director of Public Prosecutions as to possible means by which potential miscarriages of justice can be avoided. Among these recommendations are guidelines for expert witnesses, closer liaison between prosecutors and frontline enforcement personnel, greater circumspection in the use of prison informants, retention of case materials in serious cases for longer periods to facilitate future scientific inquiry, and ad hoc reviews of cases involving miscarriages of justice. These recommendations are being studied by the Director of Public Prosecutions, who will consult outside bodies as required. It is anticipated that this exercise will be completed by late 2004. If implemented, the bulk of the recommendations will have no or minimal cost implication.

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|-----------------------|--------------------------------|
| Signature | _____ |
| Name in block letters | Miss Annie Tam |
| | Director of Administration and |
| Post Title | Development |
| Date | 14 April 2004 |

Examination of Estimates of Expenditure 2004-05
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-SJ002

Question Serial No.

S034

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Regarding the provision of legal advice on human rights issues under Programme (3), were there any legal policies and legislation that needed to be revised or even shelved because they were regarded as inconsistent with the human rights requirements of the Basic Law or international treaties by the Department of Justice in 2002-03 and 2003-04? If yes, please provide the details of these policies and legislation involved and the reasons given by the Department of Justice.

Asked by : Hon. HO Sau-lan, Cyd

Reply :

It is the duty of the government bureaux and departments to consult the Department of Justice on the legality of their proposed policies and legislation with particular regard to the human rights provisions of the Basic Law and our binding international obligations under the human rights covenants. The Department of Justice and the client bureaux/departments work together in the form of a legal professional/client relationship with a view to agreeing on a lawful and practical solution. Through this process, the Administration ensures that our legal policies and legislation are consistent with the human rights provisions of the Basic Law and our binding international obligations under the human rights covenants.

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|-----------------------|--------------------------------|
| Signature | _____ |
| Name in block letters | Miss Annie Tam |
| | Director of Administration and |
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| Date | 14 April 2004 |

Examination of Estimates of Expenditure 2004-05
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-SJ003

Question Serial No.

S035

Head : 92 Department of Justice

Subhead (No. & title) : 234 Court Costs

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please provide the details of Subhead 234 "Court Costs" for 2003-04.

Asked by : Hon. HO Sau-lan, Cyd

Reply :

Details of payment of costs awarded against the Government in civil and criminal cases in 2003-04 out of Subhead 234 Court Costs (for the first 11 months up to and including 29 February 2004) are shown in the attached table.

| | |
|-----------------------|--------------------------------|
| Signature | _____ |
| Name in block letters | Miss Annie Tam |
| | Director of Administration and |
| Post Title | Development |
| Date | 14 April 2004 |

Payment out of Head 92 Subhead 234 Court Costs for the period 1.4.2003 - 29.2.2004

| Client Department | Civil Cases \$'000 | Criminal Cases \$'000 |
|--|-------------------------------|----------------------------------|
| Agriculture, Fisheries and Conservation Department | 88 | 52 |
| Buildings Department | 368 | 75 |
| Customs and Excise Department | - | 4,791 |
| Correctional Services Department | 892 | - |
| Department of Health | 20 | 80 |
| Department of Justice | 938 | - |
| Drainage Services Department | 1,682 | - |
| Electrical and Mechanical Services Department | 140 | 110 |
| Environmental Protection Department | 572 | 430 |
| Food and Environmental Hygiene Department | 1,066 | 624 |
| Fire Services Department | 727 | - |
| GS – Financial Services and the Treasury Bureau (Financial Services) | 800 | - |
| GS – Security Bureau | 84 | - |
| Home Affairs Department | - | 160 |
| Hong Kong Police Force | 1,880 | 15,070 |
| Housing Department | 94 | - |
| Highways Department | 585 | - |
| Independent Commission Against Corruption | - | 11,556 |
| Immigration Department | 160 | 28 |
| Inland Revenue Department | 2,184 | - |
| Labour Department | - | 572 |
| Lands Department | 751 | - |
| Marine Department | 820 | - |
| Planning Department | - | 180 |
| Post Office | 775 | - |
| Treasury | 79 | - |
| Other departments (cases below \$50,000 each) | 100 | 13 |
| | 14,805 | 33,741 |
| Total (\$000) | 48,546 | |

Examination of Estimates of Expenditure 2004-05
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-SJ004

Question Serial No.

S036

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

With regard to "Other Charges" under Subhead 000 for 2003-04, please provide the particulars of each case involving more than \$2 million.

Asked by : Hon. HO Sau-lan, Cyd

Reply :

Particulars of cases involving payment of more than \$2 Million each out of "Other Charges" in the first 11 months of 2003-04 are attached.

| | |
|-----------------------|--------------------------------|
| Signature | _____ |
| Name in block letters | Miss Annie Tam |
| | Director of Administration and |
| Post Title | Development |
| Date | 14 April 2004 |

| Brief description of case/matter | Actual Expenditure (1.4.2003 – 29.2.2004) \$000 |
|--|---|
| Aoki Corporation v Government of the HKSAR – Contract No. DC/94/12 North West Kowloon Sewerage Stage II & III Phase I Fees and expenses incurred in relation to an arbitration of various claims relating to variation, extension of time and prolongation. | 11,439 |
| Cheng Ho Kee & Others v Secretary for Justice (HCA 16883/99) Fees and expenses incurred in relation to briefing leading counsel (overseas and local) and junior counsel on behalf of the Secretary for the Civil Service and the Commissioner of Correctional Services in damages claims before the Court of First Instance which were instituted by a total of approximately 3,600 Correctional Services Department (“CSD”) staff in respect of alleged underpayment of standby allowances and alleged failure to give time off in lieu thereof for performing overnight on call at almost all of the institutions managed by CSD and extending back to as early as 1953. | 9,983 |
| Allied Group Ltd. and Allied Properties (HK) Ltd. v Secretary for Justice and another (MIS 658/01, HCA 4246/01) Fees and expenses incurred in reimbursement of legal fees and expenses incurred by an inspector appointed under the Companies Ordinance, who has been sued as a Defendant in a claim for damages for alleged filing of misleading evidence in judicial review proceedings which took place in 1993. The item also includes fees and expenses incurred in relation to briefing leading and junior counsel and a solicitors firm on behalf of the Financial Secretary, who has been sued as a co-defendant in the action. | 6,335 |
| Ng Siu Tung and others v The Director of Immigration (HCAL 81/99) Fees and expenses incurred in relation to briefing leading counsel and junior counsel on behalf of the Director of Immigration as Respondent in judicial review proceedings involving right of abode claims and the scope and application of the Government's Concession policy in respect of the Appellants including appearance before the Court of First Instance for determination of specific factual issues in some of the outstanding disputed cases remitted by the Court of Final Appeal. | 4,096 |
| HKSAR v Lee Ming-tee and another (The Allied Case) (HCCC 191/1999) Fees and expenses incurred in the prosecution of the captioned complex fraud case, including lodging an appeal to the Court of Final Appeal from 24 June 2003 to 9 July 2003, the trial will commence in the Court of First Instance on 26 October 2004. | 3,164 |

| Brief description of case/matter | Actual Expenditure (1.4.2003 – 29.2.2004) \$000 |
|--|---|
| Secretary for Justice v Wembley International (HK) Ltd. & Wembley plc (HCA 8518/98) | 2,722 |
| <p>Fees and expenses incurred in relation to briefing leading counsel, junior counsel and expert witnesses on behalf of the Director of Leisure and Cultural Services in a claim against the former manager of the Hong Kong Stadium for damages for breach of the management agreement which was terminated by the former Provisional Urban Council on 26 May 1998.</p> | |
| Shiu Wing Steel Limited v Director of Environmental Protection (HCAL 184/02) | 2,584 |
| <p>Fees and expenses incurred in relation to briefing leading counsel, junior counsel and expert on behalf of the Director of Environmental Protection as Respondent in the judicial review regarding whether it is lawful and reasonable for the Director to approve an Environmental Assessment Impact Report and to grant an Environmental Permit to Hong Kong Airport Authority to build a permanent aircraft fueling facility at Tuen Mun Area 38 which is next to the Applicant's steel factory.</p> | |
| TDD Contract No. TM87/98 – Wong Chu Road Improvements & Noise Mitigation Works, Tuen Mun (Mediation between Hong Kong Construction-Amec JV and HKSARG) | 2,507 |
| <p>Fees and expenses incurred in relation to obtaining quantum and programming experts views on the various claims made by the Contractor.</p> | |
| Bank of China (HCMP 5714/01) | 2,379 |
| <p>Fees and expenses incurred in the restraint proceedings of the largest money laundering case in Hong Kong. Approximately \$800 million assets were restrained and Receivers were appointed to manage the restrained assets.</p> | |
| Campeon Bernard/Maeda Corporation JV v The Government of the HKSAR SSDS I – Contracts of DC/93/13 & DC/93/14 | 2,220 |
| <p>Investigation into potential claims against the Engineer, Montgomery Watson (now MWH Hong Kong Limited).</p> | |
| Secretary for Justice v The Hong Kong and Yaumati Ferry Co. Ltd. (“HYF”) and another (HCA 15329/99) | 2,073 |
| <p>Fees and expenses incurred in relation to briefing leading counsel, junior and expert witnesses in recovery action for additional costs from HYF under an Indemnity Agreement between Government and HYF.</p> | |