

**Replies to initial written 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 : SJ-e1.doc**

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

Reply Serial No.

SJ001

Question Serial No.

0090

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question:

Regarding consultancy studies for policy making and assessment (if any) commissioned by your department, please provide details in the following format:

- (1) Please provide the following details on the consultancy studies for which financial provision has been allocated in 2003-04:

Name of consultants (if available)	Description	Consultancy Fees (\$)	Progress on consultancy studies (planning/ in progress/ completed)	The Administration's follow-up action on the study reports and the progress made (if available)	Whether study reports completed are publicized; if yes, their channels and if not, the reasons.

- (2) Has financial provision been allocated for commissioning consultancy studies in 2004-05? If yes, please provide the following details :

Name of consultants (if available)	Description	Consultancy Fees (\$)	Progress on consultancy studies (planning/ in progress/ completed)	Whether study reports scheduled for completion in the financial year 2004-05 will be publicized; if yes, their channels and if not, the reasons.

Asked by: Hon. HO Sau-lan, Cyd

**Reply:**

**(1) Consultancy studies for which financial provision has been allocated in 2003-04**

Name of consultants (if available)	Description	Consultancy Fees (\$)	Progress on consultancy studies (planning/ in progress/ completed)	The Administration's follow-up action on the study reports and the progress made (if available)	Whether study reports completed are publicized; if yes, their channels and if not, the reasons.
Not yet available.	<p>The consultancy is to conduct a review of legal and related services, in response to a Legislative Council motion debate held on 7 November 2001.</p> <p>The purpose of the review is to ascertain, through an empirical study, the nature of legal problems commonly faced by members of the community and how those problems are handled. When this information is obtained, future policy formulation in relation to access to justice and legal education will be more soundly based, and can be better directed to improving the current arrangements.</p>	The consultancy fee will be negotiated with the selected consultant; funding has been earmarked for this project.	The selection of the consultant process is underway.	N/A	N/A

**(2) Consultancy studies for which financial provision has been allocated in 2004-05**

Name of consultants (if available)	Description	Consultancy Fees (\$)	Progress on consultancy studies (planning/ in progress/ completed)	Whether study reports scheduled for completion in the financial year 2004-05 will be publicized; if yes, their channels and if not, the reasons.
Review of legal and related services (Please refer to (1) for details.)				

Signature \_\_\_\_\_  
 Name in block letters Miss Annie Tam  
 Director of Administration and  
 Development  
 Post Title \_\_\_\_\_  
 Date 25 March 2004

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

Reply Serial No.

SJ002

Question Serial No.

0660

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Under “Matters Requiring Special Attention in 2004-05”, the Department of Justice will explore further opportunities for the legal profession to provide services in the Mainland and assist in the implementation of arrangements with Mainland authorities. What will be the staffing and financial provision for its implementation?

Asked by : Hon. LAU Hon-chuen, Ambrose

Reply :

The Secretary for Justice (SJ) and the Department of Justice (D of J) have been assisting in the negotiations for the legal services provisions in the Closer Economic Partnership Arrangement (CEPA) which took effect on 1 January 2004. The SJ and D of J will continue to assist Hong Kong lawyers to take advantage of the opportunities provided under CEPA, and will contribute to the further discussions with the Mainland authorities on CEPA and related arrangements.

The SJ and D of J will endeavour to foster systematic cooperation between Hong Kong and Mainland lawyers by implementing the individual Legal Services Cooperation Agreements entered into with a number of provincial and municipal authorities (including Qingdao, Chongqing, Beijing, Nanjing, Shanghai and Zhejiang). These agreements will strengthen exchanges of information and the training of legal personnel. They will also provide a context within which visits and joint activities will be organised and within which technical or procedural problems arising from the implementation of CEPA in a province or municipality can be resolved without troubling the central authorities. In the light of the experience of implementing the signed agreements, some further agreements may be signed with other provinces and municipal authorities in 2004-05.

Within and outside the context of the Legal Services Cooperation Agreements, the SJ and D of J will maintain close liaison with the Hong Kong legal profession and will, as deemed appropriate, assist the profession with further developing and strengthening the Mainland related legal services.

These activities will continue to be carried out mainly by the SJ's Office and the Legal Policy Division of the D of J. The staff costs and other related expenses will be absorbed by the D of J.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	25 March 2004

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

Reply Serial No.

SJ003

Question Serial No.

0872

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please provide a breakdown of the provision for entertainment expenses to be incurred by the Secretary for Justice such as hosting and attending receptions, in the revised estimate for 2003-04 and the estimate for 2004-05. Has the Government set an upper limit for such expenses? Are there any objective criteria for approving such expenses?

Asked by : Hon. SIN Chung-kai

Reply :

The Secretary for Justice (SJ) is entitled to a non-accountable entertainment allowance of \$192,000 in 2003-04. The purpose of this non-accountable allowance is to enable the SJ to meet expenses for providing official entertainment at her official residence. The SJ has not made any claim for any other entertainment expenses during 2003-04.

The rate of non-accountable entertainment allowance for the SJ will be reduced to \$184,700 in 2004-05.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

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

Reply Serial No.

SJ004

Question Serial No.

0873

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please list the revised estimate for duty visits outside Hong Kong in 2003-04 for the Secretary for Justice with particulars of : (1) the purposes and details of the visits; (2) the main means of public transport and related expenses for the visits; (3) board and lodging expenses for the visits. What is the corresponding estimated expenditure for 2004-05? Has the Administration laid down a ceiling on the amount of allowances that can be granted and a set of criteria for approving such allowances?

Asked by : Hon. SIN Chung-kai

Reply :

During 2003-04, the Secretary for Justice (SJ) made one overseas duty visit, to Canada, to promote the rule of law in Hong Kong. Several visits were also made to various places in the Mainland and to Macau to discuss expansion of legal services in the Mainland (taking into account, inter alia, the Closer Economic Partnership Arrangement) and other legal-related issues. The main means of transportation for these visits are by air, train or turbojet, depending on the locations. The revised estimate for the SJ's duty visits in 2003-04 is \$100,000, about 70% of which is for transportation and the balance is for board and lodging and other miscellaneous expenses. A similar estimate is proposed to cover the SJ's duty visit expenses to be incurred in 2004-05.

Payment of allowances that can be granted and the criteria for approving such allowances are based on those Civil Service rules which are applicable to the SJ.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ005

Question Serial No.

1026

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

It is estimated that 1640 civil proceedings would be brought by the Government in the year 2004, which is 343 more than that in the year 2003, and is 333 more than that in the year 2002. Please provide the reason for the estimated sharp increase. Furthermore, how much is being allocated?

Asked by : Hon. NG Margaret

Reply :

The actual number of civil proceedings (including non-construction arbitration) brought by the Government was 1,307 in 2002 and 1,297 in 2003. The number is estimated to increase to 1,640 in 2004, mainly due to increases in charging order cases as projected by the Inland Revenue Department and in trade effluent surcharge cases as projected by the Drainage Services Department. Expenditure on such proceedings will be absorbed by the Department.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

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**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ006

Question Serial No.

1027

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

How much expenditure is to be provided for the provision of advice on the legal aspects of the implementation of the Hong Kong Disneyland project?

Asked by : Hon. NG Margaret

Reply :

The legal advice on the works related aspects of the Hong Kong Disneyland project is being provided by the Legal Advisory Division (LAD) of the Works Branch of the Environment, Transport and Works Bureau (ETWB). One Senior Government Counsel (SGC) has been seconded from the Department of Justice to the LAD to fill a time-limited post created for the period from 1.6.2001 up to 31.3.2005 for the implementation of the project. The cost associated with this time-limited SGC post is, and will continue to be, provided by the ETWB.

The Commercial Unit of the Civil Division of the Department of Justice provides legal advice on the non works related aspects of the Hong Kong Disneyland project as and when necessary. Expenditure on the provision of the legal advisory service in the Commercial Unit will be absorbed by this Department.

Signature	_____
Name in block letters	Miss Annie Tam
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Post Title	Development
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Examination of Estimates of Expenditure 2004-05  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ007

Question Serial No.

1030

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

The items of legal advice given on human rights issues have increased from 680 to 796 in the year 2002 to 2003. What is the reason for the estimated sharp decrease to 700 for the year 2004?

Asked by : Hon. NG Margaret

Reply :

The actual items of legal advice given on human rights issue increased from 680 in year 2002 to 796 in year 2003. The increase was mainly due to the advice given in respect of the drafting and promotion of the National Security (Legislative Provisions) Bill and the drafting of human rights reports, including reports on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. We estimate that the items of legal advice requested on human rights issues in 2004 will be 700, close to the corresponding figure for year 2002.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

Examination of Estimates of Expenditure 2004-05  
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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ008

Question Serial No.

1031

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

In the light of the current constitutional development, what is the reason for believing that there will be a sharp decrease in the items of legal advice on the Basic Law and constitutional matters from 1164 to 1050 in the year 2004?

Asked by : Hon. NG Margaret

Reply :

The estimate for 2004 is conservatively based on the actual demand for advice during 2003, taking account, particularly, of the likelihood that the number of proposed bills required to be cleared tends to reduce during a year in which one Legislative Council term ends and another begins.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ009

Question Serial No.

1032

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

What are the main topics for the 12 Basic Law seminars to be conducted in 2004? How many of them are related to the introduction of universal suffrage for the selection of the Chief Executive and direct election of Legislative Council?

Asked by : Hon. NG Margaret

Reply :

The Basic Law seminars are primarily targeted for civil servants. The main topics of the 12 seminars to be conducted in 2004 include the following:

- (a) the implementation of the Basic Law (with particular reference to judicial decisions of SAR courts);
- (b) interpretation and amendment of the Basic Law;
- (c) rights and obligations of Hong Kong residents; and
- (d) changes before and after the Reunification (video seminars).

Issues relating to the election of the Chief Executive and Legislative Council may be discussed in some of the seminars.

Signature	_____
Name in block letters	Miss Annie Tam
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Date	25 March 2004

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ010

Question Serial No.

1033

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

Please explain how law drafting quality and timeliness will be assured notwithstanding the deletion of 11 posts from Programme (4) Law Drafting?

Asked by : Hon. NG Margaret

Reply :

The 11 posts proposed for deletion from the Law Drafting programme do not involve any counsel grade posts. These 11 posts accommodate para-legal and support staff providing law translation and clerical service. The deletion of these 11 posts will not adversely affect the quality and timeliness of the law drafting work. Counsel have over the years acquired more experience in bilingual law drafting and could rely less on law translation service. The reduction in clerical posts will be achieved through process re-engineering and flexible deployment of manpower.

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ011

Question Serial No.

1101

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

It is mentioned in *Matters Requiring Special Attention in 2004-05* that measures will be devised to further improve the quality of service provided to victims of crime and witnesses. Please give the details of the measures to be devised and the expenditure involved.

Asked by : Hon. Eu Yuet-mee, Audrey

Reply :

A working group of prosecutors has very recently made recommendations to the Director of Public Prosecutions (DPP) as to possible means by which the quality of service offered to victims and witnesses can be improved. Amongst these recommendations are more comprehensive guidelines for prosecutors as to how victims and witnesses should be treated, improved arrangements for victims in sexual cases, greater support for witnesses at court, a better compensation system for victims, and greater inter-action between victims and offenders in the resolution of criminal cases. These recommendations are being studied by the DPP, the bulk of which, if implemented, would have no or minimal cost implications.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	25 March 2004

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

Reply Serial No.

SJ012

Question Serial No.

1102

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

Please list the civil proceedings brought against the Government in 2003-04 by category according to their nature, and state the amounts involved and the related court costs in these cases.

Asked by : Hon. EU Yuet-mee, Audrey

Reply :

Civil proceedings brought against the Government for the period from 1 April 2003 to 20 March 2004 can be classified as follows –

	<b>No. of Cases</b>
Rating/Government Appeal and Tax Cases	1,462
Damages	128
Personal Injuries and Employees' Compensation Claims	103
Judicial Review	100
Land Resumption and other Statutory Compensation Claims	70
Others (including Miscellaneous Statutory Appeals)	178
	<hr/> <b>2,041</b> <hr/>

The total amounts involved in these cases are \$5,272 million. Out of these 2,041 cases, \$423,550 was paid by Government and \$774,275 was received by Government as court costs.

Signature	_____
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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ013

Question Serial No.

1299

Head : 92 Department of Justice

Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

The 2004 Policy Address has mentioned about the need to raise the standard of policy research undertaken by the Government:

“To improve our governance, we must raise the level of sophistication with which both the Government and the community handle policy issues. We need to do more public policy research, particularly from a macro and long-term perspective. Objective and concrete public policy research will help us better realise the objectives of effective governance. It will help us avoid sweeping, politicised and emotional policy debates, thus making it easier for the Government and various sectors of the community to reach a consensus on public issues. This will ensure that our policies are implemented more effectively and better able to serve the long-term development needs of Hong Kong.”

Please advise whether provision has been made or resources deployed in the 2004-05 Estimates to take forward a stated commitment of the Policy Address that public policy matters will be pursued with a higher standard. If yes, please give a detailed account of the projects funded. If not, what are the reasons for that?

Asked by : Hon. SIN Chung-kai

Reply :

We understand that the Central Policy Unit (CPU), since the publication of the 2004 Policy Address, has been exploring ways to promote research on public policy issues and develop the human resources required. The CPU is formulating an agenda for policy research so as to take forward research on priority issues. If and when the Government commissions any public policy research to which legal input is required, the Department of Justice will assist as deemed appropriate.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	25 March 2004

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

Reply Serial No.

SJ014

Question Serial No.

1574

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

Please explain why the Administration has estimated that there will be a sharp increase in the number of civil proceedings brought by the Government in 2004 as shown under the indicators of key performance measures.

Asked by : Hon. TSANG Yok-sing, Jasper

Reply :

The actual number of civil proceedings (including non-construction arbitration) brought by the Government was 1,307 in 2002 and 1,297 in 2003. The number is estimated to increase to 1,640 in 2004, mainly due to increases in charging order cases as projected by the Inland Revenue Department and in trade effluent surcharge cases as projected by the Drainage Services Department.

Signature	_____
Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	25 March 2004



Examination of Estimates of Expenditure 2004-05  
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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ015

Question Serial No.

1575

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

Is the advice on the legal aspects of the issuance of bonds worth \$20 billion included in the *Matters Requiring Special Attention in 2004-05*? If yes, what is the estimated expenditure? If no, what are the reasons?

Asked by : Hon. TSANG Yok-sing, Jasper

Reply :

The provision of advice on the legal aspects of the issuance of bonds is not specifically included in the *Matters Requiring Special Attention in 2004-05*, as the matter was still being considered internally within the government at the time of preparing the Estimates of Expenditure for 2004-05. Resources that are required for providing such legal advice will be absorbed by the Department of Justice.

Signature	_____
Name in block letters	Miss Annie Tam
	Director of Administration and
Post Title	Development
Date	25 March 2004

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ016

Question Serial No.

1766

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Regarding the indicators of key performance measures, what are the reasons for a sharp decrease in the actual number of “court days undertaken by Counsel instructed to prosecute in Magistrates’ Court in place of Court Prosecutors” in 2003 as compared with the actual figure of 2002, while there is no significant change in the actual number of “court days undertaken by Court Prosecutors in Magistrates’ Court” in 2003?

Asked by : Hon. TSANG Yok-sing, Jasper

Reply :

The number of court days undertaken by fiat counsel instructed to prosecute in Magistrates’ Court in place of Court Prosecutors decreased from 691 in 2002 to 78 in 2003, while the number of court days undertaken by Court Prosecutors in Magistrates’ Court during the same period decreased from 14,015 to 13,851. This was mainly because there was a drop in the total number of court days in the Magistrates’ Courts, and because the seven Court Prosecutors recruited in 2002 completed their training and began to prosecute cases in the Magistrates’ Courts in January 2003 (one of them has subsequently resigned in September 2003).

Signature	_____
Name in block letters	Miss Annie Tam
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