

LegCo Panel on Administration of Justice and Legal Services

Policy Initiatives of the Department of Justice

Introduction

The 2004 Policy Agenda lists the Government's new and on-going initiatives over the next three and a half years. This note elaborates on the initiatives affecting the Department of Justice in the 2004 Policy Agenda.

2004 Policy Agenda

Effective Governance

2. We have three new initiatives grouped under the heading of "Effective Governance". They are to –

- Examine a Code of Conduct for expert witnesses after consultation with the relevant bodies.
- Conduct studies on the ways in which prosecutors can take practical steps to avoid miscarriages of justice.
- Formulate methods to implement the recommendations of a committee formed to advise how prosecutors can improve the quality of service provided to victims of crime and witnesses.

3. Prosecutions Division has prepared a draft code of conduct for expert witnesses who are to testify in prosecution cases. The purpose of such a code would be to ensure that information relating to such a witness that may be relevant to his or her credibility should be disclosed to the defence. Consultation is taking place with relevant bodies. These include the Academy of Experts, the Government Chemist and forensic pathologists.

4. An internal Working Group has been established in Prosecutions

Division to review prosecution procedures, and to strengthen the procedures for ensuring the integrity of the criminal trial process. This review is part of a continuing process of improvement, and mirrors studies undertaken elsewhere.

5. Another Working Group in Prosecutions Division is considering ways of improving the quality of service provided by prosecutors to victims of crimes and witnesses. These improvements may include the preparation of a formal statement on the treatment of such persons.

6. Ongoing initiatives supporting “Effective Governance” involve –

- Promoting understanding of the rule of law in and outside Hong Kong and considering reforms to improve the legal system.
- Enhancing the Bilingual Laws Information System to provide easy and ready access, through the Internet, to our bilingual Laws of Hong Kong.

7. The promotion of the rule of law will continue to be achieved in numerous ways – such as through articles, speaking engagements, conference attendances and briefings, both in Hong Kong and elsewhere. In addition, we will be publishing a revised edition of the “Legal System in Hong Kong”, which will be widely available, both through our departmental Home Page and in hard copies.

8. The Bilingual Laws Information System already provides easy access to all local statutory provisions. However, the printing-out of laws from the System is currently done on a section by section basis. The Law Drafting Division is now working on a new feature that will enable users to choose to print out complete Ordinances, or parts of Ordinances.

Vibrant Economy

9. There are three new initiatives to support a “Vibrant Economy”. They are –

- Oversee socio-legal research to be conducted by a consultant into the supply of, and demand for, legal services in the community.

- Facilitate further discussions with Mainland authorities on legal services cooperation under CEPA; and sign legal services agreements with individual Mainland provinces/cities with a view to assisting Hong Kong lawyers in gaining business opportunities under the framework, and ensuring smooth operation, of CEPA.
- Contribute to the development of a bilingual legal information web-site.

10. The planning of a proposed survey into the supply of, and demand of, legal services in the community has reached an advanced stage. Short-listed candidates for the consultancy have been interviewed by an assessment committee and we will shortly announce the successful bidder. The socio-legal research, which is expected to take about three years, can soon get under way.

11. The Closer Economic Partnership Arrangement ('CEPA'), which came into effect on the first of this month, enables Hong Kong lawyers to expand into the Mainland market in ways that are not available to foreign lawyers. For example, they may enter into an association with a Mainland law firm; become employed by a Mainland law firm as a Hong Kong legal consultant; or, after qualifying as a PRC lawyer, have limited practising rights as such. Residence requirements for Hong Kong law firms setting up offices in the Mainland have also been shortened or, in some cases, dropped entirely.

12. The Department of Justice assisted in the negotiation for the legal services provisions in the CEPA. We propose to foster systematic co-operation between Hong Kong and Mainland lawyers by entering into Legal Services Co-operation Agreements with provincial and municipal authorities. These agreements will strengthen exchanges of information and the training of legal personnel. They will also provide a context 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.

13. So far, the Department of Justice has entered into Co-operation Agreements with the Justice Bureaux of Qingdao, Chongqing, Beijing, Nanjing and Shanghai. It has also reached preliminary agreement with the Justice Bureaux of Zhejiang, Guangdong and Shenzhen. Further agreements are expected in due course.

14. The third of our new initiatives to support a “Vibrant Economy” is to provide funding for the establishment of a bilingual legal information web-site. This will enable members of the community to have free access, via the Internet, to user-friendly information in respect of legal problems that commonly arise. It will also help them to find legal advisers, and to obtain information about financial help and the costs of legal services. We recently advertised for expressions of interest in creating this web-site, and we soon expect to make an announcement about the organization that will develop and maintain the web-site.

15. Ongoing initiatives supporting a “Vibrant Economy” involve –

- Promoting greater understanding of the opportunities under CEPA.
- Assisting in the building up of Hong Kong as a regional centre for legal services and dispute resolution.

16. Since the CEPA was concluded, the Department of Justice has been involved in numerous activities to promote understanding of its implications for lawyers in Hong Kong. These include speeches to legal practitioners, articles, and the dissemination of information on our Home Page. They also include numerous visits to Mainland cities by the Secretary for Justice or her colleagues to open up new business opportunities and foster closer links with Mainland lawyers. Other promotional activities will continue, including the forthcoming distribution of a CD Rom on the subject to all law firms and barristers chambers.

17. The Department of Justice will continue to promote the benefits of using Hong Kong as a centre for legal services and dispute resolution in speeches, articles and briefings of visiting delegations.

Enlightened People with a Rich Culture

18. One new initiative, and one ongoing initiative, are grouped under “Enlightened People with a Rich Culture”. They are –

- Establish a statutory Standing Committee on Legal Education and Training to take over the work of the Steering Committee on Legal

Education and Training and the Advisory Committee on Legal Education.

- Continuing to oversee and promote reforms in legal education including conversion of the local Bachelor of Laws course from three to four years and incremental changes to the Postgraduate Certificate in Laws.

19. Legislation providing for the establishment of a Standing Committee on Legal Education and Training was enacted in May last year. The current non-statutory Steering Committee on Legal Education and Training has advised that it should continue work until this summer. This will provide continuity in the planning of the new four-year LLB, which will begin this September. It is therefore expected that the statutory body will come into existence in late summer.

20. The Department of Justice will continue to be fully involved in the ongoing reforms in legal education and training, through its representatives on the current Steering Committee and on the future Standing Committee.

Comments

21. The Department of Justice welcomes comments by members of the Panel on these initiatives and will continue to co-operate with the Panel as it takes the initiatives forward.

Department of Justice
9 January 2004