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4 February 2005

Mrs Percy Ma
Clerk to Panel on Administration of
Justice and Legal Services
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Mrs. Ma,

Panel on Administration of Justice and Legal Services
Meeting on 24 January 2005

Manpower position of drafting counsel in the Department of Justice

At the meeting of the Panel on 24 January 2005, Members of the Panel requested information relating to the in-house legislative drafting course organized by the Law Drafting Division (LDD) and the overseas legislative drafting course offered by RIPA International, London.

In-house Legislative Drafting Programmes

Three courses have been organized since October 1999. Eighteen draftsmen at Senior Government Counsel (SGC) or Government

Counsel (GC) rank were trained. The duration of the first two courses were 21 weeks and the cost was \$735,000 apiece. The third course lasted for 24 weeks and costed \$840,000.

An outline of the third course is annexed to Appendix to my letter to you dated 30 November 2004 on the subject. The trainer is Dr. Duncan Berry. A brief C.V. of him is attached.

Legislative Drafting Course in London

LDD had nominated counsel at SGC/GC rank to attend the Legislative Drafting Course organised by RIPA International (formerly known as the Royal Institute of Public Administration). The last 2 nominated officers attended the course in 1997 and 1998. The duration of the 1997 course was 10 weeks and the cost was \$150,000. The 1998 course lasted for 9 weeks and costed \$153,500. The costs covered tuition fee, air tickets, accommodation and subsistence allowances and study grant.

RIPA International is still offering the course. A copy of the course outline is attached. If we nominate an officer to attend the course commencing in September 2005, the estimated cost for the 9-week course is \$175,000.

Comparison

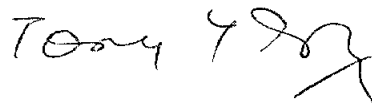
The local course is much longer and, accordingly, more comprehensive and elaborate. It is also obviously more cost-effective. We paid \$5,833 for every week of training for one counsel ($\$840,000 \div 24 \text{ weeks} \div 6 \text{ persons}$). The latest London course we attended costed \$17,000 ($\$153,500 \div 9 \text{ weeks}$).

The class size of the London course varied from 10 to 15, while the class size of the local course was fixed at 6. Smaller class means the trainer was able to give more attention to the classworks of each trainee. Another problem with the London course is it was often attended by people with little or no practical experience in legislative drafting. Advanced drafting skills might therefore not always be taught.

We therefore consider the local course a preferable option. However, we do not rule out the possibility of making nomination for suitable overseas training in legislative drafting.

Grateful if you could bring this letter to the attention of the members.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Tony Yen" with a stylized flourish at the end.

(Tony Yen)
Law Draftsman

Encls.

#115494

Curriculum Vitae – Dr Duncan Berry

Personal Particulars

Age 68; Born 9 Feb 1936 in Derby, UK

New Zealand and British citizen; Permanent Resident of Hong Kong; Domiciled in Australia

Academic and Professional Qualifications

- 1957 Bachelor of Laws (LL.B.), University of Nottingham, UK
- 1962 Barrister-at-law, England & Wales, UK
- 1964 Master of Laws (LL.M.), Victoria University of Wellington, New Zealand
- 1966 Barrister and Solicitor of the High Court of New Zealand
- 1975 Barrister of the Supreme Court of New South Wales, Australia
- 1979 Barrister of the Supreme Court of Tasmania, Australia
- 1989 Master of Public Policy (MPP), University of Sydney, Australia
- 1999 Barrister of the High Court of the HKSARG
- 2003 Doctor of Juridical Science (JSD), University of Technology, Sydney, Australia

Working Experience

- July 62 – Aug 65 Legal Officer / District Land Registrar, New Zealand Government
- Aug 65 – Feb 71 Assistant Law Draftsman
Law Drafting Office, New Zealand Government
- Feb 71 – Apr 75 Crown Counsel
Law Drafting Division, Attorney-General's Chambers, Hong Kong
- May 75 – Aug 78 Senior Legislative Draftsman
New South Wales Parliamentary Counsel's Office, Sydney, Australia
- Sep 78 – Jan 84 Chief Parliamentary Counsel
Office of the Parliamentary Counsel, Tasmania, Australia
- Jan 84 – Nov 95 Senior Legislative Drafting Officer
New South Wales Parliamentary Counsel's Office, Sydney, Australia
(retired Nov 95)
- Dec 95 – Mar 99 Deputy Principal Government Counsel
Law Drafting Division, Department of Justice, HKSARG
- Oct 99 – Feb 01 Consultant Legislative Counsel
Law Drafting Division, Department of Justice, HKSARG
- Mar 01 – May 02 Consultant Parliamentary Counsel
Office of the Parliamentary Counsel, Ireland
- May 03 – present Consultant Parliamentary Counsel
Office of the Parliamentary Counsel, Ireland

Miscellaneous

Sep 99	Secretary Commonwealth Association of Legislative Counsel
Apr 03	Secretary Commonwealth Association of Legislative Counsel
1998 – 1999	Secretary / Treasurer Hong Kong branch of “clarity” (a movement to simplify legal language)
Nov 99	Representative of the Commonwealth Secretariat at a forum held in Zimbabwe to consider a new constitution for Zimbabwe

Legislative Drafting

Challenges facing your organisation

Are you or your organisation looking to better support the legislative process by the effective drafting of legislation? Do you wish to be in a better position to advise interested departments on the scope and effect of legislation?

This course is designed for lawyers who are members, or potential members, of legislative drafting teams within their countries administration or legislature or, those who wish to gain a deeper understanding of legislation in general.

Benefits of Attending

You will be able to:

- Support the legislative process by the effective drafting of legislation
- Advise interested departments on the scope and effect of legislation with confidence
- Read and quickly understand the effect of legislation
- Be more aware of the constitutionality of proposed legislation.

Course Aim

Centred on twice-weekly drafting exercises this course will provide you with the opportunity to put into effect the techniques and know-how of legislative preparation which have been introduced in seminars. Exercises are followed with discussions and class critiques. This course will put great emphasis upon the individual development of practical skills, and equip you with the practical skills and knowledge required for drafting legislation.

What you will learn

The programme will cover:

- The function of legislation in common law tradition
- The role and responsibilities of legislative counsel
- The constitutional framework of written law and statutory protection of human rights
- The law making system and the principles of legislative expression
- The principles of legislative expression
- The legislative plan: the structure and format of statutes and subsidiary legislation
- Judicial construction of legislation
- The use of definitions
- The functions of different elements of legislation
- Amending legislation.

Dates: 05 Sep – 04 Nov 2005

Fees: £9,300+VAT

Duration: 9 Weeks