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Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2014-15

Controlling Officer : Judiciary Administrator

Session No. : 2

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CONTROLLING OFFICER'S REPLY

S-JA01

(Question Serial No. S0024)

Head: (80) Judiciary

Subhead (No. & title): (-) Not Specified

Programme: (1) Courts, Tribunals and Various Statutory Functions,
(2) Support Services for Courts' Operation

Controlling Officer: Judiciary Administrator (Miss Emma LAU)

Director of Bureau: Judiciary Administrator

This question originates from: (if applicable)

Question:

In the Reply Serial No. JA017, the Administration has provided the number of compulsory sale applications handled in the past 5 years (namely, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14). In this regard, please provide further information on (i) the number of cases where the respondent was legally represented, and (ii) the number of cases where the respondent was unrepresented.

Asked by: Hon. LEUNG, Kenneth

Reply:

The Judiciary does not keep statistics on whether the respondents of compulsory sale applications are legally represented or not.

CONTROLLING OFFICER'S REPLY

(Question Serial No. S0032)

Head: (80) Judiciary
Subhead (No. & title): (-) Not Specified
Programme: (2) Support Services for Courts' Operation
Controlling Officer: Judiciary Administrator (Miss Emma LAU)
Director of Bureau: Judiciary Administrator
This question originates from: (if applicable)

Question:

WiFi will be introduced in phases into court buildings throughout Hong Kong which court users, including members of the public, will be able to join and hence send text-based communications. Will WiFi also be introduced into all other court buildings, thus allowing text-based communications? When will such plans be implemented? If not, what are the reasons?

Asked by: Hon. MOK Charles Peter

Reply:

WiFi is being introduced into court buildings by phases. The service has commenced in the District Court, Family Court and Small Claims Tribunal in Wanchai Law Courts Building in February 2014, followed by the Court of Final Appeal in March 2014, and to be followed by the High Court and the Tsuen Wan Magistrates' Courts in mid 2014. For the remaining court buildings, the Judiciary aims at implementing the WiFi service progressively in the latter part of 2014. It is planned that all the Judiciary premises will be provided with WiFi service by the end of the financial year 2014-15.

CONTROLLING OFFICER'S REPLY

S-JA03

(Question Serial No. S0018)

Head: (80) Judiciary
Subhead (No. & title): (-) Not Specified
Programme: (1) Courts, Tribunals and Various Statutory Functions
Controlling Officer: Judiciary Administrator (Miss Emma LAU)
Director of Bureau: Judiciary Administrator
This question originates from: (if applicable)

Question:

In reply to Question Serial No. 1048, it is stated in Paragraph 3 of Reply Serial No. JA030 that the average time from filing of a case to award in 2013 was 55 days, which was 10-odd days longer than those in the preceding two years, but the number of cases remained at 4,000. What was the reason for this? Was it due to a shortage of manpower and an inadequacy in support? Will the Administration shorten the time required as many employees are waiting to pursue their rights and remunerations so as to provide for their families? It has a great impact on them if they have to wait for nearly two months before getting an award.

Asked by: Hon. TANG Ka-piu

Reply:

The comparatively longer average time required from filing of a case to award in 2013 was due to the fact that among the cases concluded that year, 16 cases were filed in 2008 and 13 cases in 2009. These cases, which were filed against the same defendant, were adjourned sine die in 2008 or 2009 pending the outcome of an appeal case. After the conclusion of the appeal case, the claimants reached settlement with the defendant and withdrew their claims in December 2013.

If these 29 cases were excluded, the average time taken from filing of a case to award could have been shortened to 43 days in 2013.

CONTROLLING OFFICER'S REPLY**S-JA04****(Question Serial No. S0019)**

Head: (80) Judiciary

Subhead (No. & title): (-) Not Specified

Programme: (1) Courts, Tribunals and Various Statutory Functions

Controlling Officer: Judiciary Administrator (Miss Emma LAU)

Director of Bureau: Judiciary Administrator

This question originates from: (if applicable)

Question:

In reply to Question Serial No. 1048, it is stated in Paragraphs 2 and 4 of Reply Serial No. JA030 that the Labour Tribunal does not have the statistics on the number of cases in which an office-bearer of a registered trade union or an employers' association acted as a representative or attended the hearing. Normally, if there is the need for a person from a trade union or a representative to attend a hearing, he or she has to make an application and obtain the judge or judicial officer's approval. Why has the Administration failed to keep the relevant information? Will statistics in this regard be kept in the future? And the Administration does not have the information on the number of cases in which the awards were defaulted on. It is normal for the Labour Tribunal not to have it. However, there is no reason why the Judiciary does not have such figures. If the awards by the Labour Tribunal are defaulted on, the Claimants will take legal actions in other parts of the Judiciary. Why has the Administration not kept the relevant figures?

Asked by: Hon. TANG Ka-piu

Reply:

According to section 23(1)(e) of the Labour Tribunal Ordinance (Cap. 25), an office bearer of a registered trade union or of an association of employers shall have a right of audience before the Labour Tribunal ("the Tribunal"). However, such an office bearer must be authorized in writing by a claimant or defendant to appear as his representative and leave of the Tribunal must be obtained before the office bearer could exercise the right of audience. Whether leave will be granted is a judicial decision and is dependent on the circumstances of each case. Any party who is not satisfied with the decision may appeal against such decision.

From our experience, it is believed that most of the applications for right of audience by the trade union representatives are approved. The Judiciary does not keep any statistics on the exercise of such judicial decisions, but given that there is a suggestion to collate such statistics, we would look into the matter.

At present, there is no statutory provision stipulating that payment of the award must be made through the Tribunal. It is common for parties to agree on how the award should be paid, as this would achieve greater flexibility and efficiency in effecting payment. As such, the Tribunal does not have the statistics on the number of cases in which its awards were defaulted on. It is also noted that a claimant may or may not take further action on his/her case. The Judiciary is therefore not in the position to provide such information.

CONTROLLING OFFICER'S REPLY**S-JA05****(Question Serial No. S0028)**

Head: (80) Judiciary

Subhead (No. & title): (-) Not Specified

Programme: (1) Courts, Tribunals and Various Statutory Functions

Controlling Officer: Judiciary Administrator (Miss Emma LAU)

Director of Bureau: Judiciary Administrator

This question originates from: (if applicable)

Question:

A follow-up question on Reply Serial No. JA028:

The Lands Tribunal is responsible for hearing and adjudicating 5 categories of cases. Please state in detail, in respect of each category, the average time required respectively for the three stages, namely, from filing of a case to listing for trial, from setting down of a case to trial, and trial, for 2013-14. What is the estimated change in the average time required for the three stages in respect of each category of cases for 2014-15?

Asked by: Hon. TSE Wai-chuen, Tony

Reply:

For the five main categories of cases in the Lands Tribunal, the average or range of times required for each of the three stages are as follows in 2013:

Case Type	Stage I: From filing to setting down for trial (Average)	Stage II: From setting down to trial (Average)	Stage III: Trial (Range)
Appeal cases	60 days	27 days	1 day
Compensation cases	318 days	53 days	1.5 to 5 days
Building management cases	131 days	39 days	1 hour to 6 days
Tenancy cases	50 days	29 days	1 hour to 2 days
Compulsory sale cases	139 days	57 days	1 to 11 days

The following should also be noted:

- (a) **Stage I** - The length of Stage I would vary from case to case depending on factors such as the complexity of the case, the state of readiness of the parties, etc. The lead-time from filing to setting down for trial can be long particularly if more interlocutory hearings are required. As this is largely the time required by the parties for preparing the case for trial, it is normally not regarded as the court waiting time;

- (b) **Stage II** - The period from the date of setting down to the date of trial is usually regarded as the court waiting time as this in general relates to the period where the case is ready for hearing and the control largely rests with the Judiciary itself and not with the parties; and
- (c) **Stage III** - The length of trial would depend on the complexity of cases.

The actual times required are contingent upon a wide range of factors including caseload, complexity of cases, judicial resources, time required by the parties to prepare their cases, etc. It is therefore difficult to estimate the actual times required for each stage in respect of the five categories of cases in 2014. However, the Judiciary will continue to closely monitor the situation and make every effort to keep the court waiting times of the Lands Tribunal within targets.

CONTROLLING OFFICER'S REPLY

S-JA06

(Question Serial No. S0029)

Head: (80) Judiciary
Subhead (No. & title): (-) Not Specified
Programme: (1) Courts, Tribunals and Various Statutory Functions
Controlling Officer: Judiciary Administrator (Miss Emma LAU)
Director of Bureau: Judiciary Administrator
This question originates from: (if applicable)

Question:

A follow-up question on Reply Serial No. JA028:

At the Special Finance Committee Meeting, the Judiciary Administrator stated that the Judiciary has reduced each of the waiting time targets by 10 days in 2014 and is currently reviewing each of them, and subject to the outcome of the review, the targets may be refined in future if appropriate. Please provide information on the details, progress and timetable of the review. Based on what criteria will the Judiciary make a decision on reducing the waiting time targets?

Asked by: Hon. TSE Wai-chuen, Tony

Reply:

The Judiciary had reviewed the court waiting time targets for all court levels in 2012-13 and noted that there was a case to adjust the four targets of the Lands Tribunal, namely those for appeal cases, compensation cases, building management cases and tenancy cases respectively. Following consultation with the various court users' committees, starting from 1 January 2014, each of them has been reduced by 10 days.

In connection with the above, it should be pointed out that there is a need to review the listing procedures in the Lands Tribunal which include, among others, the allocation of hearing time for different types of cases. It is therefore considered prudent to await the outcome of this review and consider its impact on the court waiting times to see whether further refinement may be necessary in the next overall review of court waiting time targets.

The next review of the waiting time targets for all levels of courts, including those for the Lands Tribunal, will take place at a time when most of the judicial vacancies (including the additional posts sought in 2014-15) are substantively filled.

As to what criteria would be used for adjusting the waiting time targets, it should be noted that the court waiting time targets are set having regard to a wide range of factors, including caseload, complexity of cases, judicial resources, time required by the parties to prepare their cases, etc. The court users' committees will be duly consulted before any changes are introduced to the court waiting time targets.

CONTROLLING OFFICER'S REPLY**S-JA07****(Question Serial No. S0030)**

Head: (80) Judiciary

Subhead (No. & title): (-) Not Specified

Programme: (1) Courts, Tribunals and Various Statutory Functions

Controlling Officer: Judiciary Administrator (Miss Emma LAU)

Director of Bureau: Judiciary Administrator

This question originates from: (if applicable)

Question:

A follow-up question on Reply Serial No.JA028:

Please provide information on the size of establishment, number of staff, ranks and salary expenditure of the Lands Tribunal for each of the past three financial years. Will the manpower be increased in 2014-15? If yes, what are the details? If not, what are the reasons? Will there be any comprehensive review of the manpower requirement, time required for case disposal, efficiency, etc. of the Lands Tribunal? If yes, what are the details? If not, what are the reasons?

Asked by: Hon. TSE Wai-chuen, Tony

Reply:

The establishment, number of staff for different grades and approximate salary expenditure for Judges and Judicial Officers and support staff of the Lands Tribunal for the past three years are as follows –

Year	Establishment	No. of posts	Annual salary at mid-point (\$)
2011-12	25	2 – District Judge 1 – Member 6 – Judicial Clerk Grade Staff 15 – Clerical Staff 1 – Office Assistant	11.5 million
2012-13	29	3 – District Judge 2 – Member 8 – Judicial Clerk Grade Staff 15 – Clerical Staff 1 – Office Assistant	16.4 million
2013-14	31	3 – District Judge 2 – Member 8 – Judicial Clerk Grade Staff 17 – Clerical Staff 1 – Office Assistant	17.4 million

It should be noted from the above that the establishment of the Lands Tribunal had increased in the past three years in order to cope with the additional workload, in particular that arising from the compulsory sale applications. The court waiting time targets for the Lands Tribunal, including those for appeal cases, compensation cases, building management cases and tenancy cases, had all been met in 2013. There is no plan to further increase its establishment in 2014-15.