

Bills Committee on the Medical Registration (Amendment) Bill 2016

**Government's response to the follow-up actions arising from the
discussion at the meeting on 16 May 2016**

Remuneration of Legal Adviser to the Medical Council of Hong Kong

This note provides the Government's response to the follow-up action on the remuneration of the Legal Adviser to the Medical Council of Hong Kong ("MCHK") appointed by the Secretary for Food and Health under the delegated authority by the Chief Executive in accordance with section 3B of the Medical Registration Ordinance ("MRO").

Appointment of the Legal Adviser to MCHK

2. Before November 1994, the Legal Adviser to MCHK was a lawyer of the then Attorney General's Chambers of the Government. Arising from the suggestion of the Court of Appeal that it was undesirable to have both the Legal Adviser and the counsel presenting the disciplinary case at the inquiry being deployed from the then Attorney General's Chambers, an independent Legal Adviser outside the Government has been appointed to MCHK from November 1994.

Duties of the Legal Adviser

3. The major duties of the Legal Adviser include -

- (a) attending and providing legal advice on matters relating to disciplinary inquiries / appeal hearings / restoration hearings of MCHK, and drafting the judgments on the basis of the Council's decision, findings and reasoning for its consideration; and advising on court appeal and judicial review cases where necessary;
- (b) attending meetings of MCHK and its committees or working groups on regular and/or ad hoc basis, advising on the legal implications of the issues raised at the meetings, and providing comments on the relevant discussion papers and minutes of meeting as necessary;

(c) providing legal advice on matters relating to the discharge of MCHK's statutory functions including registration of registered medical practitioners, maintenance of professional and ethical standards, and the conduct of Licensing Examination, and advising MCHK on legal implications of its policies and actions; and

(d) providing comments on publications of the Council, and correspondence received and/or issued by MCHK.

4. The rate of remuneration and the annual remuneration for the Legal Adviser to MCHK over the past five financial years are as follows -

(a) Former Legal Adviser

Financial Year	Rate of remuneration	No. of hours of legal service	Remuneration
2011/12	\$1,900 per hour (adopted since June 2003)	1 836	\$3.49 million
2012/13		1 770	\$3.36 million
2013/14 (up to mid-November)		1 128	\$2.14 million

(b) Current Legal Adviser

Financial Year	Rate of remuneration	No. of hours of legal service	Remuneration
2013/14 (from mid-November)	\$2,000 per hour, subject to a monthly cap of \$260,000, which was increased to \$280,000 since November 2015 ¹)	715 (for 4½ months)	\$1.30 million
2014/15		1 659	\$3.10 million
2015/16		1 653	\$3.18 million

5. As a matter of fact, the Legal Adviser is more or less working on a full time basis for MCHK. As reference, the net annual working hours of civil servants whose conditioned hours are 44 hours gross per week are 1 654 hours.

¹ A review of the monthly cap of the remuneration was conducted in 2015 taking into account the workload of the Legal Adviser.

6. The Government would request MCHK to review the current engagement arrangement of Legal Adviser. Upon the passage of the Bill, the Government will be able to appoint more than one legal adviser to serve MCHK and it would seem more desirable to engage several legal advisers on a part-time basis to provide more flexible support for MCHK to handle complaint cases.

Food and Health Bureau
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