

## **LEGISLATIVE COUNCIL BRIEF**

### **REVIEW OF CONDITIONS OF SERVICE FOR JUDGES AND JUDICIAL OFFICERS**

#### **INTRODUCTION**

At the meeting of the Executive Council on 6 December 2016, the Council ADVISED and the Chief Executive (CE) ORDERED that –

- (a) the following enhancements to the conditions of service for Judges and Judicial Officers<sup>1</sup> (JJOs) should be approved for commencement with effect from 1 April 2017 –

#### **Housing benefits**

- (i) in addition to the 23 existing Judiciary Quarters (JQs) under the Judiciary, an enhanced non-accountable cash allowance, to be referred to as the Judiciary Quarters Allowance (JQA), should be introduced. The JQA which is taxable, will replace the current Non-accountable Cash Allowance (NCA) as an alternative housing benefit that is comparable to JQs for Judges at the High Court level and above, at an initial rate of \$161,140 per month;
- (ii) the rate of JQA should be adjusted annually on 1 April with reference to the change in the Composite Consumer Price Index (CCPI) over the past 12 months ending 31 December, and such adjustment should apply to both existing and new recipients of JQA;

#### **Medical and dental benefits**

- (iii) a new accountable allowance which is taxable, to be referred to as the Medical Insurance Allowance (MIA), should be introduced as a supplement to the existing provision of medical and dental benefits provided by the

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<sup>1</sup> “Judges” refer to officers in the grades of Chief Justice, Court of Final Appeal (CFA); Judge, CFA; Judge of the High Court; and Judge of the District Court. “Judicial Officers” refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

Department of Health (DH) and the Hospital Authority (HA), for reimbursing serving JJOs including new recruits the premium of taking out medical insurance that confers pure medical coverage. Eligible dependents of JJOs should also be eligible for this new allowance while the officers are in service. The initial annual rates of MIA are proposed to be pegged to the ages of JJOs and their eligible dependents as follows –

Age 60 & above	:	\$53,690
Age 55 to below 60	:	\$44,200
Age 50 to below 55	:	\$36,800
Age 45 to below 50	:	\$30,980
Age below 45	:	\$22,940
Dependent children	:	\$19,300

- (iv) the rates of MIA should be adjusted annually on 1 April with reference to the change in the CCPI over the past 12 months ending 31 December. Further, the adjustment mechanism should be reviewed after the MIA has been implemented for five years;

#### **Local Education Allowance (LEA)**

- (v) LEA should continue to be payable to all serving JJOs and new recruits, with annual adjustment to the ceiling rates on 1 September with reference to the change in the CCPI over the past 12 months ending 31 May;
- (vi) the annual ceiling rates of LEAs for JJOs should be adjusted upwards by 40% to catch up with the increase with reference to the accumulated change in the CCPI over the period from 2006 to 2016 as follows –

Primary education	:	\$44,730
Secondary Forms I to III	:	\$74,235
Secondary Forms IV and above	:	\$68,933

#### **Judicial Dress Allowance (JDA)**

- (vii) a wider interpretation of the “once-and-for-all” principle should be adopted such that reimbursement of JDA be given to any unclaimed items on the approved list of judicial attire items for once, with no restriction on the

number of the same item purchased, on the basis of receipted bills up to the approved maximum JDA limits for the rank concerned;

- (viii) the list of approved judicial attire items should be expanded to include 13 additional items which are indispensable parts of the judicial attire;
- (ix) JDA rates should be adjusted annually on 1 April with reference to the change in the CCPI over the past 12 months ending 31 December. With the adoption of an annual adjustment mechanism of JDA rates as proposed, the regular review of JDA rates undertaken to keep track of the latest price level should be conducted every five years, instead of every three years as currently undertaken;

#### **Provision of transport services for leave travel**

- (x) existing transport service for JJOs' leave travel should be extended to cover hire of taxi if Judiciary cars are not available;
  - (xi) JJOs may claim reimbursement of taxi fare for hiring up to two taxis for one single trip having regard to the number of accompanying family members and number of baggages; and
- (b) the Director of Administration be delegated the authority to approve future revisions of the rates of JQA, MIA, LEA and JDA for JJOs in accordance with the adjustment mechanisms approved by the Chief Executive in Council.

## **JUSTIFICATIONS**

### **The Judiciary's review**

2. While judicial pay is subject to regular reviews and adjustments, there have been no major changes to the existing package of benefits and allowances since the establishment of the mechanism for determining

judicial remuneration in May 2008<sup>2</sup>. In considering the need for a review, the Judiciary has taken into account the recruitment situation, uniqueness of judicial service and the adequacy of existing housing benefits, and medical and dental benefits in attracting talents from the private sector.

3. The Judiciary launches open recruitment exercises for filling judicial vacancies at appropriate times, having regard to the overall judicial manpower situation and succession plan for different levels of court. For the purpose of greater transparency, it is the Judiciary's established practice to fill vacancies at the levels of the Court of First Instance of the High Court (CFI), District Court and Magistrates' Court through open recruitment process. The Judiciary conducted a total of nine open recruitment exercises for filling vacancies at various levels of court from 2011 to 2015.

4. For the CFI level, open recruitment exercises for CFI Judges used to be conducted about once every three years in the past. Prior to 2012, it was noted that there were some recruitment difficulties but it was not clear then whether such difficulties were of a persistent nature. At that time, the Judiciary observed that some senior legal practitioners might be interested in joining the Bench but the intended timing of their joining might not match the recruitment exercises when they took place. To address this, the Judiciary decided to conduct recruitment exercises for CFI Judges on a more regular basis since 2012. In the past three open recruitment exercises conducted in 2012, 2013 and 2014, a total of 17 CFI Judge appointments had been made. However, the number of eligible candidates found suitable for appointment was still much smaller than the available vacancies. Of the 17 CFI Judges appointed, only five were private practitioners. It then became very obvious from the experience of the past three exercises that the recruitment difficulties were persistent for the rank of CFI Judge and that the shortfall in substantive judicial manpower at the CFI level was not a temporary phenomenon. A new round of recruitment exercise for CFI Judges was launched in mid-2016. As at mid-November 2016, there were nine CFI Judge vacancies out of an establishment of 34 posts (vacancy rate of around 26%). While the current recruitment exercise is still in progress, it is clear that not all the vacancies can be filled. Recruitment difficulties continue to persist for the rank of CFI Judge and these

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<sup>2</sup> The Chief Executive in Council decided in May 2008 that a new mechanism, separate from that of the civil service, should be put in place to determine judicial remuneration. Specifically, the Chief Executive in Council agreed that judicial remuneration should be determined by the Executive Council after considering the recommendations of the independent Standing Committee on Judicial Salaries and Conditions of Service (Judicial Committee).

difficulties will remain and most likely be aggravated if the status quo is maintained. Moreover, having regard to the anticipated wastage due to retirement of Judges, the manpower situation will become more acute. According to the Judiciary, as at 31 October 2016, 28 JJOs reach/would reach retirement age during the three-year period from 2016-17 to 2018-19 (comprising five in 2016-17, three in 2017-18 and 20 in 2018-19). While recruitment of JJOs at the District Court and magisterial levels have not had such recruitment difficulties, judicial manpower would benefit, in terms of breadth and depth of litigation experience, from talents from outside the Judiciary to fill existing and upcoming vacancies at appropriate time, which mainly arise from the retirement and elevation of Judges and the creation of new posts.

5. A unique feature of judicial service is the different levels of prohibition against returning to private practice. Judges at the District Court level and above must give an undertaking not to return to practice in future as barristers or solicitors in Hong Kong without the permission of the CE. In practice, no such permission has ever been granted. Judges of the Court of Final Appeal (CFA) are prohibited to return to private practice by section 13 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484). Besides, unlike civil service grades which new recruits normally joining at the entry ranks, the Judiciary aims to recruit from outside (as well as from within) the Judiciary at all levels of courts, save for the appellate courts. The Judiciary takes the view that it is important for it to be able to recruit talents from the private sector to join at the CFI level to enhance the breadth and depth of professional expertise at that level of court. In addition, it is worthy to note that senior and successful legal practitioners from private practice usually join the Judiciary at the pinnacle of their career and they are prohibited from returning to private practice. Hence, in order to attract quality candidates and experienced private practitioners to join the Bench, it is necessary to enhance the judicial remuneration package to make it more attractive to candidates of sufficient experience, quality and standing.

6. Further, the Judiciary has also taken into account the adequacy of existing housing benefits, and medical and dental benefits in attracting talents from the private sector. There have been growing concerns, both within and outside the Judiciary, that the NCA currently available to CFI Judges as an alternative to JQs is far from adequate in providing attractive housing benefits that are comparable to JQs. Moreover, there has been feedback from JJOs at various levels of court over the inadequacy of the provision of medical services.

7. Against the above background, the Judiciary<sup>3</sup> has carried out a comprehensive review of the conditions of service for JJOs.

### **The enhancements**

8. On completion of the review of conditions of service for JJOs, the Judiciary recommends status quo for the current arrangement of nine items<sup>4</sup> and proposes enhancement to five items, namely, housing benefits, medical and dental benefits, LEA, JDA and transport service for leave travel. Details of the Judiciary's proposals, as approved by the Chief Executive in Council, are set out in paragraphs 9 to 25 below.

#### **A. Housing benefits**

9. At present, the provision of housing benefits to JJOs at different court levels are as follows –

- (a) JJOs below District Judge level are eligible for Home Financing Allowance (HFA) under the Home Financing Scheme, which is administered by the Government and is not Judiciary-specific;
- (b) JJOs appointed at the level of District Judge and above would be paid an NCA<sup>5</sup>, which is Judiciary-specific (NCA Scheme). The NCA rate, effective from 1 April 2016, for District Judge and above is \$38,560 per month; and
- (c) Judges at the High Court level and above, except for the Chief Justice (CJ) who is entitled to an Official Residence, are provided with JQs at AA grade. If JQs are not available, the eligible JJOs would receive NCA in lieu of JQs. The NCA rate, effective from 1 April 2016, for Judges at High Court level and above is \$51,420 per month.

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<sup>3</sup> The Judiciary's internal review group is chaired by the Chief Justice and comprised Court Leaders and the Judicial Administrator as members.

<sup>4</sup> The nine items which the Judiciary recommends maintaining status quo are: (i) pension; (ii) leave entitlements; (iii) Leave Passage Allowance; (iv) Overseas Education Allowance; (v) School Passage Allowance; (vi) Sea Passage; (vii) Travelling Expenses in Country of Origin or Place of Study; (viii) Accommodation Allowance; and (ix) Air-conditioning Allowance.

<sup>5</sup> The Finance Committee approved in 1991 that an NCA should be introduced for JJOs at the level of District Court Judge or above, in lieu of housing benefits. The NCA will be payable to eligible officers throughout their tenure of office and the rates will be subject to regular review in line with any future revision to the rates of the HFA.

10. The Judiciary considers that the current NCA paid to the Judges at the High Court level and above is far from adequate to meet the rental cost of an accommodation of a standard comparable to an AA grade JQ in the private property market and hence is not really a comparable or equitable option. According to the Judiciary, the rental cost of accommodation equivalent to AA grade standard in the private property market stands at around \$174,200<sup>6</sup> per month as at February 2016.

11. In addition to the 23 existing JQs under the Judiciary, it is proposed that an enhanced non-accountable allowance which is taxable, to be referred to as the JQA, should be introduced as an alternative housing benefit that is comparable to JQs for Judges at the High Court level and above when JQs are not yet available for provision to eligible judges. Upon introduction of the JQA, the current NCA will cease to be provided for Judges at the High Court level and above. The JQA will be at an initial rate of \$161,140 per month<sup>7</sup>. The rate of JQA should be adjusted annually on 1 April with reference to the change in CCPI over the past 12 months ending 31 December, and such adjustment should apply to both existing and new recipients of JQA.

## **B. Medical and dental benefits**

12. At present, all serving JJOs and their eligible dependents<sup>8</sup> are entitled to medical and dental treatment and services that are provided by the DH or HA free of charge, save for the charges applicable to hospital maintenance, dentures and dental appliances (same as those available to the civil servants). The Judiciary points out that there has been feedback from serving JJOs at various levels of courts over the inadequacy of the provision of medical services. As most JJOs join the Bench after middle age, the provision of adequate medical services is one of the key considerations for qualified candidates to join the Bench at all levels.

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<sup>6</sup> The lease of a private property for JQ was last renewed in February 2016. The Judiciary advised that the monthly rental cost is \$174,200 (including \$159,000 rental and \$15,200 management fee).

<sup>7</sup> Due to unavailability of sufficient JQs to all eligible Judges at the High Court level and above, the Judiciary has since 2003 used leased residential accommodation as JQs to meet the quartering requirements for 14 Judges. Having regard to the fact that Judges are required to pay 7.5% of their monthly salary for living in JQs or in leased accommodation as JQs, the rate of JQA is proposed to be discounted by 7.5% of the monthly rate of a leased quarter, i.e.  $\$174,200 \times 92.5\% = \$161,140$  per month.

<sup>8</sup> Eligible dependents refer to the spouse and unmarried children (including children of divorced/legally separated officers, stepchildren, adopted children and illegitimate children) who are (i) under the age of 19, or (ii) aged 19 or over but under 21 and are in full-time education or in full-time vocational training, or dependent on the officers as a result of physical or mental infirmity.

13. It is proposed that a new accountable allowance which is taxable, to be referred to as the MIA, should be introduced as a supplement to the existing provision of medical and dental benefits provided by the DH and HA. Under the proposal, all serving JJOs and their eligible dependents can select from the market any pure medical insurance plan<sup>9</sup> which meets their specific needs, and the premium incurred will be reimbursable subject to the MIA rate they are entitled to. The initial annual rates of MIA are proposed to be pegged to the ages of JJOs and their eligible dependents as follows –

Age 60 & above	:	\$53,690
Age 55 to below 60	:	\$44,200
Age 50 to below 55	:	\$36,800
Age 45 to below 50	:	\$30,980
Age below 45	:	\$22,940
Dependent children	:	\$19,300

14. The rates of MIA should be adjusted annually on 1 April with reference to the change in the CCPI over the past 12 months ending 31 December. Further, the adjustment mechanism should be reviewed after the MIA has been implemented for five years.

### **C. Local Education Allowance**

15. LEA which is taxable, is payable to all JJOs, upon application, towards the cost of primary and secondary education of the JJO's child in a school included in the Approved School List issued by the Permanent Secretary for Education.

16. LEA is not Judiciary-specific and is administered by the Government. In March 2000, the Chief Executive in Council decided that LEA should cease to be payable to civil servants who joined the civil service in response to the Government's offer dated 1 June 2000 or thereafter. For Judiciary, it was then decided that, pending a review on the conditions of service for JJOs, no change should be made to the fringe benefits provided under the Judiciary Interim Common Terms which were used to recruit new JJOs. Hence, LEA continues to be payable to all JJOs. When the Government decided to abolish the rate adjustment mechanism for LEA after a review in 2006, the ceiling rates of LEA for JJOs have been frozen at the then prevailing level.

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<sup>9</sup> Pure medical insurance plans refer to medical insurance plans without any non-medical elements such as life protection, savings, investment linkage or hospital cash benefits.



17. The Judiciary considers the provision of LEA an important element of the judicial remuneration which contributes significantly to the attractiveness of the judicial remuneration package, particularly at the District Court and magisterial levels. The Judiciary considers it necessary to retain the LEA and to have regular adjustment of LEA rates to retain and recruit the best possible talents to serve as JJOs.

18. It is proposed that LEA should continue to be payable to all serving JJOs, with annual adjustment to the ceiling rates on 1 September with reference to the change in the CCPI over the past 12 months ending 31 May. It is also proposed that the annual ceiling rates of LEA for JJOs, which have been frozen at the then prevailing level in 2006, should be adjusted upwards by 40% to catch up with the increase with reference to the accumulated change in the CCPI over the period from 2006 to 2016 as follows –

Level of Education	Existing Ceiling Rates	Proposed Ceiling Rates
Primary education	\$31,950	\$44,730
Secondary Forms I to III	\$53,025	\$74,235
Secondary Forms IV & above	\$49,238	\$68,933

#### **D. Judicial Dress Allowance**

19. JDA was approved in 1980 such that the Judges of the High Court and the District Court may on first appointment be reimbursed, once and for all, with the cost of purchasing their required judicial attire. Only those judicial attire items which have not been claimed before are reimbursable according to the “once-and-for-all” principle. Only one piece of each judicial attire item could be reimbursed. Currently, there are a total of 11 judicial attire items<sup>10</sup> on the approved list. JDA is taxable. Reimbursement of JDA is made on the basis of receipted bills and according to the approved scale of dress up to the respective approved maximum limits ranging from \$7,000 to \$75,408 for High Court Master to Justice of Appeal.

<sup>10</sup>The current list of approved items includes (i) ceremonial robe with golden trimmings; (ii) wig; (iii) wig case; (iv) black gown; (v) red gown with sash, girdle & hood; (vi) black (& mauve) gown with purple red sash & girdle; (vii) black court jacket; (viii) lace cuffs & cravat; (ix) winged collars and bands; (x) full-bottomed wig; and (xi) wig case for full-bottomed wig.

20. The Judiciary considers that it is not uncommon to find that some JJOs may wish to purchase more than one piece of the same judicial attire item for spare use/hygiene reasons and submit more than one piece of the same judicial attire item in a claim for reimbursement. The past practice of only the cost of one piece for each of the items concerned is reimbursable may be subject to argument, especially when the approved maximum limits for the JDA for the rank concerned is not exceeded.

21. It is proposed that wider interpretation of the “once-and-for-all” principle should be adopted such that reimbursement of JDA be given to any unclaimed items on the approved list for once, with no restriction on the number of same item purchased, on the basis of receipted bills up to the approved maximum JDA limits for the rank concerned. It is also proposed that the approved list should be expanded to include 13 additional items<sup>11</sup> which are indispensable parts of the judicial attire.

22. On the adjustment mechanism, it is proposed that the JDA rates should be adjusted annually on 1 April with reference to the change in the CCPI over the past 12 months ending 31 December. With the adoption of an annual adjustment mechanism of JDA rates as proposed, the regular review of JDA rates undertaken to keep track of the latest price level should be conducted every five years, instead of every three years<sup>12</sup>.

## **E. Provision of transport services for leave travel**

23. The CJ and three Permanent Judges of CFA and the Chief Judge of the High Court are each provided with a designated Judiciary car for use for all purposes. The Justices of Appeal of the Court of Appeal and Judges of the CFI are entitled to the use of specifically allocated transport pool cars, if available, for all purposes without charge. All other JJOs may use a Judiciary car, if available, free of charge for not more than one journey each to and from the point of departure for travel outside Hong Kong on each occasion when they depart for or return from vacation leave for a period not less than 14 days or prior to retirement (referred to as leave travel).

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<sup>11</sup> The expanded list of judicial attire items includes the following: (i) winged collars and elasticised bands; (ii) collar studs; (iii) lace collarettes; (iv) bar pants/black court trousers; (v) four-in-one neck wear; (vi) black court shoes; (vii) Judge’s black silk scarf; (viii) white tunic shirt; (ix) white shirt with winged collars; (x) breeches; (xi) black stockings; (xii) white gloves; and (xiii) long silk jacket.

<sup>12</sup> In the review of the JDA ceiling rates in 2009, it was agreed that the Judiciary would review the rates of JDA every three years to keep track of the latest price level.

24. While the Government ceased to provide government vehicles for civil servants' leave travel since 2003, the former CJ took the position that the provision of government transport for leave travel, as a fringe benefit to which JJOs are entitled to, should continue.

25. The Judiciary re-affirmed the position that the provision of government transport for leave travel is a fringe benefit to which JJOs are contractually entitled, and the provision of leave travel transport service should continue. It is proposed that the existing transport service for JJOs' leave travel should be extended to cover hire of taxis if Judiciary cars are not available. JJOs may claim reimbursement of taxi fare for hiring up to two taxis for one single trip having regard to the number of accompanying family members and number of baggages.

### **Deliberations of the Standing Committee on Judicial Salaries and Conditions of Service (Judicial Committee)**

26. We have consulted the Judicial Committee on the Judiciary's proposals to enhance the conditions of service for JJOs. The Judicial Committee supports the proposals to enhance the conditions of service for JJOs, which cover enhancements to housing benefits, medical and dental benefits, LEA, JDA and transport service for leave travel. The Judicial Committee considers the proposals reasonable and well-justified, and are indeed necessary for the Judiciary to form a reasonably attractive remuneration package in order to recruit and retain the best possible talents to serve as JJOs. In reaching its view of support, the Judicial Committee noted that the Judiciary has been experiencing genuine and persistent difficulties in recruitment at the level of the CFI despite all the conscious efforts the Judiciary has put in during the past few years. The Judicial Committee also noted that the 2015 Benchmark Study on the Earnings of Legal Practitioners in Hong Kong showed a clear trend of widening differential between the earnings of legal practitioners and the remuneration of JJOs. Most notably, at the CFI level, the pay deficiency has widened significantly from 2010 to 2015. The Judicial Committee is of the view that a sufficiently attractive remuneration package is essential in facilitating potential candidates to make the important decision on the change in career path.

## **The Government's views**

27. The Government considers the rule of law and judicial independence the cornerstone of a stable and prospered society. To perform its duties under the Basic Law, the Judiciary must be adequately resourced to ensure its effective operation and to attract high calibre individuals to join the Bench.

28. Given the vacancy rate of around 26% at the CFI level despite the Judiciary's attempt to improve the situation through more frequent recruitment exercises and the fact that the latest recruitment efforts have not yielded sufficient new recruits to fill all the vacancies, we recognise the recruitment difficulties faced by the Judiciary and agree that these difficulties will remain and most likely be aggravated if the status quo is maintained. We also share the view of the Judiciary that it is important for it to be able to recruit talents from the private sector to join at the CFI level to enhance the breadth and depth of professional expertise at that level of court. We therefore agreed that there is a need to enhance the remuneration package for JJOs.

29. In September 2016, the Judicial Committee submitted its recommendations to adjust the pay for JJOs to the Government. The recommendations have been approved by the Chief Executive in Council. Details of the proposals on judicial pay adjustments form the contents of a separate Legislative Council (LegCo) Brief. Judicial pay aside, the conditions of service for JJOs constitute an equally important factor in attracting quality candidates to join the Bench. As potential CFI judges are at the height of their earning powers and professional achievement in private practice, the Judiciary needs an attractive package of fringe benefits to attract the best talents to join the Bench. Besides, as stated in paragraph 5 above, the judicial service is unique in that it is characterised by a prohibition against return to private practice. While we believe those potential candidates who decide to join the Bench would consider a host of factors and fringe benefits is just one of them, a sufficiently attractive remuneration package is essential in facilitating these senior and successful lawyers from the private practice to make the important decision on the change in career path.

30. Regarding housing benefit, we acknowledge that under their terms and conditions of service, Judges at the level of High Court and above who are eligible for NCA may choose to opt for JQs, subject to availability, in lieu of NCA. We note that JQs are in short supply and private leasing of properties has proven to be both administratively cumbersome and not practicable on various occasions. Given a marked

discrepancy between the rate of NCA for Judges at High Court level and above, currently at \$51,420 per month, and the prevailing rental cost of accommodation comparable to JQs, at around \$174,200 per month as at February 2016, we support the Judiciary's proposal to retain the 23 existing JQs and to introduce the JQA at the rate of \$161,140 per month to replace the NCA for eligible Judges at High Court level and above<sup>13</sup> on the condition that the prevailing "forfeiture rule"<sup>14</sup> and "prevention of double benefit rule"<sup>15</sup> for housing benefits in the Government or other publicly-funded organisations will continue to apply. High Court Judges and above who have joined the NCA Scheme will be exempted from the forfeiture rule so that they will not be debarred from joining the JQA Scheme.

31. For medical and dental benefits, we recognise the importance of the provision of adequate medical services for attracting qualified candidates to join the Bench and consider that JJOs should be reimbursed the premium of taking out medical insurance that confers pure medical coverage only (i.e. without any non-medical elements such as life protection, savings, investment linkage or hospital cash benefits).

32. For the enhancement to LEA, JDA and the provision of transport services for leave travel, we consider the Judiciary's proposals reasonable and note that the estimated additional expenditure to be incurred is not significant. Hence, we support the Judiciary's proposals in full.

33. Given that the Judiciary's remuneration package is delinked from the civil service system, the Director of Administration will approve future revisions to the rates of JQA, MIA, LEA and JDA for JJOs in accordance with the adjustment mechanisms approved by the Chief Executive in Council under delegated authority.

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<sup>13</sup> Total establishment is 51 (excluding CJ and one non-permanent judge posts).

<sup>14</sup> Under the forfeiture rule, once an officer or his spouse has received a housing benefit to achieve home ownership from the Government or a publicly-funded organisation (PFO), both of them will forfeit their entitlement to all other forms of civil service or publicly-funded housing benefits. And an officer's entitlement to housing benefits may be reduced or limited if he or his spouse has received any housing benefit as a result of employment with the Government or a PFO.

<sup>15</sup> Under the prevention of double benefits rule, unless specified under the respective housing benefits schemes, an officer and his spouse may not receive more than one housing benefit at any one time, irrespective of whether the benefit is provided by the Government, a PFO or a private sector employer. And an officer will be ineligible for civil service or publicly-funded housing benefits if he or his spouse is receiving a public housing benefit.

## **IMPLICATIONS OF THE PROPOSAL**

A 34. The estimated net additional annual expenditure of the Judiciary's proposals is about \$32.62 million and the details are set out at Annex A. Sufficient provision will be included in the Judiciary's Estimates to meet the funding requirements. The Judiciary is seeking, with justifications, additional manpower resources to handle workload arising from the enhanced remuneration package for JJOs in accordance with the established resource allocation mechanism. The recommendations are in conformity with the Basic Law, including the provisions concerning human rights, and have no economic, family, environmental, gender or sustainability implications.

## **PUBLIC CONSULTATION**

35. We have consulted the Judicial Committee which has indicated support to the proposals. No public consultation has been conducted.

## **PUBLICITY**

36. We have informed the Judiciary and the Judicial Committee of the Government's decision on the Review of Conditions of Service for JJOs. We will brief the Panel on Administration of Justice and Legal Services of the LegCo and invite the Finance Committee to note the enhanced conditions of service as approved by the Chief Executive in Council and the associated implementation arrangements. A press release has been issued and a spokesman will be made available to respond to enquiries.

## **BACKGROUND**

37. The Judiciary conducted a comprehensive review of the conditions of service for JJOs which concludes that there is a need to enhance certain aspects of the JJOs' remuneration package with a view to attracting a sufficient number of quality candidates to join the Bench. The Judiciary recommends status quo for the current arrangement of nine items and proposes enhancement to five items, namely, housing benefits, medical and dental benefits, LEA, JDA and provision of transport service for leave travel.

## **ENQUIRIES**

38. Enquiries on this brief should be addressed to Ms Jennifer Chan, Deputy Director of Administration, at 2810 3008 or Ms Christine Wai, Assistant Director of Administration, at 2810 3946.

Administration Wing  
Chief Secretary for Administration's Office  
7 December 2016

**Financial implications of the Judiciary's proposal**

<b>Items</b>	<b>2016-17 provision Under Head 80</b>	<b>Estimation of the Judiciary on net additional provision per year (as at June 2016)</b>	<b>No. of Judges and Judicial Officers (JJO) beneficiaries assumed for the net additional provision (as at June 2016)</b>
Housing benefits (for Judges at High Court level and above, except Chief Justice)	\$38.91 million <sup>(Note)</sup>	\$15.23 million	28 Judges at High Court level and above
Medical and dental benefits	N.A.	\$16.71 million	520 JJOs and eligible dependents
Local Education Allowance	N.A.	\$0.66 million	60 children with 41 receiving the LEA ceiling rates
Judicial Dress Allowance	\$0.86 million	Additional expenditure, if any, arising from reimbursing JJOs under the new arrangement would be absorbed from within the Judiciary's operating expenditure envelope.	90 eligible JJOs
Transport services for leave travel	Nil	\$0.02 million	200 JJOs
<b>Total:</b>		<b>\$32.62 million</b> <b>(excluding the financial implication arising from the expansion of the list of approved judicial attire items for reimbursement of JDA)</b>	

Note: Including the current provision of \$30.27 million for leasing private properties for eligible Judges at the High Court level and above.