

Secretary for Justice on court judgement

\*\*\*\*\*

Following is the transcript of remarks made by the Secretary for Justice, Mr Rimsky Yuen, SC, at a media session this afternoon (September 1):

Reporter: The judge said just now there seems to be an oversight by the Department of Justice which resulted in today's verdict. Could you comment on the oversight?

Secretary for Justice: As I was saying just now in Cantonese, as far as I understand, there are two main parts of the application dealt with today. The first part is what are exactly the documents that are required to be lodged within the deadline. The other side suggested that it should include the notice of hearing. We do not agree with that, but the judge ruled in the other side's favour. And it was in that context that the judge mentioned that there might be an oversight on the part of the Department of Justice. But that was the part which we would have to look into. In other words, we would have to consider, whether as a matter of law or as a matter of proper interpretation of the relevant rules of the High Court, what exactly are the documents that are required to be lodged within the deadline. If we are to lodge an appeal, which of course, I have to stress, we have yet to decide whether or not to lodge an appeal. If we are to appeal and if the Court of Appeal is to agree with us, then there would be no question of oversight. But if we are to appeal and if we are to lose the appeal, then of course the question of oversight would arise. So at this stage, while we still need some time to consider whether or not to lodge an appeal, I think it might be a little bit too early to consider the question of oversight. As of now, of course, we respect the decision by Mr Justice Chow, that as a fact the decision has been made and we of course have to respect that. But the point that I want to stress is we need some time to consider whether we would be lodging an appeal.

Reporter: Why is such a discrepancy when it comes to that notice, the submission of that notice. Is there a lot of laws relating to ... or different laws?

Secretary for Justice: I don't think it's really surprising as a matter of law, because quite often from time to time in other contexts, whether in the context of civil procedures or in the context of other procedures, as statutory provisions might be capable of more than one interpretation. It happens all the time and in fact, otherwise there won't be the need for debate in court. It so happens that in this particular case, there is this different interpretation. And therefore, I would say if you put this in the overall context of civil litigation or criminal litigation, or litigation as a whole, it's nothing surprising.

Reporter: So in the law it doesn't state that within 14 days you have to submit the notice?

Secretary for Justice: I think that is exactly the crux of the debate, i.e. what is exactly meant by the relevant statutory provisions?

(Please also refer to the Chinese portion of the transcript.)

Ends/Tuesday, September 1, 2015