

Secretary for Justice's speaking notes tabled at LegCo Finance Committee special meeting

Following are the speaking notes of the Secretary for Justice, Mr Rimsky Yuen, SC, tabled at the Finance Committee special meeting in the Legislative Council today (April 1):

Chairman and Members,

For 2016-17, the total estimated expenditure of the Department of Justice (DoJ) is about \$2,241 million, which represents an increase of about 29.5 per cent (or around \$510 million) over the revised estimated expenditure for the last financial year (i.e. 2015-16), but about 13.2 per cent (or around \$260 million) over the original estimated expenditure for the same financial year. Out of this increase, around 9 per cent is due to the filling of vacancies which could not be filled previously, and the net creation of 37 posts to cope with the increasing demand of government departments for legal services. For the remaining part of the increase, it is mostly to cater for the anticipated increase in court costs and expenses which may be payable to barristers, solicitors and other professionals in private practice to be engaged (accounting for around 61 per cent and 30 per cent of the total increase respectively).

The expenditure on court costs and briefing-out expenses depends on the number of cases involved, their complexity and development. The estimated expenditure in this regard for each year is worked out on the basis of information available at the time of preparing the estimates and the principles of prudent management of public finances, but the ultimate actual amount to be incurred eventually will depend on the development and outcome of the judicial proceedings concerned. In view of the number of cases involved, their complexity and development during the year, we have reduced the 2015-16 revised estimates

for court costs and briefing-out expenses by 33.8 per cent and 21.8 per cent respectively, to reflect the more realistic development of the cases at that time and the corresponding anticipated expenditure. For this reason, when comparing the 2016-17 estimates with the substantially reduced 2015-16 revised estimates, due to the difference in benchmarks, it may apparently give the impression that there is a significant increase. However, when compared with the 2015-16 original estimates, the anticipated increases in the court costs and briefing-out expenses for 2016-17 are merely 37.8 per cent and 6.9 per cent respectively.

The increase in the estimate for court costs is mainly due to the possible need to make payment of court costs arising from some mega proceedings in 2016-17 (including court costs payment to be rolled over from 2015-16 to 2016-17). However, the ultimate amount required to be paid will depend on the development and outcome of the proceedings concerned.

As regards the increase in the estimate for briefing-out expenses, it is partly due to the anticipated payment of costs that may be incurred in some mega civil proceedings, and including those in respect of the Pilot Scheme for Arbitration on Land Premium (\$91.5 million). Besides, we also expect an increase in the standard briefing-out rates for criminal cases. As the fee scale of the Legal Aid Department for criminal legal aid fees as prescribed in the Legal Aid in Criminal Cases Rules as well as duty lawyers' fees under the Duty Lawyer Scheme will be increased (by 50 per cent and 7.7 per cent respectively for the relevant fees), we would also have to raise the standard briefing-out rates for criminal cases. This is to ensure that both the defence and the prosecution would have an equal opportunity to obtain legal representation of comparable quality. We will strive to exercise maximum prudence in controlling the expenditure on court costs and briefing-out

expenses, subject to the overriding principle that service quality should not be compromised.

I will now outline the DoJ's major areas of work in the new financial year.

Programme (1) - Prosecutions

In the context of criminal prosecutions, we anticipate another busy year in 2016-17. In addition to the handling of various types of routine criminal cases, cases arising from the "Occupy Movement" and the earlier Mong Kok incident will form a considerable portion of the work of the Prosecutions Division this year. Colleagues of the Prosecutions Division will continue to process each and every case in a fair and impartial manner according to the prosecution policy and the applicable law. To strengthen support for handling cases related to, inter alia, public order events, resources will be provided starting from 2016-17 for the creation of one additional Senior Government Counsel post in the Prosecutions Division. We will also make suitable manpower arrangements or, where necessary, engage barristers or solicitors in private practice so as to effectively manage our prosecution work.

We will also continue to organise events such as "Meet the Community" and "Prosecution Week", so as to enhance public understanding of the criminal justice system of Hong Kong and to promote public awareness of the rule of law through various types of activities.

Programme (2) - Civil

The Civil Division will continue to provide services in civil law matters to all government departments. Among the matters handled, the number of judicial review proceedings involving the Government has been increasing in recent years (amounting to a total of 118 cases in 2013, 152 in

2014 and rising to 178 cases in total in 2015). The regime of judicial review is an important safeguard to the rule of law under the common law system. The DoJ respects the rights which Article 35 of the Basic Law confers on Hong Kong residents and will continue to handle relevant proceedings in accordance with judicial procedures, while being mindful of the views of the community on the judicial review regime, with a view to upholding the rule of law while enhancing governance.

Regarding the promotion of mediation, the Mediation Team takes forward various initiatives, including: working on the introduction of apology legislation; continuing to monitor the effectiveness of the implementation of the Mediation Ordinance; and monitoring the work of the industry-led Hong Kong Mediation Accreditation Association Limited (HKMAAL). In May this year, a Mediation Week will again be held to help the development of mediation services in Hong Kong.

Programme (3) - Legal Policy

On the other hand, the Legal Policy Division, in discharging the important function to uphold the rule of law, will continue to provide legal support to different departments of the government on Basic Law, human rights and constitutional matters.

Over the years, the DoJ has striven to enhance Hong Kong's status as a centre for international legal and dispute resolution services in the Asia-Pacific region. We are delighted that the National 13th Five-Year Plan recently announced clearly supports this direction of development. We will continue to work with all stakeholders to promote Hong Kong's legal and dispute resolution services in the Mainland and overseas (covering countries along the Belt and Road route), including the organisation in the latter half of this year of the fourth biennial Hong Kong Legal Services

Forum in Nanjing.

Facing the increasingly competitive environment within and outside the region, we plan to create one post of Deputy Principal Government Counsel in this financial year to be responsible for the related work. The proposal has been endorsed by the Panel on Administration of Justice and Legal Services, and will be submitted to the Establishment Subcommittee of the Finance Committee for consideration in due course. For this, we look forward to Members' support.

Programme (4) - Law Drafting

The goal of the Law Drafting Division includes ensuring that our bilingual legislation should be clear, accurate and user-friendly. The Law Draftsman who has recently joined the DoJ has extensive experience, and I believe she can provide new impetus to this work area within the DoJ.

The current term of the Legislative Council will end during the 2016-17 financial year. Before the current Council is prorogued, it will scrutinise many bills. While the Bills are under scrutiny, the Law Drafting Division will provide professional assistance to the policy bureaux.

Programme (5) - International Law

The International Law Division has been active in participating in the activities and conferences of international legal and related organisations, and in strengthening mutual co-operation. Such efforts include participation in a sub-group on strengthening economic and legal infrastructure established under the Economic Committee of the Asia-Pacific Economic Cooperation (APEC), to showcase the strength of Hong Kong as an international legal services and dispute resolution centre to emerging economies in the Asia-Pacific Region. Recently, taking the

opportunity of the APEC meetings held in Peru this February, the DoJ conducted a workshop in collaboration with the United Nations Commission on International Trade Law (UNCITRAL), during which the Secretary of UNCITRAL, experts of the Permanent Court of Arbitration, as well as representatives of the Hong Kong legal profession shared their experiences with participants of the workshop.

Moreover, during its review in March this year, the Council on General Affairs and Policy of the Hague Conference on Private International Law (HCCH) resolved to maintain the HCCH's Asia Pacific Regional Office in Hong Kong, and was also appreciative of the fruits of the co-operation between the HKSAR Government and the office over the past three years. This decision again reflects the importance that HCCH attaches to Hong Kong as a regional legal services centre, and also contributes to enhancing the profile of Hong Kong in the international legal community. We will continue with our efforts in promoting co-operation with international and regional legal and related organisations.

Conclusion

Chairman, the above is an outline of the major areas of work of the DoJ in the coming financial year. My colleagues and I will be pleased to answer Members' questions and listen to your views. Thank you.

Ends/Friday, April 1, 2016