

Speech by SJ at special meeting of Finance Committee

Following is the speech by the Secretary for Justice, Mr Wong Yan Lung, SC, at the special meeting of the Finance Committee in the Legislative Council today (March 23)(translation):

Thank you, Chairman and Members. I believe everyone is familiar with the functions of the Department of Justice. Our work is delivered through five programmes areas, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. For 2009-10, our estimated expenditure amount to \$1,004.4M. Let me highlight some of our major activities.

Programme 1 – Prosecutions

In the year ahead, we shall continue to prosecute cases firmly and fairly, in accordance with established prosecution policy guidelines, and to account for our decisions in a way which is transparent and just.

New prosecutors will arrive during the year, and they will receive intensive training in all aspects of prosecutorial responsibility. We are committed to ensuring that they fully appreciate the standards to be expected of the modern prosecutor, and the extent to which they must at all times apply the highest levels of professionalism. At the same time, our programme of continuing legal education for existing prosecutors will proceed apace.

Prosecutors in different places must work constructively together to promote high standards of criminal justice, and to contribute to the fight against transnational crime. The Prosecutions Division will continue to use its position in the International Association of Prosecutors to contribute to global strategies to combat crime.

Programme 2 – Civil

The Civil Division provides litigation support and advisory services to Government bureaux and departments as may be required on a wide range of civil law issues. Last year we experienced a challenging year in terms of the volume, complexity and urgency of the work we did.

In 2009, on the civil litigation front, we expect the weight and importance of the many cases which the Department has to handle will be no less challenging than what they have been in recent years. We expect the judicial review proceedings, including those raising constitutional law and human rights issues will continue to be the focus of challenges in litigation against the government. The workload on the civil advisory front will also remain heavy covering extension subject matters.

Programme 3 – Legal Policy

The Department of Justice will continue to promote Hong Kong as a regional centre for legal services. In November 2008, we welcomed the setting up in Hong

Kong of a branch secretariat of the International Court of Arbitration (ICA) of the International Chamber of Commerce (ICC). This is the first such branch for the Paris-based ICA which is intended to service ICC arbitrations conducted in the Asia Pacific region. We will continue our efforts to forge closer ties with reputable international legal institutions to enhance our status as a legal services centre in the Asia Pacific.

At the same time, we are strengthening our legislative framework to promote the use of alternative means of dispute resolution. The promotion of mediation, which I shall mention later, is an integral part of civil justice reform. Preparation for the legislative work relating to reform of arbitration law is reaching its final stages. The Department of Justice will introduce the Arbitration Bill to the Legislative Council in June 2009 which will unify the domestic and international arbitration regimes on the basis of the UNCITRAL Model Law.

In addition to the Arbitration Bill, the Department of Justice will promote two Bills which, we believe, will enhance the development of the legal profession. The Legal Practitioners (Amendment) Bill will be introduced before the end of this legislative session to provide for a scheme recommended by a Working Party established by the Chief Justice under which solicitors may gain rights of audience before the higher courts. The other is the Legal Practitioner (Limited Liability Partnerships) (LLP) Bill which will provide an option for solicitors to practise in the form of limited liability partnerships. We are working closely with the Law Society on this Bill. We expect to introduce the Bill to the Legislative Council in the 2009-10 session.

The two bills will bring welcome changes to legal practice in Hong Kong. They will also add new dimensions and provide new opportunities to legal practitioners in Hong Kong.

The Working Group on Mediation has been making progress in its deliberations on the promotion of mediation in Hong Kong. The 3 Sub-groups covering Public Education and Publicity, Accreditation and Training, and Regulatory Framework are working steadily to meet the requirements under their Terms of Reference. Issues being considered include a Hong Kong Code of Conduct for Mediators, venues for community mediation and a 'Mediate First' pledge for the commercial sector. We expect to brief the Administration of Justice and Legal Services Panel on the progress in this front in June this year.

Programme 4 – Law Drafting

The Law Drafting Division will continue to provide professional drafting and advisory service on demand by the policy bureaux.

We are carrying out a project to revise and improve the features of the Bilingual Laws Information System, through which all internet users can have instant access to the statute of Hong Kong. This project will make the System more user-friendly.

A Drafting Techniques and Legislative Style Committee has been set up in the Law Drafting Division. The Committee meets regularly to discuss and put forward proposals to improve the comprehensibility of the Laws of Hong Kong.

Programme 5 – International Law

In the coming year, the International Law Division will continue to provide advice on international law issues, negotiate international agreements or contribute as legal advisers in negotiations and handle requests for international legal co-operation to bring benefits to the HKSAR. We will also continue to handle and co-ordinate requests to and from the HKSAR concerning surrender of fugitive offenders, mutual legal assistance, transfer of sentenced persons and international child abduction cases.

Expenditure

As mentioned earlier on, the financial provision for the whole Department for 2009-10 is \$1,004.4M which is 6.7% (or \$63.3M in dollar terms) higher than our revised estimated expenditure for 2008-09 (which is \$941.1million). This increase is mainly due to the filling of vacancies and net creation of five non-directorate posts to cope with increasing demand for legal services.

We will continue our practice of briefing out cases to private sector lawyers where appropriate. Our total provision for briefing-out expenditure in 2009-10 is \$193.2M, which is 2.9% higher than the corresponding 2008-09 revised estimates of \$187.7M.

Staffing

In 2008-09, 23 new Government Counsel have joined the Department. We have conducted another recruitment exercise this year to fill existing and anticipated government counsel vacancies and the exercise is in progress. Besides, we have completed a recruitment exercise for Law Clerk with 25 new recruits joining us this year. Another recruitment exercise for Court Prosecutor is also in progress to fill vacancies in the Department.

Conclusion

The above outlines the major work in the Department in the coming financial year. My colleagues and I will be pleased to provide further information.

Thank you.

Ends/Monday, March 23, 2009