

## **The 2003 Policy Address :**

### **Opening Statement by the Secretary for Justice, Ms Elsie Leung, at a meeting of LegCo's Panel on Administration of Justice and Legal Services on Wednesday, 15 January 2003**

Madam Chair,

Thank you for giving me this opportunity to speak to the Panel in respect of my department's role in implementing the initiatives associated with the Chief Executive's Policy Address 2003. These are set out in the government's Policy Agenda. I will also be happy to answer questions on the Progress Report on my department's 2001 initiatives.

2. Members have been supplied with copies of two papers. One is the paper submitted to this Panel on 25 November 2002, setting out my department's policy portfolios and objectives. The other is my speech at the Opening of the Legal Year this Monday (13 January), which outlines progress on certain areas of our work.

3. I do not propose to take members through those papers, but I would like to indicate how they relate to the Progress Report and Policy Agenda.

#### **Progress Report**

4. The Progress Report lists 14 initiatives announced by my department between 1997 and 2001. Action has been completed on four of these initiatives; action is in progress and on schedule on six initiatives; and action is in progress and under review on four initiatives. I therefore consider that progress has been good. Although 4 of our commitments are under review,

they should not be classified as commitments which we have failed to deliver. These 4 commitments are put under review because of changed circumstances out of the control of this Department. I shall be pleased to elaborate on them later if Members are interested to know the details of the changed circumstances.

5. My speech at the Opening of the Legal Year outlined progress on one of these fourteen projects, namely the Review of Legal Education. It also summarised progress on other areas of work that may be of interest to this Panel.

### **Policy Agenda**

6. Turning to the Policy Agenda, the section on Effective Governance states that the Government “will work to provide a sound foundation through effective governance to maintain and further develop Hong Kong’s position as a world city of Asia. We are determined to maintain the rule of law in Hong Kong and will continue to take forward our constitutional development in accordance with the Basic Law. We will restore our fiscal balance to foster an environment conducive to continued economic growth and success. We are committed to maintaining a small but responsive and accountable government, and a permanent, meritocratic, professional, politically neutral and clean civil service.”

### **Our Mission**

7. The Department of Justice will play a key role in helping policy bureaux to implement their initiatives in a lawful and constitutional manner. The mission of the Department of Justice is to uphold the rule of law, provide efficient and effective legal services to the Hong Kong Special Administrative Region Government, to conduct criminal prosecutions effectively and fairly,

and to maintain and improve the present legal system. The work of the Department of Justice therefore underpins the initiatives that are described in the whole Policy Agenda Booklet.

### **Rule of law**

8. My department plays a key role in maintaining the rule of law. For example –

- (1) it advises whether any proposed government action can be achieved under the current law and, if not, on other lawful ways forward (such as by legislating or modifying the proposal);
- (2) it advises whether proposed policies or legislation are consistent with human rights guarantees and other provisions in the Basic Law – if they are not, the policies or legislation will not go forward;
- (3) it ensures that prosecution decisions are made in accordance with fair and transparent policies, and that prosecutions are conducted fairly and effectively.

9. My department also advises on constitutional developments. For example, in the year ahead we will assist in legislative amendments needed in respect of the forthcoming rural elections, and elections for District Councils and for the Legislative Council. We will also help with measures to facilitate the development of political parties and political groups. Needless to say, we will continue to be involved in the proposals to implement Article 23 of the Basic Law.

### **Legal services to the HKSARG**

10. The legal services provided by my department to the SAR

Government extend beyond constitutional matters to all areas of government.

11. We will contribute to **Effective Governance**, for example, by –
  - ◆ advising on lawful ways of reducing Civil Service expenditure
  - ◆ drafting budget legislation, further legislation against terrorism and transnational organized crimes and legislation on soccer betting
  - ◆ participating in negotiations with the Mainland and other jurisdictions for bilateral legal co-operation in criminal matters
  
12. We will contribute to a **Vibrant Economy**, for example, by –
  - ◆ assisting to resolve legal issues relating to the co-location of immigration and customs facilities
  - ◆ providing legal advice on all governmental infrastructure projects
  - ◆ advising on legal reforms needed to maintain Hong Kong's position as an international financial centre and to enhance corporate governance
  - ◆ advising on WTO aspects of the proposed CEPA with the Mainland
  - ◆ assisting in developing Hong Kong as a regional centre for legal services and dispute resolution
  - ◆ assisting Hong Kong lawyers in gaining opportunities from business in the Mainland
  
13. We will contribute to a **Caring and Just Society**, for example,  
by –

- ◆ drafting legislation relating to adoption, smokeless workplaces and public places, and misleading and untruthful health claims
- ◆ advising on the government's obligations under six major human rights treaties

14. We will help to develop **Enlightened People with a Rich Culture**, for example, by –

- ◆ continuing to promote reforms in legal education and to establish a new Standing Committee on Legal Education and Training
- ◆ advising on the government's obligations under the International Covenant on Social, Economic and Cultural Rights

15. We will contribute to **Environmentally Responsible Development**, for example, by –

- ◆ drafting appropriate provisions in franchise agreements and contracts for public works projects
- ◆ drafting necessary improvements to legislation on building control, building safety and town planning

### **Improving the legal system**

16. My department's policy responsibility relates to the maintenance and improvement of the legal system. In addition to the work we are doing on legal education and developing Hong Kong as a legal services centre, we will also be –

- ◆ commissioning socio-legal research into the unmet need for legal services

- ♦ continuing a dialogue with the Law Society and the Bar Association on higher rights of audience; and looking into the suitability of introducing conditional fees

We are making progress on planning the socio-legal research into the unmet need for legal services. If Members agree, I shall invite Mr Allcock to talk briefly about this after I have finished with my Opening Statement.

### **Other work**

17. In addition to the areas of work I have highlighted, the Department of Justice provides legal advice and services on a wide range of matters. The paper submitted to this Panel on 25 November 2002 contains further information on these.

### **Conclusion**

18. Madam Chair, you will see therefore that the work of the Department of Justice is closely knitted into the Government's Policy Agenda although our initiatives may not form separate items in the Policy Agenda. We will continue to co-operate and support other bureaux and departments in the implementation of the Policy Agenda.

19. I and my colleagues will be happy to answer any questions that you or members of the Panel would like to raise.