

Bureau Serial No.

SJ1

Question Serial No.

0683

Examination of draft Estimates of Expenditure 2000-01
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Head 92 Department of Justice Subhead(No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

- (A) Can the Government provide details on the percentage of prosecution work briefed out to private counsel amongst all proceedings in the following courts -
- (1) Court of Final Appeal;
 - (2) Court of Appeal;
 - (3) Court of First Instance;
 - (4) District Court; and
 - (5) Magistrates' Court?
- (B) What are the criteria for briefing out prosecution work to private counsel instead of assigning counsel of the Prosecutions Division? How much expenditure will be required on briefing out prosecution work?
- (C) Are there any specific measures to be taken in 2000-2001 to enhance the ability of the in-house counsel in conducting prosecutions in various levels of courts? How much expenditure will be involved?

Asked by : Hon Cyd HO Sau-lan

Reply :

- (A) The percentages of prosecution work briefed out to private counsel in 1999 in different levels of court are as follows –
- | | |
|----------------------------------|-------|
| (i) Court of Final Appeal | 7.3% |
| (ii) Court of Appeal | 0% |
| (iii) Court of First Instance | 10.0% |
| (iv) District Court | 41.1% |
| (v) Magistrates' Court | |
| - in place of Government Counsel | 31.5% |
| - in place of Court Prosecutors | 0.5% |

- (B) The Department has not set a fixed ceiling for briefing out. The actual amount of work to be briefed out will necessarily be determined by various factors, including the workload, the availability of counsel and the nature of the cases. In 2000-2001, it is estimated that an amount of \$66m will be required to meet the expenditure on briefing out.
- (C) The Department recognises the need to keep prosecutors up-to-date with developments in the areas of legislation, case law and procedure. In 2000, there are plans to conduct 20 in-house seminars for our counsel to enhance their advocacy and professional knowledge. There will be 22 workshops/seminars aimed at sharpening the skills of our bilingual counsel in using Chinese in court. Two 12-week Criminal Advocacy Courses will be organized for legal trainees and counsel newly posted to the Prosecutions Division, which cover lectures and practical experience of prosecuting in Magistracies. Junior counsel will be assigned on rotation as juniors in trials and appeals to give them direct exposure to advocacy at higher levels. Since these are in-house training programmes, the Department will not incur any extra expenditure.

Apart from running in-house training, the Department will also send counsel to attend the Advanced Legal Education Courses organized by the Hong Kong Bar Association and the workshops organized by the Advocacy Institute of Hong Kong. A provision of \$100,000 has been included under the departmental Training Vote to meet the necessary expenditure for about 50 training places.

Signature _____

Name in block letters Mrs Pamela TAN
Director of Administration

Post Title and Development

Date 20 March 2000

Bureau Serial No.

SJ2

Question Serial No.

0684

Examination of draft Estimates of Expenditure 2000-01

**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Head 92 Department of Justice Subhead(No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

- (A) Please provide the number of Court Prosecutors in 1998 and 1999. How many of them have attained professional qualifications?
- (B) The number of court days undertaken by Counsel instructed to prosecute in Magistrates' Court in place of Court Prosecutors dropped drastically from 937 days in 1998 to 73 days in 1999. Were there any reasons for that? Were there any assessments on its impact on the defendants?

Asked by : Hon Cyd HO Sau-lan

Reply :

- (A) There were 115 Court Prosecutors (CPs) in 1998 and 113 in 1999. Ten of them have been admitted to the Bar. In addition, there were 21 CPs who have already obtained a law degree.
- (B) There were four main reasons for the drop in the number of court days undertaken by private counsel in place of CPs -
- (i) Decrease in caseload
The caseload dropped from 280,414 in 1998 to 237,044 in 1999. As such, the manpower of CPs is sufficient to manage the workload and the necessity of briefing fiat counsel in place of CPs is diminishing.
- (ii) Decrease in the number of courts in operation
In 1998, the number of courts in operation in Magistracies was 64, but the figure dropped to 57 in 1999. Owing to the reduction in the number of courts in operation, the number of court days undertaken by Counsel also decreased accordingly.

Bureau Serial No.

SJ3

Question Serial No.

0685

Examination of draft Estimates of Expenditure 2000-01

**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Head 92 Department of Justice Subhead(No. & title) :

Programme: (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question : Regarding the Adaptation of Laws Programme, the Government has indicated that there are 42 remaining Ordinances that require further deliberation and studies on the policy issues. What are these 42 Ordinances and the details of the policy issues involved? When is the drafting work in respect of the adaptation of these 42 Ordinances expected to be completed? What will be the expenditure involved?

Asked by : Hon Cyd HO Sau-lan

Reply :

The chapter numbers and short titles of the 42 Ordinances that require further policy deliberation are in the attached list. The main reason for withholding adaptation of the 42 Ordinances is that these Ordinances contain certain references and provisions that cannot be adapted without further deliberation on policy implications arising from adaptation. These references and provisions include the following –

- (a) references to “Her Majesty’s Forces” and other military references;
- (b) provisions that bind the “Crown”;
- (c) provisions relating to Article 23 of the Basic Law; and
- (d) provisions relating to the proceedings against the “Crown”.

The drafting work in respect of the adaptation of these 42 Ordinances will commence immediately after the policy issues have been resolved. It is estimated that a few months will be needed for the drafting of the relevant Adaptation of Laws Bills.

The drafting work will be absorbed by the existing resources of the Law Drafting Division. No additional expenses will be involved.

Signature _____

Name in block letters Mrs Pamela TAN

Director of Administration

Post Title and Development

Date 20 March 2000

List of 42 ordinances that require further deliberation on policy implications arising from adaptation

Item	Chapter No.	Short Title
1	4	High Court Ordinance
2	6	Bankruptcy Ordinance
3	8	Evidence Ordinance
4	9	Judgments (Facilities for Enforcement) Ordinance
5	21	Defamation Ordinance
6	23	Law Amendment and Reform (Consolidation) Ordinance
7	76	Recognition of Trusts Ordinance
8	98	Post Office Ordinance
9	106	Telecommunication Ordinance
10	115	Immigration Ordinance
11	122	Audit Ordinance
12	179	Matrimonial Causes Ordinance
13	201	Prevention of Bribery Ordinance
14	204	Independent Commission Against Corruption Ordinance
15	252	Enforcement of Rights (Extension of Time) Ordinance
16	257	Perpetuities and Accumulations Ordinance
17	284	Misrepresentation Ordinance
18	300	Crown Proceedings Ordinance
19	311	Air Pollution Control Ordinance
20	314	Occupiers Liability Ordinance
21	317	Industrial Training (Construction Industry) Ordinance
22	319	Foreign Judgments (Reciprocal Enforcement) Ordinance
23	336	District Court Ordinance
24	338	Small Claims Tribunal Ordinance
25	347	Limitation Ordinance
26	354	Waste Disposal Ordinance
27	358	Water Pollution Control Ordinance
28	360	Pneumoconiosis (Compensation) Ordinance
29	369	Merchant Shipping (Safety) Ordinance
30	377	Civil Liability (Contribution) Ordinance
31	400	Noise Control Ordinance
32	429	Parent and Child Ordinance
33	434	Merchant Shipping (Limitation of Ship-owners Liability) Ordinance
34	437	Foreign Corporations Ordinance
35	460	Security and Guarding Services Ordinance
36	469	Occupational Deafness (Compensation) Ordinance
37	484	Hong Kong Court of Final Appeal Ordinance
38	500	Carriage by Air Ordinance
39	521	Official Secrets Ordinance
40	1034	Masonic Benevolence Fund Incorporation Ordinance
41	1055	Zetland Hall Trustees Incorporation Ordinance
42	1133	The Methodist Church, Hong Kong, Incorporation Ordinance

Bureau Serial No.

SJ4

Question Serial No.

0686

Examination of draft Estimates of Expenditure 2000-01
**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Head 92 Department of Justice Subhead(No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

- (A) On the use of Chinese in prosecution work, can the Government provide details on the percentage of cases conducted in Chinese amongst all the proceedings in the following courts -
- (1) Court of Final Appeal;
 - (2) Court of Appeal;
 - (3) Court of First Instance;
 - (4) District Court; and
 - (5) Magistrates' Court?
- (B) Apart from providing further training to in-house counsel in conducting court proceedings in Chinese, what specific measures will the Government take in 2000-2001 to promote the wider use of Chinese in prosecution work and how much expenditure will be involved?

Asked by : Hon Cyd HO Sau-lan

Reply :

- (A) The percentages of cases conducted in Chinese in different levels of courts in 1999 are given below –
- | | |
|--|-------|
| (i) Court of Final Appeal | 0% |
| (ii) Court of Appeal | 12.8% |
| (iii) Court of First Instance (Magistracy Appeals) | 41.2% |
| (iv) Court of First Instance (Trials) | 12.0% |
| (v) District Court | 19.8% |
| (vi) Magistrates' Court | 70.4% |
- (B) Apart from providing further training to in-house counsel in conducting court proceedings in Chinese, the Department has taken the following measures to promote the wider use of Chinese in prosecution work –

Bureau Serial No.

SJ5

Question Serial No.

1270

Examination of draft Estimates of Expenditure 2000-01

**CONTROLLING OFFICER'S REPLY TO
WRITTEN QUESTION**

Head 92 Department of Justice Subhead(No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question : Has any work been initiated on the implementation of Article 23 of the Basic Law? In the past 12 months, what financial resources have been spent on this and what has been achieved? What is the detailed plan for the work in the coming year?

Asked by : Hon LAU Chin-shek, JP

Reply :

At the request of the Security Bureau, the Department has carried out preliminary legal work in relation to the offences listed in Article 23 of the Basic Law. The work involved researching the laws and reform proposals of other jurisdictions, and studying relevant human rights principles. The research was carried out within the existing resources of the Legal Policy Division. The officers involved in the research were mainly Senior Government Counsel and Government Counsel in the Basic Law Unit and the Human Rights Unit, supervised by the Directorate officers of the Units. As a result of the work carried out, the Department is able to supply Security Bureau with comparative materials and human rights advice. In the coming year, the Department will continue to assist the Security Bureau in its work on this subject.

Signature _____

Name in block letters Mrs Pamela TAN
Director of Administration

Post Title and Development

Date 20 March 2000

