

NOTE FOR FINANCE COMMITTEE

Legal expenses for briefing out cases not covered by approved fee schedules (2024-25)

INTRODUCTION

At the Finance Committee meeting on 14 October 1981, members delegated to the then Attorney General (now Secretary for Justice) and the Solicitor General the authority to negotiate and approve payment of higher fees for engaging barristers in private practice in cases of unusual complexity or length; and fees for professionals on matters briefed out which are not covered by the approved fee schedule. At the same meeting, the Government also agreed to provide members with periodic reports indicating the levels of fees so negotiated and approved. This note reports on the expenditure incurred by the Department of Justice (DoJ) during the financial year of 2024-25 on briefing out cases not covered by the approved fee schedules.

2. DoJ has been briefing out some criminal and civil cases according to approved fee schedules¹ or at negotiated fees in specified circumstances in order to meet operational needs. In general, DoJ may resort to briefing out when –

- (a) there is a need for expert assistance where the requisite skill is not available in DoJ;
- (b) there is no suitable in-house counsel to appear in court for the Hong Kong Special Administrative Region;
- (c) the scale, complexity, quantum and length of a case so dictate;

/(d)

¹ Under the current arrangement, adjustments to prosecution fees and duty lawyer fees are made administratively by the Director of Administration with reference to the prevailing rates of criminal legal aid fees which are approved by the Legislative Council in accordance with the Criminal Procedure Ordinance (Cap. 221).

- (d) it is appropriate to obtain independent outside counsel's advice or services so as to avoid any possible perception of bias or conflict of interests;
- (e) there is a need for continuity and economy, e.g. where a former member of DoJ who is uniquely familiar with the subject matter is in private practice at the time when legal services are required; and
- (f) there is a need for advice or proceedings for cases involving members of DoJ.

In addition, where appropriate, some criminal cases are briefed out with the objective of promoting a strong and independent local Bar by providing work, particularly to the junior Bar, and of securing experienced prosecutors to supplement those within DoJ.

Encl. 1 3. The approved schedules of maximum fees for briefing out criminal cases are at Enclosure 1.

LEGAL EXPENSES NOT COVERED BY APPROVED FEE SCHEDULES FOR THE YEAR ENDED 31 MARCH 2025

4. During the year ended 31 March 2025, DoJ paid out a total of \$180,413,880 as briefing out expenses. The breakdown of expenditure under *Subhead 000 Operational expenses* is as follows –

	\$
Payment for hire of legal services and related professional fees	
(a) Briefing out of cases according to approved fee schedules	108,657,845
(b) Briefing out of cases at fees not covered by the approved fee schedules	53,002,200
	<u>161,660,045</u>
Payment for legal services for construction dispute resolution	
(c) Briefing out of construction dispute resolution cases at fees not covered by any approved fee schedules ²	18,753,835
Total expenditure for 2024-25	<u>180,413,880</u>

/5.

² There is no approved fee schedule for construction dispute resolution because it is not possible to fix fees for construction or other civil cases which vary by complexity and nature.

5. Regarding paragraph 4(b) above, DoJ briefed out various matters which were not covered by the approved fee schedules to lawyers, accountants, expert witnesses, consultants and appointed arbitrators/mediators. The amount of \$53,002,200 incurred in the financial year of 2024-25 involved 317 cases. Please refer to Enclosure 2 for further information.

Encl. 2

6. As regards paragraph 4(c) above, DoJ briefed out various matters which were not covered by any approved fee schedules to private practitioners engaged to undertake specialised work relating to construction dispute resolution. The amount of \$18,753,835 incurred in the financial year of 2024-25 involved 15 cases. Please refer to Enclosure 3 for further information.

Encl. 3

Department of Justice
December 2025

Enclosure 1 to FCRI(2025-26)13

Approved schedules of maximum fees for briefing out criminal cases

		For cases briefed out from 17 March 2023 to 12 December 2024	For cases briefed out from 13 December 2024 onwards
		\$	\$
(a)	Court of Appeal		
(i)	brief fee ^{Note}	56,160	58,350
(ii)	refresher fee per day ^{Note}	28,080	29,170
(b)	Court of First Instance		
(i)	brief fee ^{Note}	42,110	43,750
(ii)	refresher fee per day ^{Note}	21,040	21,860
(iii)	conference per hour	2,160	2,240
(iv)	brief fee for plea and sentence	7,480	7,770
(c)	District Court		
(i)	brief fee ^{Note}	28,010	29,100
(ii)	refresher fee per day ^{Note}	13,990	14,530
(iii)	conference per hour	1,770	1,830
(iv)	brief fee for plea and sentence	3,490	3,620
(d)	Magistrates' Court		
(i)	brief fee	16,810	17,460
(ii)	refresher fee per day	8,390	8,710
(iii)	brief fee on daily basis	12,530	13,010

^{Note} Brief fees and refresher fees are subject to a 10% increase on the base figure for each of the second to the sixth defendant/appellant.

Hire of legal services and related professional fees

**Breakdown of cases briefed out
at fees not covered by the approved fee schedules in 2024-25**

	Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
Civil			
1.	<p>The Hong Kong Journalists Association (HCAL 559/24)</p> <p>Fees and expenses incurred in engaging two local Senior Counsel (SC) and one local counsel to advise and represent the Commissioner for Transport in defending the Hong Kong Journalists Association's judicial review application before the Court of First Instance against the refined arrangements for issuing Certificate of Particulars of Vehicle.</p> <p>The substantive hearing was held on 24 September 2024. Judgment was reserved.</p>	3	3,169,850
2.	<p>Hong Kong Golf Club – For Interested Party (HCAL 1258/23)</p> <p>This is a judicial review application against Director of Environmental Protection (DEP)'s decision in approving with conditions the Environmental Impact Assessment Report submitted by the Civil Engineering and Development Department (CEDD) in relation to the Technical Study on Partial Development of Fanling Golf Course Site.</p> <p>Fees and expenses incurred in engaging one local SC and two local counsel to advise and represent CEDD, the Interested Party. (For the fees and expenses incurred for the representation of DEP, the Respondent, see item (3) below.)</p> <p>Judgment was handed down on 2 December 2024, which allowed the judicial review on some of the grounds advanced by the Applicant and quashed the approval decision. Appeals were lodged by CEDD and DEP on 20 January 2025. The appeals are fixed to be heard on 3 - 5 March 2026.</p>	3	3,077,230

	Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
3.	Hong Kong Golf Club – For Respondent (HCAL 1258/23)	2	2,271,315
<p data-bbox="225 517 973 712">This is a judicial review application against DEP’s decision in approving with conditions the Environmental Impact Assessment Report submitted by CEDD in relation to the Technical Study on Partial Development of Fanling Golf Course Site.</p> <p data-bbox="225 757 973 952">Fees and expenses incurred in engaging one local SC and one local counsel to advise and represent DEP, the Respondent. (For the fees and expenses incurred for the representation of CEDD, the Interested Party, see item (2) above.)</p> <p data-bbox="225 996 973 1227">Judgment was handed down on 2 December 2024, which allowed the judicial review on some of the grounds advanced by the Applicant and quashed the approval decision. Appeals were lodged by CEDD and DEP on 20 January 2025. The appeals are fixed to be heard on 3 - 5 March 2026.</p>			
4.	Appeal to the Board of Review referred to in section 65 of the Inland Revenue Ordinance (Cap. 112) (the Board) by a company (MIS 587/22)	4	2,199,444
<p data-bbox="225 1473 973 1624">Fees and expenses incurred in engaging one local SC, one local counsel, an accounting expert and a valuation expert in resisting a tax appeal before the Board of Review.</p> <p data-bbox="225 1668 973 1742">The hearing of the appeal was held on 2 - 5 July and 23 August 2024 and decision is reserved.</p>			
5.	Fees and expenses incurred in 306 other civil cases under \$1.5 million^{Note} each	-	34,581,801
Sub-total: 310 cases			45,299,640

^{Note} As per FCRI(2021-22)15, details of cases with briefing out expenses at \$1.5 million or above per case will be reported to the Finance Committee for information. We will continue to keep in view and consider adjustment to the reporting threshold as appropriate.

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
Criminal		
6. HKSAR v Sit Yi Ki & two others (HCCC 115/2021)	3	3,334,969
<p>This is a case of conspiracy to carry out false trading which was investigated by the Securities and Futures Commission and was the first such case to be tried in Court of First Instance.</p> <p>The three defendants (D1-3) were members of a syndicate which devised a five-stage scheme to create a false or misleading appearance of active trading in the shares of Ching Lee Holdings Limited (Ching Lee) between March and September 2016.</p> <p>A market expert opined that the high-volume trading strategy adopted by the syndicate made no economic sense and had the effect of raising Ching Lee's share price and creating the impression that the shares were widely traded and liquid. The false trading scheme generated a combined profit of around HK\$125 million and caused a trading loss of about HK\$101 million to the other market participants.</p> <p>Taking into account the complex nature of the case, one local SC and one local counsel were briefed. An overseas market expert was also engaged as expert witness. All defendants were convicted as charged.</p>		
7. HKSAR v Lai Chee Ying & seven others (FACC 2-6/2024 on appeal from CACC 84/2021)	2	2,472,000
<p>This is a case concerning an unauthorised assembly which took place on 18 August 2019. The defendants were jointly charged with “organising” an unauthorised assembly” (Charge 1) and “knowingly taking part in an unauthorised assembly” (Charge 2). They were convicted on both charges after trial and subsequently applied for leave to appeal against convictions and/or sentences.</p>		

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>On 14 August 2023, the Court of Appeal allowed the defendants' appeal against conviction on Charge 1 but dismissed their applications for leave to appeal against conviction and sentence on Charge 2. Subsequently, by a judgment dated 8 December 2023, the Court of Appeal, inter alia, granted a certificate to the defendants in relation to a point of law. By its determination dated 5 March 2024, the Appeal Committee granted leave to appeal to the defendants on that point of law.</p> <p>To ensure consistency, one local SC and one local counsel who had been briefed as the trial prosecuting counsel continued to be briefed for the appeal.</p> <p>By a judgment handed down on 12 August 2024, the Court of Final Appeal unanimously dismissed the appeal.</p>		1,895,591
<p>8. Fees and expenses incurred in five other criminal cases under \$1.5 million^{Note} each</p>		1,895,591
<p>Sub-total: Seven cases</p>		7,702,560
<p>Total expenditure (317 cases)</p>		53,002,200

Legal services for construction dispute resolution

**Breakdown of cases briefed out
at fees not covered by any approved fee schedules in 2024-25**

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
<p>1. Hong Kong-Shenzhen Western Corridor – Contract Nos. HY/2002/21 and CE 51/2001 Arbitrations/court proceedings between the Government of the Hong Kong Special Administrative Region (the Government) and Gammon-Skanska-MBEC Joint Venture, VSL Hong Kong Limited and Ove Arup & Partners HK Limited</p> <p>Fees and expenses incurred in relation to appointing an arbitrator as well as engaging a solicitors' firm, a London King's Counsel, a London counsel, a local counsel, a bridge expert, a quantum expert, a sampling expert, a supervision expert, an expert in prestressing tendons and maintenance, a material expert, an arbitration centre and a transcription service provider in the arbitrations and court proceedings in respect of claims brought by the Government against the parties involved in the design, construction and supervision of the grouting works for the external prestressed tendons of the bridge.</p>	13	7,354,862
<p>2. Construction of pressure management and district metering installation under water intelligent network – Contract No. 2/WSD/18 Arbitration between China Geo-Concentric JV and the Government</p> <p>Fees and expenses incurred in relation to engaging a solicitors' firm and a local counsel in the arbitration proceedings in respect of the claims brought by the contractor against the Government for the construction of water pressure management and metering installations.</p>	2	1,653,025

Brief description of case/matter	Number of counsel/ legal firms/ other professionals involved	Expenditure \$
3. Fees and expenses incurred in 13 other construction dispute resolution cases under \$1.5 million ^{Note} each	-	9,745,948
Total expenditure (15 cases)		18,753,835

^{Note} As per FCRI(2021-22)15, details of cases with briefing out expenses at \$1.5 million or above per case will be reported to the Finance Committee for information. We will continue to keep in view and consider adjustment to the reporting threshold as appropriate.