

**Replies to initial written questions raised by Finance Committee Members
in examining the Estimates of Expenditure 2005-06**

Controlling Officer: Director of Administration and Development

Session No. : 12

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Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ001

Question Serial No.

0086

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

Under this programme, the estimated provision for 2005-06 will be cut by 4%, despite a sharp increase in the performance indicators including the number of bills and subsidiary legislation gazetted, pages of bills/subsidiary legislation gazetted when compared with those of 2004. Will the Administration inform us of the measures to ensure that the cut in the estimated provision will not have a negative impact on law drafting work?

Asked by : Hon. FUNG Kin-kee, Frederick

Reply :

It is expected that there will be a shift of focus on legislative drafting work in 2005 from that of 2004 (which was quite a unique year accommodating the last session before the dissolution of the Legislative Council when Members focused on scrutiny of bills to be passed before the dissolution). Compared with 2004, the number and pages of bills and subsidiary legislation gazetted in 2005 are estimated to increase while the total number of pages of Committee Stage Amendments gazetted in 2005 will decrease. We do not expect that overall there will be any significant increase of workload in the Law Drafting Division (LDD) in 2005. The provision for 2005-06 for the Law Drafting Programme is \$3.4 million (4%) lower than the revised estimates for 2004-05. This is mainly due to a net reduction in salary provision after taking into account the full-year effect of the 2005 civil service pay cut and the anticipated decrease in general departmental expenses. We are confident that this reduction will not have a negative impact on law drafting work.

Name in block letters

Miss Annie Tam

Director of Administration
and Development

Post Title

Date

9 April 2005

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ002

Question Serial No.

0722

Head : 92 Department of Justice Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

With regard to the Departmental Expenses under Subhead 000 for 2004-05, please provide the particulars of the provision for remuneration for special appointments.

Asked by : Hon. NG Margaret

Reply :

The provision of \$3,530,000 for remuneration for special appointments in 2004-05 under Subhead 000 is intended to cover the emoluments of the Secretary for Justice, which includes salaries and a non-accountable entertainment allowance.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ003

Question Serial No.

0723

Head: 92 Department of Justice Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

It is mentioned that there will be a net deletion of one permanent post in 2005-06, please provide details on the post to be deleted and the amount involved.

Asked by : Hon. NG Margaret

Reply :

One Law Clerk vacancy arising from normal retirement will be deleted in 2005-06. The full year effect of the post is \$250,380.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ004

Question Serial No.

0724

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

In 2005-06, the Division will continue to take forward the comprehensive review of legal education and training. Please provide details of the latest development, the estimated expenditure and the staffing involved.

Asked by : Hon. NG Margaret

Reply :

After its two Australian consultants published their comprehensive report in August 2001, the Steering Committee on the Review of Legal Education and Training ("the Steering Committee") proceeded to study the recommendations set out in the report, having regard to the submissions made in response to it.

In respect of the LLB programme, the Steering Committee endorsed the recommendation of the consultants that the LLB should be extended from three to four years in order to achieve its proper objectives. With the approval of the University Grants Committee, the new course commenced at the University of Hong Kong and the City University of Hong Kong in September 2004.

As regards the PCLL programme, the Steering Committee considered that it should be subject to major reforms in various areas including curriculum contents, and teaching and assessment methods. The University of Hong Kong and the City University of Hong Kong have established PCLL Academic Boards (with representatives from the two legal professional bodies, the Judiciary and the Department of Justice) to oversee such reforms. Since 2002, significant reforms have been made. For instance, there has been a move towards greater emphasis on training in skills (such as advocacy) and less teaching of substantive law. Further, in line with the consultants' recommendation that the legal practice course be available in a part-time mode, the University of Hong Kong will introduce a part-time PCLL in 2005-06.

The Steering Committee has agreed that the improvement of English and Chinese language standards is a key issue and that measures need to be agreed to ensure that standards are raised. In this regard, it recommended that, as from 2003, students who wish to enrol for the PCLL course must have their English proficiency assessed under the International English Language Testing System (“IELTS”). For entry to the PCLL in 2004-05, the recommended benchmark for the overall IELTS score is 7 (on a scale of 1 to 9).

In the light of the reforms to the LLB and PCLL programmes, a conversion course is being planned for overseas law students seeking to enter the PCLL in, or after, the year 2008. Its main objective is to ensure that overseas law graduates who seek to enter the PCLL are adequately prepared in Hong Kong laws for the skills training in the PCLL.

In order to keep up the momentum of reform of the legal education and training system, and to keep under review the future direction of that system, legislation has been enacted to establish a new Standing Committee on Legal Education and Training (“the new Standing Committee”). Meanwhile, the Steering Committee is continuing to meet.

The Chinese University of Hong Kong is planning to create a Law School in 2005-06. Members of the Steering Committee are showing a keen interest in this development. Provisions have been included in the Statute Law (Miscellaneous Provisions) Bill 2005 to provide for inclusion of representatives of the Chinese University of Hong Kong in the new Standing Committee. This will ensure that the proposed third Law School will be monitored by, and will participate in, the work of that committee in the same way as the existing Law Schools.

The Department of Justice’s involvement in these activities consists largely of the work of the Solicitor General, who chairs the Steering Committee. The Solicitor General is supported by counsel working in the Legal Policy Division. Costs of the involvement will be absorbed by the department, mainly through the Legal Policy Programme.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ005

Question Serial No.

0735

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

In 2005-06, the Division will continue to explore opportunities for the legal profession to provide services in the Mainland and assist in the implementation of arrangements, including Closer Economic Partnership Arrangement. In this connection, please provide details of the latest development, the estimated expenditure and the staffing involved.

Asked by : Hon. NG Margaret

Reply :

Since the Closer Economic Partnership Arrangement (CEPA) took effect on 1 January 2004, the Department of Justice (D of J) has followed closely its implementation in relation to legal services through liaison with the local professional bodies. In September 2004, the Secretary for Justice met representatives of local law firms which had set up representative offices in the Mainland, and representatives of the Bar Association, to discuss suggestions for developing the Mainland service market. These sessions proved to be useful for cross boundary exchange of views on the implementation of CEPA. The views collected from the local legal profession were duly reflected to the Ministry of Justice (M of J) for its consideration.

The Secretary of Justice and senior members of D of J from time to time have also met with officials of various Justice Departments or Bureaux and raised with them the problems encountered by the local legal profession in developing their practice in different provinces or municipalities in the Mainland. With a view to strengthening exchange of information and training, as well as monitoring effectively the implementation of CEPA, D of J has entered into co-operation agreements with M of J and seven provincial or municipal Justice Departments or Bureaux in Qingdao, Chongqing, Beijing, Nanjing, Shanghai, Zhejiang and Shenzhen.

With the contribution of the local legal profession, the second round of consultation with the Mainland on further liberalization measures under CEPA ended in August 2004, and the formal documents on CEPA II were concluded on 27 October 2004. Further liberalization measures, permitting Hong Kong legal practitioners to provide professional assistance on an individual case basis at the request of Mainland law firms without being subject to the requirement of first obtaining the Hong Kong legal consultant permit, came into effect on 1 January 2005.

D of J continues to help the local legal profession to explore opportunities for providing legal services in the Mainland. Since 1 January 2004 when CEPA came into force, three Hong Kong law firms (out of seven applications) have obtained approval to form associations with Mainland law firms, 30 applications have been lodged for a Certificate of Good Standing indicating intention to set up representative offices in the Mainland, nine additional local firms' representative offices have been set up in eight cities in the Mainland (currently there are 62 representative offices in 12 cities in the Mainland), and five Hong Kong practitioners have been registered with the Law Society of Hong Kong as consultants in Mainland law firms.

One of the breakthroughs made under CEPA is that Hong Kong permanent residents with Chinese citizenship are allowed to sit the Mainland legal qualifying examination and acquire Mainland legal professional qualification. At the State Judicial Examination held in September last year, 396 candidates from Hong Kong attended the 2-day examination held in Shenzhen, of whom four passed. M of J and D of J are working closely to explore the feasibility of having the forthcoming Examination for Hong Kong candidates conducted in Hong Kong this year.

Although no timeframe has yet been set for the commencement of the talks on CEPA III, D of J regularly seeks the views of the local legal professional bodies on the implementation of CEPA I and CEPA II and on further liberalization of the Mainland legal services market. The views collected have been and will continue to be reflected to the Mainland authorities. Up to this stage, the proposals received include the further relaxation of measures allowing Hong Kong law firms to form associations with Mainland law firms, and the ability Hong Kong residents to practise Mainland laws in the Mainland. D of J will maintain close liaison with the local legal professional bodies as well as the central authorities in order to assist in the implementation of CEPA and exploring further opening up of the legal services market in the Mainland.

The staff costs and other related expenses will be absorbed by the department, mainly through the Legal Policy Programme.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ006

Question Serial No.

0744

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

With regard to the provision of legal advice in respect of the implementation of the Basic Law and the development of our new constitutional order, will the Administration provide details on the nature/specific areas of the advice being sought and the staffing and expenditure involved in 2004-05?

Asked by : Hon. NG Margaret

Reply :

Since the Basic Law is the legal foundation of all systems and policies to be practised in the HKSAR, the Government is under a duty to ensure that its actions are in compliance with the Basic Law. In this regard, the Basic Law Unit and the Human Rights Unit under the Legal Policy Division play a significant role by providing legal advice on the Basic Law and its interpretation to other Divisions within the Department as well as other Government agencies.

Given that the Basic Law is a comprehensive 160-article constitutional document laying down inviolable principles governing the operation of the HKSAR and its relationship with the Central Authorities, the advice sought is extremely varied in nature and touches on almost every aspect of the new regime. The number of complicated legal issues dealt with by the Legal Policy Division has increased significantly over the years.

In 2004-05, these issues included right of abode issues under Article 24; many other human rights issues, with particular emphasis on racial discrimination; the powers/functions of the Chief Executive; powers/functions and rules of procedure of the Legislative Council; the provisions relating to public servants under Articles 99 to 103; economic provisions under Chapter V (e.g. property right protection under Article 105 (read with Article 6)); provisions within Chapter VI (e.g. education); the external affairs power of the HKSAR under Chapter VII; the power of interpretation of the Standing Committee of the National People's Congress under Article 158; and the constitutional developments of the HKSAR under Annex I and Annex II to the Basic Law.

The staff costs and other related expenses have been absorbed by the financial provision made available to the Legal Policy Programme.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ007

Question Serial No.

0745

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Regarding the seminars and training programmes organized for Mainland officers in order to develop and enhance mutual understanding of the legal systems in HKSAR and the Mainland, please set out the topics of the seminars and training programmes provided in 2004-05 as well as the expenditure involved. On the other hand, how much provision will be provided for launching programmes to promote the rule of law and Hong Kong's legal system to the citizens of Hong Kong and to the international community during 2005-06 and what are those programmes?

Asked by : Hon. NG Margaret

Reply :

In 2004-05, the Legal Policy Division (LPD) conducted 44 briefing sessions for visiting Mainland officials and legal professionals. The main themes were to explain the legal system of Hong Kong, the rule of law and the functions of the Department of Justice (D of J). In addition, D of J assisted in the holding of seminars on legal services organized by the Administration or other organizations. Some examples are the Hong Kong Week held in various provinces and municipalities in the Mainland during the year; Chongqing-HK week held in Chongqing in May 2004; the 8th Symposium on Cooperation between Beijing & Hong Kong held in Hong Kong in September 2004; the 4th Annual China Lawyers Forum held in Hefei in October 2004; and the Tianjin-HK Week held in Tianjin in October 2004. The Secretary for Justice attended and spoke on some of these seminars. The costs incurred by D of J were absorbed by the financial provision made available for the Legal Policy Programme.

In 2004-05, D of J continued with the Common Law Training Programme (the Training Programme) for Mainland officials as part of its effort to promote better understanding of the common law system in Hong Kong. These Mainland officials are attending the Postgraduate Diploma in Common Law Programme conducted by the Law Faculty of the University of Hong Kong which lasts for 9 months. The University offers a variety of common law subjects for trainees, who come from departments or authorities in the Mainland with different legal backgrounds.

On completion of the academic Diploma Programme, the trainees will be attached to different law-related departments of the HKSAR or public organizations for three months. During this practical training period, the Mainland officials could acquaint themselves with the role and functions of relevant departments and organizations and develop their working relationship with these departments. The Training Programme has been recognized as a useful tool in building a pool of Mainland officials who are familiar with common law principles and practices. In the academic year 2004-05, 13 Mainland officials participated in the Training Programme which is due to end in September 2005.

An amount of \$4.2 million was provided for the 2004 intake of the Training Programme from September 2004 to August 2005.

In addition, under the cooperation agreements signed between D of J and eight Departments/Bureaux of Justice (JD/JB) in the Mainland, D of J has arranged short term attachment programmes for their officials. The two weeks attachment programme took place between 10 – 22 January 2005. Ten officials from five JD/JB were attached to D of J. They were given briefings on the work of various law divisions of D of J and visited different government law departments, the legal professional bodies and other public organizations. The participating officials considered that the programme provided them with the opportunity to gain a better understanding of the legal system and the legal profession in Hong Kong. The costs of the programme were borne by the JD/JB of the Mainland.

We will continue our ongoing effort to promote the rule of law and Hong Kong's legal system to the citizens of Hong Kong and the international community. In 2005-06, D of J will continue to make available promotional materials informing the public about legal issues and the new constitutional order. These help to strengthen the community's understanding and appreciation of the rule of law in the HKSAR. These materials include, in particular, the 'Legal System in Hong Kong', which aims to explain how the legal system works in Hong Kong. The updated version of that is available onto the department's website. The Basic Law Bulletin is also accessible from the department's website. Hard copies of the Basic Law Bulletin will be sent to overseas Hong Kong Economic and Trade Offices through the Information Services Department. The costs of these activities will be absorbed by D of J.

D of J will continue to subsidise the cost of the promotional items, handouts and pamphlets of the Community Legal Services Centre Outreach Programmes. The aim of the programme is to promote legal education and awareness on the broadest level of the community and to strengthen the rule of law through lectures, group discussions and advice to members of the public on their rights and obligations, and their access to justice. Total cost for subsidizing the programme is \$0.3 million.

The Secretary for Justice and members of D of J will continue to brief influential overseas visitors about the rule of law and legal system in Hong Kong. Overseas speaking engagements will also be conducted. The costs will be absorbed by the Department.

D of J will continue to monitor a project it has commissioned to establish a bilingual community legal information website. This will enable members of the public in Hong Kong to have greater access to free legal information. The project began on 1 April 2004 and is expected to take three years to complete. The website will provide the public with free information on areas of the law that have a direct bearing on their daily life and will act as a portal to relevant local websites providing community-based legal information. An initial version of the website is expected to be launched in early May 2005. Total cost of the project is \$3.18 million.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ008

Question Serial No.

0746

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

With regard to the civil proceedings brought against the Government in 2004-05, please provide the list of proceedings by category according to their nature. Please also set out the amounts involved and the related court costs in these cases.

Asked by : Hon. NG Margaret

Reply :

Civil proceedings brought against the Government for the period from 1 April 2004 to 29 March 2005 can be classified as follows :

	No. of Cases
Rating/Government Rent Appeal and Tax Cases	1 084
Damages claims (contracts, torts and others)	136
Personal Injuries and Employees' Compensation Claims	140
Judicial Review	78
Land Resumption and other Statutory Compensation Claims	42
Others (including Miscellaneous Statutory Appeals)	132
	<hr/> 1 612 <hr/>

The amounts involved in these cases are \$2,016 million. Out of these 1 612 cases, \$181,000 was paid by Government and \$453,808 was received by Government as court costs during the period from 1 April 2004 to 29 March 2005.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ009

Question Serial No.

0747

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

It is mentioned in Matters Requiring Special Attention in 2005-06 that measures will be implemented to enhance levels of appeal preparation. Please provide the details of the measures devised, and advise whether there will be any training programmes provided. If yes, please provide the details of these programmes and the expenditure involved.

Asked by : Hon. NG Margaret

Reply :

The Division will enhance levels of appeal preparation through : -

- (i) provision of training to counsel in appellate advocacy, the preparation of appeals, the preparation of written submissions and legal research. This will consist of one in-house seminar to be conducted by our senior appellate advocates, and one joint seminar with the Bar Association;
- (ii) the continuing provision of ongoing support to appellate counsel by ensuring that knowledge of the latest developments in the criminal law is readily available, through, for example, the Criminal Appeals Bulletin, which is currently published on a monthly basis. In addition, important appeals judgments are circulated to counsel; and
- (iii) the publication of a manual on criminal appeals, which will cover the practice and procedure of appeals and provide proforma documents and precedents on common topics and issues, to standardize and develop practice and procedure. This manual will be available to all counsel in the division.

The expenditure arising from the implementation of these measures will be met by the financial provision to be made available to the prosecutions programme.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ010

Question Serial No.

0748

Head : 92 Department of Justice Subhead (No. & title) : 234 Court Costs

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please provide details of Subhead 234 "Court Costs" for 2004-05.

Asked by : Hon. NG Margaret

Reply :

Details of payment of costs awarded against the Government in civil and criminal cases in 2004-05 out of Subhead 234 Court Costs are shown in the attached table.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Payment out of Head 92 Subhead 234 Court Costs for 2004-05

Client Department	Civil Cases	Criminal Cases
	\$'000	\$'000
Agriculture, Fisheries and Conservation Department	64	–
Buildings Department	2,938	1,754
Customs and Excise Department	3	1,974
Correctional Services Department	1,078	–
Department of Health	105	–
Department of Justice	37	–
Drainage Services Department	17,000	–
Electrical and Mechanical Services Department	608	630
Environmental Protection Department	440	1,727
Food and Environmental Hygiene Department	290	128
Fire Services Department	332	–
Government Logistics Department	11,547	–
Government Property Agency	54	–
GS – Financial Services and the Treasury Bureau (Financial Services)	6,012	–
GS – Security Bureau	484	–
Hong Kong Police Force	1,228	23,481
Housing Department	316	–
Highways Department	510	–
Independent Commission Against Corruption	2	10,171
Immigration Department	–	175
Inland Revenue Department	499	–
Labour Department	–	2,027
Lands Department	1,050	401
Leisure and Cultural Services Department	10,618	–
Marine Department	65	–
Planning Department	5,210	–
Post Office	300	–
Radio Television Hong Kong	171	–
Television and Entertainment Licensing Authority	1,305	–
Transport Department	941	–
Treasury	2	–
Water Supplies Department	300	–
Other departments (cases below \$50,000 each)	53	–
	<u>63,562</u>	<u>42,468</u>
Total (\$000)	<u>106,030</u>	

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ011

Question Serial No.

0827

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Under "Matters Requiring Special Attention in 2005-06", it is mentioned that the Division will improve the advisory system of the Trial Preparation Units and enhance levels of appeal preparation. What specific measures will be taken? What resources are involved?

Asked by : Hon. LI Kwok-ying

Reply :

To improve the advisory system of the Trial Preparation Units, the Prosecution Division has put in place the following measures :-

- (i) discussing with the Police the timely submission of case files and service of additional evidence;
- (ii) encouraging trial counsel to discuss cases with trial preparation counsel during preparation of cases;
- (iii) revising the Case Report Form to enable space for prosecuting counsel to provide feedback to the trial preparation counsel;
- (iv) introducing the Express Advisory System as a pilot scheme to facilitate the supply of advice to the Police in urgent and straightforward cases to be heard in the magistracy; and
- (v) streamlining the procedure for the preparation of summaries of facts in District Court Cases.

The Division will enhance levels of appeal preparation through :-

- (i) provision of training to counsel in appellate advocacy, the preparation of appeals, the preparation of written submissions and legal research. This will consist of one in-house seminar to be conducted by our senior appellate advocates, and one joint seminar with the Bar Association;

- (ii) the continuing provision of ongoing support to appellate counsel by ensuring that knowledge of the latest developments in the criminal law is readily available, through, for example, the Criminal Appeals Bulletin, which is currently published on a monthly basis. In addition, important appeals judgments are circulated to counsel; and
- (iii) the publication of a manual on criminal appeals, which will cover the practice and procedure of appeals and provide proforma documents and precedents on common topics and issues, to standardize and develop practice and procedure. This manual will be available to all counsel in the division.

No additional resources are required to implement the above measures.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ012

Question Serial No.

1007

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

During 2005-06, the Civil Division will continue to advise on the legal aspects of the West Kowloon Cultural District Project. Has the Administration assessed the impact of a possible delay or even shelving of the project on the Division's work and its estimated provision for 2005-06?

Asked by : Hon. LI Kwok-ying

Reply :

The Commercial Unit of Civil Division is coordinating the provision of legal advice by the Department of Justice on the West Kowloon Cultural District Project. Legal advice has been provided within the available resources. Any delay or shelving of this Project is unlikely to have any major impact on the work of the Unit or to affect the estimated provision.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ013

Question Serial No.

1008

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Regarding the legal services arrangement brought about by the implementation of Closer Economic Partnership Arrangement (CEPA), what specific advice has been given by the Legal Policy Division in different stages in the implementation of CEPA to different service sectors benefited under CEPA, and what are the details?

Asked by : Hon. LI Kwok-ying

Reply :

The Department of Justice (D of J), as the legal adviser of the HKSAR, is responsible for providing legal advice to policy bureaux and government departments. It does not provide legal advice to the private sector. However, since one of the functions of the Legal Policy Division (LPD) is to help to promote legal services, it has acted as the bridge between the Mainland authorities and the local legal profession in respect of CEPA issues. In order to ensure that CEPA is conducive to the development of the legal service market in the Mainland, the LPD maintains regular contact with the local legal profession to obtain views on the implementation of CEPA as well as suggestions for further improvement of the Arrangement. The D of J has raised relevant issues with both the central and local authorities having responsibility for the legal service sector with a view to further opening up markets and resolving problems encountered by the local legal profession when seeking to develop their practice in the Mainland.

In addition, LPD has helped to inform members of the legal profession of all relevant rules and regulations by conducting briefings, publishing articles and papers, attending media interviews, and producing a CD-ROM and a booklet which have been distributed widely in Hong Kong and the Mainland.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ014

Question Serial No.

1009

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Under “Matters Requiring Special Attention in 2005-06”, the Prosecutions Division will implement measures to improve the advisory system of the Trial Preparation Units and enhance levels of appeal preparation. Will the Administration inform us on the following –

- (a) what specific measures are planned to be implemented by the Prosecutions Division in order to improve the advisory system of the Trial Preparation Units?
- (b) what specific measures will be implemented in order to enhance levels of appeal preparation ?
- (c) the way to evaluate the effectiveness of the measures planned to be implemented?

Asked by : Hon. LI Kwok-ying

Reply :

- (a) To improve the advisory system of the Trial Preparation Units, the Prosecutions Division has put in place the following measures :-
 - (i) discussing with the Police the timely submission of case files and service of additional evidence;
 - (ii) encouraging trial counsel to discuss cases with trial preparation counsel during preparation of cases;
 - (iii) revising the Case Report Form to enable space for prosecuting counsel to provide feedback to the trial preparation counsel;
 - (iv) introducing the Express Advisory System as a pilot scheme to facilitate the supply of advice to the Police in urgent and straightforward cases to be heard in the magistracy; and
 - (v) streamlining the procedure for the preparation of summaries of facts in District Court Cases.

- (b) The Division will enhance levels of appeal preparation through :-
- (i) provision of training to counsel in appellate advocacy, the preparation of appeals, the preparation of written submissions and legal research. This will consist of one in-house seminar to be conducted by our senior appellate advocates, and one joint seminar with the Bar Association;
 - (ii) the continuing provision of ongoing support to appellate counsel by ensuring that knowledge of the latest developments in the criminal law is readily available, through, for example, the Criminal Appeals Bulletin, which is currently published on a monthly basis. In addition, important appeals judgments are circulated to counsel; and
 - (iii) the publication of a manual on criminal appeals, which will cover the practice and procedure of appeals and provide proforma documents and precedents on common topics and issues, to standardize and develop practice and procedure. This manual will be available to all counsel in the division.
- (c) With improvement in trial and appeal preparation, the quality and efficiency of prosecution service would be enhanced.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ015

Question Serial No.

1010

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

Regarding the estimate for 2005 under this programme, there is a sharp increase in the number of pages of bills/subsidiary legislation gazetted in English and Chinese when compared to those of last year. What are the reasons?

Asked by : Hon. LI Kwok-ying

Reply :

The Legislative Council had its general election in 2004 and Members then focused their legislative work on scrutiny of draft legislation needed to be passed before the dissolution of the Council. In this particular year, less bills and subsidiary legislation were gazetted and less bills were introduced into the Council. In 2005, we envisage that the situation will be similar to 2003 rather than 2004. The estimated numbers of pages of bills and subsidiary legislation to be gazetted in 2005 would be slightly smaller than the corresponding numbers in 2003.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ016

Question Serial No.

1011

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

With regard to the proceedings involving civil service matters, has the Civil Division taken into account the possibility that a chain of legal proceedings will arise if the Court of Final Appeal dismisses the appeal lodged by the Government in respect of the civil service pay issue? If yes, what is the amount involved? If no, what are the reasons?

Asked by : Hon. LI Kwok-ying

Reply :

As regards the court proceedings on the judicial reviews concerning the Public Officers Pay Adjustment Ordinance and the Public Officers Pay Adjustments (2004/2005) Ordinance, the Secretary for the Civil Service has assured colleagues that in the event that the Court of Final Appeal declares one or both Ordinances to be unconstitutional insofar as any public officer or class of public officer is concerned, then, subject to necessary funding approval, any arrears of pay due at the date of the Court of Final Appeal's judgment will be paid to each officer concerned. In the circumstances, it is most unlikely that any adverse ruling would lead to further series of litigation.

Name in block letters

Miss Annie Tam

Director of Administration
and Development

Post Title

Date

9 April 2005

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ017

Question Serial No.

1012

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (5) International Law

Controlling Officer : Director of Administration and Development

Question :

1. What is the specific progress made by the International Law Division in handling matters of mutual legal assistance between HKSAR and the Mainland relating to surrender of fugitive offenders, mutual legal assistance in criminal matters and transfer of sentenced persons?
2. For the above-mentioned mutual legal assistance matters over which agreements have yet to be reached, what are the specific reasons and problems for the failure to reach such agreements?
3. What were the amounts involved in the provision of advice by the International Law Division on matters of mutual legal assistance over the past 3 years?

Asked by : Hon. LI Kwok-ying

Reply :

For the establishment of a rendition arrangement between Hong Kong and the Mainland, experts of the two sides have commenced discussions since March 1999. During the discussions, both sides have gained a deeper understanding of the legal systems and relevant circumstances of the other side, and have considered in-depth the various issues involved in the arrangement. Because of the very significant differences between the legal systems and the social conditions of the two places, the discussions must be conducted with care and the details examined accordingly. At the present stage, there is no timetable as to when the discussions will be completed.

Before and after the Reunification, the police authorities of Hong Kong and the Mainland have cooperated in accordance with Interpol practice. There is at the present stage no timetable on arriving at an agreement on mutual legal assistance in criminal matters with the Mainland.

There have been various exchanges with Mainland authorities on arrangements for transfer of sentenced persons between Hong Kong and the Mainland since March 2000. The topics covered have included the main principles and provisions enshrined in the Transfer of Sentenced Persons Ordinance, Cap 513 and the agreements on the transfer of sentenced persons that we have signed with other jurisdictions. Having regard to the differences in the legal and judicial systems of the two places and the complexity of the issues involved, no timetable has been set for the completion of the discussions.

The International Law Division has been playing a supportive role in rendering legal advice and assistance to the Security Bureau on matters of mutual legal assistance. The cost of providing such advice and assistance over the past three years was absorbed by the financial provision made available to that Division.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ018

Question Serial No.

1066

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

- (a) Unlike the slight increase or negative growth found in other programmes, the 2005-06 estimates for Programme (2) has shown a sharp increase of 3.1%. It is indicated in the relevant *Analysis of Financial and Staffing Provision* that the increase is mainly due to the anticipated increase in briefing out expenses and general departmental expenses. However, as there is no significant increase in the estimated number of civil proceedings either brought by or brought against the Government, why is there an anticipated increase in briefing out expenses and thus causing a higher percentage of increase in the estimate under this programme than those under other programmes?
- (b) Why is it that while decreases are anticipated in the general departmental expenses for all programmes other than Programme (5), it is still anticipated that there will be an increase in general departmental expenses for Programme (2)? Please provide details on the specific amount of the increase and the particulars.

Asked by : Hon. LI Kwok-ying

Reply :

The provision for the civil programme for 2005-06 is \$10.3 million (3.1%) higher than the revised estimate for 2004-05 mainly because of :

- (a) an estimated increase in briefing out expenses in 2005-06 in relation to major civil cases; and
- (b) an estimated increase in general departmental expenses due to the employment of two non civil service contract counsel to meet service needs and to cover an increase in the amount of reimbursement in respect of expenses incurred by the Law Society and the Bar Association in connection with disciplinary proceedings instituted by them under the Legal Practitioners Ordinance.

Name in block letters

Miss Annie Tam

Director of Administration
and Development

Post Title

Date

9 April 2005

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ019

Question Serial No.

1184

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

It is mentioned in Matters Requiring Special Attention in 2005-06 that measures will be implemented to improve the advisory system of the Trial Preparation Units. Please give details of the measures to be devised, the staffing and the expenditure involved.

Asked by : Hon. NG Margaret

Reply :

To improve the advisory system of the Trial Preparation Units, the Prosecutions Division has put in place the following measures :-

- (i) discussing with the Police the timely submission of case files and service of additional evidence;
- (ii) encouraging trial counsel to discuss cases with trial preparation counsel during preparation of cases;
- (iii) revising the Case Report Form to enable space for prosecuting counsel to provide feedback to the trial preparation counsel;
- (iv) introducing the Express Advisory System as a pilot scheme to facilitate the supply of advice to the Police in urgent and straightforward cases to be heard in the magistracy; and
- (v) streamlining the procedure for the preparation of summaries of facts in District Court Cases.

No additional resources are required to implement the above measures.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ020

Question Serial No.

1198

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

Under Matters Requiring Special Attention in 2005-06, "claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" are included. What are the details? Under this item, what kind of work will the Department of Justice be involved in?

Asked by : Hon. LAU Chin-shek

Reply :

In June 2004 the Court of Final Appeal (Secretary for Security v. Saktherel Prakabar, FACV No. 16/2003) held that claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by persons liable to deportation from Hong Kong were to be determined by the Administration in accordance with high standards of fairness. The court gave guidance as to the matters to be taken into account in determining such claims. With reference to the court's judgment the Department of Justice, in conjunction with the Secretary for Security and the Director of Immigration, devised a mechanism for assessing claims made under CAT and in 2005-06 will advise the Administration upon the implementation of the assessment mechanism and the decision making process in individual cases (some 65 claims have been made under CAT to date) to ensure that the high standards of fairness demanded by the Court of Final Appeal have been met.

Name in block letters

Miss Annie Tam

Director of Administration
and Development

Post Title

Date

9 April 2005

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ021

Question Serial No.

1199

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

Under Matters Requiring Special Attention in 2005-06, "privatisation and outsourcing of the Government's commercial activities" is included. Please list out the projects handled by the Department of Justice each year from 2003-2004 to 2005-06 in respect of the privatisation and outsourcing of the Government's commercial activities and provide details of these projects.

Asked by : Hon. LAU Chin-shek

Reply :

A list showing the projects handled by the Department of Justice each year from 2003-2004 to 2005-06 in respect of the privatisation and outsourcing of the Government's commercial activities with details is attached.

Name in block letters	Miss Annie Tam
Post Title	Director of Administration and Development
Date	9 April 2005

Projects Handled by the Department of Justice from 2003-04 to 2005-06

Major Items of Privatisation :

2003-04

- (1) Advising on issues following on from Mass Transit Railway Corporation Limited (MTRCL) tranche one privatisation.
- (2) Considerations relating to the possible privatisation of the Airport Authority.
- (3) Considerations relating to the possible privatisation of Government shareholding in other companies.

2004-05

- (1) Considerations relating to the possible privatisation of the Airport Authority.
- (2) Considerations relating to the possible privatisation of Government shareholding in other companies.
- (3) Considerations relating to the possible merger of MTRCL and Kowloon Canton Railway Corporation and MTRCL tranche two privatisation.

2005-06

The process is ongoing and subject to instructions from Bureaux/Departments.

Major Items of Outsourcing:

2003-04

Total number of outsourcing contracts handled: approximately 60

Outsourcing contracts are varied in nature including cleansing and waste disposal services, security services, training services, repairs and maintenance services, translation services, maintenance of information and computer system, operation and management of government premises and facilities, etc. Major items include the outsourcing of the operation and management of the Hong Kong Wetland Park.

2004-05

Total number of outsourcing contracts handled: approximately 100

Nature of contracts similar to those in 2003-04.

Major items include outsourcing the services in relation to the use of the Smart ID Card and outsourcing the marine cleansing and waste disposal services provided by the Marine Department.

2005-06

It is difficult to foretell the number of outsourcing contracts for the coming year which is subject to instructions from Bureaux/Departments.

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ022

Question Serial No.

1698

Head : 92 Department of Justice Subhead (No. & title) : 000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

With regard to "Other Charges" under Subhead 000 for 2004-05, please provide the particulars of each case involving more than \$1 million.

Asked by : Hon. NG Margaret

Reply :

Particulars of cases involving payment of more than \$1 million each out of "Other Charges" in the year of 2004-05 are attached.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>

Brief description of case/matter	2004-05 Actual Expenditure \$'000
<p>(1) Aoki Corporation v Government of the HKSAR - Contract No. DC/94/12 North West Kowloon Sewerage Stage II & III Phase I Fees and expenses incurred in relation to the costs of an arbitrator and a technical assessor (to assist the arbitrator) and briefing overseas and local counsel and solicitors, and engineering, planning and quantum experts in an arbitration of various claims brought by the Contractor involving variation, extension of time and prolongation issues.</p>	7,493
<p>(2) Secretary for Justice v The Hong Kong and Yaumati Ferry Co. Ltd. (HYF) and another (HCA 15329/99) Fees and expenses incurred in relation to briefing a solicitors firm, leading and junior counsel, and technical consultants on property and quantity surveying in proceedings on Government's claim for recovery of the additional costs of construction of certain outstanding and omitted works at the re-provided piers at Central; and HYF's counterclaims for return of additional costs paid by HYF for works at the re-provided piers which they alleged to be defective and for the alleged loss of the right to redevelop the piers.</p>	5,608
<p>(3) New Hong Kong Tunnel Co. Ltd. (the Tunnel) v Secretary for Justice (The Eastern Harbour Crossing Toll Increase Arbitration) (MIS 649/03) Fees and expenses incurred in relation to the costs of arbitrators and briefing leading counsel (overseas and local), financial experts and traffic expert on behalf of the Secretary for Environment, Transport and Works in the arbitration which was initiated by the Tunnel as a result of the Chief Executive In Council's rejection of their toll increase application made in September 2002.</p>	4,814
<p>(4) Ng Siu Tung and others v the Director of Immigration (HCAL 81/99) Fees and expenses incurred in relation to briefing leading and junior counsel on behalf of the Director of Immigration as Respondent in judicial review proceedings involving right of abode claims and the scope and application of the Government's Concession policy in respect of the Appellants.</p>	3,406

Brief description of case/matter	2004-05 Actual Expenditure \$'000
<p>(5) HKSAR v Lee Ming-tee and another The Allied Case (HCCC 191/1999) Fees and expenses incurred in the prosecution of the captioned complex fraud case. The defendant's application for a Permanent Stay of Proceedings was successfully opposed on 8 June 2004. After negotiations before trial, the defendant pleaded guilty on counts 3 and 5 on the indictment and was sentenced on 5 November 2004 to 12 months' imprisonment, and ordered to pay prosecution costs of \$15 million. A disqualification order under Section 16E Companies Ordinance (Chapter 32) was also made against him.</p>	3,235
<p>(6) Hong Kong Air Cargo Terminals Ltd. v The Commissioner of Rating and Valuation (LDRA 12/01, 510/01 & 325/02 (consolidated)) Fees and expenses incurred in relation to briefing one overseas leading counsel, one local junior counsel and two expert witnesses on behalf of the Commissioner for Rating and Valuation in the consolidated rating appeals before the Lands Tribunal lodged by the Hong Kong Air Cargo Terminals Limited in respect of the rating valuations of the air cargo terminal known as "Superterminal 1" situated at Chek Lap Kok.</p>	3,131
<p>(7) HIT Finance Ltd., H K International Terminals Ltd. and Strategic Investments International Ltd. (MIS 654/03, MIS 655/03 and MIS 656/03) Fees and expenses incurred in relation to briefing leading counsel (overseas and local) and junior counsel on behalf of the Commissioner of Inland Revenue in the appeals before the Board of Review lodged by the above-named companies against Profits Tax Assessment and/or Additional Profits Tax Assessment. The three appeals had been consolidated for hearing.</p>	2,814
<p>(8) Allied Group Ltd, and Allied Properties (HK) Ltd. v Secretary for Justice and another (MIS 658/01, HCA 4246/01 and FACV 7/04) Fees and expenses incurred in reimbursement of legal fees and expenses incurred by an inspector appointed under the Companies Ordinance, who has been sued as a Defendant in a claim for damages for alleged filing of false and misleading evidence in judicial review proceedings which took place in 1993. This item also includes fees and expenses incurred in relation to briefing leading and junior counsel and a solicitors firm on behalf of the Financial Secretary, who has been sued as a co-defendant in the action.</p>	2,645

Brief description of case/matter	2004-05 Actual Expenditure \$'000
<p>(9) Strategic Sewage Disposal Scheme Stage I Contracts DC/93/13 and DC/93/14 Investigation into Potential Claims against the Engineer, Montgomery Watson (now MWH Hong Kong Ltd.) Fees and expenses incurred in relation to briefing counsel, a solicitors firm and technical experts for the investigation into potential claims against the engineer, Montgomery Watson (now MWH Hong Kong Ltd.).</p>	2,227
<p>(10) Baynard Ltd. and Golden Organise Ltd. v Secretary for Justice (HCA 4073/02) Fees and expenses incurred in relation to briefing a solicitors firm on behalf of the Director of Lands in this action for declarations that two lease modifications in respect of the Hong Kong Gold Coast development are invalid and for the refund of modification premiums paid.</p>	2,037
<p>(11) HKSAR v Swire Properties Ltd. And Others (Taikoo Shing) (MIS 173/94) Fees and expenses incurred in relation to briefing overseas leading and junior counsel, a solicitors firm and engaging an arbitrator on behalf of the Director of Lands in arbitration proceedings arising out of Government's claim for payment of land premium and interest in respect of certain redevelopments at Taikoo Shing.</p>	2,016
<p>(12) Best Origin Ltd. (LDGA 14/98) Fees and expenses incurred in relation to briefing leading counsel, junior counsel and various expert witnesses on behalf of the Commissioner of Rating and Valuation in a government rent appeal for assessment of government rent on development site.</p>	1,682
<p>(13) Sakthevel Prabakar v Secretary for Security (FACV 16/03) Fees and expenses incurred in relation to briefing leading and junior counsel on behalf of the Secretary for Security in judicial review proceedings before the Court of Final Appeal concerning deportation decisions involving claims of torture upon return to home country under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>	1,619
<p>(14) Ying Ho Co. Ltd. and Others v Secretary for Justice (The Nina Tower Case) (FACV 17/03 on appeal from CACV 291/02) Fees and expenses incurred in relation to briefing leading and junior counsel on behalf of the Secretary for Housing, Planning and Lands, the Director of Lands and the Director of Civil Aviation in an appeal before the Court of Final Appeal which was lodged by the Plaintiffs regarding their claims for (a) repayment of liquidated damages and premium and (b) damages for loss of profits or income in respect of the land in Tsuen Wan arising from the height restriction imposed thereon.</p>	1,618

Brief description of case/matter	2004-05 Actual Expenditure \$'000
<p>(15) Shiu Wing Steel Ltd. v Director of Environmental Protection and Hong Kong Airport Authority (CACV 350/03) Fees and expenses incurred in relation to briefing leading and junior counsel on behalf of the Director of Environmental Protection as Respondent in the appeal before the Court of Appeal lodged by Shiu Wing Steel Limited against the Court of First Instance's judgment handed down on 30 September 2003 dismissing the judicial review regarding whether it is lawful and reasonable for the Director to approve an Environmental Impact Assessment Report and to grant an Environmental Permit to Hong Kong Airport Authority to build a permanent aircraft fuelling facility at Tuen Mun Area 38 which is next to the Appellant's steel mill.</p>	1,477
<p>(16) PCCW – HKT Telephone Ltd. v The Telecommunications Authority (HCAL 63/04) Fees and expenses incurred in relation to briefing overseas leading counsel, local leading and junior counsel on behalf of the Telecommunications Authority in an application for judicial review of the Telecommunications Authority's determination regarding levels of local access charges of International Direct Dial and facsimile services.</p>	1,351
<p>(17) Nishimatsu Construction Co. Ltd. v Commissioner of Inland Revenue (MIS 409/03) Fees and expenses incurred in relation to briefing leading counsel, junior counsel and expert on behalf of the Commissioner of Inland Revenue in a tax appeal before the Board of Review against Profits Tax Assessment.</p>	1,327
<p>(18) Julita F. Raza and 9 Others v Chief Executive in Council, Director of Immigration and Employees Retraining Board (HCAL 30/2003, LIT 696/00C) Fees and expenses incurred in relation to briefing leading and junior counsel to advise and represent the Chief Executive in Council, the Director of Immigration and the Employees Retraining Board in the application for judicial review of the Chief Executive in Council's decisions to impose levy on the employers of foreign domestic helpers and to reduce the minimum allowable wages of foreign domestic helpers.</p>	1,298
<p>(19) PCCW – HKT Telephone Ltd. v The Telecommunications Authority (CACV 274/03) Fees and expenses incurred in relation to briefing leading counsel (overseas and local) on behalf of the Telecommunications Authority to state two questions of law relating to the jurisdiction of the Telecommunications (Competition Provisions) Appeal Board to the Court of Appeal for determination.</p>	1,282

Brief description of case/matter	2004-05 Actual Expenditure \$'000
(20) Wong Wan Leung, Wong Kam Por and Wong Siu Chung, as the Managers of Wong Wai Tsak Tong v Director of Lands (LTMR 10/96) Fees and expenses incurred in relation to briefing leading counsel, junior counsel and expert witness on behalf of the Director of Lands in a claim for compensation arising from termination of Wong Wai Tsak Tong's right as Crown lessee under the Block Crown Lease of Cheung Chau.	1,184
(21) HKSAR v Derek Wong and 3 others (ESCC 974/2005) Fees and expenses incurred in the prosecution of the captioned case. The defendants' case has been transferred to the District Court and will be mentioned on 1 April 2005 at which time it is expected to fix trial and pre-trial review dates. Briefed counsel was also the advising counsel and one of the elements of the brief is a retainer for counsel to be available to the Department at anytime before trial for continuing advice or such other pre-trial court appearances as might arise.	1,022
(22) Michael Reid Scott (HCAL 38/04) Fees and expenses incurred in relation to briefing leading counsel, junior counsel and instructing solicitors to represent the HKSAR Government in the application for judicial review challenging the Public Officers Pay Adjustments (2004-05) Ordinance Cap. 580.	1,019

Examination of Estimates of Expenditure 2005-06
**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ023

Question Serial No.

1751

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

In regard to the provision of legal advice by the Civil Division on regulation of utilities under the schemes of control and measures, does the Civil Division have any plans of providing legal advice on legal aspects and problems relating to the management and fee charging of the three cross-harbour tunnels being handled by the Administration recently? If yes, what are the details?

Asked by : Hon. LI Kwok-ying

Reply :

The Civil Division provides legal advice in response to demands made of it by Government departments and bureaux. In relation to the regulation of utilities under the schemes of control and measures, the Civil Division will continue to respond to any requests for advice from Government Bureaux/Departments in respect of the three cross harbour tunnels.

Name in block letters	<u>Miss Annie Tam</u>
Post Title	<u>Director of Administration and Development</u>
Date	<u>9 April 2005</u>