

**Index page**

**Controlling Officer : Director of Administration and Development**

**Session No. : 17**

**File name : SJ-e2.doc**

| <b>Reply<br/>Serial No.</b> | <b>Question<br/>Serial No.</b> | <b>Reply<br/>Serial No.</b> | <b>Question<br/>Serial No.</b> | <b>Reply<br/>Serial No.</b> | <b>Question<br/>Serial No.</b> |
|-----------------------------|--------------------------------|-----------------------------|--------------------------------|-----------------------------|--------------------------------|
| <a href="#">SJ001</a>       | 1061                           | <a href="#">SJ011</a>       | 2162                           |                             |                                |
| <a href="#">SJ002</a>       | 1173                           | <a href="#">SJ012</a>       | 2163                           |                             |                                |
| <a href="#">SJ003</a>       | 1174                           | <a href="#">SJ013</a>       | 2164                           |                             |                                |
| <a href="#">SJ004</a>       | 1175                           | <a href="#">SJ014</a>       | 2165                           |                             |                                |
| <a href="#">SJ005</a>       | 1176                           | <a href="#">SJ015</a>       | 2166                           |                             |                                |
| <a href="#">SJ006</a>       | 1177                           | <a href="#">SJ016</a>       | 2167                           |                             |                                |
| <a href="#">SJ007</a>       | 2046                           | <a href="#">SJ017</a>       | 2168                           |                             |                                |
| <a href="#">SJ008</a>       | 2047                           | <a href="#">SJ018</a>       | 2169                           |                             |                                |
| <a href="#">SJ009</a>       | 2048                           |                             |                                |                             |                                |
| <a href="#">SJ010</a>       | 2049                           |                             |                                |                             |                                |

**Replies to initial written questions raised by Finance Committee Members in  
examining the Estimates of Expenditure 2007-08**

**Controlling Officer : Director of Administration and Development  
Session No. : 17**

| <b>Reply Serial No.</b> | <b>Question Serial No.</b> | <b>Name of Member</b> | <b>Head</b> | <b>Programme</b> |
|-------------------------|----------------------------|-----------------------|-------------|------------------|
| <a href="#">SJ001</a>   | 1061                       | LEE Chu-ming, Martin  | 92          | (3) Legal Policy |
| <a href="#">SJ002</a>   | 1173                       | NG Margaret           | 92          |                  |
| <a href="#">SJ003</a>   | 1174                       | NG Margaret           | 92          | (4) Law Drafting |
| <a href="#">SJ004</a>   | 1175                       | NG Margaret           | 92          |                  |
| <a href="#">SJ005</a>   | 1176                       | NG Margaret           | 92          | (1) Prosecutions |
| <a href="#">SJ006</a>   | 1177                       | NG Margaret           | 92          | (4) Law Drafting |
| <a href="#">SJ007</a>   | 2046                       | MA Lik                | 92          | (1) Prosecutions |
| <a href="#">SJ008</a>   | 2047                       | MA Lik                | 92          | (3) Legal Policy |
| <a href="#">SJ009</a>   | 2048                       | MA Lik                | 92          | (3) Legal Policy |
| <a href="#">SJ010</a>   | 2049                       | MA Lik                | 92          |                  |
| <a href="#">SJ011</a>   | 2162                       | NG Margaret           | 92          |                  |
| <a href="#">SJ012</a>   | 2163                       | NG Margaret           | 92          | (1) Prosecutions |
| <a href="#">SJ013</a>   | 2164                       | NG Margaret           | 92          | (4) Law Drafting |
| <a href="#">SJ014</a>   | 2165                       | NG Margaret           | 92          | (2) Civil        |
| <a href="#">SJ015</a>   | 2166                       | NG Margaret           | 92          | (1) Prosecutions |
| <a href="#">SJ016</a>   | 2167                       | NG Margaret           | 92          | (1) Prosecutions |
| <a href="#">SJ017</a>   | 2168                       | NG Margaret           | 92          | (4) Law Drafting |
| <a href="#">SJ018</a>   | 2169                       | NG Margaret           | 92          | (2) Civil        |

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ001

Question Serial No.

1061

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Please list the legal research relating to human rights issues conducted in 2006 and the expenditure involved.

Asked by : Hon. LEE Chu-ming, Martin

Reply :

Requests for advice are demand led. Legal research is not treated as a discrete function, but is carried out in order to give advice as and when required. In 2006, legal research related to human rights was conducted in relation to the preparation of draft legislation, for example the Race Discrimination Bill and the Interception of Communications and Surveillance Bill; in relation to advising on litigation matters, for example the case concerning age of consent for same sex relationship; and in relation to advising on other human rights issues and the three current anti-discrimination statutes.

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

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
and Development

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ002**

Question Serial No.

1173

Head : 92 Department of Justice

Subhead (No. & title) :  
000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

In 2007-08, 38 non-directorate posts will be created. Please provide details of these posts and the expenditure involved.

Asked by : Hon. NG Margaret

Reply :

A provision of \$22.52 million has been reserved in 2007-08 for the creation of 38 non-directorate posts in the Department. These include 13 Senior Government Counsel and 14 Government Counsel posts in order to cope with the increasing demand for legal services, and 9 Assistant Clerical Officer and 2 Clerical Assistant posts to strengthen the relevant support services.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho  
Director of Administration

Post Title and Development

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ003

Question Serial No.

1174

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

In 2007-08, the Administration will implement an in-house mentorship programme, and organise seminars and workshops to enhance the drafting skills of the Counsel. Please brief us on the specific arrangements and measures of this programme and the estimated expenditure involved.

Asked by : Hon. NG Margaret

Reply :

Mentorship Programme

The Mentorship Programme will continue in 2007-08. Under the Programme, a non-directorate drafting counsel (mentee) will work under the close supervision of a directorate counsel (mentor) in respect of his English drafting work. Draft legislation prepared by the mentee will be vetted by the mentor. The mentee may seek guidance from the mentor from time to time. The mentor and the mentee will also work as a team to handle complicated drafting items for which the mentor is responsible. There are now 6 mentors (2 Deputy Law Draftsmen and 4 Senior Assistant Law Draftsmen) and 22 mentees.

In-house seminars and workshops

The 2 Deputy Law Draftsmen and a consultant counsel will organise the following seminars and workshops in 2007-08 to enhance the drafting skills of counsel –

- (a) Workshop on Analysing Drafting Instructions;
- (b) Seminar on Common Errors in Drafting Chinese Legislation;
- (c) Seminar on Public Revenue-related Legislation; and
- (d) Workshop on Simplifying Structure of Chinese Provisions.

The above-mentioned seminars and workshops will tentatively be organised in July, September and December 2007 and February 2008.

Staff cost and other expenditure requirements will be met by the existing resources made available under the Law Drafting Programme.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
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Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ004**

Question Serial No.

1175

Head : 92 Department of Justice

Subhead (No. & title) :  
000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please list the number of staff who have professional qualifications for legal practice under each programme.

Asked by : Hon. NG Margaret

Reply :

All Government Counsel (GC) grade officers possess professional qualifications for legal practice. Some officers in the Court Prosecutor (CP) grade and Law Clerk (LC) grade are also qualified to practise as lawyers. The numbers of staff who possess professional qualifications for legal practice under each of the 5 programmes in 2006-07 are set out below :

**As at 1.3.2007**

| <b>Programme</b>      | <b>GC</b>  | <b>CP</b> | <b>LC</b> | <b>Total</b> |
|-----------------------|------------|-----------|-----------|--------------|
| (1) Prosecutions      | 100        | 4         | 1         | 105          |
| (2) Civil             | 92         | NA        | -         | 92           |
| (3) Legal Policy      | 29         | NA        | -         | 29           |
| (4) Law Drafting      | 34         | NA        | -         | 34           |
| (5) International Law | 17         | NA        | -         | 17           |
| <b>Total</b>          | <b>272</b> | <b>4</b>  | <b>1</b>  | <b>277</b>   |

Signature \_\_\_\_\_

Name in block letters \_\_\_\_\_

Miss Susie Ho

Post Title \_\_\_\_\_

Director of Administration  
and Development

Date \_\_\_\_\_

19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ005**

Question Serial No.

1176

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Please provide the number and conviction rate of cases conducted by Court Prosecutors in 2006-2007.

Asked by : Hon. NG Margaret

Reply :

In 2006, the total number of defendants prosecuted by Court Prosecutors was 11 690, of whom, 9 040 were convicted, representing a conviction rate of 77.3%, which is slightly higher than the overall conviction rate of 76.8% at the Magistrates' Court level.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
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Date 19 March 2007



Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ006

Head : 92 Department of Justice

Subhead (No. & title) :

Question Serial No.

Programme : (4) Law Drafting

1177

Controlling Officer : Director of Administration and Development

Question :

Please provide details of the estimated staffing and expenditure of the Law Drafting Division in 2007-08 and list the qualifications and length of service of the officers concerned.

Asked by : Hon. NG Margaret

Reply :

The establishment of and provision for staffing for the Law Drafting Division in 2007-08 are as below -

| <b>Grade</b>                | <b>Establishment<br/>as at 1.4.2007</b> | <b>Provision<br/>\$'000</b> |
|-----------------------------|---|-----------------------------|
| Government Counsel Grade    | 38                                      | 40,350                      |
| Para-legal and other Grades | 70                                      | 16,899                      |
| <b>Total</b>                | <b>108</b>                              | <b>57,249</b>               |

All counsel undertaking legislative drafting duties in the Division possess professional qualifications for legal practice.

Their years of experience in the grade as at 1 March 2007 is set out below –

| <b>Experience in the Grade</b> | <b>Number of Counsel</b> |
|--------------------------------|--------------------------|
| 20 years or more               | 3                        |
| 15 to less than 20 years       | 5                        |
| 10 to less than 15 years       | 15                       |
| 5 to less than 10 years        | 6                        |
| less than 5 years              | 5                        |
| Total                          | 34                       |

Signature \_\_\_\_\_

Name in block letters \_\_\_\_\_

Miss Susie Ho

Post Title \_\_\_\_\_

Director of Administration  
and Development

Date \_\_\_\_\_

19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ007

Question Serial No.

2046

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

In relation to the indicator on “court days undertaken by Counsel instructed to prosecute in Magistrates’ Court in place of Court Prosecutors”, the number of days is estimated to increase from 549 in 2005 to 970 in 2007. What are the reasons for the increase? What are the criteria adopted by the Administration in briefing out cases? How does the average cost per court day of briefing out compare with that of prosecutions conducted by Court Prosecutors? What is the current percentage of Court Prosecutors who are qualified to practise as barristers or solicitors? How does the Administration evaluate the effectiveness of briefing out cases? Is there a policy to further increase the amount of prosecution work briefed out? If yes, please provide the details. If not, what are the reasons?

Asked by : Hon. MA Lik

Reply :

The number of court days undertaken by fiat counsel instructed to prosecute in Magistrates’ Courts in place of Court Prosecutors is estimated to increase from 549 in 2005 to 970 in 2007. This is mainly due to the expansion in recent years of the work portfolio of the Court Prosecutors, with associated opportunities for fiat counsel to prosecute in their stead. Court Prosecutors now prosecute for 23 departments, and handle CCTV trials, which involve video-recorded interviews of witnesses and require extra preparation work. Furthermore, there are also vacancies in the Court Prosecutor grade.

The Department has a policy of briefing out some of its Magistrates' Court cases to junior barristers and solicitors to prosecute, and this reflects our belief that it is mutually beneficial to involve the legal profession in basic prosecution work at the

summary level. Not only does it assist them in the development of their practices, but it also provides them with a valuable insight into the nature of prosecution work. Briefing out also assists the Department as its own prosecutors are not always in a position to cope with the heavy workload. At the same time, a high-quality prosecution service is essential.

An annual performance review is conducted by the Department to ensure that standards of prosecution are maintained amongst fiat counsel. Whereas those lawyers who perform well are eligible for upgrading to a higher list, those who underperform are liable to warning or removal from the list. To try to ensure that standards are upheld, the Department organises an annual seminar for new fiat lawyers at which basic prosecution and court techniques and practices are explained to them by a Senior Government Counsel, a Chief Court Prosecutor and a Permanent Magistrate. In addition, since 1997, junior barristers and solicitors have been eligible to attend the in-house training seminars which the Department organises throughout the year for its own prosecutors. The new fiat counsel are also advised to consult the Senior Court Prosecutor I responsible for prosecutions in each magistrates court if they have any problems with their cases, and this helps to ensure that prosecutions proceed smoothly.

The average cost per court day of prosecution conducted by Court Prosecutors is \$2,621. The standard fee for a counsel prosecuting on fiat in place of Court Prosecutors is \$5,430 per day.

As at 1 March 2007, out of 96 Court Prosecutors, 4 were fully qualified to practise as barrister or solicitors, 5 were admitted as barristers, 7 had obtained a Postgraduate Certificate in Laws, and 30 had law degrees. They altogether accounted for 47.9% of the grade.

The Court Prosecutor system has been functioning effectively and achieved a high standard of prosecution service at the summary level. At the same time, the Department will continue to give young barristers and solicitors opportunities to prosecute on fiat. We will continue to monitor the briefing out system taking into account the quality of prosecution services and the cost of briefing out.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho  
Director of Administration  
and Development

Post Title \_\_\_\_\_

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ008

Head : 92 Department of Justice

Subhead (No. & title) :

Question Serial No.

Programme : (3) Legal Policy

2047

Controlling Officer : Director of Administration and Development

Question :

Regarding the indicator "items of legal advice given", the number of advice given on Mainland law and related matters is estimated to increase from 262 in 2005 to 386 in 2007. What are the reasons for the increase?

Asked by : Hon. MA Lik

Reply :

The provision of advice on Mainland laws and related matters is demand driven. The increase in 2006 could be mainly attributed to the active discussions of the co-location of the customs and immigration facilities in Sekou, Shenzhen which are now matters covered under the Shenzhen Bay Port Hong Kong Port Area Bill. For 2006, a total of 147 pieces of advice were rendered (contrast to 62 in 2005).

In addition, the discussion of the reciprocal enforcement of court judgments (REJ) in commercial matters between the Mainland and the Hong Kong Special Administrative Region was also actively pursued in 2006 and subsequently resulted in the signing of an arrangement. The Mainland Judgments (Reciprocal Enforcement) Bill was recently introduced into the Legislative Council to implement the arrangement. In 2006, a total of 19 pieces of advice was rendered on the subject.

Apart from the co-location and REJ matters, it is noted that an increasing number of government bureaux and departments have worked in cooperation with the Mainland authorities on a number of other cross boundary public works projects. Before entering into an arrangement or committing into a particular project with the Mainland counterparts, bureaux and department would seek advice and information on the relevant Mainland laws and regulations and their implications in respect of the project in question. This also contributed to the increased number of advices provided in 2006.

Signature \_\_\_\_\_

Name in block letters \_\_\_\_\_ Miss Susie Ho

Post Title \_\_\_\_\_ Director of Administration  
and Development

Date \_\_\_\_\_ 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ009

Question Serial No.

2048

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (3) Legal Policy

Controlling Officer : Director of Administration and Development

Question :

Regarding the indicator “items of legal advice given”, are the items of legal advice on Mainland law and related matters provided by officers who possess Mainland legal qualifications? Please provide details of the staffing arrangement of the Department of Justice and the Legal Policy Division in relation to the requirement that officers should possess Mainland legal qualifications, and assess if these arrangements are adequate.

Asked by : Hon. MA Lik

Reply :

There is no specific requirement that counsel working in the China Law Unit should be qualified to practise law on the Mainland. Three of the four counsel working in the Unit possess respectively an undergraduate degree in law from the Peking University, a Postgraduate Diploma in the Law of the People's Republic of China from the University of Hong Kong (HKU) and a Master of Laws in Chinese Law from HKU. The counsel in the Unit keep themselves updated on developments in Mainland Law through reviewing Mainland publications and through research. These arrangements are considered adequate.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
and Development

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ010**

Question Serial No.

2049

Head : 92 Department of Justice

Subhead (No. & title) :  
700 General non-recurrent

Programme :

Controlling Officer : Director of Administration and Development

Question :

Regarding the item "Development of Mainland-related legal services in Hong Kong", please give an account of the specific use of the accumulated expenditure as at 31 March 2006 and the revised estimated expenditure for 2006-07. In 2007-08, what are the service plans and the details on the estimated expenditure?

Asked by : Hon. MA Lik

Reply :

Up to 31 March 2006, the cumulative expenditure for the development of Mainland-related legal services in Hong Kong in 2005-06 was \$0.53 million. The expenditure was incurred for implementing legal services cooperation agreements between Hong Kong and Mainland provincial and municipal authorities; and promoting Hong Kong as a legal services and dispute resolution centre.

The 2006-07 revised estimates of \$0.43 million has provided for -

- (a) organizing a signing ceremony for the Reciprocal Enforcement of Judgments in Commercial Matters between Hong Kong Special Administrative Region and the Mainland held on 14 July 2006;
- (b) supporting the Mainland attachment programme of Department of Justice (D of J) counsel, which was arranged pursuant to the co-operation agreements signed between D of J and the relevant Justice Departments/Bureaux;
- (c) funding the duty visits to the Mainland for attending Closer Economic Partnership Arrangement (CEPA)/progress meetings with the Ministry of Justice and relevant parties, and for a meeting on the holding of the National Judicial Examination 2006 in Hong Kong; and

- (d) funding the attendance at the All China Lawyers' Forum 2006 to promote greater cooperation between the legal professions of Hong Kong and the Mainland.

In 2007-08, the sum of \$0.68 million will be mainly used for -

- (a) receiving Mainland delegation for attachment with D of J for two weeks in May 2007 pursuant to the co-operation agreements signed between D of J and various Justice Departments/Bureaux;
- (b) supporting the Mainland attachment programme for our counsel pursuant to the co-operation agreements signed between D of J and the relevant Justice Department/Bureau;
- (c) funding the expenses of attending CEPA/progress meetings with relevant Justice Departments/Bureaux as well as receiving Mainland delegations under the co-operation agreements for exchanging legal information and enhancing co-operation; and
- (d) funding the expenses of joining the Hong Kong legal professional bodies in attending seminars, conferences, etc. held on the Mainland to promote CEPA or professional services of Hong Kong.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
and Development

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ011**

Question Serial No.

2162

Head : 92 Department of Justice

Subhead (No. & title) :  
000 Operational Expenses

Programme :

Controlling Officer : Director of Administration and Development

Question :

Please compare the establishment and strength of the Court Prosecutor (CP) grade in 2005-06 with those in 2006-07. Are there any vacancies in the CP grade in 2006-07? If yes, what measures will the Administration take to fill these vacancies?

Asked by : Hon. NG Margaret

Reply :

The establishment and strength of the Court Prosecutor (CP) grade in 2005-06 and 2006-07 are provided below:

|                            | <b>Establishment as at</b> |                | <b>Strength as at</b> |                | <b>Vacancies as at</b> |                |
|----------------------------|----------------------------|----------------|-----------------------|----------------|------------------------|----------------|
|                            | <b>31.3.06</b>             | <b>31.3.07</b> | <b>31.3.06</b>        | <b>31.3.07</b> | <b>31.3.06</b>         | <b>31.3.07</b> |
| Chief Court Prosecutor     | 2                          | 2              | 2                     | 2              | 0                      | 0              |
| Senior Court Prosecutor I  | 8                          | 8              | 8                     | 8              | 0                      | 0              |
| Senior Court Prosecutor II | 28                         | 28             | 28                    | 28             | 0                      | 0              |
| Court Prosecutor           | 70                         | 67             | 60                    | 58             | 10                     | 9              |
| Total                      | <u>108</u>                 | <u>105</u>     | <u>98</u>             | <u>96</u>      | <u>10</u>              | <u>9</u>       |

The strength of the Court Prosecutors have remained below its establishment in recent years. We will continue to monitor the manpower of the CP grade taking into account the quality of prosecution services, the workload of Court Prosecutors and the cost of briefing out.

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration  
and Development

Date March 2007



Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ012**

Question Serial No.

2163

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Please compare the qualification and experience of the officers in the Court Prosecutor grade in 2005-06 and 2006-07.

Asked by : Hon. NG Margaret

Reply :

A comparison of the qualifications of officers in the Court Prosecutor grade in 2005-06 and 2006-07 is set out below –

| <b>Qualifications as at 1.3.2006</b> |               |                               |                 |              |                                    |           |
|--------------------------------------|---------------|-------------------------------|-----------------|--------------|------------------------------------|-----------|
|                                      | Matriculation | Diploma/<br>Higher<br>Diploma | Other<br>Degree | LLB/<br>PCLL | Fully<br>Qualified<br>as barrister | Total     |
| Chief Court Prosecutor               | 0             | 0                             | 0               | 2            | 0                                  | 2         |
| Senior Court Prosecutor I            | 0             | 1                             | 4               | 2            | 1                                  | 8         |
| Senior Court Prosecutor II           | 4             | 3                             | 6               | 13           | 2                                  | 28        |
| Court Prosecutor                     | 4             | 7                             | 24              | 24           | 1                                  | 60        |
| <b>Total</b>                         | <b>8</b>      | <b>11</b>                     | <b>34</b>       | <b>41</b>    | <b>4</b>                           | <b>98</b> |

| <b>Qualifications as at 1.3.2007</b> |               |                               |                 |              |                                    |           |
|--------------------------------------|---------------|-------------------------------|-----------------|--------------|------------------------------------|-----------|
|                                      | Matriculation | Diploma/<br>Higher<br>Diploma | Other<br>Degree | LLB/<br>PCLL | Fully<br>Qualified<br>as barrister | Total     |
| Chief Court Prosecutor               | 0             | 0                             | 0               | 2            | 0                                  | 2         |
| Senior Court Prosecutor I            | 0             | 1                             | 4               | 2            | 1                                  | 8         |
| Senior Court Prosecutor II           | 4             | 3                             | 6               | 13           | 2                                  | 28        |
| Court Prosecutor                     | 3             | 6                             | 23              | 25           | 1                                  | 58        |
| <b>Total</b>                         | <b>7</b>      | <b>10</b>                     | <b>33</b>       | <b>42</b>    | <b>4</b>                           | <b>96</b> |

A comparison of the experience of officers in the Court Prosecutor grade in 2005-06 and 2006-07 is set out below –

| <b>Years of experience in the Grade as at 1.3.2006</b> |                   |                           |                           |                          |                    |                  |
|--|-------------------|---------------------------|---------------------------|--------------------------|--------------------|------------------|
|  | <b>20 or more</b> | <b>15 to less than 20</b> | <b>10 to less than 15</b> | <b>5 to less than 10</b> | <b>Less than 5</b> | <b>Total</b>     |
| <b>Chief Court Prosecutor</b>                          | 1                 | 1                         | -                         | -                        | -                  | <b>2</b>         |
| <b>Senior Court Prosecutor I</b>                       | 4                 | 4                         | -                         | -                        | -                  | <b>8</b>         |
| <b>Senior Court Prosecutor II</b>                      | 1                 | 16                        | 11                        | -                        | -                  | <b>28</b>        |
| <b>Court Prosecutor</b>                                | -                 | 2                         | 35                        | 20                       | 3                  | <b>60</b>        |
| <b>Total</b>   | <u><b>6</b></u>   | <u><b>23</b></u>          | <u><b>46</b></u>          | <u><b>20</b></u>         | <u><b>3</b></u>    | <u><b>98</b></u> |

| <b>Years of experience in the Grade as at 1.3.2007</b> |                   |                           |                           |                          |                    |                  |
|--|-------------------|---------------------------|---------------------------|--------------------------|--------------------|------------------|
|  | <b>20 or more</b> | <b>15 to less than 20</b> | <b>10 to less than 15</b> | <b>5 to less than 10</b> | <b>Less than 5</b> | <b>Total</b>     |
| <b>Chief Court Prosecutor</b>                          | 2                 | -                         | -                         | -                        | -                  | <b>2</b>         |
| <b>Senior Court Prosecutor I</b>                       | 6                 | 2                         | -                         | -                        | -                  | <b>8</b>         |
| <b>Senior Court Prosecutor II</b>                      | 4                 | 17                        | 7                         | -                        | -                  | <b>28</b>        |
| <b>Court Prosecutor</b>                                | -                 | 2                         | 45                        | 9                        | 2                  | <b>58</b>        |
| <b>Total</b>   | <u><b>12</b></u>  | <u><b>21</b></u>          | <u><b>52</b></u>          | <u><b>9</b></u>          | <u><b>2</b></u>    | <u><b>96</b></u> |

Signature \_\_\_\_\_

Name in block letters Miss Susie Ho

Post Title Director of Administration and Development

Date 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ013

Head : 92 Department of Justice

Subhead (No. & title) :

Question Serial No.

Programme : (4) Law Drafting

2164

Controlling Officer : Director of Administration and Development

Question :

Please provide the entry requirements for draftsmen in the Law Drafting Division. Do these requirements include Grade E or above in Chinese Language in the Hong Kong Certificate of Education Examination? If yes, what are the reasons?

Asked by : Hon. NG Margaret

Reply :

In line with the policy objective to develop a biliterate civil service to meet long-term operational and development needs, it is a general language proficiency requirement (LPR) for all applicants to civil service posts in degree or professional grades to obtain 'Level 1' or 'Level 2' (with Level 2 being the higher) results in the Use of Chinese and Use of English paper in the Common Recruitment Examination (CRE). Where the situation so warrants, exemptions from the LPR can be sought from the Civil Service Bureau.

Draftsmen in the Law Drafting Division belong to the Government Counsel grade which is one of the degree/professional grades. For appointment to the entry rank of the Government Counsel grade, the Chinese and English LPR for the grade is respectively set at 'Level 1' and 'Level 2' of the CRE. Grade 'D' in Chinese Language and Culture or Chinese Language and Literature and Grade 'C' in the Use of English of the Hong Kong Advance Level Examination are also accepted as equivalent to the requisite CRE results. Hence, a higher English LPR has been set in view of the operational needs of the grade. Where recruitment difficulty is envisaged (e.g. there is a need to trawl a wider net of local and overseas candidates with specialised skills and experience), exemptions from the LPR may be approved.

Where there are operational needs for direct appointment to promotion ranks, the LPRs for such posts are considered on a case-by-case basis.

Signature \_\_\_\_\_

Name in block letters \_\_\_\_\_ Miss Susie Ho

Post Title \_\_\_\_\_ Director of Administration  
and Development

Date \_\_\_\_\_ 19 March 2007

Examination of Estimates of Expenditure 2007-08  
**CONTROLLING OFFICER'S REPLY TO  
INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ014

Question Serial No.

2165

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

The target of "providing legal advice within 14 working days upon receipt of instructions/requests" was not met in 2006. What are the reasons? For cases in which a reply was not given within the targeted time, what was the average number of days delayed?

Asked by : Hon. NG Margaret

Reply :

The main reason for not meeting the target of "providing legal advice within 14 working days upon receipt of instructions/requests" in 2006 is an increased volume of more complex work. For 1 748 cases in which a reply was not given within the targeted time, about 58% of them were advised within one month upon receipt of instructions/requests, and the remaining 42% were advised after one month.

Signature \_\_\_\_\_

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INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ015**

Question Serial No.

2166

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Please provide details on the total cost and average cost of the prosecution work undertaken by Court Prosecutors in 2006-07.

Asked by : Hon. NG Margaret

Reply :

The average cost per court day of prosecution work conducted by Court Prosecutors is \$2,621. In 2006, the number of court days undertaken by Court Prosecutors in Magistrates' Courts was 12 571, and the total cost was \$32.95 million.

These calculations do not include 19 Court Prosecutor grade officers who are on administration and supervisory duties. This is because even if prosecution work is briefed out, there is still a need for senior officers in the Court Prosecutor grade to manage the cases in relation to both charges and summonses, to provide instructions to counsel, to liaise with police and departmental prosecutors, and to manage day-to-day deployment of manpower at the Magistrates' Courts.

Signature \_\_\_\_\_

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INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ016**

Question Serial No.

2167

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (1) Prosecutions

Controlling Officer : Director of Administration and Development

Question :

Please provide details on the total cost and average cost of Counsel instructed to prosecute in place of Court Prosecutors in 2006-2007.

Asked by : Hon. NG Margaret

Reply :

The standard fee for a counsel prosecuting on fiat in place of Court Prosecutor is \$5,430 per day. In 2006, we briefed out 969 court days to fiat counsel for the replacement of Court Prosecutors in Magistrates' Courts, and the total cost was \$5.26 million.

Signature \_\_\_\_\_

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INITIAL WRITTEN QUESTION**

Reply Serial No.

SJ017

Question Serial No.

2168

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (4) Law Drafting

Controlling Officer : Director of Administration and Development

Question :

Please provide details on the estimated expenditure for, and the work involved in, enhancing the quality and efficiency of law drafting in 2007-08. If no provision is made in this respect, what are the reasons?

Asked by : Hon. NG Margaret

Reply :

A sum of \$840,000 has been reserved in 2007-08 for a 6-month in-house legislative drafting course to be organised for 5 to 6 junior drafting counsel. The aim of the course is to equip them with the essential technique in legislative drafting. Subject to the availability of the course facilitator, the course will commence in January 2008.

Where appropriate, counsel will also be nominated to attend overseas legislative drafting conferences or seminars. Expenditure in this respect will be covered by the existing resources of the Department.

The Mentorship Programme will continue in 2007-08 to enable non-directorate counsel to receive close guidance and supervision from directorate counsel in the performance of their duties and development of their drafting skills. In-house seminars and workshops will also be organised to enhance the drafting skills of the counsel. These endeavours involve no additional provision.

Signature \_\_\_\_\_

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Examination of Estimates of Expenditure 2007-08  
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INITIAL WRITTEN QUESTION**

Reply Serial No.

**SJ018**

Question Serial No.

2169

Head : 92 Department of Justice

Subhead (No. & title) :

Programme : (2) Civil

Controlling Officer : Director of Administration and Development

Question :

What are the provisions allocated for the rewriting of the Companies Ordinance (Cap 32) in 2006-07 and 2007-08? Please give details of the work involved and the expected date of completion?

Asked by : Hon. NG Margaret

Reply :

In the Department of Justice, the work in respect of the Companies Ordinance rewrite exercise involves different programmes areas. On the Civil side, the relevant counsel have advised, and will continue to advise on legal issues identified in the preparation of Draft Drafting Instructions and consultation papers on the Company Law Rewrite. They have also participated in and attended meetings of the Standing Committee on Company Law Reform, the Steering Committee and Advisory Groups set up to advise on issues relating to the Company Law Rewrite.

The Legal Policy Division (LPD) will be called upon to provide general legal policy advice, and advice from the Basic Law and human rights perspectives, so as to ensure that the proposed legislation is consistent with the provisions of the Basic Law, including human rights provisions. The work arising from the rewrite in LPD will be shared out by the Basic Law Unit, Human Rights Unit (HRU) and General Legal Policy Unit, based on their different expertise.

It is anticipated that the White Bill would be ready for public consultation in mid-2009 and that the new Companies Bill would be submitted to the Legislative Council in the third quarter of 2010. The actual completion date would depend on the progress of the Legislative procedures.



Within the Department of Justice, 5 Senior Government Counsel have been providing legal input to the rewrite exercise. A Deputy Principal Government Counsel and a Personal Secretary II will also be engaged for the exercise shortly. The expenses incurred by these additional staff will be borne by the Companies Registry Trading Fund. In addition, 1 Deputy Principal Government Counsel has been designated to provide the necessary legislative drafting input.

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