

**Replies to initial written questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2012-13**

Controlling Officer: Director of Administration and Development

Session No. : 11

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**Replies to initial written questions raised by Finance Committee Members in
examining the Estimates of Expenditure 2012-13**

**Controlling Officer: Director of Administration and Development
Session No. : 11**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
SJ001	0948	WONG Yuk-man	92	(1) Prosecutions
SJ002	1428	HO Sau-lan, Cyd	92	
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SJ004	1832	CHAN Kin-por	92	(2) Civil
SJ005	3065	TAM Yiu-chung	92	(2) Civil
SJ006	3066	TAM Yiu-chung	92	(3) Legal Policy
SJ007	3067	TAM Yiu-chung	92	(2) Civil

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

SJ001

Question Serial No.

0948

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (1) Prosecutions

Controlling Officer: Director of Administration and Development

Question:

Please list the number of cases prosecuted by Government Counsel in the past 5 years which involved breaches of the Public Order Ordinance (Cap. 245, Laws of Hong Kong), and the expenditure involved.

Asked by: Hon. WONG Yuk-man

Reply:

Based on information available, the number of cases prosecuted under the Public Order Ordinance (Cap. 245) by Government Counsel in the past 5 years is as follows –

<u>Year</u>	<u>No. of cases</u>
2007	25
2008	17
2009	10
2010	23
2011	23

We have not maintained information regarding the time spent by officers in dealing with each prosecution case and hence the expenditure on the above cases cannot be quantified.

Signature: _____

Name in block letters: Susie Ho

Post Title: Director of Administration
and Development

Date: 2 March 2012

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

SJ002

Question Serial No.

1428

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme:

Controlling Officer: Director of Administration and Development

Question:

Regarding consultancy studies (if any) commissioned by the Department of Justice and its divisions for the purpose of formulating and assessing policies, please provide information in the following format.

- 1) Using the table below, please provide information on studies on public policy and strategic public policy for which funds had been allocated between 2009-10 and 2011-12:

Name of consultant	Mode of award (open auction / tender / others (please specify))	Title, content and objectives of project	Consultancy fee (\$)	Start Date	Progress of study (under planning/ in progress/ completed)	Follow-ups taken by the Administration on the study reports and their progress (if any)	If completed, have they been made public? If yes, through what channels? If no, why?
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- 2) Are there any projects for which funds have been reserved for conducting consultancy studies in 2012-13? If yes, please provide the following information:

Name of consultant	Mode of award (open auction / tender / others (please specify))	Title, content and objectives of project	Consultancy fee (\$)	Start Date	Progress of study (under planning/ in progress/ completed)	For the projects that are expected to be completed in 2011-12, is there any plan to make them public? If yes, through what channels? If no, why?
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- 3) What are the criteria for considering the award of consultancy projects to the research institutions concerned?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

Between 2009-10 and 2011-12, the Department of Justice had not conducted any study on public policy and strategic public policy. We have not earmarked funds for conducting consultancy projects in 2012-13.

Signature: _____

Name in block letters: _____ Susie Ho _____

Post Title: _____ Director of Administration
and Development _____

Date: _____ 2 March 2012 _____

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

SJ003

Question Serial No.

1437

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme:

Controlling Officer: Director of Administration and Development

Question:

In regard to the growing co-operation between Hong Kong and the Mainland in recent years, please provide relevant information on Hong Kong/Mainland cross-boundary projects or programmes in which the Department of Justice is or has been involved.

- 1) Using the table below, please list out information on Hong Kong/Mainland cross-boundary projects or programmes from 2009-10 to 2011-12:

Project/ programme title	Details, objective and whether it is related to the Framework Agreement on Hong Kong/Guangdong Co-operation	Expenditure involved	Name of Mainland department/ organisation involved	Progress (% completed, start date, anticipated completion date)	Have the details, objective, amount involved or impact on the public, society, culture and ecology been released to the public? If yes, through what channels and what were the manpower and expenditure involved? If no, what are the reasons?
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- 2) Using the table below, please list out information on Hong Kong/Mainland cross-boundary projects or programmes in 2012-13:

Project/ programme title	Details, objective and whether it is related to the Framework Agreement on Hong Kong/Guangdong Co-operation	Expenditure involved	Name of Mainland department/ organisation involved	Progress (% completed, start date, anticipated completion date)	Will the details, objective, amount involved or impact on the public, society, culture and ecology be released to the public? If yes, through what channels and what will be the manpower and expenditure involved? If no, what are the reasons?
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- 3) Apart from the projects or programmes listed above, are there any other modes of cross-boundary co-operation? If yes, in what forms are they taken forward? What were the

manpower and expenditure involved in the past 3 years, and how much financial and manpower resources are earmarked in 2012-13?

Asked by: Hon. HO Sau-lan, Cyd

Reply:

1)

Programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organization involved	Progress (% completed, start date, anticipated completion date)	Have the details, objective, amount involved or impact on the public, society, culture and ecology been released to the public? If yes, through which channels and what were the manpower and expenditure involved? If no, what are the reasons?
Enhance Legal Co-operation with Guangdong	Pursuant to the Framework Agreement on Hong Kong/ Guangdong Co-operation, we will reinforce the existing communication mechanism in legal matters with Guangdong. This will cover exchange of legal information as well as conducting meetings and / or seminars to discuss specific legal issues. We also support the co-operation between China appointed attesting officers in Hong Kong and Mainland notaries.	The staff cost and other related expenses has been and will continue to be absorbed from within the available resources of the Department and the expenditure for this specific programme cannot be quantified.	The Legislative Affairs Office and the Justice Department of the Guangdong Province depending on the subject matter concerned.	The programme commenced in 2010 and is expected to continue for some time.	This was included in the 2010-11 Policy Agenda. The initiative was also presented to the Legislative Council Panel on Administration of Justice and Legal Services (AJLS) in October 2010. The staff costs and other related expenses were absorbed from within the available resources of the Department and the expenditure in this regard cannot be quantified.

Co-operation between Shenzhen and Hong Kong	The Co-operative Arrangement on Legal Matters was signed between the Department and the Shenzhen Municipal Government on 25 November 2011. The main purpose was to establish a mechanism to promote legal co-operation between the two governments.	Same as above	Shenzhen Municipal Government	The co-operation is expected to continue for some time.	The Co-operative Arrangement was signed at the HK/Shenzhen Co-operation meeting held on 25 November 2011. The matter was mentioned in the press release on the meeting issued by the Government. The LegCo AJLS Panel was also informed of the signing of the Arrangement and its main purpose in late November 2011. The staff costs and other related expenses were absorbed from within the available resources of the Department and the expenditure in this regard cannot be quantified.
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2)

Project/ programme title	Details, objective and whether it is related to the Framework Agreement	Expenditure involved	Name of Mainland department/ organization involved	Progress (% completed, start date, anticipated completion date)	Will the details, objective, amount involved or impact on the public, society, culture and ecology be released to the public? If yes, through which channels and what will be the manpower and expenditure involved? If no, what are the reasons?
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As indicated above, we expect the relevant programme to continue in 2012-13.

3) The Legal Policy Division promoted the following Hong Kong/Mainland cross-boundary projects or programmes which aim to enhance legal cooperation in the following areas:

The Department of Justice (DoJ) consistently takes measure to promote legal cooperation between Hong Kong and the Mainland. For example, since August 2008, we have monitored the implementation of the reciprocal arrangement signed with the Supreme People’s Court to facilitate mutual reciprocal enforcement of judgments in certain civil or commercial matters given pursuant to choice of court agreements.

In October 2011, SJ led a delegation comprising representatives of Hong Kong legal and arbitration bodies to visit Shenzhen to discuss with relevant authorities on possible measures relating to the promotion of greater use of Hong Kong’s legal and arbitration services in Qianhai. The department and the Shenzhen Municipal Government signed the “Co-operative Arrangement on Legal Matters” in November 2011. The two sides agreed to engage in communication and exchange of information on legal issues relating to Hong Kong-Shenzhen cooperative projects, including the development of the legal and arbitration services in Qianhai. Other legal cooperation projects/programmes include facilitation of training and exchanges with Mainland legal and judicial organs.

The staff costs and other related expenses for such programmes have been and will be absorbed from within the available resources of the DoJ and the estimated expenditure for this specific activity cannot be quantified.

Signature: _____

Name in block letters: _____ Susie Ho _____

Post Title: _____ Director of Administration
and Development _____

Date: _____ 2 March 2012 _____

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

SJ004

Question Serial No.

1832

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

As indicated in Programme (2) of the Department of Justice, the estimated provision for 2012-13 is \$95.5 million higher than the revised estimate for 2011-12, representing an increase of 20.9%, which is mainly due to the filling of vacancies, creation of 13 posts to meet operational needs, as well as anticipated increase in court costs and briefing-out expenses. It is stated in Programme (2) that proceedings involving the Government include, inter alia, those involving Basic Law issues. Will the Administration inform this Committee of the funds earmarked by the Department for proceedings involving Basic Law issues in the new financial year?

Asked by: Hon. CHAN Kin-por

Reply:

While funds have been earmarked for the work of the Civil Division in 2012-13, the amount designated for proceedings involving Basic Law issues specifically cannot be quantified.

Signature: _____

Name in block letters: _____ Susie Ho _____

Post Title: _____ Director of Administration
and Development _____

Date: _____ 2 March 2012 _____

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

SJ005

3065

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

As regards “new proceedings brought by the Government” and “new proceedings brought against the Government”, the estimated numbers for 2012 will increase significantly as compared with the actual numbers in 2010 and 2011. What are the reasons and basic facts in respect of the increases of these two types of proceedings? Given the financial resources allocated for 2012-13, how will the Department of Justice cope with the situation without compromising the quality of the administration of justice?

Asked by: Hon. TAM Yiu-chung

Reply:

The actual numbers of new proceedings brought by the Government and new proceedings brought against the Government for 2010, 2011 and the estimated numbers for 2012 are as follows:

	2010 (Actual)	2011 (Actual)	2012 (Estimate)
1. New proceedings (including non-construction arbitration and mediation) brought by the Government	2 068	2 337	2 565
2. New proceedings (including non-construction arbitration and mediation) brought against the Government	1 286	1 176	1 460

In relation to item 1 above, the estimated increase in 2012 when compared with the actual numbers in 2010 and 2011 is mainly due to an estimated increase in the number of cases for recovery of student loans as advised by the Student Financial Assistance Agency.

In relation to item 2 above, the estimated increase in 2012 when compared with the actual numbers in 2010 and 2011 is mainly due to the estimated increase in the Rating Appeal cases (as advised by the Rating and Valuation Department) and cases involving claims made under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

To cope with the increasing demand for legal services and increasing complexity of the legal work involved, financial resources have been earmarked for the creation of 13 posts in 2012-13 including 1 counsel grade post and 12 posts of other grades to strengthen the support to the legal professionals and also general administration in the Civil Division.

Signature: _____

Name in block letters: Susie Ho

Post Title: Director of Administration
and Development

Date: 2 March 2012

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

SJ006

Question Serial No.

3066

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses

Programme: (3) Legal Policy

Controlling Officer: Director of Administration and Development

Question:

Please provide the following information on the work of legal policy:

- (a) In 2012-13, what are the specific plans for promoting the use of arbitration and mediation in Hong Kong and publicising the new arbitration law after enactment by the Legislative Council? What is the estimated expenditure? Will the Administration consider sponsoring relevant professional bodies to take forward the work in this area?
- (b) In 2012-13, what are the specific plans for exploring with the Mainland authorities further opportunities for the legal profession to provide services in the Mainland? What is the estimated expenditure?

Asked by: Hon. TAM Yiu-chung

Reply:

(a) Arbitration and Mediation

Arbitration

An on-going policy objective of the Department of Justice (DoJ) is to develop Hong Kong into a regional centre for legal services and dispute resolution. As one of the measures to achieve this objective, the new Arbitration Ordinance came into effect on 1 June 2011.

In 2012-13, DoJ will continue to work closely with the Hong Kong International Arbitration Centre (HKIAC), the International Court of Arbitration of the International Chamber of Commerce (ICC/ICA), and other arbitration related organisations in Hong Kong and overseas to promote the use of arbitration as an alternative means of dispute resolution.

The DoJ will also continue to explore other opportunities to further promote Hong Kong's legal and dispute resolution services in the Mainland. Following the success of the first Hong Kong Legal Services Forum held in 2010, DoJ will organize the next Forum in mid-September 2012 in Guangzhou jointly with the Bar Association, the Law Society, HKIAC, ICC/ICA and the Hong Kong Trade Development Council to promote Hong Kong's position as the regional centre for legal services and dispute resolution.

Mediation

The Mediation Bill which seeks to provide a statutory framework to conduct mediation in Hong Kong was introduced into LegCo on 30 November 2011. A Bills Committee has been formed to scrutinize the Bill. DoJ is working closely with the Bills Committee with a view to seeking an early enactment of the legislation.

To promote the public's awareness of the use of mediation, an Announcement in the Public Interest (API) has been produced and broadcast on television and radio since December 2011. Also, a mediation conference organized jointly by DoJ and a variety of professional bodies will be held in May 2012. The conference will bring together experts on mediation both locally and internationally to share their experience on the development of mediation. DoJ will continue to work with stakeholders to promote the use of mediation in Hong Kong.

The staff cost and other related expenses for promoting the use of arbitration and mediation will be absorbed from within the existing resources of the Department and the estimated expenditure in this regard cannot be quantified.

(b) Furthering opportunities for the legal profession to provide services in the Mainland

(i) Joint effort with the Law Society and the Bar Association

The DoJ continues to work closely with the Law Society of Hong Kong and the Hong Kong Bar Association in promoting Hong Kong's legal services in the Mainland. In addition to exploring further liberalization measures under the Closer Economic Partnership Arrangement (CEPA) (see part (b)(ii) below), DoJ and the legal professions will examine ways to further develop Hong Kong legal services in the Pearl River Delta. Pursuant to the Framework Agreement on Hong Kong/Guangdong Co-operation, DoJ will work with the Guangdong side to facilitate exchange of legal information and support the legal profession of both sides to deepen their professional co-operation.

In addition to organizing the Hong Kong Legal Services Forum which will be held in mid-September 2012 in Guangzhou (as mentioned above), we will also continue to explore ways to further promote Hong Kong's legal and dispute resolution services both in the Mainland and other regions (both under CEPA and through fostering closer cooperation with Guangdong as mentioned in part (b)(ii)).

(ii) The Mainland and Hong Kong Closer Economic Partnership Arrangements (CEPA)

DoJ maintains regular contact with the legal profession on the implementation of liberalization measures under CEPA and also seeks the profession's views on ways to strengthen their practice in the Mainland legal services market. The legal profession's opinions on implementation of various liberalization measures under CEPA and their suggestions on further developing Hong Kong legal services in the Mainland will be discussed with Mainland authorities. Where any problems have been revealed, DoJ will discuss with Mainland authorities to identify ways for resolving the problems.

Under Supplement VIII to CEPA signed on 13 December 2011, two new measures have been introduced, namely "to further develop closer cooperation between the legal professions of the Mainland and Hong Kong and to explore ways of improving the mode of association of law firms of the two places" and "to consider broadening the scope of business of Hong Kong residents who

have acquired Mainland legal professional qualification and hold a Mainland lawyer practising certificate to act as agents in civil litigation cases in the Mainland relating to Hong Kong residents and juridical persons” have been introduced. The new measures will take effect from 1 April 2012. DoJ will continue to collaborate with the legal professional bodies in examining ways to improve the mode of association of law firms and enhancing cooperation with the Mainland side in the development of legal services in Qianhai.

DoJ will also maintain close contact with the Hong Kong legal and arbitration professions and Mainland authorities, with a view to developing closer cooperation in Guangdong under the Framework Agreement on Hong Kong/Guangdong Co-operation, and identifying possible pilot measures that will facilitate the provision of Hong Kong legal services in Guangdong and Qianhai, Shenzhen.

The staff cost and other related expenses for taking part in these events will be absorbed from within the existing resources of the DoJ and the estimated expenditure in this regard cannot be quantified.

Signature: _____

Name in block letters: _____ Susie Ho _____

Post Title: _____ Director of Administration
and Development _____

Date: _____ 2 March 2012 _____

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

SJ007

Question Serial No.

3067

Head: 92 Department of Justice

Subhead (No. & title): 000 Operational expenses and
234 Court costs

Programme: (2) Civil

Controlling Officer: Director of Administration and Development

Question:

The Department of Justice's total estimated provision on civil matters for 2012-13 is \$95.5 million (20.9%) higher than that for 2011-12, which is mainly due to the filling of vacancies, creation of 13 posts, as well as anticipated increase in court costs and briefing-out expenses. In this regard, what are the Administration's estimated expenditures for court costs and briefing-out expenses in 2012-13? What are the respective rates of increase over 2011-12 for these two items? What are the reasons for their increases in expenditure?

Asked by: Hon. TAM Yiu-chung

Reply:

The expenditure for court costs and briefing-out expenses in the Civil Division in 2012-13 are estimated to be \$119 million and \$154 million respectively, representing an increase of about 63% and 12% over 2011-12.

The expenditure on court costs and briefing-out varies over the years, depending on the number of cases, their complexity and development of the cases. The estimates are worked out on the basis of prevailing and available knowledge of the progress of the cases at the time of preparing the estimates. The general increase in counsel fees as well as the increase in complexity and number of cases over the years also contribute to the general increase in expenditure for court costs and briefing-out. That said, the actual expenditure in this regard for 2012-13 would ultimately depend on the actual development and outcome of the cases concerned.

Signature: _____

Name in block letters: Susie Ho

Post Title: Director of Administration
and Development

Date: 2 March 2012