

Message

The first 12 months following the reunification were a critical period for Hong Kong's legal system, and for implementation of the Basic Law. History will record that reunification was achieved smoothly, and that the legal system, the rule of law, human rights, and the independence of the judiciary have been fully maintained and protected.

There is, however, no cause for complacency. In the years to come, the Department of Justice's highest priority is to ensure that the rule of law is fully upheld in the Hong Kong Special Administrative Region (HKSAR). My department is also committed to providing efficient and effective legal services and legal advice to the Government, and to maintain and improve the present legal system.

This Policy Objective booklet explains how those objectives can be achieved, by setting out the results that must be delivered in a number of key areas. It also gives indicators of the progress being made in those areas.

In the coming year, it is likely that further constitutional issues will arise, and that some of these will need to be resolved by the courts. This is as it should be. In a society that is subject to the rule of law, people have the right to have issues determined by an independent judiciary. My department stands ready to participate in such litigation. It also will be helping to complete the adaptation of laws programme, assisting in negotiating further international agreements and in preparing human rights reports, advising on information technology, telecommunications and broadcasting, and will be training more counsel in the conduct of criminal cases in Chinese. These, and many other tasks, will ensure that the Government, and the community, is well-served by the Department of Justice.



(Ms Elsie Leung)
Secretary for Justice

Upholding the Rule of Law

Our Policy Objective is to uphold the rule of law, provide efficient and effective legal services to the HKSARG, and to maintain and improve the present legal system.

Our targets in pursuing this Policy Objective are to ensure that the rule of law prevails, that our legal services meet the reasonable expectations of our clients, and that there is continuous improvement to the legal system.

Key Result Areas (KRAs)

To ensure that this Policy Objective can be achieved, we must deliver results in a number of key areas, that is, we must –

I	Formulate and promote legal policy and advise Government on legal policy issues	Page 4
II	Provide advice on international law issues and handle requests for international legal co-operation	Page 6
III	Draft sound and enforceable legislation	Page 8
IV	Provide legal advice to Government and other public bodies on civil law matters, undertake civil litigation and draft contracts on construction-related and other commercial matters	Page 9
V	Advise and decide whether or not criminal proceedings should be undertaken and prosecute cases in the courts	Page 11
VI	Develop efficient and effective bilingual legal services, promote better use of information technology, and promote public understanding of the rule of law and the legal system both locally and overseas	Page 13

The following sections of this booklet explain the importance of these KRAs, describe the broad thrust of our efforts, and outline the indicators which we are using to assess progress. Each section lists the new key initiatives being taken to achieve our objectives and pinpoints the agency accountable for each initiative and the specific targets which we intend to meet.

I

Formulate and promote legal policy and advise Government on legal policy issues

The Secretary for Justice's Office and the Legal Policy Division (LPD) of the Department of Justice advise the Government on –

- matters raising questions of legal policy and the formulation of policy relating to the legal system and the legal profession
- constitutional law, legislative procedures and electoral affairs
- whether proposed legislation or a particular policy is contrary to established principles underlying the legal system
- legal issues arising from prisoners' petitions for remission, references of cases to the High Court under the Criminal Procedure Ordinance and responses to public enquiries and complaints

The LPD also provides specialised advice on human rights issues to ensure the consistency of policy and legislation with the human rights requirements of the Basic Law and of international treaties extended to Hong Kong. It also assists in the preparation of reports to the United Nations treaty monitoring bodies on the implementation of the human rights treaties in Hong Kong.

In order to promote the full implementation of the “One Country, Two Systems” policy, the Department of Justice provides advice on the laws of the Mainland, develops working relationships with counterparts in the Mainland, and manages a China Law database.

The Division also provides secretariat support for the Law Reform Commission.

Indicators

The indicators we will use to measure progress in this area are –

- the number of occasions on which legal advice on petitions and legal policy issues is provided
- the amount of advice on human rights issues provided
- the number of Bills promoted
- the number of law reform projects handled
- the number of times legal advice is given on traditional Chinese law and the modern law of the Mainland
- the amount of legal advice provided on the Basic Law and constitutional matters
- the number of Basic Law seminars conducted

Initiatives

Targets

To create an electoral resource reference library of cases, text books, articles, comparative legislative extracts, glossary of terms, guidelines and practice manuals

*(Legal Policy Division, Department of Justice (LPD))**

To create and operate the reference library by mid-1999

To publish a new index to the Basic Law
(LPD)

To publish the index by end 1998

* the brackets denote the agency with lead responsibility for the initiative

II

Provide advice on international law issues and handle requests for international co-operation

The International Law Division (ILD) of the Department of Justice provides advice on all aspects of public international law. This includes the application to the HKSAR of multilateral and bilateral international agreements, maritime and aviation law, consular privileges and immunities and the resolution of trade disputes. The Division also negotiates and advises on international agreements, including those for the surrender of fugitive offenders, mutual legal assistance, transfer of sentenced persons, investment promotion and protection, and air services.

In addition, the ILD gives advice on the international legal aspects of the HKSAR's own laws, and handles requests for international legal co-operation.

Indicators

The indicators we will use to measure progress in this area are –

- the number of international agreements initialled
- the number of expert meetings, negotiations and discussions conducted
- the number of items of written advice provided
- the timeliness of advice on international legal issues
- the number of requests dealt with in various categories of mutual legal assistance

Initiatives	Targets
<p>To continue to promote HKSAR's participation in international law forums</p> <p><i>(International Law Division, Department of Justice (ILD))</i></p>	<p>To arrange HKSAR's participation in the Hague Conference on Private International Law in 1999</p>
<p>To identify areas in which HKSAR may benefit from international co-operation and pursue appropriate arrangements</p> <p><i>(ILD)</i></p>	<p>To identify in 1999 three areas of civil law in which HKSAR may benefit and pursue them in suitable forums</p>
<p>To continue to negotiate new bilateral agreements on Mutual Legal Assistance in Criminal Matters, Surrender of Fugitive Offenders and Transfer of Sentenced Persons and to commence negotiating agreements on Reciprocal Enforcement of Judgements in Civil and Commercial Matters (REJ) as soon as authorisation is obtained from the Central People's Government</p> <p><i>(ILD)</i></p>	<p>To negotiate nine new bilateral agreements in these areas in 1999</p>



Draft sound and enforceable legislation

The Law Drafting Division (LDD) of the Department of Justice drafts legislation in the English and Chinese languages. It is also responsible for the programme to adapt Hong Kong laws to conform with the Basic Law and Hong Kong's status as a Special Administrative Region of the People's Republic of China. The LDD publishes the laws of the HKSAR, as well as bilingual glossaries of terms used in legislation.

Indicators

The indicators we will use to measure progress in this area are –

- the completion of the Adaptation of Laws Programme
- the timely publication of loose-leaf edition of laws
- the number of bills gazetted
- the number of items of subsidiary legislation gazetted
- the number of pages of bills and subsidiary legislation gazetted (in English and Chinese)

Initiatives

Targets

To review relevant ordinances to identify outdated and unclear provisions, and redraft the provisions in plain and modern language
(Law Drafting Division, Department of Justice (LDD))

To assess the scope of the work involved and draw up a work plan in 1999

To prepare first edition of the Chinese-English Glossary of Legal Terms
(LDD)

To publish the Glossary within 1999

IV

Provide legal advice to Government and other public bodies on civil law matters, undertake civil litigation and draft contracts on construction-related and other commercial matters

The Civil Division (CD) of the Department of Justice represents the Government and other public bodies in courts and tribunals in all forms of civil litigation (including arbitration and mediation).

In addition, the Division provides legal advice on –

- construction and land law matters and drafting construction contracts
- commercial law matters and drafting commercial contracts
- legislation and civil law matters, including acting as legal adviser to various boards and councils

Indicators

The indicators we will use to measure progress in this area are –

- the number of civil actions (including arbitrations) brought by the Government
- the number of civil actions (including arbitrations) brought against the Government
- the total number of civil litigation cases
- the number of court appearances
- the amount of legal advice provided
- the number of commercial contracts processed
- the number of construction-related contracts processed

Initiatives	Targets
<p>To provide support for new activities in relation to information technology, telecommunications and broadcasting and the implementation of the Mandatory Provident Fund</p> <p><i>(Civil Division, Department of Justice (CD))</i></p>	<p>To provide legal input to facilitate work of client departments and bureaux</p>
<p>To provide advice on matters relating to the establishment of the new Information Technology and Broadcasting Bureau and preliminary work relating to the re-organisation of district organisations</p> <p><i>(CD)</i></p>	<p>To provide legal input to facilitate work of client departments and bureaux</p>
<p>To draft, vet and advise on the Chinese versions of contracts, undertakings, tender documents, public franchises and other legal documents for Government</p> <p><i>(CD)</i></p>	<p>To ensure preparation of all legal documents to be used on a bilingual basis where necessary</p>

V

Advise and decide whether or not criminal proceedings should be undertaken and prosecute cases in the courts

The Prosecutions Division (PD) of the Department of Justice advises on and prosecutes criminal cases in all the courts in Hong Kong. In most appeals to the Court of Final Appeal and the Court of Appeal, a senior member of the Prosecutions Division appears in court to represent the prosecution. In many cases in the Court of First Instance and some in the District Court, the prosecution is conducted by Government Counsel. Most of the cases in the Magistrates' Court are prosecuted by Court Prosecutors. Some cases are briefed out to members of the private Bar and solicitors in private practice. The Division also advises the law enforcement agencies generally on criminal law and practice and the effect of legislation.

These advocacy and advisory functions are performed by various specialist sections within the PD. These sections deal with trial preparation, trials, training and developing bilingualism, vice, obscenity and gambling cases, complaints against Police, appeals, the Basic Law and human rights, immigration cases, coroners' inquests, labour cases, ICAC cases, Customs & Excise cases, commercial crime cases, and miscellaneous advice.

Indicators

The indicators we will use to measure progress in this area are –

- the timeliness in providing advice on whether charges should be laid
- the number of cases conducted by Government Counsel
- the number of cases briefed out
- the number of cases conducted by Court Prosecutors
- the number of trials prepared in District Court and High Court
- the number of times legal advice is provided
- the number of appeals conducted

Initiatives	Targets
<p>To conduct all significant criminal cases which proceed, or seek leave to proceed, to the Hong Kong Court of Final Appeal (CFA)</p> <p><i>(Prosecutions Division, Department of Justice (PD))</i></p>	<p>To handle 90% of CFA cases and applications for certificates to appeal in 1999</p>
<p>To conduct the majority of criminal cases in both official languages effectively at all levels of court</p> <p><i>(PD)</i></p>	<p>In-house counsel to handle 100% of the Magistracy Appeals and Criminal Appeals in the Court of Appeal which are conducted in Chinese, 50% of the trials in the District Court which are conducted in Chinese, and the majority of the trials in the Court of First Instance which are conducted in Chinese in 1999</p>
<p>To provide counsel with a regularly updated English-Chinese glossary of legal terms for use at criminal proceedings</p> <p><i>(PD)</i></p>	<p>To update the glossary regularly</p>

VI

Develop efficient and effective bilingual legal services, promote better use of information technology, and promote public understanding of the rule of law and the legal system both locally and overseas

This KRA comprises three main aspects –

- to promote local and overseas awareness of the rule of law and of our legal system
- to further the development of legal bilingualism
- to continue to provide access to the laws of Hong Kong and legal information for Government departments and the public through the Bilingual Laws Information System (BLIS) and other means

Indicators

The indicators we will use to measure progress in this area are –

- Public Awareness of Legal System
 - the number of briefings conducted on Hong Kong’s legal system and related issues
 - the production of educational videos, TV dramas and publications about the rule of law and Hong Kong’s legal system
- Bilingual Legal System
 - the number of contracts and other legal documents in Chinese prepared or cleared
 - the number of training courses organised on the use of Chinese in legal work
- Information Technology
 - the extent to which the Information Systems Strategy Plan (ISSP) is completed
 - the timeliness of updating BLIS

Initiatives	Targets
<p>To enhance public interest in the Department's homepage in order to promote better understanding of the Department's work and aspects of the legal system and the rule of law</p> <p><i>(Department of Justice (D of J))</i></p>	<p>To update and improve the presentation of the homepage on a regular basis in 1999</p>
<p>To employ further measures to promote public knowledge of the legal system</p> <p><i>(D of J)</i></p>	<p>To produce an educational video on the law-making process in 1999</p>
<p>To promote work efficiency through the best use of information technology by establishing a permanent Information, Technology and Resources Unit</p> <p><i>(D of J)</i></p>	<p>To set up the permanent unit in 1999-2000</p>