

# **STANDING COMMITTEE ON JUDICIAL SALARIES AND CONDITIONS OF SERVICE**

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Report on Judicial Remuneration Review 2014

June 2014

司法人員薪俸及服務條件常務委員會  
Standing Committee on Judicial Salaries and Conditions of Service

26 June 2014

The Honourable C Y Leung, GBM, GBS, JP  
The Chief Executive  
Hong Kong Special Administrative Region  
People's Republic of China  
Tamar  
Hong Kong

Dear Sir,

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On behalf of the Standing Committee on Judicial Salaries and  
Conditions of Service, I have the honour to submit a report containing our  
findings and recommendation in the Judicial Remuneration Review 2014,  
which is conducted in accordance with the mechanism and methodology for  
the determination of judicial remuneration approved by the Chief  
Executive-in-Council in May 2008.

Yours sincerely,



(Bernard Chan)  
Chairman  
Standing Committee  
on Judicial Salaries and Conditions of Service

# **STANDING COMMITTEE ON JUDICIAL SALARIES AND CONDITIONS OF SERVICE**

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# Chapter 1

## Introduction

1.1 This Report sets out the findings and recommendation of the Standing Committee on Judicial Salaries and Conditions of Service (the Judicial Committee) in the Judicial Remuneration Review (JRR) 2014. The Review was conducted in accordance with the mechanism for the determination of judicial remuneration as approved by the Chief Executive-in-Council in 2008.

### The Judicial Committee

1.2 The Judicial Committee is an independent advisory body appointed by the Chief Executive to advise and make recommendations on matters concerning the salary and conditions of service of Judges and Judicial Officers (JJOs)<sup>1</sup>. It was first established in December 1987 in recognition of the independent status of the Judiciary and the need for the pay and conditions of service of JJOs to be dealt with separately from those of the civil service.

1.3 In May 2008, the Chief Executive-in-Council accepted all the major recommendations of the Judicial Committee's Report on the Study on the Appropriate Institutional Structure, Mechanism and Methodology for the Determination of Judicial Remuneration in Hong Kong in 2005<sup>2</sup> (the 2005 Report). With the approval of the Chief Executive, the Judicial Committee's terms of reference and membership

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<sup>1</sup> Judges refer to officers in the grades of Chief Justice, Court of Final Appeal; Judge, Court of Final Appeal; Judge of the High Court; and Judge of the District Court. Judicial Officers refer to officers in the grades of Registrar, High Court; Registrar, District Court; Member, Lands Tribunal; Magistrate; Presiding Officer, Labour Tribunal; Adjudicator, Small Claims Tribunal; Coroner; and Special Magistrate.

<sup>2</sup> The 2005 Report can be found in the website [http://www.jsscs.gov.hk/en/publications/reports\\_jscs.htm](http://www.jsscs.gov.hk/en/publications/reports_jscs.htm).

were expanded. Its terms of reference and membership are at **Appendix A** and **Appendix B** respectively.

## **Judicial Independence**

1.4 The Judicial Committee continues to premise its deliberations on the need to uphold the principle of judicial independence. It enables the court to adjudicate cases in a fair and impartial manner by ascertaining the facts objectively and applying the law properly. In discharging its functions, the Committee has to ensure that judicial remuneration is sufficient to attract and retain talent in the Judiciary, in order to maintain an independent and effective judicial system which upholds the rule of law and commands confidence within and outside Hong Kong. The need to maintain an independent Judiciary of the highest integrity is of utmost importance.

## **Judicial Remuneration**

1.5 In recognition of the independence and uniqueness of the Judiciary, JJOs are remunerated according to an independent salary scale known as the Judicial Service Pay Scale (JSPS) (**Appendix C**). Judicial salaries are subject to regular reviews that are distinct from that carried out in respect of the civil service, with the Judicial Committee tendering advice to the Chief Executive on matters concerning judicial remuneration.

## **Judicial Remuneration Review 2014**

1.6 In conducting the Review in 2014, the Committee invited the Judiciary and the Administration to provide relevant data and views pertaining to the basket of factors<sup>3</sup>. The Committee then exercised its

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<sup>3</sup> The basket of factors which the Judicial Committee takes into account in reviewing judicial remuneration are set out in paragraphs 2.5 and 2.6.

best judgement in analysing and balancing all relevant considerations in formulating its recommendation. Having considered all relevant factors, the Judicial Committee **recommends** that judicial salaries should be increased by 6.77% in 2014-15.

## Chapter 2

### Mechanism for Judicial Remuneration Review

#### Mechanism

2.1 The mechanism for JRR, as approved by the Chief Executive-in-Council in May 2008, comprises two components: a regular benchmark study and an annual salary review.

#### *Benchmark Study*

2.2 In its 2005 Report, the Judicial Committee took the view that a benchmark study on the levels of earnings of legal practitioners should be conducted on a regular basis, in order to ascertain their earnings levels, monitor such trends and review judicial salaries where appropriate. The Committee also recommended that the information or data collected in the benchmark study should be analysed and compared with judicial remuneration in Hong Kong, with a view to checking whether judicial pay was kept broadly in line with the movements of legal sector earnings over time. The data collected should not be translated into precise figures for determining the levels of judicial salaries. Rather, the pay relativities between selected judicial positions and the corresponding legal sector positions should be systematically recorded to show whether the pay relativities were widening or narrowing over time. The data would facilitate the Judicial Committee in monitoring the private sector pay trends and considering whether and how adjustments to judicial pay should be made<sup>4</sup>.

2.3 The Committee decided in 2009 that a benchmark study should in principle be conducted every five years, with its frequency subject to periodic review. The last benchmark study, entitled the “2010 Benchmark Study on the Earnings of Legal Practitioners in Hong

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<sup>4</sup> The 2005 Report, paragraph 3.26.



Kong” (the 2010 Study) was conducted in 2010<sup>5</sup>, five years since the previous pilot study conducted in 2005, with the assistance of a professional consultant. Having completed the 2010 Study, the Committee reaffirmed its view that a benchmark study should in principle be conducted every five years to monitor the changes in the pay differentials between the levels of judicial pay and those of legal practitioners. The Committee has revisited the timing for the next benchmark study, which would be conducted in 2015. Preparatory work for the study would commence after the current JRR.

### ***Annual Review***

2.4 The Committee has agreed that an annual review on judicial remuneration should be conducted, including in the year when a benchmark study is carried out. This will enable the Committee to take a holistic view on the year-on-year changes in relation to the basket of factors, in conjunction with the findings of the regular benchmark study. During the review, the Committee will consider whether and, if so, how judicial pay should be adjusted.

### **Balanced Approach**

2.5 Consistent with its recommendations in the 2005 Report as approved by the Chief Executive-in-Council, the Committee adopts a balanced approach in reviewing judicial remuneration by taking into account a basket of factors. The basket of factors include the following –

- (a) the responsibility, working conditions and workload of judges vis-à-vis those of lawyers in private practice;
- (b) recruitment and retention in the Judiciary;
- (c) the retirement age and retirement benefits of JJOs;
- (d) the benefits and allowances enjoyed by JJOs;

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<sup>5</sup> The findings of the 2010 Study are set out in the Survey Report, accessible at the Joint Secretariat’s website at [http://www.jssc.gov.hk/reports/en/jscs\\_11/r\\_benchmarkstudy2010.pdf](http://www.jssc.gov.hk/reports/en/jscs_11/r_benchmarkstudy2010.pdf).

- (e) prohibition against return to private practice in Hong Kong;
- (f) public sector pay as a reference;
- (g) private sector pay levels and trends;
- (h) cost of living adjustments; and
- (i) the general economic situation in Hong Kong.

2.6 In addition to the above, the Committee also agrees to take into account the following factors suggested by the Administration –

- (a) overseas remuneration arrangements;
- (b) unique features of judicial service – such as the security of tenure, the prestigious status and high esteem of judicial offices; and
- (c) the budgetary situation of the Government – which is a relevant factor for consideration in adjusting civil service pay.

## **Chapter 3**

### **Judicial Remuneration Review 2014 – Annual Review**

#### **The Annual Review**

3.1 This is the sixth year for the Judicial Committee to conduct the annual review of judicial salary in accordance with the mechanism for JRR as set out in Chapter 2. In conducting the Review, instead of applying a mechanical formula, the Committee continued to adopt a balanced approach taking into account the basket of factors and the views of the Judiciary.

#### **Responsibility, Working Conditions and Workload**

3.2 On the basis of the latest information provided by the Judiciary, the Committee did not observe any major change in the responsibility and working conditions of JJOs. Members of the Judiciary continued to discharge their functions in maintaining an independent and effective judicial system to uphold the rule of law and safeguard the rights and freedoms of the individual. The levels of court and the respective judicial ranks have remained the same as set out in **Appendix D**.

3.3 As regards workload, the caseloads of the Judiciary as a whole remained steady in the past few years. In 2013, there was a noticeable decrease in the number of cases at the Obscene Articles Tribunal, which was mainly attributable to the reduction in the number of articles referred to the Tribunal for determination. The caseloads in different levels of court are shown in **Appendix E**.

3.4 Despite the relatively steady caseload figures, the Judiciary has pointed out that for all levels of court, cases were getting more complex. More time and effort were required for the JJOs to deal with the cases. Indeed, the Judicial Committee has all along recognised that caseload figures alone do not fully reflect workload, and the complexity of cases is also an important element. The Committee maintained the view that the nature of judicial work is unique. The responsibility and working conditions of JJOs are different from those of legal practitioners, rendering any direct comparison between the two inappropriate.

3.5 The Judiciary also indicated that the increased complexity of cases, a high ratio of unrepresented litigants, and new development in law such as the introduction of the Competition Ordinance (Cap. 619), *inter alia*, had translated into a heavy workload. This was particularly felt at the level of the High Court. To cope with the increased workload and to support the continued development of judicial education initiatives, resources have been secured in 2014-15 to create additional judicial posts at various levels of court on completion of a comprehensive establishment review of the judicial manpower by the Judiciary. The Committee trusted that the Judiciary would continue to monitor any changes in workload and keep in view its manpower position to ensure provision of quality services to court users and members of the public.

## **Recruitment and Retention**

3.6 On recruitment of JJOs, the Judiciary advised that a total of six open recruitment exercises for various judicial ranks were conducted between 2011 and 2013. The Committee noted that the Judiciary had been conducting recruitment exercises for Judges of the Court of First Instance of the High Court (CFI Judge) on a yearly basis instead of every three years since 2013, having regard to the fact that the timing for joining the bench was a crucial factor for senior legal practitioners. Up to 31 March 2014, a total of 53 judicial appointments were made as a result of the recruitment exercises conducted between 2011 and 2013,

with eight judicial appointments made in the 2013-14 financial year. The eight appointees included two CFI Judges, four Judges of the District Court (District Judge) and two Members, Lands Tribunal, with three joined from the outside. Further offers for CFI Judge and District Judge had been/will be made after 31 March 2014.

3.7 On the establishment front, with the creation of two new judicial posts, namely one CFI Judge and one Deputy Registrar, High Court, in April last year to cope with the new responsibilities arising from the establishment and operation of the Competition Tribunal under the Competition Ordinance (Cap. 619), the establishment of JJOs has increased from 191 as at 31 March 2013 to 193 as at 31 March 2014. As of 31 March 2014, against the establishment of 193 judicial posts, 154 were filled substantively. This represents a net decrease of ten in the strength of JJOs as compared with 31 March 2013, which arose because of retirement. The establishment and strength of JJOs as at 31 March 2014 are in **Table 1** below –

**Table 1: Establishment and strength of JJOs**

Level of court	As at 31.3.2014*		Net change in strength over 31.3.2013
	Establishment	Strength	
Court of Final Appeal <sup>6</sup>	4 (4)	4 (4)	0
High Court <sup>7</sup>	55 (53)	40 (40)	0
District Court <sup>8</sup>	40 (40)	42 <sup>#</sup> (44)	-2
Magistrates' Courts and Specialised Tribunals/Court <sup>8</sup>	94 (94)	68 (76)	-8
<b>Total</b>	<b>193 (191)</b>	<b>154 (164)</b>	<b>-10</b>

\* Figures in brackets denote position as at 31.3.2013

# Strength of JJOs at the District Court level exceeded its establishment as some of them were appointed as temporary Deputy Registrars for the High Court Masters' Office under the cross-posting policy.

<sup>6</sup> The figures exclude one Permanent Judge post created for Non-Permanent Judge (NPJ) of the Court of Final Appeal. In practice, an NPJ is invited to sit in the Court of Final Appeal as required in accordance with the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

<sup>7</sup> For Senior Deputy Registrar and Deputy Registrar vacancies in the Masters' Office of the High Court, the functions are now all carried out by District Judges who are appointed as temporary Deputy Registrars under the cross-posting policy.

<sup>8</sup> For judicial offices in the Masters' Office of the District Court and at the Labour Tribunal, Small Claims Tribunal and the Coroner's Court, the functions are carried out by Principal Magistrates or Magistrates under the cross-posting policy. The cross-posting policy provides greater flexibility in the posting of judicial officers between various courts to serve operational needs.

3.8 The Committee noted that the establishment review conducted in 2013 by the Judiciary concluded that additional judicial posts would be required to enhance judicial manpower at various levels of court to cope with the increased workload and to strengthen support to judicial education. The Committee is pleased to note that the Judiciary has also been provided with new resources to create some judicial and supporting posts in this regard in 2014-15.

3.9 Nevertheless, enhancement of judicial manpower position hinges not only on creation of new posts, timely appointment of officers with the right calibre to fill vacancies is equally important. The Committee understood that the Judiciary had commissioned fresh open recruitment exercises for Permanent Magistrates and Special Magistrates in the first half of 2014, and planned to conduct open recruitment for CFI Judges in the latter part of the year. The Judiciary would closely monitor the outcomes of all recruitment exercises, keep in view if there are signs of recruitment difficulties at any particular level of court, and assess whether measures may be needed to address any problems arising therefrom. The Committee noted that the Judiciary would keep the Committee and the Administration posted of any new developments.

3.10 Meanwhile, the Judiciary has continued to engage temporary judicial resources to help relieve workload, including internal/external deputy and temporary or acting JJOs. In the past year, the number of external deputy/temporary JJOs increased from a total of 20 as at 31 March 2013 to 41 as at 31 March 2014.

## **Retirement**

3.11 The statutory normal retirement age for JJOs is 60 or 65, depending on the level of court. Beyond that, extension of service may be approved up to the age of 70 or 71, depending on the level of court and subject to consideration on a case-by-case basis. For retirement benefits, JJOs are either entitled to pension governed by the Pension Benefits (Judicial Officers) Ordinance (Cap. 401), or provident fund

governed by the Mandatory Provident Fund Schemes Ordinance (Cap. 485) according to their terms of appointment.

3.12 Retirement is the main source of wastage among JJOs. The anticipated retirement will be six (or 3.9% of current strength) in 2014-15, increasing to ten (or 6.5% of current strength) in 2015-16, and going down to seven (or 4.5% of current strength) in 2016-17.

3.13 The retirement situation may still pose challenges on judicial manpower in the coming years. To address the situation, the Committee considered that the Judiciary should continue to attract new blood and to groom and retain existing talent. The Committee understood that the Judiciary would continue to keep its judicial manpower situation under review, and take appropriate action where necessary.

## **Benefits and Allowances**

3.14 JJOs are entitled to a range of benefits and allowances in addition to salary. The scope of their benefits and allowances is largely similar to that available in the civil service, with some adaptations having regard to the unique characteristics of the judicial service.

3.15 The Committee noted that there was no change to the package of existing fringe benefits and allowances for JJOs in the past year, except the following –

- (a) The rates of Leave Passage Allowance<sup>9</sup>, Home Financing Allowance and Non-accountable Cash Allowance<sup>10</sup> were revised following similar revisions in the civil service; and

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<sup>9</sup> Leave Passage Allowance is an allowance to reimburse eligible officers (and their eligible family members, where applicable) their travel-related expenses, e.g. air fares, accommodation and car hire and related expenses.

<sup>10</sup> The Home Financing Allowance and Non-accountable Cash Allowance are two different types of housing allowance offered to JJOs.

- (b) With the Committee's support, the Administration has approved the Judiciary's proposal to revise the rates for two Extraneous Duties Allowances (Responsibility) (EDA(R)) for Justices of Appeal (JA) of the Court of Appeal of the High Court<sup>11</sup> in 2013-14, based on the annual judicial pay adjustment of 3.15% for 2013-14.

3.16 The existing package of benefits and allowances is an integral part of judicial remuneration, and is an important component that has helped attract capable legal practitioners to join the bench. The Committee will continue to keep the situation under review.

## **Unique Features of the Judicial Service**

3.17 The Judiciary is unique in many aspects. A prominent feature is the prohibition against return to private practice. Judges at the District Court level and above must give an undertaking not to practise in future as barristers or solicitors in Hong Kong without the permission of the Chief Executive. The Chief Justice and Judges of the Court of Final Appeal are prohibited by statute from practising as barristers or solicitors in Hong Kong while holding office or at any time after ceasing to hold office. On the other hand, judges enjoy security of tenure<sup>12</sup> and high esteem, which may be seen as attractions for legal practitioners joining the bench. The Committee noted that these were all long established arrangements and nothing was changed during the annual salary review in 2014.

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<sup>11</sup> Both EDA(R)s are payable in recognition of the higher responsibilities taken up by JAs. One is for JAs appointed as Vice Presidents of the Court of Appeal of the High Court, while the other is for JAs sitting as Non-Permanent Judges of the Court of Final Appeal.

<sup>12</sup> Any removal from office is subject to detailed statutory procedures, and the removal of the most senior judges (i.e. the Chief Justice, Judges of the Court of Final Appeal and the Chief Judge of the High Court) has to be endorsed by the Legislative Council and reported to the Standing Committee of the National People's Congress for the record.



## Overseas Remuneration Arrangements

3.18 The Committee continued to keep track of major development, if any, on judicial remuneration in six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States. There was no systemic change to the judicial remuneration systems in these jurisdictions in 2013-14. The jurisdictions took different, but generally prudent, actions in their latest annual salary reviews for judges, with the annual adjustment rates more or less similar to the previous year. A key consideration behind their respective actions appeared to be the prevailing states of economy of the respective jurisdictions.

## General Economic Situation and Cost of Living Adjustments in Hong Kong

3.19 The Administration has provided detailed information on Hong Kong's economic and fiscal indicators for the Committee's reference. Hong Kong's economic growth remained moderate in the first quarter of 2014, at 2.5% year-on-year in real terms, somewhat slower than the 2.9% recorded in the fourth quarter of 2013. For 2014 as a whole, the Hong Kong economy is projected to grow by 3-4%. The year-on-year changes in Gross Domestic Product (GDP) in real terms are shown in **Table 2** below –

**Table 2 : Changes in GDP in real terms**

Year	Quarter	GDP year-on-year % change
2013	Q1	+2.9%
	Q2	+3.0%
	Q3	+3.0%
	Q4	+2.9%
2014	Q1	+2.5%*

(Source: Figures published by the Census and Statistics Department)

\* Preliminary figure

3.20 Hong Kong's labour market remained tight upon entering 2014. The seasonally adjusted unemployment rate inched down by 0.1% over the preceding quarter to a 16-year low of 3.1% in the first

quarter of 2014. The figure stood at 3.1% in March to May 2014. As compared to 3.4% in the same period in 2013, unemployment rate has generally been on the drop over the past 12 months.

3.21 On changes in cost of living, headline consumer price inflation, as measured by the year-on-year increase in the Composite Consumer Price Index<sup>13</sup>, rose by 4.2% year-on-year in the first quarter of 2014, down slightly from 4.3% in the fourth quarter of 2013. For the 12-month period ended March 2014, headline inflation averaged at 4.4%<sup>14</sup>. With rentals easing on a broad front, wage rise staying steady, while imported price pressures still modest, the upside risks to inflation should remain contained this year. The forecast headline inflation for 2014 as a whole is 4.6%<sup>15</sup>.

## **Budgetary Situation of the Government**

3.22 Based on the information from the Administration, the Government had a consolidated surplus of \$21.8 billion in 2013-14 and the fiscal reserves stood at \$755.7 billion as at end March 2014. For 2014-15, a surplus of \$23.9 billion and a deficit of \$5.0 billion are estimated for the Operating Account and Capital Account respectively. After repayment of bonds and notes of \$9.8 billion, there is a surplus of \$9.1 billion in the Consolidated Account, equivalent to 0.4% of our GDP.

3.23 The annual staff cost of the Judiciary in 2014-15 is estimated at about \$1 billion, which is roughly 0.31% of the Government's total operating expenditure of \$325 billion in the 2014-15 Estimates.

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<sup>13</sup> Composite Consumer Price Index reflects the impact of consumer price change on the household sector as a whole.

<sup>14</sup> The underlying inflation netting out all Government's one-off relief measures for the 12-month period ended March 2014 averaged at 4.0%.

<sup>15</sup> The forecast underlying inflation for 2014 is 3.7%.

## Private Sector Pay Levels and Trends

3.24 The Committee noted that there was no comprehensive or representative pay trend survey on the legal sector, although there were small surveys conducted by individual recruitment agencies with limited coverage, which were of little relevance to the Judiciary. Moreover, direct comparison between judicial pay and legal sector pay is inappropriate having regard to the uniqueness of judicial work. Such being the case, the Committee continued to make reference to the gross Pay Trend Indicators (PTIs) from the annual Pay Trend Survey (PTS)<sup>16</sup>, which reflected the overall private sector pay trend, and captured, among others, the general market changes, cost of living, merit and in-scale increment in the private sector. As the gross PTIs already included merit and in-scale increment in the private sector, it is appropriate to subtract the cost of increments for JJOs from the relevant gross PTI to arrive at a private sector pay trend suitable for reference in the context of the JRR.

### *Cost of Increments for JJOs*

3.25 JJOs are remunerated on the JSPS as set out in **Appendix C**. Save for the Special Magistrate and Permanent Magistrate ranks, which are on a pay scale of JSPS 1-6 and JSPS 7-10 respectively, pay progression in the other (and majority) levels of JJOs is limited. Only a small number of incremental creeps are granted to JJOs at JSPS 10-14 upon satisfactory completion of two or five years of

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<sup>16</sup> The annual PTS measures the year-on-year average pay movements of full-time employees in the private sector over a 12-month period from 2 April of the previous year to 1 April of the current year. The PTIs derived from the PTS are divided into three bands, reflecting the average pay movements of private sector employees in three salary ranges, i.e. –

- (i) Lower Band covering employees in the salary range below \$18,535 per month;
- (ii) Middle Band covering employees in the salary range of \$18,535 to \$56,810 per month; and
- (iii) Upper Band covering employees in the salary range of \$56,811 to \$112,155 per month.

In the absence of a comprehensive or representative pay trend survey on the legal sector, the PTI for the Upper Band in the PTS is considered as a suitable reference for comparison with judicial salaries, which start at JSPS 1, currently at \$67,580.

service<sup>17</sup>. JJOs serving on JSPS 15 and above have no increment. The consolidated cost of increments (CCOI) as a percentage of total payroll cost for all JJOs in the past five years based on information from the Judiciary are set out in **Table 3** below –

**Table 3 : CCOIs for JJOs (2009-10 to 2013-14)**

Year	CCOI for JJOs
2009-10	0.34%
2010-11	0.16%
2011-12	0.35%
2012-13	0.23%
2013-14	0.14%

3.26 The Judicial Committee considered that adopting a CCOI for all JJOs (as opposed to having separate costs of increments for JJOs remunerated on incremental scales/spot rates) would avoid over-complicating the system. Moreover, it would help maintain the established internal relativities of judicial pay among various ranks. The Judiciary also agreed to this arrangement.

***Private Sector Pay Trend for JRR Purpose***

3.27 The gross PTI of private sector employees in the highest salary range as reflected from the 2014 PTS was +6.91% for the 12-month period from 2 April 2013 to 1 April 2014. As mentioned in paragraph 3.25 above, the CCOI for JJOs in 2013-14 was 0.14%. The private sector pay trend for JRR purpose (i.e. calculated by subtracting the CCOI for JJOs from the gross PTI) in 2014 is therefore +6.77%.

3.28 The Committee also made reference to other private sector pay indicators. In 2013, private sector remuneration generally maintained an overall upward adjustment.

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<sup>17</sup> Pay points on JSPS 10 to 14 each has two increments. An officer remunerated on this segment of the JSPS may proceed to the first increment after satisfactory completion of two years of service in the rank, and to the second increment after satisfactory completion of another three years of service in the rank.

## **Public Sector Pay as a Reference**

3.29 Historically, there was an informal linkage between judicial salaries and senior civil service salaries before the implementation of the existing mechanism for determining judicial remuneration. As concluded in the 2005 Report, while some reference to public sector pay was beneficial, pegging was not appropriate. De-linking judicial remuneration from that of the civil service would not only strengthen the perception of judicial independence, but would also provide the necessary safeguard and reassurance to JJOs. The conclusion has also taken into account certain aspects that render it inappropriate for a direct comparison between the Judiciary and the civil service, e.g. judges do not have the collective bargaining process on annual pay adjustment which the Administration has established with the civil service unions and staff associations<sup>18</sup>. Public sector pay is hence one of the factors under the balanced approach for determining judicial remuneration.

3.30 In the context of the 2014 annual review, the Committee has made reference to the decision of the Chief Executive-in-Council in June 2014 that the pay for civil servants in the Upper Band and above should be increased by 5.96% with retrospective effect from 1 April 2014, subject to the approval from the Finance Committee of the Legislative Council.

## **The Judiciary's Position**

3.31 The Judiciary has pointed out that any reduction of judicial salaries may well offend the principle of judicial independence, and reiterated that, in any case, judicial pay should not be reduced. The Judiciary sought a pay increase of 6.77% (i.e. the relevant gross PTI at 6.91% less the CCOI for JJOs at 0.14%) for the judicial service in 2014-15.

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<sup>18</sup> The 2005 Report, paragraph 3.14.

# Chapter 4

## Conclusion and Recommendation

4.1 Having considered the basket of factors, the Committee noted that those factors pertaining to the Judiciary had remained more or less unchanged. The Committee understood that the Judiciary would continue to closely monitor the outcomes of all recruitment exercises and keep its judicial manpower under review.

4.2 The Committee noted that there was no systemic change to the judicial remuneration systems in all the jurisdictions to which it had made reference. Different jurisdictions tended to adopt different approaches in their annual reviews of judicial salaries, having regard to, among others, their prevailing states of economy.

4.3 In Hong Kong, economic growth remained moderate in the first quarter of 2014, while the labour market was tight, with the unemployment rate reached a 16-year low during the same period. The economy is forecast to grow by 3-4% for 2014 as a whole. As for cost of living, for the 12-month period ended March 2014, inflation averaged at 4.4%.

4.4 As regards private sector pay trend, by subtracting the annual CCOI for JJOs from the relevant gross PTI in 2014, the private sector pay trend suitable for reference in the JRR context is 6.77%.

4.5 As regards public sector pay, subject to the approval from the Finance Committee of the Legislative Council, civil service pay for the Upper Band and above will be increased by 5.96% in 2014-15.

4.6 The Judiciary has indicated its position that any reduction of judicial salaries may well offend the principle of judicial independence,

reiterated that in any case judicial pay should not be reduced, and sought a pay increase of 6.77%.

4.7 Taking into account the basket of factors and having balanced all considerations, the Judicial Committee **recommends** that judicial salaries should be increased by 6.77% in 2014-15.

4.8 For future reviews, the Judicial Committee would continue to adopt a balanced approach taking into account the basket of factors. Among others, we would closely monitor the private sector pay trends as reflected in the gross PTIs, the changes in the cost of increments for JJOs, and other pay indicators in surveys conducted by other agencies. Looking ahead, the Judicial Committee would continue to take into account the experience in the past JRRs conducted under the approved mechanism.

## **Acknowledgements**

We would like to express our sincere gratitude to both the Administration and the Judiciary for providing us with comprehensive and valuable information. Their contribution is most useful in facilitating our deliberation on the basket of factors under the approved mechanism for the determination of judicial remuneration. Our appreciation also goes to the Secretary General and the Joint Secretariat for their assistance in this review.



## **Standing Committee on Judicial Salaries and Conditions of Service**

### **Terms of Reference**

I. The Committee will advise and make recommendations to the Chief Executive on –

- (a) the structure, i.e. number of levels and salary level; and conditions of service and benefits other than salary appropriate to each rank of judges and judicial officers and other matters relating thereto;
- (b) matters relating to the system, institutional structure, methodology and mechanism for the determination of judicial salary and other matters relating thereto which the Chief Executive may refer to the Committee; and
- (c) any other matter as the Chief Executive may refer to the Committee.

II. The Committee will also, when it so determines, conduct an overall review of the matters referred to in I(a) above. In the course of this, the Committee should accept the existing internal structure of the Judiciary and not consider the creation of new judicial offices. If, however, the Committee in an overall review discovers anomalies, it may comment upon and refer such matters to the Chief Justice, Court of Final Appeal.

**Standing Committee on Judicial Salaries  
and Conditions of Service**

**Membership**

**Chairman**

The Hon Bernard Chan, GBS, JP

**Members**

Professor Chan Yuk-shee, SBS, JP

The Hon Chow Chung-kong

Mr Lester Garson Huang, JP

Mr Brian David Li Man-bun, JP

Mrs Ayesha Macpherson Lau, JP

Mr Benjamin Yu, SC, SBS, JP

**Judicial Service Pay Scale**  
(with effect from 1 April 2013)

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
19	274,600	◇ Chief Justice, Court of Final Appeal
18	267,000	◇ Permanent Judge, Court of Final Appeal ◇ Chief Judge of the High Court
17	240,700	◇ Justice of Appeal of the Court of Appeal of the High Court
16	229,400	◇ Judge of the Court of First Instance of the High Court
15	189,600	◇ Registrar, High Court ◇ Chief Judge of the District Court
14	(183,450)	◇ Senior Deputy Registrar, High Court ◇ Principal Family Court Judge, District Court
	(178,100)	
	172,900	
13	(171,750)	◇ Deputy Registrar, High Court ◇ Judge of the District Court ◇ Chief Magistrate
	(166,900)	
	162,050	
12	(148,000)	◇ Assistant Registrar, High Court ◇ Member, Lands Tribunal
	(143,700)	
	139,400	
11	(136,150)	◇ Registrar, District Court ◇ Principal Adjudicator, Small Claims Tribunal ◇ Principal Magistrate ◇ Principal Presiding Officer, Labour Tribunal
	(132,350)	
	128,400	
10	(124,600)	◇ Adjudicator, Small Claims Tribunal ◇ Coroner ◇ Deputy Registrar, District Court ◇ Presiding Officer, Labour Tribunal
	(120,900)	
	117,450	
10	(124,600)	◇ Magistrate
	(120,900)	
	117,450	
9	109,060	
8	106,510	
7	103,970	

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
6	79,845	◇ Special Magistrate
5	76,145	
4	72,610	
3	70,915	
2	69,235	
1	67,580	

Note: Figures in brackets (for JSPS 10 – 14) represent increments under which the officer may proceed to the first increment after satisfactory completion of two years of service in the rank and to the second increment after satisfactory completion of another three years of service in the rank.

### Levels of Court and Judicial Ranks

Level of Court	Rank	Pay Scale (JSPS)
Court of Final Appeal	Chief Justice, Court of Final Appeal	19
	Permanent Judge, Court of Final Appeal	18
High Court, Court of Appeal	Chief Judge of the High Court	18
	Justice of Appeal of the Court of Appeal of the High Court	17
High Court, Court of First Instance	Judge of the Court of First Instance of the High Court	16
High Court, Masters' Office	Registrar, High Court	15
	Senior Deputy Registrar, High Court	14
	Deputy Registrar, High Court	13
	Assistant Registrar, High Court*	12
District Court	Chief Judge of the District Court	15
	Principal Family Court Judge, District Court	14
	Judge of the District Court	13
District Court, Masters' Office	Registrar, District Court	11
	Deputy Registrar, District Court	10
Lands Tribunal	Member, Lands Tribunal	12
Magistrates' Courts	Chief Magistrate	13
	Principal Magistrate	11
	Magistrate	7 – 10
	Special Magistrate	1 – 6
Labour Tribunal	Principal Presiding Officer, Labour Tribunal	11
	Presiding Officer, Labour Tribunal	10
Small Claims Tribunal	Principal Adjudicator, Small Claims Tribunal	11
	Adjudicator, Small Claims Tribunal	10
Obscene Articles Tribunal	Magistrate	7 – 10
Coroner's Court	Coroner	10

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\* There is at present no post in the rank of Assistant Registrar, High Court.

### Caseloads in Different Levels of Court between 2011 and 2013

No. of Cases Level of Court	2011	2012	2013
<b>Court of Final Appeal</b>			
– application for leave to appeal	122	113	113
– appeals	33	41	31
– miscellaneous proceedings	0	0	3
<b>Total</b>	<b>155</b>	<b>154</b>	<b>147</b>
<b>Court of Appeal of the High Court</b>			
– criminal appeals	556	526	453
– civil appeals	291	283	281
<b>Total</b>	<b>847</b>	<b>809</b>	<b>734</b>
<b>Court of First Instance of the High Court</b>			
– criminal jurisdiction			
• criminal cases	482	486	571
• confidential miscellaneous proceedings	100	158	326
• appeals from Magistrates' Courts	897	862	809
– civil jurisdiction	15 966	17 212	18 573
<b>Sub-total</b>	<b>17 445</b>	<b>18 718</b>	<b>20 279</b>
– probate cases	16 319	16 308	16 967
<b>Total</b>	<b>33 764</b>	<b>35 026</b>	<b>37 246</b>
<b>District Court</b>			
– criminal cases	1 396	1 207	1 190
– civil cases	22 394	20 847	20 636
– divorce jurisdiction	22 989	23 674	23 392
<b>Total</b>	<b>46 779</b>	<b>45 728</b>	<b>45 218</b>
<b>Magistrates' Courts</b>	<b>306 966</b>	<b>322 918</b>	<b>319 702</b>
<b>Lands Tribunal</b>	<b>5 170</b>	<b>5 156</b>	<b>5 035</b>
<b>Labour Tribunal</b>	<b>4 190</b>	<b>4 744</b>	<b>4 154</b>
<b>Small Claims Tribunal</b>	<b>50 962</b>	<b>48 201</b>	<b>48 982</b>
<b>Obscene Articles Tribunal</b>	<b>27 896</b>	<b>60 619</b>	<b>42 129</b>
<b>Coroner's Court</b>	<b>177</b>	<b>178</b>	<b>156</b>

