

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

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Report on Judicial Remuneration Review 2023

July 2023

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

20 July 2023

The Honourable John KC Lee, GBM, SBS, PDSM, PMSM  
The Chief Executive  
Hong Kong Special Administrative Region  
People's Republic of China

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 recommendations for the Judicial Remuneration Review 2023, which has been 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 faithfully,



( Clement Chen Cheng-jen )  
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 recommendations of the Standing Committee on Judicial Salaries and Conditions of Service (the Judicial Committee) in the Judicial Remuneration Review (JRR) 2023. 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

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<sup>1</sup> Judges refer to officers in the grades of Chief Justice, Court of Final Appeal (CFA); Judge, CFA; Judge of the High Court; and Judge of the District Court (District Judge). 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.

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 were expanded. Its current 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 in accordance with which the courts exercise judicial power independently, free from any interference, as enshrined in the Basic Law<sup>3</sup>. In discharging its functions, the Judicial Committee is guided by the principle that judicial remuneration should be 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, safeguards the rights and freedoms of the individual, 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.

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

<sup>3</sup> Article 2 of the Basic Law states that the National People's Congress authorizes the Hong Kong Administrative Region (HKSAR) to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law. Article 85 further states that the courts of HKSAR shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.

## **Judicial Remuneration Review 2023**

1.6 The Judicial Committee has invited the Judiciary and the Government to provide relevant data, information and views pertaining to the basket of factors<sup>4</sup> for the purpose of carrying out the Review in 2023. The Judicial Committee then exercised its 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 be increased by 3.62% in 2023-24.

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<sup>4</sup> The basket of factors that the Judicial Committee takes into account in reviewing judicial remuneration are set out in paragraphs 2.5 and 2.6.

## 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 Judicial 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>5</sup>.

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<sup>5</sup> For details, please see paragraph 3.26 of the 2005 Report.



2.3 The Judicial Committee further decided in 2009 that a benchmark study should in principle be conducted once every five years, with its frequency subject to review. Since then<sup>6</sup>, the Judicial Committee has completed three benchmark studies (in 2010, 2015 and 2020). The next benchmark study is tentatively scheduled for 2025, and the Judicial Committee will in due course consider the timing to commence the study.

### ***Annual Review***

2.4 The Judicial Committee has agreed that an annual review on judicial remuneration should be conducted, including in the year in which a benchmark study is carried out. In reviewing judicial remuneration, the Judicial Committee will take a holistic view on a basket of factors (set out in paragraphs 2.5 and 2.6). During the year in which a benchmark study is carried out, the findings of the benchmark study will also be taken into account in the annual review on judicial remuneration. The Judicial Committee will then consider whether and, if so, how judicial pay should be adjusted in the context of the annual review.

## **Balanced Approach**

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

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<sup>6</sup> A pilot study was conducted by the Judicial Committee in 2005 to ascertain the feasibility of such benchmark studies.

- (d) the benefits and allowances enjoyed by JJOs;
- (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 Judicial Committee has agreed to take into account the following factors which are suggested by the Government –

- (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**

### **Annual Review**

#### **Annual Review**

3.1 The Judicial Committee continues to take forward the annual review of judicial remuneration by adopting a balanced approach, instead of a mechanical one, under which the basket of 12 factors and the views of the Judiciary are analysed and holistically considered before the Judicial Committee puts forth its recommendation to the Chief Executive.

#### **Responsibility and Working Conditions**

3.2 Having reviewed the latest information on the responsibility and working conditions of JJOs provided by the Judiciary, the Judicial Committee has not observed any major change in this aspect. Members of the Judiciary continue 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 (in **Appendix D**) have remained the same as before.

#### **Workload and Complexity of Judicial Work**

3.3 The workload of the Judiciary, as represented by the caseload, has remained largely stable in recent years except for a slight

drop in caseload in 2020 due to the COVID-19 epidemic<sup>7</sup>. In 2022, the overall caseload resumed to the level comparable to that in 2019 (i.e. before the onset of the epidemic) and that in 2021. The caseloads in different levels of court between 2019 and 2022 are shown in **Appendix E**.

3.4 The Judicial Committee notes that pressures arising from judicial work have been felt by the Judiciary particularly at the levels of the High Court and the District Court. The Judicial Committee notices that at the level of the High Court, the number of non-refoulement claims filed at the Appeal Committee of the CFA, the Court of Appeal of the High Court (CA) and the Court of First Instance of the High Court (CFI) sustained at a high level in 2022. The Judicial Committee also notes that National Security cases are mainly handled at the High Court level, each usually involving three judges. National Security cases invariably entail longer trials, for which substantial judicial resources have to be expended, thereby impacting the listing of all other criminal cases. In respect of the District Court, the Judicial Committee notes that its major challenge in recent years has been to cope with cases arising from the violence events and riots in 2019 in relation to the proposed extradition amendment bill. Many of such cases involve a large number of defendants and lengthy trials<sup>8</sup>. These two types of cases have been posing mounting challenges to the Judiciary in terms of judicial resources, manpower support, competing use of court premises and the provision of suitable media and security arrangements.

3.5 The Judiciary has pointed out that caseload figures alone do not reflect fully the workload of JJOs and must not be looked at exclusively. They do not, for instance, reflect the complexity of the cases and the time required for the trials, which directly affects the

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<sup>7</sup> The Judiciary adjusted the schedule for its court business and implemented social distancing measures in 2020 in response to the COVID-19 epidemic. In 2020, the number of cases filed at various levels of court fell by varying magnitudes, from about 20% to about 25%, when compared with that in 2019.

<sup>8</sup> According to the Judiciary, many of such cases entail hearings over a considerably long period of over 20 or 30 days as they invariably involve a large number of defendants (over 10 and up to 50 in some cases), legal representatives, media and public viewers, and evidence in the form of voluminous video recordings. Operational experience from these cases concluded at the District Court indicates that the processing time from first appearance at the Magistrates' Court to conclusion at the District Court would invariably range from 300 to 400 days or even longer, representing about 30% longer than other criminal cases on average.

judicial resources required and the amount of time and efforts required of JJOs to deal with the cases. The Judiciary opines that it is very difficult to devise meaningful quantifiable indicators to reflect the increasing workload and heavier responsibilities of JJOs. All the above are generally true for all levels of court but the pressure is particularly felt at the levels of the High Court and the District Court<sup>9</sup>.

3.6 The Judiciary further states that increased complexity in cases not only means longer hearing times but also considerably more time required for JJOs to conduct pre-hearing preparation and to write judgments. In recent years, there was a considerable increase in the number of lengthy trials, particularly for criminal trials involving complicated cases and multiple defendants. The high ratio of unrepresented litigants in civil cases also creates great challenges because JJOs are not properly assisted in such cases when dealing with complex legal issues. Hearings (and their preparation) have to take longer as a result.

3.7 The Judicial Committee has all along recognised that caseload figures alone do not fully reflect the workload of JJOs, and the complexity of cases is also an important element. The Judicial Committee maintains its view that the nature of judicial work is unique. The Judicial Committee takes note that the Judiciary has been taking pro-active measures to address issues arising from the tight manpower situation and will keep in view its manpower position to ensure provision of quality services to court users and members of the public. The Judicial Committee notes that the Judiciary has been exploring how court cases can be better managed and how the caseload and case progress can be monitored more closely such that timely adjustments to resource deployment can be made.

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<sup>9</sup> As advised by the Judiciary, for the High Court, there have been many complex trials involving complicated commercial crime cases, long and complicated criminal trials and important public law cases. A sharp increase in non-refoulement claim cases also has a significant impact on the already heavy workload. As for the District Court, its continued challenge in recent years has been to cope with the cases arising from the violence events and riots in 2019 in relation to the proposed extradition amendment bill.

## Recruitment and Retention

3.8 As at 31 March 2023, against the total establishment of 222 judicial posts, 166 were substantively filled. This establishment and strength position represents a net increase of six in the strength of JJOs as compared with the position as at 31 March 2022. This change in strength is the result of judicial appointments to vacancies, offset by retirement and other types of wastage. The establishment and strength of JJOs as at 31 March 2023 are set out in **Table 1** below –

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

Level of court	As at 31.3.2023*		Net change in strength over 31.3.2022
	Establishment	Strength	
CFA <sup>10</sup>	4 (4)	4 (4)	0
High Court <sup>11</sup>	64 (64)	41 (42)	-1
District Court <sup>12</sup>	53 (53)	44 (42)	+2
Magistrates' Courts and Specialised Tribunals/Court <sup>12</sup>	101 (101)	77 (72)	+5
<b>Total</b>	<b>222 (222)<sup>13</sup></b>	<b>166 (160)</b>	<b>+6</b>

\* Figures in brackets denote position as at 31.3.2022.

3.9 On recruitment of JJOs, the Judiciary has advised that a total of 18 open recruitment exercises for filling judicial vacancies at various levels of court have been conducted since 2011. Up to 31 March 2023, a total of 148 judicial appointments have been made as a result of these open recruitment exercises, and of the appointments, five District Judges and ten Permanent Magistrates were appointed in 2022-23.

<sup>10</sup> The figures exclude one Permanent Judge post created for Non-Permanent Judge (NPJ) of the CFA. In practice, an NPJ is invited to sit in the CFA as required in accordance with the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

<sup>11</sup> For Senior Deputy Registrar and Deputy Registrar vacancies in the Masters' Office of the High Court, the functions are now mostly carried out by District Judges (and Principal Magistrates/Magistrates) who are appointed as Temporary Senior Deputy Registrars or Temporary Deputy Registrars under the cross-posting policy.

<sup>12</sup> For judicial offices in the Masters' Office of the District Court and at the Labour Tribunal, Small Claims Tribunal and Coroner's Court, the functions are now mostly 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 meet operational needs.

<sup>13</sup> The establishment of JJOs was reduced to 211 on 1 April 2023 following the deletion of 11 posts of Special Magistrate on the same date.

3.10 The Judicial Committee notes that at the CFI level, the Judiciary has completed six open recruitment exercises since 2012. A total of 29 CFI Judges have been appointed as a result. A new round of recruitment exercise will be launched later this year.

3.11 For District Judges, the Judicial Committee notes that four rounds of open recruitment exercises have been completed since 2011. A total of 42 judicial appointments were made as a result, including five in 2022-23. A new round of recruitment exercise is now in progress. For Permanent Magistrates, five rounds of open recruitment exercises have been conducted since 2011. Taking into account the latest round of the recruitment exercise which was launched in August 2021 and is still in progress, a total of 65 Permanent Magistrates have been appointed as a result, including ten in 2022-23.

3.12 The Judicial Committee is fully aware of the persistent recruitment difficulties at the CFI level, and has previously recommended a spectrum of measures to address such difficulties. These measures include tracking the earnings levels of legal practitioners regularly through benchmark studies and proposing adjustment to judicial pay after considering the findings of the benchmark studies<sup>14</sup>, and reviewing the conditions of service for JJOs at the invitation of the

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<sup>14</sup> The Judicial Committee completed three benchmark studies (the 2010, 2015 and 2020 Benchmark Studies) under the approved mechanism for JRR. The findings of the studies and the recommendations of the Judicial Committee are set out as follows –

- (a) in the context of the JRR 2011, on the basis of the findings of the 2010 Benchmark Study, the Judicial Committee noted that the differentials between judicial pay and legal sector earnings over the years did not show a clear or consistent trend. The Judicial Committee considered that there were no strong arguments for proposing adjustments to judicial pay based on the survey findings;
- (b) in the context of the JRR 2016, the Judicial Committee noted from the findings of the 2015 Benchmark Study that there was a clear trend of a widening differential between judicial pay and earnings of legal practitioners. In particular, for the rank of CFI Judge, the findings indicated that judicial pay had been consistently lower than legal sector earnings over the years, and the pay lag had further widened since 2010. Taking into account the then persistent recruitment difficulties and the widening pay differential, the Judicial Committee recommended an upward pay adjustment of 6% for Judges at the CFI level and above; and 4% for JJOs below the CFI level. The pay adjustment took effect on 1 September 2016; and
- (c) in the context of the JRR 2021, the Judicial Committee observed that, from the findings of the 2020 Benchmark Study, while judicial pay for the rank of CFI Judge was still lower than its legal sector earnings, the pay lag narrowed. For the ranks of District Judge and Magistrate, judicial pay was found to be ahead of their legal sector earnings. After holistically considering the survey findings and all relevant factors, the Judicial Committee recommended that judicial salaries be frozen in 2021-22.

Government<sup>15</sup>. Besides, the Judicial Committee notes that the Judiciary has been working closely with the legal profession to promote judicial career through measures such as career seminars in order to provide legal practitioners with information on the different types of judicial work, the career pathways and remuneration packages, with a view to promoting the opportunities and attracting more potential candidates to join the bench<sup>16</sup>. The Judicial Committee hopes that the above measures could help the Judiciary recruit talents to fill judicial vacancies at various levels of court, especially at the CFI level.

3.13 The Judicial Committee will continue to keep in view the recruitment situation of JJOs, especially whether the measures mentioned in paragraph 3.12 could help the Judiciary in recruiting and retaining talents.

3.14 Meanwhile, the Judiciary has continued to engage temporary judicial resources where appropriate to help relieve workload, including appointing internal or external deputies<sup>17</sup> and appointing temporary or acting JJOs. The number of internal or external deputy JJOs serving at a particular point in time is, by its nature, a snapshot only, reflecting the particular situation subsisting at that time. With this caveat, the Judicial Committee notes that the number of external deputy JJOs decreased from a total of 45 as at 31 March 2022 to 40 as at 31 March 2023, while the number of internal deputy JJOs increased from a total of 35 to 43 over the same period.

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<sup>15</sup> In 2016, the Judicial Committee considered and supported a package of proposals to enhance five aspects of the conditions of service for JJOs (i.e. housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport services for leave travel) at the invitation of the Government. The enhancement proposals were implemented on 1 April 2017.

<sup>16</sup> This is an initiative in response to a Judicial Committee's suggestion arising from the 2020 Benchmark Study.

<sup>17</sup> Internal deputies refer to JJOs appointed to act in higher positions or cross-posted to sit in other judicial posts in the Judiciary. External deputies refer to members of the legal profession from outside the Judiciary and retired JJOs who are appointed to take up judicial posts.



## Retirement

3.15 Retirement is the main source of wastage among JJOs. The anticipated retirement in each of the coming three years ranges from nine to 13, amounting to 5.4% to 7.8% of the current strength.

3.16 With the Judicial Officers (Extension of Retirement Age) (Amendment) Ordinance coming into effect on 6 December 2019 and over 80% of eligible JJOs opting for the new retirement age arrangements by the deadline in December 2021, the retirement ages of Judges at the CFI level and above as well as Judicial Officers at the magisterial level have generally been extended for five years to 70 and 65 respectively<sup>18</sup>. For District Judges, while their relevant retirement age is maintained at 65, there is allowance for discretionary extension of term of office beyond this age<sup>19</sup>. The new statutory normal retirement ages for JJOs now stand at 65 or 70, depending on the level of court. Beyond that, extension of service may be approved up to the age of 70, 75 or 76, depending on the level of court and subject to consideration on a case by case basis. The Judiciary believes that extending the retirement ages of JJOs would have a positive impact on attracting quality candidates who are in private practice to join the bench at the later stage of their career life, in particular at the CFI level, and also on retaining experienced judicial manpower where appropriate.

3.17 The Judicial Committee trusts that the Judiciary will keep in view the challenges to judicial manpower that may be posed by the retirement situation, and that it will continue to attract new blood and to groom and retain existing talents.

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<sup>18</sup> Before the enactment of the Ordinance, the term of office for CFA Judges may be extended by no more than two periods of three years; and for Judicial Officers at the magisterial level, a period of not exceeding five years in aggregate. Such allowances for discretionary extension of term of office continue to apply after the enactment of the Ordinance.

<sup>19</sup> After the enactment of the Ordinance, the discretionary extension of term of office has been extended to District Judges with an extension period of not exceeding five years in aggregate.

## Benefits and Allowances

3.18 JJOs are entitled to a range of benefits and allowances in addition to salary. The package of benefits and allowances is an integral part of judicial remuneration, important as it is, that has helped attract capable legal practitioners to join the bench.

3.19 Further to the implementation of enhancements to five areas of the conditions of service for JJOs (i.e. housing benefits, medical and dental benefits, Local Education Allowance, Judicial Dress Allowance and transport services for leave travel) with effect from 1 April 2017, the Judicial Committee notes the following recent changes to the rates of a number of fringe benefits and allowances for JJOs –

- (a) The rates of Judiciary Quarters Allowance, Non-accountable Cash Allowance<sup>20</sup> and the ceiling rates of Medical Insurance Allowance<sup>21</sup>, Local Education Allowance<sup>22</sup> and Judicial Dress Allowance<sup>23</sup> were revised in accordance with the established adjustment mechanisms;
- (b) The rates of Leave Passage Allowance<sup>24</sup> and Home Financing Allowance<sup>20</sup> were revised following similar revisions in the civil service; and
- (c) The rates of two Extraneous Duties Allowances (Responsibility) (EDA(R)) for Justices of Appeal of

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<sup>20</sup> Judiciary Quarters Allowance, Non-accountable Cash Allowance and Home Financing Allowance are various types of housing allowance offered to eligible JJOs.

<sup>21</sup> Medical Insurance Allowance is an allowance to reimburse eligible JJOs and their eligible dependants the premium of their medical insurance plans.

<sup>22</sup> Local Education Allowance is an allowance to reimburse eligible JJOs the cost of education of their dependent children (up to four at any one time and at ages below 19) who are receiving full-time primary/secondary education in Hong Kong.

<sup>23</sup> JJOs of the High Court and the District Court may, on first appointment, be reimbursed with the cost of purchasing their required judicial attire on a “once-and-for-all” basis.

<sup>24</sup> Leave Passage Allowance is an allowance to reimburse eligible JJOs (and their eligible family members, where applicable) their travel-related expenses, e.g. air fares and accommodation.

the Court of Appeal of the High Court (JAs)<sup>25</sup> in 2022-23 were revised with reference to the judicial service pay adjustment for 2022-23.

3.20 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.

3.21 The Judicial Committee stands ready to review the package of benefits and allowances if invited to do so by the Government.

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

3.22 The Judiciary is unique in many aspects. A prominent feature is the prohibition against return to private practice. Judges at the District Court and High Court levels must give an undertaking not to practise in future as barristers or solicitors in Hong Kong unless the Chief Executive permits. The Chief Justice and Judges (including permanent and non-permanent judges) of the CFA are prohibited by statute<sup>26</sup> from practising as barristers or solicitors in Hong Kong either while holding office or at any time after ceasing for any reason to hold office. On the other hand, judges enjoy security of tenure<sup>27</sup> and high esteem, which may be seen as attractions for legal practitioners joining the bench. The Judicial Committee notes that these are established arrangements which continue to apply during the annual review in 2023.

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<sup>25</sup> Both EDA(R)s are payable in recognition of the higher responsibilities taken up by JAs. One is for JAs sitting as NPJs of the CFA, while the other is for JAs appointed as Vice Presidents of the CA.

<sup>26</sup> Section 13 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

<sup>27</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 CFA 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

3.23 The Judicial Committee notes that the systems of judicial remuneration in six overseas common law jurisdictions, namely, Australia, Canada, New Zealand, Singapore, the United Kingdom and the United States, did not undergo any significant changes in 2022-23. 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 the economy of the respective jurisdictions.

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

3.24 The Government has provided detailed information on Hong Kong's economic and fiscal indicators for the Judicial Committee's reference. The Hong Kong economy improved visibly in the first quarter of 2023, led by the strong recovery of inbound tourism and domestic demand. The real Gross Domestic Product (GDP) resumed 2.7% year-on-year growth in the first quarter of 2023, having contracted by 3.5% in 2022. Looking forward, inbound tourism and domestic demand will remain the major drivers of economic growth this year, while exports of goods will continue to face significant challenges. The economy is projected to grow by 3.5% to 5.5% in 2023 according to the forecast announced in May 2023. The year-on-year changes in GDP in real terms are shown in **Table 2** below –

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

Year	Quarter (Q)	GDP year-on-year % change
2022	Q1	-3.9%
	Q2	-1.2%
	Q3	-4.6%
	Q4	-4.1%
2023	Q1	+2.7%

(Source: Figures published by the Census and Statistics Department on 12 May 2023)

3.25 The labour market improved in the past year or so. The seasonally adjusted unemployment rate fell successively from a high of 5.4% in February – April 2022 to 3.1% in the first quarter of 2023, and declined further to 3.0% in February – April 2023. Looking ahead, the labour market should improve further alongside the ongoing economic recovery.

3.26 On changes in the cost of living, headline consumer price inflation, as measured by the year-on-year rate of change of the Composite Consumer Price Index (CCPI)<sup>28</sup>, inched up from 1.8% in the fourth quarter of 2022 to 1.9% in the first quarter of 2023. For the 12-month period ending March 2023, headline consumer price inflation averaged 2.0%<sup>29</sup>. Looking ahead, overall inflation should stay moderate in the near term. While domestic cost pressures may increase alongside the economic recovery, external price pressures will likely see some moderation though remaining notable. According to the forecast announced in May 2023, the headline and underlying consumer price inflation rates for 2023 are forecast to be 2.9% and 2.5% respectively, as compared with 1.9% and 1.7% in 2022.

## **Budgetary Situation of the Government**

3.27 According to the information provided by the Government, the consolidated deficit for 2022-23 is \$122.3 billion and the fiscal reserves stood at \$834.8 billion as at end-March 2023. For 2023-24, a deficit of \$92.7 billion and a deficit of \$25.9 billion are estimated for the Operating Account and Capital Account respectively. After proceeds from issuance of bonds and notes of \$65 billion and repayment of bonds and notes of \$0.8 billion, there is an estimated deficit of \$54.4 billion in the Consolidated Account, equivalent to 1.8% of the GDP.

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<sup>28</sup> CCPI reflects the impact of consumer price change on the household sector as a whole.

<sup>29</sup> The headline consumer price inflation includes the effect of the Government's all relevant one-off relief measures while the underlying consumer price inflation excludes the effect of these measures. The underlying consumer price inflation for the 12-month period ending March 2023 averaged 1.8%.

3.28 The annual staff cost of the Judiciary in 2023-24 is estimated at about \$1.63 billion, which is roughly 0.26% of the Government's total operating expenditure of about \$629.5 billion in the 2023-24 Estimates.

## **Private Sector Pay Levels and Trends**

3.29 The Judicial Committee notes 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, it would be difficult to make any direct comparison between judicial pay and legal sector pay having regard to the uniqueness of judicial work. Such being the case, the Judicial Committee continues the arrangement for making reference to, among other factors in the basket, the gross Pay Trend Indicators (PTIs) from the annual Pay Trend Survey (PTS)<sup>30</sup> commissioned by the Pay Trend Survey Committee, which reflected the overall private sector pay trend, and captured, among others, cost of living, general prosperity and company performance, general changes in market rates, merit increase and in-scale increment in the private sector. As the gross PTIs already included merit increase and in-scale increment in the private sector, it is appropriate to deduct 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.

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<sup>30</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 salary bands, reflecting the average pay movements of private sector employees in three salary ranges, i.e. –

- (a) lower salary band covering employees in the salary range below \$24,670 per month;
- (b) middle salary band covering employees in the salary range of \$24,670 to \$75,620 per month; and
- (c) upper salary band covering employees in the salary range of \$75,621 to \$154,690 per month.

Since 2009, the Judicial Committee had agreed that in the absence of a comprehensive or representative pay trend survey for the legal sector, reference should be made to the PTIs from the annual PTS reflecting overall private sector pay trend. The PTI for the upper salary band in the PTS is considered a suitable reference for comparison with judicial salaries, which start at JSPS 1, currently at \$95,865.

### ***Cost of Increments for JJOs***

3.30 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 at the other (and majority) levels of JJOs is limited. Only a small number of incremental points are granted to JJOs at JSPS 10-14 upon satisfactory completion of two and then another three years of service for the first and second increments respectively<sup>31</sup>. JJOs remunerated at JSPS 15 and above have no increment. The consolidated cost of increments (CCOI) as a percentage of total payroll cost for all JJOs is therefore much smaller than that for the civil service. The figures in the past five years, compiled based on information supplied by the Judiciary, are set out in **Table 3** below –

**Table 3: CCOI for JJOs (2018-19 to 2022-23)**

<b>Year</b>	<b>CCOI for JJOs</b>
2018-19	0.16%
2019-20	0.15%
2020-21	0.29%
2021-22	0.19%
2022-23	0.32%

3.31 Since 2011, the Judicial Committee has 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 has also agreed to this arrangement.

### ***Private Sector Pay Trend for Judicial Remuneration Review Purpose***

3.32 According to the findings of the 2023 PTS, the gross PTI for the upper salary band was 3.91% for the 12-month period from 2 April 2022 to 1 April 2023.

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<sup>31</sup> Pay points on JSPS 10-14 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.

3.33 In JRR 2019, the Judicial Committee agreed with the Judiciary’s proposal that the approach of the refined methodology as approved by the Chief Executive-in-Council in June 2019 for calculating the payroll cost of increments (PCIs) for the civil service<sup>32</sup> be adopted for deriving the net PTI for judicial service from 2019-20 onwards. In accordance with this approach, the average CCOI for all JJOs from 2009-10<sup>33</sup> to 2019-20 (0.29%) or the actual CCOI for all JJOs for the year (0.32%)<sup>34</sup>, whichever is the lower, should be adopted for deriving the net PTI for judicial service for 2023-24. As the average CCOI from 2009-10 to 2019-20 (i.e. 0.29%) is lower than the actual CCOI for the year (i.e. 0.32%), the average CCOI from 2009-10 to 2019-20 is adopted in calculating the private sector pay trend for JRR purposes in 2023 (or the net PTI for judicial service for 2023-24) which is 3.62% (calculated by deducting the average CCOI from 2009-10 to 2019-20 (0.29%) from the gross PTI for the upper salary band (3.91%)).

3.34 The Judicial Committee has also made reference to other private sector pay indicators. In 2022, wages and earnings showed accelerated year-on-year increases, and those in the professional and business services sector also showed an accelerated growth.

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

3.35 Historically, there was an informal linkage between judicial salaries and senior civil service salaries before the implementation of the present mechanism for determining judicial remuneration. As concluded in the 2005 Report, while some reference to public sector pay

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<sup>32</sup> In considering the 2019-20 civil service pay adjustment in June 2019, the Chief Executive-in-Council also decided to put a cap on the PCIs to be deducted from the gross PTIs. Specifically, from the 2019-20 civil service pay adjustment onwards, the average PCI from 1989-90 (i.e. the year when the PCIs deduction arrangement was first introduced) to 2019-20 for each salary band of the civil service, or the actual PCI for the particular salary band of the civil service for the year, whichever is the lower, will be adopted for deriving the net PTI for that salary band of the civil service (“the refined methodology”).

<sup>33</sup> It is the year when the pay adjustment for JJOs was first determined under the new mechanism separate from that of the civil service.

<sup>34</sup> For the purpose of JRR 2023, the CCOI for JJOs for the year refers to the actual CCOI incurred in 2022-23 which is 0.32% as mentioned in paragraph 3.30.



was considered beneficial, mechanical 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 consultative process on annual pay adjustment which the Government has established with the civil service unions and staff associations<sup>35</sup>. Public sector pay is but one of the factors under the balanced approach for determining judicial remuneration.

3.36 Under the improved civil service pay adjustment mechanism endorsed in 2007, civil service pay is compared with the prevailing market situation through three different surveys, namely (a) a PTS conducted every year to ascertain the year-on-year pay movements in the private sector; (b) a Pay Level Survey (PLS) generally conducted every six years to ascertain whether civil service pay is broadly comparable with private sector pay; and (c) a Starting Salaries Survey (SSS) which will be conducted as and when necessary in future in response to specific circumstances<sup>36</sup>. As the SSS focuses only on the starting salaries of civil service jobs at the entry level, only (a) and (b) may be relevant in the consideration of judicial remuneration.

### ***Annual Civil Service Pay Adjustment***

3.37 On the annual civil service pay adjustment in 2023-24, the Judicial Committee notes the decision of the Chief Executive-in-Council in respect of the annual civil service pay adjustment which was made in June 2023 that the pay for civil servants in the upper salary band and above should be increased by 2.87% with retrospective effect from

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<sup>35</sup> For details, please see paragraph 3.14 of the 2005 Report.

<sup>36</sup> Previously, SSS was conducted once every three years. In December 2018, the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) completed a review on the PLS and SSS and recommended, among other things, that in future, SSS should be conducted as and when necessary in response to specific circumstances. On 9 April 2019, the Chief Executive-in-Council decided that the recommendations of the Standing Commission as contained in its Report No. 59, including those ones relating to the future conduct of SSS, should be accepted in full.

1 April 2023. The pay adjustment was approved by the Finance Committee of the Legislative Council on 7 July 2023.

### ***Pay Level Survey***

3.38 The Judicial Committee notes that the Standing Commission has embarked on the latest round of PLS at the invitation of the Government. Since JJOs and civil servants are subject to different and separate mechanisms for pay adjustment since 2008, the Judicial Committee considers it appropriate to examine the levels of judicial pay vis-à-vis the levels of earnings in the private sector in the context of a benchmark study (instead of the PLS) in accordance with the existing mechanism for the determination of judicial remuneration. As mentioned in paragraph 2.3, the next benchmark study is tentatively scheduled for 2025, and the Judicial Committee will in due course consider the timing to commence the study.

### **The Judiciary's Position**

3.39 The Judiciary seeks a pay increase of 3.62% (i.e. the relevant gross PTI at 3.91% less the average CCOI from 2009-10 to 2019-20 at 0.29%) for the annual adjustment for the judicial service in 2023-24. The Judiciary reiterates that as a matter of principle, there should be no reduction in judicial pay even if the pay is reduced for the civil service for any reasons.

## Chapter 4

### Recommendation and Acknowledgements

#### Recommendation

4.1 During the year covered by this report, the Judicial Committee has completed the annual review and formulated its recommendation in respect of the 2023-24 annual adjustment. Taking into account the basket of factors and having balanced all considerations, the Judicial Committee **recommends** that judicial salaries be increased by 3.62% with retrospective effect from 1 April 2023.

4.2 The Judicial Committee will, under the approved mechanism, continue to adopt a balanced approach taking into consideration the basket of factors and the views of the Judiciary in taking forward future annual reviews. Factors prevailing at that time and other relevant developments will be considered holistically in each review. In addition, the Judicial Committee will continue to take into account the experience in the past JRRs conducted under the approved mechanism.

#### Acknowledgements

4.3 We would like to express our sincere gratitude to both the Government and the Judiciary for providing the Judicial Committee with comprehensive and valuable information. Their contribution is most useful and has facilitated our deliberation on the basket of factors under the approved mechanism for the determination of judicial remuneration.

4.4 We would also like to record our appreciation to our former Chairman, Professor Wong Yuk-shan, GBS, JP, for his exemplary leadership in steering the Judicial Committee and for his contributions as a Member and then as the Chairman during his eight-year tenure from January 2015 to December 2022. We would also like to express our gratitude to our former Member Mr Chan Tze-ching, BBS, JP who retired in December 2022 after six years of dedicated service.

## **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 in 2023**

**Chairman**

Dr Clement Chen Cheng-jen, GBS, JP

**Members**

Ms Daisy Ho Chiu-fung, BBS

Mr Stephen Hung Wan-shun, MH

Mr Jat Sew-tong, SBS, SC, JP

Ms Miranda Kwok Pui-fong, JP

Professor Paul Lam Kwan-sing, SBS, JP

Ms Cecilia Lee Sau-wai, JP

**Judicial Service Pay Scale**  
(with effect from 1 April 2022)

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
19	397,100	✧ Chief Justice, Court of Final Appeal
18	386,000	✧ Permanent Judge, Court of Final Appeal ✧ Chief Judge of the High Court
17	348,050	✧ Justice of Appeal of the Court of Appeal of the High Court
16	331,750	✧ Judge of the Court of First Instance of the High Court
15	269,000	✧ Registrar, High Court ✧ Chief Judge of the District Court
14	(260,250)	✧ Senior Deputy Registrar, High Court ✧ Principal Family Court Judge, District Court
	(252,700)	
	245,300	
13	(243,700)	✧ Deputy Registrar, High Court ✧ Judge of the District Court ✧ Chief Magistrate
	(236,700)	
	229,850	
12	(209,850)	✧ Assistant Registrar, High Court ✧ Member, Lands Tribunal
	(203,800)	
	197,750	
11	(193,100)	✧ Registrar, District Court ✧ Principal Adjudicator, Small Claims Tribunal ✧ Principal Magistrate ✧ Principal Presiding Officer, Labour Tribunal
	(187,750)	
	182,150	
10	(176,750)	✧ Adjudicator, Small Claims Tribunal ✧ Coroner ✧ Deputy Registrar, District Court ✧ Presiding Officer, Labour Tribunal
	(171,550)	
	166,600	
10	(176,750)	✧ Magistrate
	(171,550)	
	166,600	
9	154,705	
8	151,085	
7	147,480	

Judicial Service Pay Scale (JSPS)		Rank
Point	\$	
6	113,265	◇ Special Magistrate*
5	108,010	
4	102,995	
3	100,595	
2	98,210	
1	95,865	

Note: Figures in brackets (for JSPS 10 – 14) represent increments. An 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.

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\* The rank of Special Magistrate is being phased out and will be deleted from the list of judicial ranks in due course.



## 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
Competition Tribunal		
High Court, Masters' Office	Registrar, High Court	15
	Senior Deputy Registrar, High Court	14
	Deputy Registrar, High Court	13
	Assistant Registrar, High Court <sup>♦</sup>	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

<sup>♦</sup> There is at present no post in the rank of Assistant Registrar, High Court.

<sup>\*</sup> The rank of Special Magistrate is being phased out and will be deleted from the list of judicial ranks in due course.

### Caseloads in Different Levels of Court between 2019 and 2022

No. of Cases Level of Court	2019	2020	2021	2022
<b>Court of Final Appeal</b>				
– application for leave to appeal	493	342	599	728
– appeals	16	13	16	18
– miscellaneous proceedings	0	1	0	0
<b>Total</b>	<b>509</b>	<b>356</b>	<b>615</b>	<b>746</b>
<b>Court of Appeal of the High Court</b>				
– criminal appeals	376	241	316	249
– civil appeals	597	653	599	501
– miscellaneous proceedings	321	263	602	556
<b>Total</b>	<b>1 294</b>	<b>1 157</b>	<b>1 517</b>	<b>1 306</b>
<b>Court of First Instance of the High Court</b>				
– criminal jurisdiction				
• criminal cases	424	366	256	223
• confidential miscellaneous proceedings	340	440	545	883
• miscellaneous proceedings (criminal)	684	772	724	637
• appeals from Magistrates' Courts	603	428	608	460
– civil jurisdiction	19 050	17 984	15 080	14 412
<b>Sub-total</b>	<b>21 101</b>	<b>19 990</b>	<b>17 213</b>	<b>16 615</b>
– probate cases	21 005	16 521	21 978	23 006
<b>Total</b>	<b>42 106</b>	<b>36 511</b>	<b>39 191</b>	<b>39 621</b>
<b>Competition Tribunal</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>
<b>District Court</b>				
– criminal cases	961	1 119	1 171	1 193
– civil cases	25 942	24 153	22 827	21 377
– family cases	22 386	17 585	18 132	16 802
<b>Total</b>	<b>49 289</b>	<b>42 857</b>	<b>42 130</b>	<b>39 372</b>
<b>Magistrates' Courts</b>	<b>332 746</b>	<b>317 104</b>	<b>372 456</b>	<b>383 512</b>
<b>Lands Tribunal</b>	<b>5 721</b>	<b>4 432</b>	<b>4 358</b>	<b>3 998</b>
<b>Labour Tribunal</b>	<b>4 323</b>	<b>3 533</b>	<b>4 278</b>	<b>3 378</b>
<b>Small Claims Tribunal</b>	<b>55 879</b>	<b>39 821</b>	<b>45 649</b>	<b>41 514</b>

<b>No. of Cases</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Level of Court</b>				
<b>Obscene Articles Tribunal*</b>	<b>21 163</b>	<b>14 131</b>	<b>38</b>	<b>34</b>
<b>Coroner's Court</b>	<b>117</b>	<b>98</b>	<b>154</b>	<b>131</b>
<b>Grand total</b>	<b>513 148</b>	<b>460 003</b>	<b>510 388</b>	<b>513 615</b>

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\* The indicator is the number of articles referred to the Obscene Articles Tribunal for determination and classification. In 2019, 21 081 articles involving three cases were referred to the Tribunal for determination; and in 2020, 14 024 articles involving two cases for determination. In 2021 and 2022, 38 articles and 34 articles respectively were referred to the Tribunal for classification only. No application for determination was received in 2021 and 2022.

