Controlling officer: the Director of Administration and Development will account for expenditure under this Head.

Estimate 2013–14	\$1,401.7m
Establishment ceiling 2013–14 (notional annual mid-point salary value) representing an estimated 1 121 non-directorate posts as at 31 March 2013 rising by 28 posts to 1 149 posts as at 31 March 2014	\$582.1m
In addition, there will be an estimated 89 directorate posts as at 31 March 2013 rising by one post to 90 posts as at 31 March 2014.	
Commitment balance	\$4.9m

Controlling Officer's Report

Programmes

Programme (1) Prosecutions

Programme (2) Civil

Programme (3) Legal Policy

Programme (4) Law Drafting

Programme (5) International Law

These programmes contribute to Policy Area 11: Legal Administration (Secretary for Justice).

Detail

Programme (1): Prosecutions

	2011–12	2012–13	2012–13	2013–14
	(Actual)	(Original)	(Revised)	(Estimate)
Financial provision (\$m)	483.3	491.5	544.6 (+10.8%)	555.5 (+2.0%)

(or +13.0% on 2012–13 Original)

Aim

2 The aim is to advise and decide whether or not criminal proceedings should be undertaken and to prosecute cases in the courts.

Brief Description

- 3 The Prosecutions Division advises upon and prosecutes criminal cases in all the courts of Hong Kong. Apart from the Government Counsel in the Advocacy Sub-division, whose work is primarily advocacy, and who prosecute the more serious cases, Government Counsel across the Division prosecute in trials; appear in appeals, applications for bail and asset recovery cases; and assist the coroner in inquests. Most cases in the Magistrates' Courts are prosecuted by Court Prosecutors. Some cases are briefed out to members of the bar and solicitors in private practice. The Division also advises the law enforcement agencies and other government departments and agencies on criminal law and procedure and the effects of legislation.
- 4 The advisory function of the Prosecutions Division is performed by Government Counsel in various sections. One section is involved in the Division's training and management matters; other sections are involved in the preparation of cases for trial; whilst specialist sections advise on areas as diverse as corruption, fraud, labour and immigration, vice, obscenity, gambling, anti-terrorism, triads and organised crime, human rights and the Basic Law, complaints against the Police, narcotics, the recovery of the proceeds of crime, customs and excise, computer crime, copyright, and market misconduct.
- **5** In 2012, the aim of the programme was generally met and the overall performance under the programme was satisfactory.

6 The key performance measures are:

Targets

7

Turgeis				
	_	2011	2012	2013
	Target	(Actual)	(Actual)	(Plan)
providing advice for law enforcement agencies within 14 working days upon receipt of request, or for a complex case, interim reply within 14 working days (%)	100	88.6	87.5	100
Court of First Instance within seven days of committal of the accused in the Magistrates' Court (%)	100	100	99.7	100
Court (%)	100	100	100	100
Indicators				
		2011	2012	2013
		(Actual)	(Actual)	(Estimate)
cases conducted by Government Counselcases conducted by Counsel instructed to prosecut	te in all	4 515	4 357	4 360
courts		967	922	920
court days undertaken by Government Counsel		4 609	4 450	4 450
court days undertaken by Court Prosecutors in Ma Court court days undertaken by Counsel instructed to pr		11 900	10 766	10 770
Magistrates' Court in place of Court Prosecuto cases prepared for the Court of First Instance cases prepared for the District Court items of legal advice provided	rs	3 014 482 1 388 12 067 1 405	4 580 486 1 206 10 554 1 452	4 580 485 1 205 10 560 1 450
The conviction rates for 2011 and 2012 are:				
			2011 (Actual)	2012 (Actual)
Magistrates' Court - defendants convicted after trial (%)			51.5	47.6
- defendants convicted after trial and defend pleas (%)	ants convicted (on their own	74.4	73.3
District Court				
 defendants convicted after trial (%) defendants convicted after trial and defend 	anta consideral		68.6	60.2
pleas (%)			92.8	91.4
- defendants convicted after trial (%) defendants convicted after trial and defend			72.0	69.6
pleas (%)			93.3	91.6

The conviction rates are defendant based and in relation to any substantive or alternative offence on which the defendant has been convicted. It does not take into account acquittals of other charges if any.

It should be noted that while it is the duty of Counsel and Court Prosecutors to prosecute vigorously in courts, they have to act in a fair and objective manner. It is wrong to strive to secure a conviction at all costs. The question of guilt or innocence is a matter for the court to decide. Therefore, conviction rates in criminal cases are not and should not be taken as performance indicators. They are published regularly for reference only.

Matters Requiring Special Attention in 2013-14

- 8 During 2013–14, the Prosecutions Division will continue to implement measures to:
- promote co-operation amongst prosecutors at the global level in the combat of crime;
- enhance the quality of criminal justice by promoting transparency in public prosecutions, liaising closely with justice partners and reviewing the disclosure arrangements of law enforcement agencies; and
- enhance the standards of advocacy and preparation in criminal cases.

Programme (2): Civil

	2011–12 (Actual)	2012–13 (Original)	2012–13 (Revised)	2013–14 (Estimate)
Financial provision (\$m)	441.5	551.4	521.7 (-5.4%)	610.2 (+17.0%)
				(or +10.7% on 2012–13 Original)

Aim

9 The aim is to provide legal advice to the Government on civil matters, to undertake civil litigation and dispute resolution and to draft contracts on commercial and other matters.

Brief Description

- 10 The work of the Civil Division involves:
- representing the Government and various other bodies in courts and tribunals in all forms of civil litigation and dispute resolution (including non-construction arbitration and mediation);
- providing legal advice on planning, building, environment, heritage, housing and land law matters;
- providing legal advice on commercial law matters and drafting commercial contracts, licences and franchises;
 and
- providing legal advice on legislation and civil law matters.
- 11 In 2012, the aim of the programme was generally met and the overall performance under the programme was satisfactory.
 - **12** The key performance measures are:

Targets

	Target	2011 (Actual)	2012 (Actual)	2013 (Plan)
taking appropriate follow-up action on civil litigation cases within seven working days upon referral by client				
department (%) providing legal advice within 14 working days upon receipt of instructions/	100	100	99	100
requests (%) #	92	91	90	92

[#] If that is not possible due to the complexity of cases, the client department will be advised of the estimated time within which the advice will be provided.

Indicators

	2011	2012	2013
	(Actual)	(Actual)	(Estimate)
civil litigation cases current on 31 Decembernew proceedings (including non-construction arbitration and	28 128	30 325	30 325
mediation) brought by the Governmentnew proceedings (including non-construction arbitration and	2 337	1 754	1 865
mediation) brought against the Government	1 176	1 151	1 365
	1 128	1 308	1 505

	2011 (Actual)	2012 (Actual)	2013 (Estimate)
items of legal advice provided	15 009	14 735	14 735
commercial tenders, consultancy briefs, contracts, licences and franchises drafted/vetted	634	645	645

Matters Requiring Special Attention in 2013-14

- 13 During 2013–14, the Civil Division will advise on the legal aspects of:
- proceedings involving the Government, in particular those involving Basic Law issues, civil service matters, immigration matters, revenue matters, charities, rating appeals, government rent appeals, land disputes and damages claims including personal injuries and other claims taking on board changes since the implementation of the Civil Justice Reform;
- the English and Chinese texts of contracts, undertakings, tender documents, public franchises, licences and other legal documents for the Government, in addition to drafting and vetting such texts;
- amendments to the Land Titles Ordinance (Cap. 585);
- claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the regulation of companies, securities, insurance, information technology, electronic transactions, e-commerce, transportation, television broadcasting and telecommunications (including provisions prohibiting anti-competitive practices) as well as proposals for reform;
- the implementation of the Hong Kong Disneyland and Ocean Park projects;
- privatisation and outsourcing of the Government's commercial activities;
- occupational retirement and provident fund schemes;
- · amendments to the securities and futures legislation;
- insider dealing and market misconduct proceedings;
- the review of the Trustee Ordinance (Cap. 29);
- grant funding, project and film financing;
- legislative initiatives to complete the rewrite exercise of Companies Ordinance (Cap. 32) and to modernise corporate insolvency law;
- proposed establishment of an independent Insurance Authority;
- development of a territory-wide patient-oriented electronic health record sharing system;
- implementation of Personal Data (Privacy) (Amendment) Ordinance;
- prohibition of anti-competitive practices;
- implementation of the new statutory enforcement scheme introduced by the Trade Description (Unfair Trade Practices) (Amendment) Ordinance 2012 to enhance protection for consumers from false trade descriptions and unfair trade practices in the supply of goods and services;
- legislative amendments to the marine and aviation related legislation;
- one-off assistance package to owners of trawler vessels, local deckhands and owners of fish collector vessels affected by the trawl ban;
- the implementation of the Residential Properties (First-hand Sales) Ordinance (Cap. 621);
- proposed legislation for a licensing scheme to regulate private columbaria;
- Commission of Inquiry into the Collision of Vessels near Lamma Island; and
- various studies, projects and initiatives, including those in relation to the enhancement of the soundness and
 resilience of Hong Kong's financial system and strengthening of Hong Kong's role as an international financial
 centre amidst the changing financial circumstances, West Kowloon Cultural District, the development of North
 East New Territories New Development Areas, operation of private columbaria, implementation of the new Air
 Quality Objectives, revitalization of industrial buildings, development of private hospitals services, construction
 and operation of youth hostels and review of the Urban Renewal Strategy.

Programme (3): Legal Policy

	2011–12	2012–13	2012–13	2013–14
	(Actual)	(Original)	(Revised)	(Estimate)
Financial provision (\$m)	70.8	81.1	80.5 (-0.7%)	89.3 (+10.9%)

(or +10.1% on 2012–13 Original)

Aim

14 The aim is to advise the Government on matters raising questions of legal policy; to assist in formulating policy, particularly in relation to the legal system and the legal profession; to provide support to the Secretary for Justice in relation to the discharge of his duties; to provide advice in respect of the Basic Law, human rights and constitutional affairs as well as the law and legal developments in the Mainland; and to review chosen areas of the law and provide secretariat support for the Law Reform Commission.

Brief Description

- 15 The work of the Secretary for Justice's Office and the Legal Policy Division includes:
- providing support for the Secretary for Justice in relation to his duties as a Member of the Executive Council, a designated officer attending meetings of the Legislative Council (LegCo) and as the principal legal adviser to the Chief Executive;
- advising whether proposed legislation or policy is contrary to established principles underlying the legal system;
- advising on legal issues arising out of prisoners' petitions for remission, references of cases to the Court of Appeal under the Criminal Procedure Ordinance (Cap. 221) and responses to public enquiries and complaints;
- providing specialised human rights advice to ensure the consistency of policy and legislation with the human rights requirements of the Basic Law and of international treaties extended to the Hong Kong Special Administrative Region (HKSAR); advising on anti-discrimination ordinances in Hong Kong and human rights issues arising in the context of litigation involving the Government;
- providing legal advice on constitutional development and election matters;
- promoting bills related to the legal system or the legal profession; and bills effecting law reform or miscellaneous amendments to various ordinances;
- providing advice and information on the laws of the Mainland and on co-operation arrangements with the Mainland authorities, assisting in the discussion with the Mainland authorities on co-operation arrangements on civil/commercial matters where appropriate, and developing working relationships with counterparts in the Mainland;
- providing advice to the Government on LegCo procedures;
- providing advice on and promoting knowledge of the Basic Law; and
- giving advice and providing research and secretariat support to facilitate the work of the Law Reform Commission.
- 16 In 2012, the aim of the programme was generally met and the overall performance under the programme was satisfactory.
 - 17 The key performance measures are:

Indicators

	2011	2012	2013
	(Actual)	(Actual)	(Estimate)
bills promoted by the Legal Policy Division in each LegCo			
session	1	1	3
petitions (from prisoners) handled	36	38	40
items of legal advice given on:			
general legal policy issues	925	1 029	1 030
human rights issues	1 665	1 185	1 185
Mainland law and related matters	321	276	280
Basic Law and constitutional matters	1 280	1 446	1 450
Constitutional development and election matters	_	726‡	1 020^

	2011 (Actual)	2012 (Actual)	2013 (Estimate)
ongoing Law Reform Commission projects	7	6	7
speeches prepared (both for LegCo and elsewhere)	64	65	65
Basic Law seminars conducted	5	3	3
briefings given in the Mainland and to Mainland delegations			
in Hong Kong	39	40	40

- Data collection started from 16 April 2012 when the Constitutional Development and Elections Unit of the Legal Policy Division was established.
- ^ Estimated figure based on the 2012 statistics (8.5 months only) and projected to a full year (12-month) period.

Matters Requiring Special Attention in 2013-14

- 18 During 2013–14, the Secretary for Justice's Office and the Legal Policy Division will continue to:
- promote the use of arbitration in Hong Kong and publicise the new arbitration law after enactment by LegCo;
- explore with the Mainland authorities further opportunities for the legal profession to provide services in the Mainland and assist in the implementation of arrangements with the Mainland, including the Mainland and Hong Kong Closer Economic Partnership Arrangement;
- provide legal advice in respect of the implementation of the Basic Law and the development of our new constitutional order;
- provide timely and reliable human rights advice including advice in respect of anti-discrimination legislation, and attend hearings before the United Nations treaty monitoring bodies;
- provide legal advice in respect of constitutional reforms and development, and on election matters (including by-elections and post-election matters);
- develop expertise in respect of legislative powers, procedures and practices in the context of the Basic Law;
- develop working relationships with counterparts in the Mainland in particular areas which call for co-operation between HKSAR and the Mainland;
- promote Hong Kong as a regional centre for legal services and dispute resolution; and
- organise talks, seminars, visits and training programmes for Mainland officers in order to develop and enhance mutual understanding of the legal systems and professional practices in HKSAR and the Mainland.

Programme (4): Law Drafting

	2011–12	2012–13	2012–13	2013–14
	(Actual)	(Original)	(Revised)	(Estimate)
Financial provision (\$m)	84.6	88.1	87.9 (-0.2%)	101.1 (+15.0%)

(or +14.8% on 2012–13 Original)

Aim

19 The aim is to draft legislation and to make the texts of legislation readily accessible.

Brief Description

- 20 The work of the Law Drafting Division involves:
- drafting of legislation in the English and Chinese languages and steering such draft legislation through the law-making process;
- compiling the loose-leaf edition of the Laws of Hong Kong; and
- maintaining the Bilingual Laws Information System database.
- 21 In 2012, the aim of the programme was generally met and the overall performance under the programme was satisfactory.

22 The key performance measures are:

Indicators

	2011	2012	2013
	(Actual)	(Actual)	(Estimate)
bills gazetted	27	14	35
subsidiary legislation gazetted	186	195	200
pages of bills/subsidiary legislation gazetted (English)	4 605	4 381	2 500
pages of bills/subsidiary legislation gazetted (Chinese)	4 605	4 381	2 500
pages of legislation compiled for publication in the			
loose-leaf edition	8 206	4 730	13 000
pages of Committee Stage Amendments (English)	194	876	200
pages of Committee Stage Amendments (Chinese)	172	937	180
drafts of bills/subsidiary legislation released	2 644	2 653	2 790
items of legal advice provided	9 543	7 931	9 260

Matters Requiring Special Attention in 2013-14

- 23 During 2013–14, the Law Drafting Division will continue to:
- meet the Government's requirements for the drafting of legislation and incidental professional service in an effective manner;
- implement an in-house mentorship programme, and organise seminars and workshops to enhance the drafting skills of the Counsel;
- compile replacement pages for the loose-leaf edition of the Laws of Hong Kong; and
- update the Bilingual Laws Information System database in a timely and accurate manner.

Programme (5): International Law

	2011–12 (Actual)	2012–13 (Original)	2012–13 (Revised)	2013–14 (Estimate)
Financial provision (\$m)	39.7	38.4	42.6 (+10.9%)	45.6 (+7.0%)
				(or ±18 8% on

2012–13 Original)

Aim

24 The aim is to provide advice on international law issues to the Government and to handle requests for international legal co-operation efficiently.

Brief Description

- 25 The work of the International Law Division involves:
- providing advice on all aspects of public international law, including the application to the HKSAR of
 multilateral and bilateral international agreements, maritime and aviation law, consular privileges and immunities,
 and the resolution of trade disputes;
- negotiating and advising on international agreements, including those for surrender of fugitive offenders, mutual legal assistance, transfer of sentenced persons, investment promotion and protection, air services and avoidance of double taxation;
- participating in the activities of the Hague Conference on Private International Law and negotiating multilateral agreements relating to private international law;
- · providing advice on the international legal aspects of HKSAR's laws; and
- handling requests to and from the HKSAR for surrender of fugitive offenders, mutual legal assistance in criminal
 matters, transfer of sentenced persons and enforcement of confiscation orders as well as requests for assistance
 on international child abduction cases, and advising on matters involving international legal co-operation.
- **26** In 2012, the aim of the programme was generally met and the overall performance under the programme was satisfactory.

27 The key performance measures are:

Indicators

	2011 (Actual)	2012 (Actual)	2013 (Estimate)
international agreements initialledbriefings, negotiation and discussion (no. of working	6	2	4
sessions)	385	289	290
items of legal advice providednew requests dealt with in various categories of mutual legal	8 378	10 333	10 800
assistance	279	364	370
court appearances	110	189	195

Matters Requiring Special Attention in 2013-14

- 28 During 2013–14, the International Law Division will continue to:
- provide timely and accurate advice on international law issues and on issues relating to mutual legal assistance;
- · negotiate international agreements or contribute as legal advisers in these negotiations; and
- handle requests for international legal co-operation effectively.

ANALYSIS OF FINANCIAL PROVISION

Programme	2011–12	2012–13	2012–13	2013–14
	(Actual)	(Original)	(Revised)	(Estimate)
	(\$m)	(\$m)	(\$m)	(\$m)
(1) Prosecutions	483.3	491.5	544.6	555.5
	441.5	551.4	521.7	610.2
	70.8	81.1	80.5	89.3
	84.6	88.1	87.9	101.1
	39.7	38.4	42.6	45.6
	1,119.9	1,250.5	1,277.3 (+2.1%)	1,401.7 (+9.7%)

(or +12.1% on 2012–13 Original)

Analysis of Financial and Staffing Provision

Programme (1)

Provision for 2013–14 is \$10.9 million (2.0%) higher than the revised estimate for 2012–13. This is mainly due to the filling of vacancies, creation of 12 posts to meet operational needs, and anticipated increase in briefing-out expenses and general departmental expenses, partly offset by decrease in court costs.

Programme (2)

Provision for 2013–14 is \$88.5 million (17.0%) higher than the revised estimate for 2012–13. This is mainly due to the filling of vacancies, creation of ten posts to meet operational needs, and anticipated increase in court costs and general departmental expenses.

Programme (3)

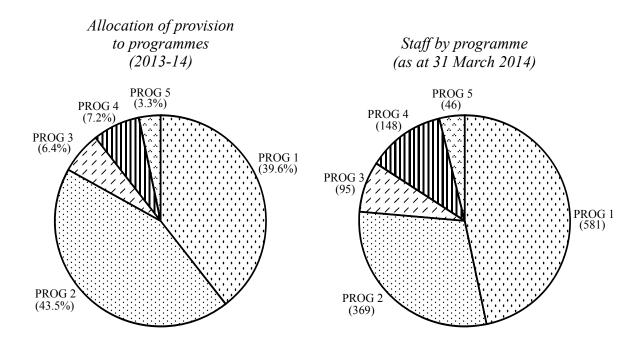
Provision for 2013–14 is \$8.8 million (10.9%) higher than the revised estimate for 2012–13. This is mainly due to the filling of vacancies, creation of two posts to meet operational needs, as well as anticipated increase in general departmental expenses.

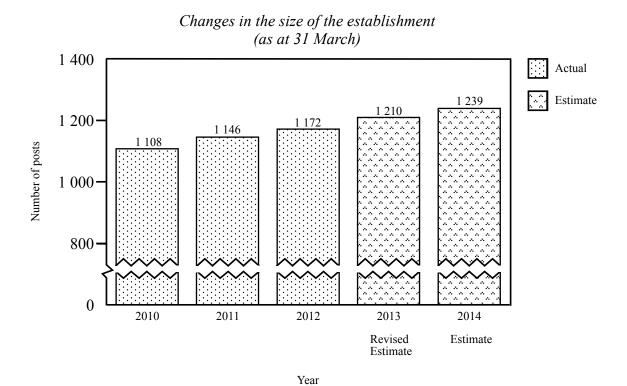
Programme (4)

Provision for 2013–14 is \$13.2 million (15.0%) higher than the revised estimate for 2012–13. This is mainly due to the filling of vacancies, creation of three posts to meet operational needs, as well as anticipated increase in general departmental expenses.

Programme (5)

Provision for 2013–14 is \$3.0 million (7.0%) higher than the revised estimate for 2012–13. This is mainly due to the creation of two posts to meet operational needs, and anticipated increase in general departmental expenses.





Sub- head (Code)		Actual expenditure 2011–12	Approved estimate 2012–13	Revised estimate 2012–13	Estimate 2013–14
	\$'000	\$'000	\$'000	\$'000	\$'000
	Operating Account				
	Recurrent				
000	Operational expenses	933,669	1,026,824	1,066,907	1,178,848
003	Recoverable salaries and allowances (General)600				
	Deduct reimbursements				
234	Court costs	186,050	222,825	209,887	222,000
	Total, Recurrent	1,119,719	1,249,649	1,276,794	1,400,848
	Non-Recurrent				
700	General non-recurrent	143	870	552	870
	Total, Non-Recurrent	143	870	552	870
	Total, Operating Account	1,119,862	1,250,519	1,277,346	1,401,718
	Total Expenditure	1,119,862	1,250,519	1,277,346	1,401,718

Details of Expenditure by Subhead

The estimate of the amount required in 2013–14 for the salaries and expenses of the Department of Justice is \$1,401,718,000. This represents an increase of \$124,372,000 over the revised estimate for 2012–13 and of \$281,856,000 over actual expenditure in 2011–12.

Operating Account

Recurrent

- 2 Provision of \$1,178,848,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Department of Justice. This includes provision of \$199,900 for a non-accountable entertainment allowance for the Secretary for Justice. The increase of \$111,941,000 (10.5%) over the revised estimate for 2012–13 is mainly due to the filling of vacancies, creation of new posts to meet operational needs, as well as anticipated increase in briefing-out expenses and general departmental expenses.
- **3** The establishment as at 31 March 2013 will be 1 208 permanent posts and two supernumerary posts. It is expected that there will be an increase of 29 posts including one supernumerary post in 2013–14. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2013–14, but the notional annual mid-point salary value of all such posts must not exceed \$582,052,000.
 - 4 An analysis of the financial provision under Subhead 000 Operational expenses is as follows:

	2011–12 (Actual) (\$'000)	2012–13 (Original) (\$'000)	2012–13 (Revised) (\$'000)	2013-14 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	612,814	662,539	668,842	732,075
- Allowances	11,228	14,112	12,719	18,957
- Job-related allowances		6	6	6
Personnel Related Expenses				
- Mandatory Provident Fund				
contribution	1,354	775	1,775	1,949
- Civil Service Provident Fund				
contribution	9,158	19,465	14,799	20,875
Departmental Expenses				
- Remuneration for special appointments	3,708	3,750	3,750	3,750
- General departmental expenses	87,736	90,397	91,223	100,456
Other Charges				
 Hire of legal services and related 				
professional fees	145,492	177,044	178,137	208,780
 Legal services for construction dispute 				
resolution	62,179	58,736	95,656	92,000
	933,669	1,026,824	1,066,907	1,178,848

- **5** Provision of \$600,000 under *Subhead 003 Recoverable salaries and allowances (General)* is for the salaries and allowances of civil servants providing legal services for the rewrite of Companies Ordinance. The gross provision must not be exceeded without the prior approval of the Secretary for Financial Services and the Treasury. Expenditure under this subhead is reimbursed by the Companies Registry Trading Fund.
- **6** Provision of \$222,000,000 under *Subhead 234 Court costs* is for the payment of costs awarded against the Government in criminal and civil cases. Since payment of court costs is contingent upon the progress of the relevant negotiations, the level of payment may vary from year to year.

Commitments

Sub- head (Code)	Item (Code)	Ambit	Approved commitment \$'000	Accumulated expenditure to 31.3.2012 \$'000	Revised estimated expenditure for 2012–13	Balance \$'000
Opera	iting A	ccount				
700		General non-recurrent				
	512	Hire of service for translation and Chinese typing	5,100	3,296	150	1,654
	513	Conducting mock trials in the Mainland	2,400	1,609	155	636
	514	Promotion of rule of law and Hong Kong's legal system	6,300	5,987	_	313
	519	Development of Mainland-related legal services in Hong Kong	4,335	1,756	247	2,332
		Total	18,135	12,648	552	4,935