

Head 80 — JUDICIARY

Controlling officer: the Judiciary Administrator will account for expenditure under this Head.

Estimate 2017–18 **\$1,762.7m**

Establishment ceiling 2017–18 (notional annual mid-point salary value) representing an estimated 1 690 non-directorate posts as at 31 March 2017 rising by 38 posts to 1 728 posts as at 31 March 2018 **\$707.8m**

In addition, there will be an estimated 200 directorate posts as at 31 March 2017 rising by 15 posts to 215 posts as at 31 March 2018, of which 205 are posts for judges and judicial officers.

Controlling Officer's Report

Programmes

Programme (1) Courts, Tribunals and Various Statutory Functions
Programme (2) Support Services for Courts' Operation

These programmes contribute to Policy Area 12: Administration of Justice (Judiciary Administrator).

Detail

Programme (1): Courts, Tribunals and Various Statutory Functions

	2015–16 (Actual)	2016–17 (Original)	2016–17 (Revised)	2017–18 (Estimate)
Financial provision (\$m)	1,044.5	1,204.5	1,143.5 (–5.1%)	1,350.8 (+18.1%)
				(or +12.1% on 2016–17 Original)

Aim

2 The aim is 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.

Brief Description

3 Under this programme, different levels of courts and tribunals hear and adjudicate criminal cases and civil disputes. The operational objectives of these courts and tribunals are to:

- ensure just and expeditious disposal of cases,
- enhance professional standards,
- ensure the Judiciary and the courts keep abreast with changing times, and
- develop a bilingual court system in Hong Kong.

4 In 2016, the overall performance of most of the programme area was satisfactory. The majority of the performance targets at various levels of courts were achieved. A few targets regarding criminal cases in the Court of First Instance of the High Court and the District Court were however not met. As far as the High Court is concerned, a number of High Court Judges have retired over the past few years and the Judiciary has been facing persistent recruitment difficulties at the Court of First Instance of the High Court level in filling the judicial vacancies. In 2012, 2013 and 2014, the Judiciary conducted three open recruitment exercises for the Judges of the Court of First Instance of the High Court. As a result, a total of 17 appointments have been made. However, the number of eligible candidates found suitable for appointment was much smaller than the available vacancies and not all vacancies could be filled. Another round of recruitment exercise for the Judges of the Court of First Instance of the High Court was launched in mid-2016 and it is clear that not all vacancies can be filled. The Judiciary has embarked on a number of reviews with a view to attracting quality candidates and retaining talents, including the review of the conditions of service for Judges and Judicial Officers and the review of the retirement ages of Judges and Judicial Officers. The review of the conditions of service for Judges and Judicial Officers was completed and the Judiciary has put forth to the Government a set of proposals to enhance certain conditions of service for Judges and Judicial Officers. On 6 December 2016, the Chief Executive-in-Council considered the review conducted by the Judiciary and approved enhancement of conditions of service for Judges and Judicial Officers with effect from 1 April 2017. For the review of the retirement ages, the Judiciary has engaged a consultant to carry out a consultancy study to review the retirement ages of Judges and Judicial Officers at all levels of courts and will keep the Government posted of developments at appropriate juncture of the study. As for the District Court, the target for criminal cases was slightly exceeded. This was mainly due to the increase in caseload and the temporary deployment of judicial resources to help hear magisterial appeals at the High Court since June 2015. The Judiciary has enhanced temporary judicial resources at the District Court since January 2017 to help address the situation.

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5 Under this programme, resources are also deployed to perform various statutory functions including those under the Electoral Affairs Commission Ordinance (Cap. 541), the Interception of Communications and Surveillance Ordinance (Cap. 589), the Securities and Futures Ordinance (Cap. 571) and the Legal Practitioners Ordinance (Cap. 159) in relation to the Higher Rights Assessment Board and related matters.

6 The key performance measures in respect of the courts and tribunals are:

Targets

The waiting time targets have been set in accordance with the recommendations of the Court Users' Committees or are laid down in the respective ordinances or court rules.

	2016 Target	2015 (Actual)	2016 (Actual)	2017 Target
<i>Average Waiting Time (days)</i>				
Court of Final Appeal				
application for leave to appeal				
criminal—from notice of hearing to hearing	45	42	42	45
civil—from notice of hearing to hearing	35	31	33	35
substantive appeal				
criminal—from notice of hearing to hearing	100	96	98	100
civil—from notice of hearing to hearing	120	112	117	120
Court of Appeal of the High Court				
criminal—from setting down of a case to hearing	50	53	46	50
civil—from application to fix date to hearing	90	112	86	90
Court of First Instance of the High Court§				
Criminal Fixture List—from filing of indictment to hearing	120	272	291	120
Criminal Running List—from setting down of a case to hearing	90	81	96	90
Civil Fixture List—from application to fix date to hearing	180	140	155	180
Civil Running List—from not-to-be-warned date to hearing	30	7	13	30
appeals from Magistrates' Courts—from lodging of Notice of Appeal to hearing	90	100	105	90
District Court				
criminal—from first appearance of defendants in District Court to hearing§	100	79	118	100
Civil Fixture List—from date of listing to hearing	120	101	99	120
Civil Running List—from not-to-be-warned date to hearing	30	12	15	30
Family Court				
dissolution of marriage—from setting down of a case to hearing				
Special Procedure List	35	34	34	35
Defended List (all hearings)	110	93	65	110
financial applications—from setting down of a case to hearing	110-140	91	86	110-140
Lands Tribunal—from setting down of a case to hearing				
appeal cases	90	36	30	90
compensation cases	90	63	41	90
building management cases	90	36	35	90
tenancy cases	50	28	26	50

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	2016 Target	2015 (Actual)	2016 (Actual)	2017 Target
Magistrates' Courts—from plea to date of trial Ω				
summons ϕ	50	67	67	50
charge cases except for Juvenile Court—				
for defendants in custody	30-45	39	36	30-45
for defendants on bail.....	45-60	49	41	45-60
charge cases for Juvenile Court—				
for defendants in custody Δ	30-45	72	49	30-45
for defendants on bail.....	45-60	60	39	45-60
Coroner's Court—from date of listing to hearing.....	42	35	39	42
Labour Tribunal—				
from appointment to filing of a case ...	30	30	27	30
from filing of a case to first hearing....	30	25	26	30
Small Claims Tribunal—from filing of a case to first hearing.....	60	35	34	60
Obscene Articles Tribunal—				
from receipt of application to classification	5	4	3	5
from referral by a magistrate to determination	21	18	—#	21

Since there is no application/claim filed in the Competition Tribunal since its operation on 14 December 2015, the average waiting time is inapplicable. The endorsement by the Competition Tribunal Court Users' Committee regarding the target waiting time will be obtained later.

- § The general position regarding the judicial manpower at the High Court has been detailed at paragraph 4. In particular, it is noted that the average waiting time for the Criminal Fixture List has continued to exceed the target in 2016 despite the deployment of additional judicial manpower to handle criminal trials at the Court of First Instance of the High Court. To look deeper into the situation with a view to identifying whether there are other causes to the problem, the Chief Judge of the High Court has formed some task groups in late 2015 to look into different aspects of criminal listing and hearing matters. As a result of the review, a new draft Practice Direction proposing measures to enhance management of criminal proceedings at the Court of First Instance of the High Court has been prepared, thereby allowing more efficient disposal of cases. Stakeholder consultation was conducted in 2016. The Judiciary is examining the comments received. The plan is to promulgate the new Practice Direction in the first half of 2017. Furthermore, an additional Deputy High Court Judge has been deployed to hear criminal cases since December 2016 to alleviate the judicial manpower constraint. The average waiting time for appeals from the Magistrates' Courts to the Court of First Instance of the High Court continued to exceed the target. To address this situation, an additional Deputy High Court Judge has been deployed to hear magisterial appeals since June 2015. As regards the average waiting time for civil fixture cases, it is noted that there were marked improvements in the waiting time in 2015 as a result of continuous deployment of additional judicial resources. The waiting time in 2015 and 2016 was well within target. The Judiciary will continue to closely monitor the situation and will make every effort to improve the waiting time.
- β The average waiting time for criminal cases in the District Court exceeded the target due to an increase in caseload and the reduction in judicial manpower due to the deployment of one District Court Judge to sit as Deputy Judge of the Court of First Instance of the High Court to hear magisterial appeals in the Court of First Instance of the High Court since June 2015. The Judiciary will continue to monitor closely the situation and will make every effort to improve the waiting time.
- Ω Due to the design of the case management system in the Magistrates' Courts, the average waiting time shown is the actual waiting time and not the first free date which the court can offer to the parties.
- ϕ The average waiting time for summonses in the Magistrates' Courts continued to exceed the target mainly due to the more complex nature of disputed summonses and more self represented parties are involved.
- Δ The actual waiting time for the charge cases for Juvenile Court for defendants in custody did not reflect the availability or sufficiency of judicial resources in hearing such cases. There was one such case in 2016. In practice, there are five Magistrates' Courts hearing juvenile cases and about 40 days are reserved each month for priority listing in hearing juvenile cases. The average waiting time exceeded the target in 2015 and 2016 because of the actual waiting time of one case in 2015 and one case in 2016 due to the specific circumstances of the cases concerned.
- # As there is no application for determination filed, the waiting time is inapplicable.

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Indicators

	2015 (Actual)	2016 (Actual)	2017 (Estimate)
<i>Number of Cases</i>			
Court of Final Appeal			
application for leave to appeal	127	129	130
appeals.....	31	32	30
miscellaneous proceedings.....	0	0	0
Court of Appeal of the High Court			
criminal appeals	442	400	400
civil appeals.....	279	246	250
Court of First Instance of the High Court			
criminal jurisdiction			
criminal cases.....	503	497	500
confidential miscellaneous proceedings.....	402	405	410
appeals from Magistrates' Courts	777	702	700
civil jurisdiction	19 885	19 467	19 470
probate cases	19 127	18 368	18 370
Competition Tribunal [□]	0	0	0
District Court			
criminal cases.....	1 118	1 215	1 220
civil cases	20 346	21 902	21 900
family cases.....	21 834	22 297	22 300
Lands Tribunal	4 740	4 629	4 630
Magistrates' Courts	317 006	334 048	334 050
Coroner's Court.....	93	83	80
Labour Tribunal	4 006	4 326	4 330
Small Claims Tribunal	49 775	49 169	49 170
Obscene Articles Tribunal.....	4 278	226	230

□ There is no application/claim filed in the Competition Tribunal since its operation on 14 December 2015. The Judiciary will continue to monitor the caseload of the Competition Tribunal.

7 It should be noted that the number of cases alone is not a true reflection of a court's workload. In recent years, there has been an increasing number of complex cases that generally take longer time to conclude. Without compromising the quality of justice, the Judiciary will continue to try to enhance the productivity of the courts through measures such as improving the listing system and appropriate deployment of judicial resources.

Matters Requiring Special Attention in 2017–18

8 In 2017–18, the Judiciary will:

- continue to monitor the waiting time at the various levels of courts, particularly those in the High Court, and will proceed to seek the Legislative Council's approval for the creation of additional judicial posts to enhance the judicial establishment to cope with the increased workload, including additional Magistrate and Adjudicator posts to meet the operational needs of the new West Kowloon Law Courts Building;
- continue to monitor the working of the reformed civil justice system after the implementation of the Civil Justice Reform;
- monitor the work of the Competition Tribunal since its full operation in December 2015; and
- continue to carry out the legislative work for the proposed formulation of a unified set of court procedural rules for the family justice system.

Programme (2): Support Services for Courts' Operation

	2015–16 (Actual)	2016–17 (Original)	2016–17 (Revised)	2017–18 (Estimate)
Financial provision (\$m)	338.3	383.0	379.8 (–0.8%)	411.9 (+8.5%)
				(or +7.5% on 2016–17 Original)

Aim

9 The aim is to provide efficient and effective services to support the operation of courts.

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Brief Description

10 Under this programme, administrative services are provided to support the hearing of cases in courts and tribunals at different levels, and to enforce court orders on the application of the plaintiffs. The work involves:

- providing effective recording services for court proceedings and producing transcripts for these proceedings;
- ensuring that both the Chinese and English languages can be used in the court system;
- providing efficient bailiff services for the enforcement of court orders and service of court documents;
- keeping comprehensive legal reference books and research materials for the use of judges, judicial officers and the legal profession; and
- adopting information technology and other modern management tools to enhance the efficiency of court support services.

11 In 2016, the aim of the programme was generally met and the overall performance of the programme as reflected by the key indicators was satisfactory.

12 The key performance measures in respect of support services for the courts and tribunals are:

Indicators

	2015 (Actual)	2016 (Actual)	2017 (Estimate)
<i>Reporting and Transcription</i>			
cases covered			
criminal	295 164	310 591	310 600
civil	64 441	72 210	72 210
cases with transcripts produced			
criminal	6 047	6 355	6 360
civil	1 744	1 532	1 540
<i>Interpretation and Translation</i>			
pages of certification/translation processed	211 473	219 186	219 200
<i>Bailiff Service</i>			
executions attempted	19 676	21 688	21 700
summons services attempted	85 338	95 458	95 500
<i>Library</i>			
library materials acquired and processed	36 757	33 488	35 000
attendances at the Library	43 153	39 419	40 000

Matters Requiring Special Attention in 2017–18

13 In 2017–18, the Judiciary will seek to:

- continue to provide support to unrepresented litigants in the High Court and the District Court through the Resource Centre for Unrepresented Litigants,
- sustain quality management in the Judiciary Administration, and
- implement an information technology strategy plan for the Judiciary.

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ANALYSIS OF FINANCIAL PROVISION

Programme	2015–16 (Actual) (\$m)	2016–17 (Original) (\$m)	2016–17 (Revised) (\$m)	2017–18 (Estimate) (\$m)
(1) Courts, Tribunals and Various Statutory Functions	1,044.5	1,204.5	1,143.5	1,350.8
(2) Support Services for Courts’ Operation	338.3	383.0	379.8	411.9
	1,382.8	1,587.5	1,523.3 (–4.0%)	1,762.7 (+15.7%)
				(or +11.0% on 2016–17 Original)

Analysis of Financial and Staffing Provision

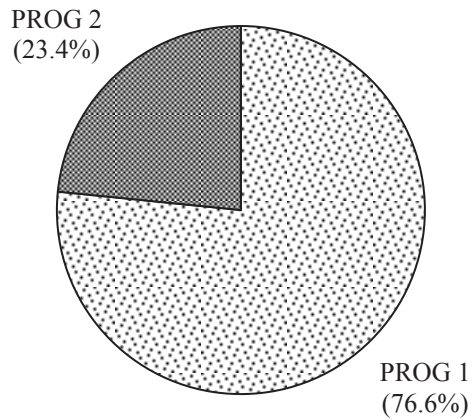
Programme (1)

Provision for 2017–18 is \$207.3 million (18.1%) higher than the revised estimate for 2016–17. This is mainly due to the increased provision for filling of vacancies and a net increase of 14 judicial and 36 non-judicial posts in 2017–18.

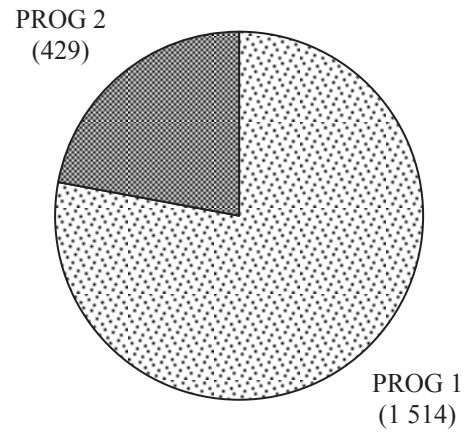
Programme (2)

Provision for 2017–18 is \$32.1 million (8.5%) higher than the revised estimate for 2016–17. This is mainly due to the additional provision for operating expenses to provide enhanced support services for courts’ operation, filling of vacancies and a net increase of three non-judicial posts in 2017–18.

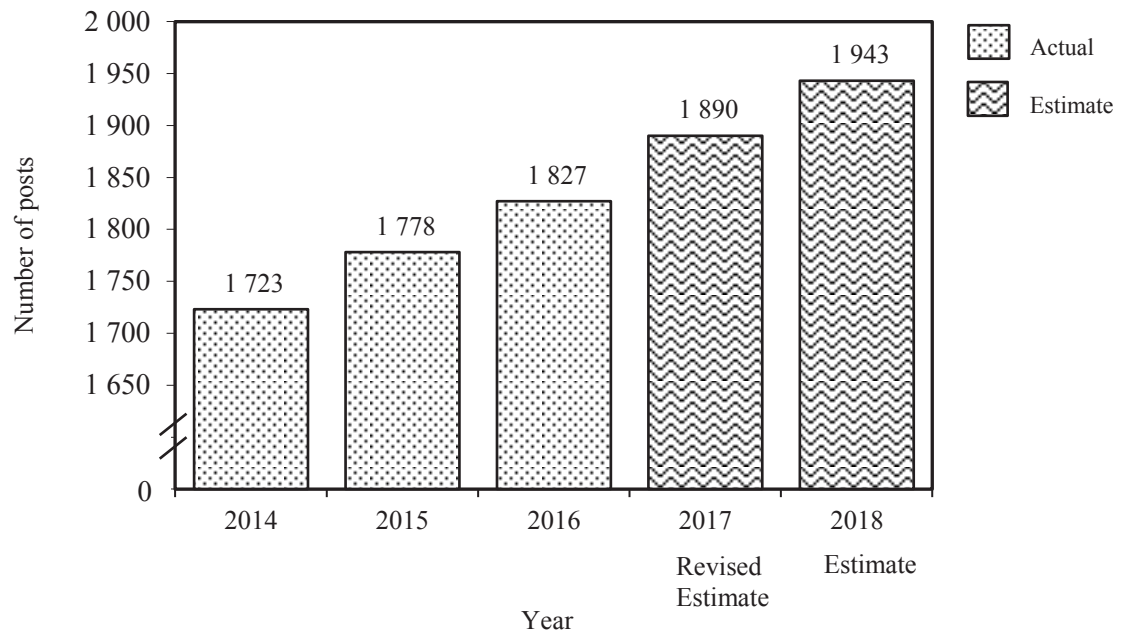
*Allocation of provision
to programmes
(2017-18)*



*Staff by programme
(as at 31 March 2018)*



*Changes in the size of the establishment
(as at 31 March)*



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Sub-head (Code)		Actual expenditure 2015–16	Approved estimate 2016–17	Revised estimate 2016–17	Estimate 2017–18
		\$'000	\$'000	\$'000	\$'000
Operating Account					
	Recurrent				
000	Operational expenses	1,372,825	1,566,866	1,502,734	1,733,635
206	Expenses of witnesses and jurors.....	7,344	11,021	11,021	11,783
	Total, Recurrent.....	1,380,169	1,577,887	1,513,755	1,745,418
	Total, Operating Account	1,380,169	1,577,887	1,513,755	1,745,418
Capital Account					
	Plant, Equipment and Works				
661	Minor plant, vehicles and equipment (block vote).....	2,603	9,573	9,573	17,307
	Total, Plant, Equipment and Works.....	2,603	9,573	9,573	17,307
	Total, Capital Account.....	2,603	9,573	9,573	17,307
	Total Expenditure	1,382,772	1,587,460	1,523,328	1,762,725

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Details of Expenditure by Subhead

The estimate of the amount required in 2017–18 for the salaries and expenses of the Judiciary is \$1,762,725,000. This represents an increase of \$239,397,000 over the revised estimate for 2016–17 and \$379,953,000 over the actual expenditure in 2015–16.

Operating Account

Recurrent

2 Provision of \$1,733,635,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Judiciary. This includes provision of \$382,600, for a non-accountable entertainment allowance for the Chief Justice of the Court of Final Appeal. The increase of \$230,901,000 (15.4%) over the revised estimate for *Subhead 000 Operational expenses* for 2016–17 is mainly due to the full-year effect of posts created in 2016–17, the filling of vacancies, the increased provision for salary arising from a net increase of 14 judicial and 39 non-judicial posts in 2017–18 and operating expenses to support courts' operation.

3 The establishment as at 31 March 2017 will be 1 890 posts including one supernumerary post. It is expected that there will be a net increase of 53 posts including one supernumerary post in 2017–18. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2017–18, but the notional annual mid-point salary value of all such posts must not exceed \$707,798,000.

4 An analysis of the financial provision under *Subhead 000 Operational expenses* is as follows:

	2015–16 (Actual) (\$'000)	2016–17 (Original) (\$'000)	2016–17 (Revised) (\$'000)	2017–18 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	984,595	1,094,168	1,033,886	1,179,892
- Allowances.....	22,268	23,522	22,765	23,634
- Job-related allowances.....	1,947	1,925	1,508	1,573
Personnel Related Expenses				
- Cash allowances^	7,697	9,577	8,608	46,354
- Mandatory Provident Fund contribution.....	2,995	4,213	3,357	4,387
- Civil Service Provident Fund contribution.....	16,348	18,994	20,667	23,053
Departmental Expenses				
- Hire of services and professional fees	154,903	182,890	187,854	192,459
- General departmental expenses	182,072	231,569	224,081	262,275
Other Charges				
- Magistrates poor box	—	8	8	8
	<u>1,372,825</u>	<u>1,566,866</u>	<u>1,502,734</u>	<u>1,733,635</u>

^ The change in description reflects the expansion of ambit to include provision for enhancement of housing, medical and dental benefits to Judges and Judicial Officers starting from 2017–18.

Capital Account

Plant, Equipment and Works

5 Provision of \$17,307,000 under *Subhead 661 Minor plant, vehicles and equipment (block vote)* represents an increase of \$7,734,000 (80.8%) over the revised estimate for 2016–17. This is mainly due to increased requirement for minor plant and equipment in court buildings.