8	1	1	
Estimate 2018–19			\$2,290.9m
Establishment ceiling 2018–19 (notional annual mid-poin 1 273 non-directorate posts as at 31 March 2018 risin	t salary value) re	epresenting an estimated to 1 349 posts as at	

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

1 273 non-directorate posts as at 31 March 2018 rising by 76 posts to 1 349 posts as at 31 March 2019.....

\$847.5m

In addition, there will be an estimated 92 directorate posts as at 31 March 2018 rising by three posts to 95 posts as at 31 March 2019.

Controlling Officer's Report

Programmes

Programme (1) Prosecutions
Programme (2) Civil
Programme (3) Legal Policy

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

Programme (4) Law Drafting Programme (5) International Law

Detail

Programme (1): Prosecutions

	2016–17	2017–18	2017–18	2018–19
	(Actual)	(Original)	(Revised)	(Estimate)
Financial provision (\$m)	633.9	855.9	665.7 (-22.2%)	890.4 (+33.8%)

(or +4.0% on 2017–18 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 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 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 2017, 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				
	Target	2016 (Actual)	2017 (Actual)	2018 (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 (%)preparing and filing indictments in the Court of First Instance within	100	94.0	92.3	100
seven days of committal of the accused in the Magistrates' Court (%) preparing and delivering charge sheets to the Registrar of the District Court within 14 days after the date of the order of transfer of the case from	100	100	100	100
the Magistrates' Court to the District Court (%)	100	100	100	100
Indicators				
		2016 (Actual)	2017 (Actual)	2018 (Estimate)
cases conducted by Government Counselcases conducted by Counsel instructed to prosecute	in all	3 719	3 338	3 340
courts		1 811	1 685	1 690
court days undertaken by Government Counsel		3 441	3 404	3 400
court days undertaken by Court Prosecutors in Mag		8 939	8 134	8 130
court days undertaken by Counsel instructed to pro-	secute in			
the Magistrates' Court in place of Court Prosecu	tors	5 636	5 466	5 470
cases prepared for the Court of First Instance		497	457	460
cases prepared for the District Court		1 208	1 157	1 160
items of legal advice provided		13 462	13 790	13 790
appeals conducted		1 171	1 076	1 080
The conviction rates for 2016 and 2017 are:				
			2016	2017
			(Actual)	(Actual)
Magistrates' Court				
- defendants convicted after trial (%)			49.4	55.3
 defendants convicted after trial and defendants 	nts convicted of	on their own		-0.4
pleas (%)			74.0	70.4
District Court - defendants convicted after trial (%)			72.8	78.5
- defendants convicted after trial and defendant			72.0	70.3
pleas (%)			94.6	94.7
Court of First Instance				
- defendants convicted after trial (%)			56.5	70.8
- defendants convicted after trial and defenda pleas (%)			91.1	94.0
P1000 (70)	_		71.1	74.0

The conviction rates are defendant-based and relate 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 2018–19

- 8 During 2018–19, the Prosecutions Division will continue to implement measures to:
- promote co-operation amongst prosecutors at the global level in the combat against 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;
- enhance the standards of advocacy and preparation in criminal cases; and
- enhance the public's understanding of the criminal justice system and their role in the system.

Programme (2): Civil

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	590.2	787.5	634.6 (-19.4%)	1,028.2 (+62.0%)
				(or +30.6% on 2017–18 Original)

Aim

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

Brief Description

- 10 The work of the Civil Division includes:
- 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, land, building, environment and housing matters;
- providing legal advice on commercial law matters and drafting commercial contracts, licences and franchises;
- providing legal advice on legislation and civil law matters;
- providing advice and support to the development of the wider use of mediation to resolve disputes in Hong Kong;
 and
- supporting the Joint Dispute Resolution Strategy Office in promoting Hong Kong's dispute resolution services.
- 11 In 2017, 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	2016 (Actual)	2017 (Actual)	2018 (Plan)
taking appropriate follow-up action				
on civil litigation cases within				
seven working days upon referral by	100	100	400	100
client department (%)	100	100	100	100
providing legal advice within				
14 working days upon receipt of				
instructions/requests (%)#	92	91	88	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

	2016 (Actual)	2017 (Actual)	2018 (Estimate)
civil litigation cases current on 31 Decembernew proceedings (including non-construction arbitration and	35 356	36 778	36 780
mediation) brought by the Government	1 756	1 582	1 645

	2016 (Actual)	2017 (Actual)	2018 (Estimate)
new proceedings (including non-construction arbitration and			
mediation) brought against the Government	1 196	1 707	1 730
person days of court appearances	2 220	1 400	1 465
items of legal advice provided	14 902	15 387	15 385
commercial tenders, consultancy briefs, contracts, licences			
and franchises drafted/vetted	656	692	690

Matters Requiring Special Attention in 2018–19

- 13 During 2018–19, the Civil Division will advise on the legal aspects of:
- proceedings involving the Government, in particular those involving the Basic Law and administrative law issues, immigration matters, revenue matters, charities and trusts, contempt of court, election matters, contractual/commercial disputes, personal injuries and other damages claims, land matters, building matters, town planning matters and environmental issues;
- implementation of the Judiciary's Information and Technology Strategy Plan to facilitate court users by providing them with an electronic option for court processes;
- legislative initiatives for the handling of non-refoulement claims made under the unified screening mechanism and other related matters;
- legislative initiatives with regard to corporate insolvency law;
- legislative amendments to tax legislation;
- legislative proposals for the establishment of a Policyholders' Protection Scheme;
- legislative amendments to the marine and aviation related legislation;
- implementation of the Private Columbaria Ordinance (Cap. 630);
- proposed legislation for revamping the existing regulatory regime for private healthcare facilities and for regulating medical devices;
- proposed amendments to the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586);
- review of the family procedure rules;
- 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;
- the regulation of companies, securities, banks insurance, information technology, electronic transactions, e-commerce, transportation, broadcasting and telecommunications as well as proposals for reform;
- taking forward the results of the review of the regulatory framework of the post-2018 local electricity market;
- feasibility study of establishing a Government-led Special Needs Trust;
- development of Trade Single Window;
- 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, the Guangzhou-Shenzhen-Hong Kong
 Express Rail Link, the development of North East New Territories New Development Areas and construction
 and operation of youth hostels;
- implementation of a pilot mediation scheme to resolve suitable Small Claims Tribunal cases; and
- the study of the possibility of using evaluative mediation to resolve disputes in addition to facilitative mediation.

Programme (3): Legal Policy

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	119.0	130.1	122.7 (-5.7%)	142.4 (+16.1%)
				(or +9.5% on

2017–18 Original)

Aim

14 The aim is to provide support to the Secretary for Justice in relation to the discharge of his duties; to provide advice on overall legal policy issues and, in particular, in respect of the Basic Law and human rights law in assisting the Government's formulation of policies (including those in relation to the legal system, the legal profession and dispute resolution); to provide advice on electoral law; to provide advice on the law and legal developments in the Mainland and other parts of the Cross Strait Four Regions; 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;
- providing advice on the Basic Law and assisting the promotion of knowledge in it;
- advising on compliance with the human rights provisions of the Basic Law, human rights treaties extended to the Hong Kong Special Administrative Region (HKSAR), the Hong Kong Bill of Rights Ordinance (Cap. 383), and anti-discrimination legislation;
- providing legal advice on constitutional development and election matters;
- advising whether a policy or proposed legislation 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), surrender of fugitives and responses to public enquiries and complaints;
- promoting bills related to the legal system, the legal profession, the law of arbitration and those effecting law reform or miscellaneous amendments to various ordinances;
- providing advice and information on the laws of the Mainland and other parts of the Cross Strait Four Regions; attending to matters on the further liberalisation of the Mainland's legal services market and on co-operation arrangements with the Mainland and other parts of the Cross Strait Four Regions; organising seminars and promotional activities in the Mainland in the context of the Belt and Road Initiative and Guangdong-Hong Kong-Macao Bay Area development;
- providing advice to the Government on LegCo procedures and practice;
- promoting Hong Kong as a regional hub of international legal and dispute resolution services jointly with the Mediation Team of the Civil Division;
- providing research, legal services, and secretariat support to facilitate the work of the Inter-departmental Working Group on Gender Recognition, chaired by the Secretary for Justice; and
- giving advice and providing research and secretariat support to facilitate the work of the Law Reform Commission, chaired by the Secretary for Justice.
- 16 In 2017, the aim of the programme was generally met and the overall performance under the programme was satisfactory.

17 The key performance measures are:

Indicators

	2016	2017	2018
	(Actual)	(Actual)	(Estimate)
bills promoted by the Legal Policy Division in each LegCo			
session	1	2	3
petitions (from prisoners) handled	96	205	205
items of legal advice given on:			
overall legal policy matters	2 126	2 525	2 525
Basic Law matters	1 099	1 535	1 535
human rights issues	842	897	897
constitutional development and election matters	1 236	572	800
Mainland law and related matters	358	561	561
ongoing Law Reform Commission projects	8	7	7
speeches prepared (both for LegCo and elsewhere)	101	113	113
Basic Law seminars conducted	11	4	4
briefings given in the Mainland and to Mainland delegations			
in Hong Kong	41	32	32

Matters Requiring Special Attention in 2018–19

- 18 During 2018–19, the Secretary for Justice's Office and the Legal Policy Division will continue to:
- promote the use of arbitration in Hong Kong and publicise Hong Kong's arbitration regime;
- promote Hong Kong as a regional centre for legal and dispute resolution services;
- provide support to the Advisory Committee on Promotion of Arbitration, chaired by the Secretary for Justice, to
 enhance the efforts to foster the promotion of arbitration services in Hong Kong in accordance with the policy
 objective of the Government;
- develop expertise in respect of legislative powers, procedures and practices in the context of the Basic Law;
- provide support to the Inter-departmental Working Group on Gender Recognition, chaired by the Secretary for Justice, which is studying possible legislation on gender recognition in respect of transsexual persons in the light of observations made by the Court of Final Appeal in the W case (FACV 4/2012);
- explore further opportunities for Hong Kong legal professionals to provide services in the Mainland;
- develop working relationships with counterparts in the Mainland and other parts of the Cross Strait Four Regions;
- organise visits and training programmes in Hong Kong for Mainland officials and seminars and other
 promotional activities in the Mainland in order to develop and enhance mutual understanding of the legal
 systems and professional practices in the HKSAR and the Mainland and to promote Hong Kong's legal and
 dispute resolution services in the context of the Belt and Road Initiative and Guangdong-Hong Kong-Macao Bay
 Area development.

Programme (4): Law Drafting

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	121.2	131.8	134.8 (+2.3%)	154.9 (+14.9%)
				(or +17.5% on 2017–18 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 includes:
- drafting of legislation in the English and Chinese languages and assisting policy bureaux in steering such legislation through the law-making process,
- · compiling the loose-leaf edition of the Laws of Hong Kong, and
- maintaining a legislation database for free access through the internet.
- 21 In 2017, the aim of the programme was generally met and the overall performance under the programme was satisfactory.
 - 22 The key performance measures are:

Indicators

	(Actual)	(Actual)	(Estimate)
bills gazetted	13	30	33
subsidiary legislation gazettedpages of bills/subsidiary legislation gazetted (English)	196 2 496	187 4 285	210 4 700
pages of bills/subsidiary legislation gazetted (Chinese)	2 496	4 285	4 700
pages of legislation compiled for publication in the loose-leaf edition	5 424	5 674	2 700
pages of Committee Stage Amendments (CSAs) proposed by the Government (English)Δ	216	35	50
pages of CSAs proposed by the LegCo members (English)Δ pages of CSAs proposed by the Government (Chinese)Δ	457 208	203 31	270 45

	2016 (Actual)	2017 (Actual)	2018 (Estimate)
pages of CSAs proposed by the LegCo members			
$(Chinese)\Delta$	451	201	270
drafts of bills/subsidiary legislation released	2 186	2 277	2 230
items of legal advice provided	5 691	6 255	5 973

Δ The nature of the work is different. For CSAs proposed by the Government, Law Drafting Division has to take instructions from policy bureaux and draft the amendments and assist in their scrutiny by LegCo. For CSAs proposed by LegCo members, Law Drafting Division has to examine the amendments to make sure that they are in the correct format and liaise with the proposers to prepare the final agreed copies.

Matters Requiring Special Attention in 2018–19

- 23 During 2018–19, the Law Drafting Division will:
- continue to meet the requirements for the drafting of legislation and incidental professional service in an effective manner,
- continue to provide on-the-job training and professional development programmes relating to legislative drafting for counsel to enhance their professional capability, and
- maintain a new legislation database with legal status and continue to verify data for current legislation for migration from the loose-leaf edition of the Laws of Hong Kong to the new database.

Programme (5): International Law

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	66.8	66.6	62.6 (-6.0%)	75.0 (+19.8%)
				(or +12.6% on 2017–18 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 includes:
- 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 resolution of trade disputes;
- negotiating and advising on international agreements, including those on surrender of fugitive offenders, mutual legal assistance, transfer of sentenced persons, investment promotion and protection, air services, avoidance of double taxation and tax information exchange;
- participating in the activities of international organisations such as the Hague Conference on Private International Law and Asia-Pacific Economic Cooperation, negotiating multilateral instruments and fostering international co-operation;
- providing advice on the international legal aspects of the 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 in
 international child abduction cases, and advising on matters involving international legal co-operation.
- **26** In 2017, the aim of the programme was generally met and the overall performance under the programme was satisfactory.

27 The key performance measures are:

Indicators

	2016	2017	2018
	(Actual)	(Actual)	(Estimate)
international agreements initialledbriefings, negotiation and discussion (no. of working	3	3	2
sessions)items of legal advice providednew requests dealt with in various categories of mutual legal	769	461	460
	15 090	19 821	19 820
assistance court appearances	453	490	490
	49	109	110

Matters Requiring Special Attention in 2018–19

- 28 During 2018–19, 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,
- participate in the activities of international organisations to foster international co-operation, and
- handle requests for international legal co-operation effectively.

ANALYSIS OF FINANCIAL PROVISION

		2016–17 (Actual) (\$m)	2017–18 (Original) (\$m)	2017–18 (Revised) (\$m)	2018–19 (Estimate) (\$m)
Prog	gramme	, ,	, ,		` ,
(1)	Prosecutions	633.9	855.9	665.7	890.4
(2)	Civil	590.2	787.5	634.6	1,028.2
(3)	Legal Policy	119.0	130.1	122.7	142.4
(4)	Law Drafting	121.2	131.8	134.8	154.9
(5)	International Law	66.8	66.6	62.6	75.0
		1,531.1	1,971.9	1,620.4	2,290.9
				(-17.8%)	(+41.4%)

(or +16.2% on 2017–18 Original)

Analysis of Financial and Staffing Provision

Programme (1)

Provision for 2018–19 is \$224.7 million (33.8%) higher than the revised estimate for 2017–18. This is mainly due to the anticipated increase in briefing-out expenses and court costs, filling of vacancies, and net creation of 26 posts to meet operational needs.

Programme (2)

Provision for 2018–19 is \$393.6 million (62.0%) higher than the revised estimate for 2017–18. This is mainly due to the anticipated increase in briefing-out expenses and court costs, filling of vacancies, and net creation of 30 posts to meet operational needs.

Programme (3)

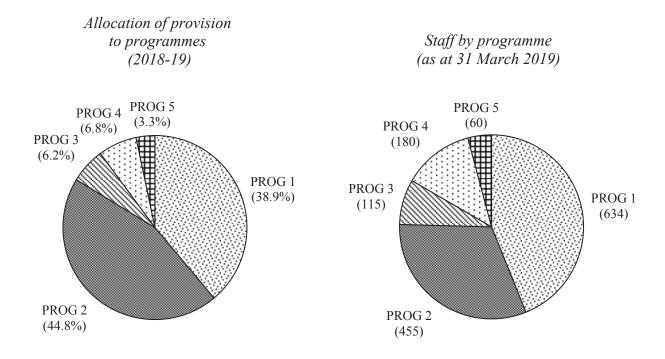
Provision for 2018–19 is \$19.7 million (16.1%) higher than the revised estimate for 2017–18. This is mainly due to the anticipated increase in general departmental expenses, filling of vacancies, and net creation of six posts to meet operational needs.

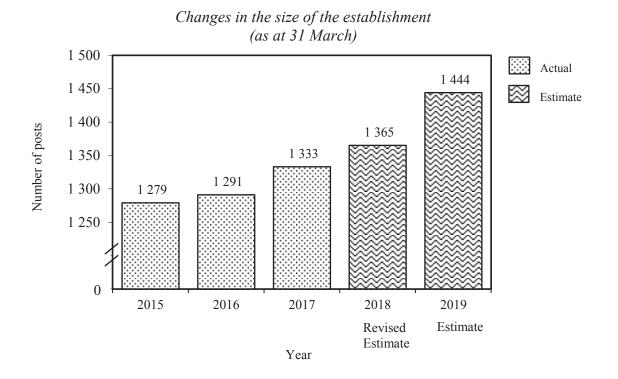
Programme (4)

Provision for 2018–19 is \$20.1 million (14.9%) higher than the revised estimate for 2017–18. This is mainly due to the anticipated increase in briefing-out and general departmental expenses, filling of vacancies, and creation of ten posts to meet operational needs.

Programme (5)

Provision for 2018–19 is \$12.4 million (19.8%) higher than the revised estimate for 2017–18. This is mainly due to the anticipated increase in briefing-out and general departmental expenses, filling of vacancies, and creation of seven posts to meet operational needs.





Sub- head (Code)	Operating Account	Actual expenditure 2016–17 \$'000	Approved estimate 2017–18 ** 3,000	Revised estimate 2017–18 ** 3'000	Estimate 2018–19 8'000
	Recurrent				
000 234	Operational expenses	1,345,419 185,527	1,642,070 329,120	1,436,870 182,920	1,752,066 538,100
	Total, Recurrent	1,530,946	1,971,190	1,619,790	2,290,166
	Non-Recurrent				
700	General non-recurrent	177	736	646	736
	Total, Non-Recurrent	177	736	646	736
	Total, Operating Account	1,531,123	1,971,926	1,620,436	2,290,902
	Total Expenditure	1,531,123	1,971,926	1,620,436	2,290,902

Details of Expenditure by Subhead

The estimate of the amount required in 2018–19 for the salaries and expenses of the Department of Justice is \$2,290,902,000. This represents an increase of \$670,466,000 over the revised estimate for 2017–18 and \$759,779,000 over the actual expenditure in 2016–17.

Operating Account

Recurrent

- 2 Provision of \$1,752,066,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Department of Justice. This includes provision of \$233,000 for a non-accountable entertainment allowance for the Secretary for Justice. The increase of \$315,196,000 (21.9%) over the revised estimate for *Subhead 000 Operational expenses* for 2017–18 is mainly due to the filling of vacancies, creation of new posts to meet operational needs, as well as anticipated increase in briefing-out and general departmental expenses.
- 3 The establishment as at 31 March 2018 will be 1 365 posts including two supernumerary posts. It is expected that there will be a net increase of 79 posts in 2018–19. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2018–19 but the notional annual mid-point salary value of all such posts must not exceed \$847,500,000.
 - 4 An analysis of the financial provision under Subhead 000 Operational expenses is as follows:

	2016–17 (Actual) (\$'000)	2017–18 (Original) (\$'000)	2017–18 (Revised) (\$'000)	2018–19 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	837,987 19,100	886,517 21,152 6	882,442 21,957 6	990,081 24,878 10
Mandatory Provident Fund contribution - Civil Service Provident Fund	2,558	3,434	2,910	4,169
contribution Departmental Expenses	36,520	44,759	42,507	50,791
- Remuneration for special appointments General departmental expenses	3,945 153,592	3,950 180,592	4,250 165,248	4,400 196,057
Hire of legal services and related professional fees Legal services for construction dispute	231,286	398,360	266,410	390,680
resolution	60,431	103,300	51,140	91,000
	1,345,419	1,642,070	1,436,870	1,752,066

⁵ Provision of \$538,100,000 under *Subhead 234 Court costs* is for the payment of costs awarded against the Government in criminal and civil cases. This represents an increase of \$355,180,000 (194.2%) over the revised estimate for 2017–18. Since payment of court costs is contingent upon the progress of the relevant negotiations, the level of payment varies from year to year.

Commitments

Sub- head (Code)	Item (Code)	Ambit	Approved commitment \$'000	Accumulated expenditure to 31.3.2017	Revised estimated expenditure for 2017–18	Balance \$'000
Opera	ting Ac	count				
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	1,973	166	261
	514	Promotion of rule of law and Hong Kong's legal system	8,600	6,659	50	1,891
	519	Development of Mainland-related legal services in Hong Kong	4,335	2,470	280	1,585
		Total	20,435	14,398	646	5,391