

## Head 94 — LEGAL AID DEPARTMENT

**Controlling officer:** the Director of Legal Aid will account for expenditure under this Head.

**Estimate 2023–24** ..... **\$1,658.7m**

**Establishment ceiling 2023–24** (notional annual mid-point salary value) representing an estimated 548 non-directorate posts as at 31 March 2023 and as at 31 March 2024 ..... **\$289.9m**

In addition, there will be an estimated 15 directorate posts as at 31 March 2023 and as at 31 March 2024.

### Controlling Officer's Report

#### Programmes

**Programme (1) Processing of Legal Aid Applications**  
**Programme (2) Litigation Services**  
**Programme (3) Support Services**  
**Programme (4) Official Solicitor's Office**

These programmes contribute to Policy Area 20: Legal Aid (Director of Administration).

#### Detail

##### Programme (1): Processing of Legal Aid Applications

	2021–22 (Actual)	2022–23 (Original)	2022–23 (Revised)	2023–24 (Estimate)
Financial provision (\$m)	127.5	128.4	131.5 (+2.4%)	135.3 (+2.9%)
				(or +5.4% on 2022–23 Original)

#### Aim

- 2 The aim is to ensure that legal aid service is provided only to eligible applicants.

#### Brief Description

3 The Application and Processing Division and the Crime Section and Insolvency Unit of the Litigation Division of the Department assess applicants' eligibility for legal aid and the financial contributions required of them towards the relevant legal costs.

- 4 To qualify for legal aid, an applicant has to pass both the means test and the merits test.

5 Although an applicant's financial resources may exceed the prescribed financial eligibility limit, the Director of Legal Aid (the Director) may grant legal aid if a breach of the Hong Kong Bill of Rights Ordinance (Cap. 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue, or, in a criminal case, if the Director is satisfied that it is desirable in the interests of justice to do so.

6 For civil cases, unsuccessful applicants may appeal against the Director's refusal to grant legal aid on grounds of means or merits. For criminal cases, unsuccessful applicants may appeal against the Director's refusal to grant legal aid where appeals to the Court of Final Appeal are involved. Legal aid may also be granted to an accused or appellant by a Judge in certain circumstances even though such has been refused by the Director.

- 7 The Department generally met the aim of the programme in 2022.

- 8 The key performance measures in respect of processing legal aid applications are:

#### Targets

	Target	2021 (Actual)	2022 (Actual)	2023 (Plan)
<i>Civil legal aid</i>				
applications processed within three months from the date of application (%).....	85	87	85	85

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	Target	2021 (Actual)	2022 (Actual)	2023 (Plan)
<i>Criminal legal aid</i>				
Appeals against sentence				
applications processed within				
two months from the date of				
application (%).....	90	93	88	90
Appeals against conviction				
applications processed within				
three months from the date of				
application (%).....	90	93	87	90
Court of First Instance of the High				
Court/District Court				
applications processed within				
ten working days from the date				
of application (%) .....	90	84	81	90
Committal proceedings				
applications processed within				
eight working days from the date				
of application (%) .....	90	76	77	90

### *Indicators*

	2021 (Actual)	2022 (Actual)	2023 (Estimate)
<i>Civil</i>			
enquiries received .....	30 551	26 880	26 900
applications received .....	11 875#	9 480#	10 700
applications processed .....	11 961	9 666	10 700
applications pending decision as at end of year .....	2 003	1 817	1 820
legal aid certificates granted .....	4 916	3 919	4 500
applications refused			
on means .....	819	660	750
on merits .....	4 790	3 851	4 400
appeals against the Director's decisions			
appeals heard .....	839	701	750
appeals allowed .....	25	41	35
<i>Criminal</i>			
applications received .....	3 209	2 749	3 000
applications processed .....	3 379	2 735	2 995
applications pending decision as at end of year .....	172	186	190
legal aid certificates granted .....	2 431	2 019	2 190
applications refused			
on means .....	90	66	80
on merits .....	689	527	600

# The numbers of applications received in 2021 and 2022 included 51 and 27 applications respectively from applicants who were subject to an Order made pursuant to Regulation 11 of the Legal Aid Regulations (Cap. 91A).

### *Matters Requiring Special Attention in 2023–24*

- 9 During 2023–24, the Department will continue to monitor:
- the number of legal aid applications and the processing time;
  - the effectiveness of the means-testing processes; and
  - the use of mediation in legally-aided cases.

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### Programme (2): Litigation Services

	2021–22 (Actual)	2022–23 (Original)	2022–23 (Revised)	2023–24 (Estimate)
Financial provision (\$m)	1,203.2	1,434.8	1,288.1 (–10.2%)	<b>1,444.6</b> (+12.1%)
				(or +0.7% on 2022–23 Original)

### Aim

- 10 The aim is to discharge the Department's statutory duties relating to assignment and conduct of legal aid cases.

### Brief Description

#### Assigning out and monitoring of cases

11 The Application and Processing Division and the Crime Section of the Litigation Division of the Department systematically monitor cases assigned to private practitioners.

#### In-house litigation

- 12 The Litigation Division conducts litigation on behalf of legally-aided persons. The work involves:

#### Civil litigation

- Personal injury and miscellaneous – taking proceedings for legally-aided persons in respect of claims for common law damages for personal injuries and death and compensation under the Employees' Compensation Ordinance (Cap. 282), claims for seamen's wages, and claims for damages due to professional negligence;
- Matrimonial – taking or defending proceedings for legally-aided persons in respect of separation, dissolution or annulment of marriage or ancillary and other relief and wardship; and
- Insolvency – taking winding-up and bankruptcy proceedings for legally-aided persons to recover employment entitlements and judgment debts.

#### Criminal litigation

- representing legally-aided persons in committal proceedings in the Magistrates' Court, plea day proceedings in the District Court, and bail applications in the Court of First Instance; and
- acting as instructing solicitors for legally-aided persons in Court of First Instance cases, as well as in appeals before the Court of First Instance, the Court of Appeal and the Court of Final Appeal.

- 13 The Department generally met the aim of the programme in 2022.

- 14 The key performance measures in respect of assignment and conduct of legal aid cases are:

### Indicators

	2021 (Actual)	2022 (Actual)	2023 (Estimate)
<i>Assigning out and monitoring of cases</i>			
<i>Civil</i>			
new cases assigned .....	3 956	3 114	<b>3 750</b>
cases concluded .....	4 975	4 659	<b>3 750</b>
active cases as at end of year .....	15 117	13 572	<b>13 570</b>
<i>Criminal</i>			
new cases assigned .....	2 392	2 021	<b>1 820</b>
cases concluded .....	2 151	1 898	<b>1 820</b>
active cases as at end of year .....	2 548	2 671	<b>2 670</b>
<i>In-house litigation</i>			
<i>Civil</i>			
<i>Personal injury and miscellaneous</i>			
new cases assigned .....	198	147	<b>180</b>
cases concluded .....	211	320	<b>320</b>
active cases as at end of year .....	511	338	<b>200</b>
<i>Matrimonial</i>			
new cases assigned .....	564	513	<b>560</b>
cases concluded .....	484	418	<b>420</b>
active cases as at end of year .....	780	875	<b>1 015</b>

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	2021 (Actual)	2022 (Actual)	2023 (Estimate)
Insolvency			
new cases assigned .....	30	21	10 $\Delta$
cases concluded .....	28	39	30
active cases as at end of year			
pending issue of winding-up and bankruptcy			
order .....	12	10	5 $\Delta$
pending realisation of assets .....	76	60	45 $\Delta$
Criminal			
new cases assigned .....	388	373	370
cases concluded .....	350	374	370
active cases as at end of year .....	126	125	125
<i>Damages/costs recovered from all civil cases</i>			
amount of damages recovered (\$'000) .....	1,312,149	1,104,227	N.A.
amount of costs recovered (\$'000) .....	445,783	401,705	N.A.

$\Delta$  As the Protection of Wages on Insolvency Fund Board (PWIFB) would procure legal services from service providers to assist in handling winding-up and bankruptcy proceedings in 2023, it is expected that fewer new cases would be assigned to the Department in 2023. Accordingly, the number of cases pending issue of winding-up and bankruptcy order and pending realisation of assets are expected to decrease in 2023.

### *Matters Requiring Special Attention in 2023–24*

15 During 2023–24, the Department will continue to:

- monitor the progress and expenditure of legal aid cases;
- monitor the performance of assigned private practitioners and progress of assigned-out cases;
- monitor the cost effectiveness of litigation services; and
- take winding-up and bankruptcy proceedings for legally-aided persons to recover employment entitlements and judgment debts until after the PWIFB has procured legal services from service providers to handle these proceedings.

### **Programme (3): Support Services**

	2021–22 (Actual)	2022–23 (Original)	2022–23 (Revised)	2023–24 (Estimate)
Financial provision (\$m)	50.3	56.1	56.2 (+0.2%)	61.4 (+9.3%)
				(or +9.4% on 2022–23 Original)

### *Aim*

16 The aims are to provide effective support services for processing applications and conducting legal aid cases and for increasing public understanding and awareness of legal aid services, and to review or make recommendations on legal aid policy to meet areas of perceived needs.

### *Brief Description*

17 Support services include:

- Insolvency – dealing with cases to be referred to the PWIFB for ex-gratia payments without the need for bankruptcy and winding-up proceedings;
- Costing – assessing costs, preparing bills of costs and attending taxation hearings;
- Enforcement – taking action to enforce unsatisfied judgments and orders; and
- Public education – organising or participating in activities to enhance the public's knowledge and awareness of legal aid services provided by the Department.

18 The Department assesses and makes payments to assigned solicitors and counsel, and effects payment of damages recovered to clients.

19 In the area of policy and legislation, constant effort is made to improve the practical working of the legal aid schemes; to increase the Department's efficiency and productivity; to make recommendations on any change in legal aid legislation; and to comment on other legislation which may have an impact on the provision of legal aid services.

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20 It is not possible to specify quantitative measures and indicators for work on policy and legislation, as performance in such areas must be judged in qualitative terms.

21 The Department generally met the aims of the programme in 2022.

22 The key performance measures in respect of support services are:

### *Targets*

	Target	2021 (Actual)	2022 (Actual)	2023 (Plan)
<i>Payment of damages or compensation to aided persons</i>				
Interim payment				
payments processed within one month (%).....	95	98	95	95
Final payment				
payments processed within six weeks (%).....	95	99	99	95
<i>Payment to lawyers/experts/other parties</i>				
Advance payment				
payments processed within six weeks (%).....	95	99	99	95
Balance payment				
payments processed within six weeks (%).....	95	99	99	95

### *Indicators*

	2021 (Actual)	2022 (Actual)	2023 (Estimate)
<i>Insolvency</i>			
cases for ex-gratia payment from			
Protection of Wages on Insolvency Fund (PWIF).....	340	327	120 <sup>Ψ</sup>
<i>Costing</i>			
taxation - court attendance.....	336	371	370
preparation of bills and objections.....	390	355	355
assessments made .....	9 856	8 953	8 950
<i>Enforcement</i>			
cases assigned.....	210	193	190
enforcement action taken.....	233	198	200
active cases as at end of year .....	200	195	185
amount of debts and costs recovered (\$'000).....	9,199	11,276	N.A.

Ψ As the PWIFB would procure legal services from service providers to assist in handling winding-up and bankruptcy proceedings in 2023, it is expected that the number of cases for ex-gratia payment from PWIF would reduce in 2023.

### *Matters Requiring Special Attention in 2023–24*

23 During 2023–24, the Department will continue to:

- promote public awareness and understanding of legal aid services;
- provide support to the Legal Aid Services Council and implement recommendations of the Council to improve the quality and efficiency of legal aid services;
- monitor the performance pledges on payments related to legal aid cases; and
- deal with cases to be referred to the PWIFB until after it has procured legal services from service providers to handle these cases.

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### Programme (4): Official Solicitor's Office

	2021–22 (Actual)	2022–23 (Original)	2022–23 (Revised)	2023–24 (Estimate)
Financial provision (\$m)	16.1	16.5	17.3 (+4.8%)	17.4 (+0.6%)  (or +5.5% on 2022–23 Original)

#### *Aim*

24 The aim is to provide representation to persons under a legal disability and to discharge the Official Solicitor's duties as prescribed by the Official Solicitor Ordinance (Cap. 416) (OSO) and other enactments.

#### *Brief Description*

25 Under the OSO, the Director is appointed the Official Solicitor.

26 The Official Solicitor plays an important role in safeguarding the rights of those under a legal disability (i.e. mentally incapacitated persons and minors). He is also the Official Trustee pursuant to the Trustee Ordinance (Cap. 29) and may also act as the Judicial Trustee if appointed by the Court.

27 Cases falling within the scope of the Official Solicitor's duties include wardship, adoptions, contempt cases, divorce and family cases, committee cases, Judicial and Official Trustee cases and grants of administration. A large proportion of the cases involving the work of the Official Solicitor includes representation of persons under a legal disability, representation of deceased persons' estates in litigation and management of a number of trust funds. Where so directed by the Court, the Official Solicitor undertakes investigations and reports on matters such as complex custody and/or access issues.

28 The Official Solicitor also provides, upon requests by other government bureaux or departments, advice on matters such as custody, adoption and representation of children and comments on legislation which may have an impact on the provision of services by the Official Solicitor's Office.

29 The Department generally met the aim of the programme in 2022.

30 The key performance measures in respect of the Official Solicitor's Office are:

#### *Indicators*

	2021 (Actual)	2022 (Actual)	2023 (Estimate)
new cases received.....	282	337	340
cases concluded .....	277	258	250
active cases as at end of year .....	562	641	730

#### *Matters Requiring Special Attention in 2023–24*

31 During 2023–24, the Official Solicitor's Office will continue to:

- enhance the efficiency and quality of its services; and
- promote understanding of the work of the Official Solicitor's Office by strengthening communication with other government departments, non-governmental organisations and legal practitioners.

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### ANALYSIS OF FINANCIAL PROVISION

Programme	2021–22 (Actual) (\$m)	2022–23 (Original) (\$m)	2022–23 (Revised) (\$m)	2023–24 (Estimate) (\$m)
(1) Processing of Legal Aid Applications...	127.5	128.4	131.5	135.3
(2) Litigation Services .....	1,203.2	1,434.8	1,288.1	1,444.6
(3) Support Services.....	50.3	56.1	56.2	61.4
(4) Official Solicitor's Office .....	16.1	16.5	17.3	17.4
	1,397.1	1,635.8	1,493.1 (–8.7%)	1,658.7 (+11.1%)
				(or +1.4% on 2022–23 Original)

#### Analysis of Financial and Staffing Provision

##### Programme (1)

Provision for 2023–24 is \$3.8 million (2.9%) higher than the revised estimate for 2022–23. This is mainly due to the increased provision for filling of vacancies, salary increments and operating expenses.

##### Programme (2)

Provision for 2023–24 is \$156.5 million (12.1%) higher than the revised estimate for 2022–23. This is mainly due to the increased provision for legal aid costs, salary increments and operating expenses.

##### Programme (3)

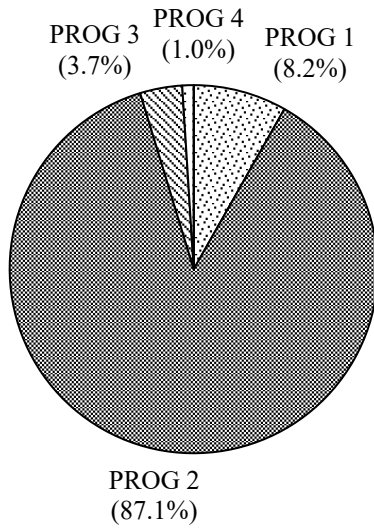
Provision for 2023–24 is \$5.2 million (9.3%) higher than the revised estimate for 2022–23. This is mainly due to the increased provision for salary increments and operating expenses.

##### Programme (4)

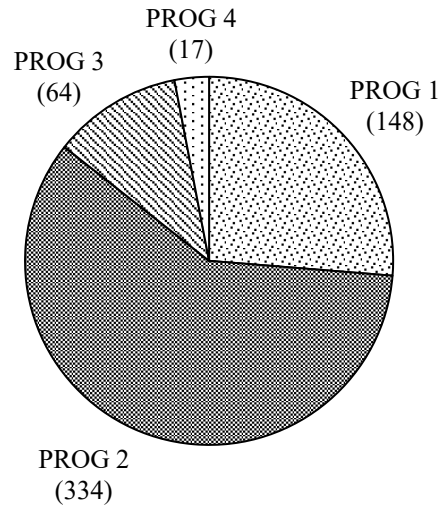
Provision for 2023–24 is \$0.1 million (0.6%) higher than the revised estimate for 2022–23. This is mainly due to the increased provision for salary increments, partly offset by the decrease in operating expenses.

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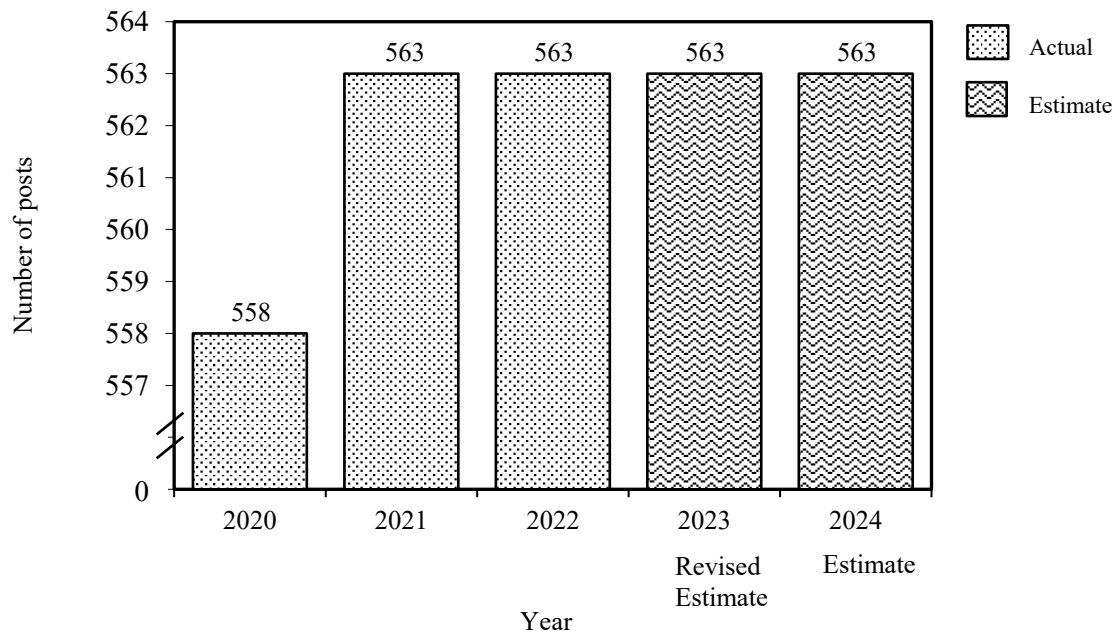
*Allocation of provision  
to programmes  
(2023-24)*



*Staff by programme  
(as at 31 March 2024)*



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





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Sub-head (Code)		Actual expenditure 2021–22	Approved estimate 2022–23	Revised estimate 2022–23	Estimate 2023–24
		\$'000	\$'000	\$'000	\$'000
<b>Operating Account</b>					
	Recurrent				
000	Operational expenses .....	361,806	379,065	373,092	<b>386,426</b>
208	Legal aid costs.....	1,035,286	1,256,690	1,120,000	<b>1,272,230</b>
	Total, Recurrent.....	1,397,092	1,635,755	1,493,092	<b>1,658,656</b>
	Total, Operating Account .....	1,397,092	1,635,755	1,493,092	<b>1,658,656</b>
<hr/>					
	Total Expenditure .....	1,397,092	1,635,755	1,493,092	<b>1,658,656</b>
		<hr/>	<hr/>	<hr/>	<hr/>

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### Details of Expenditure by Subhead

The estimate of the amount required in 2023–24 for the salaries and expenses of the Legal Aid Department is \$1,658,656,000. This represents an increase of \$165,564,000 over the revised estimate for 2022–23 and \$261,564,000 over the actual expenditure in 2021–22.

#### Operating Account

##### Recurrent

2 Provision of \$386,426,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Legal Aid Department.

3 The establishment as at 31 March 2023 will be 563 permanent posts. No change in establishment is expected in 2023–24. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2023–24, but the notional annual mid-point salary value of all such posts must not exceed \$289,872,000.

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

	2021–22 (Actual) (\$'000)	2022–23 (Original) (\$'000)	2022–23 (Revised) (\$'000)	2023–24 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	310,184	321,856	317,032	325,207
- Allowances.....	3,478	4,176	4,633	3,903
- Job-related allowances.....	103	—	—	—
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	1,151	1,154	1,047	1,385
- Civil Service Provident Fund contribution.....	20,805	24,544	23,045	26,223
Departmental Expenses				
- General departmental expenses .....	26,085	27,335	27,335	29,708
	<u>361,806</u>	<u>379,065</u>	<u>373,092</u>	<u>386,426</u>

5 Provision of \$1,272,230,000 under *Subhead 208 Legal aid costs* is for expenses related to legal aid and Official Solicitor cases. The increase of \$152,230,000 (13.6%) over the revised estimate for 2022–23 is to cater for the anticipated increase in legal aid costs for both civil and criminal cases.