

Head 94 — LEGAL AID DEPARTMENT

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

Estimate 2014–15 **\$833.2m**

Establishment ceiling 2014–15 (notional annual mid-point salary value) representing an estimated 527 non-directorate posts as at 31 March 2014 and as at 31 March 2015..... **\$203.4m**

In addition, there will be an estimated 15 directorate posts as at 31 March 2014 and as at 31 March 2015.

Controlling Officer's Report

Programmes

Programme (1) Processing of Legal Aid Applications These programmes contribute to Policy Area 20: Legal Aid (Secretary for Home Affairs).
Programme (2) Litigation Services
Programme (3) Support Services
Programme (4) Official Solicitor's Office

Detail

Programme (1): Processing of Legal Aid Applications

	2012–13 (Actual)	2013–14 (Original)	2013–14 (Revised)	2014–15 (Estimate)
Financial provision (\$m)	92.3	97.2	96.5 (–0.7%)	97.9 (+1.5%)
				(or +0.7% on 2013–14 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 contribution 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 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 2013.

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

Targets

	Target	2012 (Actual)	2013 (Actual)	2014 (Plan)
<i>Civil legal aid</i> applications processed within three months from the date of application (%)	85	89	85	85

Head 94 — LEGAL AID DEPARTMENT

	Target	2012 (Actual)	2013 (Actual)	2014 (Plan)
<i>Criminal legal aid</i>				
Appeals against sentence				
applications processed within				
two months from the date of				
application (%)	90	97	95	90
Appeals against conviction				
applications processed within				
three months from the date of				
application (%)	90	95	94	90
Court of First Instance of the High				
Court/District Court				
applications processed within				
ten working days from the date				
of application (%)	90	96	94	90
Committal proceedings				
applications processed within				
eight working days from the date				
of application (%)	90	94	95	90

Indicators

	2012 (Actual)	2013 (Actual)	2014 (Estimate)
<i>Civil</i>			
enquiries received.....	40 584	37 273	37 300
applications received#.....	16 533	15 691	15 700
applications processed.....	16 602	15 507	15 700
applications pending decision as at end of year	2 398	2 582	2 580
legal aid certificates granted.....	8 171	7 386	7 390
applications refused			
on means	788	800	800
on merits.....	5 210	5 138	5 140
appeals against the Director's decisions			
appeals heard.....	837	744	745
appeals allowed.....	35	37	35
<i>Criminal</i>			
applications received.....	3 684	3 797	3 800
applications processed.....	3 663	3 832	3 795
applications pending decision as at end of year	181	146	150
legal aid certificates granted.....	2 521	2 785	2 790
applications refused			
on means	40	54	55
on merits.....	943	889	890

The number of applications received in 2012 and 2013 included 23 and 21 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 2014–15

- 9 During 2014–15, the Department will continue to:
- monitor the number of legal aid applications and the processing time,
 - monitor the effectiveness of the means-testing processes, and
 - monitor the use of mediation in legally aided cases.

Head 94 — LEGAL AID DEPARTMENT

Programme (2): Litigation Services

	2012–13 (Actual)	2013–14 (Original)	2013–14 (Revised)	2014–15 (Estimate)
Financial provision (\$m)	633.0	695.4	695.3 (—)	685.2 (–1.5%)
				(or –1.5% on 2013–14 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 listing and bail applications in the Court of First Instance; and
- acting as instructing solicitors for legally aided persons in Court of First Instance (Fixture/Running List) 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 2013.

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

Indicators

	2012 (Actual)	2013 (Actual)	2014 (Estimate)
<i>Assigning out and monitoring of cases</i>			
<i>Civil</i>			
new cases assigned.....	6 525	5 855	6 030
cases concluded.....	6 211	5 726	6 030
active cases as at end of year	16 441	16 570	16 570
<i>Criminal</i>			
new cases assigned.....	1 813	2 044	2 095
cases concluded.....	1 865	1 995	2 095
active cases as at end of year	605	654	655
<i>In-house litigation</i>			
<i>Civil</i>			
<i>Personal injury and miscellaneous</i>			
new cases assigned.....	218	146	200
cases concluded.....	206	192	220
active cases as at end of year	291	245	225
<i>Matrimonial</i>			
new cases assigned.....	1 117	1 083	1 100
cases concluded.....	1 080	1 175	1 200
active cases as at end of year	1 230	1 138	1 040

Head 94 — LEGAL AID DEPARTMENT

	2012 (Actual)	2013 (Actual)	2014 (Estimate)
Insolvency			
new cases assigned.....	78	57	60
cases concluded.....	213	110	110
active cases as at end of year			
pending issue of winding-up and bankruptcy order.....	21	17	20
pending realisation of assets	238	189	135
Criminal			
new cases assigned.....	666	695	695
cases concluded.....	638	717	695
active cases as at end of year	168	146	145
<i>Damages/costs recovered from all civil cases</i>			
amount of damages recovered (\$'000).....	809,514	1,056,521	N.A.
amount of costs recovered (\$'000).....	189,545	249,601	N.A.

Matters Requiring Special Attention in 2014–15

15 During 2014–15, 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, and
- monitor the cost effectiveness of litigation services.

Programme (3): Support Services

	2012–13 (Actual)	2013–14 (Original)	2013–14 (Revised)	2014–15 (Estimate)
Financial provision (\$m)	33.3	36.8	35.0 (–4.9%)	35.4 (+1.1%)
				(or –3.8% on 2013–14 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 Protection of Wages on Insolvency Fund Board 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 scheme; 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.

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 2013.

Head 94 — LEGAL AID DEPARTMENT

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

Targets

	Target	2012 (Actual)	2013 (Actual)	2014 (Plan)
<i>Payment of damages or compensation to aided persons</i>				
<i>Interim payment</i>				
payments processed within one month (%)	95	99	99	95
<i>Final payment</i>				
payments processed within six weeks (%)	95	99	99	95
<i>Payment to lawyers/experts/other parties</i>				
<i>Advance payment</i>				
payments processed within six weeks (%)	95	99	99	95
<i>Balance payment</i>				
payments processed within six weeks (%)	95	99	99	95

Indicators

	2012 (Actual)	2013 (Actual)	2014 (Estimate)
<i>Insolvency</i>			
cases for ex-gratia payment from Protection of Wages on Insolvency Fund	358	312	310
<i>Costing</i>			
taxation - court attendance	220	185	185
preparation of bills and objections	239	257	260
assessments made	7 405	7 749	7 750
<i>Enforcement</i>			
cases assigned	445	448	450
enforcement action taken	430	395	400
active cases as at end of year	410	463	515
amount of debts and costs recovered (\$'000)	14,054	21,913	N.A.

Matters Requiring Special Attention in 2014–15

23 During 2014–15, 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, and
- monitor the performance pledge on payments related to legal aid cases.

Programme (4): Official Solicitor's Office

	2012–13 (Actual)	2013–14 (Original)	2013–14 (Revised)	2014–15 (Estimate)
Financial provision (\$m)	12.4	12.8	15.4 (+20.3%)	14.7 (–4.5%)
				(or +14.8% on 2013–14 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.

Head 94 — LEGAL AID DEPARTMENT

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 the representation of persons under a legal disability, representation of deceased persons’ estates in litigation and the 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 is also asked by other government departments to provide advice on matters such as custody, adoption and representation of children and comment 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 2013.

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

Indicators

	2012 (Actual)	2013 (Actual)	2014 (Estimate)
new cases received	285	229	230
cases concluded	277	246	245
active cases as at end of year.....	438	421	405

Matters Requiring Special Attention in 2014–15

31 During 2014–15, 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.

Head 94 — LEGAL AID DEPARTMENT

ANALYSIS OF FINANCIAL PROVISION

Programme	2012–13 (Actual) (\$m)	2013–14 (Original) (\$m)	2013–14 (Revised) (\$m)	2014–15 (Estimate) (\$m)
(1) Processing of Legal Aid Applications	92.3	97.2	96.5	97.9
(2) Litigation Services	633.0	695.4	695.3	685.2
(3) Support Services.....	33.3	36.8	35.0	35.4
(4) Official Solicitor’s Office	12.4	12.8	15.4	14.7
	771.0 ^β	842.2	842.2 (—)	833.2 (–1.1%)
				(or –1.1% on 2013–14 Original)

β The figure does not include the one-off capital injection of \$100.0 million into the self-financing Supplementary Legal Aid Fund to facilitate the continued operation of the Supplementary Legal Aid Scheme.

Analysis of Financial and Staffing Provision

Programme (1)

Provision for 2014–15 is \$1.4 million (1.5%) higher than the revised estimate for 2013–14. This is mainly due to the increase in operating expenses.

Programme (2)

Provision for 2014–15 is \$10.1 million (1.5%) lower than the revised estimate for 2013–14. This is mainly due to adjustment for legal aid costs with reference to past actual expenditure and estimated cost.

Programme (3)

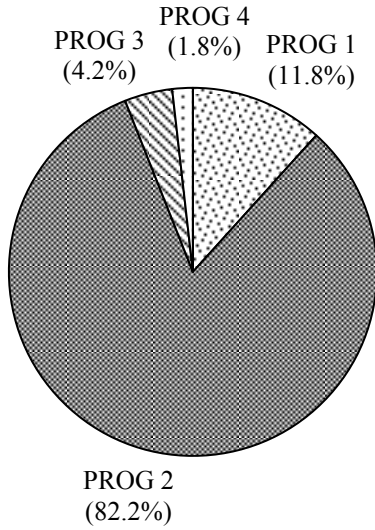
Provision for 2014–15 is \$0.4 million (1.1%) higher than the revised estimate for 2013–14. This is mainly due to the increase in operating expenses.

Programme (4)

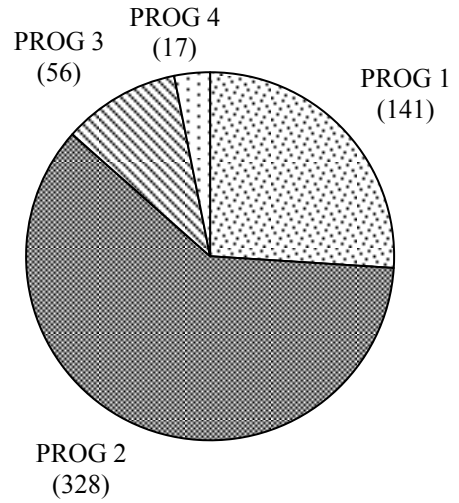
Provision for 2014–15 is \$0.7 million (4.5%) lower than the revised estimate for 2013–14. This is mainly due to the decrease in operating expenses.

Head 94 — LEGAL AID DEPARTMENT

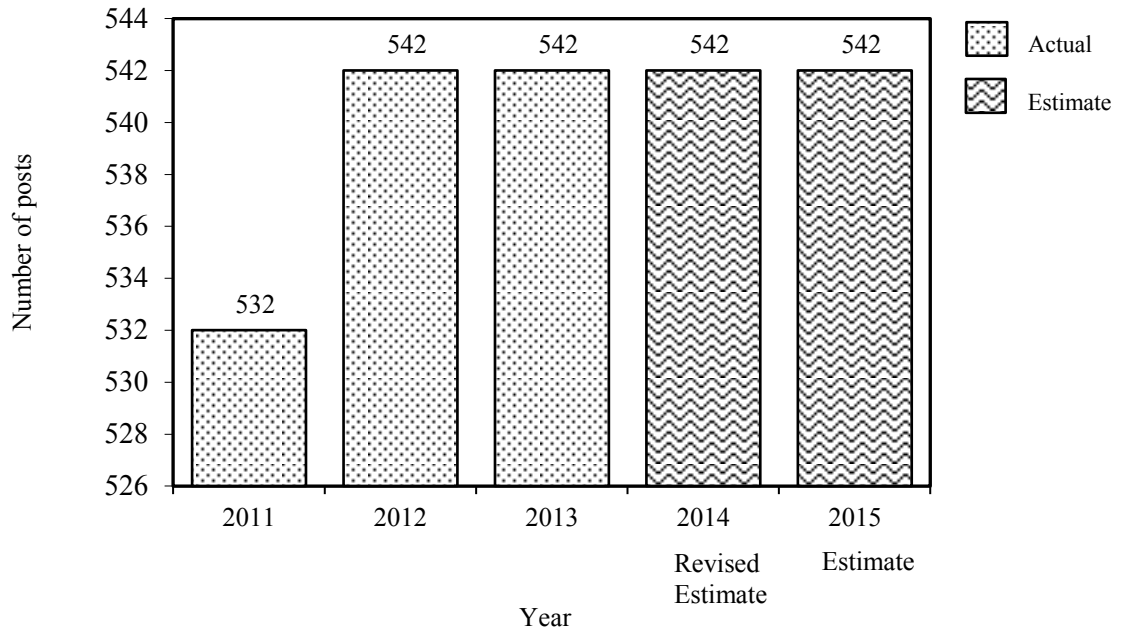
Allocation of provision to programmes (2014-15)



Staff by programme (as at 31 March 2015)



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



Head 94 — LEGAL AID DEPARTMENT

Sub-head (Code)	Actual expenditure 2012–13	Approved estimate 2013–14	Revised estimate 2013–14	Estimate 2014–15
	\$'000	\$'000	\$'000	\$'000
Operating Account				
Recurrent				
000	Operational expenses	258,183	271,205	271,205
208	Legal aid costs.....	512,789	570,958	570,958
	Total, Recurrent.....	770,972	842,163	842,163
Non-Recurrent				
	General non-recurrent	100,000§	—	—
	Total, Non-Recurrent.....	100,000	—	—
	Total, Operating Account	870,972	842,163	842,163
	Total Expenditure	870,972	842,163	842,163

§ The actual expenditure is for the one-off capital injection of \$100.0 million into the self-financing Supplementary Legal Aid Fund to facilitate the continued operation of the Supplementary Legal Aid Scheme.

Head 94 — LEGAL AID DEPARTMENT

Details of Expenditure by Subhead

The estimate of the amount required in 2014–15 for the salaries and expenses of the Legal Aid Department is \$833,151,000. This represents a decrease of \$9,012,000 against the revised estimate for 2013–14 and of \$37,821,000 against actual expenditure in 2012–13.

Operating Account

Recurrent

2 Provision of \$275,305,000 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 2014 will be 542 permanent posts. No change in establishment is expected in 2014–15. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2014–15, but the notional annual mid-point salary value of all such posts must not exceed \$203,423,000.

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

	2012–13 (Actual) (\$'000)	2013–14 (Original) (\$'000)	2013–14 (Revised) (\$'000)	2014–15 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	238,289	246,963	249,192	251,118
- Allowances.....	1,003	1,601	1,575	1,264
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	607	701	749	666
- Civil Service Provident Fund contribution.....	3,429	4,140	4,189	5,657
Departmental Expenses				
- General departmental expenses	14,855	17,800	15,500	16,600
	258,183	271,205	271,205	275,305

5 Provision of \$557,846,000 under *Subhead 208 Legal aid costs* is for expenses related to legal aid and Official Solicitor cases.