

Head 80 — JUDICIARY

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

Estimate 2019–20 **\$2,109.5m**

Establishment ceiling 2019–20 (notional annual mid-point salary value) representing an estimated 1 757 non-directorate posts as at 31 March 2019 rising by 63 posts to 1 820 posts as at 31 March 2020..... **\$813.0m**

In addition, there will be an estimated 220 directorate posts as at 31 March 2019 rising by five posts to 225 posts as at 31 March 2020, of which 212 are posts for judges and judicial officers.

Controlling Officer's Report

Programmes

Programme (1) Courts, Tribunals and Various Statutory Functions These programmes contribute to Policy Area 12: Administration of Justice (Judiciary Administrator).
Programme (2) Support Services for Courts' Operation

Detail

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

	2017–18 (Actual)	2018–19 (Original)	2018–19 (Revised)	2019–20 (Estimate)
Financial provision (\$m)	1,260.7	1,468.7	1,383.9 (–5.8%)	1,623.1 (+17.3%)
				(or +10.5% on 2018–19 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 2018, the overall performance of many programme areas was satisfactory, but the Judiciary continued to face heavy work pressures at all levels of courts. Cases continue to be complex in nature and are voluminous. Further, the higher courts have had to deal with a proliferation in non-refoulement cases. While many performance targets were achieved, quite a number of targets at various levels of courts were not met. Shortage of substantive judicial manpower remained a challenge as many judicial vacancies were awaiting to be filled. To address this challenge, the Judiciary has been embarking on a few initiatives in recent years including enhancing the terms and conditions of service for the Judges and Judicial Officers (JJOs) and revising the statutory retirement ages of the JJOs. The former was implemented from 1 April 2017, and action is in hand to proceed with the legislative amendments to give effect to the latter. At the same time, the Judiciary has launched a new round of open recruitment exercises for all levels of courts starting from mid-2018. The recruitment for Judges of the Court of First Instance of the High Court has reached an advanced stage. The one for District Judges was launched in late 2018 and was ongoing and another recruitment exercise for Permanent Magistrates is scheduled to be launched in the first quarter of 2019. The Judiciary hopes that with all these initiatives and the new round of recruitment exercises, the substantive judicial manpower at all levels of courts would be enhanced to cope with the operational needs of the courts. In the meantime, the Judiciary would closely monitor the position and continue to engage temporary judicial resources as far as practicable to cope with its operational needs.

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) and the Legal Practitioners Ordinance (Cap. 159) in relation to the Higher Rights Assessment Board and related matters.

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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.

	2018 Target	2017 (Actual)	2018 (Actual)	2019 Target
<i>Average Waiting Time</i>	(days)			
Court of Final Appeal				
application for leave to appeal				
criminal—from notice of hearing to hearing	45	44	43	45
civil—from notice of hearing to hearing	35	33	35	35
substantive appeal				
criminal—from notice of hearing to hearing	100	90	98	100
civil—from notice of hearing to hearing	120	118	111	120
Court of Appeal of the High Court				
criminal—from setting down of a case to hearing	50	47	49	50
civil—from application to fix date to hearing	90	89	88	90
Court of First Instance of the High Court				
Criminal Fixture List—from filing of indictment to hearing ψ	—	164	167	—
Civil Fixture List—from application to fix date to hearing	180	163	168	180
Civil Running List—from not-to-be-warned date to hearing ξ	30	16	38	30
appeals from Magistrates' Courts—from lodging of Notice of Appeal to hearing η	90	91	103	90
District Court				
criminal—from first appearance of defendants in District Court to hearing β	100	152	187	100
Civil Fixture List—from date of listing to hearing	120	102	95	120
Civil Running List—from not-to-be-warned date to hearing	30	25	16	30
Family Court				
dissolution of marriage—from setting down of a case to hearing				
Special Procedure List	35	34	35	35
Defended List (all hearings)	110	85	111	110
financial applications—from setting down of a case to hearing	110-140	95	90	110-140
Lands Tribunal—from setting down of a case to hearing				
appeal cases	90	— α	20	90
compensation cases	90	60	38	90
building management cases	90	44	29	90
tenancy cases	50	23	19	50
Magistrates' Courts—from plea to date of trialΩ				
summons ϕ	50	65	76	50
charge cases except for Juvenile Court—				
for defendants in custody Θ	30-45	31	47	30-45
for defendants on bail	45-60	40	57	45-60
charge cases for Juvenile Court—				
for defendants in custody	30-45	— Δ	— Δ	30-45
for defendants on bail	45-60	48	58	45-60

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	2018 Target	2017 (Actual)	2018 (Actual)	2019 Target
Coroner's Court—from date of listing to hearingp	42	79	65	42
Labour Tribunal—				
from appointment to filing of a case ...	30	26	25	30
from filing of a case to first hearing....	30	24	25	30
Small Claims Tribunal—from filing of a case to first hearing	60	32	33	60
Obscene Articles Tribunal—				
from receipt of application to classification	5	3	3	5
from referral by a magistrate to determination	21	—#	22	21

As there are only two cases being set down for trial/substantive hearing in the Competition Tribunal, the waiting time is inapplicable. The target average waiting time will be considered when more cases are set down for trial/substantive hearing at the Tribunal.

- ψ A new Practice Direction on criminal proceedings in the Court of First Instance of the High Court was promulgated in June 2017 to enhance management of criminal proceedings. Since then, the average waiting time for the Criminal Fixture List had improved from 291 days in 2016 to under 170 days in 2017 and 2018. Having regard to the new procedures under the Practice Direction, consideration is being given to revise how the average waiting time for the Criminal Fixture List should be measured. In addition, the Criminal Expedited List has replaced the Criminal Running List. The way to measure the average waiting times of the Criminal Expedited List and the setting of its target are being considered in the light of the operation of the new measures.
- § The average waiting time for the Civil Running List exceeded the target in 2018 as more judicial resources were deployed to handle cases relating to non-refoulement claims.
- η The average waiting time for appeals from the Magistrates' Courts to the Court of First Instance of the High Court continued to exceed target slightly in 2018. This was mainly due to the fact that more lengthy and complex magisterial appeals were listed and more time was required by appellants to prepare the cases. There was also competing demand for judicial resources at the High Court to hear different types of cases at that level.
- β The average waiting time for criminal cases in the District Court continued to exceed the target in 2018. This was due to a number of reasons. Additional District Judges have been deployed to sit as Deputy High Court Judges to hear cases relating to non-refoulement claims and criminal cases respectively since July 2017 and June 2018. Furthermore, it should be pointed out that the waiting time for criminal cases in the District Court is defined as the time from first appearance of defendants in the District Court to the hearing and such waiting time will be affected by certain factors outside the control of the District Court, for example, when the cases are adjourned for mention prior to setting down for trial when prosecution or defence requests further time for seeking further legal advice, obtaining witness statements, applying for legal aid, engaging or changing solicitors or counsel, and consolidation with other cases. The Judiciary will continue to monitor closely the situation and will make every effort to improve the waiting time.
- α As there is no appeal case filed, the waiting time is inapplicable.
- Ω Owing to the design of the case management system in the Magistrates' Courts, the average waiting time shown is calculated based on the duration from plea to the first date of trial 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. A new arrangement has been put in place for summons cases to be heard by both Permanent Magistrates and Special Magistrates. In addition, temporary judicial resources would be engaged to help improve the waiting time as far as practicable.
- ⊖ The average waiting time for Non-Juvenile Court where the defendant is remanded in custody slightly exceeded the target in 2018. This was mainly due to more cases of high complexity in nature.
- Δ As there is no charge case for the Juvenile Court where the defendant is remanded in custody, the waiting time is inapplicable.
- ρ The average waiting time in the Coroner's Court, although continued to exceed the target, showed substantial improvement in 2018 despite an increase in caseload. An additional Magistrate has been deployed to the Coroner's Court since March 2018. The Judiciary will closely monitor the situation and will make every effort to improve the waiting time.
- # There was no application for determination in 2017.

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Indicators

	2017 (Actual)	2018 (Actual)	2019 (Estimate)
<i>Number of Cases</i>			
Court of Final Appeal			
application for leave to appeal	112	194	190
appeals.....	26	40	40
miscellaneous proceedings.....	0	0	0
Court of Appeal of the High Court			
criminal appeals	420	388	390
civil appeals ^λ	298	611	610
miscellaneous proceedings [‡]	83	204	200
Court of First Instance of the High Court			
criminal jurisdiction			
criminal cases.....	449	421	420
confidential miscellaneous proceedings.....	382	402	400
miscellaneous proceedings (criminal) [⊠]	374	789	790
appeals from Magistrates' Courts	659	620	620
civil jurisdiction [@]	17 719	18 605	18 610
probate cases	20 477	20 797	20 800
Competition Tribunal.....	2	3	3
District Court			
criminal cases.....	1 156	1 188	1 190
civil cases	20 550	21 453	21 450
family cases.....	23 634	23 345	23 350
Lands Tribunal.....	4 653	4 299	4 300
Magistrates' Courts	338 977	340 612	340 610
Coroner's Court.....	131	167	170
Labour Tribunal	4 015	3 955	3 960
Small Claims Tribunal	51 012	55 007	55 010
Obscene Articles Tribunal ^ω	174	9 240	9 240

^λ There was a sharp increase in the number of civil appeals in 2018. This was mainly due to a rise of 367 appeals (from 26 to 393) in relation to non-refoulement claim cases.

[‡] Since 1 July 2017, a new case type has been created for criminal and civil miscellaneous matters before the Court of Appeal of the High Court. Such caseload was formerly subsumed under High Court Miscellaneous Proceedings which was categorised under civil jurisdiction of the Court of First Instance of the High Court. The full year figure of this case type was 204 in 2018.

[⊠] Since 1 July 2017, a new case type has been created for criminal miscellaneous matters before the Court of First Instance of the High Court. Such caseload was formerly subsumed under High Court Miscellaneous Proceedings which was categorised under civil jurisdiction of the Court of First Instance of the High Court. The full year figure for this case type was 789 in 2018.

[@] The case type of High Court Miscellaneous Proceedings has excluded miscellaneous matters before the Court of Appeal of the High Court and criminal miscellaneous matters before the Court of First Instance of the High Court since 1 July 2017. Despite such exclusion, the caseload for the civil jurisdiction continued to increase in 2018. Of particular note was the sharp increase of 1 845 Judicial Review cases in relation to non-refoulement claims (from 1 006 to 2 851).

^ω The indicator is the number of articles referred to the Obscene Articles Tribunal for determination and classification. The sharp increase in 2018 was mainly due to a total of 9 073 articles for determination involved in two cases.

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 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 2019–20

8 In 2019–20, the Judiciary will continue to:

- monitor the waiting time at the various levels of courts, and will seek the Legislative Council's approval for the creation of additional judicial posts to enhance the judicial establishment to cope with the increased workload;
- monitor the working of the reformed civil justice system after the implementation of the Civil Justice Reform;
- monitor the work of the Competition Tribunal which came into full operation in December 2015;
- take forward the legislative amendments to implement the proposals to extend the statutory retirement ages of JJOs; and
- prepare for the legislative work for the proposed formulation of a unified set of court procedural rules for the family justice system.

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Programme (2): Support Services for Courts' Operation

	2017–18 (Actual)	2018–19 (Original)	2018–19 (Revised)	2019–20 (Estimate)
Financial provision (\$m)	403.2	433.1	446.8 (+3.2%)	486.4 (+8.9%)
				(or +12.3% on 2018–19 Original)

Aim

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

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 2018, 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

	2017 (Actual)	2018 (Actual)	2019 (Estimate)
<i>Reporting and Transcription</i>			
cases covered			
criminal	278 784	266 899	266 900
civil	80 992	78 879	78 880
cases with transcripts produced			
criminal	6 174	5 683	5 690
civil	1 600	1 624	1 630
<i>Interpretation and Translation</i>			
pages of certification/translation processed	231 025	194 158	194 200
<i>Bailiff Service</i>			
executions attempted	23 438	23 362	23 400
summons services attempted	97 474	93 011	93 050
<i>Library</i>			
library materials acquired and processed	31 155	34 828	33 500
attendances at the Library	38 154	35 630	35 000

Matters Requiring Special Attention in 2019–20

13 In 2019–20, 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

	2017–18 (Actual) (\$m)	2018–19 (Original) (\$m)	2018–19 (Revised) (\$m)	2019–20 (Estimate) (\$m)
Programme				
(1) Courts, Tribunals and Various Statutory Functions	1,260.7	1,468.7	1,383.9	1,623.1
(2) Support Services for Courts’ Operation.....	403.2	433.1	446.8	486.4
	1,663.9	1,901.8	1,830.7 (–3.7%)	2,109.5 (+15.2%)
				(or +10.9% on 2018–19 Original)

Analysis of Financial and Staffing Provision

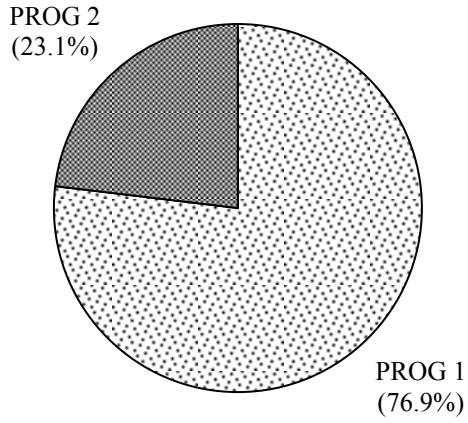
Programme (1)

Provision for 2019–20 is \$239.2 million (17.3%) higher than the revised estimate for 2018–19. This is mainly due to the increased provision for filling of vacancies and a net increase of three judicial and 53 non-judicial posts in 2019–20.

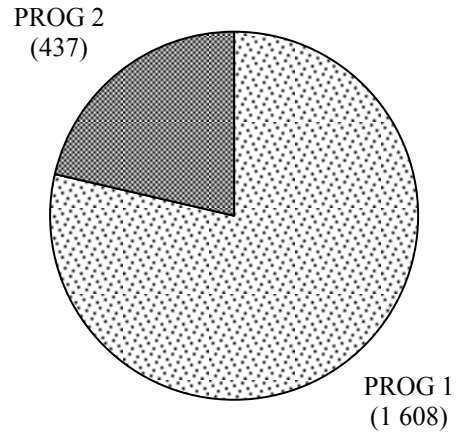
Programme (2)

Provision for 2019–20 is \$39.6 million (8.9%) higher than the revised estimate for 2018–19. 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 12 non-judicial posts in 2019–20.

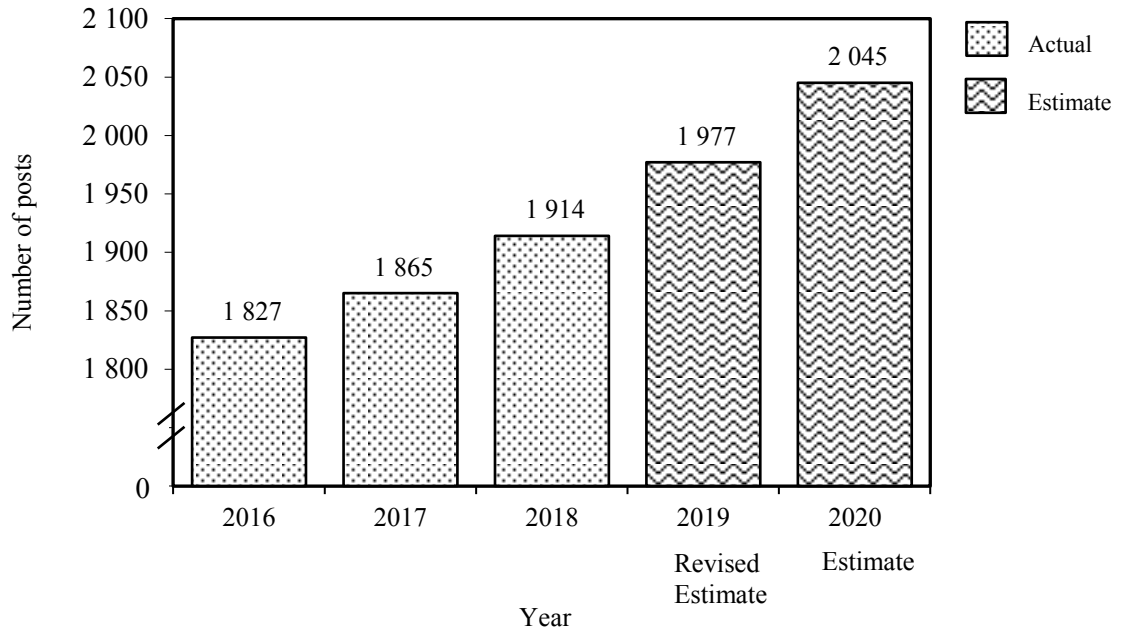
Allocation of provision to programmes (2019-20)



Staff by programme (as at 31 March 2020)



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



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Sub-head (Code)	Actual expenditure 2017-18	Approved estimate 2018-19	Revised estimate 2018-19	Estimate 2019-20	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	1,634,415	1,882,302	1,811,247	2,094,266
206	Expenses of witnesses and jurors.....	12,413	12,897	12,897	13,535
	Total, Recurrent.....	1,646,828	1,895,199	1,824,144	2,107,801
	Total, Operating Account	1,646,828	1,895,199	1,824,144	2,107,801
Capital Account					
Plant, Equipment and Works					
661	Minor plant, vehicles and equipment (block vote).....	17,087	6,560	6,560	1,650
	Total, Plant, Equipment and Works.....	17,087	6,560	6,560	1,650
	Total, Capital Account.....	17,087	6,560	6,560	1,650
	Total Expenditure	1,663,915	1,901,759	1,830,704	2,109,451

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Details of Expenditure by Subhead

The estimate of the amount required in 2019–20 for the salaries and expenses of the Judiciary is \$2,109,451,000. This represents an increase of \$278,747,000 over the revised estimate for 2018–19 and \$445,536,000 over the actual expenditure in 2017–18.

Operating Account

Recurrent

2 Provision of \$2,094,266,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Judiciary. This includes provision of \$397,600 for a non-accountable entertainment allowance for the Chief Justice of the Court of Final Appeal. The increase of \$283,019,000 (15.6%) over the revised estimate for *Subhead 000 Operational expenses* for 2018–19 is mainly due to the full-year effect of posts created in 2018–19, the filling of vacancies, the increased provision for salary arising from a net increase of three judicial and 65 non-judicial posts in 2019–20 and operating expenses to support courts' operation.

3 The establishment as at 31 March 2019 will be 1 977 posts including two supernumerary posts. It is expected that there will be a net increase of 68 posts in 2019–20. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2019–20, but the notional annual mid-point salary value of all such posts must not exceed \$812,963,000.

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

	2017–18 (Actual) (\$'000)	2018–19 (Original) (\$'000)	2018–19 (Revised) (\$'000)	2019–20 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	1,105,985	1,260,716	1,174,829	1,381,766
- Allowances.....	28,714	27,478	28,057	28,139
- Job-related allowances.....	1,329	1,358	1,181	1,407
Personnel Related Expenses				
- Cash allowances^	16,364	25,116	20,347	33,830
- Mandatory Provident Fund contribution.....	3,573	3,969	3,895	5,535
- Civil Service Provident Fund contribution.....	26,859	29,775	31,692	36,262
Departmental Expenses				
- Hire of services and professional fees	197,418	247,876	251,850	278,732
- General departmental expenses	254,173	286,006	299,388	328,587
Other Charges				
- Magistrates poor box	—	8	8	8
	1,634,415	1,882,302	1,811,247	2,094,266

^ The description “Cash allowances” has been used since 2017–18 in place of the former description “Cash allowance in lieu of housing benefits” to reflect the expansion of ambit to include provision for enhancement of housing, medical and dental benefits to Judges and Judicial Officers starting from 2017–18.

5 Provision of \$13,535,000 under *Subhead 206 Expenses of witnesses and jurors* is for the expenses of witnesses in hearings in criminal cases and in coroners' inquiries, and jurors in both criminal and civil cases and in coroners' inquiries.

Capital Account

Plant, Equipment and Works

6 Provision of \$1,650,000 under *Subhead 661 Minor plant, vehicles and equipment (block vote)* represents a decrease of \$4,910,000 (74.8%) against the revised estimate for 2018–19. This is mainly due to decreased requirement for minor plant and equipment in court buildings.