

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

Controlling officer: the Director of Intellectual Property will account for expenditure under this Head.

Estimate 2007–08	\$87.0m
Establishment ceiling 2007–08 (notional annual mid-point salary value) representing an estimated 77 non-directorate posts as at 31 March 2007 rising by five posts to 82 posts as at 31 March 2008.....	\$40.1m
In addition, there will be an estimated seven directorate posts as at 31 March 2007 and as at 31 March 2008.	
Commitment balance	\$20.5m

Controlling Officer's Report

Programmes

Programme (1) Statutory Functions	These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce, Industry and Technology).
Programme (2) Protection of Intellectual Property	

Detail

Programme (1): Statutory Functions

	2005–06 (Actual)	2006–07 (Original)	2006–07 (Revised)	2007–08 (Estimate)
Financial provision (\$m)	58.0	71.0	61.1 (–13.9%)	64.9 (+6.2%)
				(or –8.6% on 2006–07 Original)

Aim

2 The aim is to provide cost-effective and efficient systems for the registration and administration of trademarks, patents, designs and copyright licensing bodies in Hong Kong.

Brief Description

3 The statutory functions involve:

- examining trademark applications, conducting registrability and opposition hearings, maintaining the register of trademarks and making it available for public search;
- examining patent applications, granting short-term patents, registering patents granted by designated Patent Offices, maintaining the register of patents and making it available for public search;
- examining design applications, maintaining the register of designs and making it available for public search; and
- examining applications for registration of copyright licensing bodies, maintaining the register of copyright licensing bodies and making it available for public search.

4 The Department has provided electronic searching, filing, payment and publication services in respect of registration of trademarks, patents and designs since 2003. With the making and commencement of the Trade Marks (Amendment) Rules 2006, the Department has completed launching new interactive services which enable instant approval for change of particulars of owners and agents of trademarks, patents and designs, extension of time of trademark applications and registration of assignments and assents for registered trademarks and trademark applications. The electronic services have been well received by the public. In 2006, the average migration rate for trademark applications was 47%, a 12% increase compared to the figure in 2005. For patent and design applications, the average migration rates were 31% and 34% respectively.

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5 The key performance measures in respect of statutory functions are:

Targets

	Target	2005 (Actual)	2006 (Actual)	2007 (Plan)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>				
providing further opinion for trademark applications within three months (%)#	N.A.	81	N.A.	N.A.
providing first response for trademark applications within two months (%)@	95	96	98	95
providing second response for trademark applications within three months (%)@@	75	82	85	75
delivering hearing decisions on trademarks within six months (%)	80	80	80	80
<i>For patents</i>				
processing standard patent applications within ten days (%)§	80	79	97	80
processing short-term patent applications within ten days (%)§	80	80	93	80
<i>For designs</i>				
processing design applications within ten days (%)§	99	99	99	99

The target marked “#” was replaced by the target marked “@@” since 2006. The latter takes into account the second response issued by the Registrar in addition to further opinion.

@ Upon receipt of all the required information.

@@ Calculated from the date of expiry of first opinion or from the date of applicant’s reply to first opinion.

§ Calculated from the date of application.

Indicators

	2005 (Actual)	2006 (Actual)	2007 (Estimate)
<i>For trademarks under Trade Marks Ordinance, Cap. 559</i>			
applications received	20 877	22 994	23 000
applications successfully registered	19 689	17 907	18 000
first opinion issued for trademark applicationsΩ	3 602	N.A.	N.A.
further opinion issued for trademark applicationsΩ	1 387	N.A.	N.A.
first response issued for trademark applicationsφ	N.A.	22 926	23 000
second response issued for trademark applicationsφ	N.A.	2 410	2 400
hearing decisions issued	98	147	100
<i>For patents</i>			
applications for standard patents received	11 763	13 790	13 800
applications for short-term patents received	463	520	520
standard patents granted	6 518	5 147	5 200
short-term patents granted	419	436	440
<i>For designs</i>			
applications received	3 176	3 424	3 450
designs registered	4 989	5 356	5 360
<i>For copyright licensing bodies</i>			
applications received	1	0	0
applications successfully registered	1	0	0
applications for renewal of registration	2	3	3

Ω and φ To tally with the targets marked with “@” and “@@”, the indicators marked with “φ” replace the ones marked with “Ω”.

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Matters Requiring Special Attention in 2007–08

6 During 2007–08, the Department will continue to promote e-filing to increase the average migration rate to 50% for applications for trademark registration, 32% for applications for patents and 35% for applications for design registrations.

Programme (2): Protection of Intellectual Property

	2005–06 (Actual)	2006–07 (Original)	2006–07 (Revised)	2007–08 (Estimate)
Financial provision (\$m)	17.4	15.5	18.9 (+21.9%)	22.1 (+16.9%)
				(or +42.6% on 2006–07 Original)

Aim

7 The aims are to promote awareness of intellectual property rights, to enhance the reputation of Hong Kong in the protection of intellectual property rights in order to attract investment, and to protect existing and new types of intellectual property rights in line with international trends and standards. Particular attention is paid to providing support for small and medium enterprises (SMEs) to help them protect their intellectual property assets, both in Hong Kong and in the Mainland.

Brief Description

8 This programme area involves:

- advising the Secretary for Commerce, Industry and Technology on policies and legislation to protect intellectual property in Hong Kong;
- providing civil legal advice on intellectual property matters to government bureaux and departments;
- advising the Secretary for Commerce, Industry and Technology on relevant developments at the World Intellectual Property Organization, World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC);
- participating in consultations, negotiations and committees of experts leading to new or revised international intellectual property rights standards; attending and participating in international seminars, conferences, meetings, etc. on intellectual property rights matters;
- promoting intellectual property services provided by Hong Kong professionals, facilitating the understanding of intellectual property laws and systems in the Pearl River Delta (PRD) by enterprises operating in this region, and providing support to Hong Kong SMEs in resolving intellectual property-related problems they encounter in the Mainland;
- strengthening co-operation with Guangdong Province so as to assist Hong Kong SMEs operating in the PRD in protecting their intellectual property assets; and
- promoting collaboration on intellectual property protection with the intellectual property offices of the Pan-Pearl River Delta (Pan-PRD) region pursuant to the Pan-PRD Intellectual Property Cooperation Agreement signed in July 2005.

9 Since 1999, the Department has commissioned an annual household survey to compare changing patterns of public attitudes towards intellectual property over the past years and to assess the effectiveness of our promotion and public education programmes. The results of the survey in consecutive years have shown that public understanding of intellectual property rights has been improving. The annual survey measuring business attitudes about intellectual property in the business community has been conducted since 2004. The results of the surveys in these three years provided useful insights for strengthening our efforts in promoting intellectual property rights among the business sector. The results of these surveys have been made public on the Department's website at <http://www.ipd.gov.hk>.

10 SMEs have remained one of the prime targets of our promotion and education efforts. Through seminars and exhibitions organised by the Department itself or in collaboration with others, the Department has helped SMEs understand the importance of intellectual property rights and explained to them the systems to protect their intellectual property assets in Hong Kong and the Mainland. The Department has also intensified its efforts to assist businesses to achieve intellectual property compliance. A pilot programme entitled the "Business Software Certification Programme" was launched in late October 2006, under which outreaching services are being provided to help enterprises, especially SMEs, manage their software assets effectively.

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11 The Department has continued its territory-wide campaigns to encourage pride in the selling of genuine goods among Hong Kong retailers. With the aims of promoting the “No Fakes” branding concept to visitors to Hong Kong from Guangdong, and helping to raise awareness of intellectual property rights among stakeholders in the region, the Department, in co-operation with the Guangdong provincial intellectual property authorities, has launched the “No Fakes” Pledge campaign in Zhuhai in the Guangdong Province, in addition to Guangzhou, Shenzhen, Shantou and Dongguan.

12 The Department continued its primary and secondary school visits programme into the tenth year with the aim of promoting respect for intellectual property rights in the younger generation. In 2006, this programme covered 71 schools and 27 483 students.

13 The Department, in collaboration with the Customs and Excise Department and major stakeholder groups, launched a series of publicity activities to promote respect for intellectual property rights in the digital environment in May 2006. The publicity activities included the production of two new TV and radio Announcements in the Public Interest featuring local singers and actors, the organisation of radio partnership programmes with various radio stations, the production of an educational TV programme targeting Internet piracy, and the launching of the “I Pledge” Campaign and the “Youth Ambassador Against Internet Piracy Scheme” to solicit the support of 11 local youth uniformed groups (with around 200 000 members) in the protection of intellectual property rights.

14 The Department jointly organised the APEC Workshop on Effective Strategies for Intellectual Property Rights Public Education with the intellectual property offices of Australia and Singapore in November 2006. There were two deliverables of this project: first, an online communication platform relating to intellectual property education and awareness resources; and second, a three-day regional workshop held in Hong Kong in November 2006. These three offices also organised a project on APEC Intellectual Property Rights Public Education and Awareness Market Research Best Practices during 2006–07.

15 The key performance measures in respect of protection of intellectual property are:

Indicators

	2005 (Actual)	2006 (Actual)	2007 (Estimate)
visits, seminars, conferences and workshops.....	178	248	200
speeches and presentations.....	59	47	50
media interviews, briefings and press conferences.....	18	22	20
school visits.....	74	71	75

Matters Requiring Special Attention in 2007–08

16 During 2007–08, the Department will:

- continue to provide policy, legal and technical advice to the Commerce, Industry and Technology Bureau in relation to the drafting and enactment of the Copyright (Amendment) Bill 2006 which incorporates various copyright related proposals; and the review of the Copyright Ordinance on more effective protection of copyright works in the digital environment;
- continue to provide policy, legal and technical advice to the Commerce, Industry and Technology Bureau in relation to the drafting and enactment of the Patents (Amendment) Bill 2007 for the purpose of implementing a protocol which seeks to amend the Agreement on Trade-Related Aspects of Intellectual Property Rights adopted by the WTO;
- continue to play a proactive role in the APEC and the Trade-Related Aspects of Intellectual Property Rights Council of the WTO, and through such institutions to provide appropriate technical assistance to developing and least-developed economies overseas;
- support the business community in strengthening their intellectual property protection in the Mainland through the Guangdong/Hong Kong Expert Group on the Protection of Intellectual Property Rights;
- disseminate information through the Internet on the intellectual property systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- strengthen the out-reaching effort to young people on intellectual property protection through school visits and media such as computer games and comics;
- organise promotion and education activities specially for SMEs with emphasis placed on using intellectual property as a tool for business development in compliance with intellectual property legislation; and
- continue collaboration with stakeholders to strengthen and publicise the “No Fakes Pledge” Scheme to promote the sale of genuine products.

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ANALYSIS OF FINANCIAL PROVISION

Programme	2005-06 (Actual) (\$m)	2006-07 (Original) (\$m)	2006-07 (Revised) (\$m)	2007-08 (Estimate) (\$m)
(1) Statutory Functions	58.0	71.0	61.1	64.9
(2) Protection of Intellectual Property...	17.4	15.5	18.9	22.1
	75.4	86.5	80.0 (-7.5%)	87.0 (+8.8%)
				(or +0.6% on 2006-07 Original)

Analysis of Financial and Staffing Provision

Programme (1)

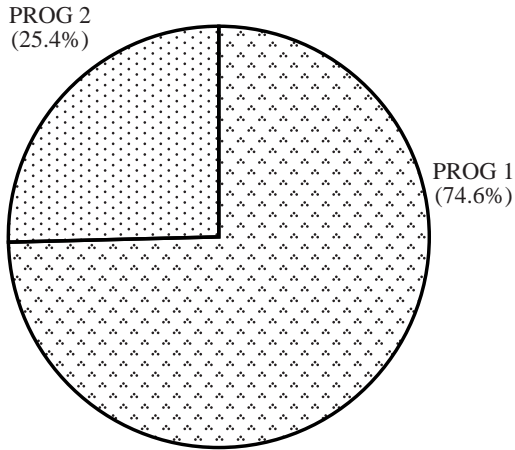
Provision for 2007-08 is \$3.8 million (6.2%) higher than the revised estimate for 2006-07. This is mainly due to the increase in salary provision for filling existing vacancies and four new posts and a slight increase in general departmental expenses.

Programme (2)

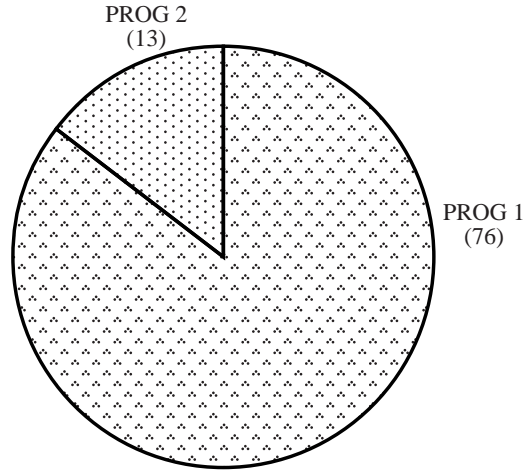
Provision for 2007-08 is \$3.2 million (16.9%) higher than the revised estimate for 2006-07. This is mainly due to the increase in salary provision for filling existing vacancies and one new post and the increase in the related departmental expenses, partly offset by reduced expenditure in the publicity and educational programmes, the provision for which remains more or less the same as in previous years.

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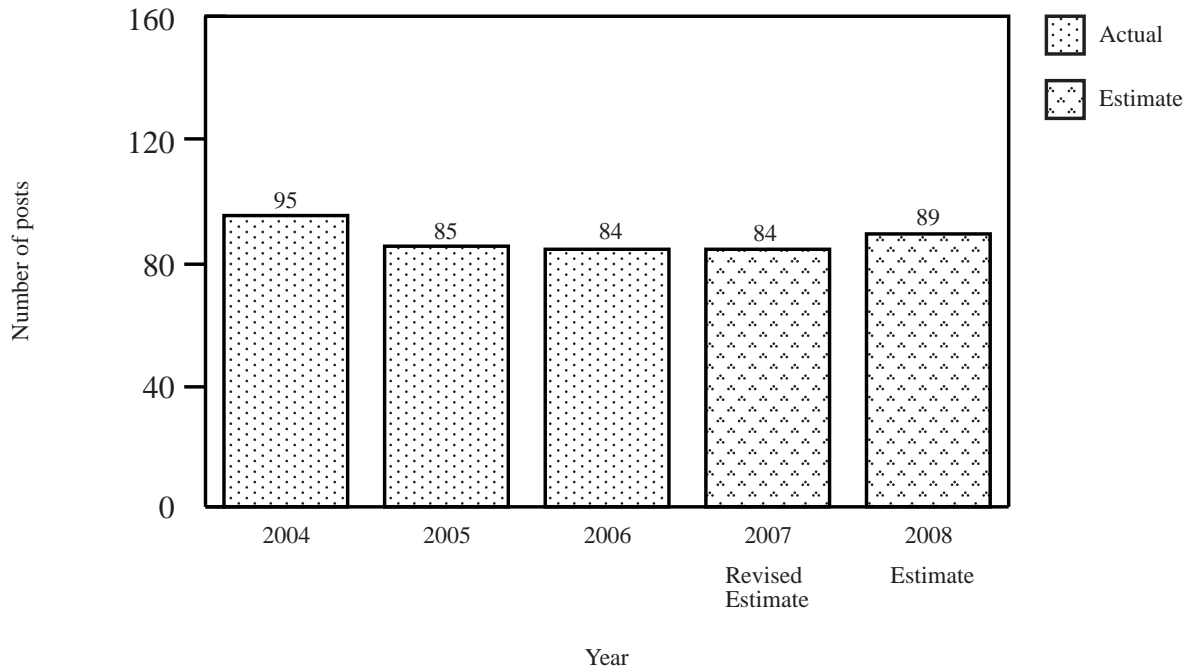
*Allocation of provision
to programmes
(2007-08)*



*Staff by programme
(as at 31 March 2008)*



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



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Sub-head (Code)	Actual expenditure 2005-06	Approved estimate 2006-07	Revised estimate 2006-07	Estimate 2007-08	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses.....	61,084	73,335	69,567	86,295
	Total, Recurrent	61,084	73,335	69,567	86,295
Non-Recurrent					
700	General non-recurrent.....	14,306	13,156	10,452	656
	Total, Non-Recurrent	14,306	13,156	10,452	656
	Total, Operating Account.....	75,390	86,491	80,019	86,951
	Total Expenditure.....	75,390	86,491	80,019	86,951

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Details of Expenditure by Subhead

The estimate of the amount required in 2007–08 for the salaries and expenses of the Intellectual Property Department is \$86,951,000. This represents an increase of \$6,932,000 over the revised estimate for 2006–07 and of \$11,561,000 over actual expenditure in 2005–06.

Operating Account

Recurrent

2 Provision of \$86,295,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. The increase of \$16,728,000 (24.0%) over the revised estimate for 2006–07 is mainly due to the increased salary provision for filling existing vacancies and five new posts, full-year provision for continuous outsourcing of the non-core services formerly funded under a non-recurrent subhead and increase in general departmental expenses, partly offset by reduced expenditure in the publicity and educational programmes, the provision for which remains more or less the same as in previous years.

3 The establishment as at 31 March 2007 will be 84 permanent posts. It is expected that five posts will be created in 2007–08. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2007–08, but the notional annual mid-point salary value of all such posts must not exceed \$40,089,000.

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

	2005–06 (Actual) (\$'000)	2006–07 (Original) (\$'000)	2006–07 (Revised) (\$'000)	2007–08 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	40,934	45,947	42,893	48,212
- Allowances.....	1,212	1,930	1,520	2,036
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	56	132	91	182
- Civil Service Provident Fund contribution.....	—	—	—	111
Departmental Expenses				
- General departmental expenses.....	10,095	18,321	16,063	27,754
Other Charges				
- Publicity and educational programmes	8,787	7,005	9,000	8,000
	61,084	73,335	69,567	86,295

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Commitments

Sub-head (Code)	Item (Code)	Ambit	Approved commitment	Accumulated expenditure to 31.3.2006	Revised estimated expenditure for 2006-07	Balance
			\$'000	\$'000	\$'000	\$'000
<i>Operating Account</i>						
700		<i>General non-recurrent</i>				
	008	Implementation of an international registration system under Madrid Protocol	1,824	—	—	1,824
	009	Outsourcing of non-core services of Intellectual Property Department	122,630	93,545	10,452	18,633
		Total	<u>124,454</u>	<u>93,545</u>	<u>10,452</u>	<u>20,457</u>