

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

**Estimate 2012–13**..... **\$115.2m**

**Establishment ceiling 2012–13** (notional annual mid-point salary value) representing an estimated 106 non-directorate posts as at 31 March 2012 rising by eight posts to 114 posts as at 31 March 2013 ..... **\$59.0m**

In addition, there will be an estimated nine directorate posts as at 31 March 2012 and as at 31 March 2013.

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### Controlling Officer's Report

#### Programmes

<p><b>Programme (1) Statutory Functions</b>  <b>Programme (2) Protection of Intellectual Property</b></p>	<p>These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce and Economic Development).</p>
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#### Detail

##### Programme (1): Statutory Functions

	2010–11 (Actual)	2011–12 (Original)	2011–12 (Revised)	<b>2012–13 (Estimate)</b>
Financial provision (\$m)	72.3	74.8	77.2 (+3.2%)	<b>90.6</b> (+17.4%)
				(or +21.1% on 2011–12 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 Registers of trademarks, patents and designs are all maintained in electronic format. The Department has provided electronic searching, filing, payment and publication services in respect of registration of trademarks, patents and designs since 2003. Using interactive services, owners of registered rights or their agents can directly make changes to particulars of owners and agents of trademarks, patents and designs, apply for extension of time for trademark applications and register assignments and assents for registered trademarks and trademark applications. These changes are updated on the Registries' records instantly. The electronic services have been well received. In 2011, the proportions of electronic filings for trademark, patent and design applications were 56 per cent, 59 per cent and 54 per cent respectively.

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

### *Targets*

	Target	2010 (Actual)	2011 (Actual)	2012 (Plan)
<i>For trademarks under the Trade Marks Ordinance (Cap. 559)</i>				
providing first response for trademark applications within two months (%)φ .....	97	99	99	<b>97</b>
providing second response for trademark applications within three months (%)Ω.....	80	86	83	<b>80</b>
delivering hearing decisions on trademarks within six months (%) .....	95	100	100	<b>95</b>
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§ .....	86@	88	88	<b>86</b>
processing short-term patent applications within ten days (%)§ .....	86@	89	89	<b>86</b>
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications within ten days (%)§ .....	99	100	100	<b>99</b>

φ Calculated from the date of the Trade Marks Registry's notice confirming receipt of all the required information for substantive examination.

Ω 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.

@ Targets raised from 85 per cent to 86 per cent since 2011.

### *Indicators*

	2010 (Actual)	2011 (Actual)	2012 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received .....	28 872	32 559	<b>32 500</b>
applications successfully registered .....	23 043	24 122	<b>23 900</b>
first response issued for trademark applications .....	25 974	26 626	<b>26 400</b>
second response issued for trademark applications .....	3 363	3 689	<b>3 700</b>
hearing decisions issued.....	139	143	<b>112Δ</b>
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received .....	11 702	13 493	<b>13 200</b>
applications for short-term patents received .....	614	615	<b>600</b>
standard patents granted .....	5 353	5 050	<b>5 000</b>
short-term patents granted.....	522	517	<b>500</b>
<i>For designs under the Registered Designs Ordinance</i>			
applications received .....	2 525	2 353	<b>2 300</b>
designs registered.....	3 896	4 478	<b>4 500</b>
<i>For copyright licensing bodies under the Copyright Ordinance (Cap. 528)</i>			
applications received .....	1	0	<b>0</b>
applications successfully registered .....	1	0	<b>0</b>
applications for renewal of registration .....	4	5	<b>5</b>

Δ The number of hearing decisions issued is forecast to drop from 143 in 2011 to 112 in 2012. The decrease is mainly due to an anticipated reduction in the number of requests for registrability hearings. Fewer requests for registrability hearings are expected as a result of the adoption of a more liberal registrability practice by the Trade Marks Registry since May 2011, which is in line with the international trend.

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### *Matters Requiring Special Attention in 2012–13*

6 During 2012–13, the Department will continue to meet the challenges associated with the increased filing of trademark applications in the provision of quality registration services to the public.

### **Programme (2): Protection of Intellectual Property**

	2010–11 (Actual)	2011–12 (Original)	2011–12 (Revised)	2012–13 (Estimate)
Financial provision (\$m)	22.4	23.0	23.5 (+2.2%)	24.6 (+4.7%)
				(or +7.0% on 2011–12 Original)

### *Aim*

7 The aims are to promote awareness of intellectual property (IP) rights, to enhance the reputation of Hong Kong in the protection of IP rights in order to attract investment, and to protect existing and new types of IP 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 IP assets in Hong Kong and in the region, with a focus on promoting active prevention of IP rights infringement.

### *Brief Description*

8 This programme area involves:

- advising the Secretary for Commerce and Economic Development (SCED) on policies and legislation to strengthen protection of IP in Hong Kong;
- providing civil legal advice on IP matters to government bureaux and departments;
- advising SCED 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 IP rights standards; attending and participating in international seminars, conferences, meetings, etc. on IP rights matters;
- promoting IP services provided by Hong Kong professionals, facilitating the understanding of IP laws and systems in the Mainland by Hong Kong enterprises operating in the region, including helping SMEs build their capacity for intellectual capital management (ICM); and
- strengthening co-operation with the Guangdong Province and the Pearl River Delta region so as to assist Hong Kong SMEs operating in the Mainland in protecting and managing their IP assets.

9 The Department has continued its territory-wide campaigns such as the “No Fakes Pledge” Scheme and “I Pledge” Campaign to encourage pride in the selling of genuine goods among Hong Kong retailers, tourists and local consumers. In 2011, nine trade associations with 708 retail merchants, covering over 5 650 outlets in Hong Kong, took part in the Scheme.

10 The Department continued its primary and secondary school visits programme into the fifteenth year with the aim of promoting respect for IP rights in the younger generation. In 2011, this programme covered 67 schools and 20 285 students. To promote awareness of IP rights among students and young people, the Department has organised an Interactive Drama Programme in primary and secondary schools and has also organised seminars in tertiary institutions. In addition, the Department launched the new IP Teen City website (“Kids Zone” and “Youth Zone”) in July 2011 with an aim of promoting awareness and respect of IP among the younger generation. Apart from these, the Department has collaborated with the right-holders and youth associations to organise short video clip competitions and a live band show named “‘I Pledge’ Live Band Show”.

11 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 protecting their IP rights and raise their awareness on innovation and IP management, particularly on the kind of IP solutions that they seek and the kind of IP that might be available for sale in the target market.

12 The Department launched the second phase of the ICM Consultancy Programme starting from March 2010, which deployed ICM consultants to provide consultancy services to the local SMEs. The programme was co-organised with the Trade and Industry Department and the Innovation and Technology Commission and was supported by various trade associations. A total of 620 organisations have joined the programme which was completed in March 2011.

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**13** A free online IP audit tool “Intellectual Property Explorer” was developed by the government IP offices of Hong Kong, Australia and Singapore under the auspices of the APEC. Intellectual Property Explorer was designed to help business sector, in particular SMEs, to identify and protect their IP assets. Intellectual Property Explorer provided English, Traditional Chinese and Simplified Chinese versions. The English version was launched in August 2010, and the Chinese version came into operation in May 2011.

**14** The Copyright (Amendment) Bill 2011 was introduced into the Legislative Council in June 2011. The main objective of the Bill was to enhance protection for copyright works in the digital environment in recognition of the challenges posed by advances in information technology. In addition, a consultancy for exploring measures against online copyright infringement is expected to commence in 2011–12.

**15** On 4 October 2011, the Government launched a review of the patent system in Hong Kong and issued a consultation paper seeking views from the public and stakeholders. An Advisory Committee has been formed to advise the Government on the direction of the reform and the detailed plans for implementation. The Government will consider the views from the public and stakeholders and advice of the Advisory Committee in formulating its proposal. It is expected that the Government’s proposal would be published in the first half of 2012.

**16** The key performance measures in respect of IP protection are:

### *Indicators*

	2010 (Actual)	2011 (Actual)	2012 (Estimate)
visits, seminars, conferences and workshops .....	91	101	<b>90</b>
speeches and presentations .....	49	52	<b>50</b>
media interviews, briefings and press conferences .....	26	26	<b>26</b>
school visits .....	91	67#	<b>95</b>

# The school visit programme was largely determined by the number of requests from schools. In the five years ending 2010, the actual number of school visits conducted per annum stood at 66, 84, 71, 73 and 91 respectively. All requests from schools have been met. For the school year starting in September 2011, having regard to the in-house training requirement, certain school visits to be arranged in the fourth quarter of 2011 have been rescheduled for the first quarter of 2012. As a result, the number of school visits was adjusted to 67 in 2011 but that for the following year will accordingly be increased. To fully meet the requests from schools, the number of school visits in 2012 is expected to be 95.

### *Matters Requiring Special Attention in 2012–13*

**17** During 2012–13, the Department will:

- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau (CEDB) in relation to the Copyright (Amendment) Bill 2011; and in relation to the drafting and enactment of subsidiary legislation pursuant to the Copyright Ordinance, in particular that for the Copyright Tribunal and for the specified libraries, archives and museums;
- launch promotional and civic education activities to publicise the major provisions of the aforesaid copyright-related legislation before bringing such legislation into operation;
- continue to provide policy, legal and technical advice to CEDB in relation to the review of the patent system in Hong Kong and to provide support to the Advisory Committee on review of the patent system in Hong Kong;
- continue to play a proactive role in the APEC and the Trade-Related Aspects of IP 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 IP protection in the Mainland through the Guangdong/Hong Kong Expert Group on the Protection of IP Rights;
- disseminate information through the Internet on the IP systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- strengthen the out-reach effort to young people on IP protection through school visits and media such as computer games and comics;
- organise promotion and education activities specially for SMEs with emphasis placed on the prevention of IP infringement; 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	2010–11 (Actual) (\$m)	2011–12 (Original) (\$m)	2011–12 (Revised) (\$m)	2012–13 (Estimate) (\$m)
(1) Statutory Functions .....	72.3	74.8	77.2	<b>90.6</b>
(2) Protection of Intellectual Property ...	22.4	23.0	23.5	<b>24.6</b>
	94.7	97.8	100.7 (+3.0%)	<b>115.2</b> (+14.4%)
				<b>(or +17.8% on 2011–12 Original)</b>

#### Analysis of Financial and Staffing Provision

##### Programme (1)

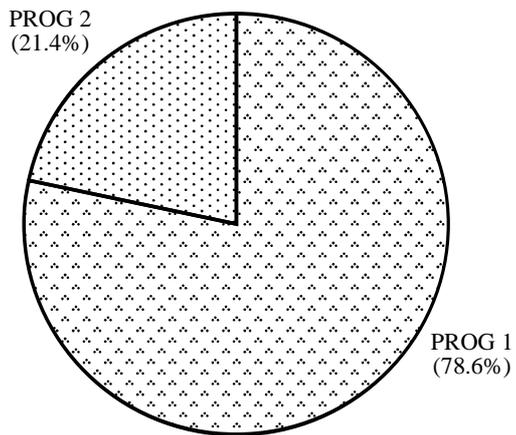
Provision for 2012–13 is \$13.4 million (17.4%) higher than the revised estimate for 2011–12. This is mainly due to the increased salary provision arising from the creation of six posts to strengthen the Department's capacity in the discharge of trademark examination and hearings work and two posts to replace two non-civil service contract positions, the filling of vacancies and the increased requirements in general departmental expenses.

##### Programme (2)

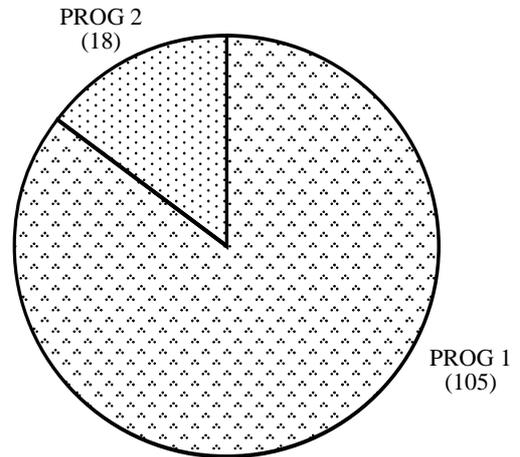
Provision for 2012–13 is \$1.1 million (4.7%) higher than the revised estimate for 2011–12. This is mainly due to the increased requirements in general departmental and operating expenses and the increase in allowance provision, partly offset by the reduced salary provision arising from staff changes.

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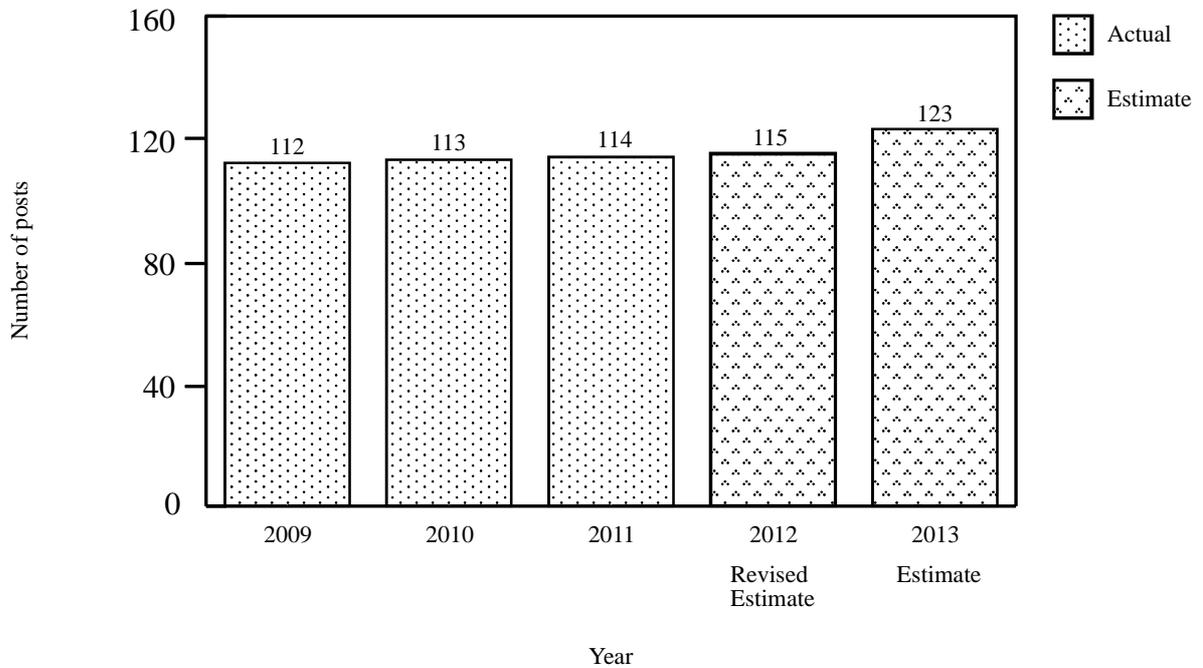
*Allocation of provision  
to programmes  
(2012-13)*



*Staff by programme  
(as at 31 March 2013)*



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



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Sub-head (Code)	Actual expenditure 2010-11	Approved estimate 2011-12	Revised estimate 2011-12	<b>Estimate 2012-13</b>	
	\$'000	\$'000	\$'000	<b>\$'000</b>	
<b>Operating Account</b>					
Recurrent					
000	Operational expenses .....	94,683	97,817	100,650	<b>115,177</b>
	Total, Recurrent .....	94,683	97,817	100,650	<b>115,177</b>
	Total, Operating Account .....	94,683	97,817	100,650	<b>115,177</b>
<hr/>					
	Total Expenditure .....	<u>94,683</u>	<u>97,817</u>	<u>100,650</u>	<u><b>115,177</b></u>

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### Details of Expenditure by Subhead

The estimate of the amount required in 2012–13 for the salaries and expenses of the Intellectual Property Department is \$115,177,000. This represents an increase of \$14,527,000 over the revised estimate for 2011–12 and of \$20,494,000 over actual expenditure in 2010–11.

#### *Operating Account*

#### Recurrent

**2** Provision of \$115,177,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. The increase of \$14,527,000 (14.4%) over the revised estimate for 2011–12 is mainly due to the increased general departmental and operating expenses and increased salary and allowance provisions arising from a net increase of eight posts and filling of vacancies.

**3** The establishment as at 31 March 2012 will be 115 permanent posts. It is expected that there will be a net increase of eight posts in 2012–13. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2012–13, but the notional annual mid-point salary value of all such posts must not exceed \$59,016,000.

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

	2010–11 (Actual) (\$'000)	2011–12 (Original) (\$'000)	2011–12 (Revised) (\$'000)	<b>2012–13 (Estimate) (\$'000)</b>
Personal Emoluments				
- Salaries .....	62,069	66,248	65,766	<b>70,397</b>
- Allowances .....	1,031	1,170	1,949	<b>3,140</b>
- Job-related allowances.....	1	1	1	<b>1</b>
Personnel Related Expenses				
- Mandatory Provident Fund contribution .....	294	195	185	<b>258</b>
- Civil Service Provident Fund contribution .....	574	1,295	1,284	<b>1,972</b>
Departmental Expenses				
- General departmental expenses .....	22,154	21,408	23,365	<b>29,509</b>
Other Charges				
- Publicity and educational programmes.....	8,560	7,500	8,100	<b>9,900</b>
	94,683	97,817	100,650	<b>115,177</b>