

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2014–15 **\$133.5m**

Establishment ceiling 2014–15 (notional annual mid-point salary value) representing an estimated 120 non-directorate posts as at 31 March 2014 rising by nine posts to 129 posts as at 31 March 2015 **\$73.9m**

In addition, there will be an estimated nine directorate posts as at 31 March 2014 rising by one post to ten posts as at 31 March 2015.

Controlling Officer's Report

Programmes

Programme (1) Statutory Functions
Programme (2) Protection of Intellectual Property

These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce and Economic Development).

Detail

Programme (1): Statutory Functions

| | 2012–13 (Actual) | 2013–14 (Original) | 2013–14 (Revised) | 2014–15 (Estimate) |
|---------------------------|---------------------|-----------------------|----------------------|-----------------------------------|
| Financial provision (\$m) | 89.2 | 93.6 | 92.6 (–1.1%) | 98.2 (+6.0%) |
| | | | | (or +4.9% on 2013–14 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 2013, the proportions of electronic filings for trademark, patent and design applications were 55 per cent, 65 per cent and 66 per cent respectively.

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

Targets

| | Target | 2012 (Actual) | 2013 (Actual) | 2014 (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 | 97 |
| providing second response for trademark applications within three months (%)Ω .. | 80 | 84 | 88 | 80 |
| delivering hearing decisions on trademarks within six months (%)..... | 96 | 100 | 100 | 96 |
| <i>For patents under the Patents Ordinance (Cap. 514)</i> | | | | |
| processing standard patent applications within ten days (%)§ | 86 | 90 | 88 | 86 |
| processing short-term patent applications within ten days (%)§ | 86 | 89 | 89 | 86 |
| <i>For designs under the Registered Designs Ordinance (Cap. 522)</i> | | | | |
| processing design applications within ten days (%)§ | 99 | 100 | 100 | 99 |

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.

Indicators

| | 2012 (Actual) | 2013 (Actual) | 2014 (Estimate) |
|--|------------------|------------------|--------------------|
| <i>For trademarks under the Trade Marks Ordinance</i> | | | |
| applications received..... | 35 530 | 37 092 | 37 100 |
| applications successfully registered | 26 383 | 31 464 | 31 100 |
| first response issued for trademark applications | 31 955 | 40 581 | 39 000 |
| second response issued for trademark applications | 3 612 | 4 582 | 4 500 |
| hearing decisions issued..... | 173 | 206 | 170 |
| <i>For patents under the Patents Ordinance</i> | | | |
| applications for standard patents received | 12 988 | 13 916 | 13 000 |
| applications for short-term patents received | 645 | 552 | 620 |
| standard patents granted..... | 5 035 | 6 564 | 5 100 |
| short-term patents granted..... | 515 | 538 | 520 |
| <i>For designs under the Registered Designs Ordinance</i> | | | |
| applications received..... | 2 552 | 2 336 | 2 470 |
| designs registered..... | 4 549 | 4 765 | 4 300 |
| <i>For copyright licensing bodies under the Copyright Ordinance (Cap. 528)</i> | | | |
| applications received..... | 0 | 0 | 0 |
| applications successfully registered | 0 | 0 | 0 |
| applications for renewal of registration..... | 5 | 5 | 5 |

Matters Requiring Special Attention in 2014–15

6 During 2014–15, the Department will continue to meet the challenges associated with the increased filing of trademark applications and requests for search of records / preliminary advice on registrability in the provision of quality registration services to the public.

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Programme (2): Protection of Intellectual Property

| | 2012–13 (Actual) | 2013–14 (Original) | 2013–14 (Revised) | 2014–15 (Estimate) |
|---------------------------|---------------------|-----------------------|----------------------|------------------------------------|
| Financial provision (\$m) | 24.2 | 27.9 | 30.4 (+9.0%) | 35.3 (+16.1%) |
| | | | | (or +26.5% on 2013–14 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 encourage innovation, to protect existing and new types of IP rights in line with international trends and standards, and to facilitate and promote the development of IP trading in Hong Kong. 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; 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 and buying of genuine goods among Hong Kong retailers, tourists and local consumers. In 2013, nine trade associations with 808 retail merchants, covering 6 505 outlets in Hong Kong, took part in the “No Fakes Pledge” Scheme. For the “I Pledge” Campaign, the Department has collaborated with the right-holders and youth associations to organise an “I Pledge” Live Band Festival, a drama script writing competition and “Respect for Copyright” creative competitions.

10 The Department has continued its primary and secondary school visits programme into the 17th year with the aim of promoting respect for IP rights in the younger generation. In 2013, this programme covered 75 schools and 17 640 students. To promote awareness of IP rights among students and young people, the Department has continued to organise an interactive drama programme in primary and secondary schools and seminars in tertiary institutions. In 2013, the interactive drama programme covered 117 schools and 36 924 students.

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 of 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 Government set up the Working Group on IP Trading in March 2013 to advise on the overall strategies to promote the development of Hong Kong as a premier IP trading hub in the region, and to identify appropriate policy and other support measures. The Department has supported its work by organising activities and briefings for facilitating and promoting the development of IP trading in Hong Kong.

13 The Department also conducted benchmark surveys (one targeted for the general public and the other for the business community) from October to December 2012 to evaluate the change in public and business awareness level on IP. The surveys findings were released in March 2013.

14 In 2013, the Government worked with stakeholders to enhance the copyright regime in the digital environment to ensure that it would continue to strike a balance between the legitimate interests of copyright owners, users and the general public, and to serve in the best interest of Hong Kong.

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15 On 11 July 2013, the Government commenced a public consultation exercise to explore how our copyright regime should deal with parody appropriately. The Department launched a series of public forums, online promotional activities and print advertisements in order to provide details on key issues related to parody and to gauge public views. The consultation ended on 15 November 2013.

16 To ensure that proceedings before the Copyright Tribunal can be dealt with efficiently and cost-effectively, a new set of the Copyright Tribunal Rules was being prepared.

17 In February 2013, the Government announced its policy decision on the future positioning of the patent system in Hong Kong which mainly covered introducing an original grant patent system; retaining the current re-registration system for grant of standard patents; retaining the short-term patent system subject to certain refinements; and developing a full-fledged regulatory regime on patent agency services in the long run, which should be achieved in stages, with possible interim measures. The Department is taking the necessary steps to work out the implementation plan in consultation with the Advisory Committee on Review of the Patent System in Hong Kong with a view to operating the new patent system in 2016-17 at the earliest.

18 The key performance measures in respect of IP protection are:

Indicators

| | 2012 (Actual) | 2013 (Actual) | 2014 (Estimate) |
|---|------------------|------------------|--------------------|
| visits, seminars, conferences and workshops | 84 | 105 | 90 |
| speeches and presentations..... | 56 | 71 | 62 |
| media interviews, briefings and press conferences | 25 | 22 | 23 |
| school visits | 111 | 75# | 82 |

While the Department has continued to promote the school visits programme as in previous years, the number of school visits conducted depended on the demand and feedback from schools. In 2013, some schools requested to join the Department's interactive drama programme instead of the school visits programme.

Matters Requiring Special Attention in 2014–15

19 During 2014–15, the Department will:

- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau on enhancing copyright protection in the digital environment and on legislative proposals to update the Copyright Ordinance and its subsidiary legislation;
- continue to take forward the implementation plan for setting up an original grant patent system and refining the short-term patent system in Hong Kong, and formulating options on regulating the provision of patent agency services in Hong Kong, which includes preparing the necessary legislative proposals to amend the Patents Ordinance and its subsidiary legislation;
- 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 and management 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 promotion activities;
- organise promotion and education activities specially for SMEs with emphasis placed on IP protection and management;
- continue collaboration with stakeholders to strengthen and publicise the “No Fakes Pledge” Scheme to promote the sale of genuine products; and
- support the Working Group on IP Trading to identify possible policy and measures to facilitate IP trading in Hong Kong.

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ANALYSIS OF FINANCIAL PROVISION

| | 2012-13 (Actual) (\$m) | 2013-14 (Original) (\$m) | 2013-14 (Revised) (\$m) | 2014-15 (Estimate) (\$m) |
|---|------------------------------|--------------------------------|-------------------------------|---|
| Programme | | | | |
| (1) Statutory Functions | 89.2 | 93.6 | 92.6 | 98.2 |
| (2) Protection of Intellectual Property | 24.2 | 27.9 | 30.4 | 35.3 |
| | 113.4 | 121.5 | 123.0 (+1.2%) | 133.5 (+8.5%) |
| | | | | (or +9.9% on 2013-14 Original) |

Analysis of Financial and Staffing Provision

Programme (1)

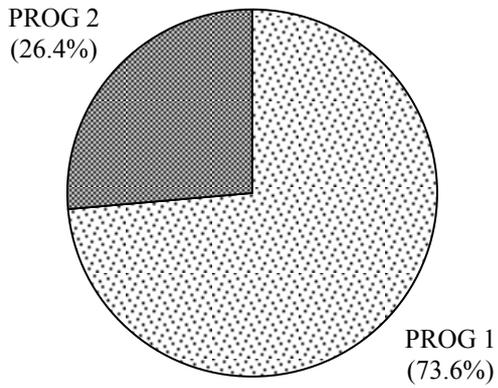
Provision for 2014-15 is \$5.6 million (6.0%) higher than the revised estimate for 2013-14. This is mainly due to the increased salary and allowance provisions arising from the filling of vacancies, and the increased requirements in general departmental expenses and personnel related expenses.

Programme (2)

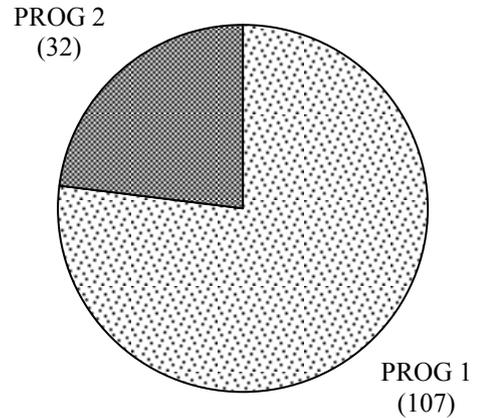
Provision for 2014-15 is \$4.9 million (16.1%) higher than the revised estimate for 2013-14. This is mainly due to the increased salary and allowance provisions arising from the creation of eight posts for the development of the original grant patent system and the creation of two posts to replace two non-civil service contract positions, and the increased requirements in personnel related expenses, partly offset by the reduced requirements in general department expenses and other charges.

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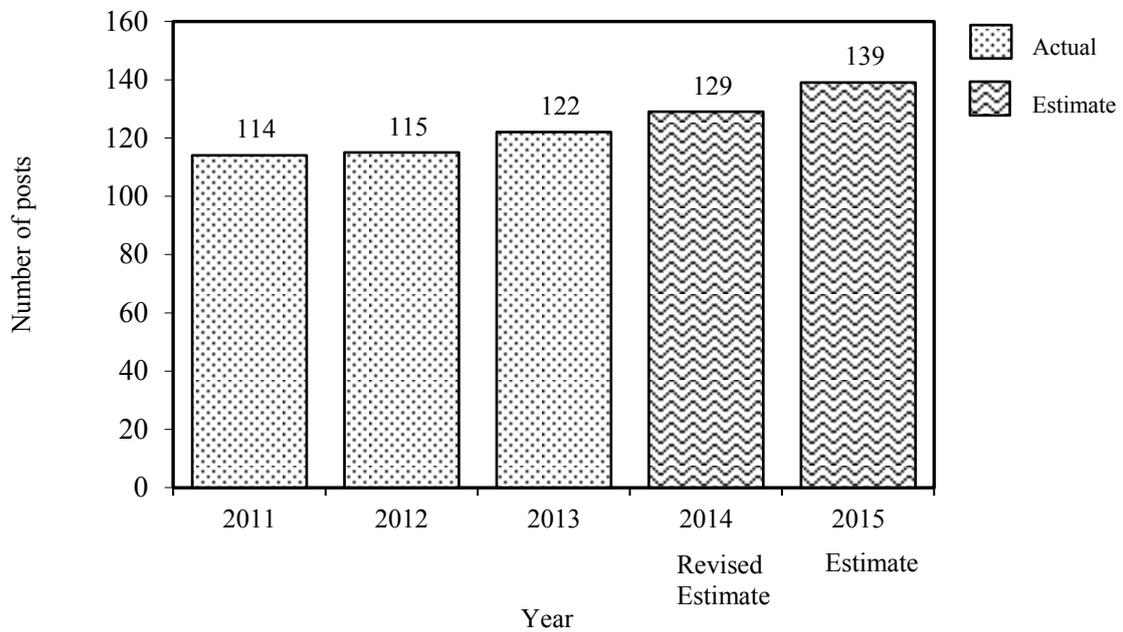
*Allocation of provision
to programmes
(2014-15)*



*Staff by programme
(as at 31 March 2015)*



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



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| 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 | 113,448 | 121,505 | 123,003 | 133,516 |
| | Total, Recurrent | 113,448 | 121,505 | 123,003 | 133,516 |
| | Total, Operating Account | 113,448 | 121,505 | 123,003 | 133,516 |
| <hr/> | | | | | |
| | Total Expenditure | 113,448 | 121,505 | 123,003 | 133,516 |
| | | <u>113,448</u> | <u>121,505</u> | <u>123,003</u> | <u>133,516</u> |

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Details of Expenditure by Subhead

The estimate of the amount required in 2014–15 for the salaries and expenses of the Intellectual Property Department is \$133,516,000. This represents an increase of \$10,513,000 over the revised estimate for 2013–14 and of \$20,068,000 over actual expenditure in 2012–13.

Operating Account

Recurrent

2 Provision of \$133,516,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. The increase of \$10,513,000 (8.5%) over the revised estimate for 2013–14 is mainly due to the increased salary and allowance provisions arising from the filling of vacancies, the creation of eight posts for the development of the original grant patent system and the creation of two posts to replace two non-civil service contract positions, and the increased requirements in general department expenses.

3 The establishment as at 31 March 2014 will be 129 permanent posts. It is expected that there will be a net increase of ten posts including one supernumerary post 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 \$73,942,000.

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..... | 69,729 | 75,753 | 76,197 | 83,090 |
| - Allowances..... | 2,224 | 2,949 | 3,649 | 4,524 |
| - Job-related allowances..... | — | 1 | 1 | 1 |
| Personnel Related Expenses | | | | |
| - Mandatory Provident Fund contribution..... | 195 | 268 | 288 | 359 |
| - Civil Service Provident Fund contribution..... | 2,085 | 2,967 | 2,783 | 3,598 |
| Departmental Expenses | | | | |
| - General departmental expenses | 28,775 | 29,667 | 30,185 | 32,344 |
| Other Charges | | | | |
| - Publicity and educational programmes | 10,440 | 9,900 | 9,900 | 9,600 |
| | 113,448 | 121,505 | 123,003 | 133,516 |