

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2017–18 **\$156.4m**

Establishment ceiling 2017–18 (notional annual mid-point salary value) representing an estimated 144 non-directorate posts as at 31 March 2017 rising by four posts to 148 posts as at 31 March 2018..... **\$97.8m**

In addition, there will be an estimated ten directorate posts as at 31 March 2017 and as at 31 March 2018.

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

	2015–16 (Actual)	2016–17 (Original)	2016–17 (Revised)	2017–18 (Estimate)
Financial provision (\$m)	97.7	100.5	106.8 (+6.3%)	113.1 (+5.9%)
				(or +12.5% on 2016–17 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 the three 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 2016, the proportions of electronic filings for trademark, patent and design applications were 64 per cent, 81 per cent and 77 per cent respectively.

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

Targets

	Target	2015 (Actual)	2016 (Actual)	2017 (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	82	86	80
delivering hearing decisions on trademarks within six months (%).....	97	100	100	97
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§	86	92	86	86
processing short-term patent applications within ten days (%)§	86	90	87	86
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications within ten days (%)§	99	100	99	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

	2015 (Actual)	2016 (Actual)	2017 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	39 179	36 181	37 600
applications successfully registered.....	37 476	35 504	33 500
first response issued for trademark applications.....	39 137	38 923	39 500
second response issued for trademark applications.....	5 094	5 083	4 700
hearing decisions issued.....	173	141	140 ^Λ
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received.....	12 212	14 092	13 150
applications for short-term patents received.....	702	762	650
standard patents granted.....	5 963	5 698	5 840
short-term patents granted.....	495	485	480
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 769	2 515	2 530
designs registered.....	4 702	4 432	4 550
<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

^Λ The number of hearing decisions issued dropped from 173 in 2015 to 141 in 2016. The reduction was a result of a significant decrease in the demand for interlocutory and registrability hearing decisions in 2016. With the current economic climate, businesses may be less inclined to pursue interlocutory issues that are not critical to the resolution of the substantive dispute between the parties, or to pursue registration of marks that are less hopeful in terms of registrability. The outlook for 2017 is expected to be more or less the same as in 2016, hence our estimate of 140.

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Matters Requiring Special Attention in 2017–18

- 6 During 2017–18, the Department will continue to:
- meet the challenges associated with the steady filing of trademark applications and the heavy engagement in the project for the redevelopment of its electronic processing systems for trademarks, patents and designs, E-filing System and Online Search System; and
 - strengthen the trade mark registration system in Hong Kong.

Programme (2): Protection of Intellectual Property

	2015–16 (Actual)	2016–17 (Original)	2016–17 (Revised)	2017–18 (Estimate)
Financial provision (\$m)	39.9	47.0	40.9 (–13.0%)	43.3 (+5.9%) (or –7.9% on 2016–17 Original)

Aim

7 The aims are to promote awareness of intellectual property (IP) rights, to enhance the local IP protection regime and 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 and manage 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 (WIPO), 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;
 - promoting the development of Hong Kong as a premier IP trading hub in the region and to assist SCED to implement support measures; and
 - strengthening co-operation with the Guangdong Province, the Pearl River Delta region and the Pan-Pearl River Delta region so as to assist Hong Kong SMEs operating in the Mainland in protecting and managing their IP assets and to promote the development of Hong Kong as a premier IP trading hub in the region.

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 2016, nine trade associations with 1 052 retail merchants, covering 6 685 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 the “I Pledge” Live Band Festival, the “Respect Copyright” Campaign and “Creativity·Future” Video Competition.

10 The Department has continued its primary and secondary school visits programme into the 20th year with the aim of promoting respect for IP rights in the younger generation. In 2016, this programme covered 95 schools and 22 728 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 2016, the interactive drama programme covered 105 schools and 31 530 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 awareness of innovation and IP management among them. These activities also support SMEs to explore potential IP solutions to further develop and expand their business, such as the types of IP that may be available for sale or exploitation in their target markets.

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12 To promote IP Trading, the Department has been working with the public sector, professional bodies, industry players and other stakeholders to implement measures under four strategic areas, namely enhancing the IP protection regime; supporting IP creation and exploitation; fostering IP intermediary services and manpower capacity; and pursuing promotion, education and external collaboration efforts. Notably, the Department forged ahead with the IP Consultation Service, the IP Manager Scheme and various promotion and public education campaigns such as production of videos showcasing success stories and liaised with stakeholders in organising or sponsoring training courses on IP related subjects. To build up the manpower required to develop Hong Kong as a premier IP trading hub, the Department will commission in early 2017 a survey to collect information on the manpower involved in IP trading and management in Hong Kong and to identify development and training needs. The survey is expected to be completed in 2018.

13 The Department also conducted a survey on public awareness of IP right protection from October to December 2016 to evaluate the change in awareness level on IP. The result of the survey is expected to be released in the first quarter of 2017.

14 Following Bills Committee scrutiny, the Copyright (Amendment) Bill 2014 has completed second reading but eventually lapsed at the end of the term of the Legislative Council (LegCo).

15 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 prepared for enactment as soon as possible.

16 On reform of the local patent system, the Patents (Amendment) Ordinance 2016 was enacted in June 2016 to provide for the legal framework for setting up an original grant patent system, refining the existing short-term patent system and introducing interim regulatory measures for local patent practitioners. The Department continued to take forward the other preparatory tasks with a view to rolling out the new patent system as early as practicable.

17 On the trademark regime, following a three-month consultation exercise in 2014–15, the Department conducted further studies on the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) and undertook discussions with the Central People’s Government and the WIPO in considering the way forward, including the possible modalities for operating the international registration system in Hong Kong.

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

Indicators

	2015 (Actual)	2016 (Actual)	2017 (Estimate)
visits, seminars, conferences and workshops.....	98	92	92
speeches and presentations.....	70	55	60
media interviews, briefings and press conferences.....	47	23	23
school visitsΔ	71	95	95

Δ While the Department has continued to promote the school visits programme as in previous years, the number of school visits conducted depends on the demand and feedback from schools.

Matters Requiring Special Attention in 2017–18

19 During 2017–18, the Department will:

- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau on reviewing and enhancing Hong Kong’s copyright regime to ensure that it will meet the actual needs of Hong Kong and keep pace with international developments;
- continue to review different copyright issues with an open mind and carry out legal and policy research as a basis for consideration and formulation of any new legislative proposal;
- keep in view the implementation of the new Copyright Tribunal Rules to ensure that proceedings before the Copyright Tribunal can be conducted in a more efficient and cost-effective manner;
- continue to take forward the implementation plan for the new patent system with a launch target of 2019, including –
 - drawing up legislative proposals on amendment to the subsidiary legislation, namely the Patents (General) Rules (Cap. 514C), and rendering the necessary assistance to LegCo for enacting the amendments;
 - devising the Patents Registry’s workflow and examination guidelines;
 - expanding the Patents Registry by recruiting new examiners with technical credentials and arranging appropriate training for them with a view to building the substantive examination capacity of the Registry in the longer term;
 - undertaking information technology system enhancements to cater for the new patent system; and
 - providing necessary support to the Advisory Committee on Review of the Patent System in Hong Kong to further deliberate on the full-fledged regulatory regime for local patent practitioners;

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- take forward a plan to implement the international registration system under the Madrid Protocol, including –
 - drawing up legislative proposals to amend the Trade Marks Ordinance and the Trade Marks Rules (Cap. 559A), and rendering the necessary assistance to LegCo for enacting the amendments;
 - formulating the plan for building the dedicated information technology system for processing applications, undertaking studies of the relevant information technology system of the WIPO and exploring the interface between the two systems;
 - devising the Trade Marks Registry’s workflow for processing applications; and
 - planning for the manpower to process applications and the training required;
- take forward the legislative proposal to amend the Inland Revenue Ordinance (Cap. 112) to expand the scope of tax deduction for purchase of specified IP rights;
- work with stakeholders to implement support measures recommended by the Working Group on IP Trading to develop and promote Hong Kong as a premier IP trading hub in the region;
- 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;
- organise promotion and education activities specially for SMEs with emphasis placed on IP protection and management;
- 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;
- continue collaboration with stakeholders to strengthen and publicise the “No Fakes Pledge” Scheme to promote the sale of genuine products; and
- 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.

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ANALYSIS OF FINANCIAL PROVISION

	2015–16 (Actual) (\$m)	2016–17 (Original) (\$m)	2016–17 (Revised) (\$m)	2017–18 (Estimate) (\$m)
Programme				
(1) Statutory Functions	97.7	100.5	106.8	113.1
(2) Protection of Intellectual Property	39.9	47.0	40.9	43.3
	137.6	147.5	147.7 (+0.1%)	156.4 (+5.9%)
				(or +6.0% on 2016–17 Original)

Analysis of Financial and Staffing Provision

Programme (1)

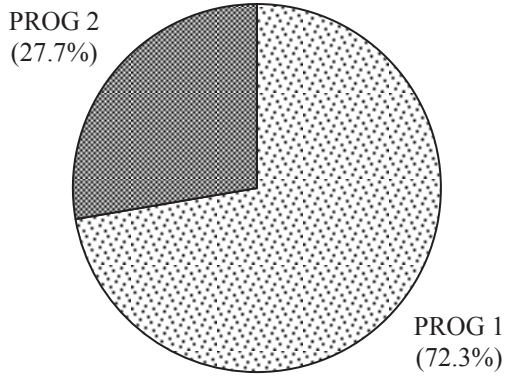
Provision for 2017–18 is \$6.3 million (5.9%) higher than the revised estimate for 2016–17. This is mainly due to the increased salary and allowance provisions arising from the creation of two posts for strengthening the support to the operation of the Registries and taking forward the implementation of the new patent system, the full-year effect of filling vacancies, salary increments for existing staff, and the increased requirements in personnel related expenses, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

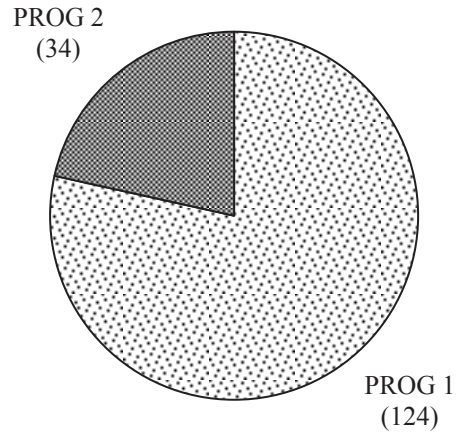
Provision for 2017–18 is \$2.4 million (5.9%) higher than the revised estimate for 2016–17. This is mainly due to the increased salary and allowance provisions arising from the net creation of two posts for strengthening IP co-operation with external authorities on IP trading and formulating the international registration system in Hong Kong, salary increments for existing staff, and the increased requirements in personnel related expenses, partly offset by the reduced requirements in other charges.

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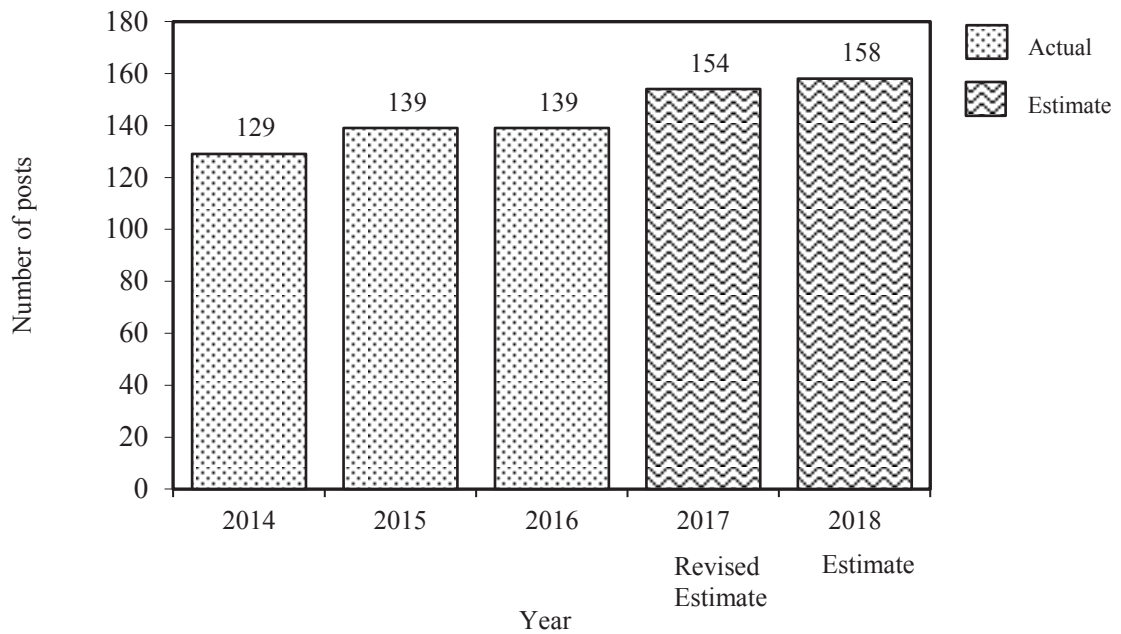
Allocation of provision to programmes (2017-18)



Staff by programme (as at 31 March 2018)



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



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Sub-head (Code)	Actual expenditure 2015-16	Approved estimate 2016-17	Revised estimate 2016-17	Estimate 2017-18	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	137,649	147,456	147,727	156,394
	Total, Recurrent	137,649	147,456	147,727	156,394
	Total, Operating Account	137,649	147,456	147,727	156,394
<hr/>					
	Total Expenditure	137,649	147,456	147,727	156,394
		<u>137,649</u>	<u>147,456</u>	<u>147,727</u>	<u>156,394</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2017–18 for the salaries and expenses of the Intellectual Property Department is \$156,394,000. This represents an increase of \$8,667,000 over the revised estimate for 2016–17 and \$18,745,000 over the actual expenditure in 2015–16.

Operating Account

Recurrent

2 Provision of \$156,394,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department.

3 The establishment as at 31 March 2017 will be 154 posts including one supernumerary post. It is expected that there will be a net increase of four posts in 2017–18. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2017–18, but the notional annual mid-point salary value of all such posts must not exceed \$97,784,000.

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

	2015–16 (Actual) (\$'000)	2016–17 (Original) (\$'000)	2016–17 (Revised) (\$'000)	2017–18 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	93,683	102,557	98,971	109,943
- Allowances.....	3,581	2,948	3,637	3,622
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	400	392	358	386
- Civil Service Provident Fund contribution.....	4,034	5,509	4,871	6,550
Departmental Expenses				
- General departmental expenses	25,913	27,049	30,389	26,892
Other Charges				
- Publicity and educational programmes	10,038	9,000	9,500	9,000
	137,649	147,456	147,727	156,394