

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2011–12..... **\$97.8m**

Establishment ceiling 2011–12 (notional annual mid-point salary value) representing an estimated 107 non-directorate posts as at 31 March 2011 reducing by one post to 106 posts as at 31 March 2012..... **\$53.3m**

In addition, there will be an estimated seven directorate posts as at 31 March 2011 rising by two posts to nine posts as at 31 March 2012.

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

	2009–10 (Actual)	2010–11 (Original)	2010–11 (Revised)	2011–12 (Estimate)
Financial provision (\$m)	73.0	73.5	72.3 (-1.6%)	74.8 (+3.5%)
				(or +1.8% on 2010–11 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, extension of time of trademark applications and registration of 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 2010, the proportions of electronic filings for trademark, patent and design applications were 56 per cent, 55 per cent and 51 per cent respectively.

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

Targets

	Target	2009 (Actual)	2010 (Actual)	2011 (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	85	86	80
delivering hearing decisions on trademarks within six months (%).....	95	99	100	95
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§	85	88	88	86
processing short-term patent applications within ten days (%)§	85	88	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.

@ Target raised from 96 per cent to 97 per cent since 2010.

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

	2009 (Actual)	2010 (Actual)	2011 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	24 754	28 872	28 000
applications successfully registered	22 500	23 043	23 000
first response issued for trademark applications	25 012	25 974	25 500
second response issued for trademark applications.....	4 005	3 363Δ	3 500
hearing decisions issued.....	138	139	135
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received	11 857	11 702	12 000
applications for short-term patents received	551	614	560
standard patents granted.....	5 625	5 353	5 000
short-term patents granted.....	474	522	490
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 234	2 525	2 300
designs registered.....	3 850	3 896	3 800
<i>For copyright licensing bodies under the Copyright Ordinance (Cap. 528)</i>			
applications received.....	1	1	0
applications successfully registered	1	1	0
applications for renewal of registration.....	3	4	5

Δ The decrease was due to the need to cope with the increase in number of trademark applications and other types of requests received and to clear reverted submissions from applicants.

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Matters Requiring Special Attention in 2011–12

6 During 2011–12, 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

	2009–10 (Actual)	2010–11 (Original)	2010–11 (Revised)	2011–12 (Estimate)
Financial provision (\$m)	22.2	22.6	22.7 (+0.4%)	23.0 (+1.3%)
				(or +1.8% on 2010–11 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 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 the Secretary for Commerce and Economic Development 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 helping SMEs build their capacity for intellectual capital management (ICM), so that they can exploit their creative potential more fully and focus on sustained prevention of IP infringement; and
- strengthening co-operation with 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 2010, eight trade associations with 696 retail merchants, covering over 5 411 outlets in Hong Kong, took part in the Scheme.

10 The Department also conducted benchmark surveys (one targeted for the general public and the other for the business community) from October to December 2010 to evaluate the change in public awareness level on IP.

11 The Department continued its primary and secondary school visits programme into the fourteenth year with the aim of promoting respect for IP rights in the younger generation. In 2010, this programme covered 91 schools and 24 116 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. In addition, the Department has collaborated with the right-holders and youth associations to organise a comics drawing competition entitled “‘I Pledge’ 4-Panel Comic Drawing Competition on Good Character” and a live band show named “‘I Pledge’ Live Band Show”.

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12 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 the application of ICM in business. The Department has launched the second phase of the ICM Consultancy Programme starting from March 2010, which deploys ICM Consultants to provide consultancy services to the local SMEs. The programme is co-organised by the Trade and Industry Department and the Innovation and Technology Commission and is supported by various trade associations. The programme was launched in March 2009. As at 31 December 2010, 580 organisations have joined the programme. The Department also collaborated with the Business Software Alliance to launch a new IP rights campaign on 11 August 2010. The new campaign included the production of a TV announcement and a series of education programmes which were launched during September and December 2010 respectively.

13 The new provisions in relation to the “copying and distribution offence” introduced by the Copyright (Amendment) Ordinance 2009 came into force on 16 July 2010. During the period from February to September 2010, the Department in collaboration with trade associations and government departments as well as non-government bodies launched a series of promotional and civic education activities with a view to enhancing public awareness and understanding of the new provisions. Such publicity included seminars, advertisements in newspapers and magazines, interviews, featured articles in trade and business journals, e-newsletters and webpage, etc. The Department also revised and released the “Guidance Note on Prevention of End-User Piracy in Business”, copies of which were distributed to the business sector, notably to SMEs and non-profit making organisations. The revised Guidance Note provides practical guidelines that help organisations guard against business end-user piracy.

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

Indicators

	2009 (Actual)	2010 (Actual)	2011 (Estimate)
visits, seminars, conferences and workshops	80	91	90
speeches and presentations.....	59	49	52
media interviews, briefings and press conferences	22	26	25
school visits.....	74	91	92

Matters Requiring Special Attention in 2011–12

15 During 2011–12, the Department will:

- provide policy, legal and technical advice to the Commerce and Economic Development Bureau in relation to the drafting and enactment of the bill to amend the Copyright Ordinance for strengthening copyright protection in the digital environment; and in relation to the drafting and enactment of new sets of subsidiary legislation under the Copyright Ordinance, in particular those relating to the Copyright Tribunal Rules, as well as the specification of and regulations for libraries and archives;
- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau in relation to the drafting and enactment of rules of court in relation to the implementation of the Protocol to the Agreement on Trade-Related Aspects of IP Rights of the WTO and other follow-up matters;
- 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 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	2009–10 (Actual) (\$m)	2010–11 (Original) (\$m)	2010–11 (Revised) (\$m)	2011–12 (Estimate) (\$m)
(1) Statutory Functions.....	73.0	73.5	72.3	74.8
(2) Protection of Intellectual Property....	22.2	22.6	22.7	23.0
	95.2	96.1	95.0 (-1.1%)	97.8 (+2.9%)
				(or +1.8% on 2010–11 Original)

Analysis of Financial and Staffing Provision

Programme (1)

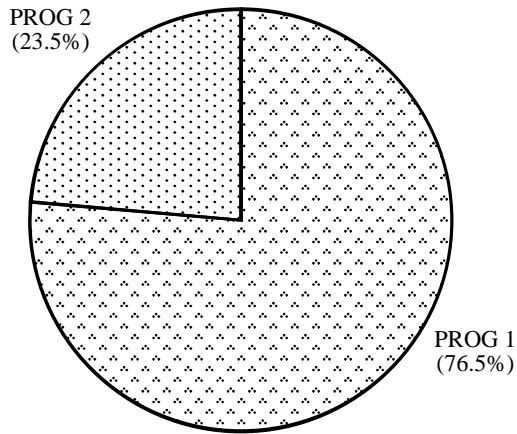
Provision for 2011–12 is \$2.5 million (3.5%) higher than the revised estimate for 2010–11. This is mainly due to the full-year effect of filling vacancies, salary increments for existing staff and the upgrading of two posts to strengthen the Department's capacity in the discharge of its quasi-judicial function, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

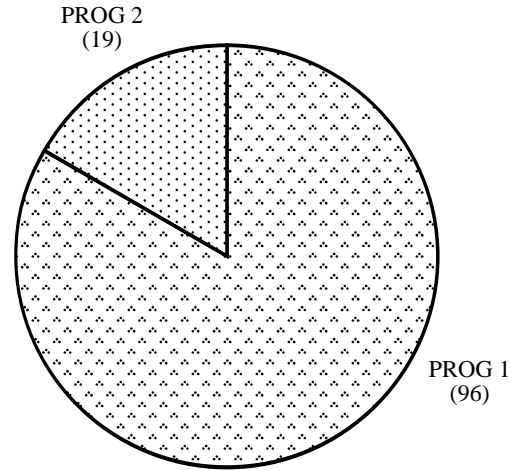
Provision for 2011–12 is \$0.3 million (1.3%) higher than the revised estimate for 2010–11. This is mainly due to the full-year effect of filling vacancies and salary increments for existing staff, partly offset by the reduced requirements in operating expenses. In addition, one civil service post will be created in 2011–12 to replace a non-civil service contract position.

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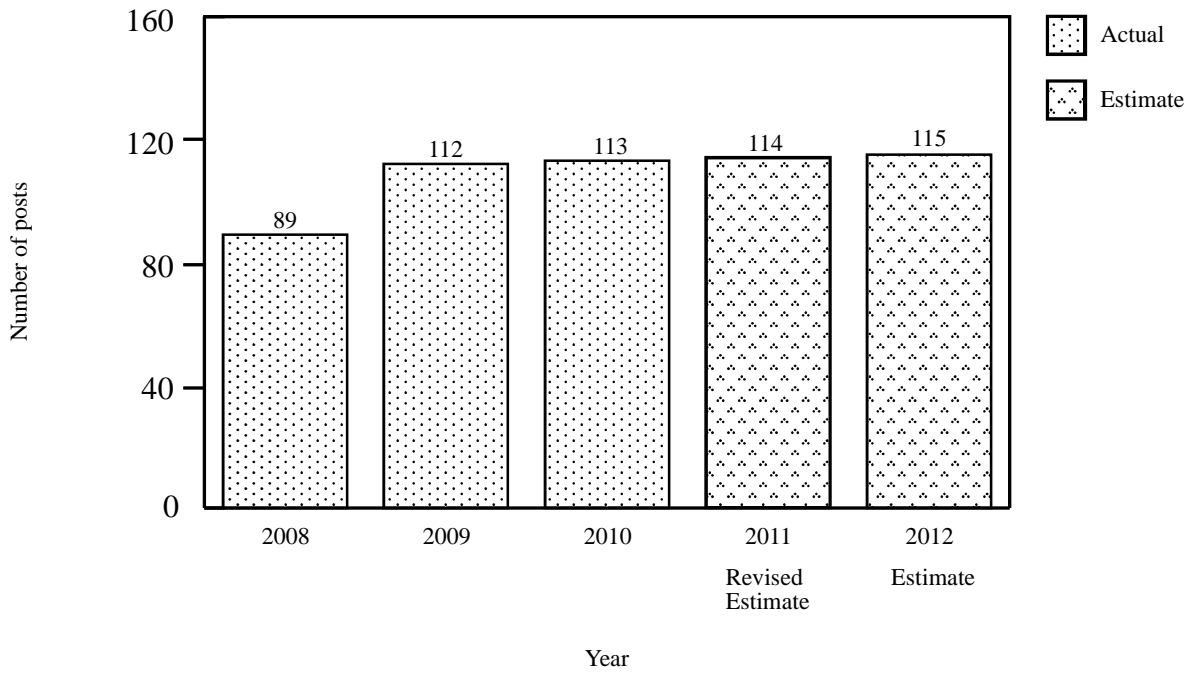
*Allocation of provision
to programmes
(2011-12)*



*Staff by programme
(as at 31 March 2012)*



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



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Sub-head (Code)	Actual expenditure 2009-10	Approved estimate 2010-11	Revised estimate 2010-11	Estimate 2011-12	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses.....	95,189	96,086	95,016	97,817
	Total, Recurrent	<u>95,189</u>	<u>96,086</u>	<u>95,016</u>	<u>97,817</u>
	Total, Operating Account.....	95,189	96,086	95,016	97,817
<hr/>					
	Total Expenditure	<u>95,189</u>	<u>96,086</u>	<u>95,016</u>	<u>97,817</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2011–12 for the salaries and expenses of the Intellectual Property Department is \$97,817,000. This represents an increase of \$2,801,000 over the revised estimate for 2010–11 and of \$2,628,000 over actual expenditure in 2009–10.

Operating Account

Recurrent

2 Provision of \$97,817,000 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 2011 will be 114 permanent posts. It is expected that there will be a net increase of one post in 2011–12. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2011–12, but the notional annual mid-point salary value of all such posts must not exceed \$53,263,000.

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

	2009–10 (Actual) (\$'000)	2010–11 (Original) (\$'000)	2010–11 (Revised) (\$'000)	2011–12 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	59,969	62,888	62,091	66,248
- Allowances	970	1,002	1,183	1,170
- Job-related allowances.....	1	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	285	338	295	195
- Civil Service Provident Fund contribution	393	351	575	1,295
Departmental Expenses				
- General departmental expenses.....	24,570	22,646	22,331	21,408
Other Charges				
- Publicity and educational programmes	9,001	8,860	8,540	7,500
	95,189	96,086	95,016	97,817