

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2016–17 **\$147.5m**

Establishment ceiling 2016–17 (notional annual mid-point salary value) representing an estimated 129 non-directorate posts as at 31 March 2016 rising by 15 posts to 144 posts as at 31 March 2017..... **\$90.9m**

In addition, there will be an estimated ten directorate posts as at 31 March 2016 and as at 31 March 2017.

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

	2014–15 (Actual)	2015–16 (Original)	2015–16 (Revised)	2016–17 (Estimate)
Financial provision (\$m)	95.8	99.6	98.9 (–0.7%)	100.5 (+1.6%)
				(or +0.9% on 2015–16 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 2015, the proportions of electronic filings for trademark, patent and design applications were 62 per cent, 81 per cent and 77 per cent respectively.

5 On the trademark regime, in November 2014, the Government commenced a three-month consultation exercise to seek views on the proposed application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) to Hong Kong. The consultation ended on 11 February 2015. The Department continued to undertake further studies on the Madrid Protocol to facilitate the Government in deciding on the way forward.

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

Targets

	Target	2014 (Actual)	2015 (Actual)	2016 (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	82	80
delivering hearing decisions on trademarks within six months (%).....	97@	99	100	97
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§	86	88	92	86
processing short-term patent applications within ten days (%)§	86	90	90	86
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications within ten days (%)§	99	99	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.

@ Target raised from 96 per cent to 97 per cent as from 2016.

§ Calculated from the date of application.

Indicators

	2014 (Actual)	2015 (Actual)	2016 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	40 063	39 179	36 900
applications successfully registered	34 251	37 476	32 200
first response issued for trademark applications	39 283	39 137	38 700
second response issued for trademark applications	5 209	5 094	4 700
hearing decisions issued.....	172	173	170
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received	12 544 [^]	12 212	13 000
applications for short-term patents received	587	702	620
standard patents granted.....	5 932	5 963	5 600
short-term patents granted.....	522	495	480
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 453	2 769	2 500
designs registered.....	4 300	4 702	4 400
<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

[^] The actual number of applications for standard patents received in 2014 has been adjusted from 12 542 to 12 544.

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Matters Requiring Special Attention in 2016–17

- 7 During 2016–17, the Department will:
- continue to meet the challenges associated with the high 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;
 - continue to strengthen the trade mark registration system in Hong Kong; and
 - consider views received from the consultation exercise on the proposed application of the Madrid Protocol to Hong Kong and undertake studies with a view to deciding on the way forward.

Programme (2): Protection of Intellectual Property

	2014–15 (Actual)	2015–16 (Original)	2015–16 (Revised)	2016–17 (Estimate)
Financial provision (\$m)	35.8	37.9	40.7 (+7.4%)	47.0 (+15.5%)
				(or +24.0% on 2015–16 Original)

Aim

8 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 their IP assets in Hong Kong and in the region, with a focus on promoting active prevention of IP rights infringement.

Brief Description

- 9 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;
 - 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 and the Pearl River Delta region so as to assist Hong Kong SMEs operating in the Mainland in protecting and managing their IP assets.

10 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 2015, nine trade associations with 1 054 retail merchants, covering 6 785 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 and the “Respect Copyright” Campaign.

11 The Department has continued its primary and secondary school visits programme into the 19th year with the aim of promoting respect for IP rights in the younger generation. In 2015, this programme covered 71 schools and 17 790 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 2015, the interactive drama programme covered 122 schools and 31 310 students.

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 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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13 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 Working Group on IP Trading completed its work and released a report in March 2015 with 28 recommended 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. The Government accepted the recommended measures and has been working with the public sector, professional bodies, industry players and other stakeholders to implement the measures. The Department launched the IP Consultation Service, the IP Manager Scheme and various promotion and public education campaigns and liaised with stakeholders in organising or sponsoring training courses on IP related subjects. The Department commissioned in June 2014 a survey to collect more information on the IP trading activities conducted in Hong Kong. The major findings of the survey were released in June 2015.

14 The Department also conducted a survey on public awareness of IP right protection from October to December 2014 to evaluate the change in awareness level on IP. The result of the survey was released in March 2015.

15 On the issue of copyright protection, the Government has been working with stakeholders to update 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 the best interest of Hong Kong.

16 The Government introduced the Copyright (Amendment) Bill 2014 into the Legislative Council (LegCo) on 18 June 2014 to update our copyright regime. 24 Bills Committee Meetings were convened to scrutinise the Bill from July 2014 to November 2015. The Bill was then sent to LegCo for resumption of Second Reading Debate. The Department continued its engagement with various stakeholders and publicity initiatives to explain the legislative proposals to the public with a view to facilitating the timely passage of the Bill.

17 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.

18 On patents, the Government introduced the Patents (Amendment) Bill 2015 into the LegCo on 11 November 2015 to implement the recommendations of the Advisory Committee on Review of the Patent System in Hong Kong. The Bill sought to provide the basic 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 engage the patent profession and other stakeholders and consulted the Advisory Committee on Review of the Patent System in Hong Kong where appropriate with a view to facilitating the timely passage of the Bill.

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

Indicators

	2014 (Actual)	2015 (Actual)	2016 (Estimate)
visits, seminars, conferences and workshops.....	94	98	98
speeches and presentations.....	73	70	70
media interviews, briefings and press conferences.....	22	47	25
school visits ^Δ	72	71	72

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 2016–17

20 During 2016–17, 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 take forward the enactment 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;
- facilitate the LegCo’s scrutiny of the Patents (Amendment) Bill 2015, and continue to take forward the implementation plan for the new patent system, including –
 - drawing up legislative proposals on amendment to its subsidiary legislation;
 - devising Registry workflow and examination guidelines;
 - enhancing the substantive examination capacity of the Patents Registry;
 - undertaking information technology system enhancements to cater for the new patent system; and

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- supporting 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, and consulting the stakeholders on the relevant issues from time to time;
- 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

	2014–15 (Actual) (\$m)	2015–16 (Original) (\$m)	2015–16 (Revised) (\$m)	2016–17 (Estimate) (\$m)
Programme				
(1) Statutory Functions	95.8	99.6	98.9	100.5
(2) Protection of Intellectual Property	35.8	37.9	40.7	47.0
	131.6	137.5	139.6 (+1.5%)	147.5 (+5.7%)
				(or +7.3% on 2015–16 Original)

Analysis of Financial and Staffing Provision

Programme (1)

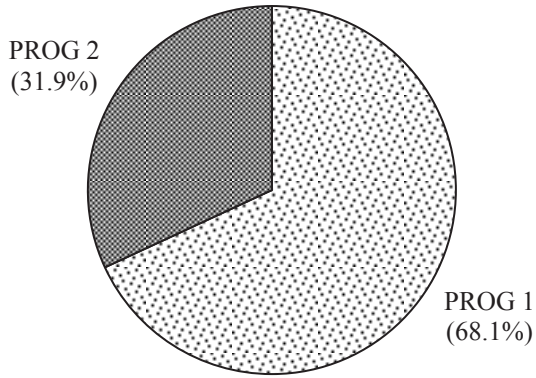
Provision for 2016–17 is \$1.6 million (1.6%) higher than the revised estimate for 2015–16. This is mainly due to the increased salary and allowance provisions arising from the creation of eight posts for strengthening the operation of the Registries, the full-year effect of filling vacancies, salary increments for existing staff, and the increased requirements in personnel related expenses, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

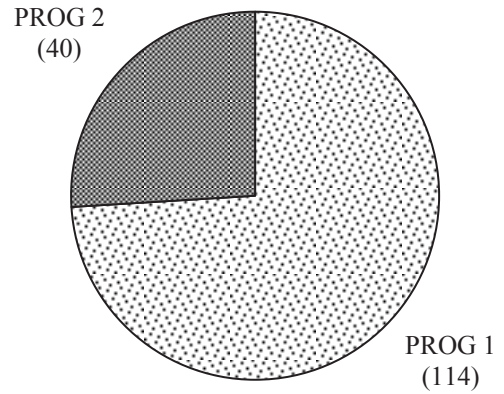
Provision for 2016–17 is \$6.3 million (15.5%) higher than the revised estimate for 2015–16. This is mainly due to the increased salary and allowance provisions arising from the creation of seven posts for taking forward the implementation plan for setting up the new patent system and strengthening IP co-operation with external authorities in particular with the Mainland on IP trading, 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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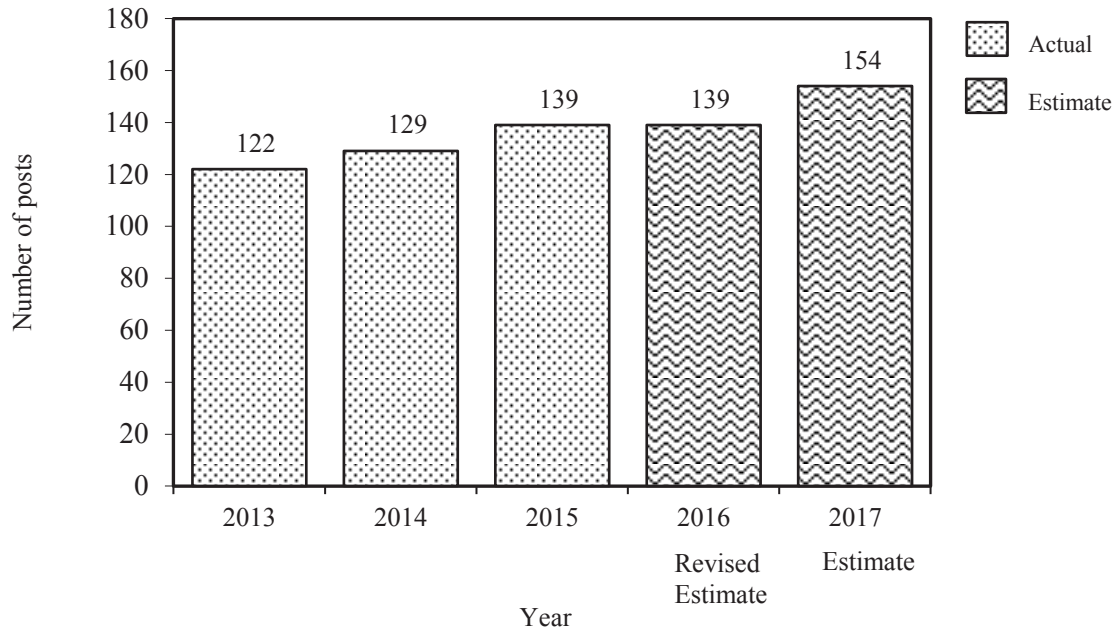
*Allocation of provision
to programmes
(2016-17)*



*Staff by programme
(as at 31 March 2017)*



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



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Sub-head (Code)	Actual expenditure 2014–15	Approved estimate 2015–16	Revised estimate 2015–16	Estimate 2016–17
	\$'000	\$'000	\$'000	\$'000
Operating Account				
Recurrent				
000	Operational expenses	131,634	137,480	139,648
	Total, Recurrent	131,634	137,480	139,648
	Total, Operating Account	131,634	137,480	139,648
<hr/>				
	Total Expenditure	131,634	137,480	139,648
		<u>131,634</u>	<u>137,480</u>	<u>139,648</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2016–17 for the salaries and expenses of the Intellectual Property Department is \$147,456,000. This represents an increase of \$7,808,000 over the revised estimate for 2015–16 and \$15,822,000 over the actual expenditure in 2014–15.

Operating Account

Recurrent

2 Provision of \$147,456,000 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 2016 will be 139 posts including one supernumerary post. It is expected that there will be an increase of 15 posts in 2016–17. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2016–17, but the notional annual mid-point salary value of all such posts must not exceed \$90,911,000.

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

	2014–15 (Actual) (\$'000)	2015–16 (Original) (\$'000)	2015–16 (Revised) (\$'000)	2016–17 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	83,420	89,964	94,506	102,557
- Allowances.....	4,543	5,014	3,672	2,948
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	372	411	412	392
- Civil Service Provident Fund contribution.....	3,240	3,801	4,132	5,509
Departmental Expenses				
- General departmental expenses	31,163	28,689	27,625	27,049
Other Charges				
- Publicity and educational programmes.....	8,896	9,600	9,300	9,000
	131,634	137,480	139,648	147,456