

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2018–19 **\$167.2m**

Establishment ceiling 2018–19 (notional annual mid-point salary value) representing an estimated 148 non-directorate posts as at 31 March 2018 rising by three posts to 151 posts as at 31 March 2019..... **\$102.2m**

In addition, there will be an estimated ten directorate posts as at 31 March 2018 and as at 31 March 2019.

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

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	107.6	113.1	111.8 (–1.1%)	115.7 (+3.5%)
				(or +2.3% on 2017–18 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 of the Department involve:

- examining trademark applications, conducting registrability and opposition, invalidation and revocation 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 2017, the proportions of electronic filings for trademark, patent and design applications were 66 per cent, 83 per cent and 80 per cent respectively.

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

Targets

	Target	2016 (Actual)	2017 (Actual)	2018 (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	86	90	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	86	87	86
processing short-term patent applications within ten days (%)§	86	87	87	86
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications within ten days (%)§	99	99	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

	2016 (Actual)	2017 (Actual)	2018 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	36 181	37 630	38 000
applications successfully registered.....	35 504	35 488	34 900
first response issued for trademark applications	38 923	39 576	37 000
second response issued for trademark applications	5 083	5 144	4 550
hearing decisions issued.....	141	143	140
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received.....	14 092	13 299	13 000
applications for short-term patents received	762	693	650
standard patents granted.....	5 698	6 671	5 980
short-term patents granted.....	485	582	490
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 515	2 609	2 530
designs registered.....	4 432	4 604	4 530
<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 2018–19

6 During 2018–19, the Department will continue to meet the challenges associated with processing a steady intake of trademark, patent and design filings, and taking forward the redevelopment project for its electronic processing systems for trademarks, patents and designs, E-filing System and Online Search System.

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Programme (2): Protection of Intellectual Property

	2016–17 (Actual)	2017–18 (Original)	2017–18 (Revised)	2018–19 (Estimate)
Financial provision (\$m)	38.2	43.3	45.9 (+6.0%)	51.5 (+12.2%)
				(or +18.9% on 2017–18 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 rights 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 an IP trading hub in the region and to assist SCED to implement support measures; and
- strengthening co-operation with the Guangdong Province, the Guangdong-Hong Kong-Macao Bay Area 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 an 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 2017, nine trade associations with 1 163 retail merchants, covering 6 883 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 various events to promote creativity and awareness on IP, including a large scale street event “Creativity·Infinity”, “I Pledge” Live Band Festival, “Respect Copyright” Campaign and “Creativity·Future” Video Competition.

10 The Department has continued its primary and secondary school visits programme with the aim of promoting respect for IP rights in the younger generation. In 2017, this programme covered 80 schools and 18 740 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 talks in tertiary institutions. In 2017, the interactive drama programme covered 99 schools and 29 743 students, and 12 talks were held in tertiary institutions.

11 SMEs have remained one of the prime targets of our promotion and education efforts. Through seminars, workshops 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 continued to work 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. The Department forged ahead with the IP Consultation Service, the IP Manager Scheme and various promotion and public education efforts such as promotion of IP audit and due diligence as well as production of videos showcasing success stories and liaised with stakeholders in organising or sponsoring training courses on IP related subjects. The Department also worked with the Department of Justice on the promotion of arbitration and mediation in resolving IP disputes in Hong Kong. To build up the manpower required to develop Hong Kong as an IP trading hub in the region, the Department commissioned in January 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 the first half of 2018.

13 On the copyright regime, the Government launched in May 2017 a three-month consultation exercise to gauge the views of the public on the relevant provisions in the Copyright Ordinance which might need to be amended to align with the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty).

14 On reform of the local patent system, following the enactment of the Patents (Amendment) Ordinance 2016 (yet to be in force), which provides 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 in 2019 at the earliest.

15 On the trademark regime, following a three-month consultation exercise in 2014–15, and discussions with the Central People’s Government and the WIPO, the Government decided to implement the international registration system under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) in Hong Kong, and the Department set in train preparations on various fronts with a view to operating the system in Hong Kong.

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

Indicators

	2016 (Actual)	2017 (Actual)	2018 (Estimate)
visits, seminars, conferences and workshops	92	95	95
speeches and presentations	55	65	65
media interviews, briefings and press conferences	23	15	15
school visits ^Δ	95	80	85

^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 2018–19

17 During 2018–19, the Department will:

- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau on enhancing Hong Kong’s IP regime to ensure that it will meet the actual needs of Hong Kong and keep pace with international developments;
- formulate and take forward legislative proposals to update the existing copyright exceptions for persons with print disability contained in the Copyright Ordinance, so as to meet the international standards under the Marrakesh Treaty;
- 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 the necessary amendments to the Patents (General) Rules (Cap. 514C) to lay down the new procedures before the Registrar of Patents,
 - devising the Patents Registry’s workflow and drawing up the examination guidelines in consultation with the stakeholders,
 - arranging suitable training for newly recruited patent examiners with a view to building the substantive examination capacity of the Patents Registry in the longer term,

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- undertaking information technology system development 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;
- continue to take forward the preparations for implementing 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 the Legislative Council 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 capital expenditure incurred for the purchase of specified IP rights;
- continue to work with stakeholders to implement support measures recommended by the Working Group on IP Trading to develop and promote Hong Kong as an 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 in particular for SMEs with emphasis placed on IP protection and management;
- disseminate information through the Internet on the IP systems in the Mainland, Hong Kong and Macao;
- 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;
- 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, provide appropriate technical assistance to developing and least-developed economies overseas; and
- foster stronger international collaboration among APEC economies in promoting best practices in IP licensing among SMEs in creative industries by organising a two-day workshop in Hong Kong with the IP offices of Mexico and the Republic of Korea.

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ANALYSIS OF FINANCIAL PROVISION

	2016–17 (Actual) (\$m)	2017–18 (Original) (\$m)	2017–18 (Revised) (\$m)	2018–19 (Estimate) (\$m)
Programme				
(1) Statutory Functions	107.6	113.1	111.8	115.7
(2) Protection of Intellectual Property	38.2	43.3	45.9	51.5
	145.8	156.4	157.7 (+0.8%)	167.2 (+6.0%)
				(or +6.9% on 2017–18 Original)

Analysis of Financial and Staffing Provision

Programme (1)

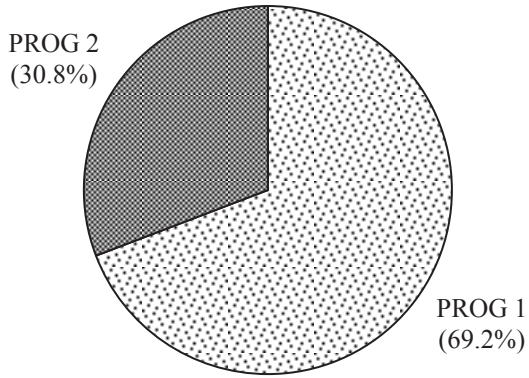
Provision for 2018–19 is \$3.9 million (3.5%) higher than the revised estimate for 2017–18. This is mainly due to the increased salary and allowance provisions arising from the creation of two posts for strengthening the support to the operation of the Registries, and the increased requirements in salaries and personnel related expenses, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

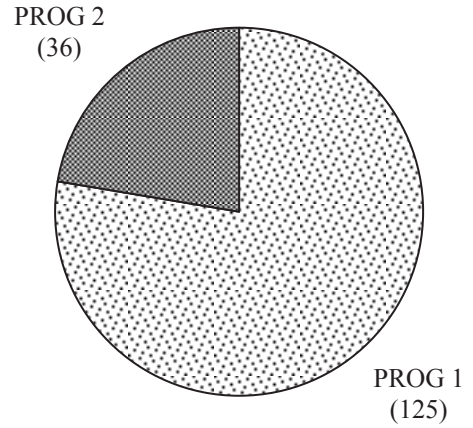
Provision for 2018–19 is \$5.6 million (12.2%) higher than the revised estimate for 2017–18. This is mainly due to the increased salary provision arising from the creation of one post for enhancing IP-related promotion and education activities, the increased requirement in salaries and personnel related expenses, the provision for measures and activities to promote the development of Hong Kong as an IP trading hub in the region, partly offset by the reduced requirements in general departmental expenses.

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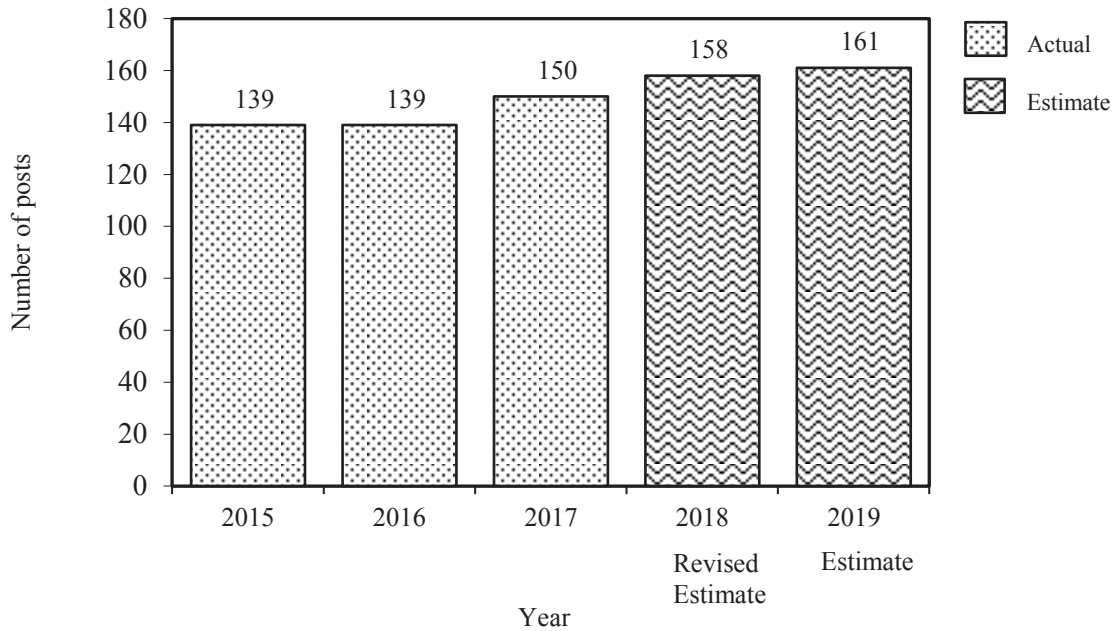
Allocation of provision to programmes (2018-19)



Staff by programme (as at 31 March 2019)



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



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Sub-head (Code)	Actual expenditure 2016-17	Approved estimate 2017-18	Revised estimate 2017-18	Estimate 2018-19	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	145,793	156,394	157,684	167,172
	Total, Recurrent	145,793	156,394	157,684	167,172
	Total, Operating Account	145,793	156,394	157,684	167,172
<hr/>					
	Total Expenditure	145,793	156,394	157,684	167,172
		<u>145,793</u>	<u>156,394</u>	<u>157,684</u>	<u>167,172</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2018–19 for the salaries and expenses of the Intellectual Property Department is \$167,172,000. This represents an increase of \$9,488,000 over the revised estimate for 2017–18 and \$21,379,000 over the actual expenditure in 2016–17.

Operating Account

Recurrent

2 Provision of \$167,172,000 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 2018 will be 158 posts. It is expected that there will be an increase of three posts in 2018–19. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2018–19, but the notional annual mid-point salary value of all such posts must not exceed \$102,246,000.

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

	2016–17 (Actual) (\$'000)	2017–18 (Original) (\$'000)	2017–18 (Revised) (\$'000)	2018–19 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	98,299	109,943	106,432	113,245
- Allowances.....	3,378	3,622	4,363	2,329
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	371	386	415	300
- Civil Service Provident Fund contribution.....	4,742	6,550	5,805	7,255
Departmental Expenses				
- General departmental expenses	29,371	26,892	31,648	29,642
Other Charges				
- Publicity and educational programmes	9,632	9,000	9,020	14,400
	145,793	156,394	157,684	167,172