

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2019–20 **\$185.8m**

Establishment ceiling 2019–20 (notional annual mid-point salary value) representing an estimated 151 non-directorate posts as at 31 March 2019 rising by 18 posts to 169 posts as at 31 March 2020..... **\$115.8m**

In addition, there will be an estimated ten directorate posts as at 31 March 2019 and as at 31 March 2020.

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

	2017–18 (Actual)	2018–19 (Original)	2018–19 (Revised)	2019–20 (Estimate)
Financial provision (\$m)	110.6	115.7	123.0 (+6.3%)	128.7 (+4.6%)
				(or +11.2% on 2018–19 Original)

Aim

2 The aim is to provide cost-effective and efficient systems for the registration and management 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 been providing 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 2018, the proportions of electronic filings for trademark, patent and design applications were 69 per cent, 88 per cent and 80 per cent respectively.

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

Targets

	Target	2017 (Actual)	2018 (Actual)	2019 (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	90	89	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	87	87	86
processing short-term patent applications within ten days (%)§.....	86	87	88	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.

§ Calculated from the date of application.

Indicators

	2017 (Actual)	2018 (Actual)	2019 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	37 630	40 331	38 650
applications successfully registered.....	35 488	34 970	35 550
first response issued for trademark applications.....	39 576	37 038	37 000
second response issued for trademark applications.....	5 144	5 550	5 000
hearing decisions issued.....	143	163	145
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received.....	13 299	15 986	13 630
applications for short-term patents received.....	693	791	690
standard patents granted.....	6 671	9 651	6 700
short-term patents granted.....	582	763	510
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 609	2 583	2 580
designs registered.....	4 604	4 547	4 550
<i>For copyright licensing bodies under the Copyright Ordinance (Cap. 528)</i>			
applications received.....	0	1	0
applications successfully registered.....	0	1	0
applications for renewal of registration.....	5	5	6

Matters Requiring Special Attention in 2019–20

6 During 2019–20, the Department will continue to meet the challenges associated with processing a voluminous intake of trademark and patent filings, and launching a New Integrated IT System to replace its existing 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

	2017–18 (Actual)	2018–19 (Original)	2018–19 (Revised)	2019–20 (Estimate)
Financial provision (\$m)	46.8	51.5	55.5 (+7.8%)	57.1 (+2.9%)
				(or +10.9% on 2018–19 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, 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 Asia-Pacific region and to assist SCED to implement support measures; and
- strengthening co-operation with the Guangdong Province, the Guangdong-Hong Kong-Macao Greater 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, to promote the IP services provided by Hong Kong professionals and the development of Hong Kong as an IP trading hub in the Asia-Pacific 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 2018, the “No Fakes Pledge” was extended to online shops and up to the end of the year, nine trade associations with 1 157 retail merchants covering 6 681 outlets/online shops in Hong Kong took part in the Scheme. For the “I Pledge” Campaign, the Department has collaborated with the right-holders to organise various events to promote creativity and awareness on IP, such as “Respect Copyright” Campaign.

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 2018, this programme covered 80 schools and 19 159 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 2018, the interactive drama programme covered 106 schools and 30 419 students, while 15 talks were held in tertiary institutions. The Department also organised an inter-school online contest from October to November 2018 to further enhance the knowledge and understanding of IP among primary and secondary school students.

11 SMEs have remained one of the prime targets of the Department’s 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 the production of videos showcasing success stories and liaising 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. The Department released in December 2018 the major findings of a survey commissioned in January 2017 to collect information on the manpower involved in IP trading and management in Hong Kong.

13 To support IP creation and exploitation, the Department rendered assistance to the legislative exercise of enacting the Inland Revenue (Amendment) (No. 5) Ordinance 2018 which expanded the scope of tax deduction for capital expenditure incurred for the purchase of specified IP rights.

14 To foster stronger international collaboration among APEC economies in promoting best practices in IP licensing among SMEs in creative industries, the Department organised a two-day workshop in Hong Kong with IP offices of Mexico and the Republic of Korea in June 2018. The workshop was well received and attracted around 250 participants.

15 The Department also conducted a survey on public awareness of IP right protection from October to December 2018 to evaluate the change in awareness level on IP among the public. The result of the survey was released in February 2019.

16 On the copyright regime, the Department pressed ahead with the formulation of legislative proposals to enhance the existing exceptions in the Copyright Ordinance for persons with print disability so as to meet the international standards under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

17 On the patent regime, the Department continued to take forward various preparatory tasks for implementing an original grant patent system and refining the existing short-term patent system pursuant to the Patents (Amendment) Ordinance 2016 (yet to be in force), with a view to rolling out the new patent system in 2019.

18 On the trademark regime, the Department pressed ahead with the formulation of legislative proposals 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 set in train preparations on various fronts to enable smooth operation of the system in Hong Kong.

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

Indicators

	2017 (Actual)	2018 (Actual)	2019 (Estimate)
visits, seminars, conferences and workshops.....	95	95	95
speeches and presentations.....	65	55	60
media interviews, briefings and press conferences.....	15	12	12
school visits.....	80	80	82

Matters Requiring Special Attention in 2019–20

20 During 2019–20, 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;
- take forward legislative proposals to update the existing copyright exceptions for persons with print disability by introducing into the Legislative Council a bill to amend the Copyright Ordinance;
- 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;
- press ahead with the remaining preparatory tasks for launching the new patent system in 2019, including –
 - introducing necessary amendments to the Patents (General) Rules (Cap. 514C) to lay down the new procedures in detail before the Registrar of Patents;
 - finalising the Patents Registry’s workflow and the examination guidelines;
 - subject to operational needs, arranging suitable professional training for the patent examiners with a view to building the substantive examination capacity of the Patents Registry in the longer term;

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- completing the development of the new information technology system to cater for the operation of the new patent system; and
- launching publicity and engaging the stakeholders to promote the new patent system;
- continue to take forward the preparations for implementing the international registration system under the Madrid Protocol, including –
 - securing early passage of the legislative amendments to the Trade Marks Ordinance;
 - drawing up legislative proposals to amend the Trade Marks Rules (Cap. 559A) to provide for new procedures in handling applications filed under the international registration system;
 - formulating the plan for building the dedicated information technology system for operating the international registration system;
 - devising the Trade Marks Registry’s workflow for processing applications; and
 - planning for the manpower to process applications and the training required;
- continue to work with stakeholders to implement a host of support measures to develop and promote Hong Kong as an IP trading hub in the Asia-Pacific region;
- support the business community in strengthening their IP protection and management in the Mainland (including the Guangdong-Hong Kong-Macao Greater Bay Area) through the Guangdong/Hong Kong Expert Group on the Protection of IP Rights;
- organise promotion and education activities, in particular for SMEs, with emphasis on IP protection and management;
- disseminate information through the Internet on the IP systems in the Mainland, Hong Kong and Macao;
- continue 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, provide appropriate technical assistance to developing and least-developed economies overseas.

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ANALYSIS OF FINANCIAL PROVISION

	2017–18 (Actual) (\$m)	2018–19 (Original) (\$m)	2018–19 (Revised) (\$m)	2019–20 (Estimate) (\$m)
Programme				
(1) Statutory Functions	110.6	115.7	123.0	128.7
(2) Protection of Intellectual Property	46.8	51.5	55.5	57.1
	157.4	167.2	178.5 (+6.8%)	185.8 (+4.1%)
				(or +11.1% on 2018–19 Original)

Analysis of Financial and Staffing Provision

Programme (1)

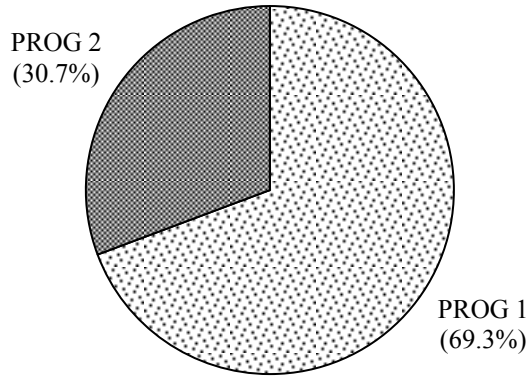
Provision for 2019–20 is \$5.7 million (4.6%) higher than the revised estimate for 2018–19. This is mainly due to the increased salary and allowance provisions arising from the creation of 18 posts for enhancing the capacity of the Department in delivering statutory registration functions (of which 15 posts are for replacing the same number of staff of outsourced contractors) and coping with major reforms of patent and trade mark regime, and partly offset by the reduced requirements in general departmental expenses.

Programme (2)

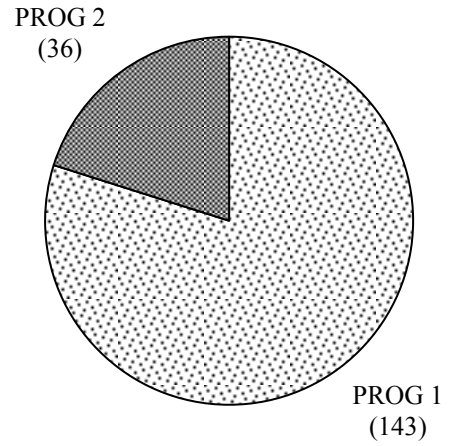
Provision for 2019–20 is \$1.6 million (2.9%) higher than the revised estimate for 2018–19. This is due to the increased requirements in salaries, personnel related expenses and general departmental expenses.

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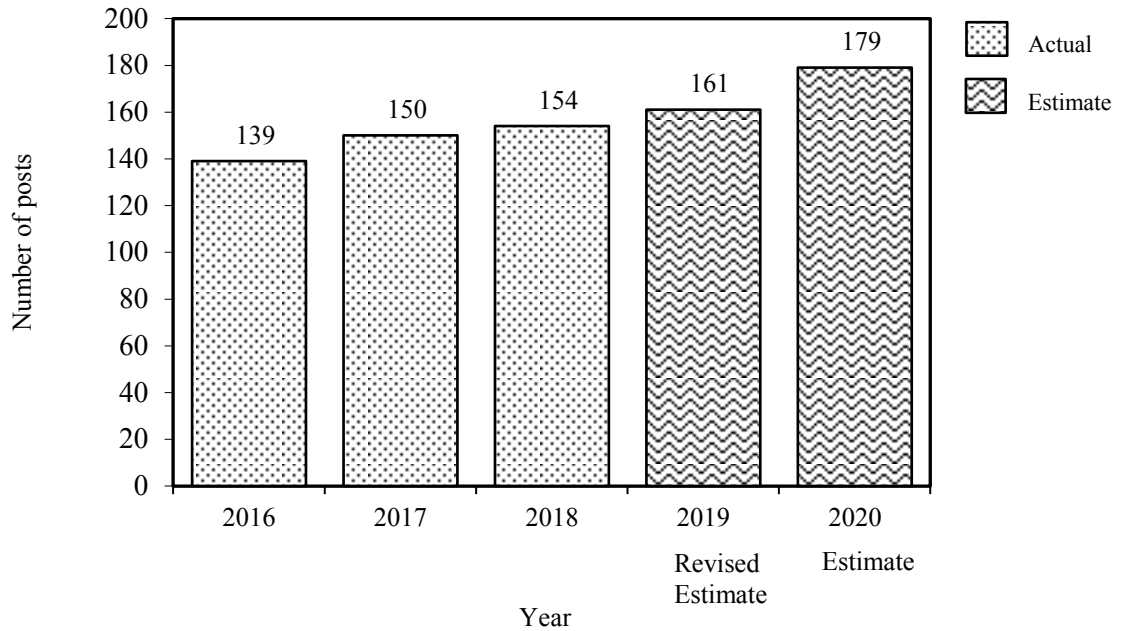
*Allocation of provision
to programmes
(2019-20)*



*Staff by programme
(as at 31 March 2020)*



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



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Sub-head (Code)	Actual expenditure 2017-18	Approved estimate 2018-19	Revised estimate 2018-19	Estimate 2019-20	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	157,372	167,172	178,498	185,778
	Total, Recurrent	157,372	167,172	178,498	185,778
	Total, Operating Account	157,372	167,172	178,498	185,778
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	Total Expenditure	157,372	167,172	178,498	185,778
		<u>157,372</u>	<u>167,172</u>	<u>178,498</u>	<u>185,778</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2019–20 for the salaries and expenses of the Intellectual Property Department is \$185,778,000. This represents an increase of \$7,280,000 over the revised estimate for 2018–19 and \$28,406,000 over the actual expenditure in 2017–18.

Operating Account

Recurrent

2 Provision of \$185,778,000 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 2019 will be 161 posts. It is expected that there will be an increase of 18 posts in 2019–20. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2019–20, but the notional annual mid-point salary value of all such posts must not exceed \$115,750,000.

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

	2017–18 (Actual) (\$'000)	2018–19 (Original) (\$'000)	2018–19 (Revised) (\$'000)	2019–20 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	106,664	113,245	118,082	126,868
- Allowances.....	3,928	2,329	3,097	2,112
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	418	300	310	333
- Civil Service Provident Fund contribution.....	5,791	7,255	7,236	8,856
Departmental Expenses				
- General departmental expenses	31,262	29,642	35,372	33,208
Other Charges				
- Publicity and educational programmes	9,309	14,400	14,400	14,400
	157,372	167,172	178,498	185,778