

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2020–21 **\$195.9m**

Establishment ceiling 2020–21 (notional annual mid-point salary value) representing an estimated 169 non-directorate posts as at 31 March 2020 rising by ten posts to 179 posts as at 31 March 2021.... **\$129.5m**

In addition, there will be an estimated ten directorate posts as at 31 March 2020 and as at 31 March 2021.

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

	2018–19 (Actual)	2019–20 (Original)	2019–20 (Revised)	2020–21 (Estimate)
Financial provision (\$m)	124.3	128.7	129.0 (+0.2%)	132.8 (+2.9%)
				(or +3.2% on 2019–20 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 standard patents after substantive examination, granting short-term patents followed by substantive examination if required, 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; register assignments and assents for registered trademarks and trademark applications; and register assignments for granted patents and patent applications as well as registered designs and design applications. These changes are updated on the Registries' records instantly. The electronic services have been well received, and were redeveloped into a New Integrated IT System (NIS) in February 2019. In 2019, the proportions of electronic filings for trademark, patent and design applications were 73 per cent, 91 per cent and 80 per cent respectively.

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

Targets

	Target	2018 (Actual)	2019 (Actual)	2020 (Plan)
<i>For trademarks under the Trade Marks Ordinance (Cap. 559)</i>				
providing first response for trademark applications within two months (%)φ.....	97	99	98	97
providing second response for trademark applications within three months (%)Ω...	80	89	84	80
delivering hearing decisions on trademarks within six months (%).....	97	100	99	97
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§.....	95 ^Λ	87	98	95
processing short-term patent applications within ten days (%)§.....	86	88	94	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.

Λ The target is revised from 86 per cent to 95 per cent as from 2020 with automation enabled by the NIS.

Indicators

	2018 (Actual)	2019 (Actual)	2020 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	40 331	36 980	38 100
applications successfully registered.....	34 970	33 371	35 300
first response issued for trademark applications.....	37 038	37 270	36 000
second response issued for trademark applications.....	5 550	5 073	4 800
hearing decisions issued.....	163	193	150
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received.....	15 986	16 521	15 240
applications for short-term patents received.....	791	791	740
standard patents granted.....	9 651	6 780	6 830
short-term patents granted.....	763	520	510
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 583	2 576	2 600
designs registered.....	4 547	4 579	4 520
<i>For copyright licensing bodies under the Copyright Ordinance (Cap. 528)</i>			
applications received.....	1	0	0
applications successfully registered.....	1	0	0
applications for renewal of registration.....	5	6	6

Matters Requiring Special Attention in 2020–21

6 During 2020–21, the Department will continue to meet the challenges associated with processing a voluminous intake of trademark and patent filings, handling patent applications filed under the new original grant patent system which commenced on 19 December 2019, and making the most of the NIS in enhancing online search services and facilitating electronic filing and processing of trademark, patent and design applications.

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Programme (2): Protection of Intellectual Property

	2018–19 (Actual)	2019–20 (Original)	2019–20 (Revised)	2020–21 (Estimate)
Financial provision (\$m)	53.2	57.1	61.6 (+7.9%)	63.1 (+2.4%)
				(or +10.5% on 2019–20 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. For the “No Fakes Pledge” Scheme, nine trade associations with 1 225 retail merchants covering 6 677 outlets/online shops in Hong Kong participated as at the end of 2019. For the “I Pledge” Campaign, the Department has collaborated with the right-holders and youth organisations to organise and sponsor various events to promote creativity and awareness of IP rights, such as the Observation Wheel Fun Day which was a large-scale event under the “I Pledge” Campaign, “Respect Copyright” Campaign and the Scout Fun Day on Respect for IP Rights.

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 2019, this programme covered 81 schools and 20 730 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 2019, the interactive drama programme covered 95 schools and 27 504 students, while 16 talks were held in tertiary institutions.

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.

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 production of videos showcasing success stories and liaison with stakeholders in organising or sponsoring training courses on IP related subjects. The Department has also worked with the Department of Justice on the promotion of arbitration and mediation in resolving IP disputes in Hong Kong.

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13 On the copyright regime, the Government introduced the Copyright (Amendment) Bill 2019 into the Legislative Council (LegCo) in November 2019. The Bill seeks 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.

14 On the patent regime, the Department launched the original grant patent system and the refined measures for the pre-existing short-term patent system on 19 December 2019 upon commencement of the Patents (Amendment) Ordinance 2016 and the Patents (General) (Amendment) Rules 2019.

15 On the trademark regime, the Government introduced the Trade Marks (Amendment) Bill 2019, which seeks to provide the legislative framework for implementation of the international registration system under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) in Hong Kong, into the LegCo in February 2019. Scrutiny of the Bill has been completed. Pending its enactment, the Department has set in train preparations on various fronts to prepare for smooth operation of the system in Hong Kong.

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

Indicators

	2018 (Actual)	2019 (Actual)	2020 (Estimate)
engagements with stakeholders#.....	95	96	95
speeches and presentations.....	55	58	60
engagements with the media◇.....	12	17¶	11
school visits.....	80	81	82

Revised description of previous indicator “visits, seminars, conferences, workshops” as from 2020. The new indicator includes visits, seminars, conferences, workshops and trade fairs.

◇ Revised description of previous indicator “media interviews, briefings and press conferences” as from 2020. The new indicator includes media interviews, briefings, press conferences and communications.

¶ The increase in 2019 mainly represents media briefing/interviews regarding the new patent system, which was rolled out in December 2019.

Matters Requiring Special Attention in 2020–21

17 During 2020–21, 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;
- continue to take forward the legislative exercise involving the Copyright (Amendment) Bill 2019 which seeks to enhance the copyright exceptions for persons with print disability;
- 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 Copyright Tribunal Rules (Cap. 528D) to ensure that proceedings before the Copyright Tribunal can be conducted in a more efficient and cost-effective manner;
- keep in view the filings under the new patent system notably the caseload and the filing trends to ensure its smooth operation;
- further develop the new patent system such as seeking ways of enhancing its user-friendliness and attractiveness and exploring options of setting up a full-fledged regulatory regime of patent practitioners in the long term;
- 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 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;

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- 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 outreach 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 and “I Pledge” Campaign to promote the selling and buying 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

	2018–19 (Actual) (\$m)	2019–20 (Original) (\$m)	2019–20 (Revised) (\$m)	2020–21 (Estimate) (\$m)
Programme				
(1) Statutory Functions	124.3	128.7	129.0	132.8
(2) Protection of Intellectual Property	53.2	57.1	61.6	63.1
	177.5	185.8	190.6 (+2.6%)	195.9 (+2.8%)
				(or +5.4% on 2019–20 Original)

Analysis of Financial and Staffing Provision

Programme (1)

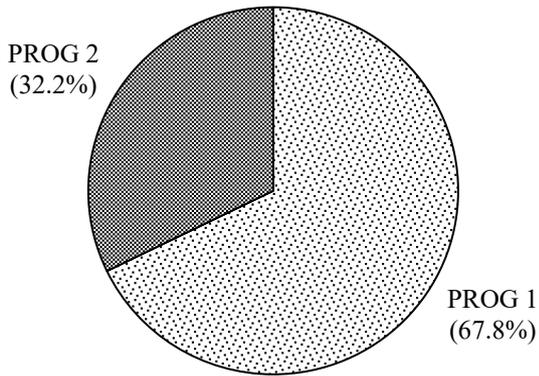
Provision for 2020–21 is \$3.8 million (2.9%) higher than the revised estimate for 2019–20. This is mainly due to the increased salary and allowance provisions arising from the creation of ten posts for enhancing the capacity of the Department in providing statutory IP services and championing the IP regime, partly offset by the reduced requirements in general departmental expenses.

Programme (2)

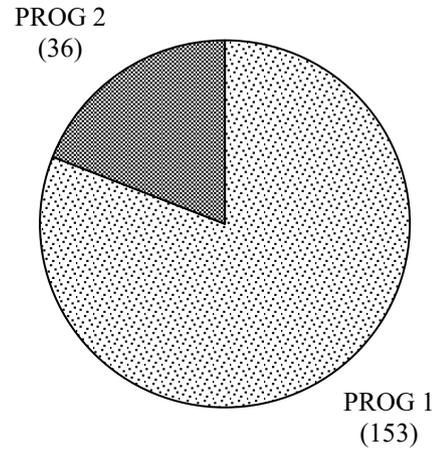
Provision for 2020–21 is \$1.5 million (2.4%) higher than the revised estimate for 2019–20. This is due to the increased requirements in salaries, personnel related expenses and general departmental expenses.

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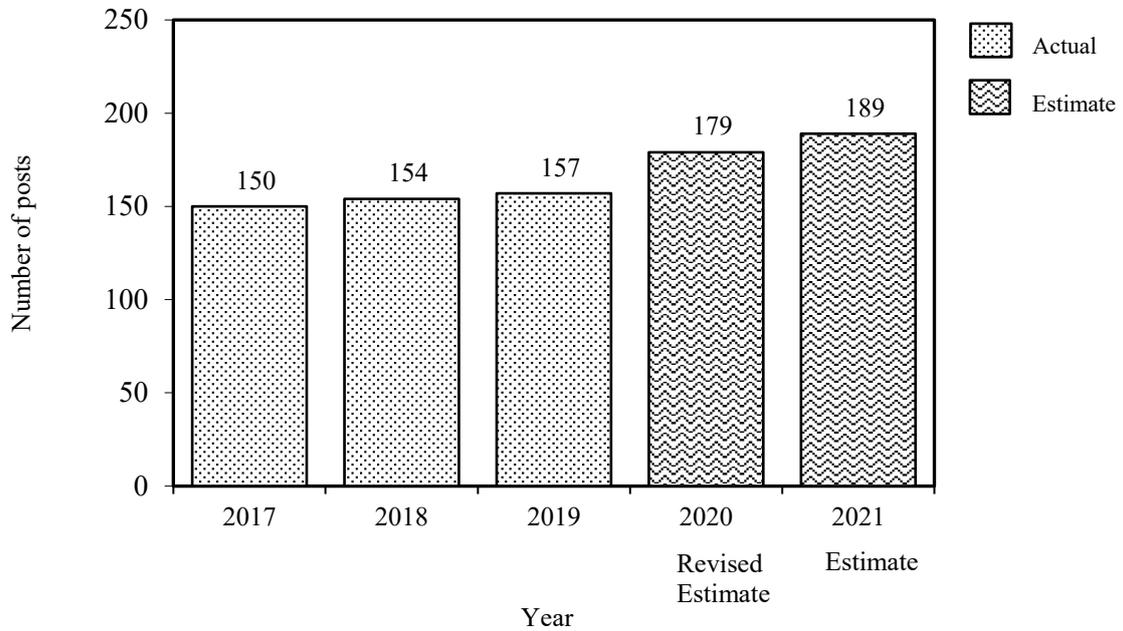
Allocation of provision to programmes (2020-21)



Staff by programme (as at 31 March 2021)



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



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Sub-head (Code)	Actual expenditure 2018–19	Approved estimate 2019–20	Revised estimate 2019–20	Estimate 2020–21	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	177,484	185,778	190,558	195,933
	Total, Recurrent.....	<u>177,484</u>	<u>185,778</u>	<u>190,558</u>	<u>195,933</u>
	Total, Operating Account	<u>177,484</u>	<u>185,778</u>	<u>190,558</u>	<u>195,933</u>
<hr/>					
	Total Expenditure	<u>177,484</u>	<u>185,778</u>	<u>190,558</u>	<u>195,933</u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2020–21 for the salaries and expenses of the Intellectual Property Department is \$195,933,000. This represents an increase of \$5,375,000 over the revised estimate for 2019–20 and \$18,449,000 over the actual expenditure in 2018–19.

Operating Account

Recurrent

2 Provision of \$195,933,000 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 2020 will be 179 posts. It is expected that there will be an increase of ten posts in 2020–21. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2020–21, but the notional annual mid-point salary value of all such posts must not exceed \$129,540,000.

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

	2018–19 (Actual) (\$'000)	2019–20 (Original) (\$'000)	2019–20 (Revised) (\$'000)	2020–21 (Estimate) (\$'000)
Personal Emoluments				
- Salaries.....	117,702	126,868	134,588	136,977
- Allowances.....	3,027	2,112	2,503	3,862
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	308	333	322	256
- Civil Service Provident Fund contribution.....	7,259	8,856	8,623	10,415
Departmental Expenses				
- General departmental expenses	34,920	33,208	30,121	30,022
Other Charges				
- Publicity and educational programmes	14,268	14,400	14,400	14,400
	177,484	185,778	190,558	195,933