

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2022–23 **\$232.6m**

Establishment ceiling 2022–23 (notional annual mid-point salary value) representing an estimated 179 non-directorate posts as at 31 March 2022 rising by four posts to 183 posts as at 31 March 2023 **\$133.1m**

In addition, there will be an estimated ten directorate posts as at 31 March 2022 and as at 31 March 2023.

Controlling Officer's Report

Programmes

<p>Programme (1) Statutory Functions Programme (2) Protection of Intellectual Property</p>	<p>These programmes contribute to Policy Area 6: Commerce and Industry (Secretary for Commerce and Economic Development).</p>
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Detail

Programme (1): Statutory Functions

	2020–21 (Actual)	2021–22 (Original)	2021–22 (Revised)	2022–23 (Estimate)
Financial provision (\$m)	143.6	158.1	152.4 (–3.6%)	166.5 (+9.3%)
				(or +5.3% on 2021–22 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. 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 in February 2019. In 2021, the proportions of electronic filings for trademark, patent and design applications were 81 per cent, 97 per cent and 86 per cent respectively.

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

Targets

	Target	2020 (Actual)	2021 (Actual)	2022 (Plan)
<i>For trademarks under the Trade Marks Ordinance (Cap. 559)</i>				
issuing first letter				
for trademark applications during deficiencies checking stage within three months (%)‡	85 [^]	N.A.	98	85
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	84	82
delivering hearing decisions on trademarks within six months (%).....	97	99	100	97
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard (re-registration) patent applications concerning minimum requirements within ten days (%)§	95	99	99	97
processing standard (original grant) patent applications concerning minimum requirements within ten days (%)§	86	N.A.	96	88
processing short-term patent applications concerning minimum requirements within ten days (%)§	88 ^ε	94	97	88
processing standard (re-registration) patent applications concerning formal requirements within four months (%)Ψ	88 ^η	N.A.	97	88
processing short-term patent applications concerning formal requirements within three months (%)Ψ	85 [^]	N.A.	96	85
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications concerning minimum requirements within ten days (%)§	99	99	100	99
processing design applications concerning formal requirements within four months (%)@	88 ^η	N.A.	97	88

‡ Calculated from the date of payment of the prescribed fee.

[^] Target raised from 80 per cent to 85 per cent as from 2022.

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 to the date of issue of the first notice.

ε Target raised from 86 per cent to 88 per cent as from 2022.

Ψ Calculated from the date of the Patents Registry's notice confirming that the minimum requirements are satisfied.

η Target raised from 80 per cent to 88 per cent as from 2022.

@ Calculated from the date of the Designs Registry's notice confirming that the minimum requirements are satisfied.

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Indicators

	2020 (Actual)	2021 (Actual)	2022 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	33 708	35 240	36 700
applications successfully registered	34 743	32 719	34 100
first response issued for trademark applications	36 244	35 311	34 000
second response issued for trademark applications	5 401	5 187	4 600
hearing decisions issued.....	138	257	132
<i>For patents under the Patents Ordinance</i>			
applications for standard (re-registration) patents received.....	21 302	21 686	19 700
applications for standard (original grant) patents received.....	254	257	280
applications for short-term patents received	689	552	620
standard (re-registration) patents granted.....	7 658	14 655	9 010
short-term patents granted.....	729	684	530
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 015	1 882	1 930
designs registered.....	5 045	4 206	3 650
<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.....	6	6	6

Matters Requiring Special Attention in 2022–23

6 During 2022–23, the Department will continue to meet the challenges associated with processing a voluminous intake of patent filings, handling patent applications filed under the original grant patent system, and enhancing the operation of the registries of trademarks and designs.

Programme (2): Protection of Intellectual Property

	2020–21 (Actual)	2021–22 (Original)	2021–22 (Revised)	2022–23 (Estimate)
Financial provision (\$m)	51.8	59.0	63.1 (+6.9%)	66.1 (+4.8%)
				(or +12.0% on 2021–22 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;

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- promoting the development of Hong Kong as a regional IP trading centre, and assisting SCED to implement support measures; and
- strengthening co-operation with counterparts in the Guangdong Province, the Guangdong-Hong Kong-Macao Greater Bay Area, the Pan-Pearl River Delta region on IP and related developments.

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, 12 trade associations with 1 626 retail merchants covering 7 037 outlets/online shops in Hong Kong participated as at the end of 2021. 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 “Respect Copyright” Campaign.

10 The Department has continued to implement various initiatives to promote awareness of and respect for IP rights in the younger generation, despite the pandemic situation and the suspension or partial suspension of physical or face-to-face classes and extra-curricular activities in schools in most of the 2021. During the year, the school visit programme covered 36 schools and 7 687 students, the interactive drama programme covered 104 schools and 28 011 students, and talks were held in three 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 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. With a view to further strengthening SMEs’ manpower capacity in IP management and commercialisation, the Department continued to enrich the IP Manager Scheme PLUS training programme with enhanced breadth and depth in the content. The Department also forged ahead with the IP Consultation Service and various promotion and public education efforts such as production of videos showcasing success stories and sponsoring of training courses and workshops on IP related subjects.

13 On the copyright regime, the Government revived the Copyright Ordinance amendment exercise by launching in November 2021 a public consultation on updating Hong Kong’s copyright regime to strengthen copyright protection in the digital environment. A number of briefings and a public forum were also organised to gauge the views of different stakeholders and the public.

14 On the trademark regime, the Department has continued to take forward preparatory work for the implementation of the international trade mark registration system under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) in Hong Kong, including preparing the related subsidiary legislation and setting up the required information technology system.

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

Indicators

	2020 (Actual)	2021 (Actual)	2022 (Estimate)
engagements with stakeholders.....	45	120	120
speeches and presentations.....	37	55	55
engagements with the media.....	5	14	14
school visits.....	13	36 [□]	40

□ Including school visits in physical and online modes.

Matters Requiring Special Attention in 2022–23

16 During 2022–23, 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 Copyright Ordinance amendment exercise, and the Department’s target is to introduce a bill to amend the Copyright Ordinance into the Legislative Council in the first half of 2022, taking into account the views received in the public consultation;
- continue to keep in view the filings under the new patent system notably the caseload and the filing trends to ensure its smooth operation;

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- continue to further develop the original grant 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 press ahead with the remaining preparatory work for implementing the international trade mark registration system under the Madrid Protocol, including –
 - preparing the related subsidiary legislation to provide for new procedures in handling applications filed under the international registration system and refine the procedures under the Trade Marks Rules (Cap. 559A);
 - completing the setup of the required information technology system for operating the international registration system;
 - finalising the Trade Marks Registry’s workflow and work manual for processing applications;
 - arranging manpower training for processing applications filed under the international registration system; and
 - launching publicity to promote the international registration system to key stakeholders;
- explore with the Mainland authorities on extending relevant international IP treaties to Hong Kong and implementing facilitation measures for cross-boundary IP protection;
- continue to work with stakeholders to implement a series of initiatives to develop and promote Hong Kong as a regional IP trading centre under the National 14th Five-Year Plan;
- continue to work with stakeholders and the Hong Kong Trade Development Council to promote Hong Kong’s competitive advantages in IP trading and IP professional services to the Mainland and overseas enterprises through trade missions, seminars, publicity programmes and the annual Business of IP Asia Forum;
- continue to support the business community in strengthening their IP protection, management and commercialisation 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;
- continue to organise promotion and education activities, in particular for SMEs, with emphasis on IP protection, management and commercialisation;
- continue to 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

	2020–21 (Actual) (\$m)	2021–22 (Original) (\$m)	2021–22 (Revised) (\$m)	2022–23 (Estimate) (\$m)
Programme				
(1) Statutory Functions	143.6	158.1	152.4	166.5
(2) Protection of Intellectual Property	51.8	59.0	63.1	66.1
	195.4	217.1	215.5 (–0.7%)	232.6 (+7.9%)
				(or +7.1% on 2021–22 Original)

Analysis of Financial and Staffing Provision

Programme (1)

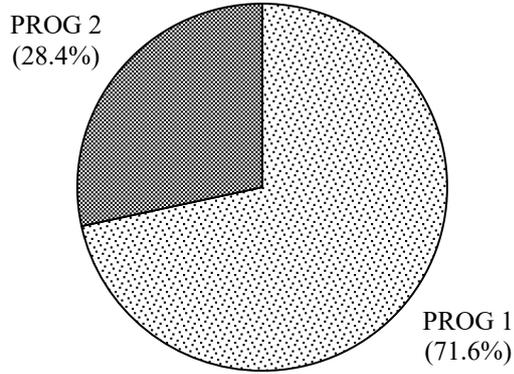
Provision for 2022–23 is \$14.1 million (9.3%) higher than the revised estimate for 2021–22. This is mainly due to the increased requirements in general departmental expenses for enhancing the capacity of the Department to follow through the patent reform.

Programme (2)

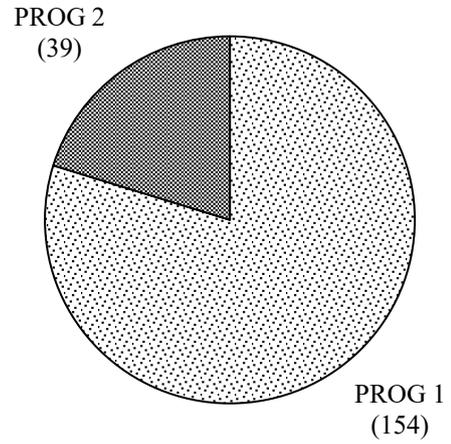
Provision for 2022–23 is \$3.0 million (4.8%) higher than the revised estimate for 2021–22. This is mainly due to the increased requirements in general departmental expenses, and salaries and personnel related expenses arising from the increase of four posts.

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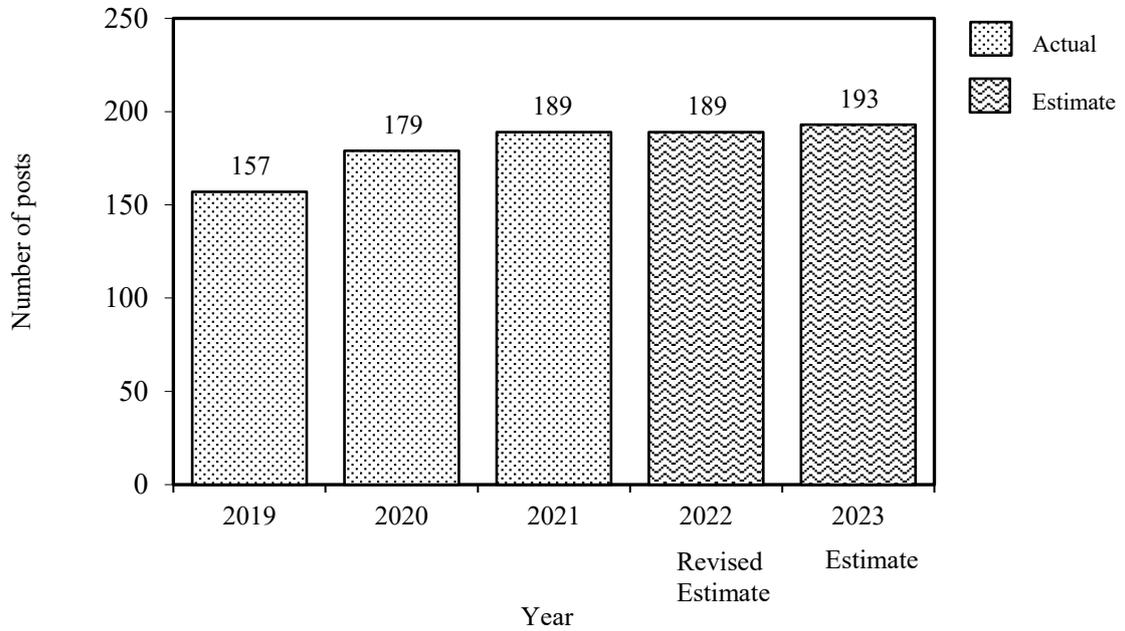
*Allocation of provision
to programmes
(2022-23)*



*Staff by programme
(as at 31 March 2023)*



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



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Sub-head (Code)	Actual expenditure 2020-21	Approved estimate 2021-22	Revised estimate 2021-22	Estimate 2022-23	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	195,360	217,122	215,182	232,593
	Total, Recurrent.....	195,360	217,122	215,182	232,593
	Total, Operating Account	195,360	217,122	215,182	232,593
Capital Account					
Plant, Equipment and Works					
	Minor plant, vehicles and equipment (block vote).....	—	—	318	—
	Total, Plant, Equipment and Works.....	—	—	318	—
	Total, Capital Account.....	—	—	318	—
	Total Expenditure	195,360	217,122	215,500	232,593

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Details of Expenditure by Subhead

The estimate of the amount required in 2022–23 for the salaries and expenses of the Intellectual Property Department is \$232,593,000. This represents an increase of \$17,093,000 over the revised estimate for 2021–22 and \$37,233,000 over the actual expenditure in 2020–21.

Operating Account

Recurrent

2 Provision of \$232,593,000 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 2022 will be 189 posts. It is expected there will be an increase of four posts in 2022–23. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2022–23, but the notional annual mid-point salary value of all such posts must not exceed \$133,147,000.

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

	2020–21 (Actual) (\$'000)	2021–22 (Original) (\$'000)	2021–22 (Revised) (\$'000)	2022–23 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	138,563	147,753	140,152	136,324
- Allowances	1,709	2,884	3,700	5,648
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	305	468	515	428
- Civil Service Provident Fund contribution	10,180	11,124	10,237	10,916
Departmental Expenses				
- General departmental expenses	31,457	40,492	46,177	64,876
Other Charges				
- Publicity and educational programmes	13,146	14,400	14,400	14,400
	195,360	217,122	215,182	232,593