

Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

Estimate 2021–22 **\$217.1m**

Establishment ceiling 2021–22 (notional annual mid-point salary value) representing an estimated 179 non-directorate posts as at 31 March 2021 and as at 31 March 2022..... **\$129.5m**

In addition, there will be an estimated ten directorate posts as at 31 March 2021 and as at 31 March 2022.

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

	2019–20 (Actual)	2020–21 (Original)	2020–21 (Revised)	2021–22 (Estimate)
Financial provision (\$m)	132.3	132.8	138.4 (+4.2%)	158.1 (+14.2%)
				(or +19.1% on 2020–21 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 (NIS) in February 2019. In 2020, the proportions of electronic filings for trademark, patent and design applications were 77 per cent, 97 per cent and 81 per cent respectively.

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

Targets

	Target	2019 (Actual)	2020 (Actual)	2021 (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 (%)‡	80	N.A.	N.A.	80
providing first response for trademark applications within two months (%)φ.....	97	98	99	97
providing second response				
for trademark applications				
within three months (%)Ω	80	84	85	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 [^]	98	99	97
processing standard (original grant) patent applications concerning minimum requirements within ten days (%)β.....	86	N.A.	N.A.	86
processing short-term patent applications concerning minimum requirements within ten days (%)α.....	86	94	94	88
processing standard (re-registration) patent applications				
concerning formal requirements				
within four months (%)Ψ.....	80	N.A.	N.A.	80
processing short-term patent applications concerning formal requirements within three months (%)Ψ.....	80	N.A.	N.A.	80
<i>For designs under the Registered Designs Ordinance (Cap. 522)</i>				
processing design applications concerning minimum requirements				
within ten days (%)α.....	99	99	99	99
processing design applications concerning formal requirements within four months (%)Ψ.....	80	N.A.	N.A.	80

‡ New target as from 2021. The target is calculated from the date of payment of the prescribed fee.

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.

§ Revised description of the target as from 2021 to specify that the target refers to standard patent applications by re-registration route which concern the initial stage of examination (i.e. minimum requirements). The target is calculated from the date of application to the date of issue of the first notice.

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

β New target as from 2021 applicable to standard patent applications by the original grant route introduced in 2019. The target is calculated from the date of application to the date of issue of the first notice.

α Revised description of the target as from 2021 to specify that the target concerns the initial stage of examination (i.e. minimum requirements). The target is calculated from the date of application to the date of issue of the first notice.

Ψ New target as from 2021. The target is calculated from the date of Registry's notice confirming that the minimum requirements are satisfied.

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Indicators

	2019 (Actual)	2020 (Actual)	2021 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	36 980	33 708	33 100
applications successfully registered	33 371	34 743	34 400
first response issued for trademark applications	37 270	36 244	35 000
second response issued for trademark applications	5 073	5 401	5 000
hearing decisions issued.....	193	138	140
<i>For patents under the Patents Ordinance</i>			
applications for standard (re-registration) patents receivedΦ ..	16 521	21 302	18 000
applications for standard (original grant) patents receivedδ	11	254	260
applications for short-term patents received	791	689	700
standard (re-registration) patents grantedΘ.....	6 780	7 658	8 000
short-term patents granted.....	520	729	570
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 576	2 015	2 300
designs registered.....	4 579	5 045	4 500
<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

Φ Revised description of the indicator as from 2021 to specify that the indicator refers to standard patent applications by re-registration route.

δ New indicator as from 2021 applicable to standard patent applications by the original grant route introduced in 2019.

Θ Revised description of the indicator as from 2021 to specify that the indicator refers to standard patents granted by re-registration route.

Matters Requiring Special Attention in 2021–22

6 During 2021–22, 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 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.

Programme (2): Protection of Intellectual Property

	2019–20 (Actual)	2020–21 (Original)	2020–21 (Revised)	2021–22 (Estimate)
Financial provision (\$m)	57.5	63.1	57.2 (–9.4%)	59.0 (+3.1%)
				(or –6.5% on 2020–21 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;

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- 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 assisting SCED to implement support measures; and
- strengthening co-operation with counterparts in the Guangdong Province, the Guangdong-Hong Kong-Macao Greater Bay Area and 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, nine trade associations with 1 285 retail merchants covering 6 769 outlets/online shops in Hong Kong participated as at the end of 2020. 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 of physical classes and extra-curricular activities in schools in 2020. During the year, the school visit programme covered 13 schools and 2 742 students, the interactive drama programme covered 27 schools and 8 126 students, and talks were held in three tertiary institutions. The Department also organised an “Inter-School Online Intellectual Property Quiz Contest 2020” from October to November 2020 reaching out to over 18 000 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 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. Building on the success of the IP Manager Scheme and with a view to further strengthening SMEs’ manpower capacity in IP management and commercialisation, the Department launched the IP Manager Scheme PLUS training programme in October 2020 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 The Department conducted a survey on public awareness of IP right protection from November to December 2020 to monitor the change in the awareness level over time. The result of the survey is expected to be released in the first quarter of 2021.

14 On the copyright regime, the Copyright (Amendment) Ordinance 2020 was enacted and took effect in June 2020. It enhances the copyright exceptions for persons with print disability to align with the standards of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

15 On the trademark regime, the Trade Marks (Amendment) Ordinance 2020 was enacted in June 2020 to provide a legal basis 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. The Department has continued to take forward preparatory work on various fronts to prepare for the launch of the system in Hong Kong.

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

Indicators

	2019 (Actual)	2020 (Actual) ^τ	2021 (Estimate)
engagements with stakeholders.....	96	45	50
speeches and presentations.....	58	37	40
engagements with the media.....	17	5	9
school visits.....	81	13 [□]	30

^τ Drop of figures for 2020 (Actual) as compared to that of 2019 (Actual) was due to the implementation of social distancing measures under COVID-19 pandemic.

[□] Including school visits in physical and online modes.

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Matters Requiring Special Attention in 2021–22

17 During 2021–22, 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 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 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 –
 - preparing the related subsidiary legislation and amending the Trade Marks Rules (Cap. 559A) to provide for new procedures in handling applications filed under the international registration system;
 - building the required 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 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

	2019–20 (Actual) (\$m)	2020–21 (Original) (\$m)	2020–21 (Revised) (\$m)	2021–22 (Estimate) (\$m)
Programme				
(1) Statutory Functions	132.3	132.8	138.4	158.1
(2) Protection of Intellectual Property	57.5	63.1	57.2	59.0
	189.8	195.9	195.6 (–0.2%)	217.1 (+11.0%)
				(or +10.8% on 2020–21 Original)

Analysis of Financial and Staffing Provision

Programme (1)

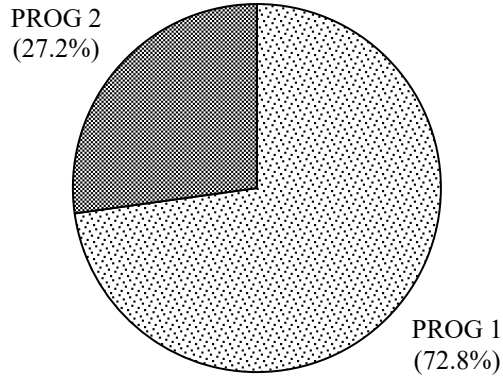
Provision for 2021–22 is \$19.7 million (14.2%) higher than the revised estimate for 2020–21. This is mainly due to the increased requirements in salaries, personnel related expenses and general departmental expenses.

Programme (2)

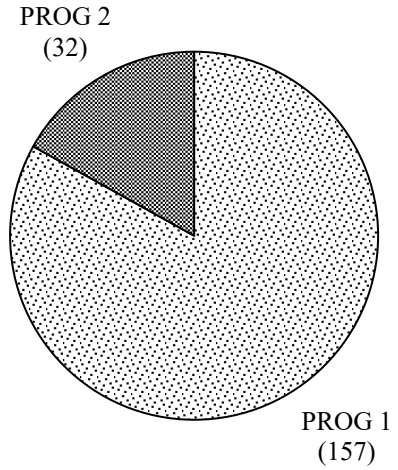
Provision for 2021–22 is \$1.8 million (3.1%) higher than the revised estimate for 2020–21. This is due to the increased requirements in salaries and personnel related expenses.

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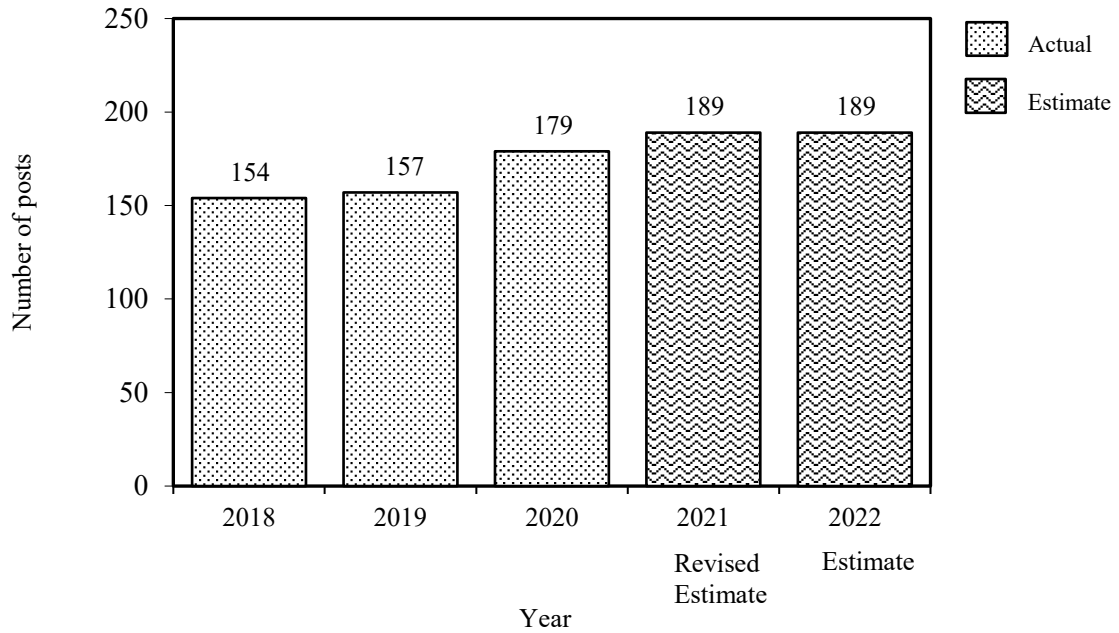
*Allocation of provision
to programmes
(2021-22)*



*Staff by programme
(as at 31 March 2022)*



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



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Sub-head (Code)	Actual expenditure 2019–20	Approved estimate 2020–21	Revised estimate 2020–21	Estimate 2021–22	
	\$'000	\$'000	\$'000	\$'000	
Operating Account					
Recurrent					
000	Operational expenses	189,824	195,933	195,552	217,122
	Total, Recurrent.....	<u>189,824</u>	<u>195,933</u>	<u>195,552</u>	<u>217,122</u>
	Total, Operating Account	<u>189,824</u>	<u>195,933</u>	<u>195,552</u>	<u>217,122</u>
<hr/>					
	Total Expenditure	<u><u>189,824</u></u>	<u><u>195,933</u></u>	<u><u>195,552</u></u>	<u><u>217,122</u></u>

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Details of Expenditure by Subhead

The estimate of the amount required in 2021–22 for the salaries and expenses of the Intellectual Property Department is \$217,122,000. This represents an increase of \$21,570,000 over the revised estimate for 2020–21 and \$27,298,000 over the actual expenditure in 2019–20.

Operating Account

Recurrent

2 Provision of \$217,122,000 under *Subhead 000 Operational expenses* is for the salaries, allowances and other operating expenses of the Intellectual Property Department. It represents an increase of \$21,570,000 (11%) over the revised estimate for 2020–21. This is mainly due to the increased requirements in salaries, personnel related expenses and general departmental expenses.

3 The establishment as at 31 March 2021 will be 189 posts. No change in establishment is expected in 2021–22. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2021–22, 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:

	2019–20 (Actual) (\$'000)	2020–21 (Original) (\$'000)	2020–21 (Revised) (\$'000)	2021–22 (Estimate) (\$'000)
Personal Emoluments				
- Salaries	135,255	136,977	138,535	147,753
- Allowances	1,879	3,862	1,865	2,884
- Job-related allowances.....	—	1	1	1
Personnel Related Expenses				
- Mandatory Provident Fund contribution	325	256	310	468
- Civil Service Provident Fund contribution	8,708	10,415	10,177	11,124
Departmental Expenses				
- General departmental expenses	29,913	30,022	31,064	40,492
Other Charges				
- Publicity and educational programmes	13,744	14,400	13,600	14,400
	189,824	195,933	195,552	217,122