

## Head 78 — INTELLECTUAL PROPERTY DEPARTMENT

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

**Estimate 2015–16** ..... **\$137.5m**

**Establishment ceiling 2015–16** (notional annual mid-point salary value) representing an estimated 129 non-directorate posts as at 31 March 2015 and as at 31 March 2016..... **\$78.1m**

In addition, there will be an estimated ten directorate posts as at 31 March 2015 and as at 31 March 2016.

### 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

	2013–14 (Actual)	2014–15 (Original)	2014–15 (Revised)	<b>2015–16 (Estimate)</b>
Financial provision (\$m)	92.0	98.2	99.0 (+0.8%)	<b>99.6</b> (+0.6%)
				(or +1.4% on 2014–15 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 involve:

- examining trademark applications, conducting registrability and opposition hearings, maintaining the register of trademarks and making it available for public search;
- examining patent applications, granting short-term patents, registering patents granted by 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 2014, the proportions of electronic filings for trademark, patent and design applications were 56 per cent, 73 per cent and 69 per cent respectively.

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

### *Targets*

	Target	2013 (Actual)	2014 (Actual)	2015 (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	88	84	80
delivering hearing decisions on trademarks within six months (%).....	96	100	99	97
<i>For patents under the Patents Ordinance (Cap. 514)</i>				
processing standard patent applications within ten days (%)§ .....	86	88	88	86
processing short-term patent applications within ten days (%)§ .....	86	89	90	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.

### *Indicators*

	2013 (Actual)	2014 (Actual)	2015 (Estimate)
<i>For trademarks under the Trade Marks Ordinance</i>			
applications received.....	37 092	40 063	40 000
applications successfully registered .....	31 464	34 251	31 300
first response issued for trademark applications .....	40 581	39 283	39 000
second response issued for trademark applications .....	4 582	5 209	4 800
hearing decisions issued.....	206	172	170
<i>For patents under the Patents Ordinance</i>			
applications for standard patents received .....	13 916	12 542	13 000
applications for short-term patents received .....	552	587	570
standard patents granted.....	6 564	5 932	5 270
short-term patents granted.....	538	522	490
<i>For designs under the Registered Designs Ordinance</i>			
applications received.....	2 336	2 453	2 470
designs registered.....	4 765	4 300	4 400
<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 2015–16*

6 During 2015–16, the Department will continue to meet the challenges associated with the increased filing of trademark applications and requests for search of records/preliminary advice on registrability in the provision of quality registration services to the public.

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### Programme (2): Protection of Intellectual Property

	2013–14 (Actual)	2014–15 (Original)	2014–15 (Revised)	2015–16 (Estimate)
Financial provision (\$m)	29.6	35.3	36.8 (+4.2%)	37.9 (+3.0%)  (or +7.4% on 2014–15 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 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 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; and
- strengthening co-operation with the Guangdong Province and the Pearl River Delta region so as to assist Hong Kong SMEs operating in the Mainland in protecting and managing their IP assets.

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 2014, nine trade associations with 951 retail merchants, covering 6 727 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 the “I Pledge” Original Movies and Music Event on World Intellectual Property Day and the “Respect Copyright” Campaign.

10 The Department has continued its primary and secondary school visits programme into the 18th year with the aim of promoting respect for IP rights in the younger generation. In 2014, this programme covered 72 schools and 15 367 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 seminars in tertiary institutions. In 2014, the interactive drama programme covered 104 schools and 30 521 students.

11 SMEs have remained one of the prime targets of our promotion and education efforts. Through seminars 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 The Government set up the Working Group on IP Trading in March 2013 to advise on the overall strategies to promote the development of Hong Kong as a premier IP trading hub in the region, and to identify appropriate policy and other support measures. To this end, the Working Group on IP Trading endorsed in November 2013 an overall strategic framework encompassing 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. Since then, the Working Group on IP Trading has been exploring specific policies and other support measures under each strategic area for promoting Hong Kong as a regional IP trading hub. The Department has supported its work by organising activities and briefings for facilitating and promoting the development of IP trading in Hong Kong, carrying out a survey on IP trading activities in Hong Kong, and working out further support measures.

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13 The Department also conducted a survey on public awareness of IP right protection from October to December 2014 to evaluate the change in awareness level on IP. The result of the survey is expected to be released in the first quarter of 2015.

14 On the issue of copyright protection, the Government has been working with stakeholders to update the copyright regime in the digital environment to ensure that it would continue to strike a balance between the legitimate interests of copyright owners, users and the general public, and to serve the best interest of Hong Kong.

15 Having considered the views received from the public consultation on how to deal with parody appropriately under the copyright regime, the Government introduced the Copyright (Amendment) Bill 2014 into the Legislative Council on 18 June 2014 to update our copyright regime. The Department continued its engagement with various stakeholders and publicity initiatives to explain the legislative proposals to the public.

16 To ensure that proceedings before the Copyright Tribunal can be dealt with efficiently and cost-effectively, a new set of the Copyright Tribunal Rules was being prepared. A two-month consultation exercise on the draft Copyright Tribunal Rules was launched in December 2014 to gauge the views of the public.

17 On the issue of patents, the Department has been intensively engaged in implementing the Government's policy decision to introduce an original grant patent system, refine the short-term patent system and work out possible interim regulatory measures on patent agency services with a view to developing a full-fledged regulatory regime stage by stage, in consultation with the Advisory Committee on Review of the Patent System in Hong Kong.

18 On the trademark regime, in November 2014, the Government commenced a three-month consultation exercise to seek views on the proposed application of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) to Hong Kong.

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

### *Indicators*

	2013 (Actual)	2014 (Actual)	2015 (Estimate)
visits, seminars, conferences and workshops.....	105	94	95
speeches and presentations.....	71	73	75
media interviews, briefings and press conferences.....	22	22	22
school visits#.....	75	72	75

# While the Department has continued to promote the school visits programme as in previous years, the number of school visits conducted depended on the demand and feedback from schools.

### *Matters Requiring Special Attention in 2015–16*

20 During 2015–16, the Department will:

- continue to provide policy, legal and technical advice to the Commerce and Economic Development Bureau on enhancing copyright protection in the digital environment;
- continue to facilitate the Legislative Council's scrutiny of the Copyright (Amendment) Bill 2014;
- take forward the enactment 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 setting up an original grant patent system and refining the short-term patent system in Hong Kong, and regulating local patent practitioners. The plan includes –
  - introducing a bill into the Legislative Council to amend the Patents Ordinance,
  - drawing up legislative proposals on amendment to its subsidiary legislation,
  - providing support to the Legislative Council for scrutinising the legislative proposals, and
  - supporting the Advisory Committee on Review of the Patent System in Hong Kong to further deliberate on options on regulatory measures for local patent practitioners;
- continue to strengthen the trade mark registration system in Hong Kong;
- consider views received from the consultation exercise on the proposed application of the Madrid Protocol to Hong Kong for deciding on the way forward;
- work with stakeholders on the overall strategies and support measures endorsed by the Working Group on IP trading to develop and promote Hong Kong as a premier 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;

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- organise promotion and education activities specially for SMEs with emphasis placed on IP protection and management;
- disseminate information through the Internet on the IP systems in the Mainland, Hong Kong Special Administrative Region and Macao Special Administrative Region;
- 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; 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, to provide appropriate technical assistance to developing and least-developed economies overseas.

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### ANALYSIS OF FINANCIAL PROVISION

	2013-14 (Actual) (\$m)	2014-15 (Original) (\$m)	2014-15 (Revised) (\$m)	2015-16 (Estimate) (\$m)
<b>Programme</b>				
(1) Statutory Functions .....	92.0	98.2	99.0	<b>99.6</b>
(2) Protection of Intellectual Property .....	29.6	35.3	36.8	<b>37.9</b>
	121.6	133.5	135.8 (+1.7%)	<b>137.5</b> <b>(+1.3%)</b>
				<b>(or +3.0% on 2014-15 Original)</b>

#### Analysis of Financial and Staffing Provision

##### Programme (1)

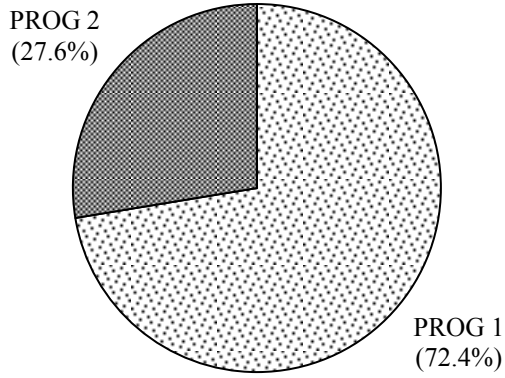
Provision for 2015-16 is \$0.6 million (0.6%) higher than the revised estimate for 2014-15. This is mainly due to the full-year effect of filling vacancies, salary increments for existing staff, and the increased requirements in personnel related expenses, partly offset by the reduced requirements in general departmental expenses.

##### Programme (2)

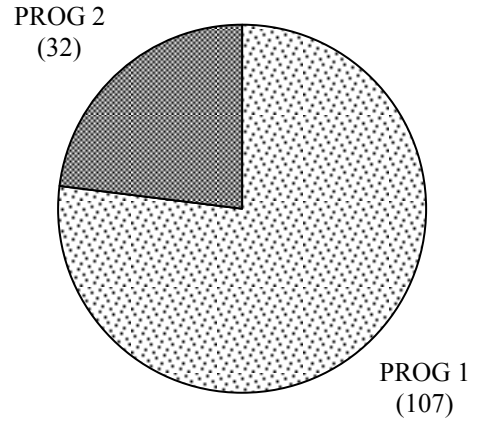
Provision for 2015-16 is \$1.1 million (3.0%) higher than the revised estimate for 2014-15. This is mainly due to the full-year effect of filling vacancies, salary increments for existing staff, and the increased requirements in other charges, partly offset by the reduced requirements in general departmental expenses.

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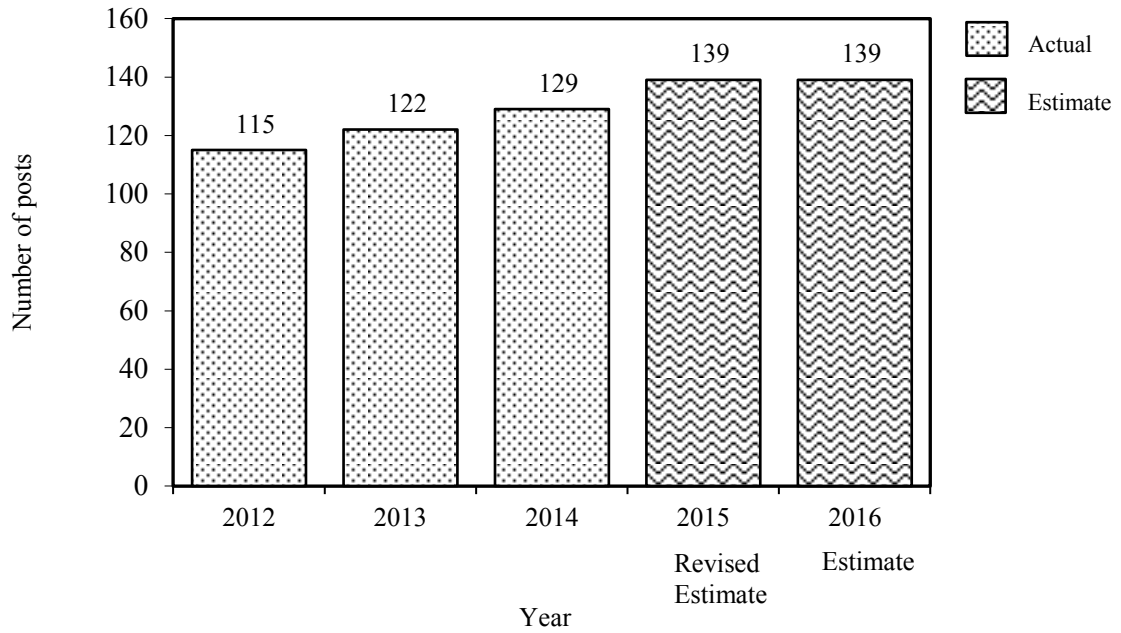
*Allocation of provision to programmes (2015-16)*



*Staff by programme (as at 31 March 2016)*



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



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Sub-head (Code)	Actual expenditure 2013-14	Approved estimate 2014-15	Revised estimate 2014-15	<b>Estimate 2015-16</b>	
	\$'000	\$'000	\$'000	<b>\$'000</b>	
<b>Operating Account</b>					
Recurrent					
000	Operational expenses .....	121,601	133,516	135,768	<b>137,480</b>
	Total, Recurrent .....	121,601	133,516	135,768	<b>137,480</b>
	Total, Operating Account .....	121,601	133,516	135,768	<b>137,480</b>
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	Total Expenditure .....	121,601	133,516	135,768	<b>137,480</b>
		<u>121,601</u>	<u>133,516</u>	<u>135,768</u>	<u><b>137,480</b></u>



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### Details of Expenditure by Subhead

The estimate of the amount required in 2015–16 for the salaries and expenses of the Intellectual Property Department is \$137,480,000. This represents an increase of \$1,712,000 over the revised estimate for 2014–15 and of \$15,879,000 over the actual expenditure in 2013–14.

#### *Operating Account*

#### Recurrent

**2** Provision of \$137,480,000 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 2015 will be 138 permanent posts and one supernumerary post. No net change in establishment is expected in 2015–16. Subject to certain conditions, the controlling officer may under delegated power create or delete non-directorate posts during 2015–16, but the notional annual mid-point salary value of all such posts must not exceed \$78,138,000.

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

	2013–14 (Actual) (\$'000)	2014–15 (Original) (\$'000)	2014–15 (Revised) (\$'000)	<b>2015–16 (Estimate) (\$'000)</b>
Personal Emoluments				
- Salaries.....	76,145	83,090	85,297	<b>89,964</b>
- Allowances.....	3,664	4,524	4,881	<b>5,014</b>
- Job-related allowances.....	—	1	1	<b>1</b>
Personnel Related Expenses				
- Mandatory Provident Fund contribution.....	279	359	407	<b>411</b>
- Civil Service Provident Fund contribution.....	2,813	3,598	3,249	<b>3,801</b>
Departmental Expenses				
- General departmental expenses .....	29,071	32,344	32,633	<b>28,689</b>
Other Charges				
- Publicity and educational programmes.....	9,629	9,600	9,300	<b>9,600</b>
	121,601	133,516	135,768	<b>137,480</b>