

Regulatory Framework for Opening, Operating and Closing a Business

Disclaimer: Any information rendered in this document is for general references only and should not be considered as legal advice. Users are strongly advised to seek independent legal advice if they are in doubt of their legal position.

Market Competition – Innovation

No.	Regulatory Framework	Link
<i>Regulatory Framework for Intellectual Property Rights Protection and Technology Transfer</i>		
1.	Including provisions on intellectual property rights safeguarding public interest in sectors of vital importance to socio-economic and technological development	<ul style="list-style-type: none"> ➤ Cap. 514 Patents Ordinance ➤ Cap. 522 Registered Designs Ordinance ➤ Cap. 528 Copyright Ordinance ➤ Cap. 559 Trade Marks Ordinance
2.	Including provisions on intellectual property-based financing	<ul style="list-style-type: none"> ➤ Part 5, Cap. 514 Patents Ordinance ➤ Parts III and V, Cap. 522 Registered Designs Ordinance ➤ Part II, Cap. 528 Copyright Ordinance ➤ Part IV, Cap. 559 Trade Marks Ordinance
3.	Guidelines provided by a public agency for setting fair, reasonable and non-discriminatory patent royalties	➤ Part II, Cap. 528 Copyright Ordinance
4.	Intellectual Property Office (IPO) offering pro-bono or low-cost legal assistance to potential Intellectual Property (IP) licensees	➤ Free IP Consultation Service
<i>Copyrights</i>		
5.	Legal provisions for the establishment of Collective Management Organizations (CMOs)	<ul style="list-style-type: none"> ➤ Sections 145(4), 146-152, Cap. 528 Copyright Ordinance ➤ Cap. 528A Registration of Copyright Licensing Bodies Regulation

No.	Regulatory Framework	Link
6.	Public authorities can employ civil or administrative procedures to enforce copyright protection	➤ Sections 107-117, 121 and 134, Cap. 528 Copyright Ordinance
7.	Public authorities can employ criminal procedures to enforce copyright protection	➤ Divisions VI and VII of Part II, Sections 118, 118A, 119, 119A, 119B, 120, 120A and 273A, Cap. 528 Copyright Ordinance ➤ Sections 21-23, 31C, 31E and 36B, Cap. 544 Prevention of Copyright Piracy Ordinance
8.	Public authorities can employ provisional measures to enforce copyright protection	➤ Sections 131-133, Cap. 528 Copyright Ordinance
9.	Allowing arbitrating copyright disputes, as long as they do not affect third party rights	➤ Sections 103B-103D, Cap. 609 Arbitration Ordinance
10.	Including provisions on copyright licensing procedures	➤ Part II, Cap. 528 Copyright Ordinance
Patents		
11.	Explicitly defining patentability requirements (novelty, inventive step, industrial applicability) for inventions	➤ Sections 9A-9D, Cap. 514 Patents Ordinance
12.	Duration of the patent protection is 20 years	➤ Sections 39(1) and 126(1), Cap. 514 Patents Ordinance
13.	Stipulating that the patent protection is valid from the filing date of application in case patent registration is granted	➤ Sections 39(1) and 126(1), Cap. 514 Patents Ordinance
14.	Defining experimental use exception or research exemption for patents	➤ Section 75, Cap. 514 Patents Ordinance
15.	Post-granting opposition rights available for patents	➤ Sections 44, 91 and 92, Cap. 514 Patents Ordinance

No.	Regulatory Framework	Link
16.	Providing the opportunity for third parties to submit complementary information on a patent application through a third-party observation system (also known as an Information Submission System)	➤ Sections 37R and 126A, Cap. 514 Patents Ordinance
17.	Public authorities can employ civil or administrative procedures to enforce patent rights protection	➤ Part 11, Cap. 514 Patents Ordinance
18.	Public authorities can employ provisional measures to enforce patent rights protection	➤ Sections 80 and 129, Cap. 514 Patents Ordinance
19.	Allowing arbitrating patent disputes, as long as they do not affect third party rights	➤ Sections 103B-103D, Cap. 609 Arbitration Ordinance
20.	Mandating to record a change of the patent owner to ensure that patent rights remain enforceable against third-party infringement in cases of patent ownership transfer	➤ Sections 52, 72(9) and 87, Cap. 514 Patents Ordinance
21.	Specifying a timeframe during which a record of a change of the patent owner must be made	➤ Sections 72(9) and 87, Cap. 514 Patents Ordinance
22.	Including provisions on patent licensing procedures	➤ Sections 50 and 52 of Part 5, Sections 64-68 of Part 8, Part 9, Part 9A and Part 9B, Cap. 514 Patents Ordinance
23.	Patent licensing regime explicitly providing that patent holders may grant temporary licenses/waivers	➤ No related restriction under Cap. 514 Patents Ordinance
24.	Requiring the public disclosure of a patent	➤ Sections 27(3), 37X(2) and 118(2), Cap. 514 Patents Ordinance

No.	Regulatory Framework	Link
25.	Requiring the disclosure of patent licensing agreements to the intellectual property office	➤ Sections 52, 72(9) and 87, Cap. 514 Patents Ordinance
Trademarks		
26.	Duration of the trademark protection is 100 years	➤ Section 49, Cap. 559 Trade Marks Ordinance
27.	Providing for a trademark use obligation	➤ Sections 38(3), 52 and 60(2), Cap. 559 Trade Marks Ordinance
28.	Stipulating a grace period after trademark registration before the use obligation comes into effect	➤ Section 52(2), Cap. 559 Trade Marks Ordinance
29.	Pre-registration opposition procedures available for trademarks	➤ Section 44, Cap. 559 Trade Marks Ordinance
30.	Post-registration opposition procedures available for trademarks	➤ Section 14 of Schedule 3, Section 16 of Schedule 4 and Sections 53, Cap. 559 Trade Marks Ordinance
31.	Providing protection for well-known marks	➤ Sections 4, 12(4)(a), 18(4)(b), 63 and Schedule 2, Cap. 559 Trade Marks Ordinance
32.	Public authorities can employ civil or administrative procedures to enforce trademark rights protection	➤ Part III and Section 90, Cap. 559 Trade Marks Ordinance
33.	Public authorities can employ criminal procedures to enforce trademark rights protection	➤ Part XII, Part XIIA and Sections 93-96, Cap. 559 Trade Marks Ordinance ➤ Sections 9 and 12, Cap. 362 Trade Descriptions Ordinance
34.	Public authorities can employ provisional measures to enforce trademark rights protection	➤ Part III, Sections 63, 64(6), 65(4) and Part XIIA, Cap. 559 Trade Marks Ordinance

No.	Regulatory Framework	Link
35.	Allowing arbitrating trademark disputes, as long as they do not affect third party rights	➤ Sections 103B-103D, Cap. 609 Arbitration Ordinance
36.	Including provisions specifying procedures on trademark licensing agreements	➤ Section 33, Cap. 559 Trade Marks Ordinance
37.	Requiring disclosure of trademark licensing agreements to the intellectual property office	➤ Section 29, Cap. 559 Trade Marks Ordinance
<i>University-Industry Collaboration</i>		
38.	Including guidance on a grace period for the publication of research results that may compromise patentability prior to filing a patent application	➤ Sections 11A, 37B and 109, Cap. 514 Patents Ordinance ➤ Section 2D, Cap. 514C Patents (General) Rules
<i>Fair Access to Innovation</i>		
39.	Including provisions enabling open science	➤ Sections 20, 37Q, 77 and 118, Cap. 514 Patents Ordinance ➤ Sections 38, 39, 41A, etc., Cap. 528 Copyright Ordinance
40.	Adopting a risk-based approach to AI regulation	➤ Ethical Artificial Intelligence Framework
41.	Guidelines on an ethical impact assessment of AI systems	➤ Chapter 5, Ethical Artificial Intelligence Framework

Public Services that Facilitate Trade

[Including services provided by government bureaux and departments, and other public organisations]

Disclaimer: There are other digital public services that aim to facilitate business and compliance in Hong Kong. Please refer to the webpages of individual bureaux / departments / public organisations for details.

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No.	Public Services	Link
<i>Patents</i>		
1.	Functioning third-party observation system (also known as an Information Submission System) where patent holders or affected third parties may submit complementary information on a patent application	➤ Intellectual Property Department Electronic Filing Services
<i>Digitalization of IP Services</i>		
2.	Electronic platform, such as a license of rights database or IP marketplace, connecting potential buyers and sellers of IP rights	➤ Asia IP Exchange
3.	IPO has a publicly accessible electronic database (available online) to identify locally registered intellectual property rights, their content, ownership, and filing date	➤ Online Search System
4.	IPO has an online platform allowing IP holders to manage the details of their rights electronically	➤ Intellectual Property Department Electronic Filing Services

No.	Public Services	Link
<i>Innovation Systems</i>		
5.	Government agencies conducting public consultations when developing IP laws and regulations	➤ Consultation Papers
6.	Technology transfer offices responsible for the process of commercializing research that takes place in universities and/or public research organizations	<ul style="list-style-type: none"> ➤ The University of Hong Kong Technology Transfer Office ➤ City University of Hong Kong Knowledge Transfer Office ➤ Hong Kong Baptist University Knowledge Transfer Office ➤ Lingnan University Office of Research and Knowledge Transfer ➤ The Chinese University of Hong Kong Office of Research and Knowledge Transfer Services ➤ The Education University of Hong Kong Knowledge Transfer Sub-office ➤ The Hong Kong Polytechnic University Knowledge Transfer and Entrepreneurship Office ➤ The Hong Kong Polytechnic University Research and Innovation Office ➤ The Hong Kong University of Science and Technology Office of Knowledge Transfer
7.	Innovation incubators in the HKSAR	➤ Hong Kong Science & Technology Parks Corporation - Incubation
8.	Innovation accelerators in the HKSAR	➤ Hong Kong Science & Technology Parks Corporation - Acceleration
9.	Public research organizations providing technical assistance to private sector led innovation incubators and/or accelerators	➤ Research & Development Centres

No.	Public Services	Link
10.	Science and technology parks in the HKSAR	➤ Hong Kong Science & Technology Parks Corporation
11.	Innovation clusters in the HKSAR	➤ Hong Kong Science & Technology Parks Corporation