



Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)¹

Select Legislative Instrument 2006 No. 355

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Designs Act 2003*, the *Patents Act 1990*, the *Plant Breeder's Rights Act 1994* and the *Trade Marks Act 1995*.

Dated 13 December 2006

P. M. JEFFERY
Governor-General

By His Excellency's Command

IAN MACFARLANE
Minister for Industry, Tourism and Resources

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1 Name of Regulations

These Regulations are the *Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)*.

2 Commencement

These Regulations commence on 1 March 2007.

3 Amendment of *Designs Regulations 2004*

Schedule 1 amends the *Designs Regulations 2004*.

4 Amendment of *Patents Regulations 1991*

Schedule 2 amends the *Patents Regulations 1991*.

5 Amendment of *Plant Breeder's Rights Regulations 1994*

Schedule 3 amends the *Plant Breeder's Rights Regulations 1994*.

6 Amendment of *Trade Marks Regulations 1995*

Schedule 4 amends the *Trade Marks Regulations 1995*.

Schedule 1 Amendments of *Designs Regulations 2004*

(regulation 3)

[1] Schedule 3, Part 1

substitute

Part 1 Costs

Item	Matter	Amount
1	Preparing notice of opposition	\$200
2	Receiving and perusing notice of opposition	\$130
3	Preparation of case for hearing	\$525
4	Attendance at hearing by:	\$260 an hour, but not more than \$1 170 a day
	(a) a registered patent attorney without counsel; or	
	(b) a registered trade marks attorney without counsel; or	
	(c) a solicitor without counsel	
5	Attendance at hearing by:	\$200 an hour, but not more than \$900 a day
	(a) a registered patent attorney instructing counsel; or	
	(b) a registered trade marks attorney instructing counsel; or	
	(c) a solicitor instructing counsel	

Item	Matter	Amount
6	Counsel fees for attendance at hearing	\$300 an hour, but not more than \$1 350 a day

[2] Schedule 3, Part 2, paragraph 2 (b)*omit*

\$405

insert

\$700

[3] Schedule 3, Part 2, paragraph 3 (b)*omit*

not less than \$95, or more than \$475,

insert

not less than \$140, or more than \$700,

[4] Schedule 3, Part 2, paragraph 4 (b)*omit*

not less than \$54, or more than \$89,

insert

not less than \$80, or more than \$130,

[5] Schedule 4, item 14, column 3, paragraph (a)*omit*

\$25

insert

\$50

[6] Schedule 4, item 15, column 3, paragraph (a)*omit*

\$25

insert

\$50

[7] Schedule 4, item 16, column 3*omit*

\$25

insert

\$50

Schedule 2 Amendments of *Patents Regulations 1991*

(regulation 4)

[1] Schedule 7, Part 2, item 204, column 3

omit

\$240

insert

\$300

[2] Schedule 7, Part 2, item 205, column 3

omit

\$340

insert

\$420

[3] Schedule 7, Part 2, item 206, column 3

omit

\$240

insert

\$300

[4] Schedule 7, Part 2, item 207, column 3

omit

\$290

insert

\$370

[5] Schedule 7, Part 2, item 208*substitute*

- 208 Filing a request under paragraph 101A (b) of the Act, by a person other than the patentee of an innovation patent, for examination of the complete specification relating to the innovation patent:
- | | |
|---|-------|
| (a) payable by the person making the request; and | \$180 |
| (b) payable by the patentee | \$180 |

[6] Schedule 7, Part 2, item 210, column 3*omit*

\$1 300

insert

\$800

[7] Schedule 7, Part 2, items 211, 212 and 213*substitute*

- 211 Continuation fee under paragraph 142 (2) (d) of the Act, or renewal fee under paragraph 143 (a) of the Act, for:
- | | |
|---------------------------------|-------|
| (a) the fifth anniversary | \$250 |
| (b) the sixth anniversary | \$250 |
| (c) the seventh anniversary | \$250 |
| (d) the eighth anniversary | \$250 |
| (e) the ninth anniversary | \$250 |
| (f) the tenth anniversary | \$400 |
| (g) the eleventh anniversary | \$400 |
| (h) the twelfth anniversary | \$400 |
| (i) the thirteenth anniversary | \$400 |
| (j) the fourteenth anniversary | \$400 |
| (k) the fifteenth anniversary | \$900 |
| (l) the sixteenth anniversary | \$900 |
| (m) the seventeenth anniversary | \$900 |

	(n) the eighteenth anniversary	\$900
	(o) the nineteenth anniversary	\$900
	(p) if an extension of the term of a standard patent is granted under section 76 of the Act:	
	(i) the twentieth anniversary	\$2 000
	(ii) each subsequent anniversary during the period of extension	\$2 000
	and, in addition, if the fee is not paid on or before the anniversary but is paid within 6 months after the anniversary	\$100 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid
212	Renewal fee under paragraph 143A (d) of the Act for:	
	(a) the second anniversary	\$100
	(b) the third anniversary	\$100
	(c) the fourth anniversary	\$100
	(d) the fifth anniversary	\$160
	(e) the sixth anniversary	\$200
	(f) the seventh anniversary	\$230
	and, in addition, if the fee is not paid on or before the anniversary but is paid within 6 months after the anniversary	\$100 for each month, or part of a month, in the period between the anniversary and the day when the fee is paid
213	Acceptance of a patent request and complete specification under section 49 of the Act:	
	(a) for acceptance; and	\$140
	(b) if more than 20 claims are contained in the specification at acceptance	\$100 for each claim in excess of 20

[8] Schedule 7, Part 2, item 214, column 3

omit

\$550

insert

\$600

[9] Schedule 7, Part 2, item 217, column 3

omit

\$550

insert

\$600

[10] Schedule 7, Part 2, item 218, column 3

omit

\$150

insert

\$500

[11] Schedule 7, Part 2, item 219, column 3

omit

\$500

insert

\$600

[12] Schedule 7, Part 2, item 220, column 3

omit

\$500

insert

\$600

[13] Schedule 7, Part 2, item 222

substitute

- 222 Filing a request for leave to amend: \$250
- (a) a complete specification relating to an application for a standard patent, before a request for examination is filed or after the complete specification is accepted; or
 - (b) a complete specification relating to a standard patent

[14] Schedule 7, Part 2, item 224, column 3

omit

\$200

insert

\$250

[15] Schedule 7, Part 2, item 229, column 3

omit

\$500

insert

\$600

[16] Schedule 7, Part 2, item 230, column 3

omit

\$500

insert

\$600

[17] Schedule 7, Part 2, item 231*substitute*

- 231 Appearing at a hearing:
- | | |
|---|---|
| (a) for the first day | \$600 less any amount paid under item 219, 220, 229 or 230 in relation to the hearing |
| (b) if the hearing runs for more than a day | \$600 for each day, or part of a day, after the first day |

[18] Schedule 7, Part 2, item 233, column 3*omit*

\$25

insert

\$50

[19] Schedule 7, Part 2, item 234*substitute*

- 234 Requesting the supply of a copy of a document other than a patent specification:
- | | |
|--|--|
| (a) for more than 6 documents from a single source and supplied at the same time | \$200 plus \$1 per page for each document in excess of 6 documents |
| (b) otherwise | \$50 per document |

[20] Schedule 7, Part 2, item 235, column 3*omit*

\$25

insert

\$50

[21] Schedule 7, Part 2, item 236, column 3

omit

\$1 000

insert

\$1 400

[22] Schedule 7, Part 2, item 238, column 3

omit

\$1 000

insert

\$1 300

[23] Schedule 7, Part 3, item 301, column 3

omit

\$100

insert

\$150

[24] Schedule 7, Part 3, item 302, column 3

omit

\$1 200

insert

\$1 600

[25] Schedule 7, Part 3, item 303, column 3

omit

\$1 200

insert

\$1 600

[26] Schedule 7, Part 3, item 304, column 3*omit*

\$1 000

insert

\$780

[27] Schedule 7, Part 3, item 306, column 3*omit*

\$25

insert

\$50

[28] Schedule 8, Part 1*substitute***Part 1 Costs**

Column 1 Item	Column 2 Matter	Column 3 Amount
1	Notice of opposition	\$200
2	Statement of grounds and particulars	\$750
3	Receiving and perusing statement of grounds and particulars	\$500
4	Evidence in support	\$1 500
5	Receiving and perusing notice of opposition	\$200
6	Receiving and perusing evidence in support	\$750
7	Evidence in answer	\$1 500
8	Receiving and perusing evidence in answer	\$750
9	Evidence in reply	\$750
10	Receiving and perusing evidence in reply	\$350
11	Preparation of case for hearing	\$1 000
2006, 355	<i>Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)</i>	13

Column 1 Item	Column 2 Matter	Column 3 Amount
12	Attendance at hearing by registered patent attorney or solicitor without counsel	\$260 an hour, but not more than \$1 170 a day
13	Attendance at hearing by registered patent attorney or solicitor instructing counsel	\$200 an hour, but not more than \$900 a day
14	Counsel fees for attendance at a hearing	\$300 an hour, but not more than \$1 350 a day

[29] Schedule 8, Part 2, paragraph 2 (b)*omit*

\$405

insert

\$700

[30] Schedule 8, Part 2, paragraph 3 (b)*omit*

not less than \$95, or more than \$475,

insert

not less than \$140, or more than \$700,

[31] Schedule 8, Part 2, paragraph 4 (b)*omit*

not less than \$54, or more than \$89,

insert

not less than \$80, or more than \$130,

Schedule 3 **Amendment of *Plant Breeder's Rights Regulations 1994***

(regulation 5)

[1] Schedule, items 13 and 14

omit

Schedule 4 **Amendments of *Trade Marks Regulations 1995***

(regulation 6)

[1] **Schedule 8, Part 1**

substitute

Part 1 Costs

Item	Matter	Amount
1	Notice of opposition	\$200
2	Evidence in support	\$700
3	Receiving and perusing notice of opposition	\$130
4	Receiving and perusing evidence in support	\$300
5	Evidence in answer	\$700
6	Receiving and perusing evidence in answer	\$210
7	Evidence in reply	\$350
8	Receiving and perusing evidence in reply	\$130
9	Preparation of cases for hearing	\$525
10	Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor without counsel	\$260 an hour, but not more than \$1 170 a day
11	Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor instructing counsel	\$200 an hour, but not more than \$900 a day
12	Counsel fees for attendance at a hearing	\$300 an hour, but not more than \$1 350 a day

[2] Schedule 8, Part 2, paragraph 2 (b)*omit*

\$405

insert

\$700

[3] Schedule 8, Part 2, paragraph 3 (b)*omit*

not less than \$95, or more than \$475,

insert

not less than \$140, or more than \$700,

[4] Schedule 8, Part 2, paragraph 4 (b)*omit*

not less than \$54, or more than \$89,

insert

not less than \$80, or more than \$130,

[5] Schedule 9, items 1, 2 and 3*substitute*

- 1 Filing an application to register a trade mark under subsection 27 (5) or 45 (1) of the Act in respect of goods or services in 1 or more of the prescribed classes:
 - (a) by an electronic means approved by the Registrar for this paragraph \$120 for each class
and, in addition, if the goods and services are specified in the application otherwise than by using the official Goods and Services pick list \$40 for each class
 - (b) by AFS request mentioned in regulation 4.2A \$90 for each class
 - (c) by another means \$180 for each class

-
- 3 Filing an application to register 2 or more trade marks as a series under section 51 of the Act:
- (a) by an electronic means approved by the Registrar for this paragraph: \$270
 - and, in addition, if the goods and services are specified in the application otherwise than by using the official Goods and Services pick list \$40
 - (b) by other means \$330

[6] Schedule 9, item 4, column 3

omit

\$150 for each class

insert

\$180 for each class

[7] Schedule 9, item 7

substitute

- 7 Filing a notice of opposition under:
- (a) section 52 of the Act; or \$250
 - (b) section 96 of the Act (including section 96 as applied by regulation 17A.48); or \$150
 - (c) subsection 224 (6) of the Act; or \$250
 - (d) regulation 17A.29 \$250

[8] Schedule 9, items 9, 10, 11 and 12

substitute

- 9 Single registration of a trade mark under section 68 of the Act in respect of goods or services in 1 or more of the prescribed classes \$250 for each class

-
- | | | |
|----|---|---|
| 10 | Renewal of a single registration of a trade mark under section 75 of the Act in respect of goods or services in 1 or more of the prescribed classes | \$300 for each class |
| | and, in addition, if the request for renewal is made within 12 months after the expiry date to which section 79 of the Act refers | \$100 for each class for each month, or part of a month, after the expiry date |
| 11 | Each potential renewal period requested by a person under section 80D of the Act in respect of goods or services in 1 or more of the prescribed classes | \$300 for each class |
| 12 | Each potential renewal period requested by a person under paragraph 80G (1) (b) of the Act in respect of goods and services in 1 or more of the prescribed classes | \$300 for each class |
| | and, in addition, if the request for renewal is made within 10 months after the end of the prescribed period, regardless of the number of potential renewal periods requested | \$100 for each class for each month, or part of a month, after the end of the prescribed period |

[9] Schedule 9, item 13, column 3*omit*

\$150

insert

\$250

[10] Schedule 9, item 21, column 3*omit*

\$25

insert

\$50

[11] Schedule 9, after item 21

insert

- 21A Supply of a duplicate of a certificate signed \$250
by the Registrar under section 211 of the Act

[12] Schedule 9, item 22, column 3

omit

\$25

insert

\$50

[13] Schedule 9, item 24

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.