



Intellectual Property Legislation Amendment (Fee Review) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 17 August 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Greg Hunt
Minister for Industry, Innovation and Science

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1 Name

This is the *Intellectual Property Legislation Amendment (Fee Review) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	10 October 2016.	10 October 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Designs Act 2003*;
- (b) the *Patents Act 1990*;
- (c) the *Plant Breeder's Rights Act 1994*;
- (d) the *Trade Marks Act 1995*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments relating to designs

Designs Regulations 2004

1 Subregulations 11.01(7) and (8)

Repeal the subregulations.

2 Subparagraph 11.06(1)(a)(ii)

Omit “, 9 or 10”, substitute “or 9”.

3 Subregulation 11.09(1)

Omit “, 14, 15 or 16”, substitute “or 14”.

4 Paragraph 11.10(1)(a)

Omit “, 9 or 10”, substitute “or 9”.

5 Schedule 4 (heading)

Repeal the heading, substitute:

Schedule 4—Fees

Note: See regulation 11.01.

1 Table of fees

The following table sets out fees that are payable in relation to matters specified in the table.

6 Schedule 4 (table item 9, column headed “Fee”)

Omit “\$550”, substitute “\$600”.

7 Schedule 4 (table item 10)

Repeal the item.

8 Schedule 4 (cell at table item 12, column headed “Fee”)

Repeal the cell, substitute:

\$600 for each day, or part of a day, less any amount paid under item 11 in relation to the hearing

9 Schedule 4 (table items 13, 14, 15 and 16)

Repeal the items, substitute:

- | | | |
|----|---|------------------------|
| 13 | Filing a request for the supply, by the Registrar, of not more than 3 documents relating to a single design application or a single design number | \$50 for each document |
|----|---|------------------------|
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14	Filing a request for the supply, by the Registrar, of 4 or more documents relating to a single design application or a single design number	\$200 for each request
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Part 2—Amendments relating to patents

Patents Regulations 1991

10 Paragraph 22.2(2)(c)

Repeal the paragraph.

11 Subregulations 22.2(7) and (8)

Repeal the subregulations.

12 Subregulation 22.2C(1)

Omit “217, 218, 219, 220,”, substitute “218,”.

13 Subregulation 22.2H(1)

Omit “229, 233, 234 or 235”, substitute “233 or 234”.

14 Schedule 7 (note to Schedule heading)

Repeal the note, substitute:

Note: See regulations 22.2, 22.3 and 22.4.

15 Part 1 of Schedule 7 (after the heading)

Insert:

1 Table of fees—patent attorneys

The following table sets out fees that are payable in relation to matters specified in the table.

16 Part 2 of Schedule 7 (after the heading)

Insert:

2 Table of fees—general fees

The following table sets out fees that are payable in relation to matters specified in the table.

17 Part 2 of Schedule 7 (table item 206, column headed “Fee”)

Omit “\$1,400”, substitute “\$950”.

18 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (g)(i))

Omit “\$500”, substitute “\$550”.

19 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (g)(ii))

Omit “\$550”, substitute “\$600”.

20 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (h)(i))

Omit “\$500”, substitute “\$550”.

21 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (h)(ii))

Omit “\$550”, substitute “\$600”.

22 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (i)(i))

Omit “\$500”, substitute “\$550”.

23 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (i)(ii))

Omit “\$550”, substitute “\$600”.

24 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (j)(i))

Omit “\$500”, substitute “\$550”.

25 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (j)(ii))

Omit “\$550”, substitute “\$600”.

26 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (k)(i))

Omit “\$500”, substitute “\$550”.

27 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (k)(ii))

Omit “\$550”, substitute “\$600”.

28 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (l)(i))

Omit “\$1 120”, substitute “\$1 250”.

29 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (l)(ii))

Omit “\$1 170”, substitute “\$1 300”.

30 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (m)(i))

Omit “\$1 120”, substitute “\$1 250”.

31 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (m)(ii))

Omit “\$1 170”, substitute “\$1 300”.

32 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (n)(i))

Omit “\$1 120”, substitute “\$1 250”.

33 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (n)(ii))

Omit “\$1 170”, substitute “\$1 300”.

34 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (o)(i))

Omit “\$1 120”, substitute “\$1 250”.

35 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (o)(ii))

Omit “\$1 170”, substitute “\$1 300”.

36 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (p)(i))

Omit “\$1 120”, substitute “\$1 250”.

37 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (p)(ii))

Omit “\$1 170”, substitute “\$1 300”.

38 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (q)(i))

Omit “\$2 300”, substitute “\$2 550”.

39 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (q)(ii))

Omit “\$2 350”, substitute “\$2 600”.

40 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (q)(iii))

Omit “\$2 300”, substitute “\$2 550”.

41 Part 2 of Schedule 7 (table item 211, column headed “Fee”, fee relating to subparagraph (q)(iv))

Omit “\$2 350”, substitute “\$2 600”.

42 Part 2 of Schedule 7 (table item 215, column headed “Fee”)

Omit “\$550”, substitute “\$600”.

43 Part 2 of Schedule 7 (table items 217, 219, 220 and 229)

Repeal the items.

44 Part 2 of Schedule 7 (table item 231, column headed “Fee”, fee relating to paragraph (a))

Omit “219, 220, 229 or”.

45 Part 2 of Schedule 7 (table item 231A, column headed “Fee”)

Omit “219, 220, 229 or”.

46 Part 2 of Schedule 7 (table items 233, 234 and 235)

Repeal the items, substitute:

233	Requesting the supply of not more than 3 documents relating to a single patent application or a single patent	\$50 for each document
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234	Requesting the supply of 4 or more documents relating to a single patent application or a single patent	\$200 for each request
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47 Part 2 of Schedule 7 (table item 236, column headed “Fee”)

Omit “\$2 200”, substitute “\$950”.

48 Part 3 of Schedule 7 (after the heading)

Insert:

3 Table of fees—general fees for international applications

The following table sets out fees that are payable in relation to matters specified in the table.

49 Part 3 of Schedule 7 (table item 307)

Repeal the item.

50 Part 4 of Schedule 7 (after the heading)

Insert:

4 Table of fees—fees payable for benefit of International Bureau

The following table sets out fees that are payable in relation to matters specified in the table.

51 Part 4 of Schedule 7 (table item 403)

Repeal the item, substitute:

403	The international filing fee is reduced by the following amount if the international application is, as provided for in the Administrative Instructions, filed: (a) in electronic form, the request not being in character coded format—100 Swiss francs; (b) in electronic form, the request being in character coded format—200 Swiss francs; (c) in electronic form, the request, description, claims and abstract being in character coded format—300 Swiss francs.
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Part 3—Amendments relating to plant breeder's rights

Plant Breeder's Rights Regulations 1994

52 Subregulation 3(2)

Omit “the Schedule”, substitute “Schedule 1”.

53 Regulation 4

Omit “the Schedule” (wherever occurring), substitute “Schedule 1”.

54 Subregulation 4A(1)

Omit “the Schedule”, substitute “Schedule 1”.

55 Schedule (heading)

Repeal the heading, substitute:

Schedule 1—Fees

Note: See regulation 4.

1 Table of fees

The following table sets out fees that are payable in relation to matters specified in the table.

56 Schedule (table items 3 and 5)

Repeal the items.

57 Schedule (table item 6, column headed “Act, service or occasion in respect of which fee is payable”, paragraph (c))

Omit “of the same plant species”.

58 Schedule (after table item 12)

Insert:

12A	On making a request for the supply of 4 or more documents relating to a single application for PBR in a plant variety or a single PBR in a plant variety	\$200 for each request
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59 Schedule (table item 16)

Repeal the item.

Part 4—Amendments relating to trade marks

Trade Marks Regulations 1995

60 Regulation 2.1

Insert:

AFS request has the meaning given by subregulation 3A.3(1).

requester has the meaning given by subregulation 3A.3(1).

61 Regulation 3A.2

Repeal the regulation.

62 In the appropriate position in Part 22

Insert:

22.12 Amendments made by the *Intellectual Property Legislation Amendment (Fee Review) Regulation 2016*

Despite the repeal of item 9 of Schedule 9 by Part 4 of Schedule 1 to the *Intellectual Property Legislation Amendment (Fee Review) Regulation 2016* (the **amending Regulation**), that item continues to apply in relation to the registration of a trade mark of a kind mentioned in that item if the application for registration was filed before the commencement of the amending Regulation.

63 Schedule 9 (heading)

Repeal the heading, substitute:

Schedule 9—Fees

Note: See regulation 21.21.

1 Table of fees

The following table sets out fees that are payable in relation to matters specified in the table.

64 Schedule 9 (table item 1, column headed “Fee”, fee relating to paragraph (a))

Omit “\$120”, substitute “\$250”.

65 Schedule 9 (table item 1, column headed “Fee”, fee relating to paragraph (c))

Omit “\$220”, substitute “\$350”.

66 Schedule 9 (table item 1, column headed “Fee”, fee relating to paragraph (d))

Omit “\$80”, substitute “\$130”.

67 Schedule 9 (table item 3, column headed “Fee”, fee relating to paragraph (a))

Omit “\$270”, substitute “\$400”.

68 Schedule 9 (table item 3, column headed “Fee”, fee relating to paragraph (c))

Omit “\$370”, substitute “\$500”.

69 Schedule 9 (table item 4, column headed “Fee”, fee relating to paragraph (a))

Omit “\$370”, substitute “\$500”.

70 Schedule 9 (table item 4, column headed “Fee”, fee relating to paragraph (b))

Omit “\$220”, substitute “\$350”.

71 Schedule 9 (table item 5)

Repeal the item, substitute:

5	Filing an application for an extension of a period under subregulation 4.12(3) or regulation 17A.20	\$100 for each month or part of a month for which the extension is sought
5A	Filing an application under subsection 224(2) of the Act:	
	(a) for an extension of time on a ground specified in paragraph 224(2)(a) of the Act; or	\$100 for each month or part of a month for which the extension is sought
	(b) for an extension of time on a ground specified in paragraph 224(2)(b) of the Act	\$100
5B	Filing an application under subsection 224(3) of the Act for an extension of time on a ground specified in paragraph 224(3)(b) of the Act	\$100 for each month or part of a month for which the extension is sought

72 Schedule 9 (table item 7)

Repeal the item, substitute:

7	Filing a notice of opposition under section 52 of the Act or a notice of intention to oppose under regulation 17A.33	\$250
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73 Schedule 9 (table item 9)

Repeal the item.

74 Schedule 9 (table item 10, column headed “Fee”, fee relating to paragraph (a))

Omit “\$300”, substitute “\$400”.

75 Schedule 9 (table item 10, column headed “Fee”, fee relating to paragraph (b))

Omit “\$350”, substitute “\$450”.

76 Schedule 9 (table item 10, column headed “Fee”)

Omit “\$100 for each class”, substitute “\$100”.

77 Schedule 9 (table item 11, column headed “Fee”)

Omit “\$350”, substitute “\$450”.

78 Schedule 9 (table item 12, column headed “Fee”)

Omit “\$350”, substitute “\$450”.

79 Schedule 9 (table item 12, column headed “Fee”)

Omit “\$100 for each class”, substitute “\$100”.

80 Schedule 9 (table item 17A)

Repeal the item.

81 Schedule 9 (table items 18 and 19)

Repeal the items.

82 Schedule 9 (table items 21, 21A, 22 and 23)

Repeal the items, substitute:

21	Request for not more than 3 documents relating to a single trade mark application, a single trade mark registration or a single AFS request	\$50 for each document
22	Request for 4 or more documents relating to a single trade mark application, a single trade mark registration or a single AFS request	\$200 for each request

83 Schedule 9 (table item 32)

Repeal the item, substitute:

32	Submitting an AFS request under regulation 3A.3	\$200 for each class of goods or services to which the request relates
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84 Schedule 9 (table item 33, column headed “Fee”)

Omit “\$120”, substitute “\$200”.

85 Schedule 9 (table item 34, column headed “Fee”)

Omit “\$120”, substitute “\$150”.

86 Schedule 9 (table item 35)

Repeal the item.