

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Industry, Science and Technology

Designs Act 2003

Olympic Insignia Protection Act 1987

Patents Act 1990

Plant Breeder's Rights Act 1994

Trade Marks Act 1995

Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020

The *Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020* ('the Regulations') principally implement a four-yearly review of the fees prescribed for the purposes of the *Designs Act 2003* ('Designs Act'), the *Olympic Insignia Protection Act 1987* ('OIP Act'), the *Patents Act 1990* ('Patents Act'), the *Plant Breeder's Rights Act 1994* (Plant Breeder's Rights Act) and the *Trade Marks Act 1995* ('Trade Marks Act')(collectively, 'the Acts').

Legislative Authority

Paragraph 149(1)(a) of the Designs Act, paragraph 76(a) of the OIP Act, paragraph 228(1)(a) of the Patents Act, paragraph 80(1)(a) of the Plant Breeder's Rights Act, and paragraph 231(1)(a) of the Trade Marks Act provide that the Governor-General may make regulations prescribing matters required or permitted by the Acts to be prescribed.

Section 130 of the Designs Act, paragraphs 10(2)(b) and 11(2)(b) of the OIP Act, section 227 of the Patents Act, paragraph 80(2)(a) of the Plant Breeder's Rights Act and section 223 of the Trade Marks Act provide for the payment of prescribed fees in accordance with the regulations made for the purpose of the respective Acts.

The Acts specify no conditions that must be met before the power to make regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* ('Legislation Act').

Purposes of the Regulations

The Regulations amend the *Designs Regulations 2004* ('Designs Regulations'), the *Olympic Insignia Protection Regulations 1993* ('OIP Regulations'), the *Patents Regulations 1991* ('Patents Regulations'), the *Plant Breeder's Rights Regulations 1994* ('Plant Breeder's Rights Regulations'), and the *Trade Marks Regulations 1995* ('Trade Marks Regulations') (collectively, 'the principal regulations') to implement changes in fees arising from the fee review conducted by IP Australia.

The main purpose of the Regulations is to update the principal regulations to amend the fees IP Australia charges for its services. IP Australia is a cost recovery agency and approximately 98% of its revenue is generated from fees paid by customers for services provided by IP Australia. The amendments arise from a fee review conducted by IP Australia to develop IP Australia's *Cost Recovery Implementation Statement 2020-2021* ('CRIS'). The review was conducted in compliance with the Australian Government Cost Recovery Guidelines and has been published on IP Australia's website. A copy of the CRIS is in **Appendix 2**, and sets out the basis for how the fee amendments in the Regulations reflect the costs to IP Australia of administering the IP rights system.

Amendments to various fees will be made to reflect changes in costs to administer activities across all IP rights, streamline the fee schedules, encourage innovation by keeping initial costs low and increase flexibility and efficiency for IP Australia and its stakeholders.

The Regulations also make minor technical amendments to the principal regulations to correct errors, repeal spent transitional provisions, improve readability, and to update and simplify references to international instruments.

Details of the Regulations are in **Appendix 1**.

Consultation on changes

Prior to the making of the Regulations, two rounds of public consultation were conducted on the proposed fee changes. The first round took place in April-May 2019, and invited submissions on the current fee structures, seeking suggestions for changes or improvement. Several peak bodies were consulted, including the Institute of Patent and Trade Mark Attorneys of Australia and the Law Society of NSW.

A draft of the CRIS, detailing the proposed fee changes, was published and was open to the second round of public consultation for two months from December 2019 to February 2020. The majority of submissions expressed concern at a separate proposal for increases to the amounts of costs that could be awarded between parties heard in administrative proceedings. These submissions explained that the proposed increases would have adverse effects for small and medium-sized enterprises. In light of those submissions, IP Australia did not proceed with that proposal.

Consultation was not undertaken on other measures in the Regulations because they are changes that are required for Australia's compliance with international treaties, or are technical changes that are minor or machinery in nature.

No Regulation Impact Statement required for the Regulations

The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required to be prepared for these amendments (OBPR reference 25948).

Statement of Compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the Legislation Act applies to cause a statement of compatibility

to be prepared in respect of that legislative instrument. A Statement of Compatibility to meet that requirement is at the end of **Appendix 1**.

Commencement

The Regulations commence on 1 October 2020. This is to allow IP Australia to give users of the IP system sufficient notice of the changes to the fees, so that they can update their payment systems.

Details of the *Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020*

Section 1 - Name

This section identifies the instrument as the *Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020*.

Section 2 - Commencement

This section provides that the Regulations commence on 1 October 2020. This is to allow IP Australia to give users of the IP system sufficient notice of the changes to the fees, so that they can update their payment systems.

Section 3 - Authority

This section provides that the Regulations are made under the *Designs Act 2003*, the *Olympic Insignia Protection Act 1987*, the *Patents Act 1990*, the *Plant Breeder's Rights Act 1994* and the *Trade Marks Act 1995*.

Section 4 - Schedules

This section provides that 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 - Main Amendments

Designs Regulations 2004

Items 1, 2, and 8 - regulations 1.04 and 11.09A, fee item; expedited dispatch of documents

These items amend the Designs Regulations to require the Registrar of Designs ('Registrar') to charge a flat fee of \$20 for requests for expedited dispatch of documents.

Existing fee items 13 and 14 in clause 1 of Schedule 4 to the Designs Regulations prescribe fees payable for requests for the supply by IP Australia of documents relating to designs applications. When IP Australia's customers ask for expedited dispatch of such documents there is no additional charge, which does not reflect the additional costs to IP Australia of supplying documents that way.

Item 1 inserts a definition of 'expedited dispatch' into existing subregulation 1.04(1), providing that it is any means that can reasonably be expected to be faster than ordinary post.

Item 2 inserts new regulation 11.09A which provides that if a customer requests supply of documents under fee items 13 or 14, the Registrar must not supply

documents by expedited dispatch unless this is requested and the additional fee for expedited dispatch is paid.

Item 8 inserts new fee item 15 into clause 1 of Schedule 4, prescribing an amount of \$20 for the expedited dispatch of documents.

Item 3 - fees for filing design applications for one or several designs

Existing fee item 1 in clause 1 of Schedule 4 to the Designs Regulations ('fee item 1') prescribes the fee for filing a design application. The amount of the fee depends on the number of separate designs in the application that are identified by the applicant. The amount also depends on whether the application is filed by a preferred means or by a means that is approved but not preferred ('another means'). These preferred and other means are determined in the non-legislative instrument made under subsections 144A(1) and 144A(4) of the Designs Act. The instrument is published on IP Australia's website.¹ The amount for filing by preferred means is less than the amount for filing by another means because applications filed by preferred means require less manual processing by the Registrar of Designs.

Item 3 repeals and substitutes fee item 1 to do two things: reduce the fee for an additional design beyond the first identified by the applicant, and to also increase the fee for filing a design application by another means. The policy basis for these changes can be found in Appendix 2, section 3.3.

To that end, substitute fee item 1 makes the following changes to the amounts:

<i>Number of designs/Amount by means of filing</i>	First or only design	For each additional design beyond the first
Amount for filing by preferred means	remains \$250	reduces from \$250 to \$200
Amount for filing by another means	increases from \$350 to \$450	increases from \$350 to \$400 (that is, plus \$100 minus \$50)

Item 4 - fee for filing request for registration covering further design

Existing fee item 2 in clause 1 of Schedule 4 to the Designs Regulations ('fee item 2') prescribes the fee for filing a request for registration covering a further design, which was not identified by the applicant at the time of filing the application. As with the fee item 1, the amount of the fee depends on whether the request is filed by preferred or another means (discussed at item 3 above).

Item 4 amends fee item 2 to increase the amount for a request filed by another means from \$350 to \$450 for each further design covered by the request. This is because these requests require more manual processing. The amount for filing the request by preferred means remains at \$250 for each further design.

Items 5 and 6 - fee for filing application for renewal of registration of design

Existing fee item 5 in clause 1 of Schedule 4 to the Designs Regulations ('fee item 5') prescribes the fee for filing an application for renewing registration of a

¹ At 4 June 2020, the determination is published on IP Australia's website, available through <<https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>>. At this date, postal delivery is a means that is approved but not preferred.

design for five years. The amount of the fee depends on whether the request is filed by preferred means or another means (discussed at item 3 above).

Item 5 amends fee item 5 to increase the amount for filing by preferred means from \$320 to \$400.

Item 6 amends fee item 5 to increase the amount for filing by another means from \$370 to \$450.

These increases will better align expenses and revenue for the designs area of IP Australia.

Item 7 - repeal of transitional fee item

This item repeals fee item 6 in clause 1 of Schedule 4 to the Designs Regulations ('fee item 6'). Fee item 6 was a transitional provision required as a result of the repeal of the *Designs Act 1906* ('the 1906 Act'), to allow transitional design registrations to be renewed for their full term under the 1906 Act. This transitional provision is spent because no transitional design registrations remain in force after 17 June 2020.

Olympic Insignia Protection Regulations 1993

Item 9 - regulation 2, repeal of definition of 'Designs Regulations'

This item amends regulation 2 by repealing the definition of the expression 'Designs Regulations'. That definition is obsolete as it refers to the *Designs Regulations 1982*, which were repealed in 2004. The definition is also no longer necessary, because of the changes that item 10 makes.

Item 10 - regulations 3 to 5, fees and inspecting Register of Olympic Designs

Existing regulations 3 to 5 refer to provisions of the repealed *Designs Regulations 1982* to determine two fees and the times for public inspection of the Register of Olympic Designs.

This item repeals regulations 3 and 4 and substitutes regulation 3 prescribing fees of \$450 for applying to register an Olympic design and for extending the protection period of a registered Olympic design.

The item also repeals and substitutes regulation 5 to provide that the Register of Olympic Designs is open to public inspection when the Register of Designs is open for public inspection, as prescribed from time to time under subsection 113(1) of the Designs Act.

Patents Regulations 1991

Items 11, 17 and 33 - regulations 1.3 and 22.2HA, fee item; expedited dispatch of documents

These items amend the Patents Regulations to require the Commissioner of Patents ('Commissioner') to charge a flat fee of \$20 for requests for expedited dispatch of documents. These changes are consistent with the changes made to

the Designs Regulations in relation to expedited dispatch of documents (discussed at items 1, 2 and 8 above).

Existing fee items 233 and 234 in clause 2 of Schedule 7 to the Patents Regulations ('fee items 233 and 234') prescribe the fees for document requests relating to a single patent application or a single patent. There is currently no additional fee for expedited dispatch of these documents.

Item 11 inserts into regulation 1.3 a definition of 'expedited dispatch', which is any means that can reasonably be expected to be faster than ordinary post. This is the same as that inserted into the Designs Regulations by item 1 above.

Item 17 inserts new regulation 22.2HA to provide that the Commissioner must not supply documents requested under fee items 233 and 234 by expedited dispatch unless it is requested by the customer and the additional fee in new fee item 235 is paid.

Item 33 inserts new fee item 235 into clause 2 of Schedule 7 to prescribe the fee of \$20 for requesting expedited dispatch.

Item 12 - subregulation 1.3(7), correcting reference to PCT

Existing subregulation 1.3(7) provides that a period expressed in months is to be calculated as described in rule 80.2 of the Regulations under the Patent Cooperation Treaty, which was previously set out in Schedule 2A to the Patents Regulations ('Schedule 2A'). Schedule 2A was repealed by item 79 of Schedule 6 to the *Intellectual Property Legislation Amendment (Raising the Bar) Regulation 2013 (No. 1)*. This followed the repeal of subsections 228(5) and (6) of the Patents Act, which had required the full text of certain treaties to be set out in the Patents Regulations. This requirement dated from a time when it was difficult to access the text of treaties. The text of the Patent Cooperation Treaty ('PCT'), including the Regulations under the PCT, is now easily accessible online on the World Intellectual Property Organization's website.²

Item 12 amends subregulation 1.3(7) by omitting the obsolete reference to Regulations under the Patent Cooperation Treaty set out in Schedule 2A and replacing it with a reference to the PCT. The expression 'PCT' is defined in Schedule 1 to the Patents Act as being the treaty and its accompanying regulations, as in force for Australia from time to time. Amended subregulation 1.3(7) therefore incorporates Rule 80.2 of the PCT, as it is in force for Australia from time to time.

Item 13- regulation 3.2AB, technical corrections

This item makes two corrections so that the term 'Rule' is used in Regulation 3.2AB consistently with all other references throughout the Patents Regulations to specific provisions of the Regulations under the PCT.

Item 14 - repeal of subregulation 22.2(5)

This item repeals subregulation 22.2(5), which is an application provision for fees payable for the acceptance of applications filed prior to 1 September 2002. The

² At 4 June 2020, available at <<https://www.wipo.int/pct/en/texts/index.html>>

provision is no longer required, as there are no remaining applications filed prior to that date that have not been accepted, lapsed or otherwise finally dealt with.

Items 15 and 16 - regulation 22.2H, omitting obsolete references

Existing subregulation 22.2H(1) specifies that regulation 22.2H applies to fee items 221, 223, 233 and 234 of Schedule 7. Fee item 221 was repealed by item 84 of the *Intellectual Property Legislation Amendment (Raising the Bar) Regulation 2013 (No. 1)*.

Item 15 amends subregulation 22.2H(1) by omitting the obsolete reference to fee item 221.

Item 16 omits the words 'or application' in subregulations 22.2H(2) and (4), as they are no longer required.

Item 18 - regulation 23.52 in Part 7 of Chapter 23, application of amendments

This item inserts a new Part 7 in Chapter 23 and a new heading to deal with amendments made by the Regulations. It also inserts new regulation 23.52 into new Part 7 of Chapter 23 of the Patents Regulations to specify how the amendments of fee items 213 and 222A of Schedule 7 apply.

Subregulation 23.52(1) specifies that the amendment of fee item 213 applies in relation to acceptance of a patent request and complete specification if the acceptance occurs on or after 1 October 2020. The intention of the subregulation is that the amendment applies if the acceptance occurs on or after the relevant date (rather than, for example, only applying to applications for which a patent request is filed on or after 1 October 2020). Applications accepted before the commencement date of 1 October 2020 are only required to pay the current amount of \$110, even if that amount is paid after commencement.

Subregulation 23.52(2) specifies that the amendment of item 222A applies to requests filed on or after 1 October 2020 for grant of leave to amend an accepted complete specification.

Note that the new subregulation 23.52(1) is not intended to suggest that, for any of the other fee amendments made by the Regulations, it matters when the fee is paid rather than when the relevant action occurs.

Items 19, 20, 21, 22, 23, 24, 25 and 26 - fees for patent and trade marks attorneys

These items amend fee items 104 to 111 in the table in clause 1 of Schedule 7 to the Patents Regulations to increase by \$50 the amount of each of the fees for registration, renewal or restoration of registration of patent attorneys and combined patent and trade marks attorneys, including incorporated attorneys. This is to recover the costs associated with the administration of the patent and trade marks attorney regimes.

Items 27, 28 and 31 - fees for transactions by another means

These items amend fee items 202, 203 and 214A in clause 2 of Schedule 7 to the Patents Regulations to increase the fees for undertaking the following transactions by approved means that are not preferred means:

- filing a request for an innovation patent accompanied by a complete specification³ — increases from \$280 to \$380
- filing a request for a standard patent accompanied by a complete specification — increases from \$470 to \$570
- paying the fee for entry of a PCT application into national phase in Australia — increases from \$470 to \$570.

The Commissioner determines the approved and preferred means for transactions in non-legislative instruments made under subsections 214A(1) and 214A(4) or 227AAA(1) and (4) of the Patents Act, and published on IP Australia's website.⁴ As with the amendments made to the Designs Regulations by items 3 and 4 above, the increased amounts are to recover the additional costs of processing applications filed or fees paid by another means, as compared with applications filed or fees paid by the preferred means.

Item 29 - continuation and renewal fees

Existing fee item 211 in clause 2 of Schedule 7 to the Patents Regulations ('fee item 211') prescribes both the continuation fees for patent applications and the renewal fees for patents ('patent renewal fees'), which must be paid by the anniversary of the filing date of the patent.

The amounts of these fees differ for different anniversaries, rising through the anniversaries. For any anniversary, two amounts are prescribed depending on the means of payment:

- an amount for payment by preferred means; and
- an amount that is \$50 higher for payment by means that are approved but not preferred ('another means').

The Commissioner determines the approved and preferred means for payment in a non-legislative instrument made under subsections 227AAA(1) and (4) of the Patents Act and published on IP Australia's website.⁵

Item 29 repeals and substitutes fee item 211 to increase the amounts of the patent renewal fees. A table comparing the current and the new fees follows:

³ This fee will continue to apply on and after 26 August 2021, even though the phasing out of the innovation patent commences on that date. An application for grant of an innovation patent can still be filed after that date, and an innovation patent can still be granted. This is if the *date of the patent* determined under regulation 6.3 of the Patents Regulations is before 26 August 2021. For example, the application is a divisional application of an innovation patent with a date of patent before 26 August 2021.

⁴ See Note 1 above for approved and preferred means of filing documents.

⁵ For approved and preferred means of paying fees, at 4 June 2020 the determination is published on IP Australia's website, available through <<https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>>. At this date, payment by cheque or money order are means that are approved, but not preferred.

Anniversary/Mode of payment	Preferred means		Another means	
	Current	New	Current	New
Fourth anniversary	\$300	\$300	\$350	\$350
Fifth anniversary	\$300	\$315	\$350	\$365
Sixth anniversary	\$300	\$335	\$350	\$385
Seventh anniversary	\$300	\$360	\$350	\$410
Eighth anniversary	\$300	\$390	\$350	\$440
Ninth anniversary	\$300	\$425	\$350	\$475
Tenth anniversary	\$550	\$490	\$600	\$540
Eleventh anniversary	\$550	\$585	\$600	\$635
Twelfth anniversary	\$550	\$710	\$600	\$760
Thirteenth anniversary	\$550	\$865	\$600	\$915
Fourteenth anniversary	\$550	\$1050	\$600	\$1100
Fifteenth anniversary	\$1250	\$1280	\$1300	\$1330
Sixteenth anniversary	\$1250	\$1555	\$1300	\$1605
Seventeenth anniversary	\$1250	\$1875	\$1300	\$1925
Eighteenth anniversary	\$1250	\$2240	\$1300	\$2290
Nineteenth anniversary	\$1250	\$2650	\$1300	\$2700
<i>During the extended term of a pharmaceutical patent</i>				
Twentieth anniversary	\$2550	\$4000	\$2600	\$4050
Twenty-first anniversary	\$2550	\$5000	\$2600	\$5050
Twenty-second anniversary	\$2550	\$6000	\$2600	\$6050
Twenty-third anniversary	\$2550	\$7000	\$2600	\$7050
Twenty-fourth anniversary	\$2550	\$8000	\$2600	\$8050

This change in the amounts of the patent renewal fees follows a recommendation by the Productivity Commission in their 2016 inquiry into Australia's intellectual property arrangements that patent renewal fees be restructured to rise at an increasing rate. The Government noted this proposal, and the amendments to the patent renewal fees implement these changes within the Australian Government Charging Framework. Further details of the policy of the change can be found in Appendix 2, section 3.3.

Item 30 - acceptance fee

Existing fee item 213 in clause 2 of Schedule 7 to the Patents Regulations ('fee item 213') prescribes the fee for acceptance of a patent request and complete specification for a standard patent. If the specification contains more than 20 claims at acceptance, then an additional fee of \$110 per claim over 20 is payable.

Item 30 repeals and substitutes fee item 213 so that two different rates apply when specifications have in excess of 20 claims at acceptance. The fee is \$125 for each of the 21st to 30th claims, and \$250 for each claim in excess of 30

claims. As with item 29 above, this change broadly follows a recommendation of the Productivity Commission.

Item 32 - fee for adding claims after acceptance

Existing fee item 222A in clause 2 of Schedule 7 to the Patents Regulations ('fee item 222A') prescribes the fee for grant of leave to add claims to an accepted complete specification for a standard patent. The amount of this fee is \$110 for each additional claim over 20 claims.

As an adjunct to item 30, this item amends fee item 222A to increase the amount of the fee to \$250 for each additional claim that results in the complete specification containing over 20 claims. There is no change as to when excess claims fees apply post acceptance, only the amount that is payable is increased from \$110 to \$250 per claim added. This provides an incentive to applicants to make sure their complete specifications are accepted with the intended claims already in them, rather than seeking amendment to include claims after acceptance.

Item 34 - fee for preliminary search and opinion

Existing fee item 236A in clause 2 of Schedule 7 to the Patents Regulations ('fee item 236A') prescribes the fee for a preliminary search and opinion by the Commissioner. This item amends fee item 236A to reduce the amount of the fee from \$2200 to \$950. As with items 29 and 30, discussion about the policy basis for this change can be found in Appendix 2, section 3.3.

Item 35 - repeal of obsolete fee reduction for international applications

This item repeals paragraph 403(a) in clause 4 of Schedule 7 to the Patents Regulations, which prescribes the obsolete fee reduction of 100 Swiss francs for international filings in an electronic format that is not character-coded. IP Australia no longer accepts international filings in this format, and therefore paragraph 403(a) is not required.

Plant Breeder's Rights Regulations 1994

Items 36, 38, 39, 40 and 43 - Part headings

These items insert Part headings to improve ease of reading the Plant Breeders Rights Regulations.

Items 37, 41 and 47 - regulations 3, 4, 4AA, fee item; expedited dispatch of documents, effect of fee schedule

These items amend the Plant Breeders Rights Regulations to require the Registrar of Plant Breeder's Rights ('Registrar') to charge a flat fee of \$20 for requests for expedited dispatch of documents. These changes are consistent with the changes made to the Designs and the Patents Regulations for the expedited dispatch of documents (refer to items 1 and 11 above).

Existing fee items 8, 12 and 12A of clause 1 of Schedule 1 to the Plant Breeder's Rights Regulations ('fee items 8, 12 and 12A') prescribe the fees for requesting copies of applications, objections, detailed descriptions of plant varieties and

entries in the Register of Plant Varieties. As with the Designs and the Patents Regulations, there is currently no additional fee for expedited dispatch of documents.

Item 37 inserts a definition of expedited dispatch, which is any means that can reasonably be expected to be faster than ordinary post. This is the same as that inserted into the Designs Regulations and the Patents Regulations.

Item 41 repeals regulation 4 and inserts a new division containing substitute regulation 4 and new regulation 4A.

Substitute regulation 4 makes it clear that Schedule 1 to the Plant Breeder's Rights Regulations has the effect of prescribing fees as mentioned in subsection 80(2) of the Plant Breeder's Rights Act.

New regulation 4A provides that the Registrar must not supply documents requested under fee items 8, 12 and 12A by expedited dispatch unless it is requested by the customer and the fee prescribed in new fee item 13 is paid.

Item 47 inserts new fee item 13 into clause 1 of Schedule 1 to Plant Breeder's Rights Regulations to prescribe the fee of \$20 for requesting expedited dispatch.

Items 42 and 44 - regulation 4A, clause 1 of Schedule 1; correcting language

Subsection 80(2) of the Plant Breeder's Rights Act provides power for the Plant Breeder's Rights Regulations to prescribe fees. These items amend the corresponding regulations to use terminology which is consistent with the Plant Breeder's Rights Act.

Item 45 - fees for designation of approved person and renewal of designation

Existing fee items 1A and 1B of clause 1 of Schedule 1 to the Plant Breeder's Rights Regulations ('fee items 1A and 1B') prescribe fees of \$50 for designation of an approved person under section 8 of the Plant Breeder's Rights Act and for the renewal of a designation. It is currently the Registrar's practice to designate an approved person for a period of one year and to require annual renewal of that designation.

The Registrar is changing that practice to designate approved persons for periods of three years, with three-yearly renewals. This is because three years is the average time from filing to granting of a plant breeder's right ('PBR'). The change in practice also reduces the administrative burden for approved persons and for IP Australia.

In line with this change to three-yearly designations and renewals, item 45 amends fee items 1A and 1B to prescribe fees of \$240 for each designation and renewal.

Item 46 - fee for lodgement of PBR application paid by another means

Existing fee item 4 of clause 1 of Schedule 1 to the Plant Breeder's Rights Regulations ('fee item 4') prescribes the fee for lodgement of an application for

PBR. The amount of the fee depends on whether it is paid by preferred means or by an approved means that is not a preferred means ('another means'). The Registrar determines the approved and the preferred means of paying fees in a non-legislative instrument made under subsections 80A(1) and 80A(4) of the Plant Breeder's Rights Act, and which is published on IP Australia's website.⁶

Item 46 increases the fee for lodgement paid by another means from \$445 to \$545. The increased amount is to recover the additional costs of processing these payments, as compared with the preferred means of lodgement.

Items 48 and 49 - fee for annual maintenance of PBR

These items amend existing fee item 15 of clause 1 of Schedule 1 to the Plant Breeder's Rights Regulations ('fee item 15') to increase the amounts charged for the annual maintenance of a plant breeder's right. The amount of the fee depends on whether it is paid by preferred means or by another means (discussed at item 46 above).

Item 48 amends fee item 15 to increase the amount paid by preferred means from \$345 to \$400.

Item 49 amends fee item 15 to increase the amount paid by another means from \$395 to \$450.

The increases will better align expenses and revenue for the PBR area of IP Australia.

Trade Marks Regulations 1995

Item 50 - definitions of several expressions

This item amends regulation 2.1 by inserting definitions of the expressions 'expedited dispatch', 'information system', 'Madrid Regulations', and 'official goods and services pick list':

- 'expedited dispatch' is any means that can reasonably be expected to be faster than ordinary post, the same as in the Design Regulations, the Patents Regulations and the Plant Breeder's Rights Regulations (refer to items 1, 11 and 37 above).
- 'information system' has the same meaning as in the *Electronic Transactions Act 1999*, as in force from time to time.⁷
- 'Madrid Regulations' are now defined by new regulation 17A.2 inserted by item 60 below. They are the Regulations (as in force for Australia on 1 October 2020) under the Madrid Protocol.

⁶ For approved and preferred means of paying fees, at 4 June 2020 the determination is published on IP Australia's website, available through <<https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>>.

⁷ This is by virtue of subparagraph 14(1)(a)(i) of the *Legislation Act 2003* ('Legislation Act'), and paragraph 10(a) of the *Acts Interpretation Act 1901* (as applied to legislative instruments by paragraph 13(1)(a) of the Legislation Act). For reference only, at 4 June 2020, section 5 of the *Electronic Transactions Act 1999* defined 'information system' as meaning a system for generating, sending, receiving, storing or otherwise processing electronic communications.

- ‘official goods and services pick list’ is defined in the context of filing an application to register a trade mark by means of a digital information system that IP Australia makes available as a preferred means of filing the application.⁸ The official goods and services picklist is a pre-populated list of goods or services that the digital information system makes available for the purpose of specifying the goods and services of the application. If the applicant selects the goods and services from that pre-populated list, then they have been specified using the official goods and services picklist.

Items 51 - regulation 3A.5

Item 51 amends paragraph 3A.5(1)(b) to refer more clearly to the renumbered fee prescribed for submitting an assisted filing service (‘AFS’, commonly known as ‘TM Headstart’) request as an application for registration of a trade mark (refer to item 74, below).

Items 52, 53, 54, 56, 57, 58 and 66 - notices of opposition, their components and fees for filing

These items are technical improvements to make the regulations defining notices of opposition and their related fees clearer.

Item 52 repeals the definition of ‘notice of intention to oppose’ in regulation 5.2 because it does not correctly define that notice.

Item 53 amends regulation 5.2 by substituting the existing unclear definition of ‘notice of opposition’ with a new definition consistent with the Trade Marks Act.

Item 54 repeals and substitutes regulation 5.5 to more clearly set out the components of a notice of opposition, consistently with the drafting of the Trade Marks Act. The components of a notice of opposition are a notice of intention to oppose, and a statement of grounds and particulars.

Items 56 to 58 make equivalent amendments to regulations 9.2 and 9.7 to define a notice of opposition and its components, as items 52 to 54 make to regulations 5.2 and 5.5.

Item 66 repeals existing fee items 7 and 8 in clause 1 of Schedule 9 to the Trade Marks Regulations and substitutes new fee items 7,8, 9, 9A and 9B for them. This separates the fees for commencing oppositions under different regulations so as to make it clearer that — for the notices of opposition that have two components — the fee is payable on filing the first component: the notice of intention to oppose. The amounts of the fees are unchanged.

Items 55 - technical correction of regulation 8.3

This item amends regulation 8.3 so that it correctly refers to the grounds in regulation 4.15A for rejection of a trade mark application.

Items 59 and 60 - definitions of ‘Common Regulations’ and ‘Madrid Regulations’

⁸ Preferred means of filing trade marks applications are discussed in the notes on item 63 below.

Australia is a Contracting Party to the Madrid Protocol. The Assembly of Contracting Parties to the Madrid Agreement and to the Madrid Protocol ('Assembly') made the Common Regulations to provide the detailed requirements for the international registration of trade marks. As all Contracting Parties have now acceded to the Madrid Protocol, the Assembly has renamed the Common Regulations. With effect from 1 February 2020, the Common Regulations are called the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ('Regulations under the Madrid Protocol'). Consequently, Australia must make amendments to the Trade Marks Regulations to reflect this change.

Item 59 amends regulation 17A.2 by repealing the definition of 'Common Regulations'. This means the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating to that Agreement, as in force on 1 September 2009

Item 60 amends regulation 17A.2 by inserting the definition of 'Madrid Regulations'. This means the Regulations under the Madrid Protocol, as the Regulations are in force for Australia on 1 October 2020. This definition refers to the Madrid Protocol, which regulation 2.1 defines as the Protocol Relating to the Madrid Agreement concerning the International Registration of Marks, as signed at Madrid on 28 June 1989. The text of the Madrid Protocol, including the Madrid Regulations, is accessible online on the World Intellectual Property Organization's website.⁹

Item 61 - repeal of spent application provisions in regulation 21.21

This item repeals subregulations 21.21(8) and (9) which provide that two fee items amended with effect from 1 July 2012 do not apply to certain hearings held after that date. These application provisions are spent, as all such hearings have been held or abandoned.

Item 62 - regulation 22.25 in Division 5 of Part 22, application of amendments

This item inserts new regulation 22.25 in new Division 5 into Part 22 of the Trade Marks Regulations to specify how the amendments of fee items 14 to 20 in Schedule 9 apply (item 68 below). The amendments apply to hearings requested by a party, or offered by the Registrar of Trade Marks ('Registrar'), on or after 1 October 2020.

Item 63 - fees for filing applications for registration of trade marks

Item 63 repeals fee items 1 and 3 in clause 1 of Schedule 9 to the Trade Marks Regulations (fee items 1 and 3) and substitutes new fee items 1 and 2. This is to make the different amounts of the filing fees clearer, by specifying them all as total amounts payable for each class ('class fees'), not as components that must be added together for each class, as existing fee items 1 and 3 do. The amounts of the class fees for applications filed by preferred means using the official goods and services pick list are unchanged.

⁹ At 4 June 2020, available at <<https://www.wipo.int/pct/en/texts/index.html>>

As is currently the case, filing by preferred means and another means attracts different fee amounts, due to the additional manual processing required by IP Australia for non-preferred means. There is an increase of \$100 for filing by another means to reflect these costs. The Registrar determines the approved and preferred means for filing documents in a non-legislative instrument made under subsections 213A(1) and (4) of the Trade Marks Act, and published on IP Australia's website.¹⁰

There is also an increase of \$70 for filing by preferred means but not using the official goods and services pick list, to reflect the additional effort to the Registrar of correctly classifying such applications. Item 50 above introduces a definition of the official goods and services pick list.

A table comparing the current and new fees follows:

Type/mode of filing	Current	New
Application to register a single trade mark		
Filed by preferred means using the official goods and services pick list	\$250 for each class	\$250 for each class
Filed by preferred means not using the official goods and services pick list	\$330 for each class	\$400 for each class
Filed by another means	\$350 for each class	\$450 for each class
Application to register two or more trade marks as a series		
Filed by preferred means using the official goods and services pick list	\$400 for each class	\$400 for each class
Filed by preferred means not using the official goods and services pick list	\$480 for each class	\$550 for each class
Filed by another means	\$500 for each class	\$600 for each class

Items 64 and 65 - fees for amending applications to add classes

Existing fee item 4 in clause 1 of Schedule 9 to the Trade Marks Regulations ('fee item 4') prescribes the fees for requesting amendments under section 64, 65 or 65A of the Trade Marks Act to add classes of goods or services to an application for registration. The amount of the fee depends on the type of the application.

Item 64 amends fee item 4 to increase the amount from \$500 to \$600 for adding a class of goods or services to an application for registration of several trade marks as a series.

Item 65 amends fee item 4 to increase the amount from \$350 to \$450 for adding a class of goods or services to an application for registration of a trade mark.

¹⁰ At 4 June 2020, the determination is published on IP Australia's website, available through <<https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>>.

Item 67 - renewal fees paid by preferred means or another means

Existing fee items 11 and 12 of clause 1 of Schedule 9 to the Trade Marks Regulations ('fee items 11 and 12') prescribe the fees for requesting renewals in the exceptional circumstances governed by Division 3 of Part 7 of the Trade Marks Act, which relates to renewal of registration where the registration is delayed for 10 or more years after the filing date. Currently, these fee items do not specify different amounts for payment by preferred or by an approved means that is not preferred ('another means'). The Registrar determines approved and preferred means of paying fees in a non-legislative instrument made under subsections 223AA(4) (1) and 223AA(4) of the Trade Marks Act, and published on IP Australia's website.¹¹

Item 67 repeals and substitutes fee items 11 and 12 to provide different amounts for renewal fees paid by preferred means or by another means. The amount of the fees paid by preferred means are \$400 for each class of goods or services in the trade mark registration: a \$50 reduction from the current amounts.

Item 68 - fees for requesting a hearing and being heard

Existing fee items 14, 15, 16, 17 and 20 of clause 1 of Schedule 9 to the Trade Marks Regulations ('fee items 14, 15, 16, 17 and 20') prescribe the fees for requesting hearings in proceedings before the Registrar, attending such a hearing and for requesting a decision where no party chooses to be heard. Existing subregulation 21.16(4) permits the Registrar to hold oral hearings in which one or more of the parties participates remotely, using telecommunications. Fee items 14 to 17 do not, however, distinguish between oral hearings in person as opposed to remote participation. It is more expensive and inconvenient for the Registrar to hear someone in person, than by means of telecommunications. Those fee items also add unnecessary complexity by providing different amounts for hearings in different proceedings before the Registrar.

Item 68 repeals fee items 14, 15, 16, 17 and 20 and substitutes fee items 14 to 16 to simplify the fees for requesting and attending hearings and to ensure that their amounts are closer to the actual costs of conducting the hearings.

Substitute fee item 14 sets a flat fee of \$400 for requesting a hearing, which covers the cost of the Registrar setting down the matter to be heard and managing the case.

Substitute fee item 15 sets the fees for being heard by the Registrar. The following fees are payable for different methods of being heard:

- hearings in person: a fee of \$800 per day or part thereof
- hearings not in person but by means other than written submission (e.g. video conference): a fee of \$600 per day or part thereof
- hearing by written submissions only: a flat fee of \$400.

¹¹ At 4 June 2020, the determination is published on IP Australia's website, available through <<https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>>.

If a party to proceedings has filed a request for a hearing and paid the amount under fee item 14, the amount payable under fee item 15 is reduced by the amount already paid.

Substitute item 16 replaces existing fee item 20 to provide that \$400 is payable for requesting a decision in proceedings before the Registrar in the situation where no party to the proceedings has filed a request for hearing or been heard. This covers the Registrar's costs for making and issuing a decision in circumstances where no fee is paid under substitute items 14 or 15.

Item 69 - fee for expedited dispatch of documents

This item inserts new fee item 23 into clause 1 of Schedule 9 to the Trade Marks Regulations to prescribe the \$20 fee for requests for expedited dispatch of trade marks documents mentioned in fee items 21 or 22. Item 50 above defines that expedited dispatch means any means that can reasonably be expected to be faster than ordinary post.

Items 70, 71, 72, 73, 75, 76, 77, and 78 - fees for trade marks and patent attorneys

These items amend existing fee items 28 to 31 and 36 to 39 of clause 1 of Schedule 9 to the Trade Marks Regulations to increase by \$50 the amount of each of the fees for registration, renewal or restoration of registration of trade marks attorneys and combined trade marks and patent attorneys, including incorporated attorneys. This is to recover the costs associated with the administration of the trade marks and patent attorney regime.

Item 74 - fee items for assisted filing service

This item gathers together all of the fee items for AFS requests (commonly known as 'TM Headstart') and makes it clearer what fees are payable at filing of an AFS request, its amendment and its submission as an application for registration of a trade mark. There is no increase in the fee amounts because the AFS system is intended to be used by small and medium-sized enterprises.

Part 2 – Amendments substituting references to Common Regulations with references to Madrid Regulations

Item 79

Item 79 substitutes each reference to the Common Regulations with a reference to the Madrid Regulations, as discussed above at items 50, 59 and 60.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Intellectual Property Laws Amendment (Fee Amounts and Other Measures) Regulations 2020* makes technical and administrative amendments to various Regulations to improve the operation of the intellectual property rights system administered by IP Australia.

The amendments implement changes in fees arising from the fee review conducted by IP Australia. This review was conducted as part of IP Australia's Cost Recovery Implementation Statement 2020-2021, in compliance with the Australian Government Cost Recovery Guidelines.

None of these amendments make any substantive changes to the law.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Karen Andrews MP, Minister for Industry, Innovation and Science



Australian Government

Department of Industry, Science, Energy and Resources

IP Australia

COST RECOVERY IMPLEMENTATION STATEMENT

IP Australia

2020-21

Cost recovery involves government entities charging individuals or non-government organisations some or all of the efficient costs of a specific government activity. This may include goods, services or regulation, or a combination of them. The Australian Government Charging Framework, which includes the Cost Recovery Guidelines (the CRGs)¹², set out the overarching framework under which government entities design, implement and review cost recovered activities.

¹² The CRGs are available on the Department of Finance website (www.finance.gov.au).

1. INTRODUCTION

1.1 Purpose of the CRIS

This Cost Recovery Implementation Statement (CRIS) provides information on how IP Australia implements cost recovery in the administration of patents, trade marks, industrial designs and plant breeder's rights legislation, as well as the administration of the Trans-Tasman IP Attorneys system. It also reports IP Australia's financial and non-financial performance information, and contains financial forecasts for 2020-21 and three forward years. IP Australia will maintain this CRIS on its website.

1.2 Description of the activity

IP Australia is a listed entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) in the Industry, Science, Energy and Resources portfolio, but operates independently and reports to the Minister for Industry, Science and Technology. The Director General of IP Australia is the Accountable Authority under the PGPA Act.

IP Australia is the entity responsible for administering Australia's intellectual property (IP) rights system, specifically patents (inventions), trade marks, designs and plant breeder's rights.

IP Australia has one Outcome under the Government's budget and accountability framework, namely:

Increased innovation, investment and trade in Australia, and by Australians overseas, through the administration of the registrable intellectual property rights system, promoting public awareness and industry engagement, and advising government.

To achieve its outcome, IP Australia grants exclusive IP rights for a period of time. This fosters innovation, investment and international competitiveness by:

- Providing an effective legal framework for protection of innovative products and brands which creates a secure environment for investment
- Providing incentives for undertaking research and development
- Promoting the disclosure of discoveries and follow-on generation of ideas
- Enabling firms to build brand value and business reputation which in turn contributes to improved consumer confidence.

IP Australia also administers the Trans-Tasman IP Attorney system, promotes awareness of IP, provides advice to Government on the development of IP policy, and contributes to bilateral and multilateral negotiations and development cooperation programs to support the global IP system. From time to time, this system will require adjustment to meet new demands or to keep up with economic, legal and business developments. IP Australia's role is to seek to ensure that these changes are in Australia's best interest and meet customers' needs.

IP Australia cost recovers against the following five activity groups:

1. **Patents:** A patent is a right that is granted for any device, substance, method or process that is new, inventive, and useful. A patent is legally enforceable and gives the owner exclusive rights to commercially exploit the invention for the life of the patent.
2. **Trade Marks:** A trade mark is a right that is granted for a letter, number, word, phrase, sound, smell, shape, logo, picture, movement, aspect of packaging, or a combination of these. A registered trade mark is legally enforceable and gives the owner exclusive rights to commercially use, license or sell the mark.
3. **Designs:** A design refers to the features of shape, configuration, pattern or ornamentation which give a product a unique appearance and must be new and distinctive. Design registration is intended to protect designs which have an industrial or commercial use. Once examined and certified, a registered design gives the owner exclusive rights to commercially use it, licence or sell it.
4. **Plant Breeder's Rights (PBR):** PBR are used to protect new varieties of plants that are distinct, uniform and stable. A PBR is legally enforceable and gives the owner exclusive rights to commercially use, sell, condition it for propagation, reproduce, import/export, and stock the variety.
5. **Trans-Tasman IP Attorneys (TTIPA) system:** IP Australia administers the Trans-Tasman IP Attorneys system and provides secretariat support for the Trans-Tasman IP Attorneys Board and the Trans-Tasman IP Attorneys Disciplinary Tribunal.

IP Australia's customers range from large national and international businesses and research companies through to small to medium enterprises (SMEs), individual self-filers and inventors. IP Australia's customer base also includes attorneys and other IP professionals. Customers seeking protection of their IP right will pay IP Australia fees for filing, examination, renewal, and hearings as required.

Most patent customers enter the Australian system via an international route, rather than filing directly with IP Australia, and utilise the services of a professional attorney firm to assist with their application. A large proportion of trade marks customers are SMEs, and a majority self-file as opposed to obtaining the services of a professional attorney to assist them with their application. Also, the majority of trade marks customers apply for their rights directly in Australia rather than as part of international arrangements.

The majority of patent and over half of PBR and design applications received by IP Australia originate from overseas, while the majority of trade marks applications originate in Australia. Table 1 identifies the average customer origin of IP rights filings in Australia for each of the four IP rights.

Table 1: Customer origin of IP rights filings in Australia during 2019

	Resident	Non-resident
Patents	9%	91%
Plant Breeder's Rights	52%	48%
Trade Marks	58%	42%
Designs	36%	64%

Source: IP Report 2020

IP Australia's customers vary depending on the type of IP protection they are seeking. The activity groups correspond to the general customer/stakeholder groups and reflect that interactions with IP Australia tend to be separate in respect of each activity group. For example, an application for a trade mark is a distinct legal and financial transaction from an application for a patent.

Regulatory cost recovery charging continues to be the appropriate charging model for IP Australia, as:

- IP right customers are clearly identifiable, and
- fees are set to recover the costs of activities that can be directly attributed to these individuals.

Outcome and Programs

IP Australia delivers its Outcome through the administration of IP rights consistent with legislation and regulations.

IP Australia has three Programs as part of its one Outcome. These Programs represent IP Australia's structure for budget accountability to the Australian Government. While there are some components of IP Australia's costs which are funded directly by Government, the bulk of IP Australia's costs are recovered through regulatory fees (98% in 2018-19). IP Australia cost recovers against its activity group structure not the Program structure (as described below).

Program 1 – IP Rights Administration and Professional Registration encompasses the administration of patent, trade mark, design and plant breeder's IP rights legislation. It also includes the administration of the TTIPA Board for Patent and Trade Marks Attorneys and the TTIPA Disciplinary Tribunal.

All five of IP Australia's cost recovery activity groups are contained within Program 1.

Program 2 – Education and Awareness encompasses IP Australia's role in raising awareness and educating customers about IP.

This Program does not represent a separate cost recovery activity group. Costs of Program 2 are apportioned, using an activity-based costing model, to the cost recovery activity groups in Program 1 because they support the delivery of these activity groups.

Program 3 – Advice to Government and International Engagement encompasses IP Australia's role in providing advice on IP matters, supporting research into the current and future use of IP rights and engaging with key international stakeholders

and IP bodies.

This Program does not represent a separate cost recovery activity group. Costs of Program 3 are apportioned, using an activity-based costing model, to the cost recovery activity groups in Program 1 because they support the delivery of these activity groups.

IP Australia receives departmental appropriation from Government (\$0.4 million in 2019-20) for non-regulatory charging activities undertaken within Program 3.

Further information on IP Australia's outcome and program structure can be found in the 2019-20 Department of Industry, Innovation and Science Portfolio Budget Statements (PBS).

2. POLICY AND STATUTORY AUTHORITY TO COST RECOVER

2.1 Government policy approval to cost recover the activity

The policy authority for cost recovery of IP Australia's regulation of IP legislation was reaffirmed by Government in 2012 when it was agreed that IP Australia will continue to administer Australia's IP rights' systems, specifically patents, trade marks, industrial designs, PBR and TTIPA Board and Disciplinary Tribunal on a cost recovery basis.

IP Australia groups its individual activities into activity groups, aligned with the separate IP rights legislation, and then cost recovers at the activity group level. The reason for grouping at the activity level is because individual fee items, of which there are several hundred across all the IP rights legislation, represent sub-activities at a level where costing each one is neither efficient or cost effective, nor conducive to innovation policy objectives.

Due to the unique business model that IP Australia operates within (e.g. a patent normally has a lifecycle of 20 years as it provides protection for up to this period), it would be impractical to cost recover at the activity level, so IP Australia intends to continue to recover the full costs of each broader activity group (e.g. recover the costs associated with the examination activity over the life of the patent). This approach supports the government objective of supporting innovation, while allowing costing and setting fee(s) for a particular activity (e.g. examination) in an accurate and transparent manner.

IP Australia charges more for the renewal than the cost of processing it. This is a key innovation promotion principle of the IP system in Australia and is common in other international jurisdictions. IP Australia charges less for the related cost of an application and examination and subsequently seeks to recover all related costs across the total life cycle of the IP right. By deferring some of the total transaction cost to the renewal phase of an IP right's lifecycle, fees can be kept lower in the formative years where most of the transaction costs are incurred, and at a time where the applicant may not have yet established an income stream from their IP right. In addition, charging progressively higher renewal fees, in line with the increasing age of the granted IP right, forces applicants to make an economic decision about their intention

to retain their exclusive rights. This fee structure encourages inventors to continue patent protection only when economically justified.

2.2 Statutory authority to charge

IP Australia derives its legal authority to prescribe fees under the following Acts and associated regulations:

- *Patents Act 1990*
- *Patents Regulations 1991*
- *Trade Marks Act 1995*
- *Trade Marks Regulations 1995*
- *Plant Breeder's Rights Act 1994*
- *Plant Breeder's Rights Regulations 1994*
- *Designs Act 2003*
- *Designs Regulations 2004.*

The TTIPA Board is a statutory body established under section 227A of the *Patents Act 1990* and constituted under the *Patents Regulations 1991*. The TTIPA Disciplinary Tribunal is established under regulation 20.61 of the *Patents Regulations 1991*.

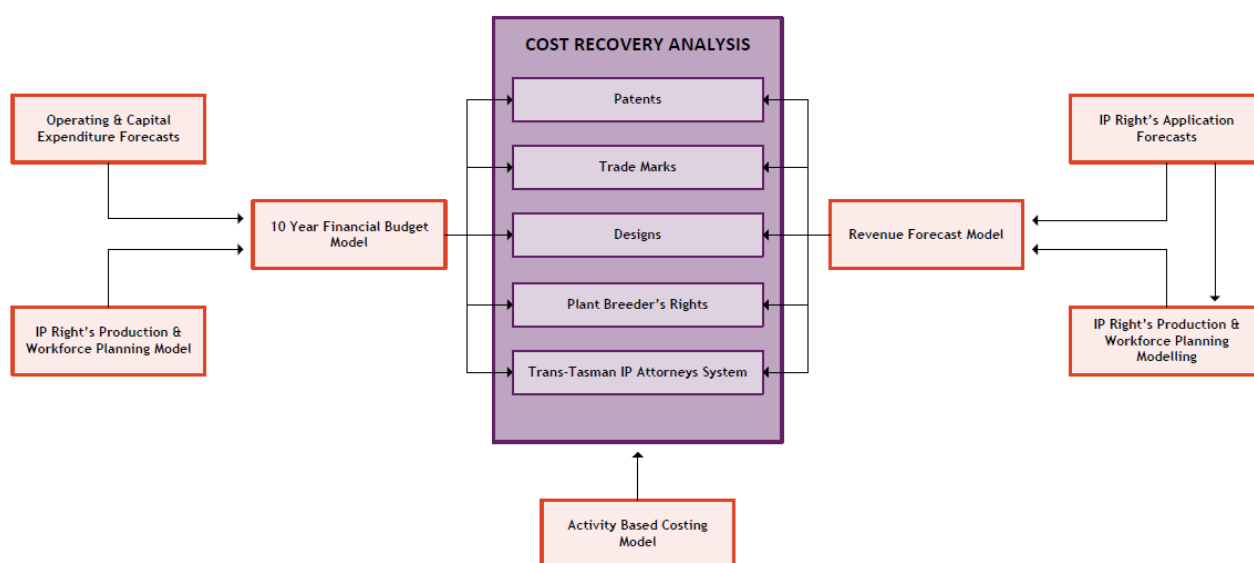
3. COST RECOVERY MODEL

IP Australia utilises several financial systems and models to monitor, forecast and report on IP Australia's cost recovered activities. These include:

- Financial Management Information System – SAP
- Activity Based Costing Model – SAP Business Objects Profitability and Cost Management (SAP PCM)
- 10 Year Financial Budget Model
- Revenue Forecast Model
- IP Right's Production Models

Figure 1 illustrates how each system and internal modelling tool feeds both financial and non-financial data into the one cost recovery model that then identifies the cost recovered position of each activity group.

Figure 1: IP Australia Cost Recovery Modelling



IP Australia forecasts all IP rights over a 10-year budget period to take into account the various cycles that are legislatively attributed to each IP Right. For example, a standard patent gives protection for up to 20 years (or 25 years for pharmaceutical substances), whereas the initial registration of a trade mark provides protection for 10 years and longer when a renewal fee is paid on each 10 year anniversary. Despite the need to model and forecast the financial impacts to the organisation of longer cycles for IP rights, IP Australia must also ensure it meets its planning, budgeting and reporting obligations, under the PGPA Act over the shorter four-year period. IP Australia undertakes a major fee review every four years as per our commitment to stakeholders.

IP Australia's cost recovery model allows IP Australia to test scenarios around the financial variables including:

- revenue forecasts driven by projected demand for IP Australia's products and services,
- trends within the IP rights product lifecycle (for example changes in renewal activity),
- operational resource requirements (people, infrastructure and systems as well as external support) to meet forecast workloads and achieve customer service level standards (e.g. processing times),
- changes to input costs (such as labour costs, lease costs, and corporate overheads),
- plans for capital expenditure and related depreciation expense, in order to deliver important ICT modernisation programs linked to greater customer ease of use and access, as well as the efficient and reliable management of IP rights data during the application, examination/registration and renewals process, and
- external factors such as interest rates and foreign exchange movements.

IP Australia can model the impacts of workload drivers, resource requirements, cost impacts and the effect of different fee scenarios on IP Australia's financial position, cost recovery outcomes for activity groups, and possible impacts on the typical IP rights lifecycle for customers.

3.1 Outputs and business processes of the activity

The primary outputs of IP Australia's activity groups are listed below:

- **Receipt of Patent applications**

A patent application is for long-term protection and control over an invention. A patent can last for up to 20 years from the filing date of a complete application (or up to 25 years for pharmaceutical substances). Before a standard patent can be granted, the complete application has to be examined by IP Australia.

The majority of patent applications lodged with IP Australia are National Phase Entries (NPE). The NPE volumes are forecast based on the number of international filings that have been lodged with the World Intellectual Property Organization (WIPO) and the historic percentage of those applications that go on to nominate for patent protection in Australia. The remaining applications are forecast on the base of historic trends, current economic conditions and any external influences i.e. legislation changes.

- **Receipt of Patent Cooperation Treaty (PCT) applications**

A PCT application is a way to apply for patents in a number of different countries simultaneously. IP Australia, acting as a Receiving Office, International Searching Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty (PCT), issues International Search Reports (ISR) and Written Opinions (also called an International Search Opinion (ISO)). The ISO indicates the validity of a patent application and if there are any inventions that are similar.

The number of PCT applications is fairly stable. Forecast volumes are based on historic trends, including from countries that lodge PCT applications with Australia, and any other external influences.

- **Provision of Patent examination services**

A review and examination of the patent application is undertaken by an examiner to ensure a patent meets the requirements of the *Patents Act 1990*.

Operational planning within the patent business group identifies the expected number of first reports that will be issued in any given year based on: average staffing levels (ASL), employee attrition, application diversity (innovations, PCT, standard etc.), examiner performance expectations, and the timing and training of new examiners.

- **Receipt of Trade Mark applications**

A trade mark application, lodged with IP Australia, seeks exclusive rights to identify a unique product or service.

Trade mark applications are forecast based on: time series analysis, historic trends, volumes by application type (standard, Headstart, Madrid), current economic conditions,

and any external influences such as stockpiles held by WIPO.

- **Provision of Trade Mark examination services**

A trade mark application is examined to ensure it contains all correct information and meets legislative requirements. Where a trade mark application meets these requirements, it will be registered and entered in the Australian Official Journal of Trade Marks and listed in the Australian Trade Mark Online Search System.

Operational planning within the trade mark business group identifies the expected number of first reports that will be issued in any given year based on: the ASL, employee attrition, examiner performance expectations, and the timing and training of new examiners.

- **Receipt of Design applications**

An application for a design seeks protection of a unique, new and distinctive visual appearance of a product.

Design applications are forecast based on time series analysis, historic trends, an analysis of high filing customers, current economic conditions and any further external influences.

- **Provision of Design examination services**

A review and examination of the design application is undertaken to ensure that the design is both new and distinctive.

Operational planning within the designs business group identifies the expected number of first reports that will be issued in any given year based on: ASL, employee attrition, examiner performance expectations, and the timing and training of new examiners.

- **Receipt of PBR applications**

A Plant Breeder's Right protects a breeder's plant variety for a period of up to 25 years and gives them a commercial monopoly, while encouraging plant breeding and innovation.

PBR applications tend to hold fairly stable with nominal growth and are forecast on the base of historic trends and any further external influences, for example flooding or widespread bushfires in growers' regions.

- **Provision of PBR examination services**

A PBR Examiner examines the plant variety under the PBR scheme to ensure that it is clearly distinct from all other varieties of common knowledge by at least one characteristic.

Operational planning within the PBR business group identifies the expected number of first reports that will be issued in any given year. The number of PBR examinations tends to hold fairly constant, with slow growth, as a result of stable application volumes and static ASL.

- **Receipt of TTIPA applications:**

Both the *Patents Act 1990* and the *Trade Marks Act 1995* provide that only registered individuals have the right to practice as either a patent attorney or a trade mark attorney.

To apply for registration as a patent attorney or a trade marks attorney, the individual must provide detailed information of their academic qualifications and related knowledge.

The forecast volume of applications for TTIPA registration is based on a historical average number of applications over recent years.

- **Provision of TTIPA registration services:**

Each application for registration is assessed to determine whether the individual has the relevant qualifications, and specialised requirements and knowledge. Where this is determined, the attorney will be registered as a patent or trade mark attorney.

The forecast volumes are based on new and current registrations, and the likelihood of an attorney maintaining their registration.

Business Processes

There are several key business processes that are used to deliver the activity group outputs. The receipt and processing of applications is predominantly an electronic process utilising IP Australia's eServices platform. This platform provides a secure and convenient way for customers to access a broad range of transactions, including the lodgement of applications. Various internal electronic systems are then populated with details of any given application to create workflow tasks for examination.

The examination processes for each activity group are primarily staff-based. The examiner must search online material relevant to the application and issue a report on the application's merit based on the relevant IP legislation.

The business processes that support the TTIPA outputs are also staff-based. The TTIPA Secretariat is responsible for providing support to the TTIPA Board, and undertakes functions associated with individuals or companies seeking to qualify for registration as patent and/or trade mark Attorneys.

Each year IP Australia forecasts the demand for services across a four year period (production forecast) based on historical application trends and economic outlook. The production forecast is used to determine the required workforce profile and capacity needed to meet our Customer Service Charter commitments. This process supports the planning and management of our workforce modelling, efficiencies in our cost recovery framework, and transparency in our internal and external reporting.

The forecasted number of applications for each of IP Australia's cost recovered activities over the forward estimates are provided in Table 2. These estimates are updated annually and published in IP Australia's Corporate Plan.

Table 2: IP Australia Deliverables

	PBS	Forward estimate	Forward estimate	Forward estimate
	2020-21	2021-22	2022-23	2023-24
Applications Received				
Patents	28,048	25,965	28,996	29,302
Patent Cooperation Treaty (PCT)	2,544	2,415	2,603	2,634
Trade Marks	63,863	65,741	68,141	70,380
Designs	7,123	7,301	7,479	7,610
Plant Breeder's Rights	275	300	325	350
Registration Service				
Trans-Tasman IP Attorneys	1,363	1,363	1,363	1,363

Source: IP Australia Corporate Plan 2020-21 (yet to be published)

3.2 Costs of the activity

Overview

IP Australia uses SAP PCM to cost the organisation's five activity groups. SAP PCM is an activity-based costing system specifically configured to assign the operating costs of the organisation to the various business activities undertaken within each activity group, and produce IP Australia's costed products and services.

IP Australia's variable costs (variable in respect of the IP rights workload drivers) are centred around the workforce which is directly employed in the receipt of applications and processing of examinations, registrations and renewals, including direct dealings with IP rights customers (approximately 70% of staff). The remaining staff and the costs of ongoing ICT and corporate support services are considered as fixed in respect to the normal reasonable variations in IP rights workloads. Fixed costs include building leases, depreciation costs, ongoing ICT costs (supporting licences for enabling systems used in common such as e-mail) and corporate overheads (payroll, insurance etc).

Both patents and trade marks activity groups have similar proportions of variable and fixed costs despite their differences in staffing numbers. Trade marks has approximately half the staff allocated to activities than patents. The four-year budget period covered by this CRIS reflects the ASL for patent and trade mark examiners to meet the demand volumes from customers (identified in Table 2). All non-examination ASL has been capped, as part of IP Australia's ongoing plan to reduce corporate overhead costs, as well as the organisation's commitment to leverage corporate shared service offerings.

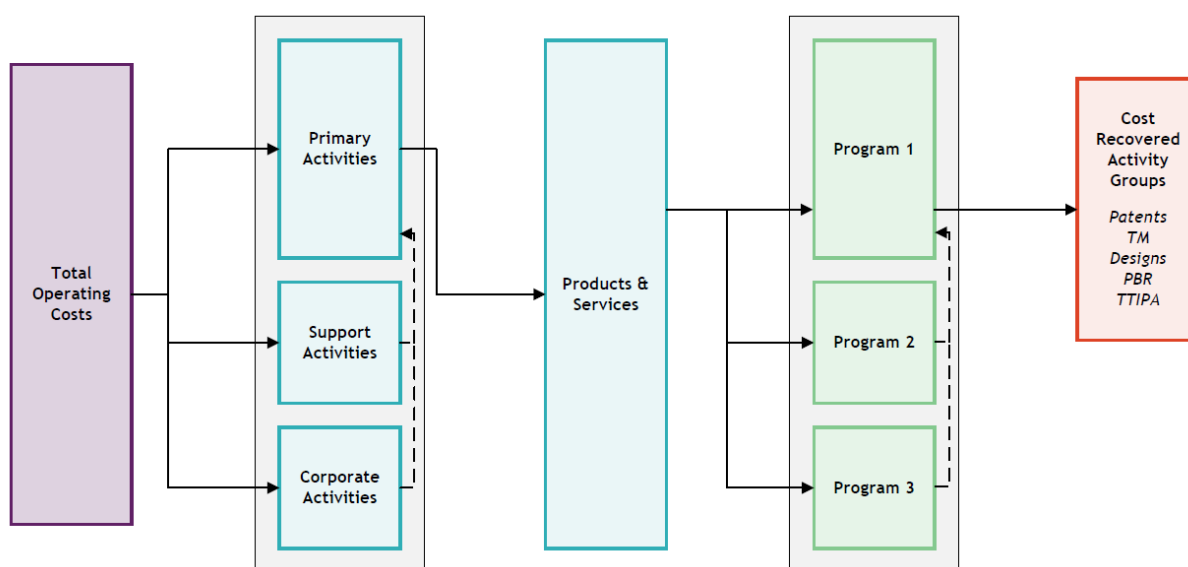
Capital investment is reflected in this CRIS through a forecast for depreciation in the financial estimates, based on an historic proportion of depreciation allocated to activity groups.

In respect of the remaining three smaller activity groups (designs, PBR and TTIPA), the main variable cost driver is staff costs, while the groups' fixed costs are incidental to IP Australia's total fixed costs and are considered sunk.

Costing Methodology

The cost of each activity group is based on its individual consumption of the various activities performed to deliver and provide related products and services. The activity groups are costed by allocating resources to activities performed, and then assigning the core primary activities to IP Australia's products and services. These outputs are mapped to one of IP Australia's three programs, outlined in the PBS, providing a total cost per program. The cost of programs 2 and 3 are then re-assigned to the cost recoverable activity groups within program 1, identifying the cost of each activity group.

Figure 2: IP Australia Costing Model Methodology



IP Australia's internal organisational structure

IP Australia's internal organisational structure can be classified into direct and indirect business groups, due to the nature of the work they undertake. This structure assists in costing the activity groups, but more so in helping to identify the various types of costs. The direct groups or sections are patents, PBR, trade marks, and designs. The work undertaken within these business groups can be directly aligned to one of the five activity groups and therefore, all operating expenses incurred are considered a direct cost of the cost recoverable activity. The support and corporate activities, such as finance, human resources, ICT, and property, are considered indirect as they support the outcomes of the direct groups.

The resource costs can therefore be classified as either direct or indirect.

Direct costs

The direct costs of the activity groups are employee, supplier and depreciation expenses stemming from the direct business groups. These direct costs are assigned to IP Australia's activities using cost drivers (contained within SAP PCM), such as time-sheeting data that provides volumes and time taken to complete an activity or management estimates of staff effort against activities performed. It should be noted that the majority of expenditure for these groups is staffing costs.

The direct costs of the patents and plant breeder's rights groups are allocated using time sheeting data that records the volume and time taken to undertake examination activities.

The direct costs of the trade marks and designs groups are allocated using a management estimate of time taken to undertake the group's activities. This estimate is based on a combination of historical data and planned deliverables.

Other expenses are driven using an ASL activity cost driver, except for the depreciation of assets which is attributed based on a percentage of usage.

All operating expenditure for administering the TTIPA is attributed directly to the activity.

Indirect costs

The indirect costs include all operating expenses, such as employee, supplier, accommodation and depreciation, from the corporate areas of the organisation. Indirect costs are generally allocated to cost pools and then re-assigned to the core primary activities undertaken by the direct business groups.

The main cost drivers used to assign corporate type expenses are similar for each activity group. For example, finance, human resources, and property are allocated based on ASL, while ICT services are allocated based on a combination of system usage and ASL. The cost of IP Australia's customer contact centre, an outsourced service, is allocated directly to each activity group based on the actual number of calls received. This information is provided on a monthly basis by the external provider.

Projected costs

Over the four-year period covered by this CRIS, IP Australia will see increases to the overall cost base (Table 3 refers) of an average of 2.0% per annum. This is driven by a number of factors:

- Employee costs will increase as a result of expected annual increases to salaries under IP Australia's Enterprise Agreement.
- Supplier costs are forecast to rise over the forward estimates with a focus on transitioning ICT services to the Cloud, investment in software as a service, and the impact of general inflation.
- Depreciation costs will reach a peak in 2020-21 as a result of the significant investment phase the organisation has undergone in recent years, before lowering over the forward estimate years with the retirement of aging assets.
- The financial estimates below reflect the changes to lease accounting under Australian Accounting Standards Board (AASB) 16 Leases.

Table 3 – Projected Total Expenses for IP Australia

ITEM	Budget estimate	Forward estimate	Forward estimate	Forward estimate
	2020-21	2021-22	2022-23	2023-24
	\$'M	\$'M	\$'M	\$'M
ASL	1,054.0	1,054.0	1,054.0	1,054.0
Employee expenses	131.092	134.307	137.578	141.650
Supplier expenses	46.847	51.943	54.484	55.370
Depreciation and amortisation	33.937	32.942	30.907	30.774
TOTAL EXPENSES	211.875	219.192	222.970	227.794

The expense attributed to each activity group is provided in section 6 below.

3.3 Design of cost recovery charges

IP Australia undertakes regulatory activity through issuing exclusive rights and privileges to IP rights holders. Efficiency and cost effectiveness are maximised by charging discrete fees on individuals and organisations, rather than imposing broader based levies. The charging of fees is directly aligned to IP Australia’s innovation policy objectives.

The Australian Government Cost Recovery Guidelines state that the users of government goods, services or regulations should bear the cost of their provision. In IP Australia’s case, those seeking IP right protection pay for the cost of the effort of issuing such rights. Each service can be mapped to the responsible individual or organisation and as a result a fee for service is the most appropriate charge. Direct charging of services to customers is the most efficient cost recovery mechanism, consistent with the Australian Government Cost Recovery Guidelines.

IP Australia structures fees on a unit basis with a fee schedule for each activity group, including applications, examinations, registrations, hearings and renewals. Applications can be received on-line or lodged using a paper form, with lower costs for on-line transactions reflecting the lower regulatory effort associated with such transactions. Where possible, like services with the same effort are charged at the same rate across product groups.

The fee setting process takes account of international comparative rates and benchmarking to ensure that IP Australia’s costs are efficient, and IP Australia remains competitive in the international market.

The current schedule of charges for each activity group can be located within the various IP rights regulations identified in Section 2.2. Fee information can also be located on IP Australia’s website.

Proposed Fee Changes

The proposed fee changes are designed to simplify fee structures, provide consistency to fees and regulations across similar services, balance costs with work effort, encourage the strategic assessment of the value of IP Rights, and streamline workflow. The proposed fee changes have addressed some recommendations accepted by the Government, from the

Productivity Commission's (PC) 2016 Report into Australia's IP arrangements.

The cost of entry into the IP system has been carefully considered as part of this fee review, with no increases to fees at the entry stage for applicants filing via the preferred channels at IP Australia. The proposed fee increases are limited to later in the IP Rights lifecycle, mainly at the renewals point or relating to technical matters for IP Australia's improved efficiency.

PATENTS

The Productivity Commission's (PC) Inquiry Report into Intellectual Property Arrangements (No. 78, 23 September 2016) recommended changes to patent renewal and excess claim fees. A summary of recommendation 7.4 is provided below.

RECOMMENDATION 7.4

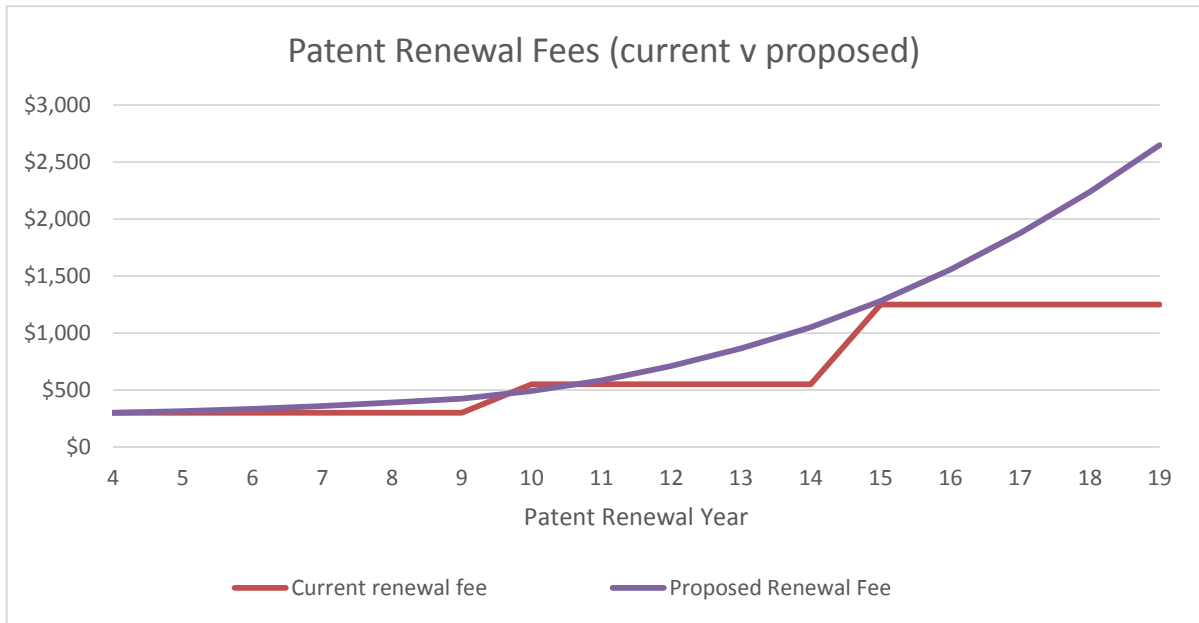
The Australian Government and IP Australia should set patent fees to promote broader intellectual property policy objectives, rather than the current primary objective of achieving cost recovery. To this end, the Australian Government, with input from IP Australia, should:

- restructure patent renewal fees such that they rise each year at an increasing rate (including years in which patents receive an extension of term) — fees later in the life of a patent would well exceed current levels
- reduce the initial threshold for claim fees, and increase claim fees for applications with a large number of claims.

These proposals were noted by the Government, which stated that IP Australia had enough scope within the Australian Government Charging Framework to effect these changes without needing to change IP Australia's cost recovery approach. Rather IP Australia would have regard to the recommendation when reviewing patent fees in future, including renewal and claim fees.

Specific fee changes proposed for patents include:

- **Patent renewals:** IP Australia has considered the PC recommendation and is proposing to adopt a patent renewal fee structure with annual increases to renewal fees. The annual fee increases are moderate for the 4th to 12th year renewal periods and then increase in scale later in the life of the patent (see chart below). The increase to renewal fees will ensure there is better alignment of expenses and revenue for the patent and trade mark activity groups, and address increasing patent expenses over the forward years. In considering this, an alternative 'staggered' renewal structure was considered, but it would be considerably costlier for patent holders in the early years when compared to the proposed annual increase.



- Patent excess claims: IP Australia** is proposing to maintain the current threshold at 20 claims before an excess claim fee is charged. However, the excess claim fee will increase from \$110 to \$125 for every claim over 20 claims but less than or equal to 30 claims at the point of acceptance, and to \$250 for every claim over 30 claims at the point of acceptance.
- Preliminary search and opinion:** The fee for a preliminary search and opinion will be reduced from \$2,200 to \$950 per search request. This fee adjustment aligns the service provided by a preliminary search and opinion with the service provided by filing a request under regulation 3.14A of the *Patents Regulations 1991* for an international-type search.
- Filing a patent application by another means:** The fee for filing a request by preferred means for a standard patent accompanied by a complete specification will remain unchanged at \$370. However, the fee for filing by another means will increase from \$470 to \$570. IP Australia is maintaining the current fee for filing by preferred means as it reflects the efficiencies gained through IT modernisation. In contrast, filing an application by another means rather than the preferred means requires labour intensive manual processing at a comparatively higher cost.

TRADE MARKS

Specific fee changes proposed for Trade Marks include:

- Restructure of Trade Mark application fees: IP Australia** is proposing to –

 - Maintain the standard trade mark pick list application fee at \$250
 - Increase the standard trade mark non-pick list application fee from \$330 per class to \$400 per class. The fee increase reflects the additional workload in classifying a non-pick list application.

- Maintain the TM Headstart application fees
- Increase the Madrid import application fees from \$350 to \$400 per class.
- Increase the standard trade mark filing fee for an application filed by another means from \$350 to \$450 per class. Filing an application by another means rather than the preferred means requires labour intensive manual processing at a comparatively higher cost.

The increase to trade mark application fees will ensure there is better alignment of expenses and revenue for the trade mark and patent activity groups, and address increasing trade mark expenses over the forward years.

- **Trade Marks oppositions and hearings:** The changes to the trade mark hearing fees and the wording in the Regulations are intended to clarify the hearing action with the associated cost.

The fee for filing a request for a hearing will be reduced from \$600 to \$400. Appearing and being heard at an oral hearing in person will increase from \$600 to \$800 per day (less the \$400 fee for filing a request for a hearing). Appearing and being heard at an oral hearing by means other than in person will attract a fee of \$600 per day (less the \$400 fee for filing a request for a hearing).

There will be no additional fee for a determination made outside of a hearing or being heard only on the base of written submissions.

DESIGNS

Specific fee changes proposed for Designs include:

- **Application for more than one design:** The Advisory Council on Intellectual Property (ACIP) recommended in its 2015 report that for multiple design applications, the fees for each additional design added to an application be reduced.

IP Australia is proposing to reduce the fee for filing a design application where there is either:

- more than one design in relation to the one product, or
- more than one design in relation to more than one product, if each product belongs to the same Locarno Agreement class.

The first Design will maintain a fee of \$250, however the fee for each subsequent Design disclosed in the application will be reduced to \$200.

- **Filing a design application by another means:** The fee for filing a design application by preferred means will remain unchanged at \$250, whereas the fee for filing by another means will increase from \$350 to \$450.

IP Australia is maintaining the current fee for filing by preferred means as it reflects the efficiencies gained through IT modernisation. In contrast, filing an application by another means rather than the preferred means requires labour intensive manual processing at a comparatively higher cost.

- **Design renewals:** IP Australia is proposing to increase the fee to file an application for renewal of the registration of a design from \$320 to \$400 when filed by the preferred means and from \$370 to \$450 when filed by another means.

The increase to design renewal fees is to ensure closer alignment of expenses and revenue within the Design activity.

PBR

Specific fee changes proposed for PBR include:

- **PBR renewals:** IP Australia is proposing to increase the fee for annual maintenance of a PBR from \$345 to \$400 when filed by the preferred means, and from \$395 to \$450 when filed by another means.

The increase to PBR renewal fees aims to moderate the under-recovered position of the overall PBR activity.

- **Qualified Persons:** IP Australia is proposing to increase the fee for designation of an approved person from \$50 to \$80 and increasing the renewal of designation of an approved person from a \$50 annual fee to a fee of \$240 for a period of 3 years.

These fee increases aim to moderate the under-recovered position of the overall PBR activity.

TTIPA

Specific fee changes proposed for TTIPA include:

- **TTIPA application and renewal of registration fees:** IP Australia is proposing to increase the TTIPA application and renewal fees by \$50, to recover most of the costs associated with administering the Board, the Disciplinary Tribunal, and regulating the profession.

IP Australia is moving ahead to have the fee changes implemented by way of amendments to the associated IP Rights regulations. These changes are proposed to take effect from 12am AEDT, 1 October 2020, subject to outcomes of the consultation and amending regulations being made.

A full list of proposed fee changes can be found in the Attachment.

4. RISK ASSESSMENT

IP Australia has undertaken a charging risk assessment, using the Charging Risk Assessment (CRA) template provided by the Department of Finance, to identify areas of implementation risk that could stem from the proposed fee changes as outlined in this CRIS.

IP Australia has assessed the overall risk rating as **Medium** because the amount to cost recover exceeds \$20 million and the proposed change in annual cost recovery revenue is greater than 10%.

When undertaking the risk assessment, IP Australia identified a number of additional implementation risks consistent across all IP activity groups. These risks included:

- Risk of an unforeseen and major global event that impacts demand, such as COVID-19.
- Difficulties in forecasting national and international demand
- Risk of a change in demand (and revenue) resulting from the introduction of the proposed fee changes
- Possible delays with the passage of regulation changes
- Risks associated with not updating IP Australia's internal fee processing systems in line with the approved legislative changes
- Customers not having their internal systems updated in line with the updated fees.

IP Australia has a comprehensive risk management framework, enabling the entity to effectively manage risks in accordance with its risk appetite. IP Australia monitors and reports on risks via a series of risk registers across the entity which IP Australia's Executive Board and Audit Committee regularly review as well as the entity's risk management framework.

IP Australia has controls in place across the organisation to mitigate risks associated with the unpredictability of demand. These are included on the corporate risk register and are reviewed quarterly for relevance and accountability.

One of IP Australia's controls is to maintain a financial model used to forecast demand and revenue trends. This model assists with providing valuable and timely information that is used for the planning and decision making of IP Australia's Executive Board and has the capability to carry out sensitivity (what-if) analysis on proposed fee changes. IP Australia has also used this model to identify various scenarios, taking into consideration the risks identified above, and to ascertain the impact of viable fee changes on IP Australia's financial management strategy, financial sustainability and cost recovered arrangements. The CRIS will be updated where necessary to reflect changes.

Customers will be given advance notice of when the fee changes have been approved and of their effective date. This will provide time for customers that may need to update their internal systems in line with the new fees.

IP Australia will manage the two implementation risks identified as high on the CRA through the following measures:

- Maintenance of a healthy balance sheet, and the monitoring and management of the organisation's cash reserve in accordance with IP Australia's cash reserve policy (refer to Section 6)

- Cost control mechanisms where any downturn or upswing in activity levels can be offset through the normal rates of turnover in staffing levels and acceptable customer service levels.

5. STAKEHOLDER ENGAGEMENT

Achieving IP Australia's purpose involves engaging effectively with customers and stakeholders.

By providing appropriate advice and systems to support effective engagement, IP Australia fulfils the role of raising awareness and educating customers about IP. Success includes the delivery of public education and awareness programs that promote the importance of IP and provide Australians with the tools they require to make informed decisions regarding IP.

IP Australia actively engages with a diverse range of stakeholders, through various channels, in order to canvas ideas, suggestions, and feedback in relation to IP Australia's fees and fee structure.

IP Australia is involved in various external forums including:

- IP Stakeholders Forum (IPSF)
- Patents Consultation Group (PCG)
- Trade Marks and Designs Consultation Group (TM&DCG)
- Plant Breeder's Rights Consultation Group (PBRCG)
- [Trans-Tasman IP Attorneys Board](#).

These Groups are the principal forums for consultation, discussion and information exchange on issues relating to the IP system which could impact on IP policy, practice and legislation in Australia. Information updates on the current fee review has been provided to these forums, including consultation with Intellectual Property Office of New Zealand and the Trans-Tasman IP Attorneys Board on IP attorney regulated fees. These forums usually meet two to three times a year.

Members of these consultation groups include:

Members of IPSF

- the Institute of Patent and Trade Marks Attorneys (IPTA) of Australia
- the Australian Federation of Intellectual Property Attorneys (FICPI)
- the Law Council of Australia (LCA) Intellectual Property Committee
- the Licensing Executive Society of Australia and New Zealand (LESANZ)
- the International Association for the Protection of Intellectual Property (AIPPI)
- the Australian Chamber of Commerce and Industry (ACCI)
- the Australian Industry Group (Ai Group)
- Knowledge Commercialisation Australasia (KCA)

- Universities Australia (UA)
- the Department of Industry, Science, Energy and Resources
- a non-IPTA attorney.

Members of PCG

- IPTA
- FICPI
- LCA
- New Zealand Institute of Patent Attorneys (NZIPA).

Members of TMDCG

- IPTA
- FICPI
- LCA
- NZIPA
- International Trademark Association (INTA).

Members of PBRCG

- Australian Centre for Intellectual Property in Agriculture (ACIPA)
- Australian Cultivar Registration Authority (ACRA)
- Australian Seed Federation (ASF)
- Horticulture Innovation Association (HIA)
- IPTA
- LCA
- Nursery and Garden Industry Australia (NGIA)
- Commonwealth Scientific and Industrial Research Organisation (CSIRO)
- Australian Government Department of Agriculture
- National Farmers Federation (NFF)
- International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (CIOFORA)
- Two Qualified Persons.

The consultation and communication process for the current fee review commenced with an official notice posted on IP Australia's website on 4 April 2019. This notice invited stakeholders to provide ideas and suggestions on IP Australia's current fee structures, and where improvements could be made.

Over 80 submissions were received and each one was triaged to determine their initial feasibility. From these initial triage workshops, several common themes were identified including:

- Simplifying fee structures - reduce confusion and complexities around fee structures for customers.
- Alignment across IP Rights - provide consistency to fees and regulations across similar services that IP Australia delivers.
- Balancing costs with work effort - aligning the cost of examination with the associated fees. For example, weighing the cost of the number of claims in a patent application with the work required of an examiner.
- Encourage strategic assessment of the value of IP Rights - encourage IP owners to be considered more when it comes to renewing their rights.
- Streamline workflow and improve efficiency - adjusting fees and communication channels to further support our preferred filing methods and online services, and increase usage of self-help items such as the trade mark pick-list.

A number of the suggestions received were identified as feasible and have been included in this CRIS.

IP Australia provided a further opportunity for stakeholders to provide final feedback with the release of the draft CRIS on 17 December 2019. This draft CRIS, published on IP Australia's website, included the proposed fee changes as identified in the Attachment. IP Australia considered all issues raised and determined no further revisions to the proposed fees were required.

IP Australia continues to provide ongoing mechanisms for stakeholders to provide feedback on IP Australia's fees and cost recovery arrangements. These include:

- the maintenance of a transparent Customer Service Charter against which IP Australia reports regularly against its service delivery standards, and
- a customer feedback database that captures customer compliments, complaints and suggestions for improvement.

As an entity of the Australian Government, IP Australia's primary accountability is to the Australian public through the Minister for Industry, Science and Technology. In addition, the agents and representatives of IP Australia's direct customer are important stakeholders. IP Australia maintains an active involvement with industry, business groups, the IP attorney profession, Government policy makers, academic and research bodies, and the wider legal community. IP Australia is also an active participant in the proceedings of WIPO which administers the international IP rights system on behalf of all member states.

6. FINANCIAL ESTIMATES

IP Australia is proposing fee changes (detailed in the Attachment) which are forecast to result in the projected financial outcomes for IP Australia detailed in Table 4.

Table 4 – Projected Financial Outcomes for IP Australia

	Budget estimate	Forward estimate	Forward estimate	Forward estimate
	2020-21	2021-22	2022-23	2023-24
ITEM	\$'M	\$'M	\$'M	\$'M
Income	203.517	219.835	226.609	231.431
Revenue from Government	0.358	0.358	0.361	0.363
Expense	211.875	219.192	222.970	227.794
Total comprehensive income/(loss) attributed to the Australia Government	(8.000)	1.000	4.000	4.000
Capital Expenditure	15.000	20.000	20.000	20.000
Official Public Account Balance	24.342	27.703	31.929	35.729

Since the last fee change in 2016, IP Australia has undertaken its largest business transformation initiative with the release of the 'Rights in One' (RIO) administration system for trade marks and designs.

RIO introduced modern technologies, machine learning and automation capabilities to transform examination, research and administration systems from dated mainframe legacy systems to a responsive, agile and modern platform.

The RIO system has also delivered advanced digital IP services that are adaptable to meet future opportunities, and efficiently support outcomes for Australian innovators and business in trade marks and designs.

IP Australia has undergone a significant program of cultural change and investment through our Future Way of Working Program, which aims to provide an efficient, adaptable and sustainable workplace and a mobile workforce.

In 2018-19, significant works began at our offices to increase collaboration and productivity among our staff in activity-based working environments. This work that is scheduled for completion in early 2020 has also included the roll out of new technology to support our staff to work flexibly in our contemporary office space.

Work continues with the Transactional Digital Services (TDS) program to rebuild our current transactional channels with a focus on optimising the experience for our customers and obtaining more structured and reliable data for IP Australia. The program is building platforms and services which will modernise our offerings, open our transactional systems to the private sector using APIs, and encourage innovation in the IP services market.

In line with IP Australia's ICT Strategy 2022, the organisation recently moved its ICT hardware offsite to improve the reliability of our data centre facilities, enhance our

disaster recovery capabilities, and allow for data centre scalability and flexibility. In addition, this move will support the organisation's progression to cloud based applications and provide improved 24/7 services to customers.

These strategically planned investments have been funded entirely from the organisation's cash reserves that had been built up over time. The strategy of IP Australia's last fee review in 2016 was to fund these major initiatives and further utilise the reserve by reporting three years of operating losses, rather than impose overall fee increases on our customers. As such, IP Australia's cash reserves have reduced from approximately \$100 million at the end of 2015-16 to \$45 million at the end of 2018-19, reflecting the value of assets purchased.

IP Australia is anticipating a decline in customer demand for IP Rights services stemming from the COVID-19 economic downturn that will have a direct negative impact on IP Australia's revenue streams. Prior to the COVID-19 economic down-turn, IP Australia was budgeting for a return to surplus of \$3.500 million in 2020-21 in accordance with the 2019-20 Portfolio Budget Statements. Since March 2020, IP Australia has experienced a decline in its revenue streams which is likely to continue through to 2020-21 or until such time economic conditions improve.

The impact of the COVID-19 pandemic on IP Australia's demand for services is estimated to be approximately 10% in financial year 2020-21, with a trailing impact on revenue forecasts into the forward estimates. It is anticipated that IP Australia can adequately manage existing operations with limited impacts on customer services through the careful management of existing cash reserves, operating expenditure and the anticipated introduction of the fee changes detailed in the Attachment.

The strategy for the current fee review is to manage and rebuild the organisation's cash reserve over the forward estimates in accordance with thresholds outlined in IP Australia's cash reserve policy. This will be achieved through reporting moderate surpluses from 2021-22 onwards and a return to trend for lower capital investment over the next four financial years (*refer to Table 4*).

Table 5 illustrates both the historic financial performance and financial estimates of each of IP Australia's activity groups. These tables will be updated annually following the publication of IP Australia's financial results and budget updates. The 2019-20 estimated actual forecasts will be updated following the release of the audited financial statements.

Table 5 – IP Australia Cost Recovered Activities - Financial Performance & Forecast

Patent Activity Group	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 125.016	\$ 127.253	\$ 123.344	\$ 124.462	\$ 134.893	\$ 146.849	\$ 151.328	\$ 153.221
Expenses = X	\$ 130.004	\$ 132.443	\$ 132.581	\$ 132.628	\$ 134.835	\$ 139.322	\$ 141.132	\$ 144.045
Balance = Y - X	-\$ 4.988	-\$ 5.190	-\$ 9.237	-\$ 8.166	\$ 0.058	\$ 7.527	\$ 10.197	\$ 9.176
Cumulative Balance	-\$ 4.988	-\$ 10.178	-\$ 19.415	-\$ 27.580	-\$ 27.523	-\$ 19.996	-\$ 9.799	-\$ 0.623

Trade Marks Activity Group	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 80.616	\$ 80.063	\$ 71.312	\$ 73.233	\$ 63.639	\$ 67.744	\$ 69.980	\$ 72.862
Expenses = X	\$ 68.227	\$ 70.679	\$ 77.079	\$ 69.231	\$ 68.509	\$ 71.080	\$ 72.888	\$ 74.585
Balance = Y - X	\$ 12.389	\$ 9.384	-\$ 5.767	\$ 4.002	-\$ 4.871	-\$ 3.336	-\$ 2.908	-\$ 1.722
Cumulative Balance	\$ 12.389	\$ 21.773	\$ 16.006	\$ 20.008	\$ 15.137	\$ 11.801	\$ 8.893	\$ 7.171

Designs Activity Group	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 3.867	\$ 3.996	\$ 3.729	\$ 3.692	\$ 3.489	\$ 3.694	\$ 3.755	\$ 3.806
Expenses = X	\$ 4.799	\$ 5.160	\$ 5.795	\$ 5.189	\$ 5.144	\$ 5.300	\$ 5.396	\$ 5.525
Balance = Y - X	-\$ 0.932	-\$ 1.164	-\$ 2.066	-\$ 1.496	-\$ 1.655	-\$ 1.606	-\$ 1.641	-\$ 1.719
Cumulative Balance	-\$ 0.932	-\$ 2.095	-\$ 4.162	-\$ 5.658	-\$ 7.313	-\$ 8.919	-\$ 10.560	-\$ 12.278

PBR Activity Group	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 1.365	\$ 1.419	\$ 1.503	\$ 1.448	\$ 1.203	\$ 1.211	\$ 1.211	\$ 1.211
Expenses = X	\$ 2.095	\$ 2.374	\$ 2.452	\$ 2.541	\$ 2.538	\$ 2.618	\$ 2.665	\$ 2.730
Balance = Y - X	-\$ 0.730	-\$ 0.954	-\$ 0.949	-\$ 1.094	-\$ 1.336	-\$ 1.407	-\$ 1.454	-\$ 1.519
Cumulative Balance	-\$ 0.730	-\$ 1.684	-\$ 2.633	-\$ 3.727	-\$ 5.062	-\$ 6.469	-\$ 7.924	-\$ 9.442

TTIPA Activity Group	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 0.792	\$ 0.581	\$ 0.834	\$ 0.626	\$ 0.652	\$ 0.695	\$ 0.695	\$ 0.695
Expenses = X	\$ 0.759	\$ 0.716	\$ 0.915	\$ 0.862	\$ 0.848	\$ 0.872	\$ 0.889	\$ 0.910
Balance = Y - X	\$ 0.032	-\$ 0.135	-\$ 0.080	-\$ 0.236	-\$ 0.197	-\$ 0.177	-\$ 0.194	-\$ 0.216
Cumulative Balance	\$ 0.032	-\$ 0.103	-\$ 0.183	-\$ 0.419	-\$ 0.616	-\$ 0.793	-\$ 0.987	-\$ 1.203

TOTAL IP AUSTRALIA	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
	Actual	Actual	Actual	Estimated actual	Budget	Forward estimate	Forward estimate	Forward estimate
Revenue = Y	\$ 211.656	\$ 213.312	\$ 200.723	\$ 203.461	\$ 203.875	\$ 220.193	\$ 226.970	\$ 231.794
Expenses = X	\$ 205.884	\$ 211.371	\$ 218.823	\$ 210.451	\$ 211.875	\$ 219.192	\$ 222.970	\$ 227.794
Balance = Y - X	\$ 5.772	\$ 1.941	-\$ 18.099	-\$ 6.990	-\$ 8.000	\$ 1.000	\$ 4.000	\$ 4.000
Cumulative Balance	\$ 5.772	\$ 7.713	-\$ 10.386	-\$ 17.377	-\$ 25.377	-\$ 24.376	-\$ 20.377	-\$ 16.376

7. NON-FINANCIAL PERFORMANCE

IP Australia reports against its non-financial performance targets in the Department of Industry, Innovation and Science's PBS, Annual Report and IP Australia's Corporate Plan. These include performance criteria such as:

- 90%+ overall customer satisfaction with IP Australia as an agency
- All IP rights applications are processed in accordance with IP Australia's Acceptable Quality Levels and Standards which are reviewed and set in consultation with stakeholders
- All IP Rights applications are processed in line with the undertakings set out in the Customer Service Charter which is reviewed and set in consultation with stakeholders
- 90% of customers were satisfied with IP Australia's education and awareness services
- 85%+ of customers are satisfied with the quality of tools to support self-service
- 85%+ of customers are satisfied with the reliability and effectiveness of externally facing ICT systems
- Meet or exceed all CSC commitments for external support services
- Provision of high quality, timely and strategic policy advice to the Minister
- IP Australia's International Engagement Strategy is progressed in line with the agreed schedule.

IP Australia is currently undertaking a review of its performance targets to ensure the measures and targets we adopt continue to drive outcomes that meet customer needs. These performance targets will be modified as a result of the Customer Service Charter Review.

ATTACHMENT

The following provides a summary of the proposed fee changes for IP Australia.

Fee Description	Current Fee	Proposed Fee
PATENTS		
Increased differential between Another Means and Preferred Means		
Standard Complete Patent Application - <i>Another Means</i>	\$470	\$570
Standard National Phase Entry Patent Application - <i>Another Means</i>	\$470	\$570
Innovation Patent Application - <i>Another Means</i>	\$280	\$380
Change to Patent Excess Claims Fees		
Amend Standard Complete Patent After Acceptance - Greater than 20 claims	\$110	\$250
Standard Patent - Greater than 20 claims & equal to or less than 30 claims	New Fee	\$125
Standard Patent - Greater than 30 claims	New Fee	\$250
Standard Patent - Greater than 20 claims	\$110	Abolished
Change to Patent Renewal Fees		
Standard Patent - 5th Year Renewal - <i>Another Means</i>	\$350	\$365
Standard Patent - 6th Year Renewal - <i>Another Means</i>	\$350	\$385
Standard Patent - 7th Year Renewal - <i>Another Means</i>	\$350	\$410
Standard Patent - 8th Year Renewal - <i>Another Means</i>	\$350	\$440
Standard Patent - 9th Year Renewal - <i>Another Means</i>	\$350	\$475
Standard Patent - 10th Year Renewal - <i>Another Means</i>	\$600	\$540
Standard Patent - 11th Year Renewal - <i>Another Means</i>	\$600	\$635
Standard Patent - 12th Year Renewal - <i>Another Means</i>	\$600	\$760
Standard Patent - 13th Year Renewal - <i>Another Means</i>	\$600	\$915
Standard Patent - 14th Year Renewal - <i>Another Means</i>	\$600	\$1,100
Standard Patent - 15th Year Renewal - <i>Another Means</i>	\$1,300	\$1,330
Standard Patent - 16th Year Renewal - <i>Another Means</i>	\$1,300	\$1,605
Standard Patent - 17th Year Renewal - <i>Another Means</i>	\$1,300	\$1,925
Standard Patent - 18th Year Renewal - <i>Another Means</i>	\$1,300	\$2,290
Standard Patent - 19th Year Renewal - <i>Another Means</i>	\$1,300	\$2,700
Pharmaceutical Patent -20th Year Renewal - <i>Another Means</i>	\$2,600	\$4,050
Pharmaceutical Patent -21st Year Renewal - <i>Another Means</i>	\$2,600	\$5,050
Pharmaceutical Patent -22nd Year Renewal - <i>Another Means</i>	\$2,600	\$6,050
Pharmaceutical Patent -23rd Year Renewal - <i>Another Means</i>	\$2,600	\$7,050
Pharmaceutical Patent -24th Year Renewal - <i>Another Means</i>	\$2,600	\$8,050
Standard Patent - 5th Year Renewal - <i>Preferred Means</i>	\$300	\$315
Standard Patent - 6th Year Renewal - <i>Preferred Means</i>	\$300	\$335
Standard Patent - 7th Year Renewal - <i>Preferred Means</i>	\$300	\$360
Standard Patent - 8th Year Renewal - <i>Preferred Means</i>	\$300	\$390
Standard Patent - 9th Year Renewal - <i>Preferred Means</i>	\$300	\$425
Standard Patent - 10th Year Renewal - <i>Preferred Means</i>	\$550	\$490
Standard Patent - 11th Year Renewal - <i>Preferred Means</i>	\$550	\$585
Standard Patent - 12th Year Renewal - <i>Preferred Means</i>	\$550	\$710
Standard Patent - 13th Year Renewal - <i>Preferred Means</i>	\$550	\$865
Standard Patent - 14th Year Renewal - <i>Preferred Means</i>	\$550	\$1,050
Standard Patent - 15th Year Renewal - <i>Preferred Means</i>	\$1,250	\$1,280

Fee Description	Current Fee	Proposed Fee
PATENTS		
Standard Patent - 16th Year Renewal - <i>Preferred Means</i>	\$1,250	\$1,555
Standard Patent - 17th Year Renewal - <i>Preferred Means</i>	\$1,250	\$1,875
Standard Patent - 18th Year Renewal - <i>Preferred Means</i>	\$1,250	\$2,240
Standard Patent - 19th Year Renewal - <i>Preferred Means</i>	\$1,250	\$2,650
Pharmaceutical Patent -20th Year Renewal - <i>Preferred Means</i>	\$2,550	\$4,000
Pharmaceutical Patent -21st Year Renewal - <i>Preferred Means</i>	\$2,550	\$5,000
Pharmaceutical Patent -22nd Year Renewal - <i>Preferred Means</i>	\$2,550	\$6,000
Pharmaceutical Patent -23rd Year Renewal - <i>Preferred Means</i>	\$2,550	\$7,000
Pharmaceutical Patent -24th Year Renewal - <i>Preferred Means</i>	\$2,550	\$8,000
Preliminary Search & Opinion (PSO) Fee Reduction		
Patent voluntary Preliminary Search & Opinion (PSO)	\$2,200	\$950
Expedited Post Option for Document Requests		
Expedited post option for urgent document requests	New Fee	\$20

Fee Description	Current Fee	Proposed Fee
TRADE MARKS		
Restructure Trade marks Application Fees		
Standard TM Application - First Class - <i>Another Means</i>	\$350	\$450
Standard TM Application - Additional Classes - <i>Another Means</i>	\$350	\$450
Standard TM Add Prescribed Goods - First Class - <i>Another Means</i>	\$350	\$450
Standard TM Add Prescribed Goods - Additional classes - <i>Another Means</i>	\$350	\$450
Madrid Import Application - First Class	\$350	\$400
Madrid Import Application - Additional Classes	\$350	\$400
Standard TM Application - First Class - No Pick List - <i>Preferred Means</i>	\$330	\$400
Standard TM Application - Additional Classes - No Pick List - <i>Preferred Means</i>	\$330	\$400
Series TM Application - First Class - <i>Another Means</i>	\$500	\$600
Series TM Application - Additional Classes - <i>Another Means</i>	\$500	\$600
Series TM Add Prescribed Goods - First Class - <i>Another Means</i>	\$500	\$600
Series TM Add Prescribed Goods - Additional classes - <i>Another Means</i>	\$500	\$600
Series TM Application - First Class - No Pick List - <i>Preferred Means</i>	\$480	\$550
Series TM Application - Additional Classes - No Pick List - <i>Preferred Means</i>	\$480	\$550
Renewal of registration (registration delayed for 10 or more years after filing date) - <i>Preferred Means</i>	\$450	\$400
Renewal of registration (registration delayed for 10 or more years after filing date) - <i>Another Means</i>	\$450	\$450
Late renewal of registration (registration delayed for 10 or more years after filing date) - <i>Preferred Means</i>	\$450	\$400
Late renewal of registration (registration delayed for 10 or more years after filing date) - <i>Another Means</i>	\$450	\$450
Amend Schedule 9 of Trade marks Reg 1995 for Hearing Fees		
Request for a hearing under regulation 5.17, 6.9, 9.17, 9.20, 17A.34M, 17A.48S, 17A.48V or 21.20E	\$600	Replaced by new Item

Fee Description	Current Fee	Proposed Fee
TRADE MARKS		
Request for an oral hearing in relation to any other matter	\$400	Replaced by new Item
Attendance at an oral hearing under regulation 5.17, 6.9, 9.17, 9.20, 17A.34M, 17A.48S, 17A.48V or 21.20E	\$600 for each day, or part of a day, less any amount paid under item 14 in relation to the hearing	Replaced by new Item
Attendance at an oral hearing to which item 16 does not apply	\$400 less any amount paid under item 15 in relation to the hearing	Replaced by new Item
Filing a request for a hearing	New Item	\$400
Appearing and being heard at an oral hearing in person: (a) for the first day (b) if the hearing runs for more than a day	New Item	\$800 less any amount paid under item [14] in relation to the hearing \$800 for each day, or part of a day, after the first day
Appearing and being heard at an oral hearing in by means other than in person: (a) for the first day (b) if the hearing runs for more than a day	New Item	\$600 less any amount paid under item [14] in relation to the hearing \$600 for each day, or part of a day, after the first day

Fee Description	Current Fee	Proposed Fee
TRADE MARKS		
Being heard on the basis of written submissions only	New Item	\$400 less any amount paid under item [14] in relation to the hearing
Decision with reasons issued in accordance with section 55, section 101, regulation 17A.34N or 17A.48D	New Item	\$400 less any amount paid under items [14], [15], [16] or [17].
Expedited Post Option for Document Requests		
Expedited post option for urgent document requests	New Fee	\$20

Fee Description	Current Fee	Proposed Fee
DESIGNS		
Design Paper Applications & Align Renewal Fees		
Design Application - <i>Another Means</i>	\$350	\$450
Renewal of Design Registration - <i>Another Means</i>	\$370	\$450
Renewal of Design Registration - <i>Preferred means</i>	\$320	\$400
File a request for a further Design - <i>Another Means</i>	\$350	\$450
Introduce More than One Design Application		
More than one design within the same category - <i>Preferred Means</i>	New Fee	\$200
More than one design within the same category - <i>Another Means</i>	New Fee	\$400
Removal from Regs the renewals under the old Act		
First Renewal Fee under the old Act - <i>Item 6(a)</i>	\$55	Abolished
Second Renewal Fee under the old Act - <i>Item 6(b)</i>	\$90	Abolished
Third Renewal Fee under the old Act - <i>Item 6(c)</i>	\$135	Abolished
Expedited Post Option for Document Requests		
Expedited post option for urgent document requests	New Fee	\$20

Fee Description	Current Fee	Proposed Fee
PLANT BREEDER'S RIGHTS		
PBR increase to general fees & align renewal fees		
PBR Application - <i>Another Means</i>	\$445	\$545
PBR Renewal - <i>Preferred Means</i>	\$345	\$400
PBR Renewal - <i>Another Means</i>	\$395	\$450
PBR change to Qualified Person (QP) fee		
Designation of an approved person (QP) under section 8 - 3 Years	\$50 per 1yr	\$240 per 3yr
Renewal of designation of an approved person (QP) - 3 Years	\$50 per	\$240 per

Fee Description	Current Fee	Proposed Fee
PLANT BREEDER'S RIGHTS		
	1yr	3yr
Expedited Post Option for Document Requests		
Expedited post option for urgent document requests	New Fee	\$20

Fee Description	Current Fee	Proposed Fee
TRANS-TASMAN IP ATTORNEY BOARD		
TTIPAB Application		
Apply for registration as a Patent Attorney	\$300	\$350
Apply for registration as a TM attorney	\$200	\$250
Apply for registration as an Inc Patent Attorney	\$300	\$350
Apply for registration as an Inc TM Attorney	\$300	\$350
TTIPAB Registration		
Renew Patent Attorney annual registration	\$350	\$400
Restore Patent Attorney name to the register	\$250	\$300
Renew combined Trade marks and Patent Attorney annual registration	\$550	\$600
Renew combined Patent and Trade marks Attorney annual registration	\$550	\$600
Renew Trade marks Attorney annual registration	\$350	\$400
Restore Trade marks Attorney name to the register as authorised by Reg 20.14	\$250	\$300
Renew Inc Patent Attorney annual registration	\$350	\$400
Renew combined Inc Patent and Inc Trade marks Attorney annual registration	\$550	\$600
Restore Patent Attorney name to the register	\$250	\$300
Renew Inc Trade marks Attorney annual registration	\$350	\$400
Annual Registration Combined Inc Trade marks and Patent Attorney	\$550	\$600
Apply to Restore to Register of Trade marks Attorney as authorised by Reg 20A.22	\$250	\$300

Fee Description	Current Fee	Proposed Fee
OLYMPIC INSIGNIA PROTECTION		
Olympic Insignia Protection - Fee Alignment		
Olympic Design Application	\$250	\$450
Olympic Design Renewal	\$90	\$450