



# **Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024**

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I, the Honourable Frances Adamson AC Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 29 August 2024

Frances Adamson AC  
Administrator

By Her Excellency's Command

Ed Husic  
Minister for Industry and Science

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## 1 Name

This instrument is the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024*.

## 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the 28th day after the instrument is registered; and (b) 1 October 2024.	1 October 2024 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the following:

- (a) the *Designs Act 2003*;
- (b) the *Olympic Insignia Protection Act 1987*;
- (c) the *Patents Act 1990*;
- (d) the *Plant Breeder's Rights Act 1994*;
- (e) the *Trade Marks Act 1995*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Designs Regulations 2004*

#### 1 In the appropriate position in Chapter 12

Insert:

### **Part 5—Amendments made by the Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024**

#### 12.12 Application of amendments

The amendments of Schedule 3 made by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024* apply in respect of proceedings that begin on or after the commencement of that instrument.

#### 2 Amendments of listed provisions—Part 1 of Schedule 3

The items of the table in Part 1 of Schedule 3 listed in the following table are amended as set out in the table.

<b>Amendments relating to costs</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 1	\$200	\$600
2	Item 2	\$130	\$300
3	Item 3	\$525	\$1,500
4	Item 4	\$260	\$390
5	Item 4	\$1 170	\$1,755
6	Item 5	\$200	\$300
7	Item 5	\$900	\$1,350
8	Item 6	\$300	\$450
9	Item 6	\$1 350	\$2,025

#### 3 Paragraph 2(b) of Part 2 of Schedule 3

Omit “\$700”, substitute “\$1,050”.

#### 4 Paragraph 3(b) of Part 2 of Schedule 3

Omit “\$140, or more than \$700”, substitute “\$210, or more than \$1,050”.

#### 5 Paragraph 4(b) of Part 2 of Schedule 3

Omit “\$80, or more than \$130”, substitute “\$120, or more than \$195”.

## 6 Amendments of listed provisions—clause 1 of Schedule 4

The items of the table in clause 1 of Schedule 4 listed in the following table are amended as set out in the table.

Amendments relating to fees			
Item	Table item	Omit	Substitute
1	Item 1	\$250 (first occurring)	\$200
2	Item 1	\$450 (first occurring)	\$400
3	Item 1	\$250 (second occurring)	\$200
4	Item 1	\$200	\$150
5	Item 1	\$450 (second occurring)	\$400
6	Item 1	\$400	\$350
7	Item 2	\$250	\$200
8	Item 2	\$450	\$400
9	Item 3	\$420	\$500
10	Item 4	\$210 (wherever occurring)	\$250

### *Olympic Insignia Protection Regulations 1993*

#### 7 Regulation 3 (table item 1, column 2)

Omit “\$450”, substitute “\$400”.

### *Patents Regulations 1991*

#### 8 Subregulation 1.3(1)

Insert:

*first examination report date*, in relation to an application for a standard patent, means the day that the Commissioner first reports, under section 45 of the Act, in relation to an examination of a patent request and complete specification relating to the application.

*potential claim*, in relation to an application for a standard patent, means:

- (a) unless paragraph (b) applies—a claim in the complete specification to which the application relates; or
- (b) if there are any requests made by the applicant for leave to amend the complete specification to which the application relates that the Commissioner has neither granted nor refused—a claim that would be in the complete specification if those requests were granted (including a claim that would be in the complete specification regardless).

#### 9 Paragraphs 13.4(1)(a), (b) and (c)

Omit “date of the first report (if any) under section 45 of the Act” (wherever occurring), substitute “first examination report date (if applicable)”.

#### 10 After paragraph 22.2(2)(a)

Insert:

- (aa) subject to subregulation (2A), the fee for more than 20 potential claims in relation to an application for a standard patent at the start of the first examination report date for the application is payable on the first examination report date;

## **11 After subregulation 22.2(2)**

Insert:

- (2A) The fee referred to in paragraph (2)(aa) is not payable if:
  - (a) the report to which the first examination report date mentioned in that paragraph relates indicates that the Commissioner is satisfied that:
    - (i) the complete specification complies with subsections 40(2) to (4) of the Act; and
    - (ii) to the best of the Commissioner’s knowledge, the invention, so far as claimed, satisfies the criteria mentioned in paragraphs 18(1)(a), (b) and (c) of the Act; and
    - (iii) the invention is a patentable invention under subsection 18(2) of the Act; and
    - (iv) the patent request and complete specification comply with the provisions of the Act mentioned in paragraph 3.18(2)(a) of these Regulations; and
    - (v) acceptance of the patent request and complete specification should not be refused under section 50 of the Act; and
    - (vi) the patent is not a patent that cannot be granted on the application because of subsection 64(2) of the Act; and
    - (vii) if the application is a PCT application—to the best of the Commissioner’s knowledge, the requirements of subregulations 3.2C(2) and (3) of these Regulations are met; and
  - (b) if the applicant requested, under subsection 49A(1) of the Act, the Commissioner to postpone acceptance of the patent request and complete specification to which the report relates:
    - (i) the first examination report date is later than the day (if any) specified by the Commissioner under subsection 49A(3) of the Act in response to the request; or
    - (ii) the applicant has withdrawn the request for postponement.

## **12 Subparagraph 22.2(4)(a)(ii)**

Omit “item 301, and items 401 to 404,”, substitute “items 401 to 404”.

## **13 After regulation 22.2EA**

Insert:

### **22.2EB Failure to pay: fees payable for the first report on examination**

- (1) An application for a standard patent lapses if:
  - (a) a fee mentioned in item 203A of the table in clause 2 of Schedule 7 is not paid when it is payable; and
  - (b) the Commissioner invites the applicant to pay the fee within 1 month after the first examination report date; and
  - (c) the fee is not paid within the 1 month period.



- (2) An application that lapses under subregulation (1) is restored if the fee mentioned in item 203A of the table in clause 2 of Schedule 7 is paid in relation to the application within the period of 11 months after the application so lapses.

#### **14 After subregulation 22.2F(2)**

Insert:

- (2A) An application for a standard patent is to be treated as if the fee mentioned in regulation 22.2EB had been paid on the first examination report date if:
- (a) the fee is not paid when it is payable; and
  - (b) the Commissioner does not give the invitation mentioned in paragraph 22.2EB(1)(b) within the 1 month period mentioned in that paragraph.

#### **15 Subregulation 22.2F(7)**

After “(2),”, insert “(2A),”.

#### **16 Subregulation 22.3(2)**

Omit “fees specified in items 301 and 302 in Schedule 7 are”, substitute “fee specified in item 302 of Schedule 7 is”.

#### **17 In the appropriate position in Chapter 23**

Insert:

## **Part 8—Amendments made by the Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024**

### **23.53 Fee for more than 20 potential claims in relation to an application for a standard patent at the start of the first examination report date**

Item 203A of the table in clause 2 of Schedule 7, as inserted by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024*, applies in relation to an application for a standard patent, whether made before, on or after the commencement of that instrument, if:

- (a) the applicant asks, under section 44 of the Act, for an examination of a patent request and specification relating to the application on or after that commencement; and
- (b) the first examination report date in relation to the application occurs after the applicant so asks.

### **23.54 Fee for acceptance of a patent request and complete specification**

- (1) Item 213 of the table in clause 2 of Schedule 7, as amended by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024*, applies to the acceptance of a patent request and complete specification if the applicant asks, under section 44 of the Act, for an examination of the patent request and complete specification on or after the commencement of that instrument, whether the application to which the patent

request and complete specification relate was made before, on or after that commencement.

- (2) If:
- (a) an applicant asks, under section 44 of the Act, for an examination of a patent request and complete specification before the commencement of the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024*; and
  - (b) the patent request and complete specification are accepted on or after that commencement;
- item 213 of the table in clause 2 of Schedule 7 to these Regulations applies in relation to the acceptance as if it read:

213	Acceptance of a patent request and complete specification under section 49 of the Act:	
	(a) if the specification does not contain more than 20 claims at acceptance;	\$300
	(b) if the specification contains more than 20 claims at acceptance	The sum of:
		(a) \$300; and
		(b) \$125 for each claim in excess of 20, up to and including the 30th claim; and
		(c) \$250 for each claim in excess of 30 (if any)

### 23.55 Costs, expenses and allowances in respect of proceedings

The amendments of Schedule 8 made by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024* apply in respect of proceedings that begin on or after the commencement of that instrument.

### 18 Amendments of listed provisions—clause 1 of Schedule 7

The items of the table in clause 1 of Schedule 7 listed in the following table are amended as set out in the table.

<b>Amendments relating to fees—patent attorneys</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 105	400	450
2	Item 106	600	650
3	Item 107	300	350
4	Item 109	400	450
5	Item 110	600	650
6	Item 111	300	350

### 19 Amendments of listed provisions—clause 2 of Schedule 7

The items of the table in clause 2 of Schedule 7 listed in the following table are amended as set out in the table.

<b>Amendments relating to fees—general fees</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 201	\$110	\$100
2	Item 201	\$210	\$200
3	Item 202	\$180	\$200
4	Item 202	\$380	\$400
5	Item 203	\$370	\$400
6	Item 203	\$570	\$600

## 20 Clause 2 of Schedule 7 (after table item 203)

Insert:

- 203A More than 20 potential claims in relation to an application for a standard patent at the start of the first examination report date for the application. If the number of potential claims is:
- |                                     |   |
|-------------------------------------|---|
| (a) more than 20 but fewer than 31; | \$125 for each potential claim in excess of 20  |
| (b) 31 claims or more               | The sum of:<br>(a) \$1,250; and<br>(b) \$250 for each potential claim in excess of 30 |

## 21 Amendments of listed provisions—clause 2 of Schedule 7

The items of the table in clause 2 of Schedule 7 listed in the following table are amended as set out in the table.

<b>Amendments relating to fees—general fees</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 204	\$300	\$350
2	Item 205	\$490	\$550
3	Item 206	\$950	\$1,100
4	Item 207	\$500	\$550
5	Item 208	\$250 (wherever occurring)	\$275
6	Item 209	\$100	\$150
7	Item 211	\$335	\$345
8	Item 211	\$385	\$395
9	Item 211	\$360	\$380
10	Item 211	\$410	\$430
11	Item 211	\$390	\$420
12	Item 211	\$440	\$470
13	Item 211	\$425	\$465
14	Item 211	\$475	\$515
15	Item 211	\$490	\$540

<b>Amendments relating to fees—general fees</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
16	Item 211	\$540	\$590
17	Item 211	\$585	\$645
18	Item 211	\$635	\$695
19	Item 211	\$710	\$780
20	Item 211	\$760	\$830
21	Item 211	\$865	\$945
22	Item 211	\$915	\$995
23	Item 211	\$1,050	\$1,140
24	Item 211	\$1,100	\$1,190
25	Item 211	\$1,280	\$1,385
26	Item 211	\$1,330	\$1,435
27	Item 211	\$1,555	\$1,675
28	Item 211	\$1,605	\$1,725
29	Item 211	\$1,875	\$2,010
30	Item 211	\$1,925	\$2,060
31	Item 211	\$2,240	\$2,390
32	Item 211	\$2,290	\$2,440
33	Item 211	\$2,650	\$2,815
34	Item 211	\$2,700	\$2,865

## 22 Clause 2 of Schedule 7 (table item 213)

Repeal the item, substitute:

213	Acceptance of a patent request and complete specification under section 49 of the Act:	
	(a) if at no time in the period between the start of the first examination report date for the application to which the patent request and complete specification relate and the time of acceptance were there more than 20 potential claims in relation to the application;	\$300
	(b) if at the time, in the period described in paragraph (a), when there are the most potential claims in relation to the application, there are 21 or more such potential claims	The sum of: (a) \$300; and (b) \$125 for each such potential claim in excess of 20, up to and including the 30th such claim; and (c) \$250 for each such potential claim in excess of 30 (if any); less any amount paid under item 203A in respect of the application, to a minimum of \$300

### 23 Amendments of listed provisions—clause 2 of Schedule 7

The items of the table in clause 2 of Schedule 7 listed in the following table are amended as set out in the table.

Amendments relating to fees—general fees			
Item	Table item	Omit	Substitute
1	Item 214	\$600	\$1,200
2	Item 214A	\$370	\$400
3	Item 214A	\$570	\$600
4	Item 216	\$600	\$1,200
5	Item 223	\$190	\$220
6	Item 230	\$600	\$1,200
7	Item 231	\$1 000 (wherever occurring)	\$2,000
8	Item 231A	\$600	\$1,200
9	Items 236 and 236A	\$950	\$1,100
10	Item 238	\$2 000	\$2,500

### 24 Clause 3 of Schedule 7 (table item 301)

Repeal the item.

### 25 Amendments of listed provisions—Part 1 of Schedule 8

The items of the table in Part 1 of Schedule 8 listed in the following table are amended as set out in the table.

Amendments relating to costs			
Item	Table item	Omit	Substitute
1	Item 1	\$200	\$400
2	Item 2	\$750	\$1,500
3	Item 3	\$500	\$1,000
4	Item 4	\$1 500	\$3,000
5	Item 5	\$200	\$400
6	Item 6	\$750	\$1,500
7	Item 7	\$1 500	\$3,000
8	Item 8	\$750	\$1,500
9	Item 9	\$750	\$1,500
10	Item 10	\$350	\$700
11	Item 11	\$1 000	\$2,000
12	Item 12	\$260	\$390
13	Item 12	\$1 170	\$1,755
14	Item 13	\$200	\$300
15	Item 13	\$900	\$1,350
16	Item 14	\$300	\$450
17	Item 14	\$1 350	\$2,025

**26 Paragraph 2(b) of Part 2 of Schedule 8**

Omit “\$700”, substitute “\$1,050”.

**27 Paragraph 3(b) of Part 2 of Schedule 8**

Omit “\$140, or more than \$700”, substitute “\$210, or more than \$1,050”.

**28 Paragraph 4(b) of Part 2 of Schedule 8**

Omit “\$80, or more than \$130”, substitute “\$120, or more than \$195”.

***Plant Breeder’s Rights Regulations 1994*****29 Amendments of listed provisions—clause 1 of Schedule 1**

The items of the table in clause 1 of Schedule 1 listed in the following table are amended as set out in the table.

<b>Amendments Relating to fees</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Items 1A and 1B	\$240	\$350
2	Item 4	\$345	\$400
3	Item 4	\$545	\$600
4	Item 6	\$920	\$1,400
5	Item 6	\$1 610 (wherever occurring)	\$2,000
6	Item 6	\$1 380	\$1,600
7	Item 9	\$800	\$850
8	Item 10	\$345	\$500
9	Item 15	\$400	\$600
10	Item 15	\$450	\$650

***Trade Marks Regulations 1995*****30 Paragraph 3A.5(1)(b)**

Omit “clause 1”, substitute “subclause 1(1)”.

**31 In the appropriate position in Part 22**

Insert:

**Division 7—Amendments made by the Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024****22.30 Amendments made by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024***

- (1) The amendments of Schedule 8 made by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024* apply in

respect of proceedings that begin on or after the commencement of that instrument.

- (2) Items 7A and 7B of the table in subclause 1(1) of Schedule 9, as inserted by the *Intellectual Property Legislation Amendment (Fee Amounts and Other Measures) Regulations 2024*, apply to the filing or amendment of a statement of grounds and particulars if the notice of intention to oppose is filed under regulation 5.6 or 17A.33 on or after the commencement of that instrument.

### 32 Amendments of listed provisions—Part 1 of Schedule 8

The items of the table in Part 1 of Schedule 8 listed in the following table are amended as set out in the table.

Amendments relating to costs			
Item	Table item	Omit	Substitute
1	Item 1	\$200	\$350
2	Item 2	\$200	\$750
3	Item 3	\$130	\$500
4	Item 4	\$200	\$350
5	Item 5	\$200	\$750
6	Item 6	\$130	\$500
7	Item 7	\$700	\$2,000
8	Item 8	\$300	\$1,000
9	Item 9	\$700	\$2,000
10	Item 10	\$210	\$1,000
11	Item 11	\$350	\$1,000
12	Item 12	\$130	\$500
13	Item 13	\$525	\$1,500
14	Item 14	\$260	\$390
15	Item 14	\$1,170	\$1,755
16	Item 15	\$200	\$300
17	Item 15	\$900	\$1,350
18	Item 16	\$300	\$450
19	Item 16	\$1,350	\$2,025

### 33 Clause 1 of Part 2 of Schedule 8

Omit “A person”, substitute “Subject to clause 1A, a person”.

### 34 After clause 1 of Part 2 of Schedule 8

Insert:

- 1A. A person who pays either or both of the fees prescribed in table items 7A and 7B in relation to a proceeding before the Registrar may be paid the lesser of the following:
- (a) \$500;
  - (b) the sum of the fees paid.

**35 Paragraph 2(b) of Part 2 of Schedule 8**

Omit "\$700", substitute "\$1,050".

**36 Paragraph 3(b) of Part 2 of Schedule 8**

Omit "\$140, or more than \$700", substitute "\$210, or more than \$1,050".

**37 Paragraph 4(b) of Part 2 of Schedule 8**

Omit "\$80, or more than \$130", substitute "\$120, or more than \$195".

**38 Clause 1 of Schedule 9**

Before "The following table", insert "(1)".

**39 Clause 1 of Schedule 9 (after table item 7)**

Insert:

7A	Filing a statement of grounds and particulars under regulation 5.7 or 17A.34A	The sum of: (a) \$250 for each ground covered by subclause (2) that is set out in the statement after the third such ground; and (b) \$250 for each trade mark covered by subclause (3) in relation to the statement after the tenth such trade mark
7B	Request for an amendment of a filed statement of grounds and particulars under regulation 5.12 or 17A.34G	The sum of: (a) \$250 for each ground that would be covered by subclause (2) if the amendment were made after the third such ground; and (b) \$250 for each trade mark that would be a trade mark covered by subclause (3) in relation to the statement if the amendment were made after the tenth such trade mark;  less any amounts previously paid under either this item or item 7A in relation to the statement (to a minimum of \$0)

**40 Clause 1 of Schedule 9 (after table item 9B)**

Insert:

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- 9C Filing a document purported to be evidence mentioned in regulation 5.14, 9.16, 17A.34J or 17A.48R after the end of the period for filing that evidence (including that period as extended under regulation 5.15, 9.18, 17A.34K or 17A.48T, if applicable) \$500

#### **41 Clause 1 of Schedule 9 (table items 13 and 13A)**

Omit “\$250”, substitute “\$350”.

#### **42 Clause 1 of Schedule 9 (table item 14)**

Repeal the item.

#### **43 Clause 1 of Schedule 9 (table item 15)**

Repeal the item, substitute:

- 15 Being heard by the Registrar:
- |  |  |
|--|--|
| (a) for an oral hearing;                               | \$700 for each day, or part of a day, of the hearing |
| (b) for a hearing by means of written submissions only | \$500  |

#### **44 Amendments of listed provisions—clause 1 of Schedule 9**

The items of the table in clause 1 of Schedule 9 listed in the following table are amended as set out in the table.

<b>Amendments relating to fees</b>			
<b>Item</b>	<b>Table item</b>	<b>Omit</b>	<b>Substitute</b>
1	Item 29	\$400	\$450
2	Item 30	\$600	\$650
3	Item 31	\$300	\$350
4	Item 37	\$400	\$450
5	Item 38	\$600	\$650
6	Item 39	\$300	\$350

#### **45 At the end of clause 1 of Schedule 9**

Add:

- (2) For the purposes of items 7A and 7B of the table in subclause (1), a ground set out in a statement of grounds and particulars is covered by this subclause if the ground is not:
- (a) the ground in section 58A of the Act; or
  - (b) if the statement of grounds and particulars sets out both the ground in section 44 of the Act and the ground in regulation 4.15A—the ground in regulation 4.15A.
- (3) For the purposes of items 7A and 7B of the table in subclause (1), a trade mark is covered by this subclause in relation to a statement of grounds and particulars if the trade mark is either:
- (a) if the statement of grounds and particulars is filed under regulation 5.7—a trade mark that the statement claims the applicant’s trade mark is

- substantially identical with or deceptively similar to for the purposes of one or both of the grounds in section 44 of the Act and regulation 4.15A; or
- (b) if the statement of grounds and particulars is filed under regulation 17A.34A—a trade mark that the statement claims the trade mark to which the IRDA relates is substantially identical with or deceptively similar to for the purpose of the ground in section 44 of the Act (as applied by regulation 17A.28).