



# Intellectual Property Legislation (Fees) Amendment Regulations 2006 (No. 1)<sup>1</sup>

## Select Legislative Instrument 2006 No. 355

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

Dated 13 December 2006

P. M. JEFFERY  
Governor-General

By His Excellency's Command

IAN MACFARLANE  
Minister for Industry, Tourism and Resources

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### 1 Name of Regulations

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

### 2 Commencement

These Regulations commence on 1 March 2007.

### 3 Amendment of *Designs Regulations 2004*

Schedule 1 amends the *Designs Regulations 2004*.

### 4 Amendment of *Patents Regulations 1991*

Schedule 2 amends the *Patents Regulations 1991*.

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

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

**6      Amendment of *Trade Marks Regulations 1995***

Schedule 4 amends the *Trade Marks Regulations 1995*.

**Schedule 1      Amendments of *Designs Regulations 2004***

(regulation 3)

**[1]      Schedule 3, Part 1**

*substitute*

**Part 1      Costs**

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

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

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

\$405

*insert*

\$700

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

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

*insert*

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

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

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

*insert*

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

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

\$25

*insert*

\$50

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

*omit*

\$25

*insert*

\$50

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

*omit*

\$25

*insert*

\$50

## **Schedule 2      Amendments of *Patents Regulations 1991***

(regulation 4)

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

*omit*

\$240

*insert*

\$300

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

*omit*

\$340

*insert*

\$420

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

*omit*

\$240

*insert*

\$300

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

*omit*

\$290

*insert*

\$370

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

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

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

\$1 300

*insert*

\$800

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

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

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



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

*omit*

\$550

*insert*

\$600

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

*omit*

\$550

*insert*

\$600

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

*omit*

\$150

*insert*

\$500

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

*omit*

\$500

*insert*

\$600

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

*omit*

\$500

*insert*

\$600

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**[13] Schedule 7, Part 2, item 222***substitute*

222 Filing a request for leave to amend: \$250

- (a) a complete specification relating to an application for a standard patent, before a request for examination is filed or after the complete specification is accepted; or
- (b) a complete specification relating to a standard patent

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

\$200

*insert*

\$250

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

\$500

*insert*

\$600

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

\$500

*insert*

\$600

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

231 Appearing at a hearing:

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

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

\$25

*insert*

\$50

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

234 Requesting the supply of a copy of a document other than a patent specification:

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

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

\$25

*insert*

\$50

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

\$1 000

*insert*

\$1 400

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

\$1 000

*insert*

\$1 300

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

\$100

*insert*

\$150

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

\$1 200

*insert*

\$1 600

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

\$1 200

*insert*

\$1 600

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

\$1 000

*insert*

\$780

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

\$25

*insert*

\$50

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

<b>Column 1 Item</b>	<b>Column 2 Matter</b>	<b>Column 3 Amount</b>
1	Notice of opposition	\$200
2	Statement of grounds and particulars	\$750
3	Receiving and perusing statement of grounds and particulars	\$500
4	Evidence in support	\$1 500
5	Receiving and perusing notice of opposition	\$200
6	Receiving and perusing evidence in support	\$750
7	Evidence in answer	\$1 500
8	Receiving and perusing evidence in answer	\$750
9	Evidence in reply	\$750
10	Receiving and perusing evidence in reply	\$350
11	Preparation of case for hearing	\$1 000
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Column 1 Item	Column 2 Matter	Column 3 Amount
12	Attendance at hearing by registered patent attorney or solicitor without counsel	\$260 an hour, but not more than \$1 170 a day
13	Attendance at hearing by registered patent attorney or solicitor instructing counsel	\$200 an hour, but not more than \$900 a day
14	Counsel fees for attendance at a hearing	\$300 an hour, but not more than \$1 350 a day

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

\$405

*insert*

\$700

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

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

*insert*

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

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

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

*insert*

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

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**Schedule 3**      **Amendment of *Plant Breeder's Rights Regulations 1994***  
(regulation 5)

**[1]      Schedule, items 13 and 14**  
*omit*

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

(regulation 6)

### [1]      **Schedule 8, Part 1**

*substitute*

### **Part 1      Costs**

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



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

\$405

*insert*

\$700

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

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

*insert*

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

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

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

*insert*

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

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

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

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

**[6] Schedule 9, item 4, column 3**

*omit*

\$150 for each class

*insert*

\$180 for each class

**[7] Schedule 9, item 7**

*substitute*

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

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

*substitute*

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

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

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

*omit*

\$150

*insert*

\$250

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

*omit*

\$25

*insert*

\$50

**[11] Schedule 9, after item 21***insert*

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

**[12] Schedule 9, item 22, column 3***omit*

\$25

*insert*

\$50

**[13] Schedule 9, item 24***omit*

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).