

EXPOSURE DRAFT



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Intellectual Property Laws Amendment Regulations 2017

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

Dated 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Greg Hunt [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Industry, Innovation and Science

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1 Name

This instrument is the *Intellectual Property Laws Amendment Regulations 2017*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | |
| 2. Schedule 1, Part 1 | At the same time as Part 1 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 3. Schedule 1, Part 2 | At the same time as Part 2 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 4. Schedule 1, Part 3 | At the same time as Part 3 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 5. Schedule 1, Part 4 | At the same time as Part 4 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 6. Schedule 1, Part 5 | At the same time as Part 5 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 7. Schedule 1, Part 6 | At the same time as Part 6 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 8. Schedule 1, Part 7 | At the same time as Part 7 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 9. Schedule 1, Parts 8 and 9 | The day after this instrument is registered. | |
| 10. Schedule 1, Part 10 | At the same time as Part 11 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 11. Schedule 1, Part 11 | At the same time as Part 12 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 12. Schedule 1, Part 12 | At the same time as Part 13 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> | |

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| Commencement information | | |
|---------------------------------|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| | commences. | |
| 13. Schedule 1, Part 13 | At the same time as Part 14 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 14. Schedule 1, Part 14 | The day after this instrument is registered. | |
| 15. Schedule 1, Part 15 | At the same time as Part 17 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 16. Schedule 1, Part 16 | At the same time as Part 21 of Schedule 1 to the <i>Intellectual Property Laws Amendment Act 2017</i> commences. | |
| 17. Schedule 1, Part 17 | The day after this instrument is registered. | |

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.

Schedule 1—Amendments

Part 1—Renewals and terminology

Designs Regulations 2004

1 Subregulation 4.09(1)

Repeal the subregulation, substitute:

- (1) For the purposes of subsection 47(2) of the Act, the period for making the application is the period:
 - (a) beginning 12 months before the fifth anniversary of the filing date of the design application in which the design was first disclosed; and
 - (b) ending at the end of 6 months beginning on the day after that anniversary.

2 Clause 1 of Schedule 4 (table item 5)

Omit:

| | |
|--|--|
| and, in addition, if the fee is paid after the expiry of 5 years from the day when the term of registration of the design starts | \$100 for each month or part of a month after the expiry of the 5 years and before the fee is paid (maximum \$600) |
|--|--|

substitute:

| | |
|---|---|
| plus, if the \$320 or \$370 is paid in the 6 months beginning on the day after the fifth anniversary of the filing date of the design application in which the design was first disclosed | \$100 for each month, or part of a month, in the period between the day after that anniversary and the day the \$320 or \$370 is paid |
|---|---|

Patents Regulations 1991

3 Subregulations 13.3(1) and (1A)

Repeal the subregulations, substitute:

- (1) For the purposes of paragraph 142(2)(d) of the Act, the period for paying the continuation fee, in relation to an anniversary of the date that would be the date of the patent if a patent had been granted on the application, is the period:
 - (a) beginning 12 months before that anniversary; and
 - (b) ending at the end of 6 months beginning on the day after that anniversary.

4 Subregulation 13.3(3)

Repeal the subregulation (including the notes).

5 Subregulation 13.6(1)

Repeal the subregulation, substitute:

- (1) Subject to subregulation (1A), for the purposes of paragraphs 143(a) and 143A(d) of the Act, the period for paying the renewal fee, in relation to an anniversary of the date of the patent, is the period:
 - (a) beginning 12 months before that anniversary; and
 - (b) ending at the end of 6 months beginning on the day after that anniversary.

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Schedule 1 Amendments

Part 1 Renewals and terminology

6 Subregulation 13.6(1A)

Omit “period in paragraph (1)(b) is taken to be extended until”, substitute “period for paying the renewal fee is the”.

7 Subregulation 13.6(1A)

Omit “relevant anniversary”, substitute “anniversary of the date of the patent”.

8 Subregulations 13.6(2) and (2A)

Repeal the subregulations, substitute:

(2) For a standard patent, the renewal fee, in relation to an anniversary of the date of the patent, that must be paid in accordance with subregulation (1A), does not include the component mentioned in subregulation (2A).

(2A) The component is the \$100 for each month, or part of a month, in the period referred to in the last column of item 211 of the table in clause 2 of Schedule 7 as the additional period.

9 Subregulation 13.6(3)

Omit “a relevant”, substitute “an”.

10 Subregulation 13.6(6)

Repeal the subregulation (including the note).

11 Clause 2 of Schedule 7 (table item 211)

Omit:

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

substitute:

plus, if the dollar amount (the *main amount*) for that anniversary is paid in the 6 months beginning on the day after that anniversary

\$100 for each month, or part of a month, in the period (the *additional period*) between the day after that anniversary and the day the main amount is paid

12 Clause 2 of Schedule 7 (table item 212)

Omit:

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

substitute:

plus, if the dollar amount (the *main amount*) for that anniversary is paid in the 6 months beginning on the day after that anniversary

\$100 for each month, or part of a month, in the period between the day after that anniversary and the day the main amount is paid

Plant Breeder's Rights Regulations 1994

13 Before regulation 3B

Insert:

3AD Period for paying renewal fee for PBR

For the purposes of subsection 51(2) of the Act, the period for paying the renewal fee, in relation to an anniversary of the day of grant of the PBR, is the period:

- (a) beginning 12 months before that anniversary; and
- (b) ending at the end of 6 months beginning on the day after that anniversary.

Note: See item 15 of the table in clause 1 of Schedule 1 for the renewal fee. There is an additional component to the renewal fee if the fee is paid in the 6 months beginning on the day after that anniversary.

14 Clause 1 of Schedule 1 (table item 15)

Repeal the item, substitute:

| | | |
|----|--|---|
| 15 | Renewal fee under subsection 51(2) of the Act in relation to an anniversary of the day of grant of PBR in a plant variety: | |
| | (a) fee paid by preferred means; | \$345 |
| | (b) fee paid by another means | \$395 |
| | plus, if the \$345 or \$395 is paid in the 6 months beginning on the day after that anniversary | \$100 for each month, or part of a month, in the period between the day after that anniversary and the day the \$345 or \$395 is paid |

Trade Marks Regulations 1995

15 Paragraph 4.8(1)(b)

Omit “rejecting”, substitute “refusing”.

16 Paragraph 4.10(2)(b)

Omit “rejecting”, substitute “refusing”.

17 Paragraph 4.12(1)(b)

Omit “rejecting”, substitute “refusing”.

18 Paragraph 4.13(1)(b)

Omit “rejecting”, substitute “refusing”.

19 Paragraph 4.14(2)(b)

Omit “rejecting”, substitute “refusing”.

20 Regulation 4.15A (heading)

Repeal the heading, substitute:

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Schedule 1 Amendments

Part 1 Renewals and terminology

4.15A Grounds for refusal—trade mark identical etc. to trade mark protected under Madrid Protocol

21 Subregulation 4.15A(1)

Omit “rejected”, substitute “refused”.

22 Subregulation 4.15A(1) (note)

Omit “rejected”, substitute “refused”.

23 Subregulation 4.15A(2)

Omit “rejected”, substitute “refused”.

24 Subregulation 4.15A(2) (note)

Omit “rejected”, substitute “refused”.

25 Subregulation 4.15A(5)

Omit “reject”, substitute “refuse”.

26 Subregulation 4.15A(5) (note)

Omit “rejection”, substitute “refusal”.

27 Regulation 7.4

Repeal the regulation.

28 Part 8 (heading)

Repeal the heading, substitute:

Part 8—Amendment, cancellation and revocation of registration

29 Regulation 8.1 (heading)

Repeal the heading, substitute:

8.1 Cancellation of registration

30 Subregulation 8.1(1)

Omit “a request”, substitute “an offer to surrender”.

31 Subregulation 8.1(1)

After “subsection 84(1) of the Act,”, insert “accept the offer and”.

32 Subregulation 8.1(1)

After “of the trade mark”, insert “under section 84 of the Act”.

33 Subregulation 8.1(2)

Omit “that subsection”, substitute “subsection 84(2) of the Act”.

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Amendments **Schedule 1**
Renewals and terminology **Part 1**

34 Paragraph 8.1(2)(a)

Omit “request”, substitute “offer”.

35 Paragraphs 8.1(3)(a) and (b)

Omit “must cancel registration of the trade mark”, substitute “must accept the offer and cancel registration of the trade mark under section 84 of the Act”.

36 Subregulation 8.1(3)

Omit “request”, substitute “offer”.

37 Paragraph 16.2(1)(b)

Omit “rejecting”, substitute “refusing”.

38 Paragraph 17A.12(b)

Omit “rejecting”, substitute “refusing”.

39 Paragraph 17A.16(1)(b)

Omit “rejecting”, substitute “refusing”.

40 Paragraph 17A.18(2)(b)

Omit “rejecting”, substitute “refusing”.

41 Paragraph 17A.20(1)(b)

Omit “rejecting”, substitute “refusing”.

42 Paragraph 17A.21(1)(b)

Omit “rejecting”, substitute “refusing”.

43 Paragraph 17A.22(2)(b)

Omit “rejecting”, substitute “refusing”.

44 Paragraph 17A.24(1)(b)

Omit “rejecting”, substitute “refusing”.

45 Subregulation 17A.24(3)

Omit “reject”, substitute “refuse”.

46 Paragraph 17A.24(3)(b)

Omit “rejecting”, substitute “refusing”.

47 Paragraph 17A.26(1)(c)

Omit “rejecting” (wherever occurring), substitute “refusing”.

48 Subdivision 2 of Division 3 of Part 17A (heading)

Repeal the heading, substitute:

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Schedule 1 Amendments

Part 1 Renewals and terminology

Subdivision 2—Grounds for refusing IRDA

49 Regulation 17A.28 (heading)

Repeal the heading, substitute:

17A.28 Grounds for refusing IRDA

50 Subregulations 17A.28(1) and (3)

Omit “rejecting”, substitute “refusing”.

51 Subregulation 17A.34(1)

Omit “rejected”, substitute “refused”.

52 Paragraph 17A.55(1)(a)

Omit “at the request of”, substitute “because of an offer to surrender the trade mark by”.

53 Subregulation 17A.55(2)

Omit “at the request of”, substitute “because of an offer to surrender the trade mark by”.

Part 2—Examination, re-examination and reconsideration

Division 1—Main amendments

Designs Regulations 2004

54 After regulation 4.09

Insert:

4.09A Ceasing of registration

For the purposes of paragraph 48(1A)(b) of the Act, the period is:

- (a) in relation to the first notification, under subsection 68E(1) of the Act, to the registered owner of the design in the course of a re-examination—the period of 6 months beginning on the date of that notification; or
- (b) in relation to any later notification, under subsection 68E(1) of the Act, to the registered owner of the design in the course of a re-examination—the later of the following:
 - (i) the period of 3 months beginning on the date of that later notification;
 - (ii) the period applicable under paragraph (a).

55 Chapter 5 (heading)

Repeal the heading, substitute:

Chapter 5—Examination and re-examination of designs

56 Before regulation 5.01

Insert:

Part 1—Examination

57 Before regulation 5.08

Insert:

Part 2—Re-examination

5.07A Requirements for request for re-examination of design

For the purposes of section 68B of the Act:

- (a) the request must be made in the approved form; and
- (b) the request must set out the grounds on which the re-examination is sought (which may contain material in relation to the newness and distinctiveness of the registered design).

Note: Section 69 of the Act and regulation 5.08 deal with the provision of such material.

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Schedule 1 Amendments

Part 2 Examination, re-examination and reconsideration

5.07B Grounds for revocation of registration of design

For the purposes of paragraph 68C(2)(b) of the Act, a prescribed ground is that, under section 43 of the Act, the design should not have been registered.

5.07C Prescribed period—statement disputing no ground for revocation

For the purposes of subsection 68D(3) of the Act, the period is the period of 30 days beginning on the date of the notification to the relevant party under subsection 68D(2) of the Act.

5.07D Request for amendment of Register

Form of request

- (1) For the purposes of subsection 68E(4) of the Act:
 - (a) the request must be in writing; and
 - (b) the request must make it clear that an amendment of the Register is being requested; and
 - (c) the request must set out the nature and extent of the proposed amendments; and
 - (d) the request must be accompanied by:
 - (i) a substitute document or representation incorporating the proposed amendments; or
 - (ii) a statement setting out the proposed amendments and the place at which each amendment is proposed to be made.
- (2) If the request is not accompanied by a substitute document or representation incorporating the proposed amendments, the registered owner of the design must, if directed by the Registrar, file such a substitute document or representation within the time allowed by the Registrar.

Dealing with request

- (3) For the purposes of subsection 68E(5) of the Act:
 - (a) the Registrar must notify the registered owner if:
 - (i) the request does not meet the requirements mentioned in subregulation (1); or
 - (ii) the proposed amendment is of a kind prohibited under subsection 68E(6) of the Act; and
 - (b) the Registrar must consider whether the ground for revocation would be removed if the Register were amended as proposed in the request.

5.07E Prescribed period—request for hearing

For the purposes of paragraphs 68G(1)(b) and (2)(b) of the Act, the period is:

- (a) in relation to the first notification, under subsection 68E(1) of the Act, to the registered owner of the design in the course of a re-examination—the period of 6 months beginning on the date of that notification; or
- (b) in relation to any later notification, under subsection 68E(1) of the Act, to the registered owner of the design in the course of a re-examination—the later of the following:

- (i) the period of 3 months beginning on the date of that later notification;
- (ii) the period applicable under paragraph (a).

5.07F Publication of details of revocation of registration

For the purposes of subsection 68G(3) of the Act, the details are the following details in relation to the design:

- (a) the registration number;
- (b) the date on which the design was revoked.

Part 3—Material provided to Registrar

58 Subparagraph 11.06(1)(a)(ii)

After “item”, insert “4A,”.

59 Paragraph 11.10(1)(a)

After “4,”, insert “4A,”.

60 Clause 1 of Schedule 4 (after table item 4)

Insert:

| | | |
|----|---|-------|
| 4A | Filing a request, under paragraph 68A(2)(b) of the Act, for re-examination of a registered design | \$420 |
|----|---|-------|

Patents Regulations 1991

61 Regulation 5.2 (paragraphs (e) and (f) of the note)

Repeal the paragraphs, substitute:

- (e) patentee.

62 Subregulation 5.16(3)

Repeal the subregulation, substitute:

- (3) The Commissioner must not make the amendment if the Commissioner is considering an application for dismissal of the opposition under Part 5.4.

63 Subregulation 5.17(1)

Repeal the subregulation, substitute:

- (1) An applicant may request the Commissioner to dismiss an opposition within 1 month from the day the Commissioner gives the applicant a copy of the statement of grounds and particulars under subregulation 5.5(3), 5.6(3) or 5.11(3).

64 Regulation 5.19

Repeal the regulation.

65 Regulation 5.20 (heading)

Repeal the heading, substitute:

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Schedule 1 Amendments

Part 2 Examination, re-examination and reconsideration

5.20 Hearing and decision

66 Paragraph 5.20(1)(c)

Omit “or heard and decided under regulation 5.19”.

67 Subregulation 9.2(5)

Omit “reports under section 98 or subsection 101G(2) of the Act”, substitute “makes a report under section 98 or 101G of the Act”.

68 Subregulation 9.3(1)

Omit “(1)”.

69 Subregulation 9.3(1)

Omit “subsection 101G(2)”, substitute “101G”.

70 Subregulation 9.3(2)

Repeal the subregulation.

71 Regulations 9.4 and 9.5

Repeal the regulations, substitute:

9.4 Giving of copies of statement disputing report

- (1) If the request under subsection 97(2) of the Act was made by a person other than the patentee, the Commissioner must give a copy of a statement filed under section 99 of the Act to that person.
- (2) If the request under subsection 101G(1) of the Act was made by a person other than the patentee, the Commissioner must give a copy of a statement filed under section 101H of the Act to that person.

9.5 When re-examination ends

Standard patents

- (1) For the purposes of subsection 97(3A) of the Act, a re-examination ends at the end of the earliest of the following days:
 - (a) the day a report under section 98 of the Act specifies that the Commissioner is satisfied, on the balance of probabilities, that there are no lawful grounds of objection to the relevant specification;
 - (b) the day the Commissioner becomes aware that relevant proceedings in relation to the patent have been started;
 - (c) for a re-examination under subsection 97(1) of the Act—the day a person files a notice of opposition, in relation to the grant of the patent, under subregulation 5.4(1);
 - (d) the day the Commissioner notifies the applicant or the patentee of:
 - (i) the period within which the applicant or patentee may make written submissions in relation to the exercise of a power under section 100A or 101 of the Act; or

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- (ii) the date, time and place of an oral hearing in relation to the exercise of a power under section 100A or 101 of the Act;
- (e) for a re-examination directed under subsection 97(3) of the Act—the day the court, under subsection 97(3AA) of the Act, directs the Commissioner to end the re-examination;
- (f) the day that is the last day of the 6-month period beginning on the day of the first report under section 98 of the Act in relation to the re-examination.

Innovation patents

- (2) For the purposes of subsection 101G(1A) of the Act, a re-examination ends at the end of the earliest of the following days:
 - (a) the day a report under section 101G of the Act specifies that the Commissioner is satisfied, on the balance of probabilities, that there are no lawful grounds for the revocation of the patent;
 - (b) the day the Commissioner becomes aware that relevant proceedings in relation to the patent have been started;
 - (c) the day a person opposes the innovation patent in accordance with regulation 5.6;
 - (d) the day the Commissioner notifies the patentee of:
 - (i) the period within which the patentee may make written submissions in relation to the exercise of a power under section 101J of the Act; or
 - (ii) the date, time and place of an oral hearing in relation to the exercise of a power under section 101J of the Act;
 - (e) for a re-examination directed under subsection 101K(1) of the Act—the day the court, under subsection 101K(1A) of the Act, directs the Commissioner to end the re-examination;
 - (f) the day that is the last day of the 6-month period beginning on the day of the first report under section 101G of the Act in relation to the re-examination.

9.6 Third party to be given opportunity to be heard

If:

- (a) the Commissioner notifies the patentee as mentioned in paragraph 9.5(1)(d) or (2)(d); and
- (b) the request under subsection 97(2) or 101G(1) of the Act was made by a person other than the patentee;

the Commissioner must give that other person the same opportunity to be heard as the patentee.

72 At the end of subregulation 10.5(1)

Add:

- ; and (d) in the case of amendments that are proposed in anticipation of, or in response to, a report relating to a re-examination under section 97 of the Act and that do not relate to matters mentioned in paragraph 6(c) of the Act—if the Commissioner is satisfied, on the balance of probabilities, that the proposed amendments would remove all lawful grounds of objection to the relevant specification; and

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Schedule 1 Amendments

Part 2 Examination, re-examination and reconsideration

- (e) in the case of amendments that are proposed in anticipation of, or in response to, a report relating to a re-examination under section 101G of the Act—if the Commissioner is satisfied, on the balance of probabilities, that the proposed amendments would remove all lawful grounds for the revocation of the innovation patent.

73 Subparagraph 22.26(2)(a)(iv)

Repeal the subparagraph.

Plant Breeder's Rights Regulations 1994

74 After regulation 3A

Insert:

3AB When re-examination ends

For the purposes of subsection 49A(4) of the Act, a re-examination ends at the end of the earliest of the following days:

- (a) the day a report under section 49B of the Act specifies that the Registrar is not satisfied that facts existed that, if known before the grant of that right, would have resulted in the refusal to grant that right;
- (b) the day the Registrar becomes aware that relevant proceedings in relation to the PBR in the plant variety have been started;
- (c) the day that particulars of the grounds of a proposed revocation of the PBR in the plant variety are given under paragraph 50(4)(a) of the Act;
- (d) either:
 - (i) the day that is the last day of the 6-month period beginning on the day of the first report under section 49B of the Act in relation to the re-examination; or
 - (ii) if, after the first such report, the Registrar decides there should be a test growing or a further test growing of the plant variety under section 37 of the Act—the day that is the last day of the 6-month period beginning on the day the next report under section 49B of the Act, in relation to the re-examination, is made after the completion of that test growing or further test growing.

3AC Prescribed period—statement disputing report by Registrar

For the purposes of subsection 49C(1) of the Act, the period is the period of 30 days beginning on the day the Registrar gives a copy of the report to the grantee.

75 Clause 1 of Schedule 1 (table item 11)

Repeal the item, substitute:

| | | |
|-----|--|-------|
| 10A | On making a request under paragraph 49A(2)(b) of the Act for re-examination of PBR in a plant variety | \$500 |
| 11 | On lodgement of an application under subsection 50(9) of the Act for revocation of a declaration of essential derivation | \$500 |

Trade Marks Regulations 1995

76 At the end of regulation 17A.27

Add:

Revocation on Registrar's own initiative

- (3) A revocation, under subregulation (1), of the acceptance of the IRDA may be on the Registrar's own initiative.

Revocation on request

- (4) A person may request the Registrar to revoke, under subregulation (1), the acceptance of the IRDA. The request:
- (a) must be in the approved form; and
 - (b) must set out the grounds on which the revocation is sought.
- (5) If the request complies with subregulation (4), the Registrar must consider whether to revoke, under subregulation (1), the acceptance.

Notification of decision

- (6) If, under subregulation (1), the Registrar revokes the acceptance of the IRDA, the Registrar must notify the following persons of the revocation and the reasons for the revocation:
- (a) the holder of the IRDA;
 - (b) if the revocation was on the request of a person—that person.
- (7) If:
- (a) a person requests the Registrar to revoke the acceptance of the IRDA; and
 - (b) the Registrar refuses the request;
- the Registrar must notify the person of the refusal and the reasons for the refusal.

77 Subregulation 17A.42A(5)

Repeal the subregulation, substitute:

Powers may be exercised on Registrar's own initiative

- (5) A power under subregulation (1) may be exercised on the Registrar's own initiative.

Power under paragraph (1)(a) may be exercised on request

- (6) A person may request the Registrar to exercise the power under paragraph (1)(a) in relation to a protected international trade mark. The request:
- (a) must be in the approved form; and
 - (b) must set out the grounds on which the exercise of the power is sought.
- (7) If the request complies with subregulation (6), the Registrar must consider whether to exercise the power under paragraph (1)(a) in relation to the protected international trade mark.

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Schedule 1 Amendments

Part 2 Examination, re-examination and reconsideration

Notification of decision

- (8) If the Registrar exercises a power under subregulation (1) in relation to a protected international trade mark, the Registrar must notify the following persons of the exercise of the power and the reasons for the exercise of the power:
- (a) the holder of the protected international trade mark;
 - (b) any person recorded under regulation 17A.62 as claiming an interest in, or a right in respect of, the protected international trade mark;
 - (c) for a power exercised under paragraph (1)(a) on the request of a person—that person.
- (9) If:
- (a) a person requests the Registrar to exercise the power under paragraph (1)(a) in relation to a protected international trade mark; and
 - (b) the Registrar refuses the request;
- the Registrar must notify the person of the refusal and the reasons for the refusal.

No duty to consider exercise of power under paragraph (1)(b), (c) or (d)

- (10) The Registrar does not have a duty to consider whether or not to exercise a power under paragraph (1)(b), (c) or (d), whether or not the Registrar has been requested to do so.

78 Clause 1 of Schedule 9 (after table item 12)

Insert:

| | | |
|-----|--|-------|
| 12A | Making a request under subsection 84A(7) of the Act for the revocation of the registration of a trade mark | \$300 |
| 12B | Making a request under subregulation 17A.42A(6) in relation to a protected international trade mark | \$300 |

Division 2—Other amendments

Patents Regulations 1991

79 Before subparagraph 9A.4(f)(i)

Insert:

- (ia) before the end of the period under another paragraph of this regulation, the applicant requests the Commissioner to hold a hearing in relation to a report under section 101B of the Act or regulation 10.2; and

80 Subparagraph 9A.4(f)(i)

Omit “a report under section 101B of the Act or regulation 10.2”, substitute “the report”.

81 Paragraph 9A.4(f)

After “3 months from the date the decision is made”, insert “or such longer period as the Commissioner allows”.

EXPOSURE DRAFT

Amendments **Schedule 1**
Examination, re-examination and reconsideration **Part 2**

82 Before subparagraph 13.4(1)(g)(i)

Insert:

- (ia) before the end of the period under another paragraph of this regulation, the applicant requests the Commissioner to hold a hearing in relation to a report under section 45 of the Act or regulation 10.2; and

83 Subparagraph 13.4(1)(g)(i)

Omit “a report under section 45 of the Act or regulation 10.2”, substitute “the report”.

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Schedule 1 Amendments

Part 3 Extensions of time and protection of third parties

Part 3—Extensions of time and protection of third parties

Designs Regulations 2004

84 Subregulation 9.05(5) (note)

Omit “section 137”, substitute “Part 5 of Chapter 11”.

85 Regulation 11.13

Repeal the regulation, substitute:

11.13 Extensions of time for doing a relevant Act

Form of application

- (1) For the purposes of paragraph 137A(2)(a) of the Act, an application must be in the approved form and be accompanied by a declaration if the approved form requires this.

Period for making applications

- (2) For the purposes of paragraph 137A(2)(e) of the Act:
 - (a) if subparagraph 137A(2)(c)(i) of the Act applies—the period is 2 months after the applicant becomes aware of the error or omission; or
 - (b) if subparagraph 137A(2)(c)(ii) of the Act applies—the period is 2 months after the circumstances, that prevented the relevant act from being done within the certain time, cease to exist.

Objecting to extension

- (3) For the purposes of subsection 137B(2) of the Act, a notice of objection must be in the approved form and must be given within the period of 1 month beginning on the date of the publication under subsection 137B(1) of the Act.

Opposition to extension

- (4) For the purposes of subsection 137C(2) of the Act, a notice of opposition must be in the approved form and must be given within the period of 1 month beginning on the date of the publication under subsection 137C(1) of the Act.

86 Clause 1 of Schedule 4 (table items 7 and 8)

Repeal the items, substitute:

EXPOSURE DRAFT

Amendments **Schedule 1**
Extensions of time and protection of third parties **Part 3**

| | | |
|---|--|---|
| 7 | Making an application under section 137A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 137A(2)(c)(i) of the Act: | |
| | (a) if the period, beginning on the day after the original day and ending at the end of the new day, is 3 months or less; or | \$100 |
| | (b) if the period, beginning on the day after the original day and ending at the end of the new day, is more than 3 months: | |
| | (i) in a case where no fee has previously become payable under this paragraph in relation to an application under section 137A of the Act for extending the time for doing the relevant act; or | \$100, plus \$100 for each month, or part of a month, after that 3 months |
| | (ii) in any other case | \$100 for each month, or part of a month, after the immediately preceding new day |
| 8 | Making an application under section 137A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 137A(2)(c)(ii) of the Act | \$100 |

87 At the end of clause 1 of Schedule 4

Add:

Example: This example applies for the purposes of item 7 of the table.

A relevant act is originally required to be done before the end of 31 March (the *original day*). A person applies for an extension of time for doing the relevant act and specifies 20 July as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 20 July is more than 3 months, the fee for the application is \$200 (\$100, plus \$100 for the part of the month after that 3 months).

The person applies for a further extension of time for doing the relevant act and specifies 15 December as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 15 December is more than 3 months and a fee has previously become payable under paragraph (b) of item 7 of the table, the fee for the application is \$500 (\$400 for the 4 months after the immediately preceding new day of 20 July, plus \$100 for the part of the month after that 4 months).

Patents Regulations 1991

88 Sub-subparagraphs 3.13A(2)(b)(ii)(C) and (2)(b)(iii)(D)

Omit “section 223”, substitute “Chapter 22”.

89 Subregulation 5.10(2)

Omit “subsection 223(6)”, substitute “subsection 223C(2)”.

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Schedule 1 Amendments

Part 3 Extensions of time and protection of third parties

90 Subregulation 5.10(2)

Omit “the advertisement of the extension application is advertised under subsection 223(4)”, substitute “details in relation to the extension application are published under subsection 223C(1)”.

91 Subregulation 5.10(3)

Repeal the subregulation.

92 Subregulation 5.10(4)

Omit “, (2) or (3)”, substitute “or (2)”.

93 Subregulations 6.3(9) and (10)

Omit “section 223”, substitute “Chapter 22”.

94 Subregulation 6.3(11) (table items 3 and 6)

Omit “section 223”, substitute “Chapter 22”.

95 Subregulation 6.11(3) (note)

Omit “section 223”, substitute “sections 223A to 223C”.

96 Paragraph 22.2C(1)(a)

Omit “228,”.

97 Regulation 22.11

Repeal the regulation, substitute:

22.11 Extensions of time

Period for making applications

- (1) For the purposes of paragraph 223A(2)(f) of the Act:
 - (a) if subparagraph 223A(2)(c)(i) of the Act applies—the period is 2 months after the applicant becomes aware of the error or omission; or
 - (b) if subparagraph 223A(2)(c)(ii) of the Act applies—the period is 2 months after the circumstances, that prevented the relevant act from being done within the certain time, cease to exist.

Objecting to extension

- (2) For the purposes of subsection 223B(2) of the Act, the period is 1 month beginning on the date of the publication under subsection 223B(1) of the Act.

Protection of third parties

- (3) For the purposes of subparagraph 223H(1)(a)(ii) of the Act:
 - (a) the payment of a continuation fee or a renewal fee within the period under subregulation 13.3(1) or 13.6(1) is a prescribed relevant act; and
 - (b) the prescribed circumstances are that the fee is not paid within that period.

22.11A Relevant acts

For the purposes of the definition of *relevant act* in Schedule 1 to the Act, the following are prescribed:

- (a) an action mentioned in Chapter 5, other than an action or step taken under regulation 5.4, 5.5, 5.10 or 5.11;
- (b) filing, during the term of a standard patent under subsection 71(2) of the Act, an application under subsection 70(1) of the Act for an extension of the term of the patent;
- (c) an action mentioned in Chapter 20.

98 Regulation 22.21

Repeal the regulation.

99 At the end of subparagraph 22.26(2)(a)(va)

Add “or”.

100 Subparagraph 22.26(2)(a)(vi)

Repeal the subparagraph.

101 Clause 2 of Schedule 7 (table items 226 to 228)

Repeal the items, substitute:

| | | |
|-----|--|---|
| 226 | Making an application under section 223A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 223A(2)(c)(i) of the Act: | |
| | (a) if the period, beginning on the day after the original day and ending at the end of the new day, is 3 months or less; or | \$100 |
| | (b) if the period, beginning on the day after the original day and ending at the end of the new day, is more than 3 months: | |
| | (i) in a case where no fee has previously become payable under this paragraph in relation to an application under section 223A of the Act for extending the time for doing the relevant act; or | \$100, plus \$100 for each month, or part of a month, after that 3 months |
| | (ii) in any other case | \$100 for each month, or part of a month, after the immediately preceding new day |
| 227 | Making an application under section 223A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 223A(2)(c)(ii) of the Act | \$100 |

102 At the end of clause 2 of Schedule 7

Add:

Example: This example applies for the purposes of item 226 of the table.

A relevant act is originally required to be done before the end of 31 March (the *original day*). A person applies for an extension of time for doing the relevant act and

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Part 3 Extensions of time and protection of third parties

specifies 20 July as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 20 July is more than 3 months, the fee for the application is \$200 (\$100, plus \$100 for the part of the month after that 3 months).

The person applies for a further extension of time for doing the relevant act and specifies 15 December as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 15 December is more than 3 months and a fee has previously become payable under paragraph (b) of item 226 of the table, the fee for the application is \$500 (\$400 for the 4 months after the immediately preceding new day of 20 July, plus \$100 for the part of the month after that 4 months).

Plant Breeder's Rights Regulations 1994

103 Subregulation 3(1)

Omit “(1)”.

104 Subregulation 3(2)

Repeal the subregulation.

105 After regulation 3G

Insert:

3H Extensions of time

Period for making applications

- (1) For the purposes of paragraph 76C(2)(e) of the Act:
 - (a) if subparagraph 76C(2)(c)(i) of the Act applies—the period is 2 months after the applicant becomes aware of the error or omission; or
 - (b) if subparagraph 76C(2)(c)(ii) of the Act applies—the period is 2 months after the circumstances, that prevented the relevant act from being done within the certain time, cease to exist.

Period for objecting to extension

- (2) For the purposes of subsection 76D(2) of the Act, the period is 1 month beginning on the date of the public notice under subsection 76D(1) of the Act.

106 Clause 1 of Schedule 1 (table item 1A)

After “section 8”, insert “of the Act”.

107 Clause 1 of Schedule 1 (table item 1)

Omit “subsection 19 (4)”, substitute “subsection 19(4) of the Act”.

108 Clause 1 of Schedule 1 (table item 1)

Omit “subsection 19 (10)”, substitute “subsection 19(10) of the Act”.

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Amendments **Schedule 1**
Extensions of time and protection of third parties **Part 3**

109 Clause 1 of Schedule 1 (table item 2)

Omit “subsection 19 (11)”, substitute “subsection 19(11) of the Act”.

110 Clause 1 of Schedule 1 (table item 4)

After “section 26”, insert “of the Act”.

111 Clause 1 of Schedule 1 (table item 6)

After “section 34” (first occurring), insert “of the Act”.

112 Clause 1 of Schedule 1 (table item 6)

After “section 37” (first occurring), insert “of the Act”.

113 Clause 1 of Schedule 1 (table item 6)

Omit “subsection 38 (3), (4) or (5)”, substitute “subsection 38(3), (4) or (5) of the Act”.

114 Clause 1 of Schedule 1 (table item 6)

After “section 37” (second occurring), insert “of the Act”.

115 Clause 1 of Schedule 1 (table item 6)

After “section 34” (second occurring), insert “of the Act”.

116 Clause 1 of Schedule 1 (table item 7)

After “section 35”, insert “of the Act”.

117 Schedule 1 (table item 8)

Omit “subsection 36 (2)”, substitute “subsection 36(2) of the Act”.

118 Clause 1 of Schedule 1 (table item 9)

Omit “subsection 40 (1)”, substitute “subsection 40(1) of the Act”.

119 Clause 1 of Schedule 1 (table item 10)

After “section 44”, insert “of the Act”.

120 Clause 1 of Schedule 1 (table item 12)

Omit “subsection 62 (2)”, substitute “subsection 62(2) of the Act”.

121 Clause 1 of Schedule 1 (at the end of the table)

Add:

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Part 3 Extensions of time and protection of third parties

| | | |
|----|--|---|
| 16 | Making an application under section 76C of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 76C(2)(c)(i) of the Act: | |
| | (a) if the period, beginning on the day after the original day and ending at the end of the new day, is 3 months or less; or | \$100 |
| | (b) if the period, beginning on the day after the original day and ending at the end of the new day, is more than 3 months: | |
| | (i) in a case where no fee has previously become payable under this paragraph in relation to an application under section 76C of the Act for extending the time for doing the relevant act; or | \$100, plus \$100 for each month, or part of a month, after that 3 months |
| | (ii) in any other case | \$100 for each month, or part of a month, after the immediately preceding new day |
| 17 | Making an application under section 76C of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 76C(2)(c)(ii) of the Act | \$100 |

122 At the end of clause 1 of Schedule 1

Add:

Example: This example applies for the purposes of item 16 of the table.

A relevant act is originally required to be done before the end of 31 March (the *original day*). A person applies for an extension of time for doing the relevant act and specifies 20 July as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 20 July is more than 3 months, the fee for the application is \$200 (\$100, plus \$100 for the part of the month after that 3 months).

The person applies for a further extension of time for doing the relevant act and specifies 15 December as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 15 December is more than 3 months and a fee has previously become payable under paragraph (b) of item 16 of the table, the fee for the application is \$500 (\$400 for the 4 months after the immediately preceding new day of 20 July, plus \$100 for the part of the month after that 4 months).

Trade Marks Regulations 1995

123 Subregulation 4.13(2)

After “section 224”, insert “, 224B or 224C”.

124 At the end of Subdivision B of Division 2 of Part 5

Add:

5.13A Extension of time for filing—application

- (1) A person may apply to the Registrar to extend the period for filing, under subsection 52A(1) of the Act, a notice of intention to defend.
 - (2) The application must be made before the end of the period of 2 months beginning on the day after the end of the period mentioned in subregulation 5.13(1).
 - (3) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by a declaration stating the facts and circumstances forming the basis for the grounds for making the application.
- Note: Regulations 21.6 and 21.7 deal with making and filing declarations.
- (4) The application may be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person’s agent, the Registrar or an employee;
 - (b) circumstances beyond the control of the person, other than an error or omission by the person, the person’s agent, the Registrar or an employee.

5.13B Extension of time for filing—grant

- (1) The Registrar may grant an application under subregulation 5.13A(1) for an extension of time only if the Registrar is satisfied that the grounds set out in the application justify the extension.
- (2) However, if the application is made after the period mentioned in subregulation 5.13(1) has ended, the Registrar must not grant the extension unless the Registrar is satisfied that there is sufficient reason for the delay in making the application.
- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

125 Subregulation 9.15(3)

After “subregulation (1)”, insert “or that period as extended”.

126 At the end of Subdivision B of Division 3 of Part 9

Add:

9.15A Extension of time for filing—application

- (1) A person may apply to the Registrar to extend the period for filing a notice of intention to defend.
- (2) The application must be made before the end of the period of 2 months beginning on the day after the end of the period mentioned in subregulation 9.15(1).
- (3) The application must:
 - (a) be in the approved form; and

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Schedule 1 Amendments

Part 3 Extensions of time and protection of third parties

- (b) be accompanied by a declaration stating the facts and circumstances forming the basis for the grounds for making the application.

Note: Regulations 21.6 and 21.7 deal with making and filing declarations.

- (4) The application may be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person's agent, the Registrar or an employee;
 - (b) circumstances beyond the control of the person, other than an error or omission by the person, the person's agent, the Registrar or an employee.

9.15B Extension of time for filing—grant

- (1) The Registrar may grant an application under subregulation 9.15A(1) for an extension of time only if the Registrar is satisfied that the grounds set out in the application justify the extension.
- (2) However, if the application is made after the period mentioned in subregulation 9.15(1) has ended, the Registrar must not grant the extension unless the Registrar is satisfied that there is sufficient reason for the delay in making the application.
- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

127 Subregulation 17A.21(2)

After “section 224”, insert “, 224B or 224C”.

128 Subregulation 17A.34H(4)

After “subregulation (1)”, insert “or that period as extended”.

129 After regulation 17A.34H

Insert:

17A.34HA Extension of time for filing—application

- (1) A person may apply to the Registrar to extend the period for filing a notice of intention to defend.
- (2) The application must be made before the end of the period of 2 months beginning on the day after the end of the period mentioned in subregulation 17A.34H(1).
- (3) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by a declaration stating the facts and circumstances forming the basis for the grounds for making the application.

Note: Regulations 21.6 and 21.7 deal with making and filing declarations.

- (4) The application may be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person's agent, the Registrar or an employee;

- (b) circumstances beyond the control of the person, other than an error or omission by the person, the person’s agent, the Registrar or an employee.

17A.34HB Extension of time for filing—grant

- (1) The Registrar may grant an application under subregulation 17A.34HA(1) for an extension of time only if the Registrar is satisfied that the grounds set out in the application justify the extension.
- (2) However, if the application is made after the period mentioned in subregulation 17A.34H(1) has ended, the Registrar must not grant the extension unless the Registrar is satisfied that there is sufficient reason for the delay in making the application.
- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

130 Subregulation 17A.48Q(3)

After “subregulation (1)”, insert “or that period as extended”.

131 After regulation 17A.48Q

Insert:

17A.48QA Extension of time for filing—application

- (1) A person may apply to the Registrar to extend the period for filing a notice of intention to defend.
 - (2) The application must be made before the end of the period of 2 months beginning on the day after the end of the period mentioned in subregulation 17A.48Q(1).
 - (3) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by a declaration stating the facts and circumstances forming the basis for the grounds for making the application.
- Note: Regulations 21.6 and 21.7 deal with making and filing declarations.
- (4) The application may be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person’s agent, the Registrar or an employee;
 - (b) circumstances beyond the control of the person, other than an error or omission by the person, the person’s agent, the Registrar or an employee.

17A.48QB Extension of time for filing—grant

- (1) The Registrar may grant an application under subregulation 17A.48QA(1) for an extension of time only if the Registrar is satisfied that the grounds set out in the application justify the extension.
- (2) However, if the application is made after the period mentioned in subregulation 17A.48Q(1) has ended, the Registrar must not grant the extension

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Schedule 1 Amendments

Part 3 Extensions of time and protection of third parties

unless the Registrar is satisfied that there is sufficient reason for the delay in making the application.

- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

132 Paragraph 21.11A(2)(f)

Omit “subsection 224(2) or (3) of the Act in relation to an application under those provisions”, substitute “section 224B or 224C of the Act in relation to an application under section 224A of the Act”.

133 Subregulation 21.20B(1)

Omit “subsection 224(6)”, substitute “subsection 224C(2)”.

134 Subregulation 21.20B(1)

Omit “may oppose a request”, substitute “opposes the grant of an application”.

135 Subregulation 21.20B(1)

Omit “the advertisement of the request for the extensions in the *Official Journal* under subsection 224(5)”, substitute “the day details in relation to the extension application are published under subsection 224C(1)”.

136 Regulation 21.25

Repeal the regulation, substitute:

21.25 Extensions of time for doing a relevant Act

Period for making applications

- (1) For the purposes of paragraph 224A(2)(f) of the Act:
- (a) if subparagraph 224A(2)(c)(i) of the Act applies—the period is 2 months after the applicant becomes aware of the error or omission; or
 - (b) if subparagraph 224A(2)(c)(ii) of the Act applies—the period is 2 months after the circumstances, that prevented the relevant act from being done within the certain time, cease to exist; or
 - (c) if subparagraph 224A(2)(c)(iii) of the Act applies—the period is 2 months after the applicant becomes aware of the special circumstances.

Objecting to extension

- (2) For the purposes of subsection 224B(2) of the Act, the period is 1 month beginning on the date of the publication under subsection 224B(1) of the Act.

137 Subregulation 21.28(1)

Omit “subsection 224(8)”, substitute “subsection 6(1)”.

138 Paragraph 21.28(1)(f)

Omit “17A.48P”, substitute “17A.48R”.

139 Paragraph 21.28(1)(k)

Omit “sections 79”, substitute “section 75”.

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Amendments **Schedule 1**
Extensions of time and protection of third parties **Part 3**

140 Subregulation 21.28(2)

Omit “subsection 224(8)”, substitute “subsection 6(1)”.

141 After paragraph 21.28(2)(a)

Insert:

(aa) a notice of intention to defend under subsection 52A(1) of the Act;

142 After paragraph 21.28(2)(b)

Insert:

(ba) a notice of intention to defend under subregulation 9.15(1), 17A.34H(1) or 17A.48Q(1);

143 Clause 1 of Schedule 9 (table items 5A and 5B)

Repeal the items, substitute:

| | | |
|----|---|---|
| 5A | Making an application under section 224A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 224A(2)(c)(i) or (iii) of the Act: | |
| | (a) if the period, beginning on the day after the original day and ending at the end of the new day, is 3 months or less; or | \$100 |
| | (b) if the period, beginning on the day after the original day and ending at the end of the new day, is more than 3 months: | |
| | (i) in a case where no fee has previously become payable under this paragraph in relation to an application under section 224A of the Act for extending the time for doing the relevant act; or | \$100, plus \$100 for each month, or part of a month, after that 3 months |
| | (ii) in any other case | \$100 for each month, or part of a month, after the immediately preceding new day |
| 5B | Making an application under section 224A of the Act for extending the time for doing a relevant act, where the application is made on the ground set out in subparagraph 224A(2)(c)(ii) of the Act | \$100 |

144 Clause 1 of Schedule 9 (table item 6)

After “5.9,” insert “5.13A,”.

145 Clause 1 of Schedule 9 (table item 6)

After “9.11,” insert “9.15A,”.

146 Clause 1 of Schedule 9 (table item 6)

After “17A.34C,” insert “17A.34HA,”.

147 Clause 1 of Schedule 9 (table item 6)

After “17A.48L” insert “, 17A.48QA”.

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Part 3 Extensions of time and protection of third parties

148 Clause 1 of Schedule 9 (table item 8)

Omit “subsection 224(6)”, substitute “subsection 224C(2)”.

149 At the end of clause 1 of Schedule 9

Add:

Example: This example applies for the purposes of item 5A of the table.

A relevant act is originally required to be done before the end of 31 March (the *original day*). A person applies for an extension of time for doing the relevant act and specifies 20 July as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 20 July is more than 3 months, the fee for the application is \$200 (\$100, plus \$100 for the part of the month after that 3 months).

The person applies for a further extension of time for doing the relevant act and specifies 15 December as the day before the end of which the person seeks to do the relevant act (the *new day*).

Since the period beginning on 1 April and ending at the end of 15 December is more than 3 months and a fee has previously become payable under paragraph (b) of item 5A of the table, the fee for the application is \$500 (\$400 for the 4 months after the immediately preceding new day of 20 July, plus \$100 for the part of the month after that 4 months).

Part 4—Written requirements

Designs Regulations 2004

150 Regulation 3.03

Repeal the regulation.

151 Subregulation 4.04(2)

Omit “notice”, substitute “notification”.

152 Subregulation 4.05(3)

Omit “notice”, substitute “notification”.

153 Subregulation 5.03(2)

Omit “give notice to”, substitute “notify”.

154 Subregulation 5.03(3)

Omit “notice” (wherever occurring), substitute “notification”.

155 Paragraph 5.03(6)(c)

Omit “notice”, substitute “notification”.

156 Subregulation 5.03(7)

Omit “notice”, substitute “notification”.

157 Subregulation 5.03(8)

Omit “notice” (wherever occurring), substitute “notification”.

158 Paragraph 5.04(a)

Omit “notice” (wherever occurring), substitute “notification”.

159 Subparagraph 5.04(b)(ii)

Omit “written notice”, substitute “a notification”.

160 Subparagraphs 5.04(b)(iii) and (iv)

Omit “notice”, substitute “notification”.

161 Subregulation 9.03(1)

Omit “notice”, substitute “notification”.

162 Subregulation 9.05(3)

Omit “give notice of”, substitute “notify”.

163 Subparagraph 10.02(2)(b)(ii)

Omit “notice”, substitute “notification”.

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Schedule 1 Amendments

Part 4 Written requirements

164 Paragraph 11.03(1)(b)

Omit “notice”, substitute “notification”.

165 Subregulation 11.23(2)

Omit “give notice of”, substitute “notify”.

166 Regulation 11.28

Omit “give notice to the person directing”, substitute “, by notification to the person, direct”.

Patents Regulations 1991

167 Paragraph 3.2A(6)(b)

Omit “tell”, substitute “notify”.

168 Paragraph 3.2B(7)(b)

Omit “tell”, substitute “notify”.

169 Paragraph 3.2C(6)(b)

Omit “tell”, substitute “notify”.

170 Paragraph 3.4(7)(b)

Omit “advise”, substitute “notify”.

171 Subregulation 3.5(4)

Omit “give the applicant notice in writing”, substitute “by notification to the applicant”.

172 Paragraph 3.5(4)(a)

Omit “telling”, substitute “tell”.

173 Paragraph 3.5(4)(b)

Omit “asking”, substitute “ask”.

174 Subregulation 3.5A(2)

Omit “give the applicant notice in writing”, substitute “by notification to the applicant”.

175 Paragraph 3.5A(2)(a)

Omit “telling”, substitute “tell”.

176 Paragraph 3.5A(2)(b)

Omit “asking”, substitute “ask”.

177 Subregulation 3.5A(6)

Omit “tell”, substitute “notify”.

178 Subregulation 3.24(3)

Omit “inform”, substitute “notify”.

179 Subregulation 3.24(3)

Omit “by notice in writing”.

180 Paragraph 3.25(3)(a)

Omit “give”, substitute “by notification to”.

181 Paragraph 3.25(3)(a)

Omit “a written notice inviting”, substitute “, invite”.

182 Paragraph 3.25(3)(a)

Omit “in the notice”, substitute “in the notification”.

183 Paragraph 3.25(3)(b)

Omit “notice”, substitute “notification”.

184 Subregulation 3.25H(1)

Omit “inform”, substitute “notify”.

185 Subregulation 3.25H(1)

Omit “by notice in writing given”.

186 Regulation 9.1

Omit “tell”, substitute “notify”.

187 Subregulations 9A.1(2) and (3)

Omit “tell”, substitute “notify”.

188 Sub-subparagraphs 9A.4(f)(i)(A) and (B)

Omit “in writing”.

189 Sub-subparagraphs 13.4(1)(g)(i)(A) and (B)

Omit “in writing”.

Plant Breeder’s Rights Regulations 1994

190 Subregulation 3A(3)

Omit “give the operator of the establishment written notice of”, substitute “notify the operator of the establishment of”.

191 Subregulation 5(4)

Omit “give each person to whom subregulation (1) or (2) applies written notice of”, substitute “notify each person to whom subregulation (1) or (2) applies of”.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 4 Written requirements

Trade Marks Regulations 1995

192 Subregulation 4.2(2)

Omit “give to the applicant written notice”, substitute “notify the applicant”.

193 Subregulation 4.2(3)

Omit “notice”, substitute “notification”.

194 Subregulation 4.3(4)

Omit “notice in writing”, substitute “notification to the applicant”.

195 Subregulation 4.3(8)

After “Registrar may”, insert “, by notification to the applicant,”.

196 Subregulation 4.8(1)

Omit “in writing”, substitute “by notification”.

197 Subregulation 4.8(2)

Omit “notice”, substitute “notification”.

198 Subregulation 4.10(2)

Omit “in writing”, substitute “by notification”.

199 Subregulation 4.10(3)

Omit “notice”, substitute “notification”.

200 Subregulations 4.11(1) and (2)

Omit “require in writing the applicant”, substitute “notify the applicant that the applicant is required”.

201 Subregulation 4.13(4)

Omit “in writing”.

202 Paragraph 4.14(1)(b)

Omit “notice”, substitute “notification”.

203 Subregulation 4.14(5)

Omit “in writing”.

204 Subregulation 4.18(2)

Omit “written notice”, substitute “notification”.

205 Subregulation 6.1(1)

Omit “give notice in writing”, substitute “by notification”.

206 Paragraph 6.1(1)(a)

Omit “setting”, substitute “set”.

207 Paragraph 6.1(1)(b)

Omit “stating”, substitute “state”.

208 Paragraph 6.1(1)(b)

Omit “notice”, substitute “notification”.

209 Regulation 6.4

Omit “notice in writing”, substitute “notification”.

210 Regulation 7.5 (heading)

Repeal the heading, substitute:

7.5 Notification of renewal

211 Regulation 7.5

Omit “notice”, substitute “notification”.

212 Regulation 7.7 (heading)

Repeal the heading, substitute:

7.7 Notification about renewal

213 Regulation 7.7

Omit “notice”, substitute “notification”.

214 Regulation 7.8 (heading)

Repeal the heading, substitute:

7.8 Notification of renewal

215 Regulation 7.8

Omit “notice”, substitute “notification”.

216 Subregulation 8.1(2)

Omit “notice” (wherever occurring), substitute “notification”.

217 Regulation 8.1A

Repeal the regulation.

218 Regulation 10.5 (heading)

Repeal the heading, substitute:

10.5 Notification to persons recorded as claiming right or interest in trade marks

219 Subregulation 10.5(1)

Omit “give notice in writing to”, substitute “notify”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 4 Written requirements

220 Subregulation 10.5(1)

Omit “stating”.

221 Subregulation 10.5(1)

Omit “date of the notice”, substitute “date of the notification”.

222 Paragraph 10.5(1)(c)

Omit “give notice”, substitute “notify”.

223 Subregulation 10.5(2)

Omit “notice”, substitute “notification”.

224 Subregulation 11.3(4)

Omit “in writing”.

225 Paragraph 11.3(4)(b)

Omit “notice”, substitute “notification”.

226 Subregulation 17A.18(2)

Omit “tell the holder, in writing, of that belief”, substitute “report that belief by notification to the holder”.

227 Subregulations 17A.19(1) and (2)

Omit “, by writing, require the holder”, substitute “notify the holder that the holder is required”.

228 Subregulation 17A.21(4)

Omit “inform the holder in writing”, substitute “notify the holder”.

229 Paragraph 17A.22(1)(b)

Omit “notice”, substitute “notification”.

230 Subregulation 17A.22(5)

Omit “inform the holder in writing”, substitute “notify the holder”.

231 Paragraph 17A.25(2)(b)

Omit “, in writing,”.

232 Paragraph 17A.59(1)(b)

Omit “give notice in writing to the person stating”, substitute “notify the person”.

233 Paragraph 17A.59(1)(b)

Omit “date of the notice”, substitute “date of the notification”.

234 Subregulation 21.9(3)

Omit “require in writing that person”, substitute “notify the person that the person is required”.

235 Regulation 21.10

Repeal the regulation, substitute:

21.10 Notification of withdrawal of application etc.

If an application, notice or request is withdrawn in accordance with regulation 21.9, the Registrar must publish, in accordance with section 230A of the Act, the fact of the withdrawal.

236 Subregulation 21.16(2)

Omit “notice”, substitute “notification”.

237 Subregulation 21.16(2)

Omit “, to the person,”, substitute “to the person”.

EXPOSURE DRAFT

Schedule 1 Amendments
Part 5 Filing requirements

Part 5—Filing requirements

Designs Regulations 2004

238 Subregulation 1.04(1) (definition of *approved means*)

Repeal the definition.

239 Paragraph 5.08(b)

Omit “form; and”, substitute “form.”.

240 Paragraph 5.08(c)

Repeal the paragraph.

241 Subregulation 11.01(6)

Repeal the subregulation.

242 Regulation 11.01A

Repeal the regulation.

243 Regulation 11.25 (heading)

Repeal the heading, substitute:

11.25 Giving of oral evidence

244 Subregulation 11.25(1)

Repeal the subregulation.

245 Subregulation 11.25(2)

Omit “(2)”.

246 At the end of subregulation 11.27(2)

Add “and must be in the form (if any) specified in a direction under section 144B of the Act”.

247 Subregulation 11.27(3)

Omit “substantially comply with Schedule 2”, substitute “comply with subregulation (2)”.

248 After regulation 11.27

Insert:

11.27A Consequences for evidence not meeting filing requirements

- (1) If, in relation to evidence received at the Designs Office, a person does not comply with a direction under section 144C of the Act, the Registrar may treat the evidence:

- (a) as not having been filed and notify the person, including in the notification a statement indicating how the direction has not been complied with; or
- (b) as having been filed, but direct the person to do such things as are necessary to ensure that the direction is complied with.

- (2) If the Registrar gives a direction under paragraph (1)(b) and the person does not comply with the direction within the period specified in the direction, the Registrar may treat the evidence as not having been filed.

249 Clause 1 of Schedule 4 (table items 1, 2 and 5)

Omit “approved means”, substitute “preferred means”.

Patents Regulations 1991

250 Subregulation 1.3(1) (definition of *approved means*)

Repeal the definition.

251 Regulation 5.3

Repeal the regulation.

252 Regulation 22.1 (heading)

Repeal the heading, substitute:

22.1 Complete applications treated as provisional applications

253 Subregulation 22.1(1)

Repeal the subregulation.

254 Subregulation 22.1(2)

Omit “(2)”.

255 Regulation 22.2AA

Repeal the regulation.

256 Regulation 22.12 (heading)

Repeal the heading, substitute:

22.12 Giving of oral evidence

257 Subregulation 22.12(1)

Repeal the subregulation.

258 Subregulation 22.12(2)

Omit “(2)”.

259 Regulation 22.15 (heading)

Repeal the heading, substitute:

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Schedule 1 Amendments
Part 5 Filing requirements

22.15 Requirements for filing documents

260 Paragraphs 22.15(3)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the document must be in English and be in the form (if any) specified in a direction under section 214B of the Act; or
- (b) the following apply:
 - (i) the document (the *original document*) must be filed with a document (the *translated document*) that is a translation of the original document into English;
 - (ii) the original document must be filed with a related certificate of verification;
 - (iii) the translated document must be in the form (if any) specified in a direction under section 214B of the Act.

261 Regulation 22.16 (heading)

Repeal the heading, substitute:

22.16 Consequences for certain documents not meeting filing requirements

262 Subregulation 22.16(5)

Repeal the subregulation.

263 After regulation 22.16

Insert:

22.16A Consequences for evidence not meeting filing requirements

- (1) If, in relation to evidence received at the Patent Office, a person does not comply with a direction under section 214C of the Act, the Commissioner may treat the evidence:
 - (a) as not having been filed and notify the person, including in the notification a statement indicating how the direction has not been complied with; or
 - (b) as having been filed, but direct the person to do such things as are necessary to ensure that the direction is complied with.
- (2) If the Commissioner gives a direction under paragraph (1)(b) and the person does not comply with the direction within 2 months of the day it was given, the Commissioner must treat the evidence as not having been filed.

264 Clause 2 of Schedule 7 (table items 201, 202, 203, 211, 212 and 214A)

Omit “approved means” (wherever occurring), substitute “preferred means”.

Plant Breeder’s Rights Regulations 1994

265 Subregulation 3(1) (definition of *approved means*)

Repeal the definition.

266 Regulation 4A

Repeal the regulation.

267 Clause 1 of Schedule 1 (table item 4)

Omit “approved means”, substitute “preferred means”.

Trade Marks Regulations 1995

268 Regulation 2.1 (definition of *approved means*)

Repeal the definition.

269 Regulations 5.3, 9.3, 17A.30 and 17A.48A

Repeal the regulations.

270 Regulation 21.2

Repeal the regulation, substitute:

21.2 Requirements for filing documents

- (1) A document that is required to be in an approved form and that is filed must be in English and be legible.
- (2) If any other document is filed:
 - (a) the document must be in English, be in the form (if any) specified in a direction under section 213B of the Act and be legible; or
 - (b) the following apply:
 - (i) the document (the *original document*) must be filed with a document (the *translated document*) that is a translation of the original document into English;
 - (ii) the original document must be filed with a certificate of verification;
 - (iii) the translated document must be in the form (if any) specified in a direction under section 213B of the Act and be legible.
- (3) Subregulation (2) does not apply in relation to an application mentioned in paragraph 4.11(1)(a), 5.18(2)(a) or 17A.19(1)(a).

Note: Regulations 4.11, 5.18 and 17A.19 have specific rules about applications filed in trade marks offices (however described) of Convention countries.

271 Regulation 21.4

Repeal the regulation, substitute:

21.4 Consequences for documents not meeting filing requirements

- (1) If a document received for filing at the Trade Marks Office does not comply with the Act or the regulations, or is not in accordance with whichever approved form is applicable, the Registrar may treat the document:
 - (a) as not having been filed and notify the person, including in the notification a statement indicating how the document does not comply with the Act or the regulations or is not in accordance with the approved form; or

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Schedule 1 Amendments

Part 5 Filing requirements

- (b) as having been filed, but direct the person to do such things as are necessary to ensure that the document does comply with the Act or the regulations or is in accordance with the approved form.

Note: Regulations 4.2 and 4.2A set out requirements with which applications for the registration of trade marks must comply to be taken as having been filed.

- (2) If the Registrar gives a direction under paragraph (1)(b) and the person does not comply with the direction within the period specified in the direction, the Registrar may treat the document as not having been filed.

272 Subregulation 21.5(2)

Omit “or by facsimile transmission”.

273 After regulation 21.5

Insert:

21.5A Consequences for evidence not meeting filing requirements

- (1) If, in relation to evidence received at the Trade Marks Office, a person does not comply with a direction under section 213C of the Act, the Registrar may treat the evidence:
- (a) as not having been filed and notify the person, including in the notification a statement indicating how the direction has not been complied with; or
 - (b) as having been filed, but direct the person to do such things as are necessary to ensure that the direction is complied with.
- (2) If the Registrar gives a direction under paragraph (1)(b) and the person does not comply with the direction within the period specified in the direction, the Registrar may treat the evidence as not having been filed.

274 Regulation 21.17 (heading)

Repeal the heading, substitute:

21.17 Giving of oral evidence

275 Subregulation 21.17(1)

Repeal the subregulation.

276 Subregulation 21.17(2)

Omit “the proceedings”, substitute “any proceedings before the Registrar”.

277 Regulation 21.18

Repeal the regulation.

278 Regulation 21.21AA

Repeal the regulation.

279 At the end of subregulation 21.22(1)

Add:

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Note: See subsection 223(2C), and section 223AA, of the Act for the means of paying a fee to the Registrar.

280 At the end of subregulation 21.22(2)

Add “The fee must be paid in accordance with a direction given by the Comptroller-General of Customs as to the way in which it is to be paid.”.

281 Subregulation 21.22(3)

Repeal the subregulation.

282 Schedule 7

Repeal the Schedule.

283 Clause 1 of Schedule 9 (table items 1, 3 and 10)

Omit “approved means”, substitute “preferred means”.

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Schedule 1 Amendments
Part 6 Official Journal

Part 6—Official Journal

Designs Regulations 2004

284 Subregulation 1.04(1) (definition of *Official Journal*)

Repeal the definition.

285 Paragraph 2.01(1)(b)

Omit “in the *Official Journal*”, substitute “in accordance with section 148A of the Act”.

286 Subregulation 3.04(1)

Omit “(1)”.

287 Subregulation 3.04(2)

Repeal the subregulation.

288 Subregulation 3.13(3)

Repeal the subregulation.

289 Regulation 3.15 (heading)

Repeal the heading, substitute:

3.15 Publication requirements

290 Regulation 3.15

Omit “the notice”, substitute “the publication”.

291 Paragraph 3.15(a)

Repeal the paragraph, substitute:

- (a) be in accordance with section 148A of the Act; and

292 Regulation 4.08 (heading)

Repeal the heading, substitute:

4.08 Certificate of registration and details of registration

293 Subregulation 4.08(2)

Repeal the subregulation, substitute:

- (2) For the purposes of subsection 45(4) of the Act, the details are the following details in relation to the design:
 - (a) the design number;
 - (b) the registration number;
 - (c) the date on which the design was registered;
 - (d) the filing date of the design application first disclosing the design;
 - (e) if applicable:

- (i) details about any basic application made in respect of the design; and
- (ii) the design number that was allocated to the excluded design in the initial application;
- (f) the product or products to which the design relates;
- (g) the Locarno Agreement classification of the product or each product;
- (h) if a statement of newness and distinctiveness has been provided to the Registrar—that statement;
- (i) the name and address of the registered owner;
- (j) the name of the designer.

Note 1: A *statement of newness and distinctiveness* is described in paragraph 19(2)(b) of the Act.

Note 2: For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.

294 Subregulation 4.11(3)

Repeal the subregulation.

295 Subregulation 4.11(4)

Omit “publication of the notice mentioned in subregulation (3)”, substitute “the publication under paragraph 50(2)(aa) of the Act”.

296 Regulation 4.13

Repeal the regulation, substitute:

4.13 Publication of details of revocation of registration

For the purposes of subsection 52(4) of the Act, the details are the registration number of the design.

297 Regulation 5.06 (heading)

Repeal the heading, substitute:

5.06 Certificate of examination and design details

298 Subregulation 5.06(2)

Repeal the subregulation, substitute:

- (2) For the purposes of subparagraph 67(3)(c)(iii) of the Act, the details are the following details in relation to the design:
 - (a) the registration number;
 - (b) the date of certification.

299 Regulation 5.07

Repeal the regulation, substitute:

5.07 Publication of details of revocation of registration after examination

For the purposes of subsection 68(3) of the Act, the details are the following details in relation to the design:

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Schedule 1 Amendments
Part 6 Official Journal

- (a) the registration number;
- (b) the date on which the design was revoked.

300 Paragraph 8.01(a)

Repeal the paragraph, substitute:

- (a) in accordance with section 148A of the Act; and

301 Regulation 9.04

Repeal the regulation.

302 Subregulation 9.05(4)

Omit “in the *Official Journal*, a notice”, substitute “in accordance with section 148A of the Act, details”.

303 Subregulation 9.05(5)

Omit “publication of the notice”, substitute “date of the publication”.

304 Regulation 11.14

Repeal the regulation.

305 Subregulation 11.33(3)

Repeal the subregulation.

Olympic Insignia Protection Regulations 1993

306 Subregulation 6B(3)

Repeal the subregulation.

Trade Marks Regulations 1995

307 Paragraph 3A.3(3)(f)

Omit “notified by the Registrar in the *Official Journal*”, substitute “the Registrar, by notice published in accordance with section 230A of the Act, declares”.

308 Paragraph 3A.3(3)(g)

Omit “notified conditions in the *Official Journal*”, substitute “, by notice published in accordance with section 230A of the Act, specified conditions”.

309 Subregulation 4.7(2)

Repeal the subregulation, substitute:

- (2) The particulars must be published in accordance with section 230A of the Act.

310 Subparagraph 4.13(1)(c)(iii)

Omit “regulation 17A.48”, substitute “regulation 17A.48C”.

311 Paragraph 4.14(3)(c)

Omit “regulation 17A.48”, substitute “regulation 17A.48C”.

312 Subregulation 5.6(1)

Omit “acceptance of the trade mark application is advertised in the *Official Journal* under paragraph 34(b)”, substitute “trade mark application is accepted under section 33”.

313 Subregulation 6.6(1)

Omit “advertisement of the request for amendment in the *Official Journal*”, substitute “day that details of the request for the amendment are published”.

314 Paragraph 7.1(1)(a)

Omit “is advertised in the *Official Journal*”, substitute “is published in accordance with section 230A of the Act”.

315 Paragraph 8.4(2)(b)

Omit “the request for amendment is advertised in the *Official Journal*”, substitute “details of the request for amendment are published in accordance with section 230A of the Act”.

316 Subregulation 9.8(1)

Omit “the application for removal is advertised in the *Official Journal*”, substitute “details of the application for removal are published in accordance with section 230A of the Act”.

317 Paragraph 16.3(2)(b)

Omit “the initial assessment will be advertised in the *Official Journal*”, substitute “details of the initial assessment will be published in accordance with section 230A of the Act”.

318 Paragraph 16.3(2)(c)

Omit “date of publication of the *Official Journal* in which the advertisement is published”, substitute “day details of the initial assessment are published in accordance with section 230A of the Act”.

319 Paragraph 16.3(3)(a)

Repeal the paragraph, substitute:

- (a) publish, in accordance with section 230A of the Act, details of the initial assessment; and

320 Paragraph 16.3(3)(b)

Omit “advertisement”, substitute “publication”.

321 Subregulation 16.3(4)

Omit “date of the advertisement in the *Official Journal* of an initial assessment”, substitute “day details of the initial assessment are published in accordance with section 230A of the Act”.

322 Paragraph 16.3(4)(a)

Omit “a notice under subregulation (2) or an advertisement under subregulation (3)”, substitute “the initial assessment”.

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Schedule 1 Amendments

Part 6 Official Journal

323 Subregulation 16.4(1)

Omit “date of the advertisement in the *Official Journal* of an initial assessment”, substitute “day details of the initial assessment are published in accordance with section 230A of the Act”.

324 Paragraph 16.4(1)(b)

Omit “a notice under subregulation 16.3(2) or an advertisement under subregulation 16.3(3)”, substitute “the initial assessment”.

325 Subregulation 16.4(3)

Omit “date of the advertisement in the *Official Journal* of an initial assessment”, substitute “day details of the initial assessment are published in accordance with section 230A of the Act”.

326 Paragraph 16.4(3)(b)

Omit “a notice under subregulation 16.3(2) or an advertisement under subregulation 16.3(3)”, substitute “the initial assessment”.

327 Paragraph 16.5(2)(b)

Omit “a notice under subregulation 16.3(2) or an advertisement under subregulation 16.3(3)”, substitute “the initial assessment”.

328 Regulation 16.7 (heading)

Repeal the heading, substitute:

16.7 Matters to be included in publication of details of adverse decision

329 Regulation 16.7

Omit “with advertisement”, substitute “with publishing details”.

330 Regulation 16.7

Omit “advertisement in the *Official Journal*”, substitute “publication”.

331 Regulation 16.7

Omit “advertisement relates”, substitute “publication relates”.

332 Subregulations 16.10(4) and (5)

Omit “in the *Official Journal*”, substitute “, in accordance with section 230A of the Act,”.

333 Subregulation 16.12(2)

Omit “advertises acceptance of the application in the *Official Journal* in accordance with paragraph 176(3)(b) of the Act”, substitute “, under subsection 176(1) of the Act, accepts the application”.

334 Subparagraph 17A.21(1)(c)(iii)

Omit “subregulation 17A.48(1)”, substitute “subregulation 17A.48C(1)”.

335 Paragraph 17A.22(3)(c)

Omit “regulation 17A.48”, substitute “regulation 17A.48C”.

336 Paragraph 17A.25(1)(a)

Omit “notify the decision in the *Official Journal*”, substitute “publish, in accordance with section 230A of the Act, the fact of the acceptance, with the publication”.

337 After subparagraph 17A.25(1)(a)(i)

Insert:

(ia) specifying the day of the acceptance; and

338 Subparagraph 17A.25(1)(a)(ii)

Omit “within the period allowed under paragraph 17A.29(2)(b)”, substitute “as mentioned in subregulation 17A.32(1)”.

339 Paragraph 17A.25(2)(c)

Omit “notify the decision in the *Official Journal*”, substitute “publish, in accordance with section 230A of the Act, the fact of the acceptance, with the publication”.

340 After subparagraph 17A.25(2)(c)(i)

Insert:

(ia) specifying the day of the acceptance; and

341 Subparagraph 17A.25(2)(c)(ii)

Omit “within the period allowed under paragraph 17A.29(2)(b)”, substitute “as mentioned in subregulation 17A.32(1)”.

342 Subregulation 17A.33(1)

Omit “advertises the acceptance of an IRDA in the *Official Journal*”, substitute “publishes, in accordance with section 230A of the Act, the fact of the acceptance of an IRDA”.

343 Subregulation 17A.33(1)

Omit “advertisement of the acceptance”, substitute “day of the acceptance”.

344 Subregulation 17A.36(1) (definition of *appeal period*)

Omit “regulation 17A.35”, substitute “regulation 17A.34P”.

345 Subregulation 17A.36(1) (definition of *opposition period*)

Repeal the definition.

346 Paragraph 17A.36(2)(b)

Repeal the paragraph, substitute:

(b) either:

(i) no notice of intention to oppose is filed within the period (the *relevant period*) allowed under subregulation 17A.33(1) or that period as extended; or

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Schedule 1 Amendments
Part 6 Official Journal

- (ii) a notice of intention to oppose is filed within the period allowed under subregulation 17A.33(1) or that period as extended but no statement of grounds and particulars is filed within the period (the *relevant period*) allowed under subregulation 17A.34A(1) or that period as extended;

347 Subregulation 17A.36(2)

Omit “that period”, substitute “the relevant period or that period as extended, as the case requires”.

348 Paragraph 17A.36(2A)(b)

Repeal the paragraph, substitute:

- (b) a notice of opposition to the IRDA is filed as mentioned in subregulation 17A.32(1); and

349 Paragraph 17A.36(3)(b)

Repeal the paragraph, substitute:

- (b) a notice of opposition to the IRDA is filed as mentioned in subregulation 17A.32(1); and

350 Paragraph 17A.36(3A)(b)

Repeal the paragraph, substitute:

- (b) a notice of opposition to the IRDA is filed as mentioned in subregulation 17A.32(1); and

351 Paragraph 17A.36(4)(b)

Repeal the paragraph, substitute:

- (b) a notice of opposition to the IRDA is filed as mentioned in subregulation 17A.32(1); and

352 Paragraph 17A.36(6)(b)

Repeal the paragraph, substitute:

- (b) a notice of opposition to the IRDA is filed as mentioned in subregulation 17A.32(1); and

353 Paragraph 17A.36(6)(c)

Omit “subregulation 17A.29(3)”, substitute “subregulation 17A.32(2)”.

354 Paragraph 17A.36(6)(c)

Omit “opposition period begins”, substitute “day of the acceptance of the IRDA by the Registrar”.

355 Paragraph 17A.37(1)(a)

Omit “notify that fact in the *Official Journal*”, substitute “publish, in accordance with section 230A of the Act, that fact”.

356 Subregulation 17A.37(2)

Omit “notice”, substitute “publication”.

357 Subregulation 17A.39(1)

Omit “sections 20 to 26, Parts 12, 13 and 14 of the Act (except section 128),”, substitute “sections 20 to 26 of the Act and Parts 12, 13 and 14 of the Act (except section 128 of the Act)”.

358 Paragraph 17A.39(3)(a)

After “paragraph 127(b)”, insert “of the Act”.

359 Paragraph 17A.39(3)(a)

Omit “subregulation 17A.48(2)”, substitute “subregulation 17A.48C(3)”.

360 Paragraph 17A.39(3)(b)

After “paragraph 129(1)(b)”, insert “of the Act”.

361 Paragraph 17A.42A(2)(c)

Omit “for refusing protection mentioned in regulations 17A.31”, substitute “on which the extension of protection could have been opposed under regulation 17A.34”.

362 Paragraph 17A.45(2)(a)

Omit “regulation 17A.31”, substitute “regulation 17A.34”.

363 Subregulation 17A.48G(1)

Omit “the application for cessation of protection is advertised in the *Official Journal*”, substitute “details of the application for cessation of protection are published in accordance with section 230A of the Act”.

364 Paragraph 17A.73(a)

Repeal the paragraph, substitute:

- (a) files a notice of opposition to an IRDA as mentioned in subregulation 17A.32(1); or

365 Paragraph 17A.73(b)

Omit “regulation 17A.48”, substitute “regulation 17A.48C”.

366 Paragraph 17A.74(1)(e)

Omit “, under regulation 17A.29,”.

367 Paragraph 17A.74(1)(e)

After “IRDA”, insert “by filing a notice of opposition as mentioned in subregulation 17A.32(1)”.

368 Paragraphs 17A.74(1)(f) and (g)

Omit “subregulation 17A.48(1)”, substitute “subregulation 17A.48C(1)”.

369 Paragraph 20A.19(1)(c)

Omit “publish, in the *Official Journal*, a written statement”, substitute “publish, in accordance with section 230A of the Act, a statement”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 6 Official Journal

370 Subregulation 21.24B(3)

Repeal the subregulation.

371 Paragraph 21.28(1)(q)

Omit “an advertisement”, substitute “a publication”.

Part 7—Amendments of applications or other documents

Designs Regulations 2004

372 Before regulation 3.09

Insert:

3.08A Amendments by applicant or Registrar on own initiative

- (1) For the purposes of subsections 27A(1) and (7) of the Act, the particulars are the following:
 - (a) the applicant’s name;
 - (b) the applicant’s residential or postal address;
 - (c) the applicant’s address for service of documents;
 - (d) any other contact details for the applicant;
 - (e) the personal details of the applicant’s agent (whether the applicant’s current agent or new agent).
- (2) For the purposes of paragraph 27A(2)(b) of the Act, the amendment must be made by notice in the approved form given to the Registrar.

373 Paragraph 3.09(1)(b)

After “design application”, insert “, or any other document accompanying the application,”.

Trade Marks Regulations 1995

374 Before regulation 6.1

Insert:

6.1A Amendments of prescribed particulars in application for registration of trade mark

- For the purposes of subsections 62B(1) and (7) of the Act, the particulars are the following:
- (a) the applicant’s name;
 - (b) the applicant’s residential or postal address;
 - (c) the applicant’s address for service of documents;
 - (d) any other contact details for the applicant;
 - (e) the personal details of the applicant’s agent (whether the applicant’s current agent or new agent).

375 Regulation 6.1 (heading)

Repeal the heading, substitute:

6.1 Other amendments of application for registration of trade mark

EXPOSURE DRAFT

Schedule 1 Amendments

Part 8 Signatures

Part 8—Signatures

Patents Regulations 1991

376 Paragraph 3.1(2)(g)

Omit “authorising the person that is signed by the applicant or patentee”, substitute “from the applicant or patentee authorising the person to make the request”.

377 Subregulation 5.26(1)

Omit “signed”.

Part 9—Addresses and service of documents

Designs Regulations 2004

378 Subregulations 11.19(3) and (4)

Repeal the subregulations.

379 Regulation 11.20

Repeal the regulation.

Patents Regulations 1991

380 Subregulation 22.10(4)

Repeal the subregulation.

381 Regulation 22.10A

Repeal the regulation.

Trade Marks Regulations 1995

382 Subregulation 8.4(3)

Omit “The opponent must serve a copy of the notice on”, substitute “The Registrar must give a copy of the notice to”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 10 Examination of standard patent requests and specifications

Part 10—Examination of standard patent requests and specifications

Patents Regulations 1991

383 Regulation 3.15 (heading)

Repeal the heading, substitute:

3.15 Requests under subsection 44(1) of the Act for examination

384 Regulation 3.16 (heading)

Repeal the heading, substitute:

3.16 Directions under subsection 44(2) of the Act for examination

385 Subregulation 3.16(2)

Repeal the subregulation.

386 After regulation 3.16

Insert:

3.16A Requests under subsection 44(2A) of the Act for examination

- (1) For the purposes of subsection 44(2A) of the Act, the prescribed period is whichever of the following periods ends first:
 - (a) the period of 2 months from the day on which the direction was given;
 - (b) the period of 5 years from the filing date of the complete application.
- (2) For the purposes of subsection 44(2A) of the Act, a request for an examination of a patent request and complete specification must be in the approved form.

387 Regulation 3.17

Repeal the regulation, substitute:

3.17 Requests under subsection 44(3) of the Act for examination

- (1) For the purposes of subsection 44(3) of the Act, the prescribed period is the period of 5 years from the filing date of the complete application.
- (2) For the purposes of subsection 44(3) of the Act, a request for an examination of a patent request and complete specification must be in the approved form.

388 Before regulation 3.17A

Insert:

3.17AA Expedited examination of patent request and complete specification

If:

- (a) under subsection 44(1), (2A) or (3) of the Act, an applicant, or a person other than an applicant, asks for an examination of a patent request and complete specification relating to an application for a standard patent; and
- (b) the applicant for the standard patent asks for the examination to be expedited;

the Commissioner may do so if he or she is reasonably satisfied that:

- (c) it is in the public interest; or
- (d) there are special circumstances that make it desirable.

389 Subparagraph 3.17B(3)(b)(i)

Omit “subregulation 3.17(2)”, substitute “regulation 3.17AA”.

390 Paragraph 22.2C(1)(a)

Omit “209,”.

391 After regulation 22.2D

Insert:

22.2E Failure to pay: fees payable for requests under subsection 44(3) of the Act

- (1) Subregulation (2) applies if:
 - (a) a fee mentioned in paragraph (a) of item 209A or 209B of the table in clause 2 of Schedule 7 is not paid when it is payable; and
 - (b) within 1 month after the fee is payable, the Commissioner invites the person making the request to pay the fee within 1 month after the date of the invitation; and
 - (c) the fee is not paid within 1 month after the date of the invitation.
- (2) The request is taken not to have been filed.
- (3) Subregulation (4) applies if:
 - (a) a fee mentioned in paragraph (b) of item 209A or 209B of the table in clause 2 of Schedule 7 (the *applicant fee*) is not paid when it is payable; and
 - (b) within 1 month after the fee mentioned in paragraph (a) of that item is paid for the request to which the applicant fee relates, the Commissioner invites the applicant to pay the applicant fee within 2 months after the date of the invitation; and
 - (c) the fee is not paid within the 2-month period.
- (4) The complete application for the standard patent lapses at the end of the 2-month period.
- (5) The Commissioner must publish in the *Official Journal* notice of the lapsing.

392 Paragraph 22.2F(1)(a)

Omit “or 22.2D”, substitute “, 22.2D or 22.2E”.

393 Clause 2 of Schedule 7 (table items 204 and 205)

After “Filing a request”, insert “under subsection 44(1) or (2A) of the Act”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 10 Examination of standard patent requests and specifications

394 Clause 2 of Schedule 7 (table item 209)

Repeal the item.

395 Clause 2 of Schedule 7 (before table item 210)

Insert:

| | | |
|------|---|-------|
| 209A | Filing a request under subsection 44(3) of the Act for an examination, under section 45 of the Act, of a standard patent request and complete specification for a PCT application if the Patent Office has established an international preliminary examination report under Article 35 of the PCT, other than a report under Rule 44 ^{bis.1} of the PCT, in respect of the application: | |
| | (a) payable by the person making the request; and | \$150 |
| | (b) payable by the applicant | \$150 |
| 209B | Filing a request under subsection 44(3) of the Act for an examination, under section 45 of the Act, of a standard patent request and complete specification if item 209A does not apply: | |
| | (a) payable by the person making the request; and | \$245 |
| | (b) payable by the applicant | \$245 |

Part 11—Requirements for patent documents

Patents Regulations 1991

396 Regulation 3.2

Repeal the regulation, substitute:

3.2 Provisional application—direction to meet formalities requirements

- (1) The Commissioner may, within 1 month from the filing date for a provisional patent application (worked out under regulation 3.5), direct the applicant to do anything necessary to ensure that the provisional specification complies with the requirements mentioned in subsection 29(4) of the Act.
- (2) If an applicant to whom a direction has been given under subregulation (1) does not comply with the direction within 2 months from the date of the direction, the provisional specification is taken not to have been filed.

397 Regulation 3.2A (heading)

Repeal the heading, substitute:

3.2A Complete application for standard patent—direction to meet formalities requirements

398 Subregulations 3.2A(1) to (3)

Repeal the subregulations, substitute:

- (1) The Commissioner may, within 1 month from the filing date for a complete application for a standard patent (worked out under regulation 3.5), direct the applicant to do anything necessary to ensure that the patent request or complete specification complies with the requirements mentioned in subsection 29(4A) or (4B) of the Act.
- (2) Subregulation (1) does not apply to a PCT application.

399 Paragraph 3.2A(4)(a)

Omit “subregulation (3)”, substitute “subregulation (1)”.

400 Subregulation 3.2A(5)

Omit “subregulation (3)”, substitute “subregulation (1)”.

401 Paragraphs 3.2B(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the patent request complies with subsection 29(4A) of the Act;
- (b) the complete specification for the application complies with subsection 29(4B) of the Act;

EXPOSURE DRAFT

Schedule 1 Amendments

Part 11 Requirements for patent documents

402 Subregulation 3.2C(1)

Omit “that complies with”, substitute “if the applicant complied with the requirements of”.

403 Subregulation 3.2C(3)

Omit “substantially comply with the requirements of Schedule 3”, substitute “comply with the formalities requirements determined in an instrument under section 229 of the Act”.

404 Subregulation 3.2C(4)

Omit “PCT application complies with”, substitute “applicant complied with”.

405 Subregulation 3.2C(4)

Omit “application complies with the requirements mentioned in subregulations (2) and (3)”, substitute “requirements mentioned in subregulations (2) and (3) are met”.

406 Paragraph 3.3(1)(a)

After “drawings”, insert “, graphics or photographs”.

407 Subregulation 3.3(4)

After “drawing”, insert “, graphic or photograph”.

408 Paragraph 3.5(2)(b)

After “drawing”, insert “, graphic or photograph”.

409 Paragraph 3.5AC(2)(a)

After “drawings” (wherever occurring), insert “, graphics, photographs”.

410 Subregulations 3.5AC(3), (4) and (5)

After “drawings”, insert “, graphics, photographs”.

411 Paragraph 3.5AD(a)

Omit “subsection 29(4)”, substitute “subsections 29(4A) and (4B)”.

412 Paragraphs 3.5AD(b), (c) and (d)

Repeal the paragraphs, substitute:

(b) subregulation 3.1(1).

413 Paragraph 3.18(2)(f)

Omit “application complies with subregulations 3.2C(2) and (3)”, substitute “requirements of subregulations 3.2C(2) and (3) are met”.

414 Paragraph 4.2(2)(c)

Omit “subregulation 3.2A(2)”, substitute “subregulation 3.2A(1)”.

415 Subregulation 10.1(2)

Repeal the subregulation.

EXPOSURE DRAFT

Amendments **Schedule 1**
Requirements for patent documents **Part 11**

416 Paragraph 10.2(1)(a)

Repeal the paragraph, substitute:

- (a) the request for leave to amend, and the statement of proposed amendments, comply with regulation 10.1 and the formalities requirements determined in an instrument under section 229 of the Act; and

417 Subregulation 22.16(2)

Omit “Schedule 3”, substitute “the formalities requirements determined in an instrument under section 229 of the Act”.

418 Schedule 3

Repeal the Schedule.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 12 Acceptance of trade mark applications

Part 12—Acceptance of trade mark applications

Trade Marks Regulations 1995

419 Paragraph 4.8(1)(b)

After “Part 4”, insert “, or section 177 or 187,”.

420 Paragraph 4.10(2)(b)

After “Part 4”, insert “, or section 177 or 187,”.

421 Paragraph 4.12(1)(a)

Omit “15”, substitute “9”.

422 Paragraph 4.12(1)(b)

After “Part 4”, insert “, or section 177 or 187,”.

423 Paragraph 4.12(1)(b)

Omit “15”, substitute “9”.

424 Subregulation 4.12(2)

Omit “15”, substitute “9”.

425 Subregulations 4.12(3) and (4)

Repeal the subregulations (including the notes).

426 Paragraph 4.13(1)(a)

Omit “a period prescribed in subregulation 4.12(1)”, substitute “the period applicable under regulation 4.12 or that period as extended under section 224, 224B or 224C of the Act”.

427 After subregulation 4.13(1)

Insert:

- (1A) The Registrar may, at the request of the applicant in writing, defer acceptance of an application for registration of a trade mark if:
- (a) the request is made within the period applicable under regulation 4.12 or that period as extended under section 224, 224B or 224C of the Act; and
 - (b) the Registrar reasonably believes that there are grounds for refusing the application under section 41 or 177 of the Act; and
 - (c) the applicant is seeking to gather documents or evidence as to why the applicant considers there are no grounds for so refusing the application.

428 Subregulation 4.13(2)

Omit “a period that is prescribed in subregulation 4.12(1) or that is”, substitute “the period applicable under regulation 4.12 or that period as”.

429 Subregulation 4.13(2)

Omit “or subregulation 4.12(4)”.

430 Paragraph 4.14(1)(a)

After “subregulation 4.13(1)”, insert “or (1A)”.

431 Paragraph 4.14(2)(b)

After “under”, insert “section 41,”.

432 Paragraph 4.14(2)(b)

After “subsection 44(1) or (2)”, insert “or section 177”.

433 Paragraph 4.14(3)(b)

After “subparagraph 4.13(1)(c)(ii)”, insert “or subregulation 4.13(1A)”.

434 Subregulation 4.14(4)

Omit “subregulation 4.13(2)”, substitute “subregulations 4.13(1A) and (2)”.

435 Paragraph 4.14(5)(b)

After “subregulation 4.13(1)”, insert “or (1A)”.

436 Paragraphs 17A.20(1)(a) and (b)

Omit “15”, substitute “9”.

437 Subregulation 17A.20(2)

Omit “15”, substitute “9”.

438 Subregulations 17A.20(3) and (4)

Repeal the subregulations (including the notes).

439 Paragraph 17A.21(1)(a)

Omit “a period mentioned in subregulation 17A.20(1)”, substitute “the period applicable under regulation 17A.20 or that period as extended under section 224, 224B or 224C of the Act”.

440 After subregulation 17A.21(1)

Insert:

- (1A) The Registrar may, at the written request of the holder, defer acceptance of an IRDA if:
- (a) the request is made within the period applicable under regulation 17A.20 or that period as extended under section 224, 224B or 224C of the Act; and
 - (b) the Registrar reasonably believes that there are grounds for refusing the IRDA under section 41 or 177 of the Act (as applied by regulation 17A.28); and
 - (c) the holder is seeking to gather documents or evidence as to why the holder considers there are no grounds for so refusing the IRDA.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 12 Acceptance of trade mark applications

441 Subregulation 17A.21(2)

Omit “the period mentioned in subregulation 17A.20(1), or (if such a period is”, substitute “the period applicable under regulation 17A.20 or that period as”.

442 Subregulation 17A.21(2)

Omit “or subregulation 17A.20(4)) the extended period”.

443 Paragraph 17A.22(1)(a)

After “subregulation 17A.21(1)”, insert “or (1A)”.

444 Paragraph 17A.22(2)(b)

After “under”, insert “section 41,”.

445 Paragraph 17A.22(2)(b)

After “subsection 44(1) or (2)”, insert “or section 177”.

446 Paragraph 17A.22(3)(b)

After “subparagraph 17A.21(1)(c)(ii)”, insert “or subregulation 17A.21(1A)”.

447 Subregulation 17A.22(4)

Omit “subregulation 17A.21(2)”, substitute “subregulations 17A.21(1A) and (2)”.

448 Paragraph 17A.22(5)(b)

After “subregulation 17A.21(1)”, insert “or (1A)”.

449 Clause 1 of Schedule 9 (table item 5)

Repeal the item.

Part 13—Registration of designs

Designs Regulations 2004

450 Subparagraph 3.02(b)(ii)

Omit “, or publication under section 57 of the Act,”.

451 Paragraphs 3.13(1)(b) and (2)(b)

Omit “or published”.

452 Regulation 3.14

Repeal the regulation, substitute:

3.14 Period within which application lapses

For the purposes of subsection 33(1) of the Act, the prescribed period is 2 months from the date of the first notification given by the Registrar under section 41 of the Act in relation to the design or designs in respect of which registration is requested.

453 Paragraph 3.15(b)

Omit “or published”.

454 Chapter 4 (heading)

Repeal the heading, substitute:

Chapter 4—Registration of designs

455 Part 4.2 of Chapter 4 (heading)

Repeal the heading, substitute:

Part 4.2—Requests for registration

456 Regulation 4.01 (heading)

Repeal the heading, substitute:

4.01 Requests for registration

457 Subregulation 4.01(1)

Omit “in section 37 or subsection 38(2) of the Act or”.

458 Regulations 4.02 and 4.03

Repeal the regulations, substitute:

EXPOSURE DRAFT

Schedule 1 Amendments

Part 13 Registration of designs

4.02 Later requests for registration—applications in respect of more than one design

For the purposes of section 36 of the Act, the Registrar may determine that the applicant may make a request for registration of a relevant design referred to in that section if:

- (a) the applicant can satisfy the Registrar that it was only because of an error or omission by the applicant or the applicant's agent that a request was not made for registration of the relevant design; and
- (b) the request is made before any design disclosed in the design application is registered.

459 Part 4.4 of Chapter 4

Repeal the Part.

460 Regulation 8.02 (heading)

Repeal the heading, substitute:

8.02 Period within which designs must be registered after prohibition order revoked

461 Schedule 2 (note after heading)

Omit “, 4.15”.

Part 14—Copies of design representations

Designs Regulations 2004

462 Paragraph 4.04(1)(f)

Omit “5 copies of each”, substitute “at least one”.

463 Paragraph 4.05(1)(f)

Omit “5 copies of each”, substitute “at least one”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 15 Amendment of registered trade mark due to inconsistency with international agreements

Part 15—Amendment of registered trade mark due to inconsistency with international agreements

Trade Marks Regulations 1995

464 Regulation 8.5

Repeal the regulation, substitute:

8.5 Amendment because of inconsistency with international agreements— opposition practice and procedure

The Registrar may:

- (a) decide the practice and procedure to be followed in an opposition under subsection 83A(4) of the Act; and
- (b) direct the registered owner of the registered trade mark who made the request for amendment, and a person (an *opponent*) who filed a notice of opposition, accordingly.

8.6 Amendment because of inconsistency with international agreements— hearing

- (1) The Registrar:
 - (a) must hold a hearing of an opposition under subsection 83A(4) of the Act if requested by the registered owner of the registered trade mark, or an opponent, in writing; or
 - (b) may decide, on the Registrar's own initiative, to hold a hearing of the opposition.
 - (2) The hearing may, at the Registrar's discretion, be:
 - (a) an oral hearing; or
 - (b) by written submissions.
 - (3) If the Registrar decides on an oral hearing:
 - (a) the Registrar must notify the registered owner of the registered trade mark, and each opponent, of the date, time and place of the hearing; and
 - (b) the registered owner of the registered trade mark must file a summary of submissions at least 5 business days before the hearing; and
 - (c) each opponent must file a summary of submissions at least 10 business days before the hearing.
 - (4) If the registered owner of the registered trade mark, or an opponent, fails to file a summary of submissions under subregulation (3), the Registrar may take that failure into account in making an award of costs.
 - (5) The Registrar must:
 - (a) decide the opposition; and
 - (b) notify the registered owner of the registered trade mark, and each opponent, of the Registrar's decision.
-

- (6) Regulations 21.15 and 21.16 do not apply in relation to an opposition under subsection 83A(4) of the Act.

8.7 Amendment because of inconsistency with international agreements— opposition directions

- (1) The Registrar may give a direction in relation to an opposition under subsection 83A(4) of the Act:
- (a) if requested by the registered owner of the registered trade mark, or an opponent, in writing; or
 - (b) on the Registrar’s own initiative.
- (2) If the Registrar proposes to give a direction, the Registrar must give the registered owner of the registered trade mark, and each opponent, an opportunity to make representations about the direction.
- (3) A direction must not be inconsistent with the Act or these Regulations.
- (4) The Registrar must notify the registered owner of the registered trade mark, and each opponent, of the direction as soon as practicable.

8.8 Amendment because of inconsistency with international agreements— notification of dismissal or discontinuance of opposition

If an opposition under subsection 83A(4) of the Act is dismissed under section 222 of the Act or is discontinued, the Registrar must notify the registered owner of the registered trade mark, and each opponent, of the dismissal or discontinuance.

465 Subregulation 21.14(5) (note)

Omit “Regulation 5.19 deals”, substitute “Regulations 5.19, 6.10, 8.7, 9.21, 17A.34Q, 17A.48W and 21.20F deal”.

466 Part 1 of Schedule 8 (table items 5 and 6)

After “subregulation 6.6(1)”, insert “, 8.4(1)”.

467 Clause 1 of Schedule 9 (table item 8)

After “section 65A”, insert “or 83A”.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 16 Secretary's role in the Plant Breeder's Rights Regulations

Part 16—Secretary's role in the Plant Breeder's Rights Regulations

Plant Breeder's Rights Regulations 1994

468 Subregulations 3A(1), (2) and (3)

Omit "Secretary", substitute "Registrar".

469 Paragraph 3A(3)(a)

Omit "Secretary's", substitute "Registrar's".

470 Subregulation 3A(4)

Omit "Secretary", substitute "Registrar".

471 Regulation 3D

Repeal the regulation.

472 Subregulations 5(1), (2), (3) and (4)

Omit "Secretary", substitute "Registrar".

473 Paragraph 5(4)(a)

Omit "Secretary's", substitute "Registrar's".

474 Subregulation 5(5)

Omit "Secretary", substitute "Registrar".

Part 17—Application, transitional and saving provisions

Designs Regulations 2004

475 Chapter 12 (heading)

Repeal the heading, substitute:

Chapter 12—Application, saving and transitional provisions

476 In the appropriate position in Chapter 12

Insert:

Part 3—Amendments made by the Intellectual Property Laws Amendment Regulations 2017

12.06 Amendments made by Part 1 of Schedule 1

The amendments of these Regulations made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to renewal applications made on or after the commencement of that Part.

12.07 Amendments made by Part 3 of Schedule 1

- (1) Regulation 11.06 and items 7 and 8 of the table in clause 1 of Schedule 4, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to an application made under section 137 of the Act before, on or after that commencement.
- (2) Regulation 11.13, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation to an application made under section 137 of the Act before, on or after that commencement.
- (3) If:
 - (a) an application is made under section 137 of the Act before, on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*; and
 - (b) details in relation to the application are published in accordance with section 148A of the Act (instead of in the *Official Journal*);then, for the purposes of the operation of subregulation 11.13(3) on and after that commencement, the notice of opposition may be filed within 1 month from the day details in relation to the application are so published.
- (4) If, on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, the Registrar would have been required to publish notice of the grant of an extension of time in the *Official Journal* under subregulation 11.13(4), as continued in force by this regulation,

EXPOSURE DRAFT

Schedule 1 Amendments

Part 17 Application, transitional and saving provisions

then that requirement is taken to have been met if the Registrar publishes, in accordance with section 148A of the Act, such details of the extension as the Registrar considers appropriate.

12.08 Amendments made by Part 4 of Schedule 1

- (1) The amendments of regulations 4.04, 4.05, 5.03, 5.04, 9.03, 9.05, 10.02, 11.03, 11.23 and 11.28 made by Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to notifications occurring on or after the commencement of that Part.
- (2) Chapter 5, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subsection 66(2) of the Act before that commencement.
- (3) Regulation 10.02, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice mentioned in subparagraph 10.02(2)(b)(ii) given before that commencement.
- (4) Regulation 11.03, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under section 41 of the Act before that commencement.

12.09 Amendments made by Part 5 of Schedule 1

- (1) The amendments of regulation 5.08 made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to the provision of material to the Registrar on or after the commencement of that Part.
- (2) The repeal of regulation 11.01A, and the amendments of items 1, 2 and 5 of the table in clause 1 of Schedule 4, made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to documents filed on or after the commencement of that Part.
- (3) The repeal of subregulation 11.25(1) made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to evidence given on or after the commencement of that Part.
- (4) The amendment of subregulation 11.25(2) made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* does not affect the validity of any requirement or permission given under that subregulation before the commencement of that Part.
- (5) The amendments of regulation 11.27 made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to documents filed on or after the commencement of that Part.
- (6) Regulation 11.27A, as inserted by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to evidence filed on or after the commencement of that Part.

12.10 Amendments made by Part 6 of Schedule 1

- (1) A notice that was in force immediately before the commencement of Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* for the purposes of paragraph 2.01(1)(b) continues in force on and after that commencement as if it were a notice given under that paragraph (as amended by that Part).
- (2) The amendments of regulations 3.15, 4.11, 8.01 and 9.05 made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to publications occurring on or after the commencement of that Part.

12.11 Amendments made by Part 7 of Schedule 1

The amendment of regulation 3.09 made by Part 7 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to requests made under subsection 28(1) of the Act on or after the commencement of that Part (whether the design applications were filed before, on or after that commencement).

12.12 Amendments made by Part 13 of Schedule 1

- (1) The amendment of subparagraph 3.02(b)(ii) made by Part 13 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to initial applications filed under section 21 of the Act on or after the commencement of that Part.
- (2) The amendments of regulations 3.13, 3.15 and 4.01, the repeal and substitution of regulations 3.14 and 4.02 and the repeal of regulation 4.03 and of Part 4.4 of Chapter 4 made by Part 13 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to design applications filed under section 21 of the Act on or after the commencement of Part 13 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*.

12.13 Amendments made by Part 14 of Schedule 1

The amendments of paragraphs 4.04(1)(f) and 4.05(1)(f) made by Part 14 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to design applications filed on or after the commencement of that Part.

Patents Regulations 1991

477 Chapter 23 (heading)

Repeal the heading, substitute:

Chapter 23—Application, saving and transitional provisions

478 In the appropriate position in Chapter 23

Insert:

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Part 17 Application, transitional and saving provisions

Part 4—Amendments made by the Intellectual Property Laws Amendment Regulations 2017

23.46 Amendments made by Part 1 of Schedule 1

The amendments of these Regulations made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to anniversaries occurring on or after the commencement of that Part, being an anniversary in respect of which neither a continuation fee nor a renewal fee had been paid before that commencement.

23.47 Amendments made by Part 2 of Schedule 1

- (1) The amendments of these Regulations made by Division 1 of Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to the following:
 - (a) re-examinations instituted by the Commissioner, under section 97 or 101G of the Act, on his or her own initiative on or after the commencement of that Part;
 - (b) re-examinations instituted by the Commissioner, under section 97 or 101G of the Act, on or after that commencement as a result of a request under that section made on or after that commencement;
 - (c) re-examinations instituted by the Commissioner, under section 97 of the Act, on or after that commencement as a result of a direction by a court under subsection 97(3) of the Act on or after that commencement;
 - (d) re-examinations instituted by the Commissioner, under Part 2 of Chapter 9A of the Act, on or after that commencement as a result of a direction by a court under subsection 101K(1) of the Act on or after that commencement.
- (2) The amendments of regulation 9A.4 made by Division 2 of Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to a report made under section 101B of the Act or regulation 10.2 on or after the commencement of that Part.
- (3) The amendments of regulation 13.4 made by Division 2 of Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to a report made under section 45 of the Act or regulation 10.2 on or after the commencement of that Part.

23.48 Amendments made by Part 3 of Schedule 1

- (1) The amendments of subregulation 5.10(2) made by Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to applications for an extension of time made under section 223A of the Act on or after the commencement of that Part.
- (2) Subregulation 5.10(2), as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation

to an application made under section 223 of the Act before, on or after that commencement.

- (3) Regulation 22.2C and items 226 to 228 of the table in clause 2 of Schedule 7, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to an application made under section 223 of the Act before, on or after that commencement.
- (4) Regulation 22.11, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation to an application made under section 223 of the Act before, on or after that commencement.
- (5) Regulation 22.21, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation to the following:
 - (a) requirements specified in paragraph 6(c) or (d) of the Act that cease to be satisfied before that commencement;
 - (b) an application that lapses under section 148 of the Act before that commencement;
 - (c) an extension granted under section 223 of the Act before, on or after that commencement.
- (6) The repeal of regulation 22.21 made by Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* does not affect the validity of a licence granted under that regulation before the commencement of that Part.
- (7) Subparagraph 22.26(2)(a)(vi), as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a decision of the Commissioner under subregulation 22.21(5) made before, on or after that commencement.

23.49 Amendments made by Part 4 of Schedule 1

- (1) The amendments of regulations 3.2A, 3.2B, 3.2C, 3.4, 3.5, 3.5A, 3.24, 3.25, 3.25H, 9.1, 9A.1, 9A.4 and 13.4 made by Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to notifications occurring on or after the commencement of that Part.
- (2) Regulation 3.5, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subregulation 3.5(4) before that commencement.
- (3) Regulation 3.5A, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subregulation 3.5A(2) before that commencement.
- (4) Regulation 3.25, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*,

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continues to apply on and after that commencement in relation to a notice given under paragraph 3.25(3)(a) before that commencement.

23.50 Amendments made by Part 5 of Schedule 1

- (1) The repeal of regulation 5.3 made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to documents or evidence filed on or after the commencement of that Part.
- (2) The repeal of subregulation 22.12(1) made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to evidence given on or after the commencement of that Part.
- (3) The amendment of subregulation 22.12(2) made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* does not affect the validity of any requirement or permission given under that subregulation before the commencement of that Part.
- (4) The amendments of regulation 22.15 made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to documents filed on or after the commencement of that Part.
- (5) Regulation 22.16A, as inserted by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to evidence filed on or after the commencement of that Part.
- (6) The amendments of items 201, 202 and 203 of the table in clause 2 of Schedule 7, and the repeal of regulation 22.2AA (so far as it relates to those items), made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to documents filed on or after the commencement of that Part.
- (7) The amendments of items 211, 212 and 214A of the table in clause 2 of Schedule 7, and the repeal of regulation 22.2AA (so far as it relates to those items), made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to fees paid on or after the commencement of that Part.

23.51 Amendments made by Part 8 of Schedule 1

- (1) The amendment of paragraph 3.1(2)(g) made by Part 8 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to a request referred to in that paragraph made on or after the commencement of that Part.
- (2) The amendment of subregulation 5.26(1) made by Part 8 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to a notice of withdrawal filed on or after the commencement of that Part.

23.52 Amendments made by Part 10 of Schedule 1

- (1) Subregulation 3.16(2), as in force immediately before the commencement of Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation

to a direction given before that commencement under subsection 44(2) of the Act.

- (2) Regulation 3.16A, as in force on and after the commencement of Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to requests under subsection 44(2A) of the Act made on or after that commencement, whether the complete application for a standard patent was made before, on or after that commencement.
- (3) Regulation 3.17, as in force on and after the commencement of Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to requests under subsection 44(3) of the Act made on or after that commencement, whether the complete application for a standard patent was made before, on or after that commencement.
- (4) Subregulation 3.17(2) and regulation 3.17B, as in force immediately before the commencement of Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to a request for expedition made before that commencement.
- (5) Paragraph 3.17AA(a), as in force on and after the commencement of Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to requests made before, on or after that commencement.
- (6) Regulation 22.2E and items 209A and 209B of the table in clause 2 of Schedule 7, as inserted by Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, apply in relation to requests under subsection 44(3) of the Act made on or after the commencement of that Part, whether the complete application for a standard patent was made before, on or after that commencement.
- (7) Despite the amendments made by Part 10 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, regulation 22.2C and item 209 of the table in clause 2 of Schedule 7, as in force immediately before the commencement of that Part, continue to apply on and after that commencement in relation to a requirement made of the Commissioner under subsection 44(3) of the Act before that commencement.

23.53 Amendments made by Part 11 of Schedule 1

- (1) The repeal and substitution of regulation 3.2 made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to patent requests filed under subsection 29(1) of the Act on or after the commencement of that Part.
- (2) The amendments of regulation 3.2A made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to patent requests filed under subsection 29(1) of the Act on or after the commencement of that Part.
- (3) The amendment of regulation 3.2B made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to complete applications made on or after the commencement of that Part.

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- (4) The amendments of regulations 3.2C and 3.18 made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to an applicant's compliance with the requirements of subsection 29A(5) of the Act on or after the commencement of that Part (regardless of when the PCT application was made).
- (5) The amendments of regulation 3.5AD made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to PCT applications made on or after the commencement of that Part.
- (6) The amendments of regulations 10.1 and 10.2 made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to requests made under subsection 104(1) of the Act on or after the commencement of that Part.
- (7) The amendment of regulation 22.16 made by Part 11 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to documents received at the Patent Office on or after the commencement of that Part.

Plant Breeder's Rights Regulations 1994

479 After regulation 5

Insert:

6 Application, saving and transitional provisions—*Intellectual Property Laws Amendment Regulations 2017*

Amendments made by Part 1 of Schedule 1

- (1) The amendments of these Regulations made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to an anniversary occurring on or after the commencement of that Part, being an anniversary in respect of which the annual fee had not been paid before that commencement.

Amendments made by Part 2 of Schedule 1

- (2) Item 11 of the table in clause 1 of Schedule 1, as in force immediately before the commencement of Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to an application made under subsection 50(8) or (9) of the Act before that commencement.

Amendments made by Part 4 of Schedule 1

- (3) The amendments of regulations 3A and 5 made by Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to notifications occurring on or after the commencement of that Part.

Amendments made by Part 5 of Schedule 1

- (4) The repeal of regulation 4A, and the amendment of item 4 of the table in clause 1 of Schedule 1, made by Part 5 of Schedule 1 to the *Intellectual Property Laws*
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Amendment Regulations 2017 apply in relation to fees paid on or after the commencement of that Part.

Amendments made by Part 16 of Schedule 1

- (5) A thing done by, or in relation to, the Secretary under these Regulations before the commencement of Part 16 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* has effect on and after that commencement as if it had been done by, or in relation to, the Registrar.

Trade Marks Regulations 1995

480 Part 22 (heading)

Repeal the heading, substitute:

Part 22—Application, saving and transitional provisions

481 In the appropriate position in Part 22

Insert:

Division 4—Amendments made by the Intellectual Property Laws Amendment Regulations 2017

22.18 Amendments made by Part 1 of Schedule 1

- (1) The amendments of regulations 4.8, 4.10, 4.12, 4.13, 4.14 and 4.15A made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to:
- (a) applications for registration of a trade mark that are made on or after the commencement of that Part; and
 - (b) applications for registration of a trade mark that were made before the commencement of that Part and that had not been decided by the Registrar immediately before that commencement.
- (2) The amendment of regulation 16.2 made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to:
- (a) applications for registration of a certification trade mark that are made on or after the commencement of that Part; and
 - (b) applications for registration of a certification trade mark that were made before the commencement of that Part and that had not been decided by the Registrar immediately before that commencement.
- (3) The amendments of regulations 17A.12, 17A.16, 17A.18, 17A.20, 17A.21, 17A.22, 17A.24, 17A.28 and 17A.34 made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to:
- (a) requests that are made on or after the commencement of that Part; and
 - (b) requests that were made before the commencement of that Part and that had not been decided by the Registrar immediately before that commencement.

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- (4) For the purposes of paragraph (3)(b), any report under regulation 17A.16 made before the commencement of Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* that set out the Registrar's belief that there were grounds for rejecting a request, or any response made by the holder of the IRDA before that commencement, is taken on and after that commencement to be a report or response in relation to grounds for refusing the request.
- (5) The amendment of regulation 17A.26 made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to decisions of the Registrar made on or after the commencement of that Part.
- (6) The amendments of regulation 17A.55 made by Part 1 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to cancellations that occur on or after the commencement of that Part.

22.19 Amendments made by Part 2 of Schedule 1

- (1) The amendment of regulation 17A.27 made by Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to an acceptance of an IRDA on or after the commencement of that Part.
- (2) The amendment of regulation 17A.42A made by Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to a trade mark that becomes a protected international trade mark on or after the commencement of that Part.

22.20 Amendments made by Part 3 of Schedule 1

- (1) Regulation 5.13A applies in relation to a notice of intention to defend that is required to be filed within the period referred to in subregulation 5.13(1) if the end of that period is on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*.
 - (2) Regulation 9.15A applies in relation to a notice of intention to defend that is required to be filed within the period referred to in subregulation 9.15(1) if:
 - (a) the end of that period is on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*; and
 - (b) no application had been made under section 224 of the Act before that commencement to extend the time for filing that notice.
 - (3) Regulation 17A.34HA applies in relation to a notice of intention to defend that is required to be filed within the period referred to in subregulation 17A.34H(1) if:
 - (a) the end of that period is on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*; and
 - (b) no application had been made under section 224 of the Act before that commencement to extend the time for filing that notice.
 - (4) Regulation 17A.48QA applies in relation to a notice of intention to defend that is required to be filed within the period referred to in subregulation 17A.48Q(1) if:
 - (a) the end of that period is on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*; and
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- (b) no application had been made under section 224 of the Act before that commencement to extend the time for filing that notice.
- (5) Paragraph 21.11A(2)(f), as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation to a document filed by an applicant before, on or after that commencement in relation to an application for an extension of time under subsection 224(2) or (3) of the Act made before, on or after that commencement.
- (6) The amendments of subregulation 21.20B(1) made by Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to applications for an extension of time made under section 224A of the Act on or after the commencement of that Part.
- (7) Subregulation 21.20B(1), as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues in force on and after that commencement in relation to an application made under section 224 of the Act before, on or after that commencement.
- (8) If:
- (b) an application is made under section 224 of the Act before, on or after the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*; and
 - (b) details in relation to the application are published in accordance with section 230A of the Act (instead of in the *Official Journal*);
- then, for the purposes of the operation of subregulation 21.20B(1) on and after that commencement, the notice of opposition may be filed within 1 month from the day details in relation to the application are so published.
- (9) Regulations 21.25 and 21.28, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue in force on and after that commencement in relation to an application made under section 224 of the Act before, on or after that commencement.
- (10) Items 5A and 5B of the table in clause 1 of Schedule 9, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to an application made under section 224 of the Act before, on or after that commencement.
- (11) Item 8 of the table in clause 1 of Schedule 9, as in force immediately before the commencement of Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice of opposition given under subsection 224(6) of the Act before, on or after that commencement.

22.21 Amendments made by Part 4 of Schedule 1

- (1) The amendments of regulations 4.2, 4.3, 4.11, 4.13, 4.14, 4.18, 6.1, 6.4, 7.5, 7.7, 7.8, 8.1, 10.5, 11.3, 17A.18, 17A.19, 17A.21, 17A.22, 17A.25, 17A.59, 21.9 and 21.16 made by Part 4 of Schedule 1 to the *Intellectual Property Laws*

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Amendment Regulations 2017 apply in relation to notifications occurring on or after the commencement of that Part.

- (2) The amendments of regulations 4.8 and 4.10 made by Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to reports given on or after the commencement of that Part.
- (3) Regulation 4.2, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subregulation 4.2(2) before that commencement.
- (4) Regulation 6.1, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subregulation 6.1(1) before that commencement.
- (5) Regulation 10.5, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under subregulation 10.5(1) before that commencement.
- (6) Regulation 17A.59, as in force immediately before the commencement of Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to a notice given under paragraph 17A.59(1)(b) before that commencement.
- (7) The repeal and substitution of regulation 21.10 made by Part 4 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to withdrawals occurring on or after the commencement of that Part.

22.22 Amendments made by Part 5 of Schedule 1

- (1) The repeal of regulations 5.3, 9.3, 17A.30 and 17A.48A made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to documents or evidence filed on or after the commencement of that Part.
- (2) The repeal and substitution of regulations 21.2 and 21.4, and the repeal of regulation 21.18, made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to documents filed on or after the commencement of that Part.
- (3) Regulation 21.5A, as inserted by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, applies in relation to evidence filed on or after the commencement of that Part.
- (4) The repeal of subregulation 21.17(1) made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to evidence given on or after the commencement of that Part.
- (5) The amendments of items 1 and 3 of the table in clause 1 of Schedule 9, and the repeal of regulation 21.21AA (so far as it relates to those items), made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to applications filed on or after the commencement of that Part.

- (6) The amendment of item 10 of the table in clause 1 of Schedule 9, and the repeal of regulation 21.21AA (so far as it relates to that item), made by Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to fees paid on or after the commencement of that Part.

22.23 Amendments made by Part 6 of Schedule 1

- (1) A notification that was in force immediately before the commencement of Part 5 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* for the purposes of paragraph 3A.3(3)(f) or (g) continues in force on and after that commencement as if it were a notice published under that paragraph (as amended by that Part).
- (2) The amendments of regulations 4.7, 6.6, 7.1, 8.4 and 9.8, subregulations 16.3(3) and (4) and regulations 16.4, 16.5, 16.7, 16.10, 17A.25, 17A.37, 17A.48G, 20A.19 and 21.28 made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to publications occurring on or after the commencement of that Part.
- (3) The amendment of subregulation 5.6(1) made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to acceptance of a trade mark application on or after the commencement of that Part.
- (4) If:
- (a) before the commencement of Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, a trade mark application was accepted; and
 - (b) before that commencement there had been no advertisement, under paragraph 34(b) of the Act, of the decision;
- then, for the purposes of the operation of subregulation 5.6(1) on and after that commencement, the period for filing a notice of intention to oppose is 2 months from the day that acceptance of the application is published in accordance with section 230A of the Act.
- (5) Subregulation 6.6(1), paragraphs 7.1(1)(a) and 8.4(2)(b), subregulations 9.8(1), 16.12(2) and 17A.48G(1) and paragraph 21.28(1)(q), as in force immediately before the commencement of Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to an advertisement in the *Official Journal* before that commencement.
- (6) The amendments of paragraphs 16.3(2)(b) and (c) made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to notices given on or after the commencement of that Part.
- (7) Subregulations 16.3(4), 16.4(1) and (3) and 16.5(2), as in force immediately before the commencement of Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continue to apply on and after that commencement in relation to an advertisement in the *Official Journal*, or a notice under subregulation 16.3(2), before that commencement.
- (8) The amendment of subregulation 16.12(2) made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to

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applications accepted under subsection 176(1) of the Act on or after the commencement of that Part.

- (9) The amendment of subregulation 17A.33(1) made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to acceptance of an IRDA on or after the commencement of that Part.

- (10) If:

- (b) before the commencement of Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, an IRDA was accepted; and
- (b) before that commencement there had been no advertisement, as mentioned in subregulation 17A.33(1), of the acceptance;

then, for the purposes of the operation of subregulation 17A.33(1) on and after that commencement, the period for filing a notice of intention to oppose is 2 months from the day that the fact of the acceptance of the IRDA is published in accordance with section 230A of the Act.

- (11) The amendments of subregulations 17A.36(2), (2A), (3), (3A), (4) and (6) made by Part 6 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to acceptance of an IRDA on or after the commencement of that Part.

22.24 Amendments made by Part 12 of Schedule 1

- (1) The amendments of regulations 4.8 and 4.10, and the first amendment of paragraph 4.12(1)(b), made by Part 12 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to applications filed or made on or after the commencement of that Part.
- (2) Item 5 of the table in clause 1 of Schedule 9, as in force immediately before the commencement of Part 12 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, continues to apply on and after that commencement in relation to an application referred to in that item made before, on or after that commencement.
- (3) The other amendments of these Regulations made by Part 12 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to the following:
- (a) an application filed or made under the Act on or after the commencement of that Part;
 - (b) an application filed or made under the Act before that commencement, where acceptance of the application is revoked on or after that commencement under subsection 38(1) of the Act;
 - (c) an application filed or made under the Act before that commencement, where acceptance of the application is revoked on or after that commencement as mentioned in subsection 84C(5) of the Act;
 - (d) an IRDA notified, as mentioned in regulation 17A.12, on or after that commencement;
 - (e) an IRDA notified, as mentioned in regulation 17A.12, before that commencement, where acceptance of the IRDA is revoked on or after that commencement under regulation 17A.27.

22.25 Amendments made by Part 15 of Schedule 1

- (1) Regulations 8.5 to 8.8, as inserted by Part 15 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*, apply in relation to requests for amendment referred to in subregulation 8.4(1) that are made on or after the commencement of that Part.
- (2) The amendments of table items 5 and 6 in Part 1 of Schedule 8 made by Part 15 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* apply in relation to requests for amendment referred to in subregulation 8.4(1) that are made on or after the commencement of Part 15 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017*.
- (3) The amendment of item 8 of the table in clause 1 of Schedule 9 made by Part 15 of Schedule 1 to the *Intellectual Property Laws Amendment Regulations 2017* applies in relation to requests for amendment referred to in subregulation 8.4(1) that are made on or after the commencement of that Part.