



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Intellectual Property Fees Review: Final Policy Approvals

Portfolio Commerce and Consumer Affairs

On 20 February 2019, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that on 13 June 2018, DEV agreed to the release of a discussion document on a review of the fees charged for trade mark, patent and design services, and noted that the Minister of Commerce and Consumer Affairs will report back on the outcome of consultation and with proposed changes to fees [DEV-18-MIN-0109];
- 2 **noted** that the Minister of Commerce and Consumer Affairs has considered the comments raised during consultation, and proposes the following changes to the original proposals:
 - 2.1 withdrawing the proposed increases to renewal fees under the Patents Act 1953;
 - 2.2 adjusting the design of the new excess claims fee by reducing the number of claims covered by the fee and the fee level;

Changes to patent fees

- 3 **agreed** to the following increases to patent renewal fees and application maintenance fees under the Patent Regulations 2014 to raise overall patent revenue, and provide stronger incentives for patentees to let patents lapse and for applicants to let patent applications become void:

Service	Proposed fee (GST exclusive)
Maintenance fee due on the 4 th and each subsequent anniversary of the filing date of the complete specification	\$200
Maintenance fee due on the 4 th and each subsequent anniversary of the filing date of the complete specification if paid up to 6 months late	\$300
Renewal fee due on the 4 th to 9 th anniversary of the filing date of the complete specification	\$200
Renewal fee due on the 10 th to 14 th anniversary of the filing date of the complete specification	\$450
Renewal fee due on the 15 th to 19 th anniversary of the filing date of the complete specification	\$1,000
Penalty payable for request to extend the period for payment of a renewal fee	\$100

- 4 **agreed** to increase the following fees under the Patent Regulations 2014 (PR 2014) and the Patent Regulations 1954 (PR 1954) to better reflect the costs of offering patent services:

Service	Regulations	Proposed fee (GST exclusive)
Request for examination or re-examination (including examination of applications under the Patent Cooperation Treaty)	PR 2014	\$750
Request for leave to amend complete specification after acceptance	PR 2014	\$500
Request for restoration of patent or patent application	PR 2014	\$600
On filing complete specification (including divisional applications)	PR 1954	\$500

- 5 **agreed** to introduce the following new fees under the Patent Regulations 2014 and the Patent Regulations 1954 to better reflect variations in the cost of patent services:

Service	Regulations	Proposed fee (GST exclusive)
Additional fee for examination of patent with 30 claims or more (per 5 claims)	PR 2014	\$120
Application to amend complete specification before acceptance	PR 1954	\$150
Application to amend complete specification after acceptance	PR 1954	\$500

Changes to trade mark fees

- 6 **agreed** to decrease the following fees under the Trade Marks Regulations 2003 to reduce overall trade mark revenue:

Service	Proposed fee (GST exclusive)
Application to register a trade mark – per class	\$100
Renewal of registration of a trade mark – per class	\$200

- 7 **agreed** to introduce the following new application fees under the Trade Marks Regulations 2003 to reduce overall trade mark revenue and improve the efficiency and effectiveness of the trade mark system:

Service	Proposed fee (GST exclusive)
Application to register a trade mark based on pre-application advice with no amendments and filed within 3 months of issue of the pre-application advice report – per class	\$50
Application to register a trade mark using picklist of pre-approved classification terms – per class	\$70

- 8 **agreed** that if an application is based on pre-application advice and using the picklist of pre-approved classification terms, the lower of the two fees applies, ie \$50;

- 9 **agreed** to introduce ‘request for search and preliminary advice’ as a new pre-application advice option under the Trade Marks Regulations 2003, and to increase the fee for search advice and for preliminary advice to improve the efficiency and effectiveness of the trade mark system:

Service	Proposed fee (GST exclusive)
Request for search and preliminary advice per class	\$50
Request for search advice per class (preliminary advice offered free of charge)	\$50
Request for preliminary advice per class (search advice offered free of charge)	\$50

Legislative implications

- 10 **authorised** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;
- 11 **authorised** the Minister of Commerce and Consumer Affairs to make minor and technical changes, consistent with paragraphs 3-9 above, on any related issues that arise during the drafting process, including transitional arrangements for implementation of the proposed fees;
- 12 **noted** that the Minister of Commerce and Consumer Affairs will seek final approval of amended regulations from the Cabinet Legislation Committee in the first half of 2019;

Financial implications

- 13 Financial sensitivity


- 14



15 Financial sensitivity

Janine Harvey
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Tracey Martin
Hon Kris Faafoi
Hon Julie Anne Genter
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Commerce and Consumer Affairs

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Cabinet

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Report of the Cabinet Economic Development Committee: Period Ended 8 March 2019

On 11 March 2019, Cabinet made the following decisions on the work of the Cabinet Economic Development Committee for the period ended 8 March 2019:

Not relevant

DEV-19-MIN-0024 **Intellectual Property Fees Review: Final Policy Approvals** CONFIRMED
Portfolio: Commerce and Consumer Affairs

Not relevant

Michael Webster
Secretary of the Cabinet

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Cabinet Economic Development Committee
Minister for Women

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