Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018

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 11 October 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Karen Andrews
Minister for Industry, Science and Technology

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1 Name

This instrument is the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*.

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.	17 October 2018
2. Schedule 1, Part 1	At the same time as Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
3. Schedule 1, Part 2	At the same time as Part 3 of Schedule 1 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
4. Schedule 1, Part 3	The day after this instrument is registered.	17 October 2018
5. Schedule 2, Part 1	At the same time as the provisions covered by table item 2.	24 February 2019
6. Schedule 2, Part 2	At the same time as Part 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
7. Schedule 2, Part 3	At the same time as Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
8. Schedule 2, Parts 4 and 5	The day after this instrument is registered.	17 October 2018
9. Schedule 2, Part 6	At the same time as Part 6 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
10. Schedule 2, Part 7	At the same time as Part 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
11. Schedule 2, Parts 8 and 9	The day after this instrument is registered.	17 October 2018

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
12. Schedule 2, Part 10	At the same time as Part 10 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
13. Schedule 2, Part 11	At the same time as Part 14 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* commences.	24 February 2019
14. Schedule 2, Parts 12 and 13	The day after this instrument is registered.	17 October 2018

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 *Patents Act 1990*;

(c) the *Plant Breeder's Rights Act 1994*;

(d) 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—Responses to the Productivity Commission

Part 1—PBR in essentially derived varieties

Plant Breeder's Rights Regulations 1994

1 After regulation 3A

Insert:

3BA Essential derivation for non-PBR protected varieties—publication of notification of application in Journal

For the purposes of subsection 41B(1) of the Act, a notification in the *Plant Varieties Journal* of an application under section 41A of the Act for a declaration of essential derivation must include the following information about the applicant and the application:

(a) a description of the initial variety and the second variety;

(b) details, as stated in the application, of:

(i) the eligible person (within the meaning of section 41A of the Act) making the application; and

(ii) any person (or persons) the applicant reasonably believes to be the breeder of the second variety;

(c) any other information about those plant varieties, or the application, that the Registrar considers appropriate to publish, other than information that the Registrar is satisfied is commercial-in-confidence;

(d) details of the opportunity for a person (an ***interested person***) claiming to be the breeder of the second variety, or to have another interest in the second variety, to be heard in relation to the application under section 41C of the Act, including the requirement under subsection 41C(2) of the Act to give the Registrar an address for service;

(e) a statement to the effect that the Registrar may draw an inference in deciding the application that is unfavourable to an interested person's interest if:

(i) the interested person does not provide an address for service, within the hearing period, under subsection 41C(2) of the Act; or

(ii) the interested person declines the opportunity to be heard under subsection 41C(6) of the Act.

3BB Essential derivation for non-PBR protected varieties—opportunity to be heard

Scope

(1) This regulation is made for the purposes of subsection 41C(4) of the Act.

When information is given in accordance with an opportunity to be heard

(2) Information is given by an interested person in accordance with the person's opportunity to be heard in relation to an application under section 41A of the Act for a declaration of essential derivation if:
  (a) the person gives the information:
    (i) in a written submission made in accordance with a request of the Registrar under paragraph (3)(a); or
    (ii) in the course of a hearing convened by the Registrar under subregulation (4); and
  (b) the person pays the fee (if any) prescribed under subsection 80(2) of the Act in relation to the opportunity to be heard; and
  (c) the person complies with any other requirements under this regulation.

Notification to give written submissions or to appear at a hearing

(3) The Registrar must, unless the interested person declines the opportunity to be heard by giving notice to the Registrar under paragraph 41C(6)(a) of the Act, give a notification to the interested person including any or all of the following:
  (a) a request to the interested person to give written submissions in relation to the application to the Registrar within a period, stated in the notification, of no less than 10 business days after the notification is given;
  (b) a statement that, on request to the Registrar, a hearing may be convened in relation to the application, beginning at a place, at a time and on a date determined by the Registrar by a further notification (a ***hearing notice***) to the person no less than 10 business days after the hearing notice is given;
  (c) a statement (a ***hearing notice***) that a hearing will be convened by the Registrar in relation to the application beginning at a notified time and place, and on a notified date no less than 10 business days after the notification is given.

Note: A hearing notice mentioned in paragraph (b) or (c) may include requirements for the interested person in relation to the hearing (see paragraph (5)(d) and subregulation (6)).

Hearings

(4) The Registrar may convene a hearing in relation to the application as mentioned in paragraph (3)(b) or (c).

(5) For the purposes of the hearing:
  (a) the interested person may appear in person, or participate by telephone or another means of telecommunication reasonably allowed by the Registrar; and
  (b) the Registrar may adjourn the hearing from time to time or from place to place by notice to each interested person taking part; and
  (c) the interested person must, if directed by the Registrar in a hearing notice, provide a written summary of submissions to be made at the hearing; and
  (d) the interested person must, if required by a hearing notice, take reasonable steps to do any of the following before or at the hearing:
    (i) perform an act;
    (ii) file a document;

(iii) produce evidence; and

(e) the interested person must comply with any reasonable directions of the Registrar in relation to practice and procedure during the hearing.

(6) The Registrar may include a requirement for the purposes of paragraph (5)(d) in a hearing notice only if the Registrar reasonably believes it is necessary for the proper conduct of the hearing.

2 Clause 1 of Schedule 1 (table item 9)

Omit “subsection 40(1)”, substitute “section 40 or 41A”.

Part 2—Period to apply for removal of trade marks from Register for non-use

Trade Marks Regulations 1995

3 Paragraph 17A.48D(2)(g)

After "in respect of", insert "the application for".

4 Subparagraph 17A.48D(2)(g)(ii)

Omit "Article 3ter 2(2)", substitute "Article 3ter (2)".

5 At the end of subregulation 17A.48D(2)

Add:

; and (h) to the date the particulars of the trade mark were entered into the Register under section 69 is taken to be a reference to the date the trade mark became a protected international trade mark under regulation 17A.36.

Part 3—Notification of extension of standard patents relating to pharmaceutical substances

Patents Regulations 1991

6 Regulation 22.10AC

Repeal the regulation, substitute:

22.10AC Prescribed acts

For the purposes of subsection 222A(7) of the Act, the following are prescribed:

(a) an act done in relation to proceedings in a court or a tribunal;

(b) an act done under Chapter 20.

Schedule 2—Other measures

Part 1—Extensions of time

Trade Marks Regulations 1995

1 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.

2 Subregulation 9.15(3)

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

3 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
  (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.

4 Subregulation 17A.34H(4)

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

5 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.

6 Subregulation 17A.48Q(3)

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

7 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 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.

8 Paragraph 21.28(1)(f)

Omit “17A.48P”, substitute “17A.48R”.

9 After paragraph 21.28(2)(a)

Insert:

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

10 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);

11 Clause 1 of Schedule 9 (table item 6)

After “5.9,”, insert “5.13A,”.

12 Clause 1 of Schedule 9 (table item 6)

After “9.11,”, insert “9.15A,”.

13 Clause 1 of Schedule 9 (table item 6)

After “17A.34C,”, insert “17A.34HA,”.

14 Clause 1 of Schedule 9 (table item 6)

After “17A.48L”, insert “, 17A.48QA”.

Part 2—Written requirements

Designs Regulations 2004

15 Regulation 3.03

Repeal the regulation.

16 Paragraphs 3.14(2)(a) and (b)

Omit “notice”, substitute “notification”.

17 Subregulation 4.04(2)

Omit “notice”, substitute “notification”.

18 Subregulation 4.05(3)

Omit “notice”, substitute “notification”.

19 Subregulation 5.03(2)

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

20 Subregulation 5.03(3)

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

21 Paragraph 5.03(6)(c)

Omit “notice”, substitute “notification”.

22 Subregulation 5.03(7)

Omit “notice”, substitute “notification”.

23 Subregulation 5.03(8)

Omit “send a copy of the notice”, substitute “give a copy of the notification”.

24 Subregulation 5.03(8)

Omit “further notice”, substitute “further notification”.

25 Paragraph 5.04(a)

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

26 Subparagraph 5.04(b)(ii)

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

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

Omit “notice”, substitute “notification”.

28 Subregulation 9.03(1)

Omit “notice”, substitute “notification”.

29 Subregulation 9.05(3)

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

30 Subparagraph 10.02(2)(b)(ii)

Omit “notice”, substitute “notification”.

31 Paragraph 11.03(1)(b)

Omit “notice”, substitute “notification”.

32 Subregulation 11.23(2)

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

33 Regulation 11.28

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

Patents Regulations 1991

34 Paragraph 3.2A(6)(b)

Omit “tell”, substitute “notify”.

35 Paragraph 3.2B(7)(b)

Omit “tell”, substitute “notify”.

36 Paragraph 3.2C(6)(b)

Omit “tell”, substitute “notify”.

37 Paragraph 3.4(7)(b)

Omit “advise”, substitute “notify”.

38 Subregulation 3.5(4)

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

39 Paragraph 3.5(4)(a)

Omit “telling”, substitute “tell”.

40 Paragraph 3.5(4)(b)

Omit “asking”, substitute “ask”.

41 Subregulations 3.5(5) and (6)

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

42 Subregulation 3.5A(2)

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

43 Paragraph 3.5A(2)(a)

Omit “telling”, substitute “tell”.

44 Paragraph 3.5A(2)(b)

Omit “asking”, substitute “ask”.

45 Paragraph 3.5A(4)(a)

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

46 Subregulation 3.5A(6)

Omit “tell”, substitute “notify”.

47 Subregulation 3.24(3)

Omit “inform”, substitute “notify”.

48 Subregulation 3.24(3)

Omit “by notice in writing”.

49 Paragraph 3.25(3)(a)

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

50 Paragraph 3.25(3)(a)

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

51 Paragraph 3.25(3)(a)

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

52 Paragraph 3.25(3)(b)

Omit “notice”, substitute “notification”.

53 Subregulation 3.25H(1)

Omit “inform”, substitute “notify”.

54 Subregulation 3.25H(1)

Omit “by notice in writing given”.

55 Regulation 9.1

Omit “tell”, substitute “notify”.

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

Omit “tell”, substitute “notify”.

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

Omit “in writing”.

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

Omit “in writing”.

Plant Breeder's Rights Regulations 1994

59 Subregulation 3A(3)

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

60 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".

Trade Marks Regulations 1995

61 Subregulation 4.2(2)

Omit "give to the applicant written notice", substitute "notify the applicant".

62 Subregulation 4.2(3)

Omit "notice", substitute "notification".

63 Subregulation 4.3(4)

Omit "notice in writing", substitute "notification to the applicant".

64 Subregulation 4.3(8)

After "Registrar may", insert ", by notification to the applicant,".

65 Subregulation 4.8(1)

Omit "in writing", substitute "by notification".

66 Subregulation 4.8(2)

Omit "notice", substitute "notification".

67 Subregulation 4.10(2)

Omit "in writing", substitute "by notification".

68 Subregulation 4.10(3)

Omit "notice", substitute "notification".

69 Subregulations 4.11(1) and (2)

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

70 Subregulation 4.13(4)

Omit "in writing".

71 Paragraph 4.14(1)(b)

Omit "notice", substitute "notification".

72 Subregulation 4.14(5)

Omit "in writing".

73 Subregulation 4.18(2)

Omit “written notice”, substitute “notification”.

74 Subregulation 6.1(1)

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

75 Paragraph 6.1(1)(a)

Omit “setting”, substitute “set”.

76 Paragraph 6.1(1)(b)

Omit “stating”, substitute “state”.

77 Paragraph 6.1(1)(b)

Omit “notice”, substitute “notification”.

78 Regulation 6.4

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

79 Regulation 7.5 (heading)

Repeal the heading, substitute:

7.5 Notification of renewal

80 Regulation 7.5

Omit “notice”, substitute “notification”.

81 Regulation 7.7 (heading)

Repeal the heading, substitute:

7.7 Notification about renewal

82 Regulation 7.7

Omit “notice”, substitute “notification”.

83 Regulation 7.8 (heading)

Repeal the heading, substitute:

7.8 Notification of renewal

84 Regulation 7.8

Omit “notice”, substitute “notification”.

85 Subregulation 8.1(2)

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

86 Regulation 8.1A

Repeal the regulation.

87 Paragraph 10.4(3)(c)

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

88 Paragraph 10.4(4)(b)

Omit “notice”, substitute “notification”.

89 Regulation 10.5 (heading)

Repeal the heading, substitute:

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

90 Subregulation 10.5(1)

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

91 Subregulation 10.5(1)

Omit “stating”.

92 Subregulation 10.5(1)

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

93 Paragraph 10.5(1)(c)

Omit “give notice”, substitute “notify”.

94 Subregulation 10.5(2)

Omit “notice”, substitute “notification”.

95 Subregulation 11.3(4)

Omit “in writing”.

96 Paragraph 11.3(4)(b)

Omit “notice”, substitute “notification”.

97 Subregulation 17A.18(2)

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

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

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

99 Subregulation 17A.21(4)

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

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

Omit “notice”, substitute “notification”.

101 Subregulation 17A.22(5)

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

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

Omit “, in writing,”.

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

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

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

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

105 Subregulation 21.9(3)

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

106 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 advertise the withdrawal in the Official Journal.

107 Subregulation 21.16(2)

Omit “notice”, substitute “notification”.

108 Subregulation 21.16(2)

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

109 Regulation 21.33

Omit “give notice in writing to the person requiring”, substitute “by notification to the person require”.

110 Regulation 21.33

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

Part 3—Filing requirements

Designs Regulations 2004

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

Repeal the definition.

112 Paragraph 5.08(b)

Omit “form; and”, substitute “form.”.

113 Paragraph 5.08(c)

Repeal the paragraph.

114 Subregulation 11.01(6)

Repeal the subregulation, substitute:

Publication

(6) For the purposes of subsection 130A(3) of the Act, the Registrar must publish the notice in the Official Journal.

115 Regulation 11.01A

Repeal the regulation.

116 After regulation 11.18

Insert:

11.18A Publications relating to filing of documents or evidence

For the purposes of subsections 144A(3), 144B(3) and 144C(5) of the Act, the Registrar must publish the notice in the Official Journal.

117 Regulation 11.25 (heading)

Repeal the heading, substitute:

11.25 Giving of oral evidence

118 Subregulation 11.25(1)

Repeal the subregulation.

119 Subregulation 11.25(2)

Omit “(2)”.

120 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”.

121 Subregulation 11.27(3)

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

122 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.

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

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

Patents Regulations 1991

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

Repeal the definition.

125 Regulation 5.3

Repeal the regulation.

126 Regulation 22.1 (heading)

Repeal the heading, substitute:

22.1 Complete applications treated as provisional applications

127 Subregulation 22.1(1)

Repeal the subregulation.

128 Subregulation 22.1(2)

Omit “(2)”.

129 Regulation 22.2AA

Repeal the regulation.

130 Regulation 22.12 (heading)

Repeal the heading, substitute:

22.12 Giving of oral evidence

131 Subregulation 22.12(1)

Repeal the subregulation.

132 Subregulation 22.12(2)

Omit "(2)".

133 Regulation 22.15 (heading)

Repeal the heading, substitute:

22.15 Requirements for filing documents

134 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 and with a related certificate of verification;

(ii) the translated document must be in the form (if any) specified in a direction under section 214B of the Act.

135 Regulation 22.16 (heading)

Repeal the heading, substitute:

22.16 Consequences for certain documents not meeting filing requirements

136 Subregulation 22.16(5)

Repeal the subregulation.

137 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.

138 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

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

Repeal the definition.

140 Regulation 4A

Repeal the regulation.

141 Clause 1 of Schedule 1 (table items 4 and 15)

Omit "approved means", substitute "preferred means".

Trade Marks Regulations 1995

142 Regulation 2.1 (definition of *approved means*)

Repeal the definition.

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

Repeal the regulations.

144 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.

145 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

(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.

146 Subregulation 21.5(2)

Omit “or by facsimile transmission”.

147 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.

148 Regulation 21.17 (heading)

Repeal the heading, substitute:

21.17 Giving of oral evidence

149 Subregulation 21.17(1)

Repeal the subregulation.

150 Subregulation 21.17(2)

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

151 Regulation 21.18

Repeal the regulation.

152 Regulation 21.21AA

Repeal the regulation.

153 At the end of subregulation 21.22(1)

Add:

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

154 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.".

155 Subregulation 21.22(3)

Repeal the subregulation.

156 Schedule 7

Repeal the Schedule.

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

Omit "approved means", substitute "preferred means".

Part 4—Protection resulting from the international registration of a trade mark

Trade Marks Regulations 1995

158 Subparagraph 4.13(1)(c)(iii)

Omit "regulation 17A.48", substitute "regulation 17A.48C".

159 Paragraph 4.14(3)(c)

Omit "regulation 17A.48", substitute "regulation 17A.48C".

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

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

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

Omit "regulation 17A.48", substitute "regulation 17A.48C".

162 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)".

163 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)".

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

Omit "regulation 17A.35", substitute "regulation 17A.34P".

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

Repeal the definition.

166 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

(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;

167 Subregulation 17A.36(2)

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

168 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

169 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

170 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

171 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

172 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

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

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

174 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)”.

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

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

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

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

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

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

178 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”.

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

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

180 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

181 Paragraph 17A.73(b)

Omit "regulation 17A.48", substitute "regulation 17A.48C".

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

Omit ", under regulation 17A.29,".

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

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

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

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

Part 5—Signatures

Patents Regulations 1991

185 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”.

186 Subregulation 5.26(1)

Omit “signed”.

Part 6—Addresses and service of documents

Designs Regulations 2004

187 Subregulations 11.19(3) and (4)

Repeal the subregulations.

188 Regulation 11.20

Repeal the regulation.

Patents Regulations 1991

189 Subregulation 22.10(4)

Repeal the subregulation.

190 Regulation 22.10A

Repeal the regulation.

Trade Marks Regulations 1995

191 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”.

Part 7—Requirements for patent documents

Patents Regulations 1991

192 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.

193 Regulation 3.2A (heading)

Repeal the heading, substitute:

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

194 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.

195 Paragraph 3.2A(4)(a)

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

196 Subregulation 3.2A(5)

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

197 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;

198 Subregulation 3.2C(1)

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

199 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”.

200 Subregulation 3.2C(4)

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

201 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”.

202 Paragraph 3.3(1)(a)

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

203 Subregulation 3.3(4)

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

204 Paragraph 3.5(2)(b)

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

205 Paragraph 3.5AC(2)(a)

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

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

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

207 Paragraph 3.5AD(a)

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

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

Repeal the paragraphs, substitute:

(b) subregulation 3.1(1).

209 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”.

210 Paragraph 4.2(2)(c)

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

211 Subregulation 10.1(2)

Repeal the subregulation.

212 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

213 Subregulation 22.16(2)

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

214 Schedule 3

Repeal the Schedule.

Part 8—Acceptance of trade mark applications

Trade Marks Regulations 1995

215 Paragraph 4.13(1)(a)

After "a period prescribed in subregulation 4.12(1)", insert "or that period as extended under regulation 4.12 or section 224 of the Act".

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

After "a period mentioned in subregulation 17A.20(1)", insert "or that period as extended under regulation 17A.20 or section 224 of the Act".

Part 9—Copies of design representations

Designs Regulations 2004

217 Paragraph 4.04(1)(f)

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

218 Paragraph 4.05(1)(f)

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

Part 10—Amendments of registered trade mark due to inconsistency with international agreements

Trade Marks Regulations 1995

219 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.

220 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".

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

After "subregulation 6.6(1)", insert ", 8.4(1)".

222 Clause 1 of Schedule 9 (table item 8)

After "section 65A", insert "or 83A".

Part 11—Secretary's role in the Plant Breeder's Rights Regulations

Plant Breeder's Rights Regulations 1994

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

Omit "Secretary", substitute "Registrar".

224 Paragraph 3A(3)(a)

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

225 Subregulation 3A(4)

Omit "Secretary", substitute "Registrar".

226 Regulation 3D

Repeal the regulation.

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

Omit "Secretary", substitute "Registrar".

228 Paragraph 5(4)(a)

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

229 Subregulation 5(5)

Omit "Secretary", substitute "Registrar".

Part 12—Other amendments

Trade Marks Regulations 1995

230 Paragraph 13.1A(a)

Repeal the paragraph.

Part 13—Application, transitional and saving provisions

Designs Regulations 2004

231 Chapter 12 (heading)

Repeal the heading, substitute:

Chapter 12—Application, saving and transitional provisions

232 In the appropriate position in Chapter 12

Insert:

Part 3—Amendments made by the Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018

12.06 Amendments made by Part 2 of Schedule 2

(1) The amendments of regulations 3.14, 4.04, 4.05, 5.03, 5.04, 9.03, 9.05, 10.02, 11.03, 11.23 and 11.28 made by Part 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, continues to apply on and after that commencement in relation to a notice given under section 41 of the Act before that commencement.

12.07 Amendments made by Part 3 of Schedule 2

(1) The amendments of regulation 5.08 made by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to documents filed on or after the commencement of that Part.

(6) Regulation 11.27A, as inserted by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, applies in relation to evidence filed on or after the commencement of that Part.

12.08 Amendments made by Part 9 of Schedule 2

The amendments of paragraphs 4.04(1)(f) and 4.05(1)(f) made by Part 9 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to design applications filed on or after the commencement of that Part.

Patents Regulations 1991

233 Chapter 23 (heading)

Repeal the heading, substitute:

Chapter 23—Application, saving and transitional provisions

234 In the appropriate position in Chapter 23

Insert:

Part 4—Amendments made by the Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018

23.46 Amendments made by Part 2 of Schedule 2

(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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, continues to apply on and after that commencement in relation to a notice given under paragraph 3.25(3)(a) before that commencement.

23.47 Amendments made by Part 3 of Schedule 2

(1) The repeal of regulation 5.3 made by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response*

Part 1 and Other Measures) Regulations 2018 apply in relation to documents filed on or after the commencement of that Part.

(5) Regulation 22.16A, as inserted by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to fees paid on or after the commencement of that Part.

23.48 Amendments made by Part 5 of Schedule 2

(1) The amendment of paragraph 3.1(2)(g) made by Part 5 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 5 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to a notice of withdrawal filed on or after the commencement of that Part.

23.49 Amendments made by Part 7 of Schedule 2

(1) The repeal and substitution of regulation 3.2 made by Part 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to complete applications made on or after the commencement of that Part.

(4) The amendments of regulations 3.2C and 3.18 made by Part 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response*

Part 1 and Other Measures) Regulations 2018 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 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 7 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to documents received at the Patent Office on or after the commencement of that Part.

Plant Breeder's Rights Regulations 1994

235 After regulation 5

Insert:

6 Application, saving and transitional provisions—*Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*

Amendments made by Part 2 of Schedule 2

(1) The amendments of regulations 3A and 5 made by Part 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to notifications occurring on or after the commencement of that Part.

Amendments made by Part 3 of Schedule 2

(2) The repeal of regulation 4A, and the amendment of items 4 and 15 of the table in clause 1 of Schedule 1, made by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to fees paid on or after the commencement of that Part.

Amendments made by Part 11 of Schedule 2

(3) A thing done by, or in relation to, the Secretary under these Regulations before the commencement of Part 11 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* has effect on and after that commencement as if it had been done by, or in relation to, the Registrar.

Trade Marks Regulations 1995

236 Part 22 (heading)

Repeal the heading, substitute:

Part 22—Application, saving and transitional provisions

237 In the appropriate position in Part 22

Insert:

Division 4—Amendments made by the Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018

22.18 Amendments made by Part 2 of Schedule 1

The amendments made by Part 2 of Schedule 1 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply to an application for cessation of protection that relates to:

(a) a protected international trade mark that is the subject of a request for extension of protection to Australia made under Article 3ter (1) of the Protocol, if the date of international registration of the trade mark is on or after the day this Part commences; and

(b) a protected international trade mark that is the subject of a request for extension of protection to Australia made under Article 3ter (2) of the Protocol, if the date of recording of the request is on or after the day this Part commences.

22.19 Amendments made by Part 1 of Schedule 2

(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 1 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*.

(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 1 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*; 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 1 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*; 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 1 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*; and

(b) no application had been made under section 224 of the Act before that commencement to extend the time for filing that notice.

22.20 Amendments made by Part 2 of Schedule 2

(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, 10.4, 10.5, 11.3, 17A.18, 17A.19, 17A.21, 17A.22, 17A.25, 17A.59, 21.9, 21.16 and 21.33 made by Part 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, continues to apply on and after that commencement in relation to a notice given under subregulation 6.1(1) before that commencement.

(5) Regulations 10.4 and 10.5, as in force immediately before the commencement of Part 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, continue 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 2 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to withdrawals occurring on or after the commencement of that Part.

22.21 Amendments made by Part 3 of Schedule 2

(1) The repeal of regulations 5.3, 9.3, 17A.30 and 17A.48A made by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to documents filed on or after the commencement of that Part.

(3) Regulation 21.5A, as inserted by Part 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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 3 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to fees paid on or after the commencement of that Part.

22.22 Amendments made by Part 4 of Schedule 2

The amendments of subregulations 17A.36(2), (2A), (3), (3A), (4) and (6) made by Part 4 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to acceptance of an IRDA on or after the commencement of that Part.

22.23 Amendments made by Part 8 of Schedule 2

(1) The amendment of paragraph 4.13(1)(a) made by Part 8 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to a request made on or after the commencement of that Part.

(2) The amendment of paragraph 17A.21(1)(a) made by Part 8 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* applies in relation to a request made on or after the commencement of that Part.

22.24 Amendments made by Part 10 of Schedule 2

(1) Regulations 8.5 to 8.8, as inserted by Part 10 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*, 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 10 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* apply in relation to requests for amendment referred to in subregulation 8.4(1) that are made on or after the commencement of Part 10 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018*.

(3) The amendment of item 8 of the table in clause 1 of Schedule 9 made by Part 10 of Schedule 2 to the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Regulations 2018* 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.