



Trade Marks Amendment Regulations 2019

Patsy Reddy, Governor-General

Order in Council

At Wellington this 16th day of September 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 199(1)(h) and (2) of the Trade Marks Act 2002 on the advice and with the consent of the Executive Council.

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Regulations

- 1 Title**
These regulations are the Trade Marks Amendment Regulations 2019.
- 2 Commencement**
These regulations come into force on 13 February 2020.

3 Principal regulations

These regulations amend the Trade Marks Regulations 2003 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

In regulation 3, insert in their appropriate alphabetical order:

relevant preliminary advice, in relation to an application to register a trade mark, means preliminary advice that—

- (a) the applicant for registration applied for under regulation 37; and
- (b) the Commissioner provided no more than 3 months before the application for registration was made; and
- (c) relates to the same trade mark, class, statement of goods or services, and transliteration or translation of foreign characters or words (if any), as the application for registration does (whether or not the advice also relates to other classes, goods, or services)

relevant search advice, in relation to an application to register a trade mark, means search advice that—

- (a) the applicant for registration applied for under regulation 37; and
- (b) the Commissioner provided no more than 3 months before the application for registration was made; and
- (c) relates to the same trade mark, class, statement of goods or services, and transliteration or translation of foreign characters or words (if any), as the application for registration does (whether or not the advice also relates to other classes, goods, or services)

5 Schedule 1 replaced

Replace Schedule 1 with the Schedule 1 set out in the Schedule of these regulations.

Schedule Schedule 1 replaced

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Schedule 1 Fees

	Activity	Fee (\$)
1	Request for preliminary advice only, per class	50
2	Request for search advice only, per class	50
3	Request for preliminary advice and search advice, per class	50

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	Activity	Fee (\$)
4	Application to register a trade mark, per class, if—	50
	(a) the Commissioner has provided relevant preliminary advice and relevant search advice to the applicant; and	
	(b) the application is not an application to add the class under regulation 43	
5	Application to register a trade mark or series of trade marks, per class, if—	70
	(a) the specification of goods or services consists only of 1 or more descriptions that have been approved by the Commissioner for inclusion in trade mark application specifications for that class; and	
	(b) in the case of an application to register a trade mark, the Commissioner has not provided relevant preliminary advice or has not provided relevant search advice (or has provided neither) to the applicant; and	
	(c) the application is not an application to add the class under regulation 43	
6	Any other application to register a trade mark or series of trade marks, including to add a class under regulation 43, per class	100
7	Renewal of trade mark registration, per class	200
8	Notice of opposition to trade mark registration	350
9	Hearing by Commissioner for each party	850
10	Application for revocation of trade mark registration	350
11	Application for declaration of invalidity of registration	350

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 13 February 2020, amend the Trade Marks Regulations 2003 (the **principal regulations**) by altering fees payable to the Commissioner of Trade Marks.

Fees for requests for preliminary advice as to whether a trade mark has a distinctive character, or for search advice as to whether an identical or a similar mark is already on the trade marks register, are altered as follows:

- requests for preliminary advice without search advice: increase from \$40 to \$50 per class of goods or services:

- requests for search advice without preliminary advice: increase from \$40 to \$50 per class:
- requests for combined preliminary advice and search advice: decrease from \$80 to \$50 per class.

Fees for applications to register trade marks or renew trade mark registrations are decreased as follows:

- applications to register a trade mark, if relevant preliminary advice and relevant search advice were both provided and the application is not for the addition of a class of goods or services to an existing application: decrease from \$150 to \$50 per class:
- other applications to register a trade mark or series of trade marks, if the specification of goods or services consists only of 1 or more descriptions that have been approved by the Commissioner and the application is not for the addition of a class to an existing application: decrease from \$150 to \$70 per class:
- all other applications to register a trade mark or series of trade marks, including applications to add a class to an existing application: decrease from \$150 to \$100 per class:
- applications to renew trade mark registrations: decrease from \$350 to \$200 per class.

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 16 November 2018 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/have-your-say/consultation-on-changes-to-fees-charged-by-the-intellectual-property-office-of-nz/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 19 September 2019.

These regulations are administered by the Ministry of Business, Innovation, and Employment.