



STATUTORY INSTRUMENTS.

S.I. No. 564 of 2018



PATENTS, TRADE MARKS AND DESIGNS (FEES) (AMENDMENT)
RULES 2018

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I, HEATHER HUMPHREYS, Minister for Business, Enterprise and Innovation, in exercise of the powers conferred on me by sections 81 and 82 of the Trade Marks Act 1996 (No. 6 of 1996), sections 99 and 114 of the Patents Act 1992 (No. 1 of 1992) and in relation to the said section 82 and the said section 99, with the sanction of the Minister for Public Expenditure and Reform, hereby make the following rules:

1. (1) These Rules may be cited as the Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018.

(2) These Rules come into operation on 14 January 2019.

2. In these Rules “Principal Rules” means the Patents, Trade Marks and Designs (Fees) Rules 2001 (S.I. No. 482 of 2001).

3. Regulation 3 of the Principal Rules is amended by deleting paragraphs (5) and (6).

4. Schedule 1 to the Principal Rules is amended by deleting the text in columns (1), (2) and (3) of reference number 60.

5. Schedule 3 to the Principal Rules is amended—

(a) by inserting the following text in columns (1), (2) and (3) after reference number 8:

“

8A	On request for division of a registration (Rule 28A)	125.00
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”,

(b) by substituting “70” for “625” in column (3) opposite the mention in column (1) of reference number 29,

and

(c) by deleting the text in columns (1), (2) and (3) of reference number 37.

The fees prescribed by virtue of these Rules are sanctioned by the Minister for Public Expenditure and Reform

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 28th December, 2018.*



GIVEN under my Official Seal,
18 December 2018.

PASCHAL DONOHOE,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
18 December 2018.

HEATHER HUMPHREYS,
Minister for Business, Enterprise and Innovation.

EXPLANATORY NOTE

(This note is not part of these Rules and does not purport to be a legal interpretation.)

This Statutory Instrument introduces amendments to the Patents, Trade Marks and Designs (Fees) Rules 2001 (S.I. No. 482 of 2001).

Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 introduces a new provision whereby the proprietor of a registered trade mark can avail of the option to divide the registration into two or more separate registrations. Prior to the Directive, only applicants of pending trade marks could avail of this option. The division of a trade mark, in general, allows for particular benefits to accrue, particularly in relation to on-going or potential disputes. Accordingly, it is necessary to prescribe a new fee of €125 for the division of a trade mark registration which corresponds directly with that as prescribed for the division of a pending trade mark.

In addition, this Statutory Instrument introduces amendments not required by the Directive, but rather are aimed at complying with the charging structure set out in the Department of Public Expenditure and Reform (DPER) in relation to the re-use of public sector information. Due to the improvements and streamlining of the technical methodology used to provide copies of the trade mark and patent databases, the Patents Office considers that some of the current statutory fees are not in line with the general principles provided for by Directive 2013/37/EU and reflected in the European Communities (Re-use of Public Sector Information) (Amendment) Regulations 2015 (S.I. No. 525 of 2015); and do not reflect the appropriate charging structure set out in the Department of Public Expenditure and Reform (DPER) *Circular 16/15: Re-use of Public Sector Information – Criteria for charges that may be applied by certain categories of public service body in permitting re-use of information*.

Accordingly, in order to adhere to the provisions of the Circular and to reflect the technical advances in the manner in which the trade mark and patent databases can now be updated and made available for re-use, the amendment set out in this Statutory Instrument sees the initial once-off connection fee in respect of on-line dial-in access for searches and inspections of the trade mark and patent registers removed from Schedule I of the Trade Marks Rules 1996, and prescribes a reduced fee of €70 for each update of the Patents Office's computerised trade mark data base, licensed under Rule 77 of the Trade Marks Rules 1996.

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