

**EXPLANATORY MEMORANDUM TO**  
**THE REGISTERED DESIGN (FEES) RULES 2016**

**2016 No. 889**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Intellectual Property Office, an Executive Agency of the Department of Business, Energy & Industrial Strategy, and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument reduces the fees charged by the Intellectual Property Office (IPO) for the registration of designs when an application is made online. It also reduces the fees charged for renewing registered designs and makes minor reductions to other fees under the registered designs service.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments*

- 3.1 Para. 2.1 summarises the fee reductions. However, there is one fee increase. The instrument imposes an above-inflation increase in the fee for issuing a certified copy of an entry or extract from the official register of designs. This increase is 36% (£8), while Consumer Price Inflation for the period from October 2006 (the date of the last revision of these fees) rose by 25%.
- 3.2 The IPO is introducing a new online processing system. This system will lead to lower costs, which are to be passed on to customers in the form of lower fees. Providing certified copies will remain a paper-based process, and therefore will be unaffected by efficiencies delivered as a result of a digital system. Following a review of the costs, the fee for this service needs to be increased by 36% to achieve full cost recovery, in accordance with the guidelines set out in Managing Public Money.
- 3.3 There is currently little demand for this service (7% of all design registrations request a certified copy). Demand is expected to be negligible when the file is available to print online.
- 3.4 No further above-inflation increases are planned, although the IPO will continue to review the cost of providing this and other services.

*Other matters of interest to the House of Commons*

- 3.5 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### **4. Legislative Context**

- 4.1 In accordance with the requirements of HM Treasury's fees guidance in *Managing Public Money*<sup>1</sup>, the IPO must operate a fee structure which recovers the full cost of delivering the registered design service.
- 4.2 The following statutory instrument is made to prescribe the new fees payable in respect of registration and renewal of designs and other transactions relating to registered designs.

#### **5. Extent and Territorial Application**

- 5.1 Intellectual Property is a reserved matter. This instrument applies to England, Wales, Scotland and Northern Ireland.
- 5.2 The territorial application of this instrument is England, Wales, Scotland and Northern Ireland.

#### **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

##### *What is being done and why*

- 7.1 A registered design protects the whole or part of a product. By giving businesses and individuals exclusive rights to use their design, registered design rights help encourage business creativity and investment in new products.
- 7.2 The Registered Designs Act 1949 governs designs registered at the Intellectual Property Office and protected within the United Kingdom. The fee paid on application covers five years of protection, and the right can be renewed up to four times at five-yearly intervals. This provides a maximum of twenty-five years of protection. Each renewal period increases in cost, to encourage design owners to think carefully about whether protection is still economically valuable or whether the design should enter the public domain and become available for other parties to use. The model covers the whole cost of the design service through application and renewal fees. This is a standard method of financing intellectual property services internationally.
- 7.3 Since 2011, and the publication of the Hargreaves Review on intellectual property and growth, the IPO has commissioned research and consulted extensively with the design community on how to improve the system so that it more effectively meets their needs. The lack of an online system was perceived to be a significant barrier to registering designs. In response, the IPO is developing a new digital service for designs, which will streamline the registration process and deliver efficiencies, resulting in reduced costs of delivering the service. In line with the principles outlined in *Managing Public Money*, these cost reductions need to be passed on to customers.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/454191/Managing\\_Public\\_Money\\_AA\\_v2\\_-jan15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf) - Section 6

- 7.4 The fee levels are set to recover the costs. Due to the lower application and renewal fees both registering and renewing a design would be cheaper, resulting in a significant cost saving. The main beneficiaries would be individuals and businesses who choose to register their designs.
- 7.5 In the first year of implementation, the expected cost saving is £756,000. This figure is based on a growth in demand of 17% (average annual growth rate has been 10%). Other assumptions are based on the IPO's previous experience and are set out in the Impact Assessment.
- 7.6 It is important to have the new fees in place for 1<sup>st</sup> October when the new processing system will become live and our cost savings will commence.

### ***Consolidation***

- 7.7 The Registered Design (Fees) Rules 2016 replace The Registered Designs (Fees)(No.2) Rules 2006 (S.I. 2006/2617) which will be revoked.

## **8. Consultation outcome**

- 8.1 The proposal for changes to registered design fees was published on 7 January 2016 for three weeks. The shorter than usual consultation period was to enable the possibility of an early introduction in April 2016. The new processes were not in place to allow introduction of the new fees in April.
- 8.2 Design stakeholders have been consulted throughout the development of the modernisation of the designs framework. Design stakeholders were contacted and encouraged to comment on the consultation. In addition, the use of social media and the IPO blog, helped contact individual designers, microbusinesses and SMEs.
- 8.3 As well as other minor changes, the proposals included significant reductions in application and renewal fees. The responses were hugely supportive, with near-unanimous agreement from the response to the consultation, including 73% approval in the anonymous online survey.
- 8.4 SMEs and private applicant respondents highlighted that the cost of fees, particularly renewal fees, has been a significant barrier to registering and protecting their designs. Respondents also said that the reduced fees for multiple applications would encourage them to file applications for parts of a design, as well as the whole. Doing this will improve their ability to protect the innovative aspects of their products.
- 8.5 A more details analysis of the consultation outcome can be found in the Government Response to the Proposal for Changes to Registered Design Fees<sup>2</sup>.

## **9. Guidance**

- 9.1 Guidance will be issued to stakeholders and interested parties via the Intellectual Property Office's website. Social media will be used to inform designers of the potential savings, in particular in renewal of their designs.

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<sup>2</sup> <https://www.gov.uk/government/consultations/proposal-for-changes-in-registered-design-fees>

## **10. Impact**

- 10.1 Businesses, charities or voluntary bodies who choose to apply for registration of their design, will be directly impacted by our proposal and will experience a cost saving due to the reduction in design application and renewal fees.
- 10.2 There is minimal impact on the public sector. The introduction of the end-to-end integrated online service will introduce efficiencies and cost savings which are being passed on to users of the system. The existing fees have been reviewed and are being replaced by the new fees which represent full cost recovery.
- 10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website. By moving to a digitised service, the reductions in the fees are expected to save business £756,000 per annum and an estimated net benefit present value (NPV) of £6.35 million over ten years.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is necessary to minimise regulatory burdens on small businesses, as the legislation will reduce the fees paid by IPO customers, including small businesses.

## **12. Monitoring & review**

- 12.1 In line with principles outlined in Managing Public Money, these Rules will be subject to regular review.

## **13. Contact**

- 13.1 Helen James at the Intellectual Property Office. Telephone: 01633 814030 or email: [Helen.james@ipo.gov.uk](mailto:Helen.james@ipo.gov.uk) can answer any queries regarding the instrument.