

Annex 5 – Approach to Fees

This section explains the fee policy of IPReg for all firm types (existing registered bodies and ABS).

Each practising year commences on 1 January. Fees for sole practitioners are not relevant to ABS.

IPReg believes that it is premature to state the future actual cost of the periodic fees (except in relation to fees for individuals). At the present time, our intention is to retain the current periodic fee for all firms for the practising year 2014, subject to a possible uplift to take account of inflation and a charge in respect of the new compensation arrangements.

1 Our objectives for setting fees

In setting our fees, we aim to:

- be transparent about the cost basis for our fees;
- be fair in terms of the cost allocation to different sizes of firm;
- ensure that our fees genuinely reflect the cost of regulation;
- ensure that our fees are not directly, or indirectly, or unjustifiably discriminatory;
- facilitate the efficient regulation of individuals and firms, in particular by their simplicity to administer;
- ensure that no firm cross-subsidises the cost of regulating other firms;
- prevent the structure of the practice fee distorting the choice of designation of an entity.

In summary, our fees structure reflects our continuing strategic objective of maintain a “lean”, cost-effective, approach to the provision of a well focused regulatory capability.

2 Practising fees

Our powers to charge fees are contained in:

- the Copyright, Designs and Patents Act section 275A(f) (in respect of Patent Attorneys);
- the Trade Marks Act section 83A(f) (in respect of Trade Mark Attorneys);
- the Legal Services Act section Schedule 11, paragraph 21 (in respect of ABS).

Our funding comes from annual fees which are approved by the Legal Services Board. We can charge annual fees to individuals as well as firms. These fees are mandatory.

With regard to sole practitioners, we have borne in mind that if there were significant differences between the fee for a sole trader and a firm, then some firms might designate themselves sole traders, employing other professionals in order to reduce their regulatory fees. Having considered the risks, we propose to maintain our current regulatory policy that the practice fees payable by sole practitioners should be proportionate to those payable by other entities, but that they should not pay significantly more than an individual employed in private practice.

3 What the fees will cover

The fees will pay for:

- the running costs of IPReg;
- the costs associated with the new compensation arrangements;
- levies required by the Legal Services Board, i.e.
 - part of the running costs of the Legal Services Board;
 - part of the running costs of the Legal Ombudsman;
 - part of the costs of the General Regulatory Chamber¹.

together, these fees make up the total funding for IPReg, the costs of which must be met by the profession.

4 Fees in respect of firms

4.1 Periodic regulatory fees

These are made up of two elements:

- a) the practising fee – this fee is payable by every firm annually. This essentially covers the cost of regulating the firm during the practising year. Currently the practicing fee is calculated by reference to the number of practicing lawyers in a firm. As part of its June 2012 consultation IPReg proposed a possible move towards to a calculation that used turnover as a proxy for the size of the firm, as the Board recognised that this was a more appropriate indication of the scale of the entity for all types of firm. However, because the cost-impact of regulating ABS is difficult to predict, at the current time we propose to:

¹ NB This is only relevant on the assumption that CIPA and ITMA (working together as IPReg) are designated as a licensing authority.

- retain the current practising fee matrix for all firm types for 2014 (subject to a possible uplift to take account of inflation);
- further consult in 2014 on revisions to the practising fee for 2015, applying a turnover-based approach.

When developing the turnover-base of practising fees, we will ensure that the definition of turnover relates to the turnover in respect of the IPReg-regulated activities that the body applying for authorisation intends to conduct. However, we will include anti-avoidance provisions to ensure that bodies do not structure themselves solely in order to reduce their practising fees.

There may be some scenarios in which fees will already have been paid to IPReg, for example where an existing registrant converts to ABS or where it is acquired by a commercial organisation. In both cases we anticipate giving credit for fees already paid in the practising year.

- b) Fees in respect of compensation arrangements - Contributions to IPReg's compensation arrangements will be calculated on a sliding scale, taking into account the size of the firm, by reference to turnover.

Additional charges

The periodic regulatory fee does not include one-off costs, such as the cost of approving a new HoLP or HoFA or a new manager. These costs will be charged separately. Our current fee for approval of a manager is £200 (excluding external disbursements) and at present we see no reason why this fee would not apply to other approvals but this will be monitored.

Event	Proposed charge
Approval of a HoLP or HoFA (if the HoFA holds a certificate from ICAEW or equivalent) <i>These separate fees will not be charged if part of the initial authorisation of the firm</i>	£200
Approval of new managers	£200
Approval of parties seeking to hold a material interest (as defined in the Legal Services Act) in a registered body (except as part of the initial authorisation of the firm)	£200 (straightforward cases only)
The grant of temporary emergency approval of a firm or individual	£500 (firm) £200 (individual)

4.2 Fee for authorisation

The approach to calculating the fee for authorisation will be the same for all firm types i.e., whether or not ABS. This fee will be broadly cost-reflective not in terms of “days spent” but in terms of the overall resourcing costs. We have assessed that we will need 1 additional member of staff to conduct this work, subject to particular peaks in activity which will be managed with assistance from other members of staff and potentially external assistance

The approach to calculating the initial application fee will be the same for all firm types (whether ABS or not) and will be subject to a scale, depending on the level of complexity.

All applicants will initially be charged a fixed fee of £1,000. This will cover a first “high” level review to assess whether IPReg has the necessary jurisdiction and regulatory expertise to progress the application.

The fee for initial authorisation will be the same amount as the annual practice fee payable by the firm in the year of application for authorisation.

Going forward we believe that turnover may become a better proxy for complexity in terms of structure, business model, mix of legal professional and other staff and provision of services in more than one jurisdiction, and specialism in multiple areas of IP law.

IPReg will further consult on this issue in 2014.

4.3 External Costs

External costs, such as credit checks etc, will be on charged to the applicants.

5 Fees in respect of individuals

In 2009, the IPReg Board, operating in shadow form, set the levels of fees for individuals. These fees slightly favoured those not in active practice. The level of fees was based on an anticipated budget and the levels were raised in 2010, once IPReg had been in operation a year. These fees have been held at this level since then.

The fees matrix is structured to ensure that UK registered attorneys and attorneys who are solely European registered attorneys (operating in the UK) and other professionals (lawyers) regulated by IPReg effectively pay the same practice fees to IPReg.

IPReg remains satisfied that the fees matrix is robust and fair.

The fee matrix can be found overleaf.

Individual fees	Fee – one register (£)	Fee – both registers (£)
Attorneys who are retired, inactive or are employed solely in industry	140	225
All other Attorneys	170	280
Sole Traders	280	400
Sole Trader employing others – base	280	400
Attorneys/Professionals employed by sole traders	£55 for each employed registered Attorney, plus £225 for each unregistered professional providing legal services	£55 for each employed registered Attorney, plus £225 for each unregistered professional providing legal services