

PROTECTION CERTIFICATES ACT 1994

(Federal Act on Supplementary Protection Certificates)

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(1) Applications for protection certificates which supplement patents valid in Austria may be filed with the Austrian Patent Office subject to the regulations of the European Community concerning the creation of supplementary protection certificates adopted in Austria.

(2) The application for a supplementary protection certificate shall be made in the prescribed written form either by direct filing or by mail.

2.–

(1) On filing, a filing fee of ATS 3,000 shall be paid for each supplementary protection certificate.

(2) Moreover, annual fees shall be paid for each supplementary protection certificate depending on the period of protection. The annuities payable shall be as follows:

for the first year.....	ATS 28,000,
for the second year	ATS 32,000,
for the third year.....	ATS 36,000,
for the fourth year	ATS 40,000,
for the fifth year	ATS 44,000,

(3) The annuities shall be payable each year in advance as from the effectiveness of the supplementary protection certificate

1. for patents granted under the Patents Act 1970, Federal Law Gazette No. 259, on the anniversary of the publication of the application for the basic patent in the Patent Gazette or with patents pursuant to Sec. 110 of the Patents Act 1970 on the anniversary of the final grant, and
2. for patents granted under the European Patent Convention, Federal Law Gazette No. 350/1979, for the Republic of Austria as designated state on the last day of the month which bears the same name as the month of the filing date of the patent.

and may be paid by any person interested in the protection certificate.

(4) The annuities may be paid three months before the due date. They shall be paid within six months after the due date at the latest. Any payment after the due date shall entail a late fee of 20 per cent of the annuity in addition to the annuity.

(5) All annuities paid, but not yet due, shall be refunded if the protection certificate is abandoned or if it expires or is declared null and void.

3.–

References concerning supplementary protection certificates which have to be made pursuant to the provisions set forth in Sec. 6 shall be published in the Patent Gazette.

4.–

The Austrian Patent Office shall be competent to pass decisions and take any other action relating to supplementary protection certificates unless otherwise provided. In the Patent Office, the competence shall depend on the assignments in patent matters, the same divisions being competent for the proceedings for the grant of supplementary protection certificates as those for the proceedings for granting patents.

5.–

Entries in the Patent Register relating to the basic patent shall apply also to the supplementary protection certificate.

6.–

Supplementary to the provisions of council regulations of the European Community concerning the creation of supplementary protection certificates adopted in Austria and this Federal Act, Sections 6 to 27, 29, to 57, 57b to 61, 62(1), (2) and (7), Sections 63, 64, 66 to 86, 90, 110, 112 to 165, 168, 169, 172a, 173 and 173a of the Patents Act 1970, Federal Law Gazette No. 259, as well as Sections 10, 11 and 12 of the Act Introducing Patent Treaties, Federal Law Gazette No. 52/1979, shall apply mutatis mutandis to applications for supplementary protection certificates and granted supplementary certificates and proceedings relating to such protection certificates; the procedural fee set forth in Sec. 132 subsec. 1 para. b of the Patents Act 1970 shall be equal to the filing fee pursuant to Sec. 2(1).

7.–

The provisions of federal laws cited in this Federal Act shall apply as amended from time to time.

8.–

(1) This Federal Act shall enter into force simultaneously with the entry into force of the resolution No. 7/94 of the Joint EEA Committee of March 21, 1994*).

(2) Ordinances on the basis of this Federal Act may be issued already as from the date following its promulgation. However, they may not enter into force before the date set forth in para. 1.

9.–

Unless otherwise provided for in Sec. 6 in connection with Sec. 173 of the Patents Act 1970, Federal Law Gazette No. 259, the Federal Minister of Economic Affairs shall be entrusted with the execution of this Federal Act.

* Promulgated in Federal Law Gazette No. 566/1994