

## Statutory Rules 1995 No. 16<sup>1</sup>

# Patents Regulations<sup>2</sup> (Amendment)

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<sup>1</sup> Notified in the *Commonwealth of Australia Gazette* on 14 February 1995.

<sup>2</sup> Statutory Rules 1991 No. 71 as amended by 1991 No. 456; 1992 No. 148; 1993 Nos. 113, 227, 340 and 341; 1994 Nos. 182, 317 and 387.

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**Statutory Rules 1995 No. 16<sup>1</sup>**

**Patents Regulations<sup>2</sup> (Amendment)**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Patents Act 1990*.

*Dated 7 February 1995.*

BILL HAYDEN  
Governor-General

By His Excellency's Command,

C. SCHACHT  
Minister for Small Business, Customs  
and Construction

**1. Commencement**

1.1 [Regulation 38](#) is taken to have commenced on 30 April 1991.

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<sup>1</sup> Notified in the *Commonwealth of Australia Gazette* on 14 February 1995.

<sup>2</sup> Statutory Rules 1991 No. 71 as amended by 1991 No. 456; 1992 No. 148; 1993 Nos. 113, 227, 340 and 341; 1994 Nos. 182, 317 and 387.

[NOTE: The remainder of these Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

## 2. Amendment

2.1 The Patents Regulations are amended as set out in these Regulations.

## 3. [Regulation 1.4](#) (English text of treaties)

3.1 Omit the regulation, substitute:

### English text of treaties

“1.4

(1) The English text of the Budapest Treaty as in force for Australia on 30 April 1991 is the text set out in [Schedules 1](#) (the Treaty) and [1A](#) (the Regulations under the Treaty).

“(2) The English text of the PCT as in force for Australia on 1 January 1994 is the text set out in [Schedules 2](#) (the Treaty) and [2A](#) (the Regulations under the Treaty).

[NOTE: This Regulation is made for the purposes of [subsection 228 \(5\) of the Act](#).]”.

## 4. [Regulation 1.6](#) (Disclosure)

4.1 [Subregulation 1.6 \(1\)](#):  
Omit “the end of the day”.

## 5. [Regulation 2.3](#) (Prescribed period: publication or use affecting validity)

5.1 [Subregulation 2.3 \(1\)](#):  
Omit “the prescribed period”, substitute “in the case of information of the kind referred to in [paragraph 24 \(1\) \(a\) of the Act](#), the prescribed period”.

5.2 [Subregulation 2.3 \(2\)](#):  
Omit “For the purposes of [paragraph 24 \(1\) \(b\) of the Act](#),” substitute “For the purposes of [subsection 24 \(1\) of the Act](#), in the case of information of the kind referred to in [paragraph 24 \(1\) \(b\) of the Act](#),”.

## 6. [Regulation 2.4](#) (Prescribed period: patents of addition)

6.1 Omit the regulation, substitute:

### Prescribed period: patents of addition

“2.4

[\(1\) For the purposes of section 25 of the Act \(“validity: patents of addition”\), the prescribed period is the period that commences on the priority date of the claim of the specification of the main invention and ends immediately before the priority date of the relevant claim of the specification of the patent of addition.](#)

[“\(2\) In subregulation \(1\), a reference to the claim of the specification of the main invention is a reference to:](#)

- (a) the claim defining that main invention; or
- (b) if there are 2 or more claims defining the main invention—the claim that has the earlier or earliest priority date.”.

## 7. [Regulation 2.7](#) (Documents to accompany notice of assertion of invalidity)

7.1 [Paragraph 2.7 \(a\)](#):  
Omit the paragraph, substitute:

“(a) 2 copies of the document; and”.

7.2 [Paragraph 2.7 \(b\)](#):  
Omit the paragraph, substitute:

“(b) if the document is not in English—2 copies of:

- (i) a translation of the document into English; and
- (ii) a related certificate of verification; and”.

**8. [Regulation 3.3](#) (Abstracts)**

- 8.1 [Paragraph 3.3 \(1\) \(b\)](#):  
Omit “invention; and”, substitute “invention.”.
- 8.2 [Paragraph 3.3 \(1\) \(c\)](#):  
Omit the paragraph.

**9. [Regulation 3.4](#) (Substitute abstracts)**

- 9.1 [Subregulation 3.4 \(5\)](#):  
Omit the subregulation, substitute:

“(5) If an applicant who files a complete specification does not file with it an abstract, the Commissioner, within 1 month of the date of filing of the complete specification, may direct the applicant to file an abstract within 1 month of the day on which the direction is given.”.

**10. [Regulation 3.8](#) (Applications to be made before certain decisions and declarations)**

- 10.1 Omit the regulation, substitute:

**Time within which applications are to be made following certain decisions and declarations**

“3.8 An application under [section 29 of the Act](#) (‘application for patent’) must be made:

- (a) in the case of an application of the kind described in [section 33 of the Act](#) (‘applications by opponents etc.’)—within 3 months of the decision of the Commissioner referred to in [paragraph 33 \(1\) \(b\)](#) or [\(2\) \(b\) of the Act](#), as the case requires; or
- (b) in the case of an application of the kind described in [section 34 of the Act](#) (‘applications by eligible persons arising out of court proceedings’)—within 3 months of the declaration of a court under [subsection 34 \(1\) of the Act](#); or
- (c) in the case of an application of the kind described in [section 35 of the Act](#) (‘applications by eligible persons following revocation by Commissioner’)—within 3 months of the declaration of the Commissioner under [subsection 35 \(1\) of the Act](#); or
- (d) in the case of an application of the kind described in [section 36 of the Act](#) (‘other applications by eligible persons’)—within 3 months of the declaration of the Commissioner under [subsection 36 \(1\) of the Act](#).”.

**11. [Regulation 3.12](#) (Priority dates generally)**

- 11.1 [Paragraph 3.12 \(1\) \(b\)](#):  
Omit the paragraph, substitute:

“(b) if the claim is fairly based on matter disclosed in 1 or more priority documents, the date of filing the priority document in which the matter was first disclosed;”.

- 11.2 [Subregulation 3.12 \(2\)](#):  
Omit the subregulation, substitute:

“(2) For the purposes of [paragraph \(1\) \(b\)](#):

- (a) if the application that relates to the specification containing the claim is a complete application—a provisional application that is associated with that complete application in accordance with [section 38 of the Act](#) (‘time for making complete application’) is a priority document; and
- (b) if the application that relates to the specification containing the claim is a Convention application, a document of any of the following kinds is a priority document:
  - (i) a basic application that is related to the Convention application;
  - (ii) a specification, or another document filed in respect of, and at the same time as, a basic application that is related to that Convention application; or

- (iii) a specification in respect of a basic application that is related to that Convention application, being a specification that was filed after the basic application was made;
- (c) if:
  - (i) the application that relates to the specification containing the claim is a PCT application that, under [Article 8 of the PCT](#), claims the priority of an earlier application; and
  - (ii) that earlier application is:
    - (A) an application made in Australia not more than 12 months before the international filing date of the PCT application; or
    - (B) a basic application, made not more than 12 months before the international filing date of the PCT application, that is the first application made in a Convention country in respect of the invention; or
    - (C) a basic application made after a basic application referred to in [subparagraph \(B\)](#); that earlier application, and a specification filed in relation to that earlier application after it was made, are priority documents.

“(2A) For the purposes of [paragraph \(1\) \(b\)](#) and [subregulation \(2\)](#), ‘filed’ includes filed with the Patent Office and filed with a corresponding Office of another country.

“(2B) A reference in [subregulation \(2\)](#) to a basic application does not include a basic application that has been disregarded by the Commissioner under [section 96 of the Act](#) (‘withdrawn, abandoned or refused applications’).”.

## **12. [Regulation 3.18](#) (Report of Commissioner: examination)**

### 12.1 [Paragraph 3.18 \(2\) \(b\)](#):

Omit the paragraph.

## **13. [Regulation 4.2](#) (Notice that specification is open to public inspection)**

### 13.1 [Paragraph 4.2 \(2\) \(c\)](#):

Omit “has been” (second occurring).

## **14. [Regulation 4.3](#) (Prescribed documents: public inspection)**

### 14.1 [Paragraph 4.3 \(f\)](#):

Omit “[subregulation 3.1 \(1\)](#)”, substitute “[regulation 3.1](#)”.

### 14.2 Add at the end:

“(g) a notification under [subregulation 3.25 \(3\)](#) (‘request for Commissioner’s certificate authorising release of sample of a micro-organism’).

“(2) For the purposes of [paragraphs 55 \(2\) \(a\), \(b\) and \(c\) of the Act](#), a document is a prescribed document if it is subject to an order of:

- (a) a prescribed court or a court; or
- (b) the Tribunal or a tribunal;

prohibiting its disclosure or prohibiting the disclosure of information contained in it.”.

## **15. [Regulation 5.1](#) (Application of this Chapter)**

### 15.1 [Paragraph 5.1 \(b\)](#):

Omit “(‘amendment of documents by Commissioner’)”, substitute “(‘correction of Register or patent’)”.

## **16. [Regulation 5.3](#) (Filing of opposition)**

### 16.1 [Subregulation 5.3 \(3\)](#):

Omit “or [10.7 \(3\)](#) (‘correction of Register or patent’)”.

### 16.2 After [subregulation 5.3 \(5\)](#), insert:

“(5A) A person who intends to oppose a request for amendment of the Register or a patent under [subregulation 10.7 \(4\)](#) (‘correction of Register or patent’) must file a notice of opposition in the approved

form within 3 months of the publication in the *Official Journal* of the notice referred to in [subregulation 10.7 \(3\)](#).”.

#### **17. New regulation 5.3A**

17.1 After [regulation 5.3](#), insert:

##### **Amendment of notice of opposition**

“5.3A

(1) An opponent may request the Commissioner in writing to amend a notice of opposition for the purpose of correcting a clerical error or obvious mistake.

“(2) The Commissioner may grant the request on the terms (if any) that the Commissioner specifies by notice to the opponent making the request.

“(3) The Commissioner must give the parties an opportunity to make representations concerning the proposed amendment.

“(4) If the Commissioner allows an amendment, he or she must give the applicant a copy of the notice as amended.”.

#### **18. [Regulation 5.8](#) (Time for giving of evidence)**

18.1 [Sub-subparagraph 5.8 \(1\) \(a\) \(i\) \(B\)](#):

Add at the end “or”.

18.2 [Paragraph 5.8 \(2\) \(a\)](#):

Omit the paragraph, substitute:

“(a) serve on the opponent a copy of any evidence in answer to the evidence in support of the opposition referred to in [subregulation 5.4 \(2\)](#) or [paragraph \(1\) \(a\)](#) within 3 months after being served with that evidence in support of the opposition; and”.

18.3 [Subregulation 5.8 \(4\)](#):

Omit the subregulation, substitute:

“(4) Subject to [subregulation \(5\)](#), if an opponent intends to rely on evidence in reply to the evidence referred to in [paragraph \(2\) \(a\)](#) or [\(3\) \(a\)](#), the opponent must:

- (a) within 1 month of being served with a copy of the evidence under [paragraph \(2\) \(a\)](#) or [\(3\) \(a\)](#), serve on the applicant:
  - (i) a copy of the evidence in reply; or
  - (ii) if the opponent does not serve on the applicant a copy of the evidence in reply—a copy of a notice of intention to serve evidence in reply; and
- (b) if the opponent serves on the applicant a copy of a notice of intention to serve evidence in reply—serve on the applicant a copy of that evidence within 3 months of being served with a copy of the evidence under [paragraph \(2\) \(a\)](#) or [\(3\) \(a\)](#); and
- (c) file the evidence in reply and any notice of intention as soon as practicable after the copy of the evidence in reply or notice has been served on the applicant.”.

#### **19. [Regulation 5.9](#) (Amendment of statement)**

19.1 [Subregulation 5.9 \(1\)](#):

Omit “The Commissioner”, substitute “Subject to [subregulation \(2\)](#), the Commissioner”.

19.2 [Paragraph 5.9 \(1\) \(b\)](#):

Omit “referred to in”, substitute “that is served and filed under”.

19.3 [Paragraph 5.9 \(1\) \(c\)](#):

Omit “referred to in”, substitute “set out in a statement that is served and filed under”.

#### **20. [Regulation 5.13](#) (Representations to Commissioner)**

20.1 After “A representation referred to in”, insert “[subregulation 5.3A \(3\)](#) (‘amendment of notice of opposition’),”.

**21. [Regulation 8.2](#) (Prescribed documents: PCT application)**

21.1 [Subregulation 8.2 \(1\)](#) (definition of “PCT application”): Omit the definition, substitute:

“‘PCT application’ includes:

- (a) [an amendment under Article 19 or 34 of the PCT](#); or
- (b) a rectification under [Rule 91 of the Regulations annexed to the PCT](#).”.

**22. [Regulation 8.6](#) (Particulars required for Convention application)**

22.1 [Paragraph 8.6 \(1\) \(a\)](#):

Omit the paragraph.

22.2 [Paragraph 8.6 \(1\) \(e\)](#):

Omit “paragraphs (a) to (d)”, substitute “paragraphs (b) to (d)”.

22.3 [Subregulation 8.6 \(2\)](#):

Add at the end:

“; (c) if the certification referred to in [paragraph \(a\)](#) is not in English—a translation of that certification into English and a related certificate of verification.”.

**23. [Regulation 10.1](#) (Form of amendments)**

23.1 After [subregulation 10.1 \(1\)](#), insert:

“(1A) If an applicant proposes to amend a patent request, complete specification or other filed document:

- (a) to remove a lawful ground of objection raised:
  - (i) in the case of an application for a standard patent—in an examination report; or
  - (ii) in the case of an application for a petty patent—in a notification under [subsection 50 \(2\) of the Act](#) (‘consideration and acceptance of patent request: petty patent’); or
- (b) in anticipation:
  - (i) in the case of an application for a standard patent—of examination of the patent request and specification; or
  - (ii) in the case of an application for a petty patent—of consideration of the patent request and complete specification under [section 50 of the Act](#);  
the applicant is taken to have complied with [subregulation \(1\)](#) if a written statement of the proposed amendments is filed.”.

**24. [Regulation 10.5](#) (Commissioner to grant leave to amend)**

24.1 [Subregulation 10.5 \(1\)](#):

Omit the subregulation, substitute:

“(1) The Commissioner must grant leave to amend a patent request, complete specification or other filed document:

- (a) if the report on the proposed amendments under [subregulation 10.2 \(1\)](#) is not an adverse report; and
- (b) in the case of amendments that:
  - (i) are proposed in anticipation of, or in response to:
    - (A) a report relating to an examination; or
    - (B) a notice relating to a consideration of a complete application for a petty patent under [section 50 of the Act](#) (‘consideration and acceptance of patent request: petty patent’); and
  - (ii) do not relate to matters mentioned in [paragraph 6 \(c\) of the Act](#) (‘deposit requirements’);  
if the Commissioner reasonably believes that the proposed amendments would remove all lawful grounds of objection to the patent request and complete specification.”.

**25. [Regulation 10.6](#) (Allowance of amendments)**

25.1 Omit the regulation, substitute:

## Time for allowance of amendments

“10.6

(1) If:

- (a) the Commissioner grants leave to amend a patent request, complete specification or other filed document; and
- (b) [subregulation 10.5 \(2\)](#) does not apply to the amendment; the Commissioner must allow the proposed amendment immediately.

“(2) If:

- (a) [subregulation 10.5 \(2\)](#) applies to a proposed amendment of a patent request, complete specification or other filed document; and
  - (b) no person opposes the allowance of the proposed amendment; and
  - (c) the Commissioner is satisfied that no relevant proceedings are pending;
- the Commissioner must allow the proposed amendment at the end of the time for bringing opposition proceedings.

“(3) If:

- (a) [subregulation 10.5 \(2\)](#) applies to a proposed amendment of a patent request, complete specification or other filed document; and
  - (b) a person opposes the allowance of the proposed amendment; and
  - (c) the opposition is decided against the opponent; and
  - (d) the Commissioner is satisfied that no relevant proceedings are pending;
- the Commissioner must allow the proposed amendment immediately after the opposition is fully determined.

“(4) For the purposes of [subregulation \(3\)](#), an opposition is fully determined when:

- (a) a decision has been made in respect of the opposition and the decision is no longer subject to any form of review (including review by way of appeal against a decision of the Tribunal or a prescribed court); or
- (b) a decision that has been made in respect of the opposition was subject to review (including review by way of appeal against a decision of the Tribunal or a prescribed court) but the period within which review proceedings could have been instituted has expired without review proceedings having been instituted; or
- (c) the opposition is withdrawn.

“(5) If the Commissioner requires a patentee to file a statement that, to the best of the knowledge of the patentee, relevant proceedings are not pending, the patentee must file the statement within 1 month of the Commissioner so requiring.”

## 26. [Regulation 13.4](#) (Prescribed period: acceptance of request and specification)

26.1 Omit the regulation, substitute:

### Prescribed period: acceptance of request and specification

“13.4

(1) Subject to this regulation, the period prescribed for the purposes of [paragraph 142 \(2\) \(e\) of the Act](#) (‘lapsing of applications’) in relation to an application is:

- (a) if the applicant has not made a request under [subsection 47 \(1\) of the Act](#) (‘request for modified examination’)—the period of 21 months commencing on the date of the first report (if any) under [section 45 of the Act](#) (‘examination’);
- (b) the period of 21 months commencing on the date of the first report (if any) under [section 48 of the Act](#) (‘modified examination’);
- (c) if examination is requested under [subsection 47 \(2\) of the Act](#) (‘request for modified examination’) after the Commissioner first reports under [section 48 of the Act](#)—the period of 12



months commencing on the date of the first report on the examination under [section 45 of the Act](#);

- (d) if the Commissioner has reported that the patent request or complete specification relates to an invention that, so far as claimed, is not novel in view of information of the kind described in [subparagraph \(b\) \(ii\) of the definition of ‘prior art base’ in the Act](#)—the period of 3 months commencing on the earlier of:
  - (i) the date of publication of the specification containing that information; or
  - (ii) its lapsing, refusal or withdrawal;
- (e) if the patent request and complete specification relate to an application in relation to which a request has been made under [section 32 of the Act](#) (‘disputes between applicants etc.’)—subject to [subregulation \(3\)](#), the period of 3 months commencing on the date of the determination by the Commissioner under that section;
- (f) if:
  - (i) a person has applied under [subsection 36 \(1\) of the Act](#) (‘other applications by eligible persons’) in relation to the patent request and complete specification; and
  - (ii) the Commissioner declares under that subsection that the applicant in relation to the request and complete specification is an eligible person;subject to [subregulation \(3\)](#), the period of 3 months commencing on the date of that declaration;
- (g) if:
  - (i) a person has applied under [subsection 36 \(1\) of the Act](#) (‘other applications by eligible persons’) in relation to the patent request and complete specification; and
  - (ii) the Commissioner declares under that subsection that that person is an eligible person;either:
  - (iii) if the person has already lodged an application—subject to [subregulation \(3\)](#), the period of 3 months commencing on the date of the Commissioner’s declaration; or
  - (iv) in any other case—the period determined under whichever of [paragraphs \(a\)](#), [\(b\)](#) and [\(c\)](#) applies;
- (h) if an appeal has been made to a prescribed court, or an application for review has been made to the Tribunal, in relation to the patent request or complete specification—subject to [subregulation \(4\)](#), the period of 3 months commencing on the day when the appeal or application is withdrawn or finally dealt with or determined;
- (j) if:
  - (i) the application is for a patent of addition; and
  - (ii) an appeal has been made to a prescribed court or an application for review has been made to the Tribunal in respect of the application for a patent for the main invention;subject to [subregulation \(4\)](#), the period of 3 months commencing on the day when the appeal or application is withdrawn or finally dealt with or determined.

“(2) If more than 1 of [paragraphs \(1\) \(a\) to \(j\)](#) applies in a particular case, the lapsing period is the longer or longest period so worked out.

“(3) If [paragraph \(1\) \(e\)](#) or [\(f\)](#) or [subparagraph \(1\) \(g\) \(iii\)](#) applies, the Commissioner may substitute a period longer than 3 months, if the Commissioner is satisfied that acceptance of the patent request and complete specification should be postponed.

“(4) If [paragraph \(1\) \(h\)](#) or [\(j\)](#) applies, the court or Tribunal may in its discretion substitute a period longer than 3 months.”.

## **27. [Regulation 19.2](#) (Request for information from Commissioner)**

### **27.1 [Subregulation 19.2 \(1\)](#):**

Omit “[paragraph 194 \(c\)](#)”, substitute “[section 194](#)”.

## **28. [Regulation 20.16](#) (Certificate of completion of examinable subjects and of academic qualifications)**

### **28.1 [Paragraph 20.16 \(a\)](#):**

Omit the paragraph, substitute:

“(a) has passed, or is exempt under [regulation 20.13](#) (‘exemption from examination’) from having to pass an examination in, the subjects specified in [Schedule 5](#); and”.

**29. [Regulation 22.3](#) (General fees for international applications)**

29.1 [Paragraph 22.3 \(1\) \(a\)](#):

Omit “the Commissioner or”.

**30. [Regulation 22.4](#) (Fees for international applications payable for the benefit of the International Bureau)**

30.1 [Subregulation 22.4 \(1\)](#):

Omit “the Commissioner or”.

**31. [Regulation 22.15](#) (Documents to be in English)**

31.1 [Subregulation 22.15 \(2\)](#):

Omit “the Commissioner or”.

**32. [Regulation 22.26](#) (Review of decisions)**

32.1 [Paragraph 22.26 \(2\) \(a\)](#):

After [subparagraph 22.26 \(2\) \(a\) \(v\)](#), insert:

“(va) [subregulation 13.4 \(3\)](#).”.

**33. [Regulation 23.3](#) (Opposition to grant: practice and procedure)**

33.1 Add at the end:

“(3) [Chapter 5](#) of these Regulations applies to opposition to an application:

(a) to which [subsection 234 \(3\) of the Act](#) refers; and

(b) of which advertisement of acceptance has taken place under the Act.”.

**34. [Regulation 23.4](#) (Certain opposition: practice and procedure)**

34.1 [Subparagraph 23.4 \(1\) \(c\) \(i\)](#):

Omit “84 and 85”, substitute “84, 85 and 94”.

34.2 [Subparagraph 23.4 \(1\) \(c\) \(ii\)](#):

Omit “106 (5)”, substitute “160 (5)”.

34.3 [Subparagraph 23.4 \(1\) \(d\) \(i\)](#):

After “52,”, insert “76, 77, 78,”.

**35. [Regulation 23.11](#) (Supply of product referred to in [section 117 of the Act](#))**

35.1 [Paragraph 23.11 \(2\) \(d\)](#):

Omit “the person who acquires that business.”, substitute “a person who acquires that business, whether from the first-mentioned person or from some other person.”.

**36. [Regulation 23.14](#) (Certain action under the 1952 Act)**

36.1 Omit “of this Act referred to in [paragraph \(a\)](#).”, substitute “referred to in paragraph (a) under which the act is required to be done.”.

**37. [Regulation 23.20](#) (Patent attorneys: continued application of certain provisions)**

37.1 [Subregulation 23.20 \(1\)](#):

Omit the subregulation, substitute:

“23.20

(1) In this regulation:

‘**prescribed person**’ means a person who has, before the commencing day:

(a) passed the examination in a subject specified in [subregulation 10 \(2\) of the former attorneys Regulations](#); or

- (b) been issued with a certificate under [regulation 20A](#) or [22 of the former attorneys Regulations](#); or
- (c) met the requirements of [regulation 21 of the former attorneys Regulations](#).”.

**38. [Schedule 1](#) (Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure)**

38.1 [Paragraph 6.3 \(b\) of the Regulations under the Budapest Treaty](#) on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure:

Omit the paragraph, substitute:

“(b) Any international depositary authority shall communicate any such requirements and any amendments thereof to the International Bureau.”.

**39. Formal amendments of [Schedule 1](#) (Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure)**

39.1 Omit the heading:

**“Budapest Treaty on the International Recognition of the  
Deposit of Microorganisms for the Purposes  
of Patent Procedure”**,

substitute:

“BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION  
OF THE DEPOSIT OF MICROORGANISMS FOR THE  
PURPOSES OF PATENT PROCEDURE”.

39.2 Omit the heading:

**“Regulations under the Budapest Treaty on the International Recognition  
of the Deposit of Microorganisms for the Purposes  
of Patent Procedure”**

and the Table of Provisions following that heading.

39.3 After [article 20 of the Treaty](#), insert the heading and Table of Provisions set out in [Schedule 1](#).

**40. Formal amendments of [Schedule 2](#) (Patent Cooperation Treaty)**

40.1 Omit the heading:

“REGULATIONS UNDER THE PATENT COOPERATION TREATY”

and the Table of Provisions following that heading.

40.2 After [article 69 of the Treaty](#), omit: the heading:

**“Regulations under the Patent Cooperation Treaty”**

and the adoption and amendment dates of the Treaty following that heading, substitute the heading, Table of Provisions and further heading set out in [Schedule 2](#).

**41. [Schedule 3](#) (Formal requirements for documents to be filed)**

41.1 After [clause 1](#), insert:

## **Title of specification**

“1A. A specification must commence with a short and precise title.”

41.2 [Clause 2](#) (Fitness for reproduction):

Add at the end:

“; and

(f) subject to subparagraph 3.2 (2) (c) (ii) of these Regulations, must be printed on only one side of the sheet.”

41.3 [Clause 5](#) (Numeration):

Add at the end:

“(5) In a statement of proposed amendments:

(a) the proposed amendments must be numbered consecutively; and

(b) if the statement is a subsequent one, the numbering must be consecutive with the numbers in the previous statement.”

41.4 [Clause 6](#) (Numbering of lines):

Omit “on the each”, substitute “on each”.

41.5 [Subclause 7 \(3\)](#) (Writing of textual matter):

Omit “1½spaced”, substitute “1 ½-spaced”.

## **42. [Schedule 7](#) (Fees)**

42.1 [Part 2](#) (General Fees):

[Paragraph 13 \(a\)](#):

Omit the paragraph, substitute:

“(a) under [regulation 5.3A](#) or [subregulation 5.9 \(3\)](#) objecting to a proposed amendment; or”.

## **43. Formal amendments**

43.1 Amendments as set out in [Schedule 3](#).

## **44. Omission of certain notes**

44.1 Notes following [regulations 3.1, 3.12, 3.23, 3.24, 3.25, 3.30, 8.1, 8.2, 8.3, 8.4, 17.2, 19.2, 22.3, 22.4, 22.5, 22.7, 22.15, 22.20](#) and [23.17](#) and [Schedule 7 Part 3 item 7](#) and [Part 4 item 3](#):

Omit the Notes.

## **45. Transitional**

45.1 In this regulation:

“**original [paragraph 5.8 \(2\) \(a\)](#)” means [paragraph 5.8 \(2\) \(a\)](#) of the Patents Regulations as that paragraph was in force immediately before the commencement of these Regulations.**

45.2 If, on the day on which subregulation 18.2 of these Regulations commences, an opponent has already served on an applicant a copy of the evidence in support of the opposition in accordance with the original [paragraph 5.8 \(2\) \(a\)](#), then despite the amendment effected by subregulation 18.2 of these Regulations, the original [paragraph 5.8 \(2\) \(a\)](#) is taken to apply for the purpose of working out the time for service of evidence in answer to that evidence.

[Subregulation 39.3](#)

**SCHEDULE 1**  
NEW SCHEDULE 1A

[Subregulation 1.4 \(1\)](#)

**SCHEDULE 1A**  
REGULATIONS UNDER THE BUDAPEST TREATY ON THE  
INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSES  
OF PATENT PROCEDURE

[Subregulation 40.2](#)

**SCHEDULE 2**  
NEW SCHEDULE 2A

[Subregulation 1.4 \(2\)](#)

**SCHEDULE 2A**  
REGULATIONS UNDER THE PATENT  
COOPERATION TREATY

[Regulation 43](#)

**SCHEDULE 3**  
MINOR AND FORMAL AMENDMENTS

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Provision amended	Omit	Substitute
<a href="#">Paragraph 1.5 (1) (a)</a>	to the end	the end
<a href="#">Subregulation 2.2 (2)</a>	section 24	paragraph 24 (1) (a)
<a href="#">Subregulation 2.3 (1)</a>	section 24	subsection 24 (1)
<a href="#">Paragraph 3.1 (2) (b)</a>	priority;	priority; and
<a href="#">Subparagraph 3.2 (2) (c) (ii)</a>	true copy; and	true copy.
<a href="#">Subregulation 3.2 (4)</a>	such as are	anything
<a href="#">Paragraph 3.18 (3) (a)</a>	that section 6	section 6
<a href="#">Subregulation 3.19 (3)</a>	Commisioner	Commissioner
<a href="#">Subregulation 3.19 (4)</a>	Commisioner	Commissioner

Provision amended	Omit	Substitute
<a href="#">Paragraph 3.21 (a)</a>	the the treaty	the treaty
<a href="#">Subregulation 3.22 (2)</a>	Commisioner	Commissioner
<a href="#">Subregulation 3.22 (3)</a>	Commisioner	Commissioner
<a href="#">Subparagraph 3.30 (d) (i)</a>	subregulation 3.29 (3); and	subregulation 3.29 (3), and
<a href="#">Paragraph 5.1 (a)</a>	sections	provisions
<a href="#">Subregulation 5.3 (2)</a>	Department of Community Services and Health	Department of Human Services and Health
<a href="#">Subregulation 6.7 (1)</a>	Commissioner	Commissioner
<a href="#">Regulation 9.4</a>	<b>9.4.</b>	<b>9.4</b>
<a href="#">Paragraph 10.2 (8) (b)</a>	Comissioner	Commissioner
<a href="#">Subregulation 10.5 (2)</a>	<i>Official Journal</i> , where	<i>Official Journal</i> , where
<a href="#">Regulation 15.3</a>	application.	application is prescribed.
<a href="#">Subregulation 22.6(1)</a>	(1).	(1)
<a href="#">Subregulation 22.8(2)</a>	awards	award
<a href="#">Paragraph 22.13 (1) (d)</a>	charge d'affaires	chargé d'affaires
<a href="#">Subregulation 22.23 (1)</a>	the Commissioner	The Commissioner
<a href="#">Subparagraph 22.26 (2) (a) (vi)</a>	protection	protection
<a href="#">Subregulation 23.8 (1)</a>	prescribed	prescribed
<a href="#">Subregulation 23.8 (1)</a>	application	application
<a href="#">Subregulation 23.8 (3)</a>	<b>“prescribed regulations”</b>	<b>“prescribed provisions”</b>
<a href="#">Paragraph 23.10 (a)</a>	section 54 (1B)	subsection 54 (1B)
<a href="#">Paragraph 23.10 (b)</a>	commencing	commencing
<a href="#">Paragraph 23.11 (2) (b)</a>	first-mentioned	first-mentioned
<a href="#">Paragraph 23.18 (b)</a>	<a href="#">subsections 45 (2), (3), (3A) and (4A) of the 1952 Act</a> apply	<a href="#">subsection 45 (2), (3), (3A) or (4A) of the 1952 Act</a> applies
<a href="#">Subregulation 23.25 (1)</a> (definition of “renewal fee”)	of of	of
<a href="#">Paragraph 23.25 (4) (b)</a>	subregulation (1)	<a href="#">subregulation 13.3 (1)</a>

[NOTE: Some of the amendments set out in this Schedule have already been incorporated in the reprinted Regulations.]