



Patents Amendment Regulations 2003 (No. 3)¹

Statutory Rules 2003 No. 316²

I, PHILIP MICHAEL JEFFERY, 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 4 December 2003

P. M. JEFFERY
Governor-General

By His Excellency's Command

IAN MACFARLANE
Minister for Industry, Tourism and Resources

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Schedule 1 Amendments commencing on gazettal**Schedule 2 Amendments commencing on 1 January 2004**

1 Name of Regulations

These Regulations are the *Patents Amendment Regulations 2003 (No. 3)*.

2 Commencement

These Regulations commence as follows:

- (a) on gazettal — regulations 1 to 4 and Schedule 1.
- (b) on 1 January 2004 — Schedule 2.

3 Amendment of *Patents Regulations 1991*

Schedules 1 and 2 amend the *Patents Regulations 1991*.

4 Transitional

(1) The amendments made by items [7] to [171] of Schedule 2 apply to an international application if the international filing date of the application is a date on or after 1 January 2004.

(2) However:

- (a) the amendments made by items [50] and [171] of Schedule 2 do not apply to an international application that is filed before 1 January 2004 but is given an international filing date that is on or after 1 January 2004; and
- (b) the amendments made by items [44], [104], [105], [106], [108], [114] to [125] and [166] of Schedule 2 also apply to an international application that was filed before 1 January 2004 if a demand for international preliminary examination of the application is filed on or after 1 January 2004; and
- (c) the amendments made by items [143] to [145] of Schedule 2 also apply to an international application that was filed before 1 January 2004, for which an international preliminary examination report is established on or after 1 January 2004; and

- (d) the amendment made by item [170] of Schedule 2 also applies to the giving, on or after 1 January 2004, of copies of an international preliminary examination report for an application that was filed before 1 January 2004.

Schedule 1 Amendments commencing on gazettal
(regulation 3)

[1] Subregulation 3.1 (1)

omit

abstract, and a copy of the abstract are

insert

abstract is

[2] Subregulation 10.1 (5)

omit

allowance of those amendments.

insert

leave is granted under regulation 10.5 to amend the patent request or complete specification or another filed document.

Schedule 2 Amendments commencing on 1 January 2004
(regulation 3)

[1] Subregulation 1.4 (2)

omit

1 January 2003

insert

1 January 2004

[2] After subregulation 8.3 (1)

insert

(1A) Section 53:

omit

Where

insert

(1) Where

(1B) Section 53:

insert

(2) For a PCT application, the prescribed information is taken to have been published under subsection (1) when the application is published by the International Bureau of the World Intellectual Property Organization.

[3] Subparagraph 22.2 (4) (a) (ii)

omit

1 to 4 of Part 4,

insert

401 to 404,

[4] Subregulation 22.4 (1)

omit

Subject to subregulation (1A) if,

insert

If,

[5] Subregulation 22.4 (1)

omit

basic fee, designation fees

insert

international filing fee

[6] Subregulations 22.4 (1A) to (1C), including note

omit

[7] Schedule 2A, Adoption and amendment dates, before the Table of Provisions

omit

October 3, 2001 and on October 1, 2002.

insert

October 3, 2001, on October 1, 2002 and on October 1, 2003.

[8] Schedule 2A, Table of Provisions

omit

4.9 Designation of States

insert

4.9 Designation of States; Kinds of Protection; National and Regional Patents

[9] Schedule 2A, Table of Provisions

omit

4.11 Reference to Earlier Search

insert

4.11 Reference to Earlier Search, Continuation or Continuation-in-Part, or Parent Application or Grant

[10] Schedule 2A, Table of Provisions

omit

4.12 Choice of Certain Kinds of Protection

4.13 Identification of Parent Application or Parent Grant

4.14 Continuation or Continuation in Part

[11] Schedule 2A, Table of Provisions

omit

15.1 Basic Fee and Designation Fee

15.2 Amounts

insert

15.1 The International Filing Fee

15.2 Amount

[12] Schedule 2A, Table of Provisions*omit*

15.5 Fees under Rule 4.9 (c)

[13] Schedule 2A, Table of Provisions*after*

26.2 Time Limit for Correction

*insert*26.2^{bis} Checking of Requirements under Article 14 (1) (a) (i) and (ii)**[14] Schedule 2A, Table of Provisions***omit*

Rule 29 International Applications or Designations Considered Withdrawn

insert

Rule 29 International Applications Considered Withdrawn

[15] Schedule 2A, Table of Provisions*omit*

32.1 Request for Extension of International Application to Successor State

insert

32.1 Extension of International Application to Successor State

[16] Schedule 2A, Table of Provisions*after*

43.10 Form

*insert*Rule 43^{bis} Written Opinion of the International Searching Agency43^{bis}.1 Written Opinion

[17] Schedule 2A, Table of Provisions*omit*

Rule 44 Transmittal of the International Search Report, Etc.

44.1 Copies of Report or Declaration

insert

Rule 44 Transmittal of the International Search Report, Written Opinion, Etc.

44.1 Copies of Report or Declaration and Written Opinion

[18] Schedule 2A, Table of Provisions*after*

44.3 Copies of Cited Documents

*insert*Rule 44^{bis} International Preliminary Report on Patentability by the International Searching Authority44^{bis}.1 Issuance of Report; Transmittal to the Applicant44^{bis}.2 Communication to Designated Offices44^{bis}.3 Translation for Designated Offices44^{bis}.4 Observations on the TranslationRule 44^{ter} Confidential Nature of Written Opinion, Report, Translation and Observations44^{ter}.1 Confidential Nature**[19] Schedule 2A, Table of Provisions***omit*

47.4 Express Request under Article 23 (2)

insert

47.4 Express Request under Article 23 (2) Prior to International Publication

[20] Schedule 2A, Table of Provisions*after*

49.6 Reinstatement of Rights After Failure to Perform the Acts Referred to in Article 22

*insert*Rule 49^{bis} Indications as to Protection Sought for Purposes of National Processing49^{bis}.1 Choice of Certain Kinds of Protection49^{bis}.2 Time of Furnishing Indications**[21] Schedule 2A, Table of Provisions***omit*Rule 51^{bis} Certain National Requirements Allowed under Article 27 (1), (2), (6) and (7)*insert*Rule 51^{bis} Certain National Requirements Allowed under Article 27**[22] Schedule 2A, Table of Provisions***after*

53.9 Statement Concerning Amendments

*insert*Rule 54^{bis} Time Limit for Making a Demand54^{bis}.1 Time Limit for Making a Demand**[23] Schedule 2A, Table of Provisions***omit*

Rule 56 Later Elections

56.1 Elections Submitted Later Than the Demand

56.2 Identification of the International Application

56.3 Identification of the Demand

56.4 Form of Later Elections

56.5 Language of Later Elections

[24] Schedule 2A, Table of Provisions*omit*

60.2 Defects in Later Elections

[25] Schedule 2A, Table of Provisions*omit*

Rule 62 Copy of Amendments Under Article 19 for the International Preliminary Examining Authority

62.1 Amendments Made before the Demand is Filed

insert

Rule 62 Copy of the Written Opinion by the International Searching Authority and of Amendments Under Article 19 for the International Preliminary Examining Authority

62.1 Copy of Written Opinion by International Searching Authority and of Amendments Made before the Demand is Filed

[26] Schedule 2A, Table of Provisions*after*

62.2 Amendments Made after the Demand is Filed

insert

Rule 62^{bis} Translation for the International Preliminary Examining Authority of the Written Opinion of the International Searching Authority

62^{bis}.1 Translation and Observations**[27] Schedule 2A, Table of Provisions***after*

66.1 Basis of the International Preliminary Examination

*insert*66.1^{bis} Written Opinion of the International Searching Authority**[28] Schedule 2A, Table of Provisions***omit*

66.2 First Written Opinion of the International Preliminary Examining Authority

insert

66.2 Written Opinion of the International Preliminary Examining Authority

[29] Schedule 2A, Table of Provisions

omit

66.7 Priority Document

insert

66.7 Copy and Translation of Earlier Application Whose Priority is Claimed

[30] Schedule 2A, Table of Provisions

omit

Rule 70 The International Preliminary Examination Report

insert

Rule 70 International Preliminary Report on Patentability by the International Preliminary Examining Authority (International Preliminary Examination Report)

[31] Schedule 2A, Table of Provisions

omit

70.15 Form

insert

70.15 Form; Title

[32] Schedule 2A, Table of Provisions

omit

Rule 72 Translation of the International Preliminary Examination Report

insert

Rule 72 Translation of the International Preliminary Examination Report and of the Written Opinion of the International Searching Authority

[33] Schedule 2A, Table of Provisions

after

72.2 Copy of Translation for the Applicant

insert

72.2^{bis} Translation of the Written Opinion of the International Searching Authority
Established Under Rule 43^{bis}.1

[34] Schedule 2A, Table of Provisions

omit

Rule 73 Communication of the International Preliminary Examination Report

insert

Rule 73 Communication of the International Preliminary Examination Report or the Written
Opinion of the International Searching Authority

[35] Schedule 2A, Table of Provisions

omit

73.2 Time Limit for Communication

insert

73.2 Communication to Elected Offices

[36] Schedule 2A, Table of Provisions

omit

76.5 Application of Rules 22.1 (g), 49 and 51^{bis}

insert

76.5 Application of Rules 22.1 (g), 47.1, 49, 49^{bis} and 51^{bis}

[37] Schedule 2A, Table of Provisions

omit

76.6 Transitional Provision

[38] Schedule 2A, Table of Provisions

omit

78.1 Time Limit Where Election Is Effected prior to Expiration of 19 Months from
Priority Date

78.2 Time Limit Where Election Is Effected After Expiration of 19 Months from Priority
Date

insert

78.1 Time Limit

[39] Schedule 2A, Table of Provisions*omit*

80.5 Expiration on a Non-Working Day

insert

80.5 Expiration on a Non-Working Day or Official Holiday

[40] Schedule 2A, Table of Provisions*after*

89.3 Publication and Entry into Force

insert

Rule 89^{bis} Filing, Processing and Communication of International Applications and Other Documents in Electronic Form or by Electronic Means

89^{bis}.1 International Applications89^{bis}.2 Other Documents89^{bis}.3 Communication Between Offices**[41] Schedule 2A, Table of Provisions***after*

93.4 Reproductions

insert

Rule 93^{bis} Manner of Communication of Documents

93^{bis}.1 Communication on Request; Communication via Digital Library**[42] Schedule 2A, subparagraphs 4.1 (a) (iv) and (v)***substitute*

- (iv) indications concerning the inventor where the national law of at least one of the designated States requires that the name of the inventor be furnished at the time of filing a national application.

[43] Schedule 2A, subparagraphs 4.1 (b) (iii) to (vi)*substitute*

- (iii) a reference to a parent application or a parent patent,
- (iv) an indication of the applicant's choice of competent International Searching Authority.

[44] Schedule 2A, paragraph 4.5 (a)*substitute*

- (a) The request shall indicate:
- (i) the name,
 - (ii) the address, and
 - (iii) the nationality and residence

of the applicant or, if there are several applicants, of each of them.

[45] Schedule 2A, Rule 4.9*substitute***4.9 Designation of States; Kinds of Protection; National and Regional Patents**

- (a) The filing of a request shall constitute:
- (i) the designation of all Contracting States that are bound by the Treaty on the international filing date;
 - (ii) an indication that the international application is, in respect of each designated State to which Article 43 or 44 applies, for the grant of every kind of protection which is available by way of the designation of that State;
 - (iii) an indication that the international application is, in respect of each designated State to which Article 45(1) applies, for the grant of a regional patent and also, unless Article 45(2) applies, a national patent.

(b) Notwithstanding paragraph (a)(i), if, on October 1, 2002, the national law of a Contracting State provides that the filing of an international application which contains the designation of that State and claims the priority of an earlier national application having effect in that State shall have the result that the earlier national application ceases to have effect with the same consequences as the withdrawal of the earlier national application, any request may, for as long as that national law continues to so provide, contain an indication that the designation of that State is not made, provided that the designated Office informs the International Bureau by January 1, 2003, that this paragraph shall apply in respect of designations of that State. The information received shall be promptly published by the International Bureau in the Gazette.

[46] Schedule 2A, Rule 4.11

substitute

4.11 *Reference to Earlier Search, Continuation or Continuation-in-Part, or Parent Application or Grant*

(a) If:

- (i) an international or international-type search has been requested on an application under Article 15(5);
- (ii) the applicant wishes the International Searching Authority to base the international search report wholly or in part on the results of a search, other than an international or international-type search, made by the national Office or intergovernmental organization which is the International Searching Authority competent for the international application;
- (iii) the applicant intends to make an indication under Rule 49^{bis}.1(a) or (b) of the wish that the international application be treated, in any designated State, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition; or
- (iv) the applicant intends to make an indication under Rule 49^{bis}.1(d) of the wish that the international application be treated, in any designated State, as an application for a continuation or a continuation-in-part of an earlier application;

the request shall so indicate and shall, as the case may be, identify the application in respect of which the earlier search was made or otherwise identify the search, or indicate the relevant parent application or parent patent or other parent grant.

(b) The inclusion in the request of an indication under paragraph (a)(iii) or (iv) shall have no effect on the operation of Rule 4.9.

[47] Schedule 2A, Rules 4.12 to 4.14

omit

[48] Schedule 2A, paragraphs 12.3 (e) and 12.4 (e)

omit

50% of the basic fee referred to in item 1 (a) of the Schedule of Fees.

insert

25% of the international filing fee referred to in item 1 of the Schedule of Fees, not taking into account any fee for each sheet of the international application in excess of 30 sheets.

[49] Schedule 2A, Rules 15.1 and 15.2*substitute***15.1 The International Filing Fee**

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau (“international filing fee”) to be collected by the receiving Office.

15.2 Amount

(a) The amount of the international filing fee is as set out in the Schedule of Fees.

(b) The international filing fee shall be payable in the currency or one of the currencies prescribed by the receiving Office (“prescribed currency”), it being understood that, when transferred by the receiving Office to the International Bureau, it shall be freely convertible into Swiss currency. The amount of the international filing fee shall be established, for each receiving Office which prescribes the payment of that fee in any currency other than Swiss currency, by the Director General after consultation with the receiving Office of, or acting under Rule 19.1(b) for, the State whose official currency is the same as the prescribed currency. The amount so established shall be the equivalent, in round figures, of the amount in Swiss currency set out in the Schedule of Fees. It shall be notified by the International Bureau to each receiving Office prescribing payment in that prescribed currency and shall be published in the Gazette.

(c) Where the amount of the international filing fee set out in the Schedule of Fees is changed, the corresponding amount in the prescribed currencies shall be applied from the same date as the amount set out in the amended Schedule of Fees.

(d) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish the new amount in the prescribed currency according to directives given by the Assembly. The newly established amount shall become applicable two months after the date of its publication in the Gazette, provided that the receiving Office referred to in the second sentence of paragraph (b) and the Director General may agree on a date falling during the said two-month period, in which case the said amount shall become applicable from that date.

[50] Schedule 2A, paragraphs 15.4 (a), (b) and (c)*substitute*

The international filing fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

[51] Schedule 2A, Rule 15.5*omit***[52] Schedule 2A, Rule 15.6***omit*

international fee

insert

international filing fee

[53] Schedule 2A, paragraph 16.1 (f)

omit

Rule 15.4 (a) relating to the basic

insert

Rule 15.4 relating to the international filing

[54] Schedule 2A, paragraph 16^{bis}.1 (a)

omit

basic

insert

international filing

[55] Schedule 2A, paragraph 16^{bis}.1 (b)

omit

[56] Schedule 2A, paragraph 16^{bis}.1 (c)

omit

or (b)

[57] Schedule 2A, subparagraph 16^{bis}.1 (c) (i)

omit

[58] Schedule 2A, subparagraphs 16^{bis}.1 (c) (ii) and (iii)

renumber as paragraphs 16^{bis}.1 (c) (i) and (ii)

[59] Schedule 2A, paragraph 16^{bis}.1 (d)

omit

paragraph (a) or (b)

insert

paragraph (a)

[60] Schedule 2A, paragraph 16^{bis}.1 (d)

omit

15.4 (a) or (b)

insert

15.4

[61] Schedule 2A, paragraph 16^{bis}.1 (e)

omit

(a) or (b).

insert

(a).

[62] Schedule 2A, paragraph 16^{bis}.2 (a)

omit

(a) or (b)

insert

(a)

[63] Schedule 2A, paragraph 16^{bis}.2 (b)

substitute

(b) The amount of the late payment fee shall not, however, exceed the amount of 50% of the international filing fee referred to in item 1 of the Schedule of Fees, not taking into account any fee for each sheet of the international application in excess of 30 sheets.

[64] Schedule 2A, paragraph 17.1 (a)

omit

already

insert

that priority document has already been

[65] Schedule 2A, paragraph 17.1 (a)*omit*

paragraph (b),

*insert*paragraphs (b) and (*b^{bis}*),**[66] Schedule 2A, after paragraph 17.1 (b)***insert*

(*b^{bis}*) Where the priority document is, in accordance with the Administrative Instructions, available to the receiving Office or to the International Bureau from a digital library, the applicant may, as the case may be, instead of submitting the priority document:

- (i) request the receiving Office to obtain the priority document from such digital library and transmit it to the International Bureau; or
- (ii) request the International Bureau to obtain the priority document from such digital library.

Such request shall be made not later than 16 months after the priority date and may be subjected by the receiving Office or the International Bureau to the payment of a fee.

[67] Schedule 2A, paragraph 17.1 (c)*omit*

neither of the two preceding paragraphs are complied with, any designated State may

insert

none of the three preceding paragraphs are complied with, any designated Office may, subject to paragraph (*d*),

[68] Schedule 2A, after paragraph 17.1 (c)*insert*

(d) No designated Office shall disregard the priority claim under paragraph (*c*) if the earlier application referred to in paragraph (*a*) was filed with it in its capacity as national Office or if the priority document is, in accordance with the Administrative Instructions, available to it from a digital library.

[69] Schedule 2A, paragraph 17.2 (a)*omit*

Rule 17.1 (a) or (b),

insert

Rule 17.1 (a), (b) or (*b^{bis}*)

[70] Schedule 2A, paragraph 19.4 (c)

omit

(a) to (c)

[71] Schedule 2A, paragraph 24.2 (a)

omit

States designated under Rule 4.9 (a) and, where applicable, of those States whose designations have been confirmed under Rule 4.9 (c).

insert

designated Offices and, in the case of a designated Office which is responsible for granting regional patents, of the Contracting States designated for such regional patent.

[72] Schedule 2A, paragraph 24.2 (b)

omit

[73] Schedule 2A, after Rule 26.2

insert

26.2^{bis} Checking of Requirements Under Article 14(1)(a)(i) and (ii)

(a) For the purposes of Article 14(1)(a)(i), if there is more than one applicant, it shall be sufficient that the request be signed by one of them.

(b) For the purposes of Article 14(1)(a)(ii), if there is more than one applicant, it shall be sufficient that the indications required under Rule 4.5(a)(ii) and (iii) be provided in respect of one of them who is entitled according to Rule 19.1 to file the international application with the receiving Office.

[74] Schedule 2A, paragraph 27.1 (a)

omit

basic fee part of the international fee (Rule 15.1 (i)),

insert

international filing fee (Rule 15.1),

[75] Schedule 2A, paragraph 27.1 (b)*omit*

designation fee part of the international fee (Rule 15.1 (ii))

insert

international filing fee (Rule 15.1)

[76] Schedule 2A, Rule 29, heading*substitute*

Rule 29
International Applications Considered Withdrawn

[77] Schedule 2A, paragraph 29.1 (a)*omit*

(a) If

insert

If

[78] Schedule 2A, paragraph 29.1 (b)*omit***[79] Schedule 2A, Rule 32.1, heading***substitute*

32.1 *Extension of International Application to Successor State*

[80] Schedule 2A, paragraph 32.1 (a)*omit*

may, subject to the performance by the applicant of the acts specified in paragraph (c), be

insert

are

[81] Schedule 2A, paragraph 32.1 (a)*after*

territory of a Contracting State

insert

designated in the international application

[82] Schedule 2A, paragraphs 32.1 (c) and (d)*substitute*

(c) Information on any international application whose filing date falls within the applicable period under paragraph (b) and whose effect is extended to the successor State shall be published by the International Bureau in the Gazette.

[83] Schedule 2A, paragraph 32.2 (a)*omit*

a request for extension is made

insert

the effects of the international application are extended to the successor State

[84] Schedule 2A, subparagraph 32.2 (a) (ii)*omit*

three months from the date of the request for extension.

insert

six months from the date of the publication of the information under Rule 32.1(c).

[85] Schedule 2A, paragraph 32.2 (b) and (c)*substitute*

(b) The successor State may fix a time limit which expires later than that provided in paragraph (a)(ii). The International Bureau shall publish information on such time limits in the Gazette.

[8] Schedule 2A, subparagraph 36.1 (iii)*omit*

translated.

insert

translated;

[87] Schedule 2A, after subparagraph 36.1 (iii)

insert

- (iv) that Office or organization must hold an appointment as an International Preliminary Examining Authority.

[88] Schedule 2A, after Rule 43

insert

Rule 43^{bis}

Written Opinion of the International Searching Authority

43^{bis}.1 Written Opinion

(a) Subject to Rule 69.1(*b^{bis}*), the International Searching Authority shall, at the same time as it establishes the international search report, establish a written opinion as to:

- (i) whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), and to be industrially applicable;
- (ii) whether the international application complies with the requirements of the Treaty and these Regulations in so far as checked by the International Searching Authority.

The written opinion shall also be accompanied by such other observations as these Regulations provide for.

(b) For the purposes of establishing the written opinion, Articles 33(2) to (6), 35(2) and 35(3) and Rules 43.4, 64, 65, 66.1(*e*), 66.7, 67, 70.2(*b*) and (*d*), 70.3, 70.4(ii), 70.5(*a*), 70.6 to 70.10, 70.12, 70.14 and 70.15(*a*) shall apply *mutatis mutandis*.

(c) The written opinion shall contain a notification informing the applicant that, if a demand for international preliminary examination is made, the written opinion shall, under Rule 66.1^{bis}(*a*) but subject to Rule 66.1^{bis}(*b*), be considered to be a written opinion of the International Preliminary Examining Authority for the purposes of Rule 66.2(*a*), in which case the applicant is invited to submit to that Authority, before the expiration of the time limit under Rule 54^{bis}.1(*a*), a written reply together, where appropriate, with amendments.

[89] Schedule 2A, Rule 44, heading

substitute

Rule 44

Transmittal of the International Search Report, Written Opinion, Etc.

[90] Schedule 2A, Rule 44.1*substitute***44.1 Copies of Report or Declaration and Written Opinion**

The International Searching Authority shall, on the same day, transmit one copy of the international search report and the written opinion established under Rule 43^{bis}.1, or of the declaration referred to in Article 17(2)(a), to the International Bureau and one copy to the applicant.

[91] Schedule 2A, after Rule 44*insert*

*Rule 44^{bis}
International Preliminary Report on Patentability by
the International Searching Authority*

44^{bis}.1 Issuance of Report; Transmittal to the Applicant

(a) Unless an international preliminary examination report has been or is to be established, the International Bureau shall issue a report on behalf of the International Searching Authority (in this Rule referred to as “the report”) as to the matters referred to in Rule 43^{bis}.1(a). The report shall have the same contents as the written opinion established under Rule 43^{bis}.1.

(b) The report shall bear the title “international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)” together with an indication that it is issued under this Rule by the International Bureau on behalf of the International Searching Authority.

(c) The International Bureau shall promptly transmit one copy of the report issued under paragraph (a) to the applicant.

44^{bis}.2 Communication to Designated Offices

(a) Where a report has been issued under Rule 44^{bis}.1, the International Bureau shall communicate it to each designated Office in accordance with Rule 93^{bis}.1 but not before the expiration of 30 months from the priority date.

(b) Where the applicant makes an express request to a designated Office under Article 23(2), the International Bureau shall communicate a copy of the written opinion established by the International Searching Authority under Rule 43^{bis}.1 to that Office promptly upon the request of that Office or of the applicant.

44^{bis}.3 Translation for Designated Offices

(a) Any designated State may, where a report has been issued under Rule 44^{bis}.1 in a language other than the official language, or one of the official languages, of its national Office, require a translation of the report into English. Any such requirement shall be notified to the International Bureau, which shall promptly publish it in the Gazette.

(b) If a translation is required under paragraph (a), it shall be prepared by or under the responsibility of the International Bureau.

(c) The International Bureau shall transmit a copy of the translation to any interested designated Office and to the applicant at the same time as it communicates the report to that Office.

(d) In the case referred to in Rule 44^{bis}.2(b), the written opinion established under Rule 43^{bis}.1 shall, upon request of the designated Office concerned, be translated into English by or under the responsibility of the International Bureau. The International Bureau shall transmit a copy of the translation to the designated Office concerned within two months from the date of receipt of the request for translation, and shall at the same time transmit a copy to the applicant.

44^{bis}.4 *Observations on the Translation*

The applicant may make written observations as to the correctness of the translation referred to in Rule 44^{bis}.3(b) or (d) and shall send a copy of the observations to each of the interested designated Offices and to the International Bureau.

Rule 44^{ter}

Confidential Nature of Written Opinion, Report, Translation and Observations

44^{ter}.1 *Confidential Nature*

(a) The International Bureau and the International Searching Authority shall not, unless requested or authorized by the applicant, allow access by any person or authority before the expiration of 30 months from the priority date:

- (i) to the written opinion established under Rule 43^{bis}.1, to any translation thereof prepared under Rule 44^{bis}.3(d) or to any written observations on such translation sent by the applicant under Rule 44^{bis}.4;
- (ii) if a report is issued under Rule 44^{bis}.1, to that report, to any translation of it prepared under Rule 44^{bis}.3(b) or to any written observations on that translation sent by the applicant under Rule 44^{bis}.4.

(b) For the purposes of paragraph (a), the term “access” covers any means by which third parties may acquire cognizance, including individual communication and general publication.

[92] Schedule 2A, paragraphs 47.1 (a) and (a^{bis})

substitute

(a) The communication provided for in Article 20 shall be effected by the International Bureau to each designated Office in accordance with Rule 93^{bis}.1 but, subject to Rule 47.4, not prior to the international publication of the international application.

(a^{bis}) The International Bureau shall notify each designated Office, in accordance with Rule 93^{bis}.1, of the fact and date of receipt of the record copy and of the fact and date of receipt of any priority document.

[93] Schedule 2A, paragraphs 47.1 (b) and (c)*substitute*

(b) Any amendment received by the International Bureau within the time limit under Rule 46.1 which was not included in the communication provided for in Article 20 shall be communicated promptly to the designated Offices by the International Bureau, and the latter shall notify the applicant accordingly.

(c) The International Bureau shall, promptly after the expiration of 28 months from the priority date, send a notice to the applicant indicating:

- (i) the designated Offices which have requested that the communication provided for in Article 20 be effected under Rule 93^{bis}.1 and the date of such communication to those Offices; and
- (ii) the designated Offices which have not requested that the communication provided for in Article 20 be effected under Rule 93^{bis}.1.

(c^{bis}) The notice referred to in paragraph (c) shall be accepted by designated Offices:

- (i) in the case of a designated Office referred to in paragraph (c)(i), as conclusive evidence that the communication provided for in Article 20 was effected on the date specified in the notice;
- (ii) in the case of a designated Office referred to in paragraph (c)(ii), as conclusive evidence that the Contracting State for which that Office acts as designated Office does not require the furnishing, under Article 22, by the applicant of a copy of the international application.

[94] Schedule 2A, paragraph 47.1 (e)*substitute*

(e) Where any designated Office has not, before the expiration of 28 months from the priority date, requested the International Bureau to effect the communication provided for in Article 20 in accordance with Rule 93^{bis}.1, the Contracting State for which that Office acts as designated Office shall be considered to have notified the International Bureau, under Rule 49.1(a^{bis}), that it does not require the furnishing, under Article 22, by the applicant of a copy of the international application.

[95] Schedule 2A, paragraphs 47.2 (a), (b) and (c)*substitute*

The copies required for communication shall be prepared by the International Bureau. Further details concerning the copies required for communication may be provided for in the Administrative Instructions.

[96] Schedule 2A, Rule 47.4*substitute***47.4 Express Request Under Article 23(2) Prior to International Publication**

Where the applicant makes an express request to a designated Office under Article 23(2) prior to the international publication of the international application, the International Bureau shall, upon request of the applicant or the designated Office, promptly effect the communication provided for in Article 20 to that Office.

[97] Schedule 2A, paragraph 48.6 (a)*omit*

Rule 29.1 (a) (ii)

insert

Rule 29.1 (ii)

[98] Schedule 2A, after Rule 49*insert**Rule 49bis**Indications as to Protection Sought for Purposes of National Processing***49^{bis}.1 Choice of Certain Kinds of Protection**

(a) If the applicant wishes the international application to be treated, in a designated State in respect of which Article 43 applies, as an application not for the grant of a patent but for the grant of another kind of protection referred to in that Article, the applicant, when performing the acts referred to in Article 22, shall so indicate to the designated Office.

(b) If the applicant wishes the international application to be treated, in a designated State in respect of which Article 44 applies, as an application for the grant of more than one kind of protection referred to in Article 43, the applicant, when performing the acts referred to in Article 22, shall so indicate to the designated Office and shall indicate, if applicable, which kind of protection is sought primarily and which kind is sought subsidiarily.

(c) In the cases referred to in paragraphs (a) and (b), if the applicant wishes the international application to be treated, in a designated State, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition, the applicant, when performing the acts referred to in Article 22, shall indicate the relevant parent application, parent patent or other parent grant.

(d) If the applicant wishes the international application to be treated, in a designated State, as an application for a continuation or a continuation-in-part of an earlier application, the applicant, when performing the acts referred to in Article 22, shall so indicate to the designated Office and shall indicate the relevant parent application.

(e) Where no express indication under paragraph (a) is made by the applicant when performing the acts referred to in Article 22 but the national fee referred to in Article 22 paid by the applicant corresponds to the national fee for a particular kind of protection, the payment of that fee shall be considered to be an indication of the wish of the applicant that the international application is to be treated as an application for that kind of protection and the designated Office shall inform the applicant accordingly.

49^{bis}.2 Time of Furnishing Indications

(a) No designated Office shall require the applicant to furnish, before performing the acts referred to in Article 22, any indication referred to in Rule 49^{bis}.1 or, where applicable, any indication as to whether the applicant seeks the grant of a national patent or a regional patent.

(b) The applicant may, if so permitted by the national law applicable by the designated Office concerned, furnish such indication or, if applicable, convert from one kind of protection to another, at any later time.

[99] Schedule 2A, Rule 51.1

omit

24.2 (c), 29.1 (a) (ii), or 29.1 (b).

insert

24.2(c) or 29.1(ii).

[100] Schedule 2A, Rule 51^{bis}, heading

substitute

Rule 51^{bis}

Certain National Requirements Allowed Under Article 27

[101] Schedule 2A, subparagraph 51^{bis}.1 (a) (v)

omit

time.

insert

time;

[102] Schedule 2A, after subparagraph 51^{bis}.1 (a) (v)

insert

- (vi) the confirmation of the international application by the signature of any applicant for the designated State who has not signed the request;

- (vii) any missing indication required under Rule 4.5(a)(ii) and (iii) in respect of any applicant for the designated State.

[103] Schedule 2A, paragraph 52.1 (a)

omit

other

insert

later

[104] Schedule 2A, subparagraphs 53.2 (a) (iv) and (v)

substitute

- (iv) where applicable, a statement concerning amendments.

[105] Schedule 2A, Rule 53.4

omit

Only applicants for the elected States are required to be indicated in the demand.

[106] Schedule 2A, paragraphs 53.7 (a) and (b)

substitute

The filing of a demand shall constitute the election of all Contracting States which are designated and are bound by Chapter II of the Treaty.

[107] Schedule 2A, after Rule 54

insert

*Rule 54^{bis}
Time Limit for Making a Demand*

54^{bis}.1 Time Limit for Making a Demand

(a) A demand may be made at any time prior to the expiration of whichever of the following periods expires later:

- (i) three months from the date of transmittal to the applicant of the international search report and the written opinion established under Rule 43^{bis}.1, or of the declaration referred to in Article 17(2)(a); or
- (ii) 22 months from the priority date.

(b) Any demand made after the expiration of the time limit applicable under paragraph (a) shall be considered as if it had not been submitted and the International Preliminary Examining Authority shall so declare.

[108] Schedule 2A, Rule 56

omit

[109] Schedule 2A, Rule 57.3

substitute

57.3 Time Limit for Payment; Amount Payable

(a) Subject to paragraphs (b) and (c), the handling fee shall be paid within one month from the date on which the demand was submitted or 22 months from the priority date, whichever expires later.

(b) Subject to paragraph (c), where the demand was transmitted to the International Preliminary Examining Authority under Rule 59.3, the handling fee shall be paid within one month from the date of receipt by that Authority or 22 months from the priority date, whichever expires later.

(c) Where, in accordance with Rule 69.1(b), the International Preliminary Examining Authority wishes to start the international preliminary examination at the same time as the international search, that Authority shall invite the applicant to pay the handling fee within one month from the date of the invitation.

(d) The amount of the handling fee payable shall be the amount applicable on the date of payment.

[110] Schedule 2A, subparagraph 57.6 (ii)

omit

Rule 54.4,

insert

Rule 54.4 or 54^{bis}.1(b),

[111] Schedule 2A, paragraph 58^{bis}.1 (a)

substitute

(a) Where the International Preliminary Examining Authority finds:

- (i) that the amount paid to it is insufficient to cover the handling fee and the preliminary examination fee; or
- (ii) by the time they are due under Rules 57.3 and 58.1(b), that no fees were paid to it;

the Authority shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 58^{bis}.2, within a time limit of one month from the date of the invitation.

[112] Schedule 2A, subparagraph 59.3 (c) (ii)

omit

15 days from the date of the invitation or 19 months from the priority date,

insert

the time limit applicable under Rule 54^{bis}.1(a) or 15 days from the date of the invitation,

[113] Schedule 2A, Rule 60, heading

substitute

*Rule 60
Certain Defects in the Demand*

[114] Schedule 2A, paragraph 60.1 (a)

omit

If

insert

Subject to paragraphs (*a^{bis}*) and (*a^{ter}*), if

[115] Schedule 2A, paragraph 60.1 (a)

omit

(iv),

insert

(iii),

[116] Schedule 2A, after paragraph 60.1 (a)

insert

(*a^{bis}*) For the purposes of Rule 53.4, if there are two or more applicants, it shall be sufficient that the indications referred to in Rule 4.5(a)(ii) and (iii) be provided in respect of one of them who has the right according to Rule 54.2 to make a demand.

(*a^{ter}*) For the purposes of Rule 53.8, if there are two or more applicants, it shall be sufficient that the demand be signed by one of them.

[117] Schedule 2A, paragraph 60.1 (b)

omit

contained at least one election and

[118] Schedule 2A, paragraph 60.1 (c)*omit*

Subject to paragraph (d), if

insert

If

[119] Schedule 2A, paragraph 60.1 (d)*omit***[120] Schedule 2A, paragraph 60.1 (e)***omit*

(d).

insert

(c).

[121] Schedule 2A, Rule 60.2*omit***[122] Schedule 2A, paragraph 61.1 (b)***omit*

or where an election has been considered under Rule 60.1 (d) as if it had not been made

[123] Schedule 2A, paragraph 61.1 (c)*omit***[124] Schedule 2A, paragraph 61.2 (b)***substitute*

(b) The notification shall indicate the number and filing date of the international application, the name of the applicant, the filing date of the application whose priority is claimed (where priority is claimed) and the date of receipt by the International Preliminary Examining Authority of the demand.

[125] Schedule 2A, paragraph 61.2 (d)*substitute*

(d) Where the applicant makes an express request to an elected Office under Article 40(2) prior to the international publication of the international application, the International Bureau shall, upon request of the applicant or the elected Office, promptly effect the communication provided for in Article 20 to that Office.

[126] Schedule 2A, Rule 61.4*omit*

Where a demand has been filed before the expiration of 19 months from the priority date, the

insert

The

[127] Schedule 2A, Rule 62, heading

substitute

Rule 62

Copy of the Written Opinion by the International Searching Authority and of Amendments Under Article 19 for the International Preliminary Examining Authority

[128] Schedule 2A, Rule 62.1*substitute*

62.1 Copy of Written Opinion by International Searching Authority and of Amendments Made Before the Demand Is Filed

Upon receipt of a demand, or a copy thereof, from the International Preliminary Examining Authority, the International Bureau shall promptly transmit to that Authority:

- (i) a copy of the written opinion established under Rule 43^{bis}.1, unless the national Office or intergovernmental organization that acted as International Searching Authority is also acting as International Preliminary Examining Authority; and
- (ii) a copy of any amendment under Article 19, and any statement referred to in that Article, unless that Authority has indicated that it has already received such a copy.

[129] Schedule 2A, after Rule 62*insert**Rule 62^{bis}**Translation for the International Preliminary Examining Authority
of the Written Opinion of the International Searching Authority**62^{bis}.1 Translation and Observations*

(a) Upon request of the International Preliminary Examining Authority, the written opinion established under Rule 43^{bis}.1 shall, when not in English or in a language accepted by that Authority, be translated into English by or under the responsibility of the International Bureau.

(b) The International Bureau shall transmit a copy of the translation to the International Preliminary Examining Authority within two months from the date of receipt of the request for translation, and shall at the same time transmit a copy to the applicant.

(c) The applicant may make written observations as to the correctness of the translation and shall send a copy of the observations to the International Preliminary Examining Authority and to the International Bureau.

[130] Schedule 2A, subparagraph 63.1 (iii)*omit*

translated.

insert

translated;

[131] Schedule 2A, after subparagraph 63.1 (iii)*insert*

- (iv) that Office or organization must hold an appointment as an International Searching Authority.

[132] Schedule 2A, after Rule 66.1*insert**66.1^{bis} Written Opinion of the International Searching Authority*

(a) Subject to paragraph (b), the written opinion established by the International Searching Authority under Rule 43^{bis}.1 shall be considered to be a written opinion of the International Preliminary Examining Authority for the purposes of Rule 66.2(a).

(b) An International Preliminary Examining Authority may notify the International Bureau that paragraph (a) shall not apply to the procedure before it in respect of written opinions established under Rule 43^{bis}.1 by the International Searching Authority or Authorities specified in the

notification, provided that such a notification shall not apply to cases where the national Office or intergovernmental organization that acted as International Searching Authority is also acting as International Preliminary Examining Authority. The International Bureau shall promptly publish any such notification in the Gazette.

(c) Where the written opinion established by the International Searching Authority under Rule 43^{bis}.1 is not, by virtue of a notification under paragraph (b), considered to be a written opinion of the International Preliminary Examining Authority for the purposes of Rule 66.2(a), the International Preliminary Examining Authority shall notify the applicant accordingly in writing.

(d) A written opinion established by the International Searching Authority under Rule 43^{bis}.1 which is not, by virtue of a notification under paragraph (b), considered to be a written opinion of the International Preliminary Examining Authority for the purposes of Rule 66.2(a) shall nevertheless be taken into account by the International Preliminary Examining Authority in proceeding under Rule 66.2(a).

[133] Schedule 2A, Rule 66.2, heading

substitute

66.2 *Written Opinion of the International Preliminary Examining Authority*

[134] Schedule 2A, paragraph 66.2 (d), last sentence

substitute

It shall, subject to paragraph (e), not be more than three months after the said date.

[135] Schedule 2A, after paragraph 66.2 (d)

insert

(e) The time limit for replying to the notification may be extended if the applicant so requests before its expiration.

[136] Schedule 2A, Rule 66.7, heading

substitute

66.7 *Copy and Translation of Earlier Application Whose Priority is Claimed*

[137] Schedule 2A, paragraph 66.7 (a)

omit

Rule 17.1,

insert

Rule 17.1, and if that earlier application was not filed with that Authority in its capacity as a national Office or the priority document is not available to that Authority from a digital library in accordance with the Administrative Instructions,

[138] Schedule 2A, paragraphs 69.1 (a) and (b)

substitute

(a) Subject to paragraphs (b) to (e), the International Preliminary Examining Authority shall start the international preliminary examination when it is in possession of all of the following:

- (i) the demand;
- (ii) the amount due (in full) for the handling fee and the preliminary examination fee, including, where applicable, the late payment fee under Rule 58^{bis}.2; and
- (iii) either the international search report and the written opinion established under Rule 43^{bis}.1 or a notice of the declaration by the International Searching Authority under Article 17(2)(a) that no international search report will be established;

provided that the International Preliminary Examining Authority shall not start the international preliminary examination before the expiration of the applicable time limit under Rule 54^{bis}.1(a) unless the applicant expressly requests an earlier start.

(b) If the national Office or intergovernmental organization that acts as International Searching Authority also acts as International Preliminary Examining Authority, the international preliminary examination may, if that national Office or intergovernmental organization so wishes and subject to paragraphs (d) and (e), start at the same time as the international search.

(^{bis}) Where, in accordance with paragraph (b), the national Office or intergovernmental organization that acts as both International Searching Authority and International Preliminary Examining Authority wishes to start the international preliminary examination at the same time as the international search and considers that all of the conditions referred to in Article 34(2)(c)(i) to (iii) are fulfilled, that national Office or intergovernmental organization need not, in its capacity as International Searching Authority, establish a written opinion under Rule 43^{bis}.1.

[139] Schedule 2A, paragraph 69.1 (d)

substitute

(d) Where the statement concerning amendments contains an indication that the start of the international preliminary examination is to be postponed (Rule 53.9(b)), the International Preliminary Examining Authority shall not start the international preliminary examination before whichever of the following occurs first:

- (i) it has received a copy of any amendments made under Article 19;
- (ii) it has received a notice from the applicant that he does not wish to make amendments under Article 19; or

- (iii) the expiration of the applicable time limit under Rule 54^{bis}.1(a).

[140] Schedule 2A, Rule 69.2

substitute

69.2 Time Limit for International Preliminary Examination

The time limit for establishing the international preliminary examination report shall be whichever of the following periods expires last:

- (i) 28 months from the priority date; or
- (ii) six months from the time provided under Rule 69.1 for the start of the international preliminary examination; or
- (iii) six months from the date of receipt by the International Preliminary Examining Authority of the translation furnished under Rule 55.2.

[141] Schedule 2A, Rule 70, heading

substitute

Rule 70
International Preliminary Report on Patentability by
the International Preliminary Examining Authority
(International Preliminary Examination Report)

[142] Schedule 2A, Rule 70.15

substitute

70.15 Form; Title

(a) The physical requirements as to the form of the report shall be prescribed by the Administrative Instructions.

(b) The report shall bear the title “international preliminary report on patentability (Chapter II of the Patent Cooperation Treaty)” together with an indication that it is the international preliminary examination report established by the International Preliminary Examining Authority.

[143] Schedule 2A, Rule 70.16

omit

Each

insert

(a) Each

[144] Schedule 2A, Rule 70.16

omit

Amendments

insert

Replacement sheets containing amendments

[145] Schedule 2A, Rule 70.16

insert

(b) Notwithstanding paragraph (a), each superseded or reversed replacement sheet referred to in that paragraph shall also be annexed to the report where the International Preliminary Examining Authority considers that the relevant superseding or reversing amendment goes beyond the disclosure in the international application as filed and the report contains an indication referred to in Rule 70.2(c). In such a case, the superseded or reversed replacement sheet shall be marked as provided by the Administrative Instructions.

[146] Schedule 2A, Rule 72, heading

substitute

Rule 72
Translation of the International Preliminary Examination Report
and of the Written Opinion of the International Searching Authority

[147] Schedule 2A, after Rule 72.2

insert

72.2^{bis} Translation of the Written Opinion of the International Searching Authority Established Under Rule 43^{bis}.1

In the case referred to in Rule 73.2(b)(ii), the written opinion established by the International Searching Authority under Rule 43^{bis}.1 shall, upon request of the elected Office concerned, be translated into English by or under the responsibility of the International Bureau. The International Bureau shall transmit a copy of the translation to the elected Office concerned within two months from the date of receipt of the request for translation, and shall at the same time transmit a copy to the applicant.

[148] Schedule 2A, Rule 72.3*substitute**72.3 Observations on the Translation*

The applicant may make written observations as to the correctness of the translation of the international preliminary examination report or of the written opinion established by the International Searching Authority under Rule 43^{bis}.1 and shall send a copy of the observations to each of the interested elected Offices and to the International Bureau.

[149] Schedule 2A, Rule 73, heading*substitute**Rule 73**Communication of the International Preliminary Examination Report
or the Written Opinion of the International Searching Authority***[150] Schedule 2A, Rule 73.2***substitute**73.2 Communication to Elected Offices*

(a) The International Bureau shall effect the communication provided for in Article 36(3)(a) to each elected Office in accordance with Rule 93^{bis}.1 but not before the expiration of 30 months from the priority date.

(b) Where the applicant makes an express request to an elected Office under Article 40(2), the International Bureau shall, upon the request of that Office or of the applicant,

- (i) if the international preliminary examination report has already been transmitted to the International Bureau under Rule 71.1, promptly effect the communication provided for in Article 36(3)(a) to that Office;
- (ii) if the international preliminary examination report has not been transmitted to the International Bureau under Rule 71.1, promptly communicate a copy of the written opinion established by the International Searching Authority under Rule 43^{bis}.1 to that Office.

(c) Where the applicant has withdrawn the demand or any or all elections, the communication provided for in paragraph (a) shall nevertheless be effected, if the International Bureau has received the international preliminary examination report, to the elected Office or Offices affected by the withdrawal.

[151] Schedule 2A, Rule 76.5, heading*substitute**76.5 Application of Rules 22.1(g), 47.1, 49, 49^{bis} and 51^{bis}*

[152] Schedule 2A, Rule 76.5*omit*

49 and

*insert*47.1, 49, 49^{bis} and**[153] Schedule 2A, subparagraph 76.5 (iv)***omit*

report.

insert

report;

[154] Schedule 2A, after subparagraph 76.5 (iv)*insert*

- (v) the reference in Rule 47.1(a) to Rule 47.4 shall be construed as a reference to Rule 61.2(d).

[155] Schedule 2A, Rule 76.6*omit***[156] Schedule 2A, Rule 78.1, heading***substitute*78.1 *Time Limit***[157] Schedule 2A, paragraph 78.1 (a)***omit*

Where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date, the

insert

The

[158] Schedule 2A, paragraph 78.1 (a)*omit*

other

insert

later

[159] Schedule 2A, paragraph 78.1 (b)*omit*

shall, where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date,

insert

shall

[160] Schedule 2A, Rule 78.2*omit***[161] Schedule 2A, Rule 80.5***substitute***80.5 Expiration on a Non-Working Day or Official Holiday**

If the expiration of any period during which any document or fee must reach a national Office or intergovernmental organization falls on a day:

- (i) on which such Office or organization is not open to the public for the purposes of the transaction of official business;
- (ii) on which ordinary mail is not delivered in the locality in which such Office or organization is situated;
- (iii) which, where such Office or organization is situated in more than one locality, is an official holiday in at least one of the localities in which such Office or organization is situated, and in circumstances where the national law applicable by that Office or organization provides, in respect of national applications, that, in such a case, such period shall expire on a subsequent day; or
- (iv) which, where such Office is the government authority of a Contracting State entrusted with the granting of patents, is an official holiday in part of that Contracting State, and in circumstances where the national law applicable by that Office provides, in respect of national applications, that, in such a case, such period shall expire on a subsequent day;

the period shall expire on the next subsequent day on which none of the said four circumstances exists.

[162] Schedule 2A, Rule 89^{bis}.3

substitute

89^{bis}.3 Communication Between Offices

Where the Treaty, these Regulations or the Administrative Instructions provide for the communication, notification or transmittal (“communication”) of an international application, notification, communication, correspondence or other document by one national Office or intergovernmental organization to another, such communication may, where so agreed by both the sender and the receiver, be effected in electronic form or by electronic means.

[163] Schedule 2A, after paragraph 90.4 (c)

insert

(d) Subject to paragraph (e), any receiving Office, any International Searching Authority, any International Preliminary Examining Authority and the International Bureau may waive the requirement under paragraph (b) that a separate power of attorney be submitted to it, in which case paragraph (c) shall not apply.

(e) Where the agent or the common representative submits any notice of withdrawal referred to in Rules 90^{bis}.1 to 90^{bis}.4, the requirement under paragraph (b) for a separate power of attorney shall not be waived under paragraph (d).

[164] Schedule 2A, after paragraph 90.5 (b)

insert

(c) Any receiving Office, any International Searching Authority and any International Preliminary Examining Authority may waive the requirement under paragraph (a)(ii) that a copy of the general power of attorney is attached to the request, the demand or the separate notice, as the case may be.

(d) Notwithstanding paragraph (c), where the agent submits any notice of withdrawal referred to in Rules 90^{bis}.1 to 90^{bis}.4 to the receiving Office, the International Searching Authority or the International Preliminary Examining Authority, a copy of the general power of attorney shall be submitted to that Office or Authority.

[165] Schedule 2A, paragraph 90^{bis}.5 (a)

substitute

(a) Any notice of withdrawal referred to in Rules 90^{bis}.1 to 90^{bis}.4 shall, subject to paragraph (b), be signed by the applicant or, if there are two or more applicants, by all of them. An applicant who is considered to be the common representative under Rule 90.2(b) shall, subject to paragraph (b), not be entitled to sign such a notice on behalf of the other applicants.

[166] Schedule 2A, subparagraph 90^{bis}.5 (b) (iii)

omit

with, or did not sign the later election concerned but the requirements of Rule 56.1 (c) were complied

[167] Schedule 2A, paragraph 92^{bis}.1 (b)

substitute

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration of 30 months from the priority date.

[168] Schedule 2A, after Rule 93

insert

*Rule 93^{bis}
Manner of Communication of Documents*

93^{bis}.1 Communication on Request; Communication via Digital Library

(a) Where the Treaty, these Regulations or the Administrative Instructions provide for the communication, notification or transmittal (“communication”) of an international application, notification, communication, correspondence or other document (“document”) by the International Bureau to any designated or elected Office, such communication shall be effected only upon request by the Office concerned and at the time specified by that Office. Such request may be made in relation to individually specified documents or a specified class or classes of documents.

(b) A communication under paragraph (a) shall, where so agreed by the International Bureau and the designated or elected Office concerned, be considered to be effected at the time when the International Bureau makes the document available to that Office in electronic form in a digital library, in accordance with the Administrative Instructions, from which that Office is entitled to retrieve that document.

[169] Schedule 2A, paragraph 94.1 (b)

omit

Article 38,

insert

Article 38 and Rule 44^{ter}.1,

[170] Schedule 2A, after paragraph 94.1 (b)*insert*

(c) The International Bureau shall, if so requested by an elected Office, furnish copies of the international preliminary examination report under paragraph (b) on behalf of that Office. The International Bureau shall promptly publish details of any such request in the Gazette.

[171] Schedule 2A, Schedule of Fees*substitute***SCHEDULE OF FEES**

Fees	Amounts
1. International Filing Fee: (Rule 15.2)	1,400 Swiss francs plus 15 Swiss francs for each sheet of the international application in excess of 30 sheets
2. Handling Fee: (Rule 57.2)	200 Swiss francs

Reductions

3. The international filing fee is reduced by the following amount if the international application is, in accordance with and to the extent provided for in the Administrative Instructions, filed:

- | | |
|---|------------------|
| (a) on paper together with a copy thereof in electronic form: | 100 Swiss francs |
| (b) in electronic form where the text of the description, claims and abstract is not in character coded format: | 200 Swiss francs |
| (c) in electronic form where the text of the description, claims and abstract is in character coded format: | 300 Swiss francs |

4. The international filing fee (where applicable, as reduced under item 3) and the handling fee are reduced by 75% if the international application is filed by:

- | |
|--|
| (a) an applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below US\$3,000 (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997); or |
| (b) an applicant, whether a natural person or not, who is a national of and resides in a State that is classed as a least developed country by the United Nations; |

provided that, if there are several applicants, each must satisfy the criteria set out in either sub-item (a) or (b).

[172] Schedule 7, Part 2, item 204*omit*

issued an international preliminary examination report

insert

established an international preliminary examination report under Article 35 of the PCT, other than a report under Rule 44^{bis}.1 of the PCT,

[173] Schedule 7, Part 3, items 302 and 303

omit

\$1 000

insert

\$1 200

[174] Schedule 7, Part 3, item 307

omit

[175] Schedule 7, Part 3, item 308

omit

the amount of the basic fee

insert

50% of the international filing fee, not taking into account any fee for each sheet of the international application in excess of 30 sheets

[176] Schedule 7, Part 3, item 308

renumber as item 307

[177] Schedule 7, Part 4, items 1 to 4*substitute*

Item	Matter	Fee
401	International filing fee: (Rule 15.2 of the PCT)	1 400 Swiss francs plus 15 Swiss francs for each sheet of the international application in excess of 30 sheets
402	Handling fee: (Rule 57.2 of the PCT)	200 Swiss francs

Reductions

- 403 The international filing fee is reduced by 100 Swiss francs if the international application is, in accordance with and to the extent provided for in the Administrative Instructions under the PCT, filed on paper together with a copy in electronic form
- 404 The international filing fee (where applicable, as reduced under item 403) and the handling fee are reduced by 75% if the international application is filed by:
- (a) an applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below US\$3 000 (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997); or
 - (b) an applicant, whether a natural person or not, who is a national of and resides in a State that is classed as a least developed country by the United Nations.
- If there are several applicants, each must satisfy the criteria mentioned in paragraph (a) or (b).

Notes

1. These Regulations amend 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; 1995 Nos. 16, 20, 82 and 427; 1996 No. 271; 1997 Nos. 192 and 345; 1998 Nos. 45, 56, 141, 241, 257, 264, 291, 319, 342 and 345; 1999 Nos. 154, 184, 261 and 349; 2000 No. 317; 2001 Nos. 98, 184 and 345; 2002 Nos. 59, 100, 173, 263 and 317; 2003 Nos. 71 and 213.
2. Notified in the *Commonwealth of Australia Gazette* on 11 December 2003.