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Patent Attorneys Act

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Amended by the following acts

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05.06.2002	RT I 2002, 53, 336	01.07.2002
17.12.2003	RT I 2003, 88, 594	08.01.2004
07.12.2006	RT I 2006, 58, 439	01.01.2007
12.03.2008	RT I 2008, 15, 108	01.11.2008
19.06.2008	RT I 2008, 30, 191	01.07.2008
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced under subsection 107 ³ (4) of the Government of the Republic Act.
09.12.2015	RT I, 30.12.2015, 1	18.01.2016

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

This Act provides the legal bases for the activities of patent attorneys.

§ 2. Patent attorney

(1) A patent attorney is a person who provides legal services in the field of industrial property (hereinafter legal services).

(2) A person who has been awarded, on the bases and pursuant to the procedure provided for in this Act, the qualification of a patent attorney to operate in one or both areas of professional activities of patent attorneys may operate as a patent attorney. A person who has acquired the qualification of a patent attorney abroad may also operate as a patent attorney if his or her professional qualification has been recognised in accordance with

the Recognition of Foreign Professional Qualifications Act. The Ministry of Justice is the competent authority provided in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act.
[RT I 30.12.2015, 1 – entry into force 18.01.2016]

- (3) Areas of professional activities of patent attorneys are:
- 1) inventions and layout designs of integrated circuits;
 - 2) trade marks, industrial designs and geographical indications.

(4) In the cases prescribed by law, legal services may be provided to a person only by a patent attorney.

§ 3. Validity of authorisation

(1) If it is prescribed by law that a patent attorney may submit the authorisation document after the performance of an act, the date of performing the act shall be deemed to be the date of granting authorisation, regardless of the date of signing the authorisation document.

(2) Authorisation terminates:

- 1) if a patent attorney declines to represent a person in the cases specified in subsection 5 (4) of this Act;
- 2) if registration data on a patent attorney are deleted from the state register of patent attorneys (hereinafter the register);
- 3) if the professional activities of a patent attorney are suspended;
- 4) in other cases prescribed by law.

(3) In the cases specified in subsection (2) of this section, a patent attorney shall immediately inform the person who authorised the patent attorney about the event.

(4) If a patent attorney dies or is placed under guardianship due to restricted active legal capacity, the successor or guardian of the patent attorney as well as the company of the patent attorney shall immediately inform thereof the minister responsible for the area or an official authorised by him or her.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

Chapter 2

PROFESSIONAL ACTIVITIES OF PATENT ATTORNEYS AND SUPERVISION OF PROFESSIONAL ACTIVITIES OF PATENT ATTORNEYS

§ 4. Competence of patent attorneys

In his or her area of professional activities, a patent attorney is competent to:

- 1) provide legal services;
- 2) represent a person in state authorities, in court and in other cases;
- 3) collect evidence;
- 4) in the provision of legal services to persons, freely choose and use the means and methods prescribed by law;
- 5) authenticate translations and copies of documents concerning industrial property which are to be submitted to authorities.

§ 5. Duties of patent attorneys

(1) A patent attorney is required to:

- 1) use all means and methods prescribed by law in the interests of the person who authorised him or her while preserving his or her professional integrity and dignity;
- 2) inform the person who authorised him or her of acts related to the provision of legal services;
- 3) maintain a list of acts related to the provision of legal services.

(2) When a patent attorney provides legal services to a person, the patent attorney does not acquire the rights of the person.

(3) A patent attorney shall not provide legal services to a person whose interests are in conflict with the interests of another person to whom the patent attorney provides or has provided legal services in the same matter, and in other cases prescribed by law.

(4) A patent attorney may decline to provide legal services to a person on the initiative of the patent attorney if the person:

- 1) has requested something for performance whereof the patent attorney should violate a law or the requirements of professional ethics;
- 2) repeatedly fails to pay for the legal services on time;
- 3) renders, by his or her action, the provision of legal services to the person impossible;
- 4) abuses the name or profession of the patent attorney.

§ 6. Guarantees of professional activities of patent attorneys

(1) In the provision of legal services, a patent attorney shall be independent and shall act pursuant to law, the requirements for professional ethics, good morals and conscience.

(2) Information disclosed to a patent attorney shall be confidential. Patent attorneys and the employees of a company of patent attorneys shall not be heard as witnesses with regard to information which became known to them in the provision of legal services nor shall explanations be requested from them with regard to such information.

(3) Data media received in the course of provision of legal services shall not be confiscated from patent attorneys or the employees of a company of patent attorneys, or from a company of patent attorneys.

§ 7. Professional secrecy obligation

(1) A patent attorney is required to maintain the confidentiality of business secrets that have become known to him or her in the provision of legal services. Such obligation shall not be limited in time and it shall also apply after the discontinuation of the professional activities of the patent attorney.

(2) The obligation specified in subsection (1) of this section shall extend to the employees of a company of patent attorneys and to public servants to whom a patent attorney's professional secret has become known in connection with the performance of their official duties.

(3) A person or his or her legal successor may, by his or her written consent, exempt a patent attorney from the professional secrecy obligation.

(4) The professional secrecy obligation shall not extend to the collection of costs for legal services provided by a patent attorney.

(5) Disclosure of information to an official exercising state supervision of the professional activities of a patent attorney shall not be deemed to be a violation of the professional secrecy obligation.

§ 8. Forms of professional activities of patent attorney

(1) A patent attorney may operate as a sole proprietor, through a company of patent attorneys or, while having the qualification of a patent attorney, on the basis of an employment contract entered into with another person.

(2) Data on a patent attorney operating as a sole proprietor shall be entered in the commercial register.

(3) A patent attorney operating as a sole proprietor or a company of patent attorneys shall inform the register about the contact details of the patent attorney and the company of patent attorneys. Information concerning patent attorneys operating through a company of patent attorneys shall be forwarded to the register by the company. A person who has the qualification of a patent attorney and operates on the basis of an employment contract entered into with another person shall submit his or her contact details and the contact details of his or her employer to the register.

§ 9. Company of patent attorneys

(1) A company of patent attorneys shall not provide any services except legal services.

(2) A company of patent attorneys may merge only with another company of patent attorneys.

(3) The partnership agreement of a company of patent attorneys operating as a general partnership or limited partnership shall be entered into in writing and it shall be appended to the petition for entry of the company in the commercial register.

(4) The business name of a company of patent attorneys or a patent attorney operating as a sole proprietor shall contain the words "patent bureau" or "patent attorney".

§ 10. Proprietary liability

(1) In the provision of legal services, a patent attorney shall be liable for wrongfully caused proprietary damage.

(2) If a patent attorney provides legal services through a company of patent attorneys, the patent attorney and the company shall be solidarily liable for the damage specified in subsection (1) of this section.

§ 11. Professional liability insurance of patent attorneys

(1) In order to ensure compensation for damage specified in § 10 of this Act, a patent attorney or a company of patent attorneys is required to enter into a contract insuring the liability of the patent attorney.

(2) The minimum amount of insurance coverage shall not be less than 63 910 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) An insurer has the right of recourse against a patent attorney operating as a sole proprietor and against a company of patent attorneys or a patent attorney if an indemnity is paid to compensate for damage caused by an intentional act of the patent attorney.

§ 12. Publication of information regarding patent attorneys

Information regarding the names, areas of professional activities and contact details of all patent attorneys and companies of patent attorneys shall be published by the Patent Office in the official gazette and on the website of the Patent Office.

[RT I 2008, 15, 108 – entry into force 01.11.2008]

§ 13. State supervision

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

State supervision of the professional activities of patent attorneys shall be exercised by the minister responsible for the area or an official authorised by him or her.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 13¹. Special state supervision measures

A law enforcement agency may apply special state supervision measures provided for in §§ 30 and 31 of the Law Enforcement Act on the bases and according to the procedure provided for in the Law Enforcement Act for the purpose of exercising the state supervision provided for in this Act.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 13². Specifications of state supervision

The minister responsible for the area or an official authorised by him or her may:

1) issue a warning to a patent attorney and request that the patent attorney eliminate deficiencies occurring in his or her professional activities within the term set by the minister responsible for the area or the official authorised by him or her;

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

2) suspend the professional activities of a patent attorney in the cases provided for in § 19 of this Act;

3) make a decision to deprive a patent attorney of the qualification of a patent attorney in the cases provided for in § 20 of this Act.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

Chapter 3

AWARD OF QUALIFICATION OF PATENT ATTORNEY

§ 14. Conditions for award of qualification of patent attorney

(1) A person may be awarded the qualification of a patent attorney if the person:

1) has active legal capacity;

2) is a citizen of Estonia or of a Member State of the European Union and his or her permanent place of residence is in Estonia;

3) has completed higher education;

4) has oral and written proficiency in Estonian;

5) has, prior to applying for the qualification of a patent attorney, worked for a patent attorney or for a company of patent attorneys in the area in which he or she is applying for the qualification at least for the last four years;

6) is proficient in two foreign languages to the extent necessary for the professional activities of a patent attorney and at least one of the foreign languages shall be an official language of the European Patent Office;

7) has not been punished pursuant to criminal procedure for an intentionally committed criminal offence.

(2) The period of time of working for the Patent Office in the relevant area, but not more than two years, shall be included in the period of time of working for a patent attorney or for a company of patent attorneys.

§ 15. Patent attorneys professional qualifications committee

(1) In order to award the qualification of a patent attorney, the minister responsible for the area shall form a patent attorneys professional qualifications committee (hereinafter committee) consisting of at least six members, approve the membership thereof and appoint the chairman of the committee.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(2) Two employees of the Patent Office and two patent attorneys shall be appointed as members of the committee.

(3) The committee has a quorum if the chairman of the committee or, in the absence of the chairman, the member of the committee appointed by the chairman of the committee to substitute for him or her and at least four members of the committee participate in the making of a decision.

(4) Decisions of the committee shall be made by a simple majority vote. If votes are equally divided, the chairman of the committee or the member of the committee substituting for the chairman shall have the decisive vote.

(5) The statutes of the committee shall be established by the minister responsible for the area.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(6) The activities of the committee shall be financed from the state budget through the budget of the Ministry of Justice.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

§ 16. Application for qualification of patent attorney

(1) An applicant for the qualification of a patent attorney shall submit the following to the committee:

- 1) an application in writing;
- 2) documents certifying conformity with the requirements provided for in clauses 14 (1) 2), 3) and 5) of this Act;
- 3) a report on acts relating to industrial property performed by the applicant while working for a patent attorney (hereinafter the report);
- 4) a document certifying the payment of a state fee.

(2) An application for the qualification of a patent attorney shall contain at least the following information:

- 1) one of the areas of activity specified in subsection 2 (3) of this Act in which the qualification to operate is applied for;
- 2) confirmation from the applicant for the qualification that he or she meets the requirements provided for in clauses 14 (1) 1), 4), 6) and 7) of this Act.

(3) If an application for the qualification of a patent attorney or the report does not comply with the requirements provided for in this section, the committee shall make a decision to refuse to accept the application for the qualification of a patent attorney for processing and send the decision to the applicant for the qualification within five working days after the date of making the decision.

§ 17. Professional examination for patent attorneys

(1) The professional examination for patent attorneys (hereinafter examination) is the verification of the knowledge of the applicant for the qualification of a patent attorney in the area of professional activities in which he or she is applying for the qualification.

(2) Examinations shall be conducted as needed but not less frequently than once a year.

(3) The committee shall determine the time and place of an examination.

(4) The examination is a written examination. The examination consists of the verification of the theoretical knowledge of the examinee and case analyses in the field of industrial property.

(5) Examination results shall be evaluated on a ten-point scale.

(6) The grade for an examination shall be the average of the grades given by the members of the committee, rounded to a whole number. A grade below five is deemed to be non-satisfactory.

(7) If an examinee receives a non-satisfactory grade, the applicant for the qualification of a patent attorney is deemed to have failed the examination.

(8) If an applicant for the qualification of a patent attorney fails an examination, he or she may take the examination again after three months.

(9) An applicant for the qualification of a patent attorney may take an examination for a third time or more after three years have passed since the last examination.

§ 18. Decision

(1) The committee shall make a decision to award an applicant the qualification of a patent attorney if the applicant for the qualification of a patent attorney:

- 1) meets the requirements provided for in clauses 14 (1) 2), 3) and 5) of this Act;
- 2) has confirmed his or her compliance with the requirements provided for in clauses 14 (1) 1), 4), 6) and 7) of this Act;
- 3) has passed the examination.

(2) The committee shall make a decision to refuse to award an applicant the qualification of a patent attorney if the applicant for the qualification of a patent attorney does not meet the requirements provided for in subsection 14 (1) of this Act or fails the examination.

(3) A decision to award a person the qualification of a patent attorney shall enter into force upon the registration of the decision to award the qualification of a patent attorney in the register.

(4) A decision to refuse to award a person the qualification of a patent attorney shall enter into force as of the date of making the decision.

(5) A copy of a decision to award an applicant the qualification of a patent attorney shall be sent to the applicant for the qualification of a patent attorney and to the register within three working days after the date of making the decision to award the qualification of a patent attorney.

(6) A copy of a decision to refuse to award an applicant the qualification of a patent attorney shall be sent to the applicant for the qualification of a patent attorney within three working days after the date of entry into force of the decision to refuse to award the qualification of a patent attorney.

(7) A state fee paid for applying for the qualification of a patent attorney is not refunded.

§ 19. Suspension and resumption of professional activities of patent attorneys

(1) The professional activities of a patent attorney shall be suspended if:

- 1) the patent attorney is unable to perform the duties of a patent attorney for health or other reasons for more than six consecutive months;
- 2) the patent attorney is bankrupt;
- 3) the company of patent attorneys through which the patent attorney provides legal services is bankrupt;
- 4) the patent attorney has filed a request for suspension with the register.

(2) In the cases specified in clauses (1) 2)-4) of this section, the patent attorney shall submit an application for the suspension of the professional activities of the patent attorney and a document certifying the grounds for the suspension to the minister responsible for the area or an official authorised by him or her within five working days after the date on which the grounds for the suspension of the professional activities arise. The patent attorney shall notify persons to whom he or she provides legal services of the application for the suspension of the professional activities of the patent attorney within five working days after the date on which the grounds for the suspension of the professional activities arise.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(3) A decision to suspend the professional activities of a patent attorney shall be made by the minister responsible for the area or an official authorised by him or her within five working days after the date of submission of the application for the suspension of the professional activities of the patent attorney or within ten working days after the date on which the grounds for the suspension of the professional activities arise.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(4) A copy of a decision to suspend the professional activities of a patent attorney shall be sent to the patent attorney and to the register within three working days after the date of making the decision to suspend the professional activities of the patent attorney.

(5) In order to resume the professional activities of a patent attorney, the patent attorney shall submit, to the minister responsible for the area or an official authorised by him or her, an application and documents certifying that the grounds for the suspension of professional activities have ceased to exist.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(6) On the basis of the application, the minister responsible for the area or an official authorised by him or her shall make a decision to permit or refuse resumption of the professional activities of a patent attorney.

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(7) If the qualification of a patent attorney has been suspended for longer than five years, the qualification of the patent attorney shall be restored after passing the examination specified in § 17 of this Act.
[RT I 2003, 88, 594 – entry into force 08.01.2004]

§ 20. Deprivation of qualification of patent attorney

(1) A patent attorney shall be deprived of his or her qualification as a patent attorney if the patent attorney:

- 1) has violated the law in the professional activities of the patent attorney;
- 2) repeatedly fails to perform the duties provided for in subsection 5 (1) of this Act;
- 3) does not conform to the requirements provided for in subsection 14 (1) of this Act;
- 4) files an application to waive the qualification of a patent attorney.

(2) The minister responsible for the area or an official authorised by him or her shall make a decision to deprive a patent attorney of the qualification of a patent attorney within ten working days after the date of becoming aware of the grounds for the deprivation of the qualification of the patent attorney.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(3) A decision to deprive a patent attorney of the qualification of a patent attorney shall enter into force upon the registration of the decision to deprive the patent attorney of the qualification of a patent attorney in the register.

(4) A copy of a decision to deprive a patent attorney of the qualification of a patent attorney shall be sent to the patent attorney and to the register within three working days after the date of making the decision to deprive the patent attorney of the qualification of a patent attorney.
[RT I 2003, 88, 594 – entry into force 08.01.2004]

Chapter 4 STATE REGISTER OF PATENT ATTORNEYS

§ 21. Establishment of register

(1) The register shall be established by the Government of the Republic.

(2) The statutes of the register shall be established by the Government of the Republic.

§ 22. Maintenance of register

(1) The chief processor of the register is the Patent Office.

(2) Registry entries are:

- 1) entries of registration data,
- 2) entries to amend registration data, and
- 3) entries to delete registration.

(3) A register entry is made on the basis of a decision of the committee, the minister responsible for the area or an official authorised by him or her or the decision of a court within five working days after the date of receipt of the documents which are the basis of the register entry at the register.
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(4) A register entry becomes valid on the date on which it is made.

(5) Notices of registry entries are published in the official gazette of the Patent Office.
[RT I 2003, 88, 594 – entry into force 08.01.2004]

§ 23. Access to and release of data from register

(1) The register is public. Everyone has the right to examine registry entries and to obtain copies thereof.

(2) A state fee shall be paid for the release of written information from the register except for the release of information to an official with supervisory rights or a court.

§ 24. Registration data

Registration data are:

- 1) the registration number of a patent attorney;
- 2) the name, personal identification code and contact details of the patent attorney;

- 3) information concerning the education of the patent attorney;
- 4) the area of professional activities of the patent attorney;
- 5) foreign languages in which the patent attorney is proficient to the extent necessary for his or her professional activities;
- 6) the date of making the decision to award the person the qualification of a patent attorney;
- 7) registry card information from the commercial register, address of the place of business and other contact details of the patent attorney or the company of patent attorneys through which the patent attorney operates;
- 8) information concerning decisions to suspend the professional activities of the patent attorney, to permit the resumption of the professional activities of the patent attorney, to refuse the resumption of the professional activities of the patent attorney and to deprive the patent attorney of the qualification of a patent attorney.

Chapter 5

FINAL PROVISIONS

§ 25. Application of Act to patent attorneys entered in register prior to entry into force of this Act

Patent attorneys entered in the state register of patent attorneys of the Republic of Estonia shall be re-registered in the register established on the basis of this Act in the same areas of activity in which they had the right to operate prior to entry into force of this Act.

§ 26. State fees

State fees are charged for the performance of acts prescribed in this Act according to the rates provided for in the State Fees Act.

[RT I 2006, 58, 439 – entry into force 01.01.2007]

§ 27.–§ 33.[Omitted from this text.]

§ 34. Entry into force of Act

This Act enters into force one month after the date of its publication in the *Riigi Teataja*.