

ENFORCEMENT DECREE OF THE PATENT ATTORNEY ACT

Wholly Amended by Presidential Decree No.16867, Jun. 27, 2000
Amended by Presidential Decree No.17551, Mar. 25, 2002
Presidential Decree No.18312, Mar. 17, 2004
Presidential Decree No.18387, 2004
Presidential Decree No.18903, Jun. 30, 2005
Presidential Decree No.19170, Dec. 9, 2005
Presidential Decree No.19495, 2006
Presidential Decree No.19513, Jun. 12, 2006
Presidential Decree No.20437, Dec. 7, 2007
Presidential Decree No.20729, Feb. 29, 2008
Presidential Decree No.21604, Jul. 7, 2009
Presidential Decree No.22151, 2010
Presidential Decree No.22467, Nov. 2, 2010

Article 1 (Purpose)

The purpose of this Decree is to provide for matters delegated by the [Patent Attorney Act](#) and other matters necessary for the enforcement thereof. <Amended by Presidential Decree No. 19170, Dec. 9, 2005>

Article 2 (Holding and Publication of Patent Attorney Examination)

(1) The patent attorney examination (hereinafter referred to as "examination") prescribed in [Article 4-2 of the Patent Attorney Act](#) (hereinafter referred to as the "Act") shall be held once a year. <Amended by Presidential Decree No. 19170, Dec. 9, 2005>

(2) The Commissioner of the Korean Intellectual Property Office shall publicly announce the following matters no later than two months prior to the examination: <Amended by Presidential Decree No. 17551, Mar. 25, 2002; Presidential Decree No. 19170, Dec. 9, 2005>

1. Method and date of examination;
2. Subjects of examination;
3. Date and method of the publication of successful test-takers;
4. Place at which an application form is to be issued and submitted, and period for such issue and submission;

4-2. Minimum number of successful test-takers of the secondary examination (excluding successful test-takers exempt from part of subjects of the secondary examination under [Article 4-3 \(2\) of the Act](#); hereinafter the same shall apply);

5. Other matters necessary for holding the examination.

Article 3 (Subjects and Methods of Examination)

(1) The subjects of the preliminary examination and secondary examination are as shown

in attached Table 1, and the English subject in the preliminary examination shall be substituted by the test of English proficiency provided for in attached Table 2. <Amended by Presidential Decree No. 18387, May 10, 2004; Presidential Decree No. 19170, Dec. 9, 2005>

(2) The preliminary examination shall be a written, multiple-choice test and the secondary examination shall be an essay.

(3) Any person who flunks the preliminary examination shall be prohibited from applying for the secondary examination: *Provided*, That the same shall not apply to any person who is exempted from the preliminary examination.

Article 3-2 (Basic Date for Career Calculation)

In applying the provisions of [Article 4-3 \(1\) and \(2\) of the Act](#), the basic date for the calculation of the career thereof shall be the date of the relevant secondary examination (where the examination is held for several days, the first date).

[This Article Newly Inserted by Presidential Decree No. 19170, Dec. 9, 2005]

Article 4 (Standards for Success or Failure of Examination)

(1) In the preliminary examination, the successful test-takers shall be determined in the order of precedence of higher ranking in the total points of all subjects, by taking account of the results of examination and the number of test-takers, from among the persons who have gained the standard points or more in any test of English proficiency set in attached Table 2 and not less than 40 points in each subject as well as an average of not less than 60 points in all subjects, excluding English subject, by making 100 points as a perfect score for each subject. <Amended by Presidential Decree No. 18387, May 10, 2004; Presidential Decree No. 19170, Dec. 9, 2005>

(2) In the secondary examination, the persons who have gained not less than 40 points in each subject and an average of not less than 60 points in all subjects shall be determined as the successful test-takers, by making 100 points as a perfect score for each subject: *Provided*, That where persons who have gained an average of not less than 60 points in all subjects fall short of the minimum number of successful test-takers under [Article 2 \(2\) 4-2](#), the successful test-takers shall be determined in the order of precedence of higher ranking in the average points of all subjects, from among persons who have gained not less than 40 points in each subject.

(3) With respect to the persons who are exempt from some of the subjects of the secondary examination under [Article 4-3 \(2\) of the Act](#), anyone who has gained an average score of the subjects he/she has gone through which is not lower than the successful points of the successful test-takers in the final order under paragraph (2) from among those who have gained not less than 40 points in each subject by making 100 points as a perfect score for each subject shall be determined as a successful test-taker. <Newly Inserted by Presidential Decree No. 19170, Dec. 9, 2005>

(4) In determining successful test-takers pursuant to the proviso to paragraph (2), if the minimum number of successful test-takers is in excess due to the same point gainers, all of the said same point gainers shall be determined as the successful test-takers. In such cases, the points of the same point gainers shall be calculated down to two decimal places (digits following the said decimal places shall be truncated). <Amended by Presidential Decree No. 19170, Dec. 9, 2005>

[This Article Wholly Amended by Presidential Decree No. 17551, Mar. 25, 2002]

Article 5 (Application Fees, etc.)

(1) Any person who intends to apply for examination shall pay an application fee determined by Ordinance of the Ministry of Knowledge Economy. *<Amended by Presidential Decree No. 20729, Feb. 29, 2008>*

(2) No application fee paid pursuant to paragraph (1) shall be refunded, even if an applicant fails to take the examination.

(3) Once an application for examination is filed, matters entered in the application form, such as optional subjects and the contents of application for exemption from examination, shall not be altered. *<Newly Inserted by Presidential Decree No. 19170, Dec. 9, 2005>*

Article 6 (Publication of Successful Test-Takers and Notice)

The Commissioner of the Korean Intellectual Property Office shall, when successful test-takers are determined, promptly publish them in the Official Gazette or in the Patent Gazette and serve notices thereof on such successful test-takers.

Article 7 (Notice of Punitive Measure of Cheaters)

Where a punitive measure is to be taken under [Article 4-5 of the Act](#) against anyone who cheated in an examination, the Commissioner of the Korean Intellectual Property Office shall immediately notify a cheater subject to such measure thereof.

[This Article Wholly Amended by Presidential Decree No. 20437, Dec 7, 2007]

Article 8 (Organization of Patent Attorney Qualification Examination Committee)

(1) The Patent Attorney Qualification Examination Committee (hereinafter referred to as the "Examination Committee") pursuant to [Article 4-4 of the Act](#) shall be comprised of not less than 11 members to not more than 15 members including one chairman. *<Amended by Presidential Decree No. 20437, Dec 7, 2007>*

(2) The Commissioner of the Korean Intellectual Property Office shall concurrently serve as the chairman of the Examination Committee.

(3) The members of the Examination Committee shall be those falling under the following subparagraphs. In such cases, the number of members falling under subparagraph 2 shall make up a majority of the total number of the members: *<Amended by Presidential Decree No. 19170, Dec. 9, 2005; Presidential Decree No. 19513, Jun. 12, 2006; Presidential Decree No. 20437, Dec 7, 2007>*

1. Persons appointed by the Commissioner of the Korean Intellectual Property Office from among the public officials of Grade III at the Korean Intellectual Property Office, or the public officials in general service belonging to the Senior Civil Service;

2. Persons commissioned by the Commissioner of the Korean Intellectual Property Office

from among those falling under any of the following items:

- (a) Patent attorneys;
- (b) Persons who serve as associate professors or higher in schools as prescribed in [Article 2 of the Higher Education Act](#);
- (c) Representatives of citizens or consumers who are recommended by non-governmental organizations (referring to non-profit, nongovernmental organizations as prescribed in Article 2 of the Assistance for Non-profit, Non-Governmental Organizations Act);
- (d) Persons of profound learning and experience in the industrial property right system.

(4) The terms of office of the members falling under paragraph (3) 2 shall be two years and they may be reappointed or recommissioned only once.

(5) The Examination Committee shall have one secretary assigned to deal with the affairs of the Examination Committee and the secretary shall be appointed by the chairman of the Examination Committee from among public officials working for the Korean Intellectual Property Office.

Article 9 (Meetings of Examination Committee)

(1) The Examination Committee shall resolve with the attendance of a majority of its registered members and with a concurrent vote of a majority of those present.

(2) The chairman shall determine necessary matters concerning the operation of the Examination Committee, etc. after undergoing a resolution by the Examination Committee, except as otherwise provided for in this Decree.

Article 10 (Registration)

(1) Any person who intends to register as a patent attorney in accordance with [Article 5 \(1\) of the Act](#) shall file an application for such registration with the Commissioner of the Korean Intellectual Property Office, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Presidential Decree No. 20729, Feb. 29, 2008>*

(2) The Commissioner of the Korean Intellectual Property Office shall, when he/she registers any patent attorney, enter the details of registration in the patent attorney registry and issue a registration certificate, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Presidential Decree No. 20729, Feb. 29, 2008>*

(3) Any patent attorney shall, when matters registered under paragraph (1) are altered, promptly notify the Commissioner of the Korean Intellectual Property Office thereof.

Article 11 (Publication)

The Commissioner of the Korean Intellectual Property Office shall, where any patent attorney is registered or the registration of any patent attorney is cancelled, publish thereof.

Article 12 (In-Service Training)

(1) The period of in-service training under [Article 5 \(2\) of the Act](#) shall be one year.

(2) Details of the in-service training and matters necessary for such in-service training shall be determined by Ordinance of the Ministry of Knowledge Economy. <Amended by Presidential Decree No. 20729, Feb. 29, 2008>

Article 13 (Opening of Office)

Any person as prescribed in [Article 3 \(1\) 2 of the Act](#) shall, where he/she opens a patent attorney office in accordance with [Article 6-2 \(1\) of the Act](#), make his/her office the same as the office in which legal services are rendered in accordance with the [Attorney-at-Law Act](#). <Amended by Presidential Decree No. 19170, Dec. 9, 2005>

Article 14 (Title, etc. of Corporation)

(1) The title of a corporation prescribed in [Article 6-3 \(1\) of the Act](#) shall be made a patent corporation (hereinafter referred to as "corporation").

(2) Any person who intends to obtain authorization for incorporation in accordance with [Article 6-3 \(2\) of the Act](#) shall file an application for authorization of incorporation, accompanied by the articles of incorporation, with the Commissioner of the Korean Intellectual Property Office. <Amended by Presidential Decree No. 21604, Jul. 1, 2009>

(3) When the Commissioner of the Korean Intellectual Property receives an application for authorization of incorporation under paragraph (2), he/she shall verify whether partners-to-be patent attorneys are registered through the patent attorney registry and may require the applicant to submit a copy of a registration certificate of patent attorney, if such verification is difficult. <Newly Inserted by Presidential Decree No. 21604, Jul. 1, 2009>

(4) When the Commissioner of the Korean Intellectual Property Office grants authorization for incorporation, he/she shall enter such authorization in the corporation authorization registry and issue a written authorization for incorporation to the applicant, as prescribed by Ordinance of the Ministry of Knowledge Economy. <Amended by Presidential Decree No. 20729, Feb. 29, 2008; Presidential Decree No. 21604, Jul. 1, 2009>

Article 15 (Application for Modifying Articles of Incorporation)

(1) Any person who intends to obtain authorization for modifying the articles of incorporation in accordance with the latter part of [Article 6-3 \(2\) of the Act](#) shall file an application for such authorization, accompanied with each of the following documents, with the Commissioner of the Korean Intellectual Property Office: <Amended by Presidential Decree No. 21604, Jul. 1, 2009>

1. Documents stating modifications in the articles of incorporation and reasons therefor;
2. Draft articles of incorporation.

(2) When the Commissioner of the Korean Intellectual Property Office grants authorization for modifying the articles of incorporation, he/she shall enter such modification in the corporation

authorization registry.

Article 16 (Registration of Corporation)

(1) Any corporation shall register its incorporation in the place in which its principal office is located within three weeks from the date of authorization for its incorporation.

(2) An application, accompanied with the following documents, shall be filed for the registration under paragraph (1):

1. The articles of incorporation;
2. Authorization granted for the incorporation of the corporation.

(3) When any corporation registers its incorporation under paragraph (1), it shall notify the Commissioner of the Korean Intellectual Property Office of such fact. In such cases, the Commissioner of the Korean Intellectual Property Office shall verify the certified transcript of registration of such corporation through the joint use of administrative information under [Article 36 \(1\) of the Electronic Government Act](#). <Amended by Presidential Decree No. 22467, Nov. 2, 2010>

Article 17 (Organization, etc. of Korea Patent Attorneys Association)

(1) The Korea Patent Attorneys Association (hereinafter referred to as the "Patent Attorneys Association") shall have a general assembly and a board of directors.

(2) Matters of the following subparagraphs shall pass through a resolution of the general assembly:

1. Amendment to the Association rules;
2. Budgets and settlement of accounts; and
3. Other matters deemed necessary by the board of directors or the chairman.

(3) The board of directors shall decide upon important matters regarding the Association affairs.

[This Article Wholly Amended by Presidential Decree No. 19495, May 30, 2006]

Article 17-2 (Officers)

(1) The Patent Attorneys Association shall have the officers falling under each of the following subparagraphs:

1. One chairman;
2. Not more than seven vice-chairmen;
3. Not more than fourteen directors; and

4. Two auditors.

(2) One of the vice-chairmen from among the officers under paragraph (1) may hold a full-time position.

[This Article Newly Inserted by Presidential Decree No. 19495, May 30, 2006]

Article 17-3 (Matters Entered into Association Rules)

The rules of the Patent Attorneys Association under [Article 10 \(1\) of the Act](#) shall include the matters falling under each of the following subparagraphs:

1. Title and the seat of office;
2. Matters related to the composition, authority, and meetings of the general assembly, the board of directors, and other institutions;
3. Matters related to the establishment of a branch or subbranch of the Association;
4. Matters related to membership fees;
5. Matters related to assets and accounting;
6. Matters related to guidance, supervision, and training of members; and
7. Matters related to recommendation of disciplinary action against a member falling under a cause for discipline under [Article 16 \(1\) of the Act](#).

[This Article Newly Inserted by Presidential Decree No. 19495, May 30, 2006]

Article 18 (Patent Attorneys Disciplinary Committee)

(1) Meetings of the Patent Attorneys Disciplinary Committee pursuant to the provisions of [Article 16 of the Act](#) (hereinafter referred to as the "Disciplinary Committee") shall be called by the chairman.

(2) When the chairman of the Disciplinary Committee intends to call a meeting of the Disciplinary Committee, he shall notify each member of the date, place and agenda of such meeting 7 days prior to such meeting.

Article 19 (Terms of Office of Members of Disciplinary Committee)

The terms of office of the members of the Disciplinary Committee, who are commissioned by the Commissioner of the Korean Intellectual Property Office in accordance with the provisions of [Article 16 \(4\) of the Act](#), shall be two years. <Amended by Presidential Decree No. 19495, May 30, 2006>

Article 20 (Stating of Views or Furnishing of Examination Data)

(1) When the chairman of the Disciplinary Committee deems necessary for a disciplinary resolution, he/she may ask parties, related persons or related institutions to state their views or furnish examination data.

(2) The chairman of the Disciplinary Committee shall ask any patent attorney under demands for a disciplinary action against him/her to furnish the statement of his/her views to or be present at a meeting of the Disciplinary Committee to state his/her views prior to adopting a disciplinary resolution against him/him: *Provided*, That the same shall not apply to cases where the patent attorney in question does not comply with such request without justifiable grounds.

Article 21 (Notice and Publication of Disciplinary Resolution)

When the Disciplinary Committee adopts a disciplinary resolution, the Commissioner of the Korean Intellectual Property Office shall promptly notify the patent attorney in question thereof expressly giving reasons therefor, and publish the disciplinary action in the Official Gazette or the Patent Gazette. <Amended by Presidential Decree No. 19495, May 30, 2006>

Article 22 (Resolution concerning Measure for Suspension of Qualification)

When the Disciplinary Committee decides to suspend the qualification of any patent attorney pursuant to the provisions of [Article 18 \(1\) of the Act](#), it shall obtain the concurrent vote of not less than two-thirds of its registered members.

ADDENDA

(1) (Enforcement Date) This Decree shall enter into force on July 1, 2000: *Provided*, That the amended provisions of Article 4 shall enter into force on January 1, 2002.

(2) (Applicability concerning Alteration of Examination Subjects) The subjects of the examination for patent attorneys shall be governed by attached Table 2 until December 31, 2001 notwithstanding the provisions of Article 3.

(3) (Applicability concerning Determination of Successful Test-Takers) The determination of successful test-takers in the examination for patent attorneys shall be governed by the previous provisions of Article 10 until December 31, 2001.

(4) Omitted.

ADDENDUM <Presidential Decree No. 17551, Mar. 25, 2002>

This Decree shall enter into force on the date of its promulgation.

ADDENDUM <Presidential Decree No. 18312, Mar. 17, 2004>

This Decree shall enter into force on the date of its promulgation.

ADDENDUM <Presidential Decree No. 18387, May 10, 2004>

This Decree shall enter into force on January 1, 2005.

ADDENDA <Presidential Decree No. 18903, Jun. 30, 2005>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2005.

Article 2 Omitted.

ADDENDUM <Presidential Decree No. 19170, Dec. 9, 2005>

This Decree shall enter into force on January 1, 2006: *Provided*, That the amended provisions of attached Tables 1 and 2 (previous attached Table 1-2) shall enter into force on January 1, 2008.

ADDENDA <Presidential Decree No. 19495, May 30, 2006>

(1) (Enforcement Date) This Decree shall enter into force on June 4, 2006.

(2) Omitted.

ADDENDA <Presidential Decree No. 19513, Jun. 12, 2006>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2006.

Articles 2 through 4 Omitted.

ADDENDUM <Presidential Decree No. 20437, Dec. 7, 2007>

This Decree shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of attached Table 2 shall enter into force on January 1, 2008.

ADDENDA <Presidential Decree No. 20729, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation

Articles 2 and 3 Omitted.

ADDENDUM <Presidential Decree No. 21604, Jul. 1, 2009>

This Decree shall enter into force on the date of its promulgation.

ADDENDA <Presidential Decree No. 22151, May 4, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on May 5, 2010

Articles 2 through 4 Omitted.

ADDENDUM <Presidential Decree No. 22467, Noc. 2, 2010>

This Decree shall enter into force on the date of its promulgation.