

SUBSIDIARY LEGISLATION 417.01

PATENTS REGULATIONS

1st June, 2002

LEGAL NOTICE 117 of 2002, as amended by Legal Notice 426 of 2007.

- | | |
|--|---|
| <p>1. The title of these regulations is the Patents Regulations.</p> | <p>Citation.</p> |
| <p>2. In these regulations, "the Act" means the Patents and Designs Act, and the words and expressions used shall have the same meaning as is given to them in the Act, and reference to Office or Industrial Property Office within the Act or regulations made thereunder shall be construed as the Office responsible for registering patents.</p> | <p>Interpretation.
Cap. 417.</p> |
| <p>3. The prescribed forms are those issued or considered acceptable by the Office.</p> | <p>Prescribed forms.
Article 13(1).</p> |
| <p>4. The fees to be paid in respect of any application, registration or any other matter under the Act and these rules shall be those prescribed in the Schedule of Fees to these regulations.</p> | <p>Prescribed fees.
Article 13(3).</p> |
| <p>5. Any communication made under this Act may be in the English or Maltese language which are to be considered as the official languages of the Office.</p> | <p>Prescribed languages.
Articles 13(4) and 14(3)(a).</p> |
| <p>6.(1) (a) Where the Comptroller finds that, at the time of receipt of an application, the requirements referred to in article 14 of the Act have not been fulfilled, he shall invite the applicant to comply with any requirement that has not been satisfied within sixty working days from the date of the invitation.</p> | <p>Detail concerning filing date.
Article 14.</p> |
| <p>(b) Where an invitation under article 14(2)(a) of the Act has not been made because indications allowing the identity of the applicant to be established by the Office have not been filed, that application shall be deemed to have not been filed.</p> | |
| <p>Provided that the condition in this subregulation shall not apply if the requirements referred to in article 14(1) of the Act have been satisfied within sixty days from the date on which one or more of the other requirements were satisfied.</p> | |
| <p>(2) Where the description refers to drawings which are not included in the application, the Comptroller shall invite the applicant to furnish the missing drawing within sixty working days from the date of the invitation:</p> | |
| <p>Provided that where -</p> | |
| <p>(a) it is not possible to issue such an invitation because indications showing the identity of the applicant have not been filed; or</p> | |
| <p>(b) the missing drawings are not submitted within sixty days from the first date on which the amendments</p> | |

referred to in article 14(1) of the Act were received, the filing date shall be the date of the receipt of the application and any reference to the drawings shall be deemed as not having been made.

- (3) (a) Where the missing drawing is filed with the Office within the sixty working day period, that drawing shall be included in the application, and, subject to paragraph (b), the filing date shall be the date on which the Office has received that part of that drawing.
- (b) Where the missing part of the missing drawing is filed under paragraph (a) to rectify its omission from an application which, at the date on which one or more elements referred to in article 14(1) of the Act were first received by the Office, claims the priority of an earlier application, the filing date shall, provided that the filing date shall be accorded, upon the request of the applicant filed within sixty days from the date when the applicant has been invited to do so by the Office under article 14(2) of the Act or where no such invitation has been made within sixty days from the date on which one or more elements referred to in article 14(1) of the Act were first received by the Office, be the date on which all the requirements prescribed by article 14(1) and (3) of the Act are complied with:

Provided further that subject to regulation 20(2) -

- (i) a copy of the earlier application shall be filed within the time limit applicable under paragraph (a) or (b);
- (ii) a copy of the earlier application, and the date of filing of the earlier application, certified as correct by the Office with which the earlier application was filed, shall be filed upon invitation by the Office, within four months from the date of that invitation, or the time limit applicable under regulation 20(1), whichever expires earlier;
- (iii) where the earlier application is not in one of the official languages of the Office, a translation of the earlier application shall be filed within the time limit applicable under paragraph (a) or (b);
- (iv) the missing part of the description or missing drawing shall be completely contained in the earlier application;
- (v) the application, at the date on which one or more elements referred to in article 14(1) of the Act were first received by the Office, contained an indication that the contents of the earlier application were incorporated by reference in the application;
- (vi) an indication shall be filed within the time limit

applicable under paragraph (a) or (b) as to where, in the earlier application or in the translation referred to in subparagraph (iii), the missing part of the description or the missing drawing is contained.

7. If any of the descriptions referred to in article 14(1)(c) of the Act or any text contained in any drawings is in a language other than the official languages of the Office, a translation thereof in one of the official languages shall be deposited at the Office within sixty days from the filing of the description or the text in question.

Translation of descriptions or text contained in drawing.
Article 14(3)(b).

8. (1) Where the application refers to biologically reproducible material which cannot be disclosed in the application in such a way as to enable the invention to be carried out by a person skilled in the art, and such material is not available to the public, the application shall be supplemented by a deposit of such material with an international authority which has acquired such status as provided in Article 7 of the Budapest Treaty.

Application referring to biologically reproducible material.

(2) The Budapest Treaty means the International Recognition of the Deposit of Micro-Organisms for the Purpose of Patent Procedure, done at Budapest in 1977.

(3) The name of the authority and the accession number of the deposit must be given in the specification of the application.

(4) The deposit referred to in the preceding subregulations must take place no later than the date of the filing of the application.

9. (1) The claims shall define the matter for which protection is sought in terms of the technical features of the invention. Wherever appropriate, claims shall contain:

Presentation of claims.
Article 16(3).

- (a) a statement indicating the designation of the subject-matter of the invention and those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, are part of the prior art;
- (b) a characterizing portion - preceded by the expression "characterized in that" or "characterized by" - stating the technical features stated in the paragraph (a), it is desired to protect.

(2) Subject to article 18 of the Act a patent application may contain two or more independent claims in the same category (product, process, apparatus or use) where it is not appropriate, having regard to the subject-matter of the application, to cover this subject-matter by a single claim.

(3) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

(4) Any claim which includes all the features of any other claim (dependent claim) shall contain, if possible at the beginning, a reference to the other claim and then state the additional features which it is desired to protect. A dependent claim shall also be

admissible where the claim it directly refers to, is itself a dependent claim. All dependent claims referring back to a single previous claim, and all referring back to several previous claims, shall be grouped together to the extent and in the most appropriate way possible.

(5) The number of the claims shall be reasonable in consideration of the nature of the invention claimed. If there are several claims, they shall be numbered consecutively in Arabic numerals.

(6) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description", or "as illustrated in figure... of the drawings".

Unity of invention.
Article 18.

10. Article 18 of the Act shall be construed that it is permitted in particular that one and the same patent application may include:

- (a) in addition to an independent claim for a product, an independent claim for a process specially adapted for the manufacture of the product, and an independent claim for a use of the product; or
- (b) in addition to an independent claim for an apparatus or means specifically designed for carrying out the process; or
- (c) in addition to an independent claim for a product, an independent claim for a process specially adapted for the manufacture of the product, and an independent claim for an apparatus or means specifically designed for carrying out the process.

Claims incurring
fees.
Article 16.

11. (1) Any patent application comprising more than ten claims at the time of the filing shall, in respect of each claim over and above that number, incur payment of a claims fee. The claims fee shall be payable within one month after filing of the application.

(2) If the claims fee for any claim is not paid in due time, the claim concerned shall be deemed to be abandoned.

Specifications.

12. (1) The term specifications shall be taken to mean the title of the invention, the description and the claims and drawings, in that order.

(2) The title shall be short and indicate the matter to which the invention relates.

(3) The description shall include a list briefly describing the figures in the drawings, if any.

Drawings.

13. (1) Drawings forming part of an application for a patent shall be on sheets the usable surface area of which shall not exceed 26.2cm by 17cm. The sheets shall not contain frames around the usable surface. The minimum margins shall be as follows:

Top 2.5 cm

Left side	2.5 cm
Right side	2.5 cm
Bottom	1.0 cm.

- (2) Drawings shall be executed as follows:
- (a) without colouring in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes to permit satisfactory reproduction;
 - (b) cross-sections shall be indicated by hatching which does not impede the clear reading of the reference signs and leading lines;
 - (c) the scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If as an exception, the scale is given on a drawing, it shall be represented graphically;
 - (d) all numbers, letters, and reference signs, appearing on the drawings shall be simple and clear and brackets, circles and inverted commas shall not be used in association with numbers and letters;
 - (e) elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure;
 - (f) the height of the numbers and letters shall not be less than 0.32cm and for the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used;
 - (g) the same sheet of drawings may contain several figures. Where figures drawn on two or more sheets intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, clearly separated from one another. The different figures shall be numbered consecutively in Arabic numerals, independently of the numbering of the sheets;
 - (h) reference signs not mentioned in the description or claims shall not appear in the drawings, and vice versa. The same features, when denoted by reference signs, shall, throughout the application, be denoted by the same signs;
 - (i) the sheets of the drawings shall be numbered in accordance with regulation 15(9).
- (3) Flow sheets and diagrams shall be considered to be drawings for the purposes of these regulations.

14. (1) The abstract shall commence with a title for the invention.

The abstract.
Article 17.

(2) The abstract shall contain a concise summary of the matter contained in the specifications. The summary shall indicate the technical field to which the invention belongs and be drafted in a way which allows a clear understanding of the technical problem to which the invention relates, the gist of the solution to that problem through the invention and the principal use or uses of the invention. Where appropriate, the abstract shall also contain the chemical formula, which, among those contained in the specification, best characterizes the invention. It shall not contain statements on the alleged merits or value of the invention or on its speculative application.

(3) The abstract shall normally not contain more than 150 words.

(4) If the specification contains any drawings, the applicant shall indicate on the abstract the figure or, exceptionally, the figure of the drawings that he suggests should accompany the abstract when published. The Comptroller may decide to publish one or more other figures if he considers that they better characterize the invention. Each main feature mentioned in the abstract and illustrated by a drawing shall be followed by the reference sign used in that drawing.

(5) The abstract shall be so drafted that it constitutes an efficient instrument for the purposes of searching in the particular by making it possible to assess whether there is a need to consult the specifications.

Size and presentation of documents.

15. (1) All documents (including drawings) making up an application for a patent or replacing such documents shall be in the English language.

(2) The specification, abstract and any replacement sheet thereof shall be filed in duplicate.

(3) All documents referred to in subregulation (1) shall be so presented as to permit of direct reproduction by photograph, electrostatic processes, photo-offset and microfilming, in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of the sheet shall be used, except in the case of a request for the grant of a patent.

(4) All documents referred to in subregulation (1) shall be on A4 paper (29.7cm X 21cm) which shall be pliable, strong, white, smooth, matt and durable. Each sheet (other than drawings) shall be used with its short sides at the top and bottom (upright position).

(5) The request for the grant of a patent and the description, claims, drawings and abstract shall each commence on a new sheet. The sheets shall be connected in such way that they can easily be turned over, separated and joined together again.

(6) Subject to regulation 13(1), the minimum margins shall be as follows:

Top	2.0 cm
Left side	2.5 cm

Right side 2.0 cm

Bottom 2.0 cm

(7) The margins of the documents making up the application and of any replacement documents must be completely blank.

(8) In the application, except in the drawings -

(a) all sheets in the request shall be numbered consecutively; and

(b) all other sheets shall be numbered consecutively as a separate series; and

(c) all such numbering shall be in Arabic numerals placed at the top of the sheet, in the middle, but not in the top margin.

(9) All sheets of drawings contained in the application shall be numbered consecutively as a separate series. Such numbering shall be in Arabic numerals placed at the top of the sheet, in the middle, but not in the top margin.

(10) Every document (other than drawings) referred to in the above subregulations shall be typed or printed in dark, indelible colour in at least 1 - line spacing and in characters of which the capital letters are not less than 0.21cm high.

(11) The request for the grant of a patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The description and the abstract may contain tables. The claims may contain tables only if their subject matter makes the use of tables desirable.

(12) In all documents referred to in subregulation (1), units of weight and measures shall be expressed in terms of the metric system. If a different system is used they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees Celsius. For the other physical values, the units recognized in international practice shall be used, for mathematical formulae the symbols in general use, and for chemical formulae, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(13) If a formula or symbol is used in the specification a copy thereof, prepared in the same manner as drawings, shall be furnished if the Comptroller so directs.

(14) The terminology and the signs shall be consistent throughout the application.

(15) All documents referred to in subregulation (1) shall be reasonably free from deletions and other alterations, overwritings and interlineations and shall, in any event, be legible.

16. An applicant who wishes an application to be treated as a divisional application must indicate:

(a) that he wishes the application to be so treated;

Details concerning
division of
application.
Article 19.

- (b) the number and filing date of the application from which the application is divided.

Inspection of files.
Article 21.

17. (1) Files relating to patent applications, which have not yet been published, shall not be made available for inspection without the consent of the applicant.

(2) Any person who can prove that the applicant has invoked the rights under the patent application against him may obtain inspection of the files prior to the publication of that application and without the consent of the applicant.

(3) Where a divisional application is published, any person may obtain inspection of the files of the earlier application prior to the publication of that application and without the consent of the applicant.

(4) Subsequent to the publication of the patent application, the files relating to the application and the resulting patent may be inspected on request, subject to the restrictions laid down in these regulations.

Parts of the file not
for inspection.

18. The following parts of the file shall be excluded from inspection:

- (a) draft decisions and opinions, and all other documents, used for the preparation of decisions and opinions, which are not communicated to the parties;
- (b) the designations of the inventor if he has renounced his title as inventor;
- (c) any other document excluded from inspection by the Comptroller on the ground that such inspection would not serve the purpose of informing the public about the patent application or the resulting patent.

Procedures for the
inspection of files.

19. (1) Inspection of the files of patents applications and of patents shall be of the original documents or of copies thereof. It shall be subject to the payment of an administrative fee.

(2) The inspection shall take place on the premises of the Office.

(3) On request, inspection of the files shall be effected by means of the issuing of copies of file documents. Such copies shall incur fees.

(4) The Office shall issue on request certified copies of the patent application upon payment of an administrative fee.

Claims of priority.
Article 22.

20. (1) A copy of the earlier application referred to in article 22(2) of the Act must be filed with the Office within sixteen months from the filing date of that earlier application or, where there is more than one such earlier application, from the earliest filing date of those earlier applications and the said copy and the date of filing of the earlier application must be certified as correct by the Office with which the earlier application was filed.

(2) Such a certified copy of the earlier application and the

certification of the filing date need not, however, be filed with the Office where the earlier application or the previously filed application was filed with the Office, or is available to the Office from a digital library which is accepted by the Office for that purpose.

(3) Where the earlier application is not in one of the official languages of the Office and the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable, a translation of the earlier application referred to in subregulation (1) must be filed by the applicant, upon invitation by the Office within two months from the date of that invitation or sixteen months from the filing date of that earlier application, whichever expires later.

(4) Where the Office finds in terms of article 22(4) of the Act that the requirements under article 22 of the Act or under this regulation have not been fulfilled, it shall invite the applicant to file the required correction within two months from this invitation.

(5) Where such an invitation has not been made, however, because indications allowing the applicant to be contacted by the Office have not been filed, the time limit for the filing of such correction shall be three months from the date on which one or more of the elements referred to in article 14(1) of the Act were first received by the Office.

(6) A reference made upon the filing of the application in one of the official languages of the Office to an application previously filed by the applicant himself or his predecessor or successor in title shall, for the purposes of the filing date of the application, replace the description and any drawings:

Provided that:

- (a) this reference shall indicate that, for the purposes of the filing date, the description and any drawings are replaced by the reference to the previously filed application and shall also indicate the number of that application, and the Office with which that application was filed, as well as the filing date of the previously filed application; and
- (b) subject to subregulation (2), a certified copy of the previously filed application and, where the previously filed application is not in one of the official languages of the Office, a translation of that previously filed application, shall be filed with the Office within four months from the date on which the application containing the reference was received by the Office.

21. If, when the Comptroller refers an application to an examiner, the examiner reports to the Comptroller that not all the formal requirements are complied with, the applicant shall be given an opportunity to make observations on the report and to amend the application within sixty days so as to comply with those requirements, and if the applicant fails to make such amendments the Comptroller may refuse the application.

Non-compliance
with formal
requirements.
Article 23.

Publication of patent.
Article 24(2).

22. (1) As soon as possible after the decision to grant patent the Comptroller shall publish a notification in the Government Gazette or any other official publication that the Comptroller may prescribe.

(2) Together with the above notification and in the same publication the Comptroller shall publish the details of the proprietor and (if different) the inventor, the title, the abstract and any other matter constituting or relating to the patent which in the Comptroller's opinion it is desirable to publish.

Publication of an application.
Article 25.

23. (1) The publication of an application shall be made in the Government Gazette or any other official publication that the Comptroller may prescribe.

(2) Publication of an application shall include the details of the proprietor and (if different) the inventor, the title, the abstract and any other matter constituting or relating to the patent, which in the Comptroller's opinion it is desirable to publish.

(3) Once the application or, in the case of article 25(1) of the Act, a patent is published, the specification will be made available to the public.

Maintenance fees prescribed due date.
Article 26(2),(3).

24. (1) If it is desired to keep a patent in force for a further year after the expiration of the second or any succeeding year from the date of filing, an application for that patent as determined in accordance with article 14 of the Act, in respect of the next succeeding year, shall be filed and the prescribed renewal fee paid in the three months ending with the fourth or, as the case may be, succeeding anniversary of the filing date:

Provided that, where a patent is granted in the three months ending with the fourth or any succeeding anniversary as so determined or at any time thereafter, a request, in respect of the fifth or succeeding year, may be filed and the prescribed renewal fee paid not more than three months before the expiration of the fourth or relevant succeeding year but before the expiration of three months from the date on which the patent is granted.

(2) On receipt of the prescribed renewal fee, the Comptroller shall (if the patent is granted) issue a certificate of payment.

(3) Where the period for payment of a renewal fee pursuant to subregulation (1) has expired, the Comptroller shall, not later than six weeks after the last date for payment under that subregulation and if the fee still remains unpaid, send to the proprietor of the patent a notice reminding him that payment is overdue and of the consequence of non-payment.

(4) The Comptroller shall send a notice under subregulation (3) to -

- (a) the address specified by the proprietor on payment of the last renewal fee; or
- (b) where another address has been notified to him for the purpose by the proprietor since the last renewal, that address, and, in any other case, the address for service entered in the register.

(5) A request for extending the period for payment of a renewal fee shall be accompanied by the prescribed renewal fee and the prescribed additional fee for late payment.

25. (1) The patents register shall contain the following entries: Patent registration.
Article 34(2).

- (a) number of the patent application;
- (b) date of filing of the patent application;
- (c) title of the invention;
- (d) classification code given to the patent application;
- (e) name, surname, address and the State in which the residence or principal place of business of the applicant for a proprietor of the patent is located;
- (f) name, surname and address of the inventor designated by the applicant for or proprietor of the patent unless he has renounced his title as inventor;
- (g) priority data (date, State and file number of the previous application);
- (h) in the event of a division of the patent application, the numbers of the divisional applications;
- (i) date on which the patent application is refused, withdrawn or deemed to be withdrawn;
- (j) date of publication of the mention of the grant of the patent;
- (k) date of re-establishment of rights provided that an entry has been made in accordance with article 46(5) of the Act.

(2) The Comptroller of Industrial Property may decide that entries other than those referred to in subregulation (1) shall be made in the Patents Register.

(3) Extracts from the Register shall be delivered on request on payment of the prescribed fee.

26. (1) Where the national security or public safety so requires, the Minister may by notice authorise, even without the agreement of the proprietor of the patent application, a Government agency or a person designated in the said notice to make, use or sell an invention to which a patent or an application for a patent relates, subject to payment of equitable remuneration to the proprietor of the patent or to the applicant for the patent. Exploitation by
Government or by
third parties
authorised by
Government.
Article 40(1).

(2) The notice shall be published in the Government Gazette or any other official publication as may be prescribed by the Minister and shall indicate the reason for and extent of exploitation authorised.

27. (1) A request to the Comptroller to amend the patent shall - Changes in patents.
Article 41(11).

- (a) clearly identify the proposed amendment and state the reasons for it,

(b) be advertised by the Comptroller in the official publication, with the nature of the proposed amendment.

(2) At any time within sixty days from the date of the advertisement in the official publication, any person may give notice to the Comptroller of opposition to the application to amend the specifications.

(3) Such notice shall be accompanied by a copy thereof and be supported by a statement in duplicate setting out fully, the facts upon which the opponent relies and the relief which he seeks. The Comptroller shall send a copy of the notice and of the statement to the applicant.

(4) Within the period of sixty days beginning on the date when such copies are sent to him, the applicant shall, if he wishes to continue with the application, file a counter-statement in duplicate setting out fully the grounds upon which the opposition is resisted; and the Comptroller shall send a copy of the counter-statement to the opponent.

(5) The Comptroller may give such directions as he may think fit with regard to the subsequent procedure. In particular if an agreement is reached within one hundred and eighty days from the date of the entry into force of the amendment, he may direct that the issue shall be settled in court.

(6) If the Comptroller does not within thirty days receive notice from the opponent that court proceedings have been instituted from when he issued directions in accordance with subregulation (5), the Comptroller shall proceed with the amendment.

(7) The Comptroller may, if he thinks it fit, require that the amendment be shown on a copy of the specification of which the amendment is sought.

(8) Where leave to amend a specification is given, the applicant shall, if the Comptroller so requires, and within a time to be fixed by him, file a new specification as amended, which shall be prepared in accordance with regulations 12, 13 and 15.

(9) The above procedure shall also be followed in the case of amendments ordered by the Court following invalidity proceedings; provided that no opposition may be made by the owner of the patent to any such amendments.

Details concerning
appointment of
agents.
Article 61.

28. (1) The appointment of an agent under article 61 of the Act shall be filed with the Office in a separate communication (hereinafter referred to as a "power of attorney") signed by the applicant, owner or other interested person and indicating the name and address of the agent.

(2) (a) A single power of attorney shall be sufficient even where it relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that all applications and patents concerned are identified in the single power of attorney.

- (b) A single power of attorney shall also be sufficient even where it relates, subject to any exception indicated by the appointing person, to all existing and future applications or patents of that person.
- (c) The Office may require that, where that single power of attorney is filed on paper or as otherwise permitted by the Office under regulation 6, a separate copy thereof be filed for each application and patent to which it relates.

(3) If a power of attorney is not in one of the official languages of the Office, it shall be accompanied by a translation.

(4) Where one or more of the requirements prescribed in article 61 of the Act or in this regulation are not complied with, the Office shall invite the assignee of the application, applicant, owner or other interested person to comply with any such requirement within two months from the date of this invitation:

Provided that where no invitation has been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, the time limit for compliance with such requirement shall be three months from the date on which the procedure for this invitation was commenced.

29. (1) The Office shall accept filing of communication on paper or in electronic form or by electronic means of transmittal provided that it is in one of the official languages of the Office:

Form of communication.

Provided further that where the receiving or processing of a communication on paper, due to its character or its size, is deemed not practicable, the filing of that communication shall be in another form or by other means of transmittal.

(2) The original of any document which was transmitted by telegraph, teleprinter, telefacsimile or other like means of transmittal, shall be filed on paper together with an accompanying letter identifying that earlier transmission with the Office within one month from the date of the transmission.

30. (1) For the purposes of any communication on paper, the Office shall accept any form of signature, be it handwritten or a printed or stamped signature, or the use of a seal or of a bar-coded label provided that it complies with the following requirements:

Details concerning signature on communications.

- (a) the signature of the natural person who signs shall be accompanied by an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person as well as by an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication;
- (b) the signature shall be accompanied by an indication of the date on which the signing was effected, in the absence of which the date on which the communication bearing the signature was received by

the Office shall be deemed to be the date on which the signing is considered to have been effected:

Provided further that where the natural person who signs the communication is a Maltese national and his address is on Maltese territory, or where the legal entity on behalf of which the communication is signed is established under Maltese law and has either a domicile or a real and effective industrial or commercial establishment on Maltese territory, a seal shall be used instead of a handwritten signature.

(2) For the purposes of any communication in electronic form or by electronic means of transmittal, the Office shall consider such a communication signed if a graphic representation of a signature that complies with the requirements in subregulation (1) appears on that communication as received by the Office:

Provided that where such a graphic representation of a signature does not appear on the communication as received by the Office, the communication shall be signed using a signature in electronic form.

Details concerning indications that must appear on communications.

31. (1) Any communication shall contain the following indications:

- (a) the name and address of the applicant, owner or other interested person;
- (b) the number of the application or patent to which it relates;
- (c) where the applicant, owner or other interested person is registered with the Office, the number or other indication under which he is so registered.

(2) In the case of a communication by an agent for the purposes of a procedure before the Office it shall contain:

- (a) the name and address of the agent;
- (b) a reference to the power of attorney, or other communication in which the appointment of that agent is or was effected, on the basis of which the said agent acts;
- (c) where the agent is registered with the Office, the number or other indication under which he is registered.

(3) An applicant, owner or other interested person shall indicate in any communication an address for correspondence as well as an address for legal service which must be on Maltese territory:

Provided that where no agent is appointed and an applicant, owner or other interested person has provided, as his address, an address on Maltese territory, the Office shall consider that address to be the address for correspondence or the address for legal service unless that applicant, owner or other interested person expressly indicates another such address:

Provided further that where an agent is appointed, the

address of that agent shall be considered to be the address for correspondence or the address for legal service, unless that applicant, owner or other interested person expressly indicates another such address.

(4) Where one or more of the requirements under subregulations (1) to (3) are not complied with in respect of communications, the Office shall invite the applicant, owner or other interested person, to comply with any such requirement, and to make observations, within two months from the date of the invitation:

Provided that where an invitation has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, the time limit for compliance and observations shall be three months from the date on which the communication was received by the Office.

32. (1) Subject to subregulation (3), the Office may extend a time limit fixed for an action in a procedure before the Office in respect of an application or a patent by two months from the date of the expiration of the unextended time limit, if a request to that effect is made to the Office and filed prior to the expiration of the time limit and complies with the following requirements:

Relief in respect of time limits.

- (a) be signed by the applicant or owner;
- (b) contain an indication to the effect that extension of a time limit is requested, and an identification of the time limit in question.

(2) Subject to subregulation (3) and to article 46 of the Act, where an applicant or owner has failed to comply with a time limit fixed for an action in a procedure before the Office in respect of an application or a patent the Office shall continue to process that application or patent and, if necessary, the applicant or owner shall have his rights reinstated with respect to that application or patent, if:

- (a) a request to that effect is made to the Office signed by the applicant or owner containing an indication to the effect that relief in respect of non-compliance with a time limit is requested, and an identification of the time limit in question;
- (b) the request is filed, and all of the requirements in respect of which the time limit for the action concerned are complied with, within two months after a notification by the Office that the applicant or owner did not comply with the time limit fixed by the Office.

(3) Under subregulations (1) and (2) the Office shall not grant:

- (a) a second, or any subsequent, relief in respect of a time limit for which relief has already been granted under subregulation (1) or (2);
- (b) relief for filing a request for relief under subregulation (1) or (2) or a request for reinstatement under article

46 of the Act;

- (c) relief in respect of a time limit for the payment of maintenance fees;
- (d) relief in respect of a time limit referred to in article 22(4) of the Act and regulation 33;
- (e) relief in respect of a time limit for an action in *inter partes* proceedings.

(4) A fee in accordance with the Schedule shall be payable for requests under subregulations (1) and (2).

(5) A request under subregulation (1) or (2) may not be refused without the applicant or owner being given the opportunity to make observations on the intended refusal within a reasonable time limit.

Details concerning correction or addition of priority claim and restoration of priority right.

33. (1) Correction of a priority claim under article 22(4) of the Act or addition of a priority claim shall not be accepted by the Office where the request for such correction or addition is received after the applicant has made a request for early publication or for expedited or accelerated processing, unless that request for early publication or for expedited or accelerated processing is withdrawn before the technical preparations for publication of the application have been completed.

(2) No request for the correction of a priority claim under article 22(4) of the Act or for the addition of a priority claim shall be accepted by the Office unless it is signed by the applicant and filed within sixteen months from the priority date or, where the correction or addition would cause a change in the priority date, sixteen months from the priority date as so changed, whichever sixteen month period expires first.

(3) Where an application ("the subsequent application") which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within two months from the date on which the priority period expired, the Office shall restore the right of priority, if:

- (a) a request to that effect is made to the Office signed by the applicant and accompanied, where the application did not claim the priority of the earlier application, by the priority claim;
- (b) the request is filed within two months from the date on which the priority period expired or the time that any technical preparations for publication of the subsequent application have been completed, whichever expires earlier;
- (c) the request states the reasons for the failure to comply with the priority period;
- (d) the Office finds that the failure to file the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken or was unintentional.

(4) Where a copy of an earlier application requested under article 22(2) of the Act is not filed with the Office within the time limit prescribed in regulation 20, the Office shall restore the right of priority insofar as:

- (a) a request signed by the applicant to that effect is made to the Office with an indication of the Office to which the request for a copy of the earlier application had been made and the date of that request;
- (b) the request is filed within the time limit prescribed in regulation 20 for filing the copy of the earlier application;
- (c) the Office finds that the request for the copy to be provided had been filed with the Office with which the earlier application was filed within two months before the expiration of the time limit prescribed in regulation 20(1); and
- (d) a copy of the earlier application is filed within one month from the date on which the applicant is provided with that copy by the Office with which the earlier application was filed.

(5) A fee in accordance with the Schedule shall be payable for requests under subregulations (1) to (4).

(6) A request under subregulations (1) to (4) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal within a reasonable time limit.

34. (1) Where there is no change in the person of the applicant or owner but there is a change in his name or address, a request for registration of the change may be made in a communication signed by the applicant or owner and containing the following indications:

Request for registration of change in name or address.

- (a) an indication to the effect that registration of a change in name or address is requested;
- (b) the number of the application or patent concerned;
- (c) the change to be recorded;
- (d) the name and address of the applicant or the owner prior to the change.

(2) A fee in accordance with the Schedule shall be payable for requests under subregulation (1).

(3) A single request shall be sufficient even where the change relates to both the name and address of the applicant or the owner and even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the numbers of all applications and patents concerned are indicated in the request:

Provided that where that single request is filed on paper or as otherwise permitted by the Office under regulation 29, a separate copy thereof shall be filed for each application and patent to which it relates.

(4) Where one or more of the requirements under subregulations (1) to (3) are not complied with, the Office shall invite the applicant or owner to comply with any such requirement and to make observations, within two months from the date of the invitation.

(5) Where one or more of the requirements under subregulations (1) to (3) are not complied with within two months from the date of the invitation or, where indications allowing the Office to contact the person who made the request referred to in subregulation (1) have not been filed, within three months from the date on which that request was received by the Office, the request shall be refused.

(6) Subregulations (1) to (5) shall apply, *mutatis mutandis*, to any change in the name or address of the agent, and to any change relating to the address for correspondence or address for legal service.

Request for registration of change in applicant or owner.

35. (1) Where there is a change in the person of the applicant or owner, a request for registration of the change may be made in a communication signed by the applicant or owner, or by the new applicant or new owner, containing the following indications:

- (a) an indication to the effect that a registration of change in applicant or owner is requested;
- (b) the number of the application or patent concerned;
- (c) the name and address of the applicant or owner;
- (d) the name and address of the new applicant or new owner;
- (e) the date of the change in the person of the applicant or owner;
- (e) the name of a State of which the new applicant or new owner is a national if he is the national of any State, the name of a State in which the new applicant or new owner has his domicile, if any, and the name of a State in which the new applicant or new owner has a real and effective industrial or commercial establishment, if any;
- (f) the basis for the change requested.

(2) Where the change in applicant or owner results from a contract, the request may be accompanied, at the option of the requesting party, by one of the following:

- (a) a copy of the contract, which copy may be certified, at the option of the requesting party, by a notary public or any other competent public authority or by an agent having the right to practise before the Office, as being in conformity with the original contract;
- (b) an extract of the contract showing the change, which extract may be certified, at the option of the requesting party, by a notary public or any other competent public authority or by an agent having the right to practise before the Office, as being a true extract of the

contract.

(3) Where the change in applicant or owner results from a merger, or from the reorganization or division of a legal entity, the request shall be accompanied by a copy of a document from the Registrar of Companies evidencing the merger, or the reorganization or division of the legal entity, and any attribution of rights involved. Such copy may be certified, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or by an agent having the right to practise before the Office, as being in conformity with the original document.

(4) Where the change in applicant or owner does not result from a contract, a merger, or the reorganization or division of a legal entity, but results from another ground such as by operation of law or a court decision, the request shall be accompanied by a copy of a document evidencing the change, certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or by an agent having the right to practise before the Office.

(5) Where the change is in the person of one or more but not all of several co-applicants or co-owners, evidence of the consent to the change of any co-applicant or co-owner in respect of whom there is no change shall be provided to the Office.

(6) Any document filed under subregulations (2) to (5) that is not in one of the official languages of the Office shall be accompanied by a translation in one of these languages.

(7) A fee in accordance with the Schedule shall be payable in respect of requests made under subregulation (1).

(8) A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the change in applicant or owner is the same for all applications and patents concerned, and the numbers of all applications and patents concerned are indicated in the request:

Provided that where that single request is filed on paper or as otherwise permitted by the Office under regulation 29, a separate copy thereof shall be filed for each application and patent to which it relates.

(9) Where one or more of the requirements under subregulations (1) to (8) are not complied with, the Office shall invite the applicant or owner, to comply with any such requirement and to make observations, within two months from the date of the invitation.

(10) Where one or more of the requirements under subregulations (1) to (8) are not complied with within two months from the date of the invitation or, where indications allowing the Office to contact the person who made the request have not been filed within three months from the date on which that request was received by the Office, the request shall be refused.

Request for registration of a licence.

36. (1) A request for registration of a licence in respect of an application or patent may be made in a communication signed by the licensor or the licensee and shall contain the following indications:

- (a) an indication to the effect that a registration of a licence is requested;
- (b) the number of the application or patent concerned;
- (c) the name and address of the licensor;
- (d) the name and address of the licensee;
- (e) an indication of whether the licence is an exclusive licence or a non-exclusive licence;
- (f) the name of a State of which the licensee is a national if he is the national of any State, the name of a State in which the licensee has his domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;
- (g) the date of the licence and its duration.

(2) Where the licence is a freely concluded agreement, the request shall be accompanied, at the option of the requesting party, by one of the following:

- (a) a copy of the agreement, which copy may be certified, at the option of the requesting party, by a notary public or any other competent public authority or by an agent having the right to practise before the Office, as being in conformity with the original agreement;
- (b) an extract of the agreement consisting of those portions of that agreement which show the rights licensed and their extent, which extract may be certified, at the option of the requesting party, by a notary public or any other competent public authority or by an agent having the right to practise before the Office, as being a true extract of the agreement.

(3) Where the licence is a freely concluded agreement, any applicant, owner, exclusive licensee, co-applicant, co-owner or co-exclusive licensee who is not party to that agreement may give his consent to the registration of the agreement in a communication to the Office.

(4) Where the licence is not a freely concluded agreement, resulting from operation of law or a court decision, the request shall be accompanied by a copy of a document evidencing the licence, certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or by an agent having the right to practise before the Office.

(5) Any document filed under subregulations (2) to (4) that is not in one of the official languages of the Office shall be accompanied by a translation in one of these languages.

(6) A fee in accordance with the Schedule shall be payable in respect of requests made under subregulation (1).

(7) A single request shall be sufficient even where the registration of the licence relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the registration of the licence is the same for all applications and patents concerned, and the numbers of all applications and patents concerned are indicated in the request:

Provided that where that single request is filed on paper or as otherwise permitted by the Office under regulation 29, a separate copy thereof shall be filed for each application and patent to which it relates.

(8) Where one or more of the requirements under subregulations (1) to (7) are not complied with, the Office shall invite the applicant or owner to comply with any such requirement and to make observations within two months from the date of the invitation.

(9) Where one or more of the requirements under subregulations (1) to (7) are not complied with within two months from the date of the invitation or, where indications allowing the Office to contact the person who made the request have not been filed, within three months from the date on which that request was received by the Office, the request shall be refused.

(10) Subregulations (1) to (9) shall apply, *mutatis mutandis*, to requests for the cancellation of the registration of a licence in respect of an application or patent.

37. (1) Where an application, a patent or any request communicated to the Office in respect of an application or a patent contains a mistake, not related to search or substantive examination, which is correctable by the Office under the Act, the Office shall accept that a request for correction of that mistake in the records and publications of the Office be made in a communication to the Office signed by the applicant or owner and containing the following indications:

Request for correction of a mistake.

- (a) an indication to the effect that a correction of mistake is requested;
- (b) the number of the application or patent concerned;
- (c) the mistake to be corrected;
- (d) the correction to be made;
- (e) the name and address of the requesting party.

(2) The request shall be accompanied by a replacement part or part incorporating the correction or, where subregulation (5) applies, by such a replacement part or part incorporating the correction for each application and patent to which the request relates.

(3) The request shall be subject to a declaration by the requesting party stating that the mistake was made in good faith

and without undue or intentional delay, following the discovery of the mistake.

(4) A fee in accordance with the Schedule shall be payable in respect of requests made under subregulation (1).

(5) The Office shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) A single request shall be sufficient even where the correction of the mistake relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the mistake and the requested correction are the same for all applications and patents concerned, and the numbers of all applications and patents concerned are indicated in the request.

(7) Where that single request is filed on paper or as otherwise permitted by the Office under regulation 29, a separate copy thereof shall be filed for each application and patent to which it relates.

(8) Where one or more of the requirements under subregulations (1) to (5) are not complied with, the Office shall invite the applicant or owner to comply with any such requirement and to make observations within two months from the date of the invitation.

(9) Where one or more of the requirements under subregulations (1) to (5) are not complied with within two months from the date of the invitation or, where indications allowing the Office to contact the person who made the request have not been filed, within three months from the date on which that request was received by the Office, the request shall be refused.

Manner of
identification of an
application without
its application
number.

38. Where it is required that an application be identified by its number, but such a number has not yet been issued or is not known to the person concerned or his representative, the application shall be considered identified if one of the following is supplied, at that person's option:

- (a) a provisional number for the application, if any, given by the Office;
- (b) a copy of the request part of the application along with the date on which the application was sent to the Office;
- (c) a reference number given to the application by the applicant or his agent and indicated in the application, along with the name and address of the applicant, the title of the invention and the date on which the application was sent to the Office.

Fees.

39. The fees to be paid in respect of any application, registration or any other matter under the Act and these regulations shall be those prescribed in the Schedule of Fees.

SCHEDULE OF FEES

*Substituted by:
L.N. 426 of 2007.*

(On Instruments for the Registration of Patents)	€
1. Filing fee for a patent application (Article 13(3))	58.23
2. Grant of a patent (Article 24(1))	58.23
	116.47
3. On a request for withdrawal of the application (Article 20(3))	23.29
4. On a request for a correction or addition of a priority claim or the restoration of priority rights (Article 22(4) and Regulation 10(1)-(4))	23.29
5. Claims fee, where patent application contains more than 10 claims (Article 16, Regulation 11)	23.29
6. On request for application to be treated as a divisional application (Article 19, Regulation 16)	58.23
For every other request for the application to be treated as a divisional application made at the same time	34.94
7. Search or inspection fee (per application or patent document) (Article 21, Regulation 19(1))	11.65
8. For copies of File documents - per page (Regulation 19(3))	1.16
9. For any certificate issued by the Comptroller (Regulation 19(4))	11.65
10. On a request to amend the application in order to fulfil the formal requirements (Article 23, Regulation 21)	23.29
11. Maintenance fees (Article 26(2), Regulation 24)	
before the expiration of the 2nd year from the filing date, in respect of the 3rd year	34.94
before the expiration of the 3rd year from the filing date, in respect of the 4th year	46.59
before the expiration of the 4th year from the filing date, in respect of the 5th year	58.23
before the expiration of the 5th year from the filing date, in respect of the 6th year	69.88
before the expiration of the 6th year from the filing date, in respect of the 7th year	81.53
before the expiration of the 7th year from the filing date, in respect of the 8th year	93.17
before the expiration of the 8th year from the filing date, in respect of the 9th year	104.82
before the expiration of the 9th year from the filing date, in respect of the 10th year	116.47
before the expiration of the 10th year from the filing date, in respect of the 11th year	128.12
before the expiration of the 11th year from the filing date, in respect of the 12th year	139.76
before the expiration of the 12th year from the filing date, in respect of the 13th year	141.41

before the expiration of the 13th year from the filing date, in respect of the 14th year	163.06
before the expiration of the 14th year from the filing date, in respect of the 15th year	174.10
before the expiration of the 15th year from the filing date, in respect of the 16th year	186.35
before the expiration of the 16th year from the filing date, in respect of the 17th year	198
before the expiration of the 17th year from the filing date, in respect of the 18th year	209.64
before the expiration of the 18th year from the filing date, in respect of the 19th year	221.29
before the expiration of the 19th year from the filing date, in respect of the 20th year	232.94
12. Surcharge, where maintenance fee is paid:	
within 1 month from due date	11.65
within 2 months from due date	16.31
within 3 months from due date	23.29
within 4 months from due date	32.61
within 5 months from due date	44.26
within 6 months from due date	58.23
(Article 26(3), Regulation 24(5))	
13. For any extract from the register (Regulation 25(3))	11.65
14. On a request to amend the patent specifications ((Article 41(1), Regulation 27(1))	23.29
15. On opposition to the amendment of specification (Regulation 27(2))	34.94
16. On a request for an extension of a time limit, fixed for an action in a procedure before the Office, in respect of an application or a patent, by two months from the date of the expiration of the unextended time limit. (Regulation 32(1))	23.29
17. On a request for a reinstatement of rights as a consequence of failure to comply with a time limit fixed for an action in a procedure before the Office (Article 46(1) Regulation 32(2))	23.29
18. On a request for a registration of a:	
change of name, each	11.65
change of address, each	11.65
(Regulation 34)	
19. On a request for a registration of a change in applicant or owner (i.e. by assignment, merger, court order, etc)	58.23
for every other application or patent being transferred at the same time (Article 31(2), Regulation 35)	11.65
20. On request for a registration of a licence or for the cancellation of the registration of a licence	58.23
for every other application or patent being licensed at the same time or for every other cancellation of a licence made at the same time (Article 35(3), Regulation 36)	11.65

21. On request for correction of a mistake in the application, patent or any such request communicated to the Office and which is correctable by the Office (Regulation 37)	23.29
---	-------
