

Regulations Concerning Applications for Patents, etc.

(Royal Decree of October 12, 1979, as amended by Royal Decrees of September 5, 1980, April 23, 1982, November 30, 1984, June 7, 1985, October 18, 1985, January 17, 1986, May 16, 1986, September 9, 1988, June 12, 1992, December 4, 1992, March 12, 1993, July 1, 1994, and June 23, 1995.)

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Filing of a Patent Application and the Entry thereof in the Journal, Etc.

Section 1. A Norwegian patent application shall be filed with the Patent Office (*Patentstyret*), Oslo.

An international patent application designating Norway shall be filed with an authority or an international organization being the competent Receiving Office under the Patent Cooperation Treaty (the PCT), or being authorized under the Regulations of the said Treaty to receive the application on behalf of the competent Receiving Office. Provisions concerning the Patent Office in its capacity as a Receiving Office are prescribed in Sections 50 to 56.

Unless otherwise prescribed, the provisions of these Regulations concerning patent applications shall apply only to:

1. Norwegian patent applications,
2. international patent applications which are proceeded with in accordance with Section 31 of the Patents Act or have been accepted for continued processing in accordance with Section 38 of the same Act.

Section 2. A Norwegian patent application shall consist of a form (the application form) with enclosures.

The application form shall be signed by the applicant or his agent and shall contain:

1. an indication of the name and address of the applicant and, if the applicant is represented by an agent, the name and address of the latter;
2. an indication of the name and address of the inventor;
3. a short and precise title of the invention for which a patent has been applied for;
4. where a patent has been applied for by several applicants, information as to whether any of them are authorized to receive notifications, etc., from the Patent Office on behalf of all of them;
5. information as to whether the application includes a deposit of a culture of a microorganism as referred to in Section 8a of the Patents Act;
6. where the application is an international application proceeded with according to Section 31 of the Patents Act, the application number and date of filing of the international application and, where applicable, date of any priority claim;
7. a list of the enclosures.

The following documents shall be enclosed:

- a) a description of the invention, including the drawings which are necessary for the understanding of the invention, patent claims and an abstract;
- b) where the applicant is represented by an agent, a separate power of attorney for the agent, unless he has been given power of attorney in the application form;
- c) where a patent has been applied for by someone other than the inventor, documentation of the applicant's entitlement to the invention.

The application fee as prescribed in Section 44 shall be paid simultaneously with the filing of the application.

Section 3. The description, patent claims and abstract shall be in the Norwegian language. Other documents may be in the Norwegian, Danish or Swedish language.

Where a document is in a language, different from those prescribed in the first paragraph, a translation shall be submitted. However, the Patent Office may desist from requiring a translation or accept a translation into a language other than Norwegian, Danish or Swedish for documents other than the description, patent claims and abstract or for a part of the description or patent claims in a Norwegian patent application not comprised by that what, according to Section 21, is considered as a basic document. The translation may be required to be certified by a translator authorized by the Government or in another manner permitted by the Patent Office.

Section 4. The description, patent claims and abstract shall be in black type or print on white paper, size A4 (21x29.7 cm). The drawings shall be made with dark, preferably black, lines on a light, preferably white, background on durable material, size A4. The description, patent claims and abstract shall be presented in a form suitable as a basis for printing.

Further instructions concerning the physical requirements of the documents and the number of copies shall be provided by the Patent Office.

Section 5. Where the applicant wishes a novelty search as referred to in Section 9 of the Patents Act to be carried out, he shall, within three months from the date on which the application was filed or shall be deemed to have been filed, make a request to the Patent Office to that effect and pay the fee prescribed by the International Searching Authority concerned. If the patent application is not in a language accepted by that authority, the request shall be accompanied by a translation of the application into a language determined by the Patent Office.

Where the applicant wishes a novelty search as referred to in the first paragraph to be carried out by one of several possible international authorities, he shall indicate that authority in the request.

The request shall be considered withdrawn if the patent application and the prescribed translation, at the expiration of the time limit prescribed in the first paragraph, do not satisfy the requirements as to form applying to international patent applications.

Section 6. The Patent Office shall mark the date of receipt on filed patent applications.

Section 7. The Patent Office shall keep a journal of filed patent applications. The journal shall be available to the public. It shall indicate the following information:

1. the number and class of the application;
2. the examiner of the Patent Office who will process the application;
3. the name and address of the applicant;
4. the name and address of the agent, if any;
5. the name and address of the inventor;
6. the title of the invention;
7. whether the application is a Norwegian or an international patent application;
8. where the application is a Norwegian patent application, its filing date and, if the effective date is different from the filing date, the effective date;
9. where the application is an international patent application, its international filing date and the date on which the application was proceeded with according to Section 31 of the Patents Act, or shall be deemed to have been filed according to Section 38 of the Patents Act;
10. where priority is claimed, the country in which the cited previous application was filed, and the filing date and number of that application;
11. where the application is the result of division or separation, the number and filing date of the parent application;
12. where new applications have resulted from division or separation of the application, information to that effect with an indication of the numbers of the new applications;
13. where the application has been made available to the public in accordance with Section 22, third paragraph, of the Patents Act, the date thereof;
14. where the application is an international patent application, the international application number;
15. documents submitted and fees paid;
16. notifications sent and decisions made concerning the case.

Section 8. Every week the Patent Office shall prepare:

1. a list of the applications referred to in Section 7. The list shall, for each application, contain the information indicated in Section 7, items 1, 3, 5 to 11, and 14;
2. a list of international patent applications designating Norway concerning which the Patent Office has received information from the International Bureau. The list shall, if possible and for each application, contain the information provided for in Article 30 (2) (b) of the PCT. Upon payment of the prescribed fee, any person shall have the right to acquire a copy of any of the lists.

Section 9. The Patent Office may require that the signature of a declaration of transfer or license or of a declaration of renunciation of a patent be confirmed by a notary public, a district police superintendent, an authorized deputy district police superintendent, a conciliator, a lawyer, an authorized junior lawyer or two witnesses. If the document has been drawn up abroad, it may be required that the signature be confirmed by a Norwegian Embassy, legation or consulate or by the foreign authority empowered to give such confirmation. For documents drawn up in Denmark, Finland or Sweden, a confirmation by a lawyer residing in the county concerned shall be accepted. A confirmation of signature may also be required in connection with other documents if the Patent Office finds it necessary.

Where a declaration as referred to in the first paragraph is filed as a copy only, the correctness of the copy shall always be confirmed by such person or authority as referred to in the first paragraph.

Priority

Section 10. In order to enjoy priority in accordance with Section 6 of the Patents Act, the applicant must, within three months from the filing of the application in this country or from the date on which the application shall be deemed to have been filed, make a written claim to that effect containing information as to where the application was first filed, the filing date of that application and, as soon as possible, its number. For international patent applications, a claim for priority shall be made at the time of the filing of the application with the Receiving Office. The claim shall contain information on where and when the cited application was filed and, if that application is also an international application, at least one of the countries designated. Information on the number of the cited application shall in such cases be submitted to the receiving Office or the International Bureau within 16 months from the date from which priority was claimed.

If an application is divided in accordance with Section 22, a claim for priority for the patent application shall also apply, without a separate claim, to new applications resulting from the division.

Section 11. An applicant who has claimed priority shall, within 16 months from the date from which priority is claimed, submit to the Patent Office a certificate issued by the Office which received the previous application, indicating the filing date and the name of the applicant, together with a copy of the application certified by the same Office. The copy shall be submitted in the form prescribed by the Patent Office. However, for international patent applications, the certificate and the copy shall only be submitted at the specific request of the Patent Office, and may instead be submitted to the International Bureau or to the Receiving Office or requested being transferred to the International Bureau in accordance with Rule 17.1 of the PCT Regulations. The Patent Office may provide for exemptions from the obligation to submit documentation as referred to in the first paragraph.

If a copy of the application from which priority has been claimed has been submitted to the International Bureau in connection with an international application, the Patent Office may only require a copy and a translation thereof in accordance with Rule 17.2 of the PCT Regulations.

Section 12. For an application to form the basis for priority according to Section 10, it must be the first in which the invention was disclosed.

If the applicant who has filed the previous application, or his successor in title, has subsequently filed a new application with the same authority relating to the same invention, the subsequent application may be cited as the basis of priority, provided that the previous application was withdrawn, shelved or refused without having been made available to the public when the subsequent application was filed, and provided that it does not form the basis of any existing right or has served as a basis of a claim of priority. If priority has been enjoyed on the basis of such subsequent application, the previous application may no longer be cited as a basis for a claim of priority.

The provisions of the second paragraph shall apply correspondingly to patent applications the filing dates of which have been amended.

Section 13. A claim of priority may also apply to a part of the application, and priority may be claimed on the basis of different applications, even if they relate to different countries.

The Patent Claims

Section 14. A patent claim shall contain:

1. the title of the invention;
2. a statement indicating the art in relation to which the invention constitutes something novel (prior art), provided that such statement is necessary;
3. a statement indicating the novel and characteristic features of the invention.

Each patent claim shall relate to one invention only.

If possible, the invention shall pertain to one of the following categories: products, apparatuses, processes or uses.

A patent claim shall not contain anything that is irrelevant to the invention referred to in the claim or that is not essential to the exclusive right applied for by the applicant.

Section 15. A patent application may contain several patent claims. In such case, the patent claims must be arranged and numbered consecutively.

A patent claim may be independent or dependent. A dependent patent claim is a claim which relates to an embodiment of the invention disclosed in another patent claim of the application, and which therefore comprises all the features of that claim. Other patent claims are independent.

One or more dependent claims may be attached to a patent claim. A dependent claim may be attached to several preceding claims. It shall be introduced by a reference to such preceding patent claim(s) and then list the additional features characterizing the invention.

Section 16. Where a patent application comprises several inventions, it shall only be deemed to comply with Section 10 of the Patents Act if there is a technical relationship among those inventions involving one or more identical or corresponding special technical features. The expression "special technical features" shall mean those technical features which define the contribution which each invention makes over the prior art.

The determination whether a plurality of inventions are dependent on each other, shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

The description

Section 17. The description of an invention may only contain subject matter which contributes to elucidate the invention. If newly coined terms or terms not generally accepted have to be used, an explanation of those terms shall be given. Designations or units of measurements must not deviate from those commonly used in the Nordic countries.

Where the patent application includes a deposit of a culture of a microorganism as referred to in Section 8a of the Patents Act, the application as filed shall contain all relevant information available to the applicant concerning the characteristic features of the organism.

Section 17a. Deposits as referred to in Section 8a of the Patents Act shall be made with an institution which is an International Depositary Authority under the Treaty on the International Recognition of the Deposit of Microorganisms for The Purposes of Patents Procedure done at Budapest on April 28, 1977 (the Budapest Treaty).

The deposit shall be made in accordance with the Budapest Treaty.

The Patent Office shall keep a list of those institutions which are International Depositary Authorities under the Budapest Treaty.

Section 17b. Where a deposit has been made, the applicant shall within 16 months from the filing date of the application, or where priority is claimed, the date from which priority is claimed, inform the Patent Office in writing of the institution with which the deposit was made and the number which the institution has given the deposit. For international patent applications, the information may be submitted to the International Bureau within the same time limit.

Where the applicant makes a request that the documents concerning the patent application be made available to the public earlier than provided for in Section 22, first and second paragraphs, of the Patents Act, the information referred to in the first paragraph shall be submitted not later than at the time when the request is made. If, for an international patent application, the applicant requests early publication of the application under Article 21.2(b) of the PCT, the information shall be submitted not later than at the time when the request for publication is made.

Where a deposit has been transferred from one international depositary authority to another under Rule 5.1 of the Regulations of the Budapest Treaty, the applicant shall inform the Patent Office thereof and of the new number which the deposit has been given.

As proof that the information referred to in the first and second paragraphs is correct, the Patent Office may demand a copy of the receipt for the deposit issued by the institution.

Section 17c. A new deposit as referred to in Section 8a, second paragraph, of the Patents Act shall be made in the manner prescribed in the Budapest Treaty.

A new deposit shall be made within three months from the date on which the depositor received notification from the international depositary authority that samples from the previously deposited culture could no longer be furnished. Where the institution has ceased to be an international depositary authority for the kind of microorganisms to which the deposit belonged or where it has ceased to be an international depositary authority for the kind of microorganisms to which to which the deposit belonged or where it has ceased to fulfil its obligations under the Budapest Treaty, and the depositor has not received notification to that effect within six months from the date of publication of an announcement thereof by the International Bureau, however, the new deposit may be made within nine months from the date of the said publication.

The depositor shall, within four months from the date on which the new deposit is made, submit to the Patent Office a copy of the receipt issued for the new deposit by the institution. Where the time limit referred to in Section 17b, first cf. the second paragraph, expires later, however, the receipt may be submitted within that time limit. When submitting the receipt, the number of the patent application or the patent to which the deposit belongs shall be provided.

The Abstract

Section 18. For Norwegian patent applications, the abstract shall relate to the description and patent claims as in the basic documents, in accordance with Section 21, first paragraph, and Section 24, first paragraph. The abstract shall contain the title of the invention and be drafted in such a way that it is clearly evident which technical problem the invention relates to, the principles for the solution of the said problem which the invention involves, and the principal use of the invention. The final drafting of the abstract shall, if possible, be determined before the application is to be made available to the public according to Section 22, second paragraph, of the Patents Act.

Where, for an international patent applications, an abstract has been filed which has been accepted by the International Searching Authority, that abstract shall be accepted. In other cases, the Patent Office shall determine the drafting of the abstract in such applications. In the latter case, the first paragraph shall be correspondingly applicable.

Amendment of Patent Applications

Section 19. A patent claim must not be amended in such a way that it contains subject matter which is not disclosed in the basic documents as defined in Section 21, first or second paragraph, and Section 24, first paragraph. If a patent claim is amended in such a way that new statements are added, the applicant must, at the same time, indicate where in the basic documents the basis of the amendment is found.

After the Patent Office has issued a statement concerning a novelty search carried out, patent claims disclosing an invention that is independent from inventions disclosed in previously submitted claims may not be included in the same patent application.

A statement concerning the novelty search with respect to an international patent application shall not be given until the expiration of the time limit prescribed in Section 58, unless the applicant consents thereto.

The applicant may only make such amendments or additions in the description and the drawings as are necessary by virtue of Section 8 of the Patents Act. Such amendments or additions must not make the patent claim comprise subject matter which is not disclosed in the basic documents.

Section 20. Amendments of or additions to the patent claims shall, unless the Patent Office in a specific case finds it unnecessary, be effected by submitting new copies of all the claims. In those copies all the claims maintained shall be included in sequence.

Section 21. For the purpose of these Regulations, the basic document of a Norwegian patent application and a patent application, the processing of which is continued in accordance with Section 38 of the Patents Act, shall be that description, in the Norwegian language, including accompanying drawings and patent claims, which was present on the date of filing of the application or, in the alternative, on the date on which the application shall be deemed to have been filed. If such documents are not present at the said time, the first description with accompanying patent claims drawn up in the Norwegian language subsequently submitted shall be considered as the basic document to the extent that the contents clearly appear from the documents present at the filing of the application.

For an international application which is proceeded with in accordance with Section 31 of the Patents Act, the basic document shall be considered to be:

1. where a translation is required to proceed with the application, the translation of the description, drawing and claims filed in accordance with Section 31 of the Patents Act with those revisions, if any, which have been made before the expiration of the time limit applicable according to Section 58;
2. where the application is in Norwegian, the copy of the description, drawings and patent claims filed in accordance with Section 31 of the Patents Act.

Where the laying open of an application to public inspection has been authorized with the approval of the applicant or the application has been refused within the time limits prescribed in Section 58, the description, drawings and patent claims as available at the time when the application was approved or refused shall be considered as basic documents.

If, at the time of filing a patent application, a reference is made to a previous application concerning the same invention, filed with the patent authority of a foreign country, a later submitted and certified copy of that application shall be considered as received by the Patent Office on the date which the application was filed in this country, provided that the date and number of the foreign application were stated at the time of filing.

Division and Separation

Section 22. If several inventions are disclosed in the basic documents, the applicant may divide the application into several applications. At the request of the applicant, a new application relating to an invention which has been extracted from the original application (the parent application) shall be considered to have been filed at the same time as that application. By such division, a new application must not relate to subject matter which, in accordance with Section 19 second paragraph of the Patents Act, might not have been included in the patent claims of the parent application at the time of filing the new application with the Patent Office.

If a division has been made owing to the fact that the application relates to two or more mutually independent inventions, a new application must, in order to be considered as filed at the same time as the parent application, be filed not later than four months after the corresponding limitation of the parent application.

Section 23. If an invention which does not appear from the basic documents has been disclosed in a patent application by means of an addition to the description or patent claims or in any other way, a new application relating to that invention may, at the request of the applicant, be considered as filed by separation from the parent application on the date when the document in which the invention was disclosed was received by the Patent Office.

However, separation as stated above may only be effected subject to the provisions of Section 19 second paragraph of the Patents Act, and provided that protection in the new application is only sought for subject matter disclosed in the documents of the parent application, as appearing on the date of the receipt of the said new document.

Section 24. In the case of division or separation, the description with drawings and patent claims that are submitted in connection with the new application shall be considered as basic documents.

A new application shall only be considered as resulting from division or separation where so indicated in the application as filed. The number of the original application shall be indicated in an application resulting from division or separation.

Availability of the Application to the Public

Section 25. Where a patent application has been made available to the public according to Section 22 of the Patents Act prior to the laying open thereof to public inspection, the abstract shall be printed as soon as its final drafting has been determined. The Patent Office may also print other parts of the application together with the abstract. The printed copies may be obtained at the Patent Office against payment of a prescribed fee.

The publication to be made when an application is made available to the public shall contain an indication of the number and class, filing date and effective date, if the latter is different from the filing date, the title of the invention and the name and addresses of the applicant and the inventor. Where priority is claimed, the publication shall contain information on where the cited application has been filed, its filing date and number. Where the application includes a deposit of a culture of a microorganism, this shall be stated in the publication. If, in accordance with Section 22 eighth paragraph of the Patents Act, the applicant has requested that a sample of the deposited culture may only be furnished to a specially appointed expert, this shall also be stated in the publication.

Where the translation of the description or patents claims has been amended before the expiration of the time limit applicable according to Section 58, but after the documents of the application have become available to the public, a publication shall be made to that effect.

Section 25a. A request pursuant to Section 22 eighth paragraph first sentence of the Patents Act to be furnished with a sample of a deposit shall be drafted as prescribed in Rule 11 of the Regulations under the Budapest Treaty.

Where a request is for a sample of a deposit relating to a patent application on which no final decision has been made, the person desiring to be furnished with a sample shall undertake, in relation to the applicant, not to use the sample other than for experimentation and not to make the sample available to anyone else before the application has been finally decided on or, if a patent has been granted, before the patent has expired.

Where the request is for a sample for a deposit relating to a patent, the person desiring to be furnished with a sample shall undertake, in relation to the patentee, not to make the sample available to anyone else until the patent has expired.

Whoever makes a request to be furnished with a sample, shall be bound by the same limitations as referred to in the second and third paragraphs in respect of cultures derived from the sample which have retained the characteristic features of the deposited culture essential to carry out the invention.

The request for a sample shall include a declaration to the effect that whoever makes the request is bound by the limitations referred to in this Section.

Section 25b. A request pursuant to Section 22 eighth paragraph of the Patents Act that samples of deposited culture shall only be furnished to a specially appointed expert, must be made to the Patent Office not later than at the time when the application becomes available to the public in accordance with Section 22 of the Patents Act.

The Patent Office shall keep a list of persons whom it deems suitable to be appointed as experts.

Where samples may only be furnished to a specially appointed expert, the request for a sample shall state who is to be called upon as an expert. The request shall include a written declaration from the expert to the effect that in relation to the applicant he is bound by corresponding limitations to those referred to in Section 25a second, cf. the fourth paragraph.

A person included in the list kept by the Patent Office or who has been accepted by the applicant in the particular case may be called upon as an expert.

Section 25c. Notwithstanding the limitations referred to in Sections 25a and 25b, a derived culture may be deposited for the purposes of a new patent application of deposit of the culture is required for the application.

Section 25d. If a request for a sample of a deposited culture has been made and the requirements for being furnished with a sample are met, the Patent Office shall draw up a declaration to this effect. The Patent Office

shall send the request for a sample and the declaration to the institution where the deposit is kept. The Patent Office shall at the same time send a copy of the request and the declaration to the applicant or patentee.

Where the Patent Office finds that a declaration as referred to in the first paragraph cannot be issued, the person who made the request shall be notified.

Processing of the Application

Section 26. When examining whether the conditions of Section 2 of the Patents Act for the grant of a patent are fulfilled, the Patent Office shall take into consideration everything that comes to its attention.

The novelty search shall be carried out on the basis of patent specifications, applications laid open for public inspection or published patent applications from Norway, Denmark, Finland, Sweden, Germany, the United Kingdom, Switzerland, France, the United States of America and the European Patent Office, or extracts therefrom, published international patent applications or extracts from such documents and Norwegian patent applications available to the public or extracts therefrom. If necessary, the search shall also comprise other available literature.

The Patent Office may provide further instructions concerning the search. Those instructions may deviate from the provisions of the second paragraph if found necessary under the circumstances.

Section 27. Where the Patent Office finds it necessary in order to be able to decide upon a patent application, an opinion of experts not in the service of the Patent Office may be obtained.

Section 28. When found necessary for the examination of an invention for which a patent has been applied for, the Patent Office may require the applicant to submit a model, sample or the like, or to carry out an investigation or experiment.

Section 29. Where someone applies for a patent for an invention for which he has filed a patent application outside this country, he shall, subject to the restriction stated in Section 69 third paragraph second sentence of the Patents Act, and at the request of the Patent Office, be obliged to report on the result of the examination as to novelty, and patentability in other respects, of the invention which has been communicated to him by the patent authority in question. If the Patent office so requires, he shall be obliged, within a time limit stipulated by the Patent Office, to submit a certified copy, if necessary accompanied by a certified translation, if that which has been communicated to him, or a declaration stating that no communication has yet been received concerning the said examination.

Section 30. Further instructions concerning time limits and extensions of time limits shall be provided by the Patent Office. However, postponement of the laying open of an application to public inspection shall only be granted in cases where the decision to lay the application open to public inspection was made before the application is made available to the public according to Section 22 second and third paragraphs of the Patents Act. In such cases, the laying open of the application to public inspection may, at the request of the applicant, be postponed until the application is made available to the public according to the said provisions.

Laying Open of the Application to Public Inspection

Section 31. The printing of the specification, including the description with drawings, patent claims, and abstract, according to Section 21 of the Patent Act (*Utlegningskrift*) shall be effected by the Patent Office and shall be initiated as soon as possible after the decision to lay the application open to public inspection. The said specification shall indicate the date of such laying open and shall contain the following information:

1. the number and class of the application;
2. the name and address of the applicant;
3. the name and address of the agent, if any;
4. the name and address of the inventor;
5. whether the application is a Norwegian or an international patent application;

6. where the application is a Norwegian patent application, its filing date and, if the effective date is different from the filing date, the effective date;
7. where the application is an international application, the international filing date and the date on which the application was proceeded with in accordance with Section 31 of the Patents Act, or shall be deemed to have been filed in accordance with Section 38 of the Patents Act;
8. any claim for priority and information on where the cited previous application was filed, its filing date and number;
9. where the application is an international patent application, the international application number;
10. where the application is a result of division or separation, the number of the parent application;
11. whether the application includes a deposit of a culture of a microorganism;
12. publications cited.

Section 32. The publication of the laying open of an application to public inspection according to Section 21 of the Patent Act shall contain the title of the invention and the information which, according to Section 31, shall be contained in the application as laid open to public inspection, with the exception of publications cited.

Opposition procedure, Etc.

Section 33. Oppositions against patent applications and subsequent notifications from opponents and applicants concerning the opposition shall be submitted in the number of copies prescribed by the Patent Office.

The opposition shall be accompanied by the grounds therefore.

Section 34. Where the opponent is represented by an agent, a power of attorney for the latter shall be submitted to the Patent Office.

Section 35. A copy of all notifications with enclosures received from the opponent shall be sent to the applicant.

Where the applicant gives an opinion on the opposition, the Patent Office shall decide whether further correspondence between the parties is required.

Section 36. Where during the processing of a patent application, a notification of importance for the examination of the applications is received by the Patent Office outside the period in which an opposition may be filed, the Patent Office shall notify the applicant to that effect. The party having made such notification prior to the laying open of the application to public inspection shall, in cases where prompt action is not required (cf. Sections 17 and 18 of the Patents Act), be informed that he has an opportunity to file an opposition in accordance with Section 21 of the Patents Act if the application is laid open to public inspection.

Further Instructions

Section 37. Further instructions concerning patent applications and the processing thereof shall be provided by the Patent Office.

The Patent Register, Etc.

Section 38. The Patent Office shall keep a Register of patents granted. Entry in the Register shall take place when a final decision has been made on the grant of a patent.

Section 39. The Patent Register shall contain the following information:

1. the application number, registration number and class of the patent;
2. the name and address of the patentee;

3. if the patentee is represented by an agent, the name and address of the latter;
4. the name and address of the inventor;
5.
 - (a) where a patent has been granted on the basis of a Norwegian patent application, the filing date of the application and the date from which the term of the patent is calculated, if that date is not the same as the filing date;
 - (b) where a patent has been granted on the basis of an international patent application, the international filing date or the date on which the application shall be deemed to have been filed according to Section 38 third paragraph of the Patents Act;
 - (c) the date on which the documents of the application were made available to the public;
 - (d) the date on which the laying open of the application to public inspection was published according to Section 21 of the Patents Act; and
 - (e) the date on which patent was granted;
6. the priority claim, if any, with indication of the country where the cited previous application was filed and its filing date and number;
7. where a patent is granted on the basis of an international patent application, the international application number;
8. the title of the invention.
9. where the patent application includes a deposit of a culture of a microorganism, the institution where the deposit is made, and the number given to it by the institution.

Section 40. The publication of the grant of a patent in accordance with Section 26 of the Patents Act shall contain information of the name of the patentee, the number and class of the application and the patent, the title of the invention and an indication of the date of the publication of the laying open of the application to public inspection.

Section 41. The payment of an annual fee or the grant of an extension to pay the annual fee shall be recorded in the Register.

Where a patent has lapsed according to Section 51 of the Patents Act, the date of the lapse shall be recorded in the Register.

A request for re-establishment of rights according to Section 72, second paragraph, of the Patents Act shall be recorded in the Register, provided that the fees referred to in that paragraph have been paid. The decision of the case shall also be recorded.

Section 42. The receipt of notification according to Section 64, first paragraph, of the Patents Act that an action has been brought concerning the validity of a patent, concerning the transfer of a patent or concerning a compulsory license shall be recorded in the Register.

The receipt of a copy of a judgment according to Section 66 of the Patents Act shall be recorded in the Register. Where the judgement has become final, the recording shall be made in such manner as to make the main features of its result appear from the Register.

A declaration of the revocation of a patent by the Patent Office in accordance with Section 54 of the Patents Act shall be recorded in the Register.

Section 43. A recording according to Section 44 of the Patents Act indicating the transfer of the right to a patent to another or the grant of a license shall contain the name of the holder of that right, his address and the date of the transfer or the grant of the license. Any limitation in the right of the patentee to grant further licenses shall, upon request, be recorded. If the question whether to record the transfer of a patent or a license agreement cannot be solved immediately, the receipt of a request for such recording shall be recorded.

A distraint concerning the patent shall be recorded in the Register upon request from the enforcement authority cf. the Enforcement of Claims Act Section 7–20 eighth paragraph. The distrainor shall be notified of the recording, cf. Section 7–19 second paragraph. The first and second sentences shall apply correspondingly in the case of seizure.

A notification of an amendment concerning the agent shall be recorded in the Register.

If the Patent Office has been notified of a transfer of a deposit of a culture as referred to in Section 17b third paragraph, or a receipt as referred to in section 17c third paragraph, the transfer or the new deposit shall be recorded in the Register.

Fees

Section 44. In addition to annual fees pursuant to Section 45, the following fees shall be paid in cases concerning applications for patents:

1. Application fee according to Section 8 fifth paragraph, of the Patents Act, for a Norwegian patent application,
 - a. basic fee NOK 1 000
 - b. additional fee for every patent claim excess of ten NOK 200
2. Application fee for an international patent application according to Section 31 first paragraph or Section 38 second paragraph of the Patents Act NOK 1 000
3. Application fee according to Section 8 fifth paragraph of the Patents Act for an international patent application proceeded with in accordance with Section 31 of the Patents Act or for a patent application filed in accordance with Section 38 of the Patents Act,
 - a. the basic fee shall be deemed to have been paid by the fee paid in accordance with item 2,
 - b. additional fee for every patent claim in excess of ten NOK 200
 - c. separate additional fee,
 - 1) where the application is proceeded with according to Section 31 first paragraph of the Patents Act and comprises an invention which has not been subjected to an international novelty search or to an international preliminary examination, but where Section 36 or Section 37 of the Act does not apply, or
 - 2) where the application is proceeded with according to Section 31 second paragraph of the Patents Act and comprises an invention which has not been subjected to an international preliminary examination, but where Section 36 or Section 37 of the Act does not apply
4. Additional fee for an extended time limit according to Section 31 third paragraph of the Patents Act NOK 800
5. Fee to the Patent Office according to Section 36 or Section 37 of the Patents Act NOK 2 800
6. Resumption fee according to Section 15 third paragraph, and Section 20 first paragraph of the Patents Act NOK 850
where the application has been previously resumed NOK 1 700
7. Appeals fee pursuant to Section 25 of the Patents Act NOK 1 600
8. Fee for laying open of the application to public inspection pursuant to Section 20 first paragraph of the Patents Act,
 - a. basic fee for printing of up to and including fourteen printed pages NOK 1 000

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| b. | for printing of each exceeding page | NOK 250 |
| | A part of a page is considered as a full page | |
| c. | additional fee for each patent claim which has been filed after the date of filing of the application, or the date on which the application is considered to have been filed, in so far as the number of claims thereby exceeds the number for which an application fee has been paid | NOK 350 |
| 9. | Fee for a request for re-establishment according to Section 72 of the Patents Act | NOK 1 250 |
| 10. | Appeal fee according to Section 75, cf. Section 25 of the Patents Act | NOK 1 600 |

The Patent Office shall provide for further instructions concerning the submittance and proceeding of requests for exemption from payment of the fee for the laying open of the application for public inspection according to Section 20, second paragraph, of the Patents Act. Printing of patent documents according to Section 7 second paragraph third and fifth sentences of the Act No 8 of June 26, 1953, on Inventions of Importance to the Defense of the Country shall not be subjected to payment of fees.

Section 45. The following annual fees shall be paid for patent application and patents:

1st fee year NOK	550
2nd fee year NOK	550
3rd fee year NOK	550
4th fee year NOK	1 050
5th fee year NOK	1 050
6th fee year NOK	1 050
7th fee year NOK	2 100
8th fee year NOK	2 100
9th fee year NOK	2 100
10th fee year NOK	3 500
11th fee year NOK	3500
12th fee year NOK	3500
13th fee year NOK	4500
14th fee year NOK	4500
15th fee year NOK	4500
16th fee year NOK	5500
17th fee year NOK	5500
18th fee year NOK	5500
19th fee year NOK	6500
20th fee year NOK	6500

Annual fees which are paid after the due date according to Section 41 third paragraph or Section 42 third paragraph of the Patents Act shall be increased by 20 per cent. Where the annual fee is paid in an insufficient amount, the increase shall be calculated from the missing amount.

Section 46. The following fees shall be paid in cases concerning granted patents:

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| 1. | Fee for request for re-establishment according to Section 72 of the Patents Act | NOK 1 250 |
| 2. | Appeals fee according to Section 75, cf. Section 25, of the Patents Act | NOK 1 600 |
| 3. | For recording in the Register concerning transfer or change of name | NOK 300 |
| 4. | For recording in the Register concerning change of agent | NOK 300 |
| 5. | For recording concerning a license | NOK 300 |

Section 47. For a certified copy of the Patent Register shall be paid NOK 300.

For confirmation of the correctness of an available copy of patent application with description, drawings, abstract and claims or of a printed Norwegian specification as laid open to public inspection or a letters patent shall be paid NOK 300.

The Patent Office shall stipulate the price of printed copies as referred to in Section 25 first paragraph, of printed specifications (*Utlegningsskrift*) as laid open to public inspection, of letters patent and of other reproductions, the fee according to Section 8, second paragraph, and the price of the Norwegian Patent Gazette (*Norsk Patenttidende*).

Section 48. Fees that have not been paid within the prescribed time limit or fees the payment of which is insufficient by the expiration of the time limit, resulting in nonacceptance of the payment, shall be reimbursed.

Publications by the Patent Office

Section 49. The prescribed publications shall be entered in the Norwegian Patent Gazette (*Norsk Patenttidende*).

The Patent Office as a Receiving Office for International Patent Applications

Section 50. The Patent Office shall act as a Receiving Office for international patent applications filed by applicants who are nationals of Norway, or who are residents of or have a commercial establishment in this country, or which are Norwegian legal entities.

The Patent Office shall act as a Receiving Office for an international application if the application is filed by several applicants and at least one of them fulfills the requirements of the first paragraph.

Section 51. In its capacity as a Receiving Office, the Patent Office shall receive, check and transmit international patent applications in accordance with the PCT and the PCT Regulations.

The applicant shall pay the following fees to the Patent Office in its capacity as a Receiving Office:

1. the basic fee as referred to in Rule 15.1 of the PCT Regulations within one month from the receipt of the application;
2. the designation fee as referred to in Rule 15.1 of the said Regulations within one year from the international filing date of the international application or, if priority is claimed, from the priority date; however, the time limit shall never be shorter than one month from the receipt of the application;
3. the search fee as referred to in Rule 16.1 of the PCT Regulations within one month from the receipt of the application;
4. the handling fee for the handling of the application by the Patent Office in its capacity as a Receiving Office (the transmittal fee) within one month from the receipt of the application; and, if applicable;
5. the fee for the issuance and transmittal of the priority document in accordance with Rule 17.1(b) of the PCT Regulations within the time prescribed in Rule 17.1(a) of the same Regulations.

The fee referred to in the second paragraph items 4 and 5 shall be NOK 500 and NOK 300 respectively.

Where a fee referred to in items 1 to 4 of the second paragraph has not been paid within the time limit or the payment is insufficient by the expiration of the time limit, the missing amount shall be covered by the Patent Office, which shall charge the required amount to the International Bureau in accordance with Rule 16*bis* of the PCT Regulations.

Where the payment has been delayed as indicated in the fourth paragraph, a fee shall be paid to the Patent Office. The fee shall be 50 per cent of the missing amount. It shall nevertheless not exceed the basic fee and not be less than the transmittal fee.

Where the applicant has in his international application sought patent protection in more than one state, at least one designation fee has to be paid within the time limit indicated in paragraph 2 item 2.

Further designation fees may be paid within 15 months from the international filing date or the priority date. Simultaneously, the applicant shall, in a written notice to the Patent Office, confirm to which designations the fees apply, and he shall pay a confirmation fee to the Patent Office in accordance with Rule 15.5 of the PCT Regulations. The confirmation fee shall be 50 % of the designations fees paid under the second sentence of this paragraph. Fees paid according to the rules laid down in this paragraph, shall be considered paid in good time.

Section 52. International patent applications filed with the Patent Office shall be submitted in one copy, which shall be in the Norwegian or English language. The application form may be in English even if the accompanying application documents are in Norwegian.

Section 53. Information concerning international patent applications which are filed with the Patent Office shall be entered into a special journal. The journal shall not be available to the public.

Section 54. An applicant who is not a resident of this country shall have an agent residing in this country who can represent him before the Patent Office in all matters concerning the application.

Section 55. Subject to the provisions of the Act on Inventions important for the Defense of the Country, the Patent Office shall transmit an international patent application received to the International Bureau in accordance with the PCT and the PCT Regulations.

Section 56. Where Rule 19.4 of the PCT Regulations apply, the applicant shall pay a fee to the Patent Office. The said fee shall be NOK 500 and shall fall due one month after the filing of the international application.

Proceeding with an International Patent Application, Etc.

Section 57. Where an international application is in a language other than Norwegian, a translation shall be filed in the case of proceeding under Section 31 of the Patents Act or in the case of a request for a review under Section 38 of the Act. Section 3, second paragraph, of these Regulations shall apply correspondingly. Where only part of the application is proceeded with in this country, the Patent Office may stipulate rules for limitations in the obligation to file a translation.

Section 57a. If an international application has been proceeded with in accordance with Section 31 of the Patents Act and if, at the expiration of the time limit for proceeding with the application, the Patent Office has not received a notification from the International Bureau to the effect that it has received the application, the Patent Office shall notify the International Bureau.

Section 58. The time limit referred to in Section 34 of the Patents Act shall be:

1. unless otherwise specified under item 2, four months from the expiration of the time limit for proceeding with an international patent application as prescribed in Section 31, first paragraph, of the Patents Act;
2. if the applicant, within 19 months from the international filing date or, if priority is claimed, the date from which priority is claimed, has made a declaration as referred to in Section 31, second paragraph, of the Patents Act, four months from the expiration of the time limit according to Section 31, second paragraph, for proceeding with the international application.

Section 58a. Notifications referred to in Section 36 first or third paragraph or Section 37 of the Patents Act shall be sent to the applicant by registered post.

Section 58b. The time limit for making a request for a review under Section 38 of the Patents Act shall be two months from the date on which a notification on a decision as referred to in Section 38, first paragraph, of the Patents Act was sent to the applicant.

If the applicant proves that he received the notification more than seven days after the date of the notification, the time limit shall be extended by as many days in excess of seven as have passed between the date of the notification and the date on which the applicant received it.

Spare Parts and Accessories for Aircraft

Section 59. Spare parts and accessories for aircraft may be imported into this country notwithstanding a patent, provided that they are used for the repair of an aircraft belonging to a country which is party to the Convention on International Civil Aviation of December 7, 1944 (the Chicago Convention), and is either party to the Paris Convention for the Protection of Industrial Property of March 20, 1883, or has a legislation on patents, which recognizes inventions made by nationals of other countries party to the Chicago Convention and which guarantees protection for such inventions which is essentially the same as that of the Paris Convention.

Supplementary Protection Certificates for Medicinal Products

Section 60. Definitions:

- a) "A certificate" shall mean a supplementary protection certificate for a medicinal product;
- b) "The Regulation" shall mean Annex XVII item 6 to the Agreement establishing the European Economic Area [Council Regulation (EEC) No 1768/92 concerning the creation of a supplementary protection certificate for medicinal products with adaptations to the EEA Agreement], including the amendments and additions provided for in Protocol 1 of the Agreement and elsewhere in the Agreement.

Section 61. An application for a certificate shall be filed in writing. The application is filed at the Patent Office in one copy, unless the Office provides that more than one copy has to be filed.

The application shall be filed in Norwegian. If an enclosure to the application is filed in another language than Norwegian a translation shall be enclosed. The Patent Office may require that the translation shall be confirmed by a translator or in any other manner accepted by the Office. The Patent Office may provide for exemptions from the obligation to file translations.

The application shall be signed by the applicant or his agent.

Section 62. When filing the application, the applicant shall pay an application fee according to Section 62a of the Patents Act paragraph 2 with the amount provided in section 44 item 1 a of this regulation.

Section 63. An applicant who is not a resident of this country shall have an agent residing here who can represent the applicant in all matters concerning the application.

Section 64. Where the applicant has applied for a certificate for the same product in other states within the European Economic Area the applicant should, in addition to the information required under Article 8 of the Regulation, state the relevant application numbers and identify the authorities with whom the said applications have been filed.

Where a certificate has been applied for by several applicants collectively it should be stated in the application whether one of them is authorized to receive notifications, etc., from the Patent Office on behalf of all of them.

The Patent Office may require the applicant to furnish further information concerning the product whenever this is necessary for the proper handling of the application.

Section 65. An application must not be amended in such a way that a certificate for a different product, or based on another basic patent is applied for.

Section 66. In addition to the information mentioned in Article 9 paragraph 2 of the Regulation, the number and the filing date of the application shall be published.

Section 67. The Patent Office shall keep a journal of the applications filed. The journal shall indicate:

1. the information mentioned in Article 9 paragraph 2 of the regulation;
2. the number and filing date of the application;
3. the name and address of the agent, if any;
4. documents submitted and fees paid concerning the case;
5. notifications sent and decisions made concerning the case.

The journal shall be available to the public.

Section 68. In examining whether the conditions laid down in Article 3 of the Regulation are met, the Patent Office shall take into consideration all information known to it.

In order to decide whether the condition mentioned in Article 3 (c) is fulfilled, the Patent Office shall examine the Certificate Register.

Before granting a certificate, the Patent Office shall obtain from the National Medicines Control Board (*Statens legemiddelkontroll*) a confirmation to the effect that the authorization mentioned in Article 3 (b) of the Regulation is the first authorization for placing the product on the market as a medicinal product in this country.

Section 69. For time limits according to Article 10.3 of the Regulation, Section 15 paragraphs 2 and 3 and Section 16 of the Patents Act shall apply correspondingly. For resumption a fee as stipulated in Section 44 item 6 of this regulation is to be paid.

Section 70. When an application for a certificate has been finally rejected or shelved this fact shall be published with the information mentioned in Section 66.

Section 71. In addition to the information mentioned in Article 11.1 of the Regulation, a publication of the grant of a certificate according to the said Article shall contain the filing date of the application for the certificate and its registration number.

Section 72. A certificate shall contain the information mentioned in Section 71.

Section 73. The Patent Office shall keep a special register concerning granted certificates (the Certificate Register), forming a part of the Patent Register. In the Certificate Register shall be entered:

1. the information mentioned in Section 71;
2. the name and address of the agent if any.

In other respects, Sections 41 to 43 shall apply correspondingly.

If the certificate lapses for a reason mentioned in Article 14 (b), (c) or (d) of the Regulation, or it is invalidated for a reason mentioned in Article 15 this fact shall be entered in the Certificate Register with a reference to the publication according to Article 16.

Section 74. Section 46 shall apply correspondingly to granted certificates.

Section 75. According to Section 62a of the Patents Act, annual fees shall be paid for certificates with the amount fixed in Section 45 of this Regulation as the fee for the 20th fee year.

Annual fees shall be paid for each fee year starting after the end of the lawful patent term, even if the certificate has not been granted at the end of that term.

Section 76. If an application for a certificate is rejected or shelved, the applicant may make the decision the subject of an appeal to the Board of Appeals of the Patent Office. If the Board of Appeals rejects the application the applicant may bring the decision before the courts. Section 25 of the Patents Act shall apply correspondingly.

A decision to grant a certificate may not be brought before the Board of Appeals. Anyone may bring legal proceedings before the courts for invalidating a granted certificate.



Section 77. Section 67 of the Patents Act shall apply correspondingly concerning the obligation for a holder of a certificate who is not a resident of this country to have an agent residing here.

Final provisions

Section 78. Provisions made by the Patent Office pursuant to these Regulations shall not be published in the Norwegian Law Gazette (*Norsk Lovtidend*). The Patent Office shall see to it that they are published in the Norwegian Patent Gazette (*Norsk Patenttidende*), cf. Section 13, second paragraph, of Act No 7 of July 2, 1910 on the Norwegian Patent Office.

Section 79. These Regulations shall enter into force on January 1, 1980.

The provisions of these Regulations dealing with patent applications subjected to international preliminary examination shall enter into force on January 1, 1989.

Upon the entry into force of these Regulations, the Regulations Concerning Patent Applications, Etc., laid down by Royal Decree of December 15, 1967, shall be repealed.

Section 80. These Regulations shall also govern patent applications which, at the entry into force of the Regulations, are under processing in the Patent Office, unless the laying open of the application to public inspection has been approved prior thereto.

The following exceptions shall apply:

1. applications for patents of addition shall be processed and decided upon according to the previous provisions;
2. previous Sections 2, 9, and 10 shall apply instead of new Sections 2, 10, and 11;
3. applications filed prior to the entry into force of these Regulations may, notwithstanding Section 24, second paragraph, be accepted as the result of division or separation;
4. previous Sections 45, 51, and 53 shall apply to patents which have lapsed in accordance with Section 51, first paragraph, of the Patents Act before the entry into force of these Regulations.

The printing fee as provided for in Section 20 of the Patents Act as drafted prior to amending Act No. 35 of June 8, 1979, shall consist of a basic fee and a fee for additional pages, calculated in the same manner and with the same amounts as the corresponding fees comprised by the fee for the laying open of the application to public inspection according to Section 44 of these Regulations.

Royal Decree of December 4, 1993:

I.

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II.

1. The amendments shall enter into force on January 1, 1993.
2. The amendments shall not apply to recording of distraint and seizure according to Act No 7 of August 13, 1915 on Enforcement of Claims.

Royal Decree of July 1, 1994:

I.

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II.

1. This regulation shall enter into force on July 1, 1994.
2. Where a certificate has been applied for in accordance with Article 19 paragraph 3 of the Regulation the annual fees shall be calculated from the date of publication under Section 66. Under such circumstances, the annual fee falls due for the first time two months after the said publication.

Royal Decree of June 23, 1995:

I.

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II.

1. This regulation shall enter into force on July 1, 1995.
2. The present amendments to the Regulation of October 12, 1979 Concerning Applications for Patents, Etc. shall not apply to fees which have fallen due before July 1, 1995