

Regulations to the Norwegian Patents Act (The Patent Regulations)

This is an unofficial translation of the regulations to the Norwegian Patents Act. Should there be any differences between this translation and the authentic Norwegian text, the decision will be made on the basis of the authentic Norwegian text.

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Regulations to the Norwegian Patents Act (The Patent Regulations)

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Chapter 1. National Patent Applications

Section 1. Formal Requirements

A patent application shall be filed using a separate application form. The applicant shall fill in the form and appendices in printed letters. The application may be filed electronically in accordance with section 1 of the Regulations relating to fees, etc. to the Norwegian Industrial Property Office.

Section 2. Contents of the Application

The application shall contain the following:

1. the inventor's name and address, the applicant's name or business name and address as well as any representative's name or business name and address
2. information about the party who is authorised to receive notifications, etc. from the Norwegian Industrial Property Office on behalf of the applicants if a patent application is filed by several applicants jointly
3. a short and precise technical title of the invention
4. a description of the invention with drawings if this is necessary in order to understand the invention

5. a statement of the subject matter for which protection by the patent is sought (patent claims)
6. an abstract in accordance with section 11
7. information about whether the application comprises deposited biological material in accordance with section 8a of the Patents Act
8. information about the providing country and the country of origin for biological material in accordance with section 8b of the Patents Act
9. information about obtained consent for use of biological material from the human body in accordance with section 8c of the Patents Act
10. information about the international application number and filing date, and any claimed priority date for an international application that enters the national phase in accordance with section 31 of the Patents Act
11. a list of accompanying documents.

The application must be signed by the applicant or his representative. The signature may be hand-written, printed, stamped or electronic in accordance with the standard laid down by the Norwegian Industrial Property Office at any given time. If a patent is being applied for by another party than the inventor, the application shall contain a declaration from the applicant that the applicant has the right to the invention. The declaration shall state the basis for the applicant's right to the invention.

Section 3. Filing Date

The application will be accorded a filing date even if the requirements in section 2 have not been complied with if the application contains a description of the invention and information that makes it possible to identify and contact the applicant or the applicant's representative. If the application is filed electronically, it must be filed in a format accepted by the Norwegian Industrial Property Office.

If the Norwegian Industrial Property Office finds that it cannot accord a final filing date for the application because parts of the description, drawings or patent claims have not been supplied, the Norwegian Industrial Property Office shall immediately notify the applicant hereof and request that the deficiency be corrected within two months from when the notice was sent. The filing date for the application will be maintained if, within the above-mentioned time limit, or if no notice has been sent, within two months from when an application that complies with the requirements laid down in the first paragraph was filed, the applicant:

1. supplies the missing parts,
2. states that the parts are included in the application by reference to a previous application or
3. declares that no parts are missing and the Norwegian Industrial Property Office finds this to be the case.

Section 4. Basic Documents

The basic documents of the application consist of the description of the invention with accompanying drawings and patent claims supplied in Norwegian not later than on the date on which the application was filed or is to be deemed to have been filed. If the description with accompanying drawings and patent claims are not supplied in Norwegian on the above-mentioned date at the latest, the first description with accompanying patent claims that are subsequently supplied in Norwegian will be regarded as basic documents to the extent to which the contents hereof are clearly stated in the documents that were available when the application was filed.

Section 5. Language Requirements

The description, patent claims and abstract shall be drawn up in Norwegian. Other documents may be drawn up in Norwegian, Danish, Swedish or English. If the application or other documents are in another language, the Norwegian Industrial Property Office may request the applicant to supply a translation within a time limit stipulated by the Norwegian Industrial Property Office. The Norwegian Industrial Property Office may demand that the translation shall be certified by a state-authorized translator. If the applicant supplies an application without priority in Danish, Swedish or English, a translation into Norwegian must be supplied within 16 months from when the application was filed.

The Norwegian Industrial Property Office may approve another language than those specified in the first paragraph in each individual case.

Section 6. Patent Claims

A patent claim shall contain the following:

1. the title of the invention
2. a statement describing the art in relation to which the invention constitutes something novel (the prior art) if such a disclosure is necessary
3. a statement indicating the new and characteristic features of the invention.

In so far as possible, the invention shall be referred to one of the following categories: product, apparatus, process or use.

A patent claim shall not contain anything that is irrelevant to the invention disclosed therein or that is irrelevant to the exclusive right that the applicant is claiming.

Section 7. Several Patent Claims

A patent application may contain several patent claims. In such case, the patent claims shall be numbered.

One or several other claims may be attached to a patent claim.

A patent claim may be independent or dependent. Dependent claims are claims that relate to embodiments of an invention disclosed in another patent claim in the application and that therefore comprise all the characteristic features contained in that claim. Dependent claims shall be introduced with a reference to the previous claim(s) to which they are related.

The number of independent claims is limited to one independent claim in each category. Several independent claims within the same category may only be included if this concerns products or processes with mutual dependency, different inventive areas of application of a product or alternative solutions to a special problem. The Norwegian Industrial Property Office will decide whether inventions may be included in separate independent claims within the same category.

Section 8. Unity

In accordance with the rules of section 10 of the Patents Act, an application may only comprise a plurality of inventions if there is a technical relationship between the inventions. There is a technical relationship between the inventions if the inventions have one or more identical or similar special technical features in common. Special technical features are the features of each invention which define a contribution that each invention makes over and above the prior art.

The question of whether there is a technical relationship between a plurality of inventions shall be determined without regard to whether they are disclosed in separate claims or as alternatives within a single patent claim.

Section 9. The Description

The description shall only contain information and specifications that contribute to an understanding of the invention.

Biological material shall be described in accordance with the guidelines laid down by the Norwegian Industrial Property Office. For generally available biological material, information must be provided of how it can be obtained. The description of biological material in accordance with section 8a of the Patents Act shall contain all information of importance to the characteristic features of the biological material to which the applicant has access.

Section 10. Drawings

Drawings shall show the details that are necessary in order to understand the description.

Section 11. Abstract

The abstract shall contain a brief summary of the details contained in the patent claims, description and drawings in the basic documents. If the application contains drawings, the applicant shall state the figure that the applicant wishes to be published together with the abstract. If the applicant has not specified this, the Norwegian Industrial Property Office will choose the figure that is to be published.

Section 12. Deposit of Biological Material etc.

The deposit of biological material in accordance with section 8a, first paragraph, of the Patents Act shall be made in accordance with the Budapest Treaty on the International Recognition of Deposit of Microorganisms for the Purposes of Patent Procedure of April 28, 1977. The material shall be deposited with an institution that is an international depositary institution in accordance with the Budapest Treaty or with an institution that has been approved by the European Patent Office.

When a sample of biological material has been deposited, the applicant shall notify the Norwegian Industrial Property Office in writing about the depositary institution with which the material has been deposited and the reference number that the institution in question has accorded the deposited material. The information shall be provided not later than 16 months after the filing date or, if priority has been claimed, the claimed priority date. If deposited biological material is transferred to another international depositary institution in pursuance of Rule 5 (1) of the Implementing Regulations to the Budapest Treaty, the applicant or the patent holder shall notify the Norwegian Industrial Property Office hereof and of the reference number that the institution has accorded the deposited material.

A new deposit of biological material in accordance with section 8a, second paragraph, of the Patents Act shall be made in accordance with the Budapest Treaty. The applicant or the patent holder shall notify the Norwegian Industrial Property Office of the new deposit of biological material and of the reference number that this institution has accorded the deposited material within four months from when the material was deposited or within the time limit stipulated in the second paragraph.

The Norwegian Industrial Property Office may demand a copy of the receipt that the depositary institution has issued as proof of the correctness of the information provided in accordance with the second and third paragraphs.

A request in accordance with section 22, eighth paragraph, of the Patents Act that samples of biological material shall only be issued to a specially appointed expert must be filed with the Norwegian Industrial Property Office not later than the day before the application becomes available to the public in accordance with section 22 of the Patents Act.

Chapter 2. Priority

Section 13. Application Priority

The applicant may claim priority in accordance with section 6 of the Patents Act on the basis of the first application that describes the invention if it was filed in a state that is a party to the Paris Convention for the Protection of Industrial Property of March 20, 1883, or the Agreement Establishing the World Trade Organization (WTO) of April 15, 1994. The same shall apply to an application filed with a regional patent authority if this is equated with the filing of a national application in accordance with the legislation in force in a state that is a party to the Paris Convention or in accordance with a bilateral or multilateral agreement entered into between states that are parties to the Paris Convention. A previous application that forms the basis for priority will be referred to as a priority document in these Regulations.

A priority claim must be included in the application when it is filed or be forwarded within 16 months from the priority date. The claim shall specify the patent authority with which the claimed application was filed, the filing date and the application number. If the application number is not known, the number must be forwarded as soon as the applicant gets knowledge hereof. If the previous application is not available to the Norwegian Industrial Property Office in an electronic register, the Norwegian Industrial Property Office may demand that the applicant shall submit a priority certificate within three months. The priority certificate shall contain the information stipulated in the second period of this paragraph, the applicant's name and a copy of the application. The priority certificate must be certified by the authority with which the claimed application was filed.

The applicant may correct or add a priority claim by written notification to the Norwegian Industrial Property Office within a time limit of

16 months computed as from the priority date. If a correction or addition will cause a change in the priority date, the 16-month time limit shall be computed as from whichever priority date expires first. In the event of such a claim for a correction or addition, the written notification must be filed within four months from the filing date in Norway. No corrections or additions may be made once the application has become available to the public by the applicant having requested early publication hereof.

A priority claim may be withdrawn by written notification to the Norwegian Industrial Property Office until a final decision has been made regarding the application.

Section 14. Requirements for Application Priority

In order for an application to provide a basis for priority in accordance with section 6 of the Patents Act, it must be the first application to describe the invention. A subsequent application that describes the invention will provide a basis for priority if the following requirements have been met:

1. if it has been filed with the same patent authority as the first application and by the same applicant or his successor in title
2. if the first application has been withdrawn, shelved or rejected without the application having become available to the public when the subsequent application was filed
3. if the first application has not served as a basis for any priority claim
4. if the first application does not form the basis for any existing right.

Section 15. Priority for an Application Comprising a Plurality of Inventions

If an application comprises a plurality of inventions, the applicant may claim priority for one or more of the inventions. In such cases, priority may be claimed on the basis of different applications. This shall apply even if the claimed applications have been filed in different states. The individual application must comply with the requirements in section 14.

Section 16. Relationship between the Priority Document and the Basic Documents

The priority shall only apply to the specifications contained in the priority document.

The priority document cannot be relied on as a basis for the introduction of new contents that exceed the basic documents contained in the application. Obvious errors or typing errors may, however, be corrected based on the priority document.

Section 17. Applications Filed in a State that Is not a Party to the Paris Convention or the WTO Agreement

Priority in accordance with section 6 of the Patents Act will be granted on the basis of an application filed in a state that is not a party to the Paris Convention or the WTO Agreement if said non-contracting state grants such priority based on patent applications filed in Norway. The provisions in this Chapter shall apply correspondingly.

Chapter 3. Provisions on Representation

Section 18. Documentation of Representation

If the applicant is represented by a representative, such representation must be confirmed either in the application form, which, in such case, must be signed by the applicant, in which the applicant states the representative's name and postal address, or in a separate document, which, in addition to the above-mentioned information, must contain the title of the invention or the application number. If the relationship of representation is based on a general power of attorney, each application in which the general power of attorney is invoked must contain a reference to it.

The provisions in the first paragraph shall apply correspondingly if an opponent, a party who is requesting an administrative review or a patent holder who is requesting administrative patent limitation is represented by a representative. However, in such case, reference must be made to the patent number instead of to the application number.

Section 19. Representation in accordance with Section 67 of the Patents Act

If the patent holder's representative is to be granted power of attorney in accordance with section 67 of the Patents Act, this shall be stated in the power of attorney.

Chapter 4. Amendments to the Application

Section 20. Amendments to Patent Claims

Patent claims may be amended by the applicant filing a new copy of all maintained claims listed in consecutive order. In the individual case, the Norwegian Industrial Property Office may decide not to demand new copies or approve that new copies are only filed for patent claims that have been amended.

If a patent claim is amended, the applicant shall state where in the basic documents the basis for the amendment is found. A patent claim cannot be amended to comprise any element that is not specified in the basic documents.

After the Norwegian Industrial Property Office has informed the applicant of the result of the novelty search, patent claims cannot be included in the same application that describe an invention that is independent of the inventions disclosed in previously filed claims.

If the patent claims have been limited after the Norwegian Industrial Property Office has notified the applicant of a lack of unity, the application may no longer be regarded as comprising the invention(s) that was or were deleted from the claims in connection with the limitation hereof.

A change of claim category will be approved if technical dependence is present and is stated in the basic documents.

Section 21. Amendments to the Description and Drawings

The applicant may only make amendments or additions to the description and accompanying drawings that are necessary to comply with the requirements stipulated in section 8 of the Patents Act. Such amendments or additions must not result in the patent claims comprising any element that is not specified in the basic documents.

If a new description is filed, the applicant shall provide a declaration specifying which parts that are not in accordance with the previously filed description and specify which way the amendments imply anything new in respect of the prior art. Unless otherwise warranted on special grounds, the Norwegian Industrial Property Office shall accept such a declaration without special control hereof.

Chapter 5. Division of and Separation from Applications

Section 22. Division of the Application

The applicant may request that a previously filed application shall be divided into several independent applications if the basic documents describe a plurality of inventions. Together with the request for division of the application, the applicant shall file a new application form, a new description with any drawings and new patent claims for each application that is not a continuation of the original application. The request for a division of the application shall state the original application number and specify the inventions that each of the new applications will comprise. A prescribed fee shall be payable for each new application.

The application that is regarded as a continuation of the original application will retain its original application number. Each new application will be accorded a new application number and will be regarded as a divisional application.

A divisional application must be filed before a final decision has been made regarding the original application. The divisional application cannot be identical to the original application.

The request for division of the application will be rejected if the requirements in the first and third paragraphs have not been complied with.

If the application is divided, the applicant will be notified hereof with information about the number of the divisional application.

Section 23. Divisional Application

In a divisional application, the description with accompanying drawings and patent claims that are filed together with the application will be regarded as basic documents. Elements from the original application cannot be added after the basic documents have been filed. Other documents than the basic documents in the original application will also constitute documents in the divisional application if they were filed before the application was divided.

The divisional application will retain the priority from the original application.

Section 24. Separation from the Application

If an application is amended to the effect that it comprises an invention that is not disclosed in the basic documents, the applicant may request that this invention shall be separated from the application into a new application. Together with the request for separation from the application, the applicant shall file a new application form, a new description with any drawings and new patent claims for each new application. The application will be regarded as having been filed on the same date on which the Norwegian Industrial Property Office received the first document that comprises the invention that was not specified in the basic documents of the original application. The application will be accorded a new application number. A prescribed fee shall be payable for each separated application.

A new application must be filed before a final decision has been made regarding the original application. The separated application cannot be identical to the original application.

The request for separation from the application will be rejected if the requirements in the first and second paragraphs have not been complied with.

Section 22, fifth paragraph, and section 23, first paragraph, shall apply correspondingly.

Chapter 6. Right of Access to Inspect the Documents of the Case. Issue of Samples of Biological Material

Section 25. Right of Access to Inspect Documents

In accordance with section 22, second paragraph, first period, of the Patents Act, the documents shall be made available to the public the day after the same day number of the month as the date that forms the basis of the computation. If the Norwegian Industrial

Property Office does not have office hours on this date, the application shall be made available to the public as from the first subsequent office date. If the computation in accordance with section 22, second paragraph, first period, of the Patents Act is made on the basis of the priority date and priority has been claimed from different dates, the date shall be computed based on the earliest priority date.

When the applicant requests that the application shall be made available to the public at an earlier date than in accordance with the provisions of section 22, first or second paragraph, of the Patents Act, the application shall be made available to the public as soon as the request for this has been received unless the applicant specifies a later date. Any information about deposited biological material in accordance with section 12, second and third paragraphs, must be provided not later than concurrently with the submission of such a request.

If the application is made available to the public before the patent has been granted, the abstract shall be published as soon as its final wording has been drawn up. The Norwegian Industrial Property Office may also publish other parts of the application together with the abstract.

Section 26. Issue of Sample of Biological Material

A request for the issue of a sample of biological material in accordance with section 22, ninth paragraph, of the Patents Act shall be worded in accordance with the provisions in Rule 11 of the Implementing Regulations to the Budapest Treaty.

If the request concerns a sample of deposited biological material connected with an application for which a final decision has not yet been made, the party requesting the sample must submit a declaration in which he undertakes vis-à-vis the applicant not to use the sample for any other purposes than for experiments that concern the invention itself and to refrain from granting other parties access to the sample until a final decision has been made regarding the application or, if a patent is granted, until the patent has expired. If the request concerns a sample of deposited biological material connected with a patent, the party requesting the sample must submit a declaration in which he undertakes vis-à-vis the patent holder not to use the sample for any other purposes than experiments that concern the invention itself and to refrain from granting other parties access to the sample until the patent has expired. The first and second periods of this paragraph shall apply correspondingly to biological material that is derived from the sample and that has retained the characteristic features of the material that are important for carrying out the invention. The request for the issue of the sample shall contain a declaration that the requester undertakes these obligations.

If a sample may only be issued to a special expert, the request for the issue of the sample shall designate the expert in question. The Norwegian Industrial Property Office will draw up a list of persons who can be used as experts. Only persons who are entered in said list, or whom the applicant accepts in the individual case, may be used as experts. If an expert is used, the request for the issue of a sample shall contain a declaration from the expert in accordance with the second paragraph.

The second and third paragraphs shall not apply if it is necessary to deposit derived biological material in connection with a subsequent application.

When a request has been made for the issue of a sample of biological material and the requirements for this have been complied with, the Norwegian Industrial Property Office shall issue a declaration to this effect. The Norwegian Industrial Property Office shall send the request for the issue of a sample and the declaration to the depositary institution with which the material has been deposited. A copy of the request for the issue of a sample and the declaration shall concurrently be sent to the patent applicant or the patent holder. If the Norwegian Industrial Property Office does not issue such a declaration, the party requesting the sample shall be notified hereof.

Chapter 7. The Processing of Applications

Section 27. Classification

The application shall be classified in accordance with the international patent classification system. The application may also be classified in accordance with another classification system.

Section 28. Novelty Search

The novelty search shall cover the period until the filing date for the application. This shall also apply to any claimed priority.

The basic documents in another application will be novelty-defeating in accordance with section 2, second paragraph, second period, of the Patents Act from the filing date or from the priority date to the extent to which there is conformity between the basic documents and the priority document. The abstract and other documents in the application will be novelty-destroying as from the date on which the documents are made available to the public in accordance with section 22 of the Patents Act.

Section 29. Novelty Search by an International Searching Authority

Within three months from the date on which the application was filed or is to be deemed to have been filed, the applicant may require that the Nordic Patent Institute, the Swedish Patent and Registration Office or the European Patent Office shall perform a novelty search in accordance with the provisions of section 9 of the Patents Act regarding applications without priority that have been drawn up in Norwegian, Danish, Swedish or English. The applicant shall designate the International Searching Authority that will perform the novelty search.

If the application has not been written in a language that is accepted by the International Searching Authority, a translation of the application shall be attached to the request for a novelty search.

The request for a novelty search shall be regarded as having been withdrawn if, upon expiration of the time limit stipulated in the first paragraph, the application and the translation do not comply with the formal requirements that apply to international applications.

Section 30. Written Opinion from Another Searching Authority

If an application is filed for a patent for an invention for which the same applicant has filed a patent application outside Norway, the applicant shall, at the request of the Norwegian Industrial Property Office, provide information about the written opinion that

the patent authority in question has provided regarding the novelty search and patentability. Within a time limit stipulated by the Norwegian Industrial Property Office, the applicant shall submit:

- a. a copy of the written opinion that the patent authority in question has provided regarding the novelty search and patentability in general, or
- b. a declaration that the applicant has not yet received such a written opinion.

If the applicant fails to meet the time limit fixed by the Norwegian Industrial Property Office, the application will be shelved in accordance with section 15 of the Patents Act. If the applicant expressly refuses to submit a copy of the written opinion or the declaration, the application shall be rejected in accordance with section 16 of the Patents Act.

Section 31. Statement of Publications

Publications shall be stated in accordance with the directions of the Norwegian Industrial Property Office.

Section 32. Model, Sample or the Like

The Norwegian Industrial Property Office may order the applicant to submit a model, sample or the like or to perform examinations or tests if this is necessary for the assessment of an invention for which a patent application has been filed.

Section 33. Postponement of the Grant of a Patent

If an application is to be accepted before it has been made available to the public in accordance with section 22, second or third paragraph, of the Patents Act, the Norwegian Industrial Property Office may, on request from the applicant, postpone the grant of the patent until the application has been made available to the public. The Norwegian Industrial Property Office may otherwise not postpone the grant of a patent after a decision to accept the application has been made.

A request for a postponed grant of a patent shall be filed in a separate letter. The request will only be considered if it has been received by the Norwegian Industrial Property Office within two months from when the applicant has been informed that the patent may be granted. The provisions in section 20 of the Patents Act on payment of the prescribed fee for grant and an application for exemption from the prescribed fee for grant shall apply even if a request for postponement of the grant of the patent has been filed.

Section 34. Patent Specification

The Norwegian Industrial Property Office shall publish a patent specification, cf. section 21, third paragraph, of the Patents Act, after the prescribed fee for grant has been paid or an exemption from payment of said fee has been given. The patent specification shall contain information about:

1. the date of the grant of the patent
2. application number and patent number
3. classification of the patent in accordance with the international patent classification system
4. the patent holder's name or business name and address as well as any representative's name or business name and address
5. the inventor's name and address
6. the title of the invention
7. the filing date for a national application
8. whether the application is an international application and, if so, the international application number, the international filing date and the date on which the international application will enter the national phase in accordance with section 31 of the Patents Act or the date on which the application is deemed to have been filed in accordance with section 38 of the Patents Act
9. whether priority has been claimed and, if so, the filing place and filing date as well as the number of the application from which priority is claimed
10. whether the application is a result of division or separation and, if so, the original application number
11. the depository institution with which a sample of biological material has been deposited and the reference number that the institution has accorded the sample
12. stated publications.

Section 35. Protest

If, before the patent has been granted, the Norwegian Industrial Property Office receives a protest that is of significance to the assessment of the application, the Norwegian Industrial Property Office shall notify the applicant hereof. If other novelty-destroying elements than obvious use of the invention are claimed in the protest, the Norwegian Industrial Property Office shall immediately examine whether this means that the applicant should be notified hereof in writing. If the protest contains a claim regarding obvious use of the invention, it will, as a general rule, only be set down for assessment after the expiration of the time limit for the submission of protests and only if the same claim is also made in an opposition.

A protest to the grant of a patent will not result in any litigant party rights.

Chapter 8. Opposition, Administrative Patent Limitation and Administrative Review

Section 36. Form and Contents of the Opposition

An opposition in accordance with section 24 of the Patents Act must be filed with the Norwegian Industrial Property Office and shall contain:

1. information about the opponent's name or business name and address as well as the representative's name or business name and address if the opponent is represented by a representative

2. information about the number of the patent against which the opposition is filed
3. a statement of the scope of the opposition and the grounds on which it is based, with a statement of the facts and evidence, for example publications, on which the opponent intends to rely in support of the opposition.

The opposition must be signed by the opponent or the opponent's representative.

Section 37. Notification of Opposition

Notification from the Norwegian Industrial Property Office to the patent holder about an opposition shall contain information about the date of the opposition, the name and address of the opponent and of any representative of the opponent.

Section 38. Notice of Continued Opposition Procedure

If the opposition is withdrawn, the processing thereof may only continue, cf. section 24, seventh paragraph, of the Patents Act if the Norwegian Industrial Property Office notifies the patent holder hereof within two months from when the Norwegian Industrial Property Office was informed about the withdrawal of the opposition.

Section 39. Notification of the Outcome of Opposition Procedure

The Norwegian Industrial Property Office shall notify the patent holder and the opponent of the outcome of the opposition procedure as well as of the right to appeal and the time limit for lodging an appeal.

Section 40. Request for Administrative Patent Limitation

A request for administrative patent limitation in accordance with section 39 a of the Patents Act must be filed with the Norwegian Industrial Property Office and shall contain:

1. information about the patent holder's name or business name and address as well as the representative's name or business name and address if the patent holder is represented by a representative
2. information about the number of the patent for which limitation is requested
3. statement of the limitation that is requested.

A request for administrative patent limitation must be signed by the patent holder or the patent holder's representative.

If amendments to the description are requested, the request shall also contain a revised version of the description that is to be included in the new patent specification. If amendments to the patent claims are requested, the patent holder shall, together with the request, submit new copies of all maintained claims stated in consecutive order.

The Norwegian Industrial Property Office shall reject any request for administrative patent limitation filed by other parties than the patent holder.

Section 41. Administrative Review

A request for an administrative review in accordance with section 52 b of the Patents Act must be filed with the Norwegian Industrial Property Office and shall contain:

1. information about the requester's name or business name and address as well as the representative's name or business name and address if the requester is represented by a representative
2. information about the number of the patent that is being contested
3. an account of the basis for contesting the patent
4. specification of the patent claims that the review concerns, alternatively of the patent claims that are not covered by the request for a review
5. necessary documentation of matters that are relied on in support of the request.

A request for an administrative review must be signed by the requester or by the requester's representative.

Sections 37 and 39 shall apply correspondingly.

Section 42. New Patent Specification

In the event of any amendment to the patent following an opposition, an administrative patent limitation or an administrative review, the Norwegian Industrial Property Office shall issue a new patent specification. The new patent specification shall contain information in accordance with section 34 and state that the patent has been amended and the date on which the decision to amend the patent was published.

Chapter 9. The Register of Patents, etc.

Section 43. The Register of Patents

The Norwegian Industrial Property Office shall keep a register of received national applications and international applications that have entered the national phase as well as of patents granted on the basis of such applications. Section 45 shall apply to the registration in the Register of Patents of European patents that apply in Norway. The information recorded in the register about the individual application will be available to the public once the documents in the case become available to the public in accordance with section 22 of the Patents Act.

The register shall contain the following information about the application and the granted patent:

1. application number and patent number
2. classification in accordance with the international patent classification system
3. any classification in accordance with other patent classification systems
4. the responsible examiner in the Norwegian Industrial Property Office
5. the applicant's name or business name and address
6. any representative's name or business name and address
7. the inventor's name and address
8. the title of the invention
9. whether the application is a national or an international application
10. for a national application: the filing date
11. for an international application that has entered the national phase: the international application number, the international filing date and the date on which the application entered the national phase in accordance with section 31 of the Patents Act or is deemed to have been filed in accordance with section 38 of the Patents Act
12. for a European application that has been converted into a national application: the application number and filing date in accordance with the European Patent Convention and the date on which the application has been converted into a national application
13. whether priority has been claimed and, if so, the authority with which the claimed previous application was filed as well as the filing date and application number for said application
14. whether the application is a divisional application or a separated application and, if so, the original application number
15. whether new applications have been drawn up, with information about the new application numbers, in connection with division of or separation from an application
16. the date on which the documents in the case were made available to the public in accordance with section 22 of the Patents Act
17. documents received and sent in the case
18. the date on which the grant of the patent was published
19. other decisions made in the case and the status of the case
20. paid fees, outstanding fees and any reimbursed fees
21. paid annual fee or respite on payment of the annual fee
22. the time at which the patent has lapsed in accordance with section 51 of the Patents Act
23. whether the patent holder has renounced the patent in accordance with section 54 of the Patents Act
24. whether a request has been filed for re-establishment of rights despite a failure to comply with a time limit and the decision regarding such a request, cf. section 72, second paragraph, of the Patents Act
25. that legal action has been brought for invalidation, transfer of a patent or a compulsory licence
26. that the patent has been declared invalid by a judgement delivered in accordance with section 52 of the Patents Act and the outcome of the legal proceedings if the judgement is final and enforceable
27. that the patent has been seized or distraint
28. that an opposition has been filed against the patent and the decision made in the opposition procedure
29. that a request has been filed for administrative limitation or termination of the patent and the decision made in such proceedings
30. that a request has been filed for an administrative review of the patent and the decision made in such proceedings,
31. that a decision has been appealed against to the Board of Appeals of the Norwegian Industrial Property Office in accordance with section 26, section 39 d or section 52 e of the Patents Act
32. about a transfer or licence
33. about the deposit of biological material in accordance with section 12
34. whether the applicant's, the patent holder's, the representative's or the licensee's name, business name or address has been changed
35. about a new representative in the event of a change of representation.

Notification of amendments and changes in accordance with the second paragraph, nos. 32, 34 and 35, shall be given in a separate form drawn up by the Norwegian Industrial Property Office.

Section 44. Registration of Supplementary Protection Certificates

The Norwegian Industrial Property Office registers supplementary protection certificates and applications for such certificates in the Register of Patents. The information recorded in the register shall be available to the public. The following information will be recorded in the register:

1. the applicant's name or business name and address as well as the representative's name or business name and address if the applicant is represented by a representative
2. the number and filing date for the application for a supplementary protection certificate
3. the original patent number
4. the title of the invention
5. the active substance or composition of active substances for which the application for a supplementary protection certificate is filed
6. the number and date of the marketing authorisation and the product as identified in the marketing authorisation
7. the number and date of the first marketing authorisation in the EEA Area
8. documents received and sent in the case
9. paid fees, outstanding fees and any reimbursed fees
10. the decisions that have been made in the case and the status of the case
11. the date of the issue and publication of the certificate and the number of the certificate
12. the period of validity for the certificate
13. that the certificate has lapsed and the reason for this.

Section 45. Registration of European Applications and Patents

The Norwegian Industrial Property Office will keep a separate register of European applications for which the applicant has supplied a translation of the patent claims into Norwegian in accordance with section 66 g, first paragraph, of the Patents Act. The information recorded in the register shall be available to the public. The following information shall be recorded in the register:

1. the application number accorded by the European Patent Office
2. the applicant's name or business name and address as well as the representative's name or business name and address if the applicant is represented by a representative
3. the date on which the translation of the patent claims was supplied and the date on which it was published
4. the date on which any correction of the translation was supplied and the date on which it was published
5. the filing date of the application and, if the application is a divisional European application, the filing date of the divisional application

6. whether the documents of the case are available to the public
7. information corresponding to the information stipulated in section 43, second paragraph, nos. 7, 8 and 15.

If a translation is supplied and the fee is paid in accordance with section 66 c, first paragraph, first period, of the Patents Act, this will be recorded in the register of European applications with a statement of when the translation was supplied and the fee was paid and with information about the date on which the Norwegian Industrial Property Office has published confirmation hereof. The same shall apply to any correction of such a translation that is supplied before the patent has been registered in accordance with the third paragraph.

A European patent will be registered in the Register of Patents when the European Patent Office has published its decision to grant a patent and the patent holder has supplied a translation and paid the fee in accordance with section 66 c, first paragraph, first period, of the Patents Act. The following information shall be recorded in the register:

1. the date on which the European Patent Office has published its decision to grant a patent
2. the date on which the translation was supplied and the fee was paid as well as the date on which Norwegian Industrial Property Office published confirmation hereof
3. the filing date of the application and, if the application is a divisional European application, the filing date of the divisional application
4. the date on which the documents in the case became available to the public
5. information in accordance with section 34, nos. 1 to 6 and 8 to 11, as well as section 43, second paragraph, nos. 20 to 27, 29 to 32 and 34 to 35.

When the European Patent Office has published its decision to revoke or amend a European patent that is valid in Norway, information about this shall be recorded in the Register of Patents with a statement of the date of publication. If the patent holder supplies a translation and pays the fee in accordance with section 66 c, first paragraph, second period, of the Patents Act, information about this shall be recorded in the register with a statement of when the translation was supplied and the fee was paid as well as information about when the Norwegian Industrial Property Office published confirmation hereof. If a translation is not supplied and the fee is not paid in accordance with section 66, first paragraph, second period, of the Patents Act within the time limit stipulated in section 59 of these Regulations, information about this shall be recorded in the register.

If, in pursuance of Article 112 a of the European Patent Convention, the European Patent Office has set aside a decision that concerns a European patent that is valid in Norway, information about this shall be recorded in the Register of Patents with a statement of the date on which the decision was published.

If a correction of a translation is supplied in accordance with the third or fourth paragraph and the prescribed fee is paid, information about this shall be recorded with a statement of when the corrected translation was supplied and the fee was paid as well as information about when notice hereof was published.

Chapter 10. Publications

Section 46. Publication of Information Available to the Public

Publication in accordance with section 22, fourth paragraph, of the Patents Act shall contain the following:

1. the application number
2. the applicant's name or business name and address as well as the representative's name or business name and address if the applicant is represented by a representative
3. the inventor's name and address
4. the classification of the application in accordance with the international classification system
5. information about the filing date
6. information about the international filing date
7. the title of the invention
8. if priority has been claimed: information about the time and place for the filing of the priority-based application and the application number
9. information about any deposited sample of biological material
10. information that the applicant has requested that a sample of deposited biological material may only be issued to a special expert.

If the translation of the description or the patent claims has been amended before the expiration of the time limit in accordance with section 77 of these Regulations, but after the documents in the case have become available to the public, notice hereof shall be published. Such publication must also contain the information stipulated in the first paragraph and information about the date on which the amended translation was received by the Norwegian Industrial Property Office as well as in which issue of the Norwegian Patents Gazette (Norsk Patenttidende) previous publications of the application in accordance with section 22, fourth paragraph, of the Patents Act were published.

Section 47. Publication of the Grant of Patent

The publication of the grant of patent in accordance with section 21 of the Patents Act shall contain the information mentioned in section 34, except for the stated publications.

Section 48. Publication of Filed Oppositions

Publication in accordance with section 24, sixth paragraph, of the Patents Act shall contain the following:

1. the patent number and classification of the patent in accordance with the international classification system
2. the patent holder's name or business name and address as well as any representative's name or business name and address
3. the opponent's name or business name and address as well as any representative's name or business name and address

4. the date of the opposition
5. the issue of the Norwegian Patents Gazette in which the grant of patent was published.

Section 49. Publication of a Final Decision in Opposition Procedure

Publication that the Norwegian Industrial Property Office has made a final decision in an opposition procedure, cf. section 25, fifth paragraph, of the Patents Act, shall contain information about:

1. the patent number and classification in accordance with the international patent classification system
2. the patent holder's name or business name and address as well as any representative's name or business name and address
3. the opponent's name or business name and address as well as any representative's name or business name and address
4. the issue of the Norwegian Patents Gazette in which the grant of patent was published
5. the outcome of the opposition procedure
6. the date on which the decision became final.

Section 50. Publication of Administrative Patent Limitation

Publication in accordance with section 39 e of the Patents Act shall contain information about:

1. the patent number and classification in accordance with the international patent classification system
2. the patent holder's name or business name and address as well as any representative's name or business name and address
3. the date of the decision on a request for administrative patent limitation
4. the issue of the Norwegian Patents Gazette in which the grant of patent was published
5. the outcome of the limitation proceedings
6. the date on which the decision was published.

Section 51. Publication of Request for Administrative Review

Publication in accordance with section 52 b, fourth paragraph, of the Patents Act shall contain the following information:

1. the patent number and classification in accordance with the international patent classification system
2. the patent holder's name or business name and address as well as any representative's name or business name and address
3. the name or business name and address of the party requesting an administrative review as well as any representative's name or business name and address
4. the date of the request for an administrative review
5. the issue of the Norwegian Patents Gazette in which the grant of patent was published.

Section 52. Publication of Decision in Administrative Review Proceedings

Publication of a decision in administrative review proceedings, cf. section 52 d, fourth paragraph, of the Patents Act, shall contain information about:

1. the patent number and classification in accordance with the international patent classification system
2. the patent holder's name or business name and address as well as any representative's name or business name and address
3. the name or business name and address of the party requesting an administrative review as well as any representative's name or business name and address
4. the date of the request for an administrative review
5. the issue of the Norwegian Patents Gazette in which the grant of patent was published
6. the outcome of the administrative review
7. the date on which the decision was published.

Section 53. Publication of Supplementary Protection Certificate

Publication of a supplementary protection certificate shall contain the information stated in section 44, nos. 1 to 12.

Section 54. Publication of Changed Period of Validity for Supplementary Protection Certificate

When a decision to change the period of validity for a supplementary protection certificate has become final, notice hereof shall be published. The publication shall contain the information stated in section 44, nos. 1 to 12, as well as the date of the decision on a change of the period of validity.

Section 55. Publication of European Applications and European Patents, etc.

Publication in accordance with section 66 g, first paragraph, of the Patents Act shall contain:

1. information that a translation has been supplied
2. the application number
3. classification of the application
4. the applicant's name or business name and address as well as the representative's name or business name and address if the applicant is represented by a representative
5. the title of the invention
6. information about the filing date of the application
7. information about whether priority has been claimed and, if so, about the patent authority with which the claimed previous application was filed as well as the filing date and application number of this application.

Publication in accordance with section 66 c, third paragraph, first period, of the Patents Act shall contain:

1. information that the patent is valid in Norway and the date on which the decision to grant the patent was published
2. the information stated in the first paragraph, nos. 2 to 7.

Publication in accordance with section 66 c, third paragraph, second period, of the Patents Act shall contain:

1. information that the patent is valid in Norway in amended form and the date on which the decision to maintain the patent in amended form was published
2. the patent number
3. the patent classification
4. the patent holder's name or business name and address as well as the representative's name or business name and address if the patent holder is represented by a representative
5. the information stated in the first paragraph, nos. 5 to 7.

Publication of a corrected translation of the patent claims in an application in accordance with section 66 j, first paragraph, fourth period, of the Patents Act shall contain:

1. information that a corrected translation has been supplied and the filing date for this
2. the information stated in the first paragraph, nos. 2 to 7.

Publication of a corrected translation of a patent in accordance with section 66 j, first paragraph, third period, of the Patents Act shall contain:

1. information that a corrected translation has been supplied and the filing date and date of payment of the fee
2. the information stated in the first paragraph, no. 5, and the third paragraph, nos. 2 to 4.

Publication of revocation of a European patent in accordance with section 66 b, second paragraph, third period, of the Patents Act, cf. section 55, shall contain:

1. information that a decision has been made to revoke the patent and the date of the decision
2. the information stated in the first paragraph, no. 5, and the third paragraph, nos. 2 to 4.

If the European Patent Office decides on a re-establishment of rights despite a failure to meet a time limit, cf. section 66 k, first paragraph, of the Patents Act, and this will have the effect that an application or a patent will once again be valid in Norway or that the scope of the protection accorded by the patent in Norway will be extended, the Norwegian Industrial Property Office shall publish a notice hereof. The publication shall contain:

1. information about the time limit that has been exceeded and a statement that it has been decided that this will not have any effect
2. the information stated in the first paragraph, nos. 2 to 7, if the decision concerns an application
3. the information stated in the third paragraph, nos. 2 to 5, if the decision concerns a patent.

Section 56. Publication of a Decision on Re-establishment of Rights despite a Failure to Meet a Time Limit

Publication in accordance with section 66 c, first paragraph, fourth period, and section 74, first paragraph, of the Patents Act shall contain:

1. information about the time limit that has been exceeded and a statement that it has been decided that this will not have any effect
2. the information stated in section 43, second paragraph, nos. 1 to 3 and 5 to 8.

Section 57. Other Publications

The Norwegian Industrial Property Office shall publish the following:

1. notification of a transfer
2. notification of a licence
3. notification of a change of the applicant's, the proprietor's, the representative's or the licensee's name or business name and address
4. notification of appointment, change or deletion of representative
5. notification that seizure or distraint has been levied
6. notices in accordance with section 55 of the Patents Act.

The publication shall contain information about the date on which the notification was received by the Norwegian Industrial Property Office.

Chapter 11. European Patents

Section 58. Filing of European Applications

If a European application is filed with the Norwegian Industrial Property Office, the Norwegian Industrial Property Office shall:

1. register the filing date
2. send the applicant a confirmation that the application has been received
3. notify the European Patent Office that the application has been filed
4. forward the application to the European Patent Office, unless the application is covered by Norwegian Act No. 8 of June 26, 1953 relating to Inventions of Importance to the Defence of the Realm.

Section 59. Translation of European Applications and Patents

When an applicant supplies a translation of the patent claims in a European application in accordance with section 66 g, first paragraph, of the Patents Act,

information shall also be provided about the application number and the applicant's name or business name and address. If such information is not provided, the translation will be regarded as not having been supplied.

The time limit for supplying translations in accordance with section 66 c, first paragraph, of the Patents Act shall be three months from the date on which the European Patent Office has published its decision to grant a patent or its decision to maintain a patent in amended form.

Both in connection with the grant of a patent and in connection with a decision to maintain the patent in amended form, the translation shall comprise the title of the invention, patent claims, the description, including any drawings and any sequence list that are necessary in order to understand the invention. In connection with the grant of a patent, the translation shall also contain information about the application number and the patent holder's name or business name and address. In connection with maintenance of a patent in amended form, the translation shall also contain information about the patent number and the patent holder's name or business name and address.

If a translation that complies with the requirements stipulated in the third paragraph has not been supplied within the time limit specified in the second paragraph, the translation will be regarded as not having been supplied.

Section 60. Correction of Translation in accordance with Section 66 j of the Patents Act

The correction of a translation in accordance with section 66 j of the Patents Act shall be done by the filing of a new translation with a clear statement of the corrections made. Information about the patent number or the application number as well as the applicant's or the patent holder's name and address shall be provided together with the corrected translation.

If the requirements in accordance with the first paragraph have not been complied with, the corrected translation will be regarded as not having been supplied.

Section 61. Request for Conversion into a National Application

If the Norwegian Industrial Property Office receives a request for conversion of the application into a national application in accordance with Article 135 (2) of the European Patent Convention, the Norwegian Industrial Property Office shall immediately forward the request for conversion and a copy of the application to the states listed in the request.

Section 62. Forwarding of a Converted European Application to the Norwegian Industrial Property Office

If a European application that has been converted into a national application is forwarded to the Norwegian Industrial Property Office in accordance with Article 135 (2) of the European Patent Convention, the Norwegian Industrial Property Office shall notify the applicant as soon as possible that the application has been received.

The applicant must supply the Norwegian Industrial Property Office with a translation of the application into Norwegian within three months from when the notification stated in the first paragraph has been sent.

Section 63. Basic Documents for a Converted European Application

The basic documents for a European application that has been converted into a national application consist of the description of the invention with accompanying drawings and patent claims, which shall be filed in Norwegian not later than concurrently with the translation of the application being supplied or being deemed to have been supplied, cf. section 62, second paragraph. If the description with accompanying drawings and patent claims in Norwegian are not filed on the date on which the application was filed or is to be deemed as having been filed, the first description with accompanying patent claims that are subsequently filed in Norwegian shall be regarded as basic documents to the extent to which the contents are stated in the documents that were submitted when the application was filed.

Section 64. Abstract for a Converted European Application

If the European Patent Office has determined the abstract for a European application that has been converted into a national application, this shall be approved as an abstract when the application is processed in Norway.

Chapter 12. International Patent Applications

Section 65. The Norwegian Industrial Property Office as the Receiving Office

The Norwegian Industrial Property Office is the receiving Office for international applications that are filed by:

1. Norwegian nationals;
2. persons domiciled in Norway;
3. persons having an industrial or commercial establishment in Norway; and
4. Norwegian legal persons.

If an international application is filed jointly by several applicants, the Norwegian Industrial Property Office shall be the receiving Office for the application if at least one of the applicants meets the requirements of the first paragraph.

The Norwegian Industrial Property Office shall receive, check and forward international applications in accordance with the Patent Cooperation Treaty of June 19, 1970 and the Implementing Regulations to the Treaty. However, such applications shall not be forwarded in contravention of the provisions in Norwegian Act No. 8 of June 26, 1953 relating to Inventions of Importance to the Defence of the Realm. At the applicant's option, the International Searching Authority and the International Preliminary Examining Authority for a preliminary report

on patentability for international applications in which the Norwegian Industrial Property Office is the receiving Office shall be the Nordic Patent Institute, the Swedish Patent and Registration Office or the European Patent Office.

Section 66. Filing of International Applications

An international application shall be filed with the Norwegian Industrial Property Office using a separate application form. The applicant shall fill in the form with appendices in printed letters. The application shall be drawn up in Norwegian or English. The application shall comply with the requirements stipulated in the Patent Cooperation Treaty and the Implementing Regulations to the Treaty.

Section 18 shall apply correspondingly if the applicant is represented by a representative.

Section 67. Separate Register of International Applications

As a receiving Office, the Norwegian Industrial Property Office shall keep a separate register of filed international applications. The register will not be available to the public for inspection.

Section 68. Priority Claim in International Applications

The applicant may claim priority in accordance with section 6 of the Patents Act, cf. Article 8 of the Patent Cooperation Treaty and the Implementing Regulations to the Treaty, Rule 4 (10) and (26), on the basis of the first application that describes the invention if it was filed in a state that is a party to the Paris Convention on Protection of Industrial Property of March 20, 1883, the Agreement Establishing the World Trade Organization (WTO) of April 15, 1994, or the European Patent Convention. The same shall apply to an application filed with a regional patent authority if this is equated with the filing of a national application in accordance with the legislation in a state that is a party to the Paris Convention or in accordance with a bilateral or a multilateral agreement entered into between states that are parties to the Paris Convention. The provisions in sections 14 and 15 shall apply correspondingly.

A priority claim shall either be included in the international application when the application is filed with the Norwegian Industrial Property Office or be forwarded within four months from the filing date of the international application. The claim shall contain information about the patent authority with which the claimed application was filed, the date on which it was filed and the application number. If the application number is not known when the priority claim is filed, the number shall be forwarded as soon as the applicant gets knowledge hereof. If the claimed application is a regional application, the claim shall also contain information about the authority that is responsible for granting patents under the regional scheme. If all the states under the regional scheme are not parties to the Paris Convention or the WTO Agreement, the claim shall also mention one state that participates in the scheme and that is a party to the Paris Convention or the WTO Agreement. If the priority claim does not meet the requirements stipulated in the present paragraph, the Norwegian Industrial Property Office shall grant the applicant a time limit of four months from the international application date in which to correct the deficiencies in the claim.

The applicant may correct or add a priority claim by written notification to the Norwegian Industrial Property Office or the International Bureau of the World Intellectual Property Organization within a time limit of 16 months from the priority date. If the correction or addition will cause a change of the priority date, the 16 months time limit shall be computed as from whichever priority date expires first. In connection with a request for correction or addition that will result in a change of the priority date, the written notification must be submitted within four months from the international application date. The applicant shall not be entitled to make corrections or additions if the application has become available to the public because the applicant has requested early publication.

Section 69. Priority Document

If priority has been claimed in accordance with section 68, the applicant shall file a priority document with the Norwegian Industrial Property Office or the International Bureau in accordance with Rule 17.1 (a) of the Implementing Regulations to the Patent Cooperation Treaty.

If the Norwegian Industrial Property Office is to issue a priority document, the applicant may request the Norwegian Industrial Property Office to transfer the document to the International Bureau in accordance with Rule 17.1 (b) of the Implementing Regulations to the Patent Cooperation Treaty. If the priority document is available to the Norwegian Industrial Property Office from an electronic register, the applicant may request that the Norwegian Industrial Property Office shall transfer the priority document electronically to the International Bureau. The applicant may also request that the International Bureau shall transfer a priority document that is available to the International Bureau from an electronic register to the Norwegian Industrial Property Office.

Section 70. Information about Deposited Biological Material

If biological material has been deposited, the applicant shall provide the International Bureau with written information about the depositary institution with which the biological material was deposited and the reference number that this institution has accorded the biological material unless this information has been provided in the application. The information shall be provided not later than 16 months after the application date or the date from which priority is claimed. If the applicant requests early publication of the international application in accordance with Article 21 (2) (b) of the Patent Cooperation Treaty, the information shall be provided not later than concurrently with the request for publication.

Section 71. Application of the Rules in the Regulations to International Applications

Unless otherwise follows from the provisions in this Chapter, the provisions on national applications contained in the Regulations shall also apply to international applications that have entered the national phase in accordance with section 31 of the Patents Act or that are accepted for processing in accordance with section 38 of the Patents Act.

Section 72. Language for Entry into the National Phase or Review of International Applications

If an international application has been drawn up in another language than Norwegian, a translation hereof shall be supplied if the international application enters the national phase in accordance with section 31 of the Patents Act or if a request is filed for a review in accordance with section 38 of the Patents Act. Section 5 shall apply correspondingly. If only parts of the international application enter the national phase in Norway, the Norwegian Industrial Property Office may decide that only these parts of the application shall be translated. In such case, the applicant shall provide a declaration that clearly states the parts that are not covered by the translation and the reason why these parts have been left out.

Section 73. Division of an International Application Comprising a Plurality of Inventions

If an applicant applies for protection of an independent invention stated in an international application, the application must be divided in accordance with section 22

and a new application fee must be paid even if an additional fee has been paid in accordance with section 36, first paragraph, of the Patent Act.

Section 74. Notice to the International Bureau

If an international application enters the national phase in accordance with section 31 of the Patents Act and, on expiration of the time limit for this, the Norwegian Industrial Property Office has not registered that the International Bureau has received the application, the Norwegian Industrial Property Office shall notify the Bureau hereof.

Section 75. Abstract and Basic Documents for International Applications that Enter into the National Phase, etc.

If a copy of the application that is being relied on as a basis for priority has been filed with the International Bureau, the Norwegian Industrial Property Office may only request a copy and a translation hereof if this is in accordance with Rule 17 (2) of the Implementing Regulations to the Patent Cooperation Treaty.

If there is an abstract approved by an International Searching Authority for an international application, the abstract must be approved as an abstract when the application is processed in Norway. If there is no such abstract, the Norwegian Industrial Property Office shall determine the abstract. Section 11 shall apply correspondingly to such determination of an abstract.

For international applications that enter the national phase in accordance with section 31 of the Patents Act and that are in Norwegian, the transcript of the description with accompanying drawings and patent claims that have been filed in accordance with section 31 of the Patents Act shall be regarded as the basic documents. If a translation is required for entry of the international application into the national phase, the translation of the description with accompanying drawings and patent claims that have been filed in accordance with section 31 of the Patents Act shall instead be regarded as the basic documents. If amendments have been made to the translation within the time limit stipulated in section 77 of these Regulations, the amended translation shall be regarded as the basic document. If a patent has been granted with the patent holder's consent before the expiration of the time limit in accordance with section 77, the description with accompanying drawings and patent claims in their form on the date on which the patent was granted shall be regarded as the basic documents. The same shall apply if the application has been rejected before the expiration of the time limit stipulated in section 77.

Section 4 shall apply correspondingly to what will be regarded as basic documents in an application that is accepted for processing in accordance with section 38 of the Patents Act.

Section 76. Novelty Search of International Applications

Section 30 shall not apply if the application has been the subject-matter of an international preliminary patentability examination and a preliminary patentability report has been submitted to the Norwegian Industrial Property Office, cf. section 69, third paragraph, second period, of the Patents Act.

A written opinion on points of fact regarding an international application cannot be submitted without the applicant's consent before the expiration of the time limit stipulated in section 77.

Section 77. Time Limit for the Date for First Decision on International Applications

The Norwegian Industrial Property Office cannot decide an international application, cf. section 34 of the Patents Act, until four months after the expiration of the time limit stipulated in section 31, first paragraph, of the Patents Act unless the applicant so requests.

Section 78. Time Limit for Review in accordance with Section 38 of the Patents Act

The time limit for requesting a review in accordance with section 38 of the Patents Act is two months from when notification of a decision in accordance with section 38, first paragraph, of the Patents Act was sent to the applicant. Article 25 (1) of the Patent Cooperation Treaty shall apply correspondingly.

Chapter 13. Supplementary Protection Certificates

Section 79. Definitions

The following definitions provided below shall apply in this Chapter:

1. *certificate*: a supplementary protection certificate for medicinal products or plant protection products
2. *The Medicinal Products Regulation*: Annex XVII, item 6, to the Agreement Establishing the European Economic Area (Council Regulation (EEC) No. 1768/92 of June 18, 1992 concerning the creation of a supplementary protection certificate for medicinal products with adaptations to the EEA Agreement) including the amendments and additions provided in Protocol 1 to the Agreement and elsewhere in the Agreement
3. *The Plant Protection Products Regulation*: EEA Agreement, Attachment XVII article 6a (Regulation (EC) No. 1610/96 of the European Parliament and of the Council of July 23, 1996 concerning the creation of a supplementary protection certificate for plant protection products) with the amendments and additions that follow from Protocol 1 to the Agreement and from the Agreement in general.

Section 80. Application for a Certificate

An application for a certificate with appendices shall be filed with the Norwegian Industrial Patent Office on a separate application form. The applicant shall fill in the form and the appendices in printed letters. The application must be signed by the applicant or the applicant's representative. The provisions in sections 18 and 19 shall apply correspondingly. If the applicant has applied for a certificate for the same product in other EEA Member States, the applicant shall state the application numbers and application authorities in addition to the information that must be disclosed in the application in accordance with Article 8 of the Medicinal Products Regulation or Article 8 of the Plant Protection Products Regulation.

The application shall be drawn up in Norwegian. If an appendix to the application is drawn up in another language, a translation hereof shall be enclosed. The Norwegian Industrial Property Office may require that the translation shall be certified by a translator or be approved in some other way by the Norwegian Industrial Property Office. The

Norwegian Industrial Property Office may grant an exemption from the obligation to supply a translation.

If the certificate is applied for jointly by several applicants, and one of the applicants is to be authorised to receive notifications on all the applicants' behalf, this shall be stated in the application.

Section 81. Amendments to an Application for a Certificate

An application for a certificate cannot be amended so that a certificate is applied for regarding another product or another original patent.

Section 82. The Norwegian Industrial Property Office's Information about the Processing of the Application, etc.

The Norwegian Industrial Property Office shall examine the Register of Certificates to check that the requirement in Article 3 (c) of the Medicinal Products Regulation or Article 3 (1) (c) of the Plant Protection Products Regulation has been complied with.

Before a supplementary protection certificate for medicinal products may be issued, confirmation must have been obtained from the Norwegian Medicines Agency that the marketing authorisation stated in Article 3 (b) of the Medicinal Products Regulation is the first that has been granted to market the product as a medicinal product in Norway. Before a supplementary protection certificate for plant protection products may be issued, confirmation must have been obtained from the Norwegian Food Safety Authority that the marketing authorisation mentioned in Article 3 (1) (b) of the Plant Protection Products Regulation is the first authorisation that has been granted to market the product as a plant protection product in Norway.

The rules in section 15, first and third paragraphs, and section 16 of the Patents Act shall apply correspondingly to time limits stipulated in Article 10 (3) of the Medicinal Products Regulation and Article 10 (3) of the Plant Protection Products Regulation.

Section 83. Contents of the Certificate

A certificate shall contain the information stipulated in section 44, nos. 1 to 12.

An amended certificate shall contain the information stipulated in section 54.

Section 84. Request for Change of the Period of Validity

Anyone may submit a written request to the Norwegian Industrial Property Office regarding a change of the period of validity for an issued certificate. The request shall contain:

1. the name and address of the requester
2. information about the certificate number or the original patent number
3. the grounds on which the request is based.

The Norwegian Industrial Property Office shall reject a request that does not comply with the requirements in the first paragraph.

If a request has been filed by another party than the certificate holder, section 37 shall apply correspondingly.

If the period of validity is changed, the Norwegian Industrial Property Office shall issue a new certificate, notify the requester and make an entry on this in the register. If the period of validity is not changed, the Norwegian Industrial Property Office shall notify the requester hereof. The notification shall contain information about the requirements for appeal proceedings for appeals brought before the Board of Appeals of the Norwegian Industrial Property Office and an inquiry about whether the requester wishes to maintain the request.

Sections 18 and 19 shall apply correspondingly to the handling of requests for a change of the period of validity.

Section 85. Right of Appeal

If an application for a certificate is rejected or shelved, the applicant may lodge an appeal with the Board of Appeals of the Norwegian Industrial Property Office. Section 27, first and second paragraphs, of the Patents Act shall apply correspondingly.

A rejection of a request for a change of the period of validity for a certificate will be examined by the Board of Appeals of the Norwegian Industrial Property Office if, within two months from when notification was received that the request has been rejected, the party against whom the Norwegian Industrial Property Office's decision has gone:

1. notifies the Norwegian Industrial Property Office in writing that the party in question is maintaining the request
2. pays the prescribed fee.

Section 22, fifth and sixth paragraphs, of the Patents Act shall apply correspondingly to documents that are submitted to the Board of Appeals of the Norwegian Industrial Property Office.

Section 86. Legal Actions

If the Board of Appeals of the Norwegian Industrial Property Office rejects an application for a certificate, the applicant may bring the decision before the courts. Section 27, third paragraph, of the Patents Act shall apply correspondingly.

If the Board of Appeals of the Norwegian Industrial Property Office has rejected a request for a change of the period of validity for a certificate, the certificate holder may bring the decision before the courts within two months from when notification of the decision was sent to the certificate holder in question. The time limit for bringing legal action shall be stated in the notification. No other parties than the certificate holder may bring before the courts the decision to reject a request for a change of the period of validity for a certificate.

Anyone may bring a legal action before the courts in order to have an issued certificate declared invalid. The party who brings a legal action for invalidity shall concurrently notify the Norwegian Industrial Property Office hereof. Section 64 of the Patents Act shall apply correspondingly.

Section 87. Representative of the Certificate Holder

Section 67 of the Patents Act shall apply correspondingly to certificate holders who are not domiciled in Norway.

Chapter 14. Definition of Plant Variety. The Agricultural Exemption

Section 88. Definition of Plant Variety

In the Patents Act and these Regulations, plant variety shall mean any plant grouping within a single botanical taxon of the lowest known rank, which

1. can be defined by the expression of the characteristics that results from a given genotype or combination of genotypes,
2. can be distinguished from any other plant grouping by the expression of at least one of the said characteristics, and
3. can be considered as a unit with regard to its suitability for being propagated unchanged.

The expression of characteristics in accordance with the first paragraph, no. 1, can be invariable or variable between plant variety constituents of the same type, provided that the variation level is also a result of the genotype or combination of genotypes.

Section 89. Right to Use Plant-Propagating Material

A farmer's right to use plant-propagating material in accordance with section 3 b, first paragraph, of the Patents Act shall only apply to the following plant varieties:

1. *Forage plants*: *Cicer arietinum* L. (chickpeas), *Lupinus luteus* L. (yellow lupin), *Medicago sativa* L. (lucerne), *Pisum sativum* L. (garden peas), *Trifolium alexandrinum* L. (alexandrine clover), *Trifolium resupinatum* L. (Persian clover), *Vicia faba* (fava bean) and *Vicia sativa* L. (garden vetch)
2. *Grain varieties*: *Avena sativa* (oat), *Hordeum vulgare* L. (barley), *Oryza sativa* L. (rice), *Phalaris canariensis* L. (canary grass), *Secale cereale* L. (rye), *X Triticosecale* Wittm. (rye wheat), *Triticum aestivum* L. emend. Fiori et Paol. (wheat), *Triticum durum* Desf. (durum wheat) and *Triticum spelta* L. (spelt wheat)
3. *Potatoes*: *Solanum tuberosum* (potatoes)
4. *Oil and fibre plants*: *Brassica napus* L. - partim - (rape), *Brassica rapa* L. - partim - (field mustard) and *Linum usitatissimum* (common flax).

Section 90. Fee for Exercise of Right in accordance with Section 3 b, First Paragraph, of the Patents Act

No fee shall be payable for the exercise of the right in accordance with section 3 b, first paragraph, of the Patents Act if the propagating material is used on small farms. Small farms are farms that:

1. do not cultivate potatoes in an area that exceeds the area necessary to produce 185 tonnes of potatoes per harvest, irrespective of the size of the area in which the farmer may cultivate other plants than potatoes
2. do not cultivate forage plants for a period of more than five years in an area that exceeds the area necessary to produce 92 tonnes of grain per harvest, irrespective of the size of the area in which the farmer may cultivate other plants than forage plants
3. do not cultivate the other plant varieties mentioned in section 89 of these Regulations in an area that exceeds the area necessary to produce 92 tonnes of grain per harvest, irrespective of the size of the area in which the farmer may cultivate other plants.

Other farmers shall pay the rights holder a reasonable fee, which shall be significantly lower than the amount that may be charged for a licence to produce propagating material of the same type in the same area. Unless otherwise agreed, the fee shall correspond to 50 per cent of the amount that is charged for a licence of the type mentioned in the first period of this paragraph.

A farmer shall not pay a fee for use of breeding animals or other animal-propagating material in accordance with section 3 b, second paragraph, of the Patents Act.

Section 91. Duty to Disclose Information

Unless otherwise agreed, the farmer shall, on request, provide the rights holder with information that is relevant for determining whether the requirements for applying the agricultural exemption in accordance with section 3 b, first paragraph, of the Patents Act, cf. sections 90 and 89 of these Regulations, have been complied with and for charging any fee in accordance with section 90, second paragraph.

The information provided by the farmer shall include:

1. the quantity of plant-propagating material that the farmer may have used in pursuance of section 3 b, first paragraph, of the Patents Act
2. the enterprise that may have produced the plant-propagating material for the farmer on the basis of the farmer's harvested products (the processing enterprise).

Unless otherwise agreed, the processing enterprise shall, on request, provide the rights holder with information about the quantity of harvested products that the processing enterprise may have processed for the farmer and about the total quantity of plant-propagating material that has been produced on the basis of the harvested products. The right to request information shall only apply to information from the current production year and the three previous years.

Chapter 15. The Ethics Committee in Patent Cases

Section 92. *Request for an Advisory Statement*

If the Norwegian Industrial Property Office is in doubt about whether section 1 b of the Patents Act prevents the acceptance of an application or about whether a patent has been granted in contravention of this provision, the Norwegian Industrial Property Office shall request an advisory statement from the Ethics Committee in Patent Cases, cf. section 15 a, section 25, third paragraph, and section 52 d, first paragraph, second period, of the Patents Act.

The request for an advisory statement shall be in writing and the grounds on which the request is filed shall be given. The Norwegian Industrial Property Office shall send a copy of the request to the parties to the proceedings, who shall be granted a time limit of one month in which to submit written comments to the Ethics Committee in

Patent Cases. The time limit may be extended by the Norwegian Industrial Property Office or the Ethics Committee if this is found to be reasonable.

Section 93. *Organisation of the Ethics Committee*

The Ethics Committee in Patent Cases shall consist of five members with personal deputy members. The Ethics Committee shall be organised as a committee under the National Committee for Research Ethics in Science and Technology (NENT).

The members and deputy members of the Ethics Committee, including a Chairman of the Ethics Committee, shall be appointed by the Ministry of Education and Research, following nominations from the National Committees for Research Ethics, for a term of four years. No person may serve as a member of the Ethics Committee for more than two consecutive terms.

A member or a deputy member may be released from his or her duties by the Ministry of Education and Research before the end of the term at his or her own request or in the event of material breach of his or her duties as a committee member.

Section 94. *Rules of Procedure for the Ethics Committee*

Cases that are brought before the Ethics Committee in Patent Cases shall be heard by the full Ethics Committee unless the Chairman of the Ethics Committee finds, based on the nature of the case, that three members will be sufficient. The members of the Ethics Committee shall endeavour to present a joint advisory statement. The advisory statement shall be a written and reasoned statement.

The Ethics Committee's advisory statement shall be sent to the Norwegian Industrial Property Office with a copy to the parties to the proceedings, who shall be given a time limit of one month in which to submit written observations to the Norwegian Industrial Property Office. The time limit may be extended by the Norwegian Industrial Property Office if this is found to be reasonable.

Section 95. *Right of Access to Inspect Documents*

The documents in cases for the Ethics Committee in Patent Cases are covered by the Norwegian Freedom of Information Act, but to the effect that the documents in cases for the Ethics Committee will only be made available to the public concurrently with the Norwegian Industrial Property Office's documents in the case in question, cf. section 22, first to third paragraphs, of the Patents Act. The duty of secrecy in accordance with section 13 of the Norwegian Public Administration Act shall not comprise information that concerns the invention after the documents in the case have become available to the public in accordance with section 22, first to third paragraphs, of the Patents Act.

Chapter 16. Compulsory Licence and Exhaustion

Section 96. *Request for a Compulsory Licence*

Anyone who submits a request for a compulsory licence to the Norwegian Competition Authority in accordance with section 50 a of the Patents Act shall, on demand, pay a fee of NOK 10,000 to the Norwegian Competition Authority. If the fee is not paid within the time limit set by the Norwegian Competition Authority, the request for a compulsory licence shall be rejected.

Section 97. *Compulsory Licence to Manufacture and Export Products*

If the requirements in section 98 have been complied with, a producer of pharmaceutical products in Norway shall, on request, be granted a compulsory licence in accordance with section 47 of the Patents Act to manufacture and export pharmaceutical products to an eligible importing state that has requested the producer to supply the products. An eligible importing state shall be a state or a customs territory that meets the following requirements:

1. the state or territory is among the least developed states or territories according to the UN's classification at the time in question or has insufficient manufacturing capacity in accordance with the Annex to the WTO's General Council Decision of August 30, 2003 (the WTO Medicines Decision)
2. the state or territory has notified the WTO's TRIPS Council in accordance with the WTO Medicines Decision, paragraphs 1 (b) and 2 (a).

If the state is not a party to the WTO Agreement, the notification in accordance with the first paragraph, no. 2, shall be given to the Norwegian Ministry of Foreign Affairs.

Section 98. *Requirements for Compulsory Licence to Manufacture and Export Products*

A compulsory licence in accordance with section 97 will only be granted if the following requirements have been complied with:

1. efforts have been made to obtain a licence on reasonable business terms by agreement in Norway, in so far as this is required in accordance with section 49, first paragraph, of the Patents Act
2. the product is covered by the WTO Medicines Decision, paragraph 1 (a)
3. the product will exclusively be manufactured for export to the eligible importing state in order to cover said state's current need for the product for health purposes, as described in the notification stipulated in section 97 of these Regulations
4. the invention is not protected by a patent in the eligible importing state or the eligible importing state has granted or has undertaken proceedings to obtain a compulsory licence in accordance with Article 31 of the Agreement on Trade-related Aspects of Intellectual Property Rights of April 15, 1994 (the TRIPS Agreement) and the WTO Medicines Decision.

When assessing of what constitutes reasonable business terms in accordance with section 49, first paragraph, of the Patents Act and when determining the prescribed fee payable in accordance with section 50, second paragraph, of the Patents Act, the economic value to the importing state of the exploitation of the invention shall be taken into account.

More detailed terms and requirements for granting a compulsory licence may be imposed in the decision to grant the licence, cf. section 50, second paragraph, of the Patents Act. This shall include terms and requirements stipulating:

1. that the packaging and container shall be clearly distinguishable from those of products being offered for sale in Norway or in another state by the patent holder himself or with the patent holder's consent
2. that the products shall be labelled so that it is clearly shown that the medicinal product has been manufactured on the basis of a compulsory licence in Norway for export to a specified importing state in accordance with the WTO Medicines Decision
3. that the manufacture and export shall cease if the compulsory licensee learns that the products are being used to an appreciable degree for purposes that are not in accordance with the terms and requirements for granting the compulsory licence, cf. the first paragraph, no. 3.

Section 99. Notification of Grant of Compulsory Licence to Manufacture and Export Products

The competent court or the Norwegian Competition Authority shall notify the TRIPS Council about the compulsory licence in accordance with the WTO Medicines Decision, paragraph 2 (c). If the state is not a party to the WTO Agreement, the notification shall be given to the Norwegian Ministry of Foreign Affairs.

The compulsory licensee shall post information on his website in accordance with the specifications in the WTO Medicines Decision, paragraph 2 (b) (iii).

Section 100. Limited Exhaustion for Medicinal Products Marketed in Individual EEA Member States

A patent holder may refuse exploitation in Norway of patented medicinal products that have been brought on the market in Bulgaria, Estonia, Latvia, Lithuania, Poland, Rumania, Slovakia, Slovenia, the Czech Republic or Hungary by the patent holder himself or with the patent holder's consent if patent protection or a supplementary protection certificate cannot be obtained for the medicinal product in the country in question at the time at which the application for such protection was filed in Norway, cf. section 3, third paragraph, no. 2, of the Patents Act.

Anyone who wishes to import into Norway a patented medicinal product in accordance with the first paragraph shall notify the patent holder or his successor in title hereof not later than one month before the application for a marketing licence is filed, cf. section 4-8 b of Regulations No. 1559 of December 22, 1999 relating to medicinal products.

Chapter 17. Miscellaneous Provisions

Section 101. Spare Parts and Accessories for Aircraft

Notwithstanding any granted patent, spare parts and accessories for aircraft may be imported into Norway and used in Norway for the repair of aircraft registered in a foreign state that is a party to the Convention on International Civil Aviation of December 7, 1944 (the Chicago Convention) and that is either a party to the Paris Convention on Protection of Intellectual Property of March 20, 1883, or has patent legislation that recognises inventions made by nationals of another state that is a party to the Chicago Convention and that provides such inventions with a level of protection that is essentially in conformity with the protection provided under the Paris Convention.

Section 102. Computation of Time Limits

The time limit for replying to a notification from the Norwegian Industrial Property Office shall be computed from the date on which the notification was sent from the Norwegian Industrial Property Office.

If a notification from the Norwegian Industrial Property Office does not mention a specific date for the expiration of a time limit, the time limit shall expire on the day number of the month that corresponds to the date of commencement of the time limit. If there is no corresponding day number in the month in question, the last date of the month shall be regarded as the expiration date for the time limit. If the time limit for a reply expires on a Saturday, a public holiday or a day that is equated with a public holiday in accordance with the existing legislation, the time limit shall be extended to the nearest weekday. The same shall apply correspondingly to the computation of other time limits in accordance with the Patents Act with Regulations unless otherwise follows from the Patent Cooperation Treaty or the Implementing Regulations to the Treaty.

The date on which a document is to be regarded as having been received by the Norwegian Industrial Property Office with discharging effect in relation to the time limit in question follows from section 1 of the Regulations on Fees, etc. to the Norwegian Industrial Property Office.

Section 103. Extension of Time Limits

If errors or deficiencies in the application or in other documents cannot be corrected within the stipulated time limit, the Norwegian Industrial Property Office may extend the time limit unless this concerns a statutory time limit. Further guidelines for when an extension of

a time limit is to be granted and the extent of such an extension shall be laid down by the Norwegian Industrial Property Office. A request for an extension of a time limit must have been received by the Norwegian Industrial Property Office not later than on the last day of the time limit.

Section 104. Submitted Models

Submitted models will be stored in the Norwegian Industrial Property Office throughout the application period and the life of the patent and for up to five years after the termination of the patent.

Submitted models shall be regarded as case documents, and any member of the public shall be entitled to inspect these models at the Norwegian Industrial Property Office, and, in so far as this is practically possible, be entitled to obtain copies or pictures hereof on a suitable medium.

A submitted model may only be demanded returned if it is not of importance to the assessment of patentability. If a model has been submitted to the Norwegian Industrial Property Office and the proprietor has not requested that the model be returned before the time stipulated in the first paragraph, the Norwegian Industrial Property Office shall decide what action to take regarding this model.

Section 105. Language Requirements for Subsequent Documents

Documents concerning granted patents, including documents in opposition procedures, administrative patent limitation proceedings, administrative reviews or appeal proceedings, shall be drawn up in Norwegian, Danish or Swedish.

The Norwegian Industrial Property Office may accept another language than those stipulated in the first paragraph in the individual case.

Section 106. Entry into Force, etc.

The Regulations shall enter into force on January 1, 2008. Regulations No. 1162 of December 20, 1996 to the Patents Act and Regulations No. 1263 of December 23, 1996 Amending the Patents Act and the Patent Regulations shall be repealed with effect as from the above date.

The processing of applications for which a decision has been made to make them available to the public for inspection before January 1, 1997 shall be concluded in accordance with the rules of procedure that applied until January 1, 1997.