

Act of December 7, 2000 (No. 2000:1158)
Amending the Patents Act (1967:837)

In accordance with the decision by Parliament it is prescribed, as regards the Patents Act (1967:837)

that Articles 6, 8, 12, 24 and 33 shall read as follows, and

that seven new Articles shall be inserted in the Act, numbered 6a to 6g and reading as follows.

6. An application for a patent on an invention, which has, within twelve months before the date of the application, been included in an earlier application for a patent in Sweden, shall, for the purposes of the application of Article 2, first, second and fourth Paragraphs, and Article 4, be deemed to have been filed simultaneously with the earlier application, where the applicant so requests (priority). The same applies in respect of an application for a patent on an invention which has, within twelve months before the date of the application, been included in an earlier application for a patent, an inventor's certificate or protection of a utility model either in a foreign State party to the Paris Convention of March 20, 1883, for the Protection of Industrial Property, or in a State or a Territory which is party to the Agreement Establishing the World Trade Organization (WTO). Such priority may be enjoyed also from an application for protection relating to any other State or any other Territory where a corresponding priority from a Swedish patent application is accorded where the earlier application was filed and where the legislation in force there essentially corresponds to the Paris Convention.

6a. The applicant shall request priority within three months from the date when the application was filed or shall be deemed to have been filed. The applicant shall in this context provide information on where and when the application was filed to which reference is made. The applicant shall also, as soon as possible, indicate the number of the earlier application.

In the case of an international patent application according to Chapter 3, priority shall be requested within four months from the international filing date. The applicant shall in this context provide information on where and when the application was filed to which reference is made and, in the case of an international patent application, with which Receiving Authority it was filed. Furthermore, the applicant shall, within sixteen months from the date from which priority is requested, provide information to the Receiving Authority for the international patent application or to the International Bureau indicated in Article 35 about the number of the application to which reference was made.

If an application is divided according to Article 11 of this Act and Section 22 of the Patent Regulation (1967:838) a request for priority relating to the original application shall without any special request apply also to any new application that emerges from the division.

6b. An applicant who has requested priority shall within sixteen months from the date from which priority is requested file with the Patent Authority the following documents relating to the earlier application:

1. a certificate concerning the name of the applicant and to the filing date, issued by the Authority which received the application
2. a copy of the application certified by the same Authority.

6c. In the case of an international patent application according to Chapter 3, the provisions of the second to fourth Paragraphs apply as regards the obligations of an applicant according to Article 6b.

The applicant shall file the certificate referred to in Article 6b.1 only if the Patent Authority requests the applicant to do so.

Instead, the applicant may, according to Rule 17.1 in the Implementing Regulations to the Patent Cooperation Treaty done at Washington on June 19, 1970, file the copy of the earlier application with the International Bureau mentioned in Article 35 or with the Receiving Authority, or request it to be transferred to the International Bureau according to the same Rule.

If a copy of the earlier application has been received by the International Bureau in accordance with the Rule referred to in the third Paragraph, the Patent Authority may request a copy and a translation only in accordance with Rule 17.2 of the Implementing Regulations referred to in the third Paragraph.

6d. Priority may be claimed only on the basis of the first application where the invention has been included.

If the person who has filed the first application or his or her successor in title has later with the same Authority filed an application concerning the same invention, only the later application may be claimed as a basis for priority. This applies, however, only if the earlier application has, when the later application is filed

1. been withdrawn, dismissed or rejected without having been made available to the public and
2. does not leave behind any right based on it or has been the basis for any right to priority.

Where anyone has been granted a right to priority on the basis of a later application according to the second Paragraph, the earlier application may no longer form the basis for a claim for priority.

The second and third Paragraphs apply in the same way in respect of a patent application for which the date has been shifted in accordance with Article 14.

6e. An applicant may be granted priority in respect of a part of an application.

Priority may in respect of one and the same application be claimed on the basis of several earlier applications. This applies also if the earlier applications concern different countries.

6f. The Government or, following an authorization by the Government, the Patent Authority may prescribe exceptions in certain cases from the obligation provided for in Articles 6b and Article 6c to file certificates and copies.

6g. If the provisions in Articles 6a to 6e are not complied with, the right to priority does not apply.

8. An application for a patent shall be filed with the Patent Authority or, in the case provided for in Chapter 3, with the Patent Authority in a foreign State or with an International Organization.

The application shall contain a description of the invention comprising also drawings if such are necessary as well as specified information about what is claimed to be protected through the patent (patent claims). The fact that the invention relates to a chemical compound does not imply that a specified use has to be indicated in the patent claims. The description shall be sufficiently clear so that a person skilled in the art is able to carry out the invention with the guidance thereof. An invention relating to a microbiological process or the product of such a process shall in the cases referred to in Article 8a be considered to be indicated in a sufficiently clear way only if also the requirements under that Article are fulfilled.

The application shall also contain an abstract of the description and the patent claims. The abstract shall only serve as technical information and may not be taken into account for any other purpose.

The inventor's name shall be indicated in the application. If a patent is claimed by anyone other than the inventor, the applicant shall prove his right to the invention.

The applicant shall also pay an application fee. The applicant shall furthermore pay an annual fee for each fee year commencing before the application has been finally decided on.

The fee year comprises one year and shall be calculated from the date when the application was filed or shall be deemed to have been filed and thereafter from the corresponding date according to the calendar.

12. The Patent Authority may request an applicant who does not have his domicile in Sweden to appoint a representative who shall be entitled to receive communications served in the case and who has his domicile in Sweden, and to notify the Authority about the representative. If the applicant disregards the order, the serving of communications may be effected through the transmission by mail to the applicant under his latest known mailing address. The serving shall be deemed to have been effected when this has been done.

24. Anyone is entitled to file an opposition against a patent that has been granted. Oppositions shall be filed in writing with the Patent Authority within nine months from the date of the granting of the patent.

The Patent Authority shall notify the patent holder about the opposition and give him an opportunity to submit observations.

If the opposition is withdrawn, the opposition procedure may nevertheless be completed if special reasons are present.

33. If an international patent application has been pursued according to Article 31, the provisions of Chapter 2 apply as regards the application and its processing unless otherwise provided in this Article or in Articles 34 to 37. An application may not without a request by the applicant, be taken up for examination before the expiry of the time limit set according to Article 31, first or second Paragraph.

A request under Article 12 may not be issued before the point in time when the Patent Authority has the right to start the examination of the application.

The provisions of Article 22, second and third Paragraphs, become applicable already before the application has been pursued as soon as the applicant has met his obligation under Article 31 to file a translation of the application, or, where the application is drafted in Swedish, as soon as the applicant has filed a copy of it with the Patent Authority.

For the application of Articles 48, 56 and 60 shall, as regards an international patent application, what is said there about the situation where the documents in the application case have been made public according to Article 22 refer instead to the situation where the documents have been made public in accordance with the third Paragraph.

If the patent application meets the obligations as regards form and contents that are prescribed in the Patent Cooperation Treaty and the Implementing Regulations thereto, it shall be accepted in those respects.

This Act enters into force, as regards Article 8 on the date decided by the Government, and otherwise on January 1, 2001.