

Regulation of April 1, 2004 (No. 2004:162)
Amending the Patents Decree (1967:838)

The Government prescribes, as regards the Patents Decree (1967:838),
that Sections 2, 17, 17c, 25, 25a, 25b, 25c and 31 shall read as follows, and
that a new Section shall be inserted in the Decree, numbered 5a and reading as follows.

2. A Swedish patent application shall consist of a written communication (the application document) with attachments.

The application document shall be signed by the applicant or his representative and contain

1. the name and address of the applicant and, if the applicant is represented by a representative, also the name and address of the representative,
2. the name and address of the inventor,
3. a short and factual title of the invention for which a patent is sought,
4. when a patent is applied for by several persons jointly, an indication of whether any one of them is designated to receive communications from the Patent Office,
5. as the case may be, an indication that the application contains such a deposit of biological material as referred to in Article 8a of the Patents Act.
6. an indication about which attachments accompany the application,

The following shall accompany the application as attachments

- a.* a description of the invention, including any drawing necessary for clarification of the description, patent claims and abstracts,
- b.* if the applicant is represented by a representative, a separate power of attorney for the representative except if the power of attorney for the representative has been included in the application document,
- c.* if the invention has been made by someone else than the applicant, a document which proves the right of the applicant.

The application fee prescribed in Article 45 shall accompany the application.

5a. If an invention concerns biological material of plant or animal origin or if it uses such material, the patent application shall include information on the geographical origin of such material, if this is known. If the origin is not known, this shall be indicated.

Lack of information on the geographical origin or on the knowledge of the applicant regarding the origin is without prejudice to the processing of the patent application or the validity of the rights arising from a patent granted.

17. The description may contain only what would assist in the clarification of the invention. Where a newly created or otherwise not commonly accepted term has to be used, the term shall be clarified. Designations or units of measurement must not deviate from what is commonly used in the Nordic States.

If a patent application includes such a deposit of biological material as referred to in Article 8a of the Patents Act, the applicant shall, when the application is filed, indicate in the

documents all such information of importance for the characteristics of the biological material to which the applicant has access.

17c. A new deposit as referred to in Article 8a, second Paragraph, of the Patents Act shall be made in accordance with what is prescribed in the Budapest Treaty as regards new deposits.

A new deposit shall be made within three months from the day on which the person having made the deposit received a notification from the International Depository Authority to the effect that samples of the material previously deposited can no longer be made available. If the institution at issue has ceased to act as an International Depository Authority for such biological material which the deposit concerned or if it has ceased to meet its obligations under the Budapest Treaty, and the person having made the deposit has not been notified of this within six months from the publication of this fact by the International Bureau, the new deposit may, however, be made within nine months from that publication.

The person making the deposit shall within four months from the making of the new deposit file with the Patent Office a copy of the receipt which the institution has issued concerning the new deposit. If the time assigned under Section 17b, first or second Paragraph, expires later, the receipt may, however, be filed within that assigned time. When the receipt is filed, information shall be given about the number of the patent application or the patent to which the deposit refers.

25. If the documents in a patent application case are made available to the public pursuant to Article 22, second or third Paragraph, of the Patents Act before the patent is granted, the abstract shall be printed as soon as its final wording has been established. The Patent Office may print also other parts of the application together with the abstract. Anyone may, against payment of a fee, obtain such a printed copy.

An announcement under Article 22, fourth Paragraph, of the Patents Act shall contain information about the filing number of the application and class, filing date, running date if this is not the same as the filing date, the title of the invention, and name and address of the applicant and of the inventor. Where priority has been claimed, the announcement shall contain also information about where the application referred to has been filed, the date of this application and its filing number. If the application includes a deposit of biological material, this shall be mentioned in the announcement. If the applicant, pursuant to Article 22, seventh Paragraph, of the Patents Act has requested that samples of material deposited shall be delivered only to a special expert, also this shall be mentioned in the announcement.

If a translation of a description and a patent claim in an international patent application has been amended within the time limit assigned pursuant to Section 58 but after the making available to the public of the documents in the case, an announcement shall be published about this fact.

25a. A request pursuant to Article 22, eighth Paragraph, first sentence, of the Patents Act to obtain a sample of a deposit shall be drawn up as prescribed in Rule 11 of the Implementing Regulations to the Budapest Treaty.

Anyone who wants to obtain a sample shall, in relation to the patent applicant or the patent holder, make a commitment not to, before the patent application has been finally decided on or the patent has ceased to be valid,

1. let anyone else have access to the sample,
2. use the sample for purposes other than experimental ones.

The commitment shall comprise also biological material which has been derived from the sample and which has maintained the characteristics of the material deposited which are essential for the use of the invention.

If the patent applicant or the patent holder expressly waives the commitment, this does not have to be made.

The commitment shall be attached to the request.

25b. A request pursuant to Article 22, seventh Paragraph, of the Patents Act to the effect that samples be delivered only to a special expert shall be made at the latest on the day when the technical preparations for the making available to the public of the patent application are deemed to have been finalised.

The Patent Office draws up a list of the persons who have declared themselves willing to undertake the task of being a special expert and who are qualified in this respect. A decision about which persons are to be included in the list of experts, shall be announced in the way prescribed in Section 49.

If a sample may be delivered only to a special expert, the request for a sample shall contain an indication about who shall be used as a special expert. To the request shall be attached a written commitment by the expert in relation to the patent applicant corresponding to the commitment prescribed in Section 25a, second and third Paragraphs. If the request relates to a sample which is to be delivered pursuant to Article 22, seventh Paragraph, second sentence, of the Patents Act, the commitment shall cover 20 years from the day when the patent application was filed.

As a special expert may be engaged only a person who is included in the list or a person who has, in the case at issue, been approved by the patent applicant.

25c. The commitments referred to in Sections 25a and 25b, do not prevent that biological material derived from the sample be deposited for a new patent application, if the material has to be deposited for the purpose of the application. A commitment not to use the sample or material derived from it for purposes other than experimental ones does not apply to anyone who has obtained a compulsory license to exploit the invention.

31. The printing of a patent document as referred to in Article 21 of the Patents Act is taken care of by the Patent Office and shall commence as soon as possible after the applicant has paid the granting fee pursuant to Article 19, second Paragraph, of the Patents Act. In the patent document shall be indicated

1. the date on which the patent was granted,
2. the diary number of the patent application and the registration number and the classes of the patent,
3. the name and address of the patent holder,
4. where the patent holder is represented by a representative, the name of the representative,
5. the name and address of the inventor,
6. the day when the patent documents were made available to the public pursuant to Article 22 of the Patents Act,
7. if the patent is based on a Swedish patent application, an international application or a transformed European patent application,

8. whether the patent is based on a Swedish patent application, the filing date of the application and the date from which the term of patent protection runs, if that is not the same as the filing date of the application.

9. if the patent is based on an international patent application, the international filing date, the international application number and the date when the application was pursued in accordance with Article 31 of the Patents Act or was received pursuant to Article 38 of the same Act,

10. if the patent is based on a transformed European patent application, the date when the application was filed to be dealt with according to the European Patent Convention or, as the case may be, the day established as filing date for the European patent application, the number of the European patent application and the day when it was received by the Patent Office for transformation,

11. information about any priority, where the application from which priority is counted was filed, the date of that application, and the number of the application,

12. the title of the invention,

13. where the patent application results from a division or detachment, the diary number of the original application,

14. where the patent application relates to a deposit of biological material, the institution where the deposit exists and the number which the institution has given to the deposit, and

15. publications referred to.

This Regulation enters into force on May 1, 2004.
