

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Industrial Policy and Promotion)

NOTIFICATION

New Delhi, the 20th June, 2005

S.O. 864(E).— The following draft of certain rules further to amend the Patents Rules, 2003 which the Central Government proposes to make in exercise of the power conferred by section 159 of the Patents Act, 1970 (39 of 1970) is hereby published, as required by sub-section (3) of the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the expiry of a period of thirty days from the date of the Official Gazette, containing the notification, are made available to the public.

Any objections or suggestions which may be received from any person with respect to the said draft before the expiry of the aforesaid period will be considered by the Central Government.

Objections or suggestions, if any, may be sent to the Secretary to the Government of India, Ministry of Commerce and Industry (Department of Industrial Policy and Promotion), Udyog Bhavan New Delhi-110011.

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Draft Rules

1. (1) These rules may be called the Patents (Second Amendment) Rules, 2005.
(2) They shall come into force on the date of their final publication in the Official Gazette.
2. In the Patents Rules, 2003 (hereinafter referred to as the principal rules), in rule 4, in clauses (i) and (ii) for the words and figures “sections 39, 65 and 125”, at both places, the word and figures “section 125”, shall be substituted respectively.
3. In rule 7 of the principal rules in sub-rule (2), for clause (c), the following clause shall be substituted, namely: -
“(c) Where a fee is payable in respect of a document, the entire fee shall accompany the document or shall be paid within one month from the date of filing of the document and on such payment, the document shall be taken on record from the date of its filing;
4. In rule 24B, of the principal rules, -
 - (a) In sub-rule (1), -
 - (i) for clause (ii) the following clause shall be substituted; namely: -
“(ii) The period within which the request for examination under sub-section (3) of section 11B to be made shall be thirty-six months from the date of priority, if applicable, or thirty-six months from the date of filing of the application in India or twelve months from the 1st day of January, 2005, whichever is later;
 - (ii) in clause (v), for the words, figures and letter “the period specified under section 11B or” the words, figures and letter “the period specified under section 11B before the commencement of the Patents (Amendment) Act, 2005 or” shall be substituted.
 - (b) in sub-rule (4), in sub-clause (i), for the words “six months”, the words “nine months” shall be substituted.
5. In Chapter VI of the principal rules, for the heading, the following heading shall be substituted, namely: -
“ OPPOSITION PROCEEDINGS TO GRANT OF PATENT ”
6. In rule 55 of the principal rules,-
 - (a) (i) for the heading, the following heading shall be substituted namely: -
“(1) Opposition to the patent.”;
 - (ii) for sub-rule (1), the following shall be substituted, namely: -
 - (1) Representation for opposition under sub-section (1) of section 25 shall be filed at the appropriate office and shall include a statement and evidence, if any, in support of the representation and a request for hearing if so desired;

(1A) Notwithstanding anything contained in sub-rule (1), no patent shall be granted before the expiry of a period of six months from the date of publication of the application under section 11A.”;

 - (b) in sub-rule (3) for the word, “effect” the words, “effect alongwith a copy of such representation” shall be substituted;
 - (c) in sub-rule (4) after the word, “evidence” the words, “and request for being heard” shall be inserted;

(d) in sub-rule (6), for the word, “requested” the words, “requested by either party” shall be substituted.

7. In rule 55A of the principal rules, for the words, figures and brackets “sub-section (3) of section 25”, the words, figures and brackets “sub-section (2) of section 25” shall be substituted.
8. In rule 56 of the principal rules, in sub-rule (4) for the words, figures and brackets “sub-section (4) of section 25” the words, figures and brackets “sub-section (3) of section 25” shall be substituted.
9. In rule 88 of the principal rules, in sub-rule (1), for the word “sealing”, at both places, the word “grant” shall be substituted respectively.
10. In rule 138 of the principal rules, in sub-rule (1) for the words, figures and brackets “in the rules 24, 55 and 80(1A)”, the words, figures and brackets “in the rules 24B, sub-rule (4) of rule 55 and sub-rule (1A) of rule 80 shall be substituted.
11. In the First Schedule of the principal rules,-

- (a) in columns 4 and 5, in the beginning, the word “Rupees”, at both places, shall be omitted;
- (b) in column 2,-

- (i) against entry number 1., in item (i), for the word “specification”, the word “complete specification”, shall be substituted;

- (ii) against entry number 12, for the word, figures and letter “rule 23B”, the word, figures and letter “rule 24A” shall be substituted;

- (iii) against entry number 23, for the word, figures and brackets “rule 26(1)”, the word and figures “rule 26” shall be substituted;

- (iv) against entry number 44, for the entry, the following entry shall be substituted, namely: -

“On request for information under section 153”;

- (v) against entry number 45, for the entry, the following entry shall be substituted, namely: -

“On form of authorization of patent agent under sections 127 and 132 and rule 135”.

12. In the Second Schedule of the principal rules

- (i) in Form 1 –

- (a) in Para 9, in item (i) in sub-item (b) for the word “Signature(s)”, the words “Signature(s) of the inventor(s)” shall be substituted;

- (b) after Para 10, for the words “The Controller of Patent”, the words “The Controller of Patents” shall be substituted.

- (ii) in Form 5, after the Para 4, for the words “The Controller of Patent”, the words “The Controller of Patents” shall be substituted.

- (iii) in Form 9, in Para 2 for the words “application for Patent No., the words “Patent application No.” shall be substituted.

- (iv) in Form 18, -

(a) in Para 1, after item (c), the following item shall be added, namely: -

“(d) date of publication of the application under section 11A.....”;

(b) after Para 4, for the words “The Controller of Patent”, the words “The Controller of Patents” shall be substituted.

(iv) in Form 21, in Para 1, for the words “patent No./No.”, the words “Patent No.” shall be substituted.

(v) in Form 25, the words “No Fee” occurring in the beginning shall be omitted.

13. For THE THIRD SCHEDULE, of the principal rules, following schedule shall be substituted

“THE THIRD SCHEDULE
(Refer rule 74)
FORM OF PATENT
GOVERNMENT OF INDIA
THE PATENT OFFICE

Patent No.....

Application No.....

Date of filing

Patentee.....

Inventor(s)

It is hereby certified that a patent has been granted to the patentee for an invention entitled..... as disclosed in the above mentioned application for the term of 20 years from the.....day of.....19/20....., in accordance with the provisions of the Patents Act 1970.

Date of Grant-----

Controller of Patents

(Seal of the Office)

Note. – The fees for renewal of this patent, if it is to be maintained, will fall due on..... day of 20..... and on the same day in every year thereafter.”.

[F. No.14/2/2005-PP&C]
UMESH KUMAR, Jt. Secy.

Note:— The principal rules were published in the Gazette of India vide Notification number S.O. 493 (E) dated the 2nd May, 2003 and subsequently amended vide notification No. S.O. 1418(E) dated 28th December, 2004.