

Patents (Amendment) Rules, 2006

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There have been certain amendments in the Indian patents rules as per a notification issued by the Ministry of Commerce and Industry on May 5, 2006. The draft rules were notified on December 30, 2005. While no changes have taken place in Patents Act which was last amended in January 2005. The highlights of the amendments are given below for the benefit of the readers :-

1. The Patent Office used to accept fees for any kind of action such as filing, request for examination, grant of patent or any other action in cash or bank draft or a cheque. For the first time, it has introduced in the rules that fees payable to the patent office shall also be acceptable by electronic means.
2. The LETTERS PATENT issued by the patent office in future shall be in an altogether different form. The new format of the LETTERS PATENT is very simple as compared to the earlier one. The form is given at the end of this article. Names of inventors would now be mentioned in the LETTERS PATENT.

This patent certificate shall be issued within seven days of the grant of the patent, whereas no such period was specified in the earlier rules.

3. Under the Indian Patent Act, permission has to be sought from the Controller for filing a patent application outside India filing Form 25. Earlier such requests were to be heard within a period of three months from the date of filing of such a request. But with new rules, this action has been speeded up. Now this time has been reduced to mere 21 days. However this does not include inventions relating to defence and atomic energy applications.
4. Actions relating to certain sections of the Patents Act could earlier be taken only at the Head Office i.e. Kolkata. But with the new rules, activities related to these sections can be performed at all the Patent Office Branches. The sections include register of the patent agents, filing of patents outside India and revocation of patent or amendment of the complete specification on directions from the govt in cases relating to atomic energy.
5. In the matter of the payment of fees payable in respect of a document there used to be a relaxation that if the entire fee is not paid at the time of filing the document, it could be paid within one month from the date of filing the document. But now the entire fee has to be paid at the time of submitting the document at the patent office.
6. In case of assignment of the right to apply for the patent, proof of the right to make the application had to be furnished within three months from the date of filing which has now been increased to six months.

Similarly, in case of an application for a patent in any country outside India in respect of the same or substantially the same invention, information and

undertaking regarding such foreign applications can be furnished within 6 months as against 3 months according to the earlier rules.

7. With regards to the opposition to the grant of a patent, earlier there was a rule that for the pre-grant opposition, representation had to be made within a period not exceeding three months from the date of publication of the application or before the grant of patent. Under the new rules, this time period has been removed and the patent can be opposed at any time before the grant of the patent.

Also, a new rule has been added according to which, even if there is no opposition, no patent shall be granted before the expiry of a period of six months from the date of publication of the application.

8. Patent applications are now to be published within one month after expiry of the statutory period of 18 months and, in case of request for an early publication, the application is to be published within one month from the date of request.
9. After the publication of the application, request for examination can now be made within 48 months as against 36 months under the previous rules.
10. The time for putting an application in order for grant has been increased from 6 to 12 months as against 6 months under the earlier rules.
11. The controller will now be required to refer the application to the examiner within one month of its submission for examination. Earlier such applications were taken up in order in which they were filed.
12. The proof of the right to make the application and statement /undertaking regarding foreign applications shall be made within 6 months (instead of 3 months), if not furnished with the application.

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

Patent No _____

Application No _____

Date of Filing _____

Patentee _____

Inventor (s) (Where applicable) _____

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 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.