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

**NOTIFICATION**

New Delhi, the 30th December, 2005

**S.O. 1844(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 powers 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.

**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 sub-rule (1) in the clauses (i) and (ii), for the words and figures "section 39,65 and 125" occurring at both the places, the word and figures "section 125", shall respectively be substituted;
3. In rule 6 of the principal rules, in sub-rule (1), the proviso shall be omitted;
4. In rule 7 of the principal rules, in sub-rule (2),-
  - (a) in clause (a), after the words "paid in cash", the words "or through electronic means" shall be inserted;
  - (b) in clause (b), the words "within the time allowed for payment of the fees" shall be omitted;
  - (c) 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.";
5. In rule 10 and in the explanation of the principal rules, for the words "three months", the words "six months" shall respectively be substituted;

6. In rule 12 of the principal rules, -
  - (a) in rule (1A) and in the explanation, for the words “three months”, the words “six months” shall respectively be substituted;
  - (b) in rule (2), for the words “three months”, the words “six months” shall be substituted;
  - (c) in rule (3), for the words “three months”, the words “six months” shall be substituted;
7. In rule 24 of the principal rules, the following proviso shall be added namely:-

“Provided that the period within which the Controller shall publish the application in the Journal shall ordinarily be thirty days from the date of expiry of said period, or one month from the date of request for publication under rule 24A.”;
8. In rule 24B of the principal rules, -
  - (a) In sub-rule (1), -
    - (i) in clause (i), for the words “thirty-six months”, the words “forty-eight months” shall be substituted;
    - (ii) for clause (ii), 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 forty-eight months from the date of priority, if applicable, or forty-eight months from the date of filing of the application in India or twelve months from the 1<sup>st</sup> day of January, 2005, whichever is later.”;
    - (iii) in clause (iii), for the words “thirty-six months”, the words “forty-eight months” shall be substituted;
    - (iv) in clause (iv), for the words “thirty-six months”, the words “forty-eight months” shall be substituted;
    - (v) In clause (v) for the words, figures and letter “the period specified under the section 11B or”, the words, figures and letter “the period specified under the section 11B before the commencement of the Patents (Amendment) Act, 2005 or” shall be substituted;
  - (b) In sub- rule (2),-
    - (i) for clause (i), the following clause shall be substituted, namely: -

“(i) The period within which the Controller shall refer the application and specification and other documents to the examiner in respect of the request received shall ordinarily be thirty days from the date of filing of such request;

Provided that such reference shall be made in order in which the request is filed under sub-rule (1).”;
    - (ii) after clause (ii), the following clause shall be inserted, namely: -

“(iii) the period within which the Controller shall dispose off the report of the examiner shall ordinarily be thirty days from the date of the receipt of the such report by the Controller.”;
  - (c) In sub rule (3), for the words “his authorised agent”, the words “his authorised agent within six months from the date of the request for examination.” shall be substituted;
  - (d) In rule (4),-
    - (a) in sub clause (i), for the words “six months”, the words “nine months” shall be substituted;

- (b) after clause (i), following clause shall be inserted, namely:-  
 “(ia) The time for putting an application in order for grant which has been examined and First Examination Report issued on or after the 1<sup>st</sup> day of January, 2005 but before the commencement of the Patents (Second Amendment) Rules, 2005, shall be six months from the date on which the first statement of objections has been issued to the applicant to comply with the requirements.”;
- (c) in clause (ii), for the word, figures and brackets “clause (i)”, the word figures and brackets “clauses (i) and (ia)” shall be substituted;
9. In rule 26 of the principal rules, the figure and bracket “(1)” shall be omitted;
10. In Chapter VI of the principal rules, for the heading “OPPOSITION PROCEEDINGS”, the following heading shall be substituted, namely: -  
 “OPPOSITION PROCEEDINGS TO GRANT OF PATENT”;
11. In rule 55 of the principal rules-
- (a) (i) for the marginal heading, the following marginal heading shall be substituted, namely:-  
 “(1) Opposition to the patent.”;
- (ii) for sub-rule (1), the following sub-rules 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), for the words “one month” the words “three months.” shall be substituted;
12. 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;
13. In rule 56 of the principal rules, -
- (a) in sub rule (1), for the words “notice of opposition”, the words figures and letter “notice of opposition under rule 55A” shall be substituted;
- (b) 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;
14. In rule 71 of the principal rules, for sub-rule (2), the following sub-rule shall be substituted, namely: -  
 “(2) The time within which the Controller dispose of the request made under sub-rule (1), except in case of inventions relating to defense and atomic energy applications, shall ordinarily be within a period of twenty one days from the date of filing of such request.”;
15. In rule 88 of the principal rules, the word “sealing”, occurring at both the places; the word “grant”, shall be substituted;

16. In rule 134 of the principal rules, in sub rule (1), -  
 (a) after clause (a), the following clause shall be inserted, namely: -  
 “(aa) as to when the information under section 8 has been filed.”;  
 (b) in clause (k), for the words “Official Gazette”, the words “Official Journal” shall be substituted;

17. 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;

18. In the THE FIRST SCHEDULE of the principal rules, -  
 (a) for items number 1,2,3 and 4 and entries relating thereto, the following items and entries shall be substituted, namely:-

“ 1.	On application for a patent under sections 7, 54 or 135 and rule 20(1) accompanied by provisional/complete specification.	1	1000	4,000
			Multiple of 1000 in case of every multiple priority.	Multiple of 4,000 in case of every multiple priority
2.	On filing complete specification after provisional.	2	No fee	No fee
3.	On filing a statement and undertaking under section 8.	3	No fee	No fee
4.	On request for extension of time under sections 53(2) and 142(4), rules 13(6), rule 24B(4)(ii), 80(1A) and 130.	4	300 per month	1,200 per month”;

- (b) for item number 12 and entries relating thereto, the following items and entries shall be substituted, namely:-

“ 12.	Request for publication under section 11A(2) and rule 24A.	9	2500	10,000”;
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- (c) against item number 17, for sub-items (xiv) to (xiii) and entries relating thereto, the following sub-items and entries shall be substituted, namely:-

“(xiv)	before the expiration of 15 <sup>th</sup> year in respect of 16 <sup>th</sup> year	-	3,000	15,000
(xv)	before the expiration of 16 <sup>th</sup> year in respect of 17 <sup>th</sup> year	-	3,000	15,000
(xvi)	before the expiration of 17 <sup>th</sup> year in respect of 18 <sup>th</sup> year	-	3,000	15,000
(xvii)	before the expiration of 18 <sup>th</sup> year in respect of 19 <sup>th</sup> year	-	3,000	15,000
(xviii)	before the expiration of 19 <sup>th</sup> year in respect of 20 <sup>th</sup> year	-	3,000	15,000”;

(d) for item number 23 and entries relating thereto, the following item and entries shall be substituted, namely:-

“23	Application for withdrawing the application under section 11B(4) and rule 26(1)	-	No fee	No fee”;
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(e) for item number 28 and entries relating thereto, the following item and entries shall be substituted, namely:-

“28	On request for examination of application for patent –	18		
	(a) under section 11B and rule 24(1)		1000	3000
	(b) under rule 20(4)(ii).		2000	6000 .”;

19. In the 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 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;

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

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

20. For THE THIRD SCHEDULE of the principal rules, following Schedule shall be substituted namely:-

"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 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]

N. N. PRASAD, Jt. Secy.

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