

AUSTRALIA

Status as of May 2005

FEATURES	STATUS	CHANGES IN LAWS SINCE 1990
Types of protection for inventions	<ul style="list-style-type: none"> • Standard Patents • Innovation Patents 	N.A
Term of protection	<ul style="list-style-type: none"> • Standard Patent : 20 years • Innovation Patents: 8 years • Extension of patent term is possible on the grounds of regulatory approval for pharmaceuticals. 	<p>May 24, 2001 – Introduction of the innovation patent system (8 years) which replaced the petty patent system (6 years).</p> <p>July 1, 1995 – Term of standard patent extended from 16 years to 20 years.</p>
Subject matters excluded from patentability or not considered to be inventions	<ul style="list-style-type: none"> • The following subject matters are not considered to be inventions: <ul style="list-style-type: none"> - Discoveries - Scientific theories/mathematical methods - Aesthetic creations - Mental acts - Presentation of information 	April 30, 1991 – Introduction of specific exclusions for human beings and biological processes.
Filing language	<ul style="list-style-type: none"> • Filing an application in languages other than official languages is not possible. 	No
Certain requirements relating to filing	<ul style="list-style-type: none"> • The inventor rarely waives his right to be mentioned in the patent. • It is possible to file provisional applications. A complete application must be filed within 12 months from the filing of the provisional application to claim the earlier priority date. • The most frequent route used by foreign applicants to file patent applications is the PCT procedure (Patent Cooperation Treaty). 	No

Link between different inventions in the same application	<ul style="list-style-type: none"> The applicable law requires that the claims in a patent application relate to a single invention only, or to inventions so linked as to form a single inventive concept. 	No
Publication	<ul style="list-style-type: none"> The information related to the application is published or open for public access 18 months from the date of filing or from the priority date. 	No
Classification system	<ul style="list-style-type: none"> The patent classification system used is the International Patent Classification (IPC) system. 	N.A
Search and examination	<ul style="list-style-type: none"> The applicable law establishes a substantive search and examination system. Search and examination are combined. The applicant for both standard patents and innovation patents, is required to request the search and examination through a combined request at any time after filing or within 6 months from the Commissioner's direction to request examination. During the examination procedure, the following criteria are examined: <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility - Clarity - Unity - Fair basis/full support - Full description - Manner of manufacture/patentable subject matter 	N.A
Specific legal provision regarding ownership of patents derived from public (government) research funding	<ul style="list-style-type: none"> No 	No
Exceptions to exclusive rights conferred by a patent	<ul style="list-style-type: none"> There are exceptions to the exclusive rights conferred by a patent as follows: <ul style="list-style-type: none"> - Compulsory licenses - Governmental use - Clinical trials for the purpose of obtaining a generic drug's regulatory approval (Bolar provision) - Prior user's right 	July 1, 1999 – Introduction of the Bolar provision with the introduction of the 5-year extension of term for pharmaceutical patents.

Options to challenge a patent	<ul style="list-style-type: none">• There are the following options to challenge: A standard patent:<ul style="list-style-type: none">- Pre-grant administrative procedure (opposition) within 3 months from advertisement of acceptance for opposition- Post-grant administrative procedure (reexamination) within no time limit- Court procedure An innovation patent:<ul style="list-style-type: none">- Post-grant administrative procedure (opposition and reexamination) within no time limit from the certification of the innovation patent.- Court procedure	No
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