

PORTUGAL

Status as of May 2005

FEATURES	STATUS	CHANGES IN LAWS SINCE 1990
Types of protection for inventions	<ul style="list-style-type: none"> • Patents • Utility models 	N.A
Term of protection	<ul style="list-style-type: none"> • Patents: 20 years from filing date • Utility models: 10 years from filing date • Extension of patent term is possible on the following grounds: <ul style="list-style-type: none"> - Regulatory approval for pharmaceuticals - Regulatory approval for agricultural chemicals 	<p>July 1, 2003 – Reduction of the term of Protection for utility models (from 15 years to 10 years from filing date)</p> <p>June 1, 1995 – Extension of the term of protection for patents from 15 years to 20 years from filing date; Reduction of the term of protection for utility models from “undefined” to 15 years.</p>
Subject matters excluded from patentability or not considered to be inventions	<ul style="list-style-type: none"> • The following subject matters are excluded from patentability: <ul style="list-style-type: none"> - Isolated parts of human beings - Plant and animal varieties - Diagnostic, therapeutic and surgical methods for the treatment of humans and animals - Inventions contrary to morality/public order • 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 - Computer programs - Business methods - Traditional knowledge 	<p>July 1, 2003 – Transposition of the Directive 98/44/CE on biotechnological inventions.</p>

Filing language	<ul style="list-style-type: none"> Filing an application in languages other than official language 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. 	No
	<ul style="list-style-type: none"> It is not possible to file provisional applications. 	
	<ul style="list-style-type: none"> The most frequent route used by foreign applicants to file patent applications is the PCT (Patent Cooperation Treaty). 	
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. 	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 and when the patent is granted. When the PCT application enters in the national phase, the Office publishes a mention with the indications which are necessary to identify the international application. Utility models are published 6 months after the filing date, unless the applicant request a postponement (which can only go up until 18 months). 	July 1, 2003 – Before that date, utility models were published 18 months after the filing date.
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 filing of an application automatically implies a search and an examination for patents. However, for utility models, the applicant is required to request for the search and examination through a combined request. During the examination procedure, the following criteria are examined for both patents and utility models: <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility 	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"> - Private use - Compulsory licenses - Research and/or experimental exception - Preparation of medicines in accordance with medical prescriptions by physicians - Clinical trials for the purpose of obtaining a generic drug's regulatory approval (Bolar provision) 	July 1, 2003 – Introduction of the Bolar provision.
Options to challenge a patent	<ul style="list-style-type: none"> • There are different options to challenge a patent or a utility model as follows: <ul style="list-style-type: none"> - Pre-grant administrative procedure (opposition): within 2 months after the publication of the application - Court procedure: within 2 months after the publication of the grant or refusal 	July 1, 2003 – Before that date, the time limit for the opposition procedure was 3 months after the publication of grant; the time limit for the court procedure was 3 months after the publication of the grant or the refusal.