

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,

SECTION 3, SUB-SECTION (i)]

Government of India

Ministry of Commerce and Industry

(Department of Industrial Policy and Promotion)

New Delhi, the 28th February , 2014

Notification

G.S.R.....(E).- whereas certain draft rules, namely the Patents (Amendment) Rules, 2013 were published as required under sub-section (3) of section 159 of the Patents Act, 1970 (39 of 1970), *vide* notification of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion), number G.S.R. 286 (E), dated the 6th May, 2013, in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), dated the 6th May, 2013, for inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of forty-five days from the date on which copies of the Gazette containing the notification were made available to the public;

And whereas, the copies of the Gazette containing the said notification were made available to the public on the 12th June, 2013;

And whereas, the objections and the suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 159 of the Patents Act, 1970 (39 of 1970), the Central Government hereby makes the following rules further to amend the Patents Rules, 2003, namely:-

1. (1) These rules may be called the Patents (Amendment) Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In rule 2 of the Patents Rules, 2003 (hereinafter referred to as the principal rules), ---
 - (i) after clause (d), the following clause shall be inserted, namely:---

‘(da) “ person other than a natural person” shall include a “small entity” ’ ;
 - (ii) after clause (f), the following clause shall be inserted, namely:---

'(fa) "small entity" means,-

(i) in case of an enterprise engaged in the manufacture or production of goods, an enterprise where the investment in plant and machinery does not exceed the limit specified for a medium enterprise under clause (a) of sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006); and

(ii) in case of an enterprise engaged in providing or rendering of services, an enterprise where the investment in equipment is not more than the limit specified for medium enterprises under clause (b) of sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006.

Explanation 1. – For the purpose of this clause, "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951) or engaged in providing or rendering of any service or services in such an industry.

Explanation 2. - In calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other things as may be specified by notification under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), shall be excluded.

Explanation 3. - The reference rates of foreign currency of the Reserve Bank of India shall prevail.

3. In rule 7 of the principal rules, -

(i) after sub rule (1), the following provisos shall be inserted, namely:-

“ Provided that ten per cent. additional fee shall be payable when the applications for patent and other documents are filed through physical mode, namely, in hard copy format:

Provided further that in the case of a small entity, every document, for which a fee has been specified, shall be accompanied by Form-28.”.

(ii) after sub-rule (3), the following sub-rule shall be inserted, namely:---

“(3A) In case an application processed by a small entity is fully or partly transferred to a person other than a natural person (except a small entity), the difference, if any, in the scale of fee(s) between the fee(s) charged from a small entity and the fee(s) chargeable from the person other than a natural person (except a small entity) in the same matter shall be paid by the new applicant with the request for transfer.” ;

4. In sub- rule (1) of rule 55 of the principal rules, after the words “shall be filed”, the words, figure, brackets and letter “ in Form 7 (A)” shall be inserted.

5. For the First Schedule to the principle rules, the following Schedule shall be substituted, namely :---

“THE FIRST SCHEDULE
(See rule 7)
FEES

Number of entry	On what payable	Number of the relevant Form	For e-filing			For physical filing		
			For natural person (s)	For person other than natural person(s) either alone or jointly with natural person(s)		For <u>natural person (s)</u> with ten per cent. additional fee	For person other than natural person(s) either alone or jointly with natural person(s) with ten per cent. additional fee.	
				For small entity	For others except small entity		For small entity	For Others except small entity
1.	2	3	4	5	6	7	8	9
			Rupees	Rupees	Rupees	Rupees	Rupees	Rupees

1	2	3	4	5	6	7	8	9
1.	On application for a patent under sections 7, 54 or 135 and rule 20(1) accompanied by provisional or complete specification— (i) for each sheet of specification in addition to 30; (ii) for each claim in addition to 10.	1	1600 Multiple of 1600 in case of every multiple priority. (i) 160 (ii) 320	4000 Multiple of 4000 in case of every multiple priority. (i) 400 (ii) 800	8,000 Multiple of 8,000 in case of every multiple priority (i) 800 (ii) 1,600	1760 Multiple of 1760 in case of every multiple priority. (i) 176 (ii) 352	4400 Multiple of 4400 in case of every multiple priority. (i) 440 (ii) 880	8,800 Multiple of 8,800 in case of every multiple priority. (i) 880 (ii) 1760
2.	On filing complete specification after provisional upto 30 pages having up to 10 claims- (i) for each sheet of specification in addition to 30; (ii) for each claim in addition to 10.	2	No fee (i) 160 (ii) 320	No fee (i) 400 (ii) 800	No fee (i) 800 (ii) 1,600	No fee (i) 176 (ii) 352	No fee (i) 440 (ii) 880	No fee (i) 880 (ii) 1760
3.	On filing a statement and undertaking under section 8.	3	No fee	No fee	No fee	No fee	No fee	No fee
4.	On request for extension of time under sections 53(2) and 142(4), rules 13(6), 80(1 A) and 130.	4	480 per month	1200 per month	2400 per month	528 per month	1320 per month	2640 per month

5.	On filing a declaration as to inventorship under rule 13(6).	5	No fee					
6.	On application for postdating.	-	800	2000	4000	880	2200	4400
7.	On application for deletion of reference under section 19 (2).	-	800	2000	4000	880	2200	4400
8.	(i) On claim under section 20(1);	6	800	2000	4000	880	2200	4400
	(ii) On request for direction under section 20 (4) or 20 (5).	6	800	2000	4000	880	2200	4400
9.	(i) On filing representation opposing grant of patent under section 25(1);	7A	No fee					
	(ii) On notice of opposition to grant of patent under section 25(2).	7	2400	6000	12000	2640	6600	13200
10.	On giving notice that hearing before Controller shall be attended under rule 62(2).	-	1500	3750	7500	1650	4125	8250
11.	On application under sections 28(2), 28(3) or 28(7).	8	800	2000	4000	880	2200	4400

12.	Request for publication under section 11A(2) and rule 24A.	9	2500	6250	12500	2750	6875	13750
13.	Application for withdrawing the application under section 11B(4) and rule 26(1) before publication of the application.	--	1600	4000	8000	1760	4400	8800
14.	On request for examination of application for patent— (a) under section 11B and rule 24(1); (b) under rule 20(4)(ii).	18						
			4000	10000	20000	4400	11000	22000
			5600	14000	28000	6160	15400	30800
15.	On application under section 44 for amendment of patent.	10	2400	6000	12000	2640	6600	13200
16.	On application for directions under section 51(1) or 51(2).	11	2400	6000	12000	2640	6600	13200
17.	On request for grant of a patent under sections 26(1) and 52(2).	12	2400	6000	12000	2640	6600	13200

18.	On request for converting a patent of addition to an independent patent under section 55 (1).	--	2400	6000	12000	2640	6600	13200
19.	For renewal of a patent under section 53-							
(i)	before the expiration of the 2 nd year from the date of patent in respect of 3 rd year;	-	800	2000	4000	880	2200	4400
(ii)	before the expiration of the 3 rd year in respect of the 4 th year;	-	800	2000	4000	880	2200	4400
(iii)	before the expiration of the 4 th year in respect of the 5 th year;	-	800	2000	4000	880	2200	4400
(iv)	before the expiration of the 5 th year in respect of the 6 th year;	-	800	2000	4000	880	2200	4400
(v)	before the expiration of the 6 th year in respect of the 7 th year;	-	2400	6000	12000	2640	6600	13200
(vi)	before the expiration of the 7 th year in respect of the 8 th year;	-	2400	6000	12000	2640	6600	13200
(vii)	before the expiration of the 8 th year in respect of the 9 th year;	-	2400	6000	12000	2640	6600	13200

(viii)	before the expiration of the 9 th year in respect of the 10 th year;	-	2400	6000	12000	2640	6600	13200
(ix)	before the expiration of the 10 th year in respect of the 11 th year;	-	4800	12000	24000	5280	13200	26400
(x)	before the expiration of the 11 th year in respect of the 12 th year;	-	4800	12000	24000	5280	13200	26400
(xi)	before the expiration of the 12 th year in respect of the 13 th year;	-	4800	12000	24000	5280	13200	26400
(xii)	before the expiration of the 13 th year in respect of the 14 th year;	-	4800	12000	24000	5280	13200	26400
(xiii)	before the expiration of the 14 th year in respect of the 15 th year;	-	4800	12000	24000	5280	13200	26400
(xiv)	before the expiration of the 15 th year in respect of the 16 th year;	-	8000	20000	40000	8800	22000	44000
(xv)	before the expiration of the 16 th year in respect of the 17 th year;	-	8000	20000	40000	8800	22000	44000
(xvi)	before the expiration of the 17 th year in respect of the 18 th year;	-	8000	20000	40000	8800	22000	44000

(xvii)	before the expiration of the 18 th year in respect of the 19 th year;	-	8000	20000	40000	8800	22000	44000
(xviii)	before the expiration of the 19 th year in respect of the 20 th year.		8000	20000	40000	8800	22000	44000
20.	On application for amendment of application for patent or complete specification or other related documents under section 57—	13						
(i)	before grant of patent;		800	2000	4000	880	2200	4400
(ii)	after grant of patent;		1600	4000	8000	1760	4400	8800
(iii)	where amendment is for changing name or address or nationality or address for service.		320	800	1600	352	880	1760
21.	On notice of opposition to an application under sections 57(4), 61(1) and 87(2) or to surrender a patent under section 63(3) or to a request under section 78(5).	14	2400	6000	12000	2640	6600	13200
22.	On application for restoration of a patent under section 60.	15	2400	6000	12000	2640	6600	13,200
23.	Additional fee for restoration.	--	4800	12000	24000	5280	13200	26400

24.	On notice of offer to surrender a patent under section 63.	--	1000	2500	5000	1100	2750	5500
25	On application for the entry in the register of patents of the name of a person entitled to a patent or as a share or as a mortgage or as licensee or as otherwise or for the entry in the register of patents of notification of a document under sections 69(1) or 69(2) and rules 90(1) or 90(2).	16	1600 (In respect of each patent)	4000 (In respect of each patent)	8,000 (In respect of each patent)	1760 (In respect of each patent)	4400 (In respect of each patent)	8,800 (In respect of each patent)
26.	On application for alteration of an entry in the register of patents or register of patent agent under rules 94(1) or rule 118(1).	--	320	800	1600	352	880	1,760
27.	On request for entry of an additional address for service in the Register of Patents under rule 94(3).	--	800	2000	4000	880	2200	4,400
28.	On application for compulsory license under sections 84(1), 91 (1), 92(1) and 92A.	17	2400	6000	12000	2640	6600	13200

29.	On application for revocation of a patent under section 85(1).	19	2400	6000	12000	2640	6600	13200
30.	On application for revision of terms and conditions of licence under section 88(4).	20	2400	6000	12000	2640	6600	13200
31.	On request for termination of compulsory licence under section 94.	21	2400	6000	12000	2640	6600	13200
32.	On application for registration as a patent agent under rule 109 (1) or 112.	22	3200	-	-	3520	-	-
33.	On request for appearing in the qualifying examination under rule 109(3).	--	1600	-	-	1760	-	-
34.	For continuance of the name of a person in the register of patent agent— (i) for the 1 st year to be paid along with registration; (ii) for every year excluding the 1st year to be paid on the 1st April in each year.	- -	800 800	- -	- -	880 880	- -	- -

35.	On application for duplicate certificate of patent agent under rule 111A.	--	1600	-	-	1760	-	-
36.	On application for restoration of the name of a person in the register of patent agents under rule 117(1).	23	1600 (Plus continuation fee under entry number 34)	-	-	1760 (Plus continuation fee under entry number 34)	-	-
37.	On a request for correction of clerical error under section 78(2).	--	800	2000	4000	880	2200	4400
38.	On application for review or setting aside the decisions or order of the controller under section 77(l) (f) or 77(l) (g).	24	1600	4000	8000	1760	4400	8800
39	On application for permission for applying patent outside India under section 39 and rule 71(1).	25	1600	4000	8000	1760	4400	8800
40	On application for duplicate patent under section 154 and rule 132.	--	1600	4000	8000	1760	4400	8800

41	On request for certified copies under section 72 or for certificate under section 147 and rule 133.	--	1000 (up to 30 pages and, thereafter, 30 for each extra page)	2500 (up to 30 pages and, thereafter , 75 for each extra page)	5000 (up to 30 pages and, thereafter, 150 for each extra page) thereafter)	1100 (up to 30 pages and, thereafter, 30 for each extra page)	2750 (up to 30 pages and, thereafter , 75 for each extra page)	5500 (up to 30 pages and, thereafter , 150 for each extra page) thereafter)
42	For certifying office copies, printed each.	--	800	2000	4000	880	2200	4400
43	On request for inspection of register under section 72, inspection under rule 27 or rule 74A.	--	320	800	1600	352	880	1760
44	On request for information under sections 127, 132 and 153 and rule 135.	--	480	1200	2400	528	1320	2640
45	On form of authorisation of patent agent.	26	No fee	No fee	No fee	No fee	No fee	No fee
46	On petition not otherwise provided for.	--	1600	4000	8000	1760	4400	8800

47	For supplying of photocopies of the documents per page.	--	8	8	8	8	8	8
48	Transmittal fee for International application.	--	3200	8000	16000	3250	8800	17600
49	For preparation of certified copy of priority document and for transmission of the same to the International Bureau of World Intellectual Property Organisation.	--	1000 (up to 30 pages and, thereafter, 30 for each extra page)	2500 (up to 30 pages and, thereafter, 75 for each extra page)	5000 (up to 30 pages and, thereafter, 150 for each extra page)	1100 (up to 30 pages and, thereafter, 30 for each extra page)	2750 (up to 30 pages and, thereafter, 75 for each extra page)	5500 (up to 30 pages and, thereafter, 150 for each extra page)
50	On statement regarding working of a patented invention on a commercial scale in India under section 146(2) and rule 131(1).	27	No fee	No fee	No fee	No fee	No fee	No fee

Note: All the Forms, Applications, Requests, Notices and Petitions shall be filed in duplicate unless otherwise specified in the rules.

6. In the Second Schedule to the principle rules, in the "LIST OF FORMS"-

(i) after "Form No. 7", the following shall be inserted, namely :-

"7A.	Section 25(1) and rule 55 (1)	For filing a representation opposing grant of a patent under sub-section (1) of section 25.;"
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(ii) . after “Form No. 27”, the following shall be inserted, namely :-

“28.	Rules 2(fa) and 7	To be submitted by a small entity with every document for which a fee has been specified”.
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7. In the Second Schedule to the principle rules,-

(i) after Form 7, the following Form shall be inserted, namely :-

“FORM 7A
 THE PATENTS ACT, 1970 (39 OF 1970)
 AND
 THE PATENTS RULES, 2003
 REPRESENTATION FOR OPPOSITION TO GRANT OF PATENT
 [see rule 55]

- | | |
|---|--|
| 1. State names, address and nationality. | I/We,.....
.....
hereby give representation by way of
opposition to the grant of patent in
respect of application
no.....dated.....
made by..... and published on
..... |
| 2. State the grounds taken one after another. | on the grounds
.....
..... |
| 3. Complete address including postal index number/code and state along with telephone and fax number. | My/our address for service in India is
.....
.....
..... |
| 4. To be signed by the opponent or by his/her authorized registered patent agent. | Signature |
| 5. Name and designation of the natural person who has signed. | (.....) |

To
 The Controller of Patents,
 The Patent Office,
 At ” ;

(ii) after Form 27, the following Form shall be inserted, namely :-

“FORM 28

THE PATENTS ACT, 1970

(39 of 1970)

AND

THE PATENTS RULES, 2003

TO BE SUBMITTED BY A SMALL ENTITY

[See rules 2(fa) and 7]

Insert name, address and nationality.

I/We

.....
.....

applicant/patentee in respect of the patent application
no.or patent no.....

hereby declare that I/we am/are a small entity in
accordance with rule 2(fa) and submit the following
document(s) as proof:

State the particulars of the documents.

(i.) Evidence of registration under the Micro, Small
and Medium Enterprises Act, 2006 (27 of 2006 (in
case of Indian entities).

(ii.) Any other document (in case of foreign entities).

To be signed by the applicant(s) / patentee (s) /
authorised registered patent agent.

The information provided herein is correct to the best
of my/our knowledge and belief.

Name of the natural person who has signed.

Designation and official seal, if any, of the person
who has signed.

Dated thisday of 20...

Signature

(Name)

(Designation)

To
The Controller of Patents,
The Patent Office,
At.....

Note: Indian entities shall submit the evidence mentioned above to be eligible for claiming the status of
a small entity.”.

8. For the Fourth Schedule to the principle rules, the following Schedule shall be substituted, namely :-

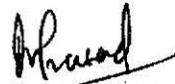
“THE FOURTH SCHEDULE

[See proviso to rule 136(1)]

Number of entry	Matter in respect of which cost to be awarded	Amount in fees (in rupees)		
		For natural person(s)	For person other than natural person(s) either alone or jointly with natural person (s)	
			For small entity	For others except small entity
1	2	3	4	5
1	For notice of opposition under sections 25, 57, 60, 63, 78, 87(2) or 88(4).	2400	6000	12000
2	For application for compulsory licence under sections 84(1), 91(1) or 92(1).	1500	3000	6000
3	For application for revision of terms and conditions of licence under section 88(4) .	2400	6000	12000
4	For notice of intention to attend the hearing under rule 62(2).	1500	3000	6000
5	Stamp fee for power of attorney where a patent agent or other person has been appointed or stamp fee in respect of relevant affidavits.	The amount actually paid.	The amount actually paid.	The amount actually paid.

6	For written statement under rule 57 or reply statement under rule 58 or for each affidavit, if relevant.	4000	4000	5000
7	For each document of publication produced in the proceedings, if relevant	1600	1600	2000
8	For each unnecessary or irrelevant affidavit or citation.	1600	1600	2000
9	For every day or part day of hearing before the Controller.	4000	4000	5000".

[F.No. 14/6/2012-IPR-III]



D.V. PRASAD, Joint Secretary.

Footnote:- 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 number –

- (i) S.O.1418 (E), dated the 28th December,2004;
- (ii) S.O. 657 (E), dated the 5th May, 2006; and
- (iii) S.O. 2296 (E), dated the 25th September, 2012.
- (iv) S.O. 1029 (E), dated 23rd April, 2013.