

NZ – NEW ZEALAND

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1. Requirements for Deposit

To the extent that an invention is a microorganism, the complete specification complies with section 39(1)(a) and (b), so far as those paragraphs require a description of the microorganism, if, and only if, the deposit requirements specified in section 43 are satisfied in relation to the micro-organism (s.42(1)).

If an invention involves the use, modification, or cultivation of a microorganism, other than the microorganism mentioned above, and a person skilled in the relevant art in New Zealand could not reasonably be expected to perform the invention without having a sample of the microorganism before starting to perform the invention; and the microorganism is not reasonably available to a person skilled in the relevant art in New Zealand; then the complete specification complies with section 39(1)(a) and (b), to the extent that those paragraphs require a description of the microorganism, if, and only if, the deposit requirements specified in section 43 are satisfied in relation to the microorganism (s.42(2) and (3)).

The microorganism must be deposited on or before the filing date of the specification (s.43(1)(a)).

The applicant must provide the Commissioner with a receipt for the deposit within the prescribed period (s.43(1)(b)), the period being 12 months after the date of issue of the first examination report under section 65 of the Act (r.59(1)). The receipt must be in the prescribed form (s.43(2)), that is, a copy of a receipt issued by a prescribed depository institution under rule 7 of the Budapest Regulations, and, if that receipt is not in English, the applicant must provide a verified translation of the receipt (r.59(2)).

The specification must include, at the filing date of the specification, all relevant information on the characteristics of the micro-organism that is known to the applicant (s.43(1)(c)).

At all times since the end of the prescribed period, the specification must include the name of a prescribed depository institution from which samples of the microorganism are obtainable as provided by the rules relating to micro-organisms; and the file, accession, or registration number of the deposit given by the institution (s.43(1)(d)(i) and (ii)).

At all times since the filing date of the specification, samples of the microorganism must be obtainable from a prescribed depositary institution as provided by those rules (s.43(1)(e)).

2. Time of Deposit

The microorganism must be deposited on or before the filing date of the specification (s.43(1)(a)).

3. Duration of Storage

At all times since the filing date of the specification, samples of the microorganism must be obtainable from a prescribed depositary institution as provided by those rules (s.43(1)(e)).

If the requirements specified in section 43(1)(d) or (e) cease to be satisfied in relation to a microorganism; the applicant may take steps in accordance with section 44 to have the deposit receipt requirements disregarded in certain circumstances for an intervening time provided the deposit requirements are met at a later time.

A patent may be revoked if the microorganism ceases to be reasonably available (s.45(1)(c)).

4. Conditions for the Furnishing of Samples

(i) Time of availability of samples

At all times since the filing date of the specification, samples of the micro-organism must be obtainable from a prescribed depositary institution as provided by those rules (s.43(1)(e)).

If the requirements specified in section 43(1)(d) or (e) cease to be satisfied in relation to a micro-organism; the applicant may take steps in accordance with section 44 to have the deposit receipt requirements disregarded in certain circumstances for an intervening time provided the deposit requirements are met at a later time.

A patent may be revoked if the microorganism ceases to be reasonably available (s.45(1)(c)).

(ii) Restrictions concerning the furnishing of samples

No provisions.