



STATUTORY INSTRUMENTS.

S.I. No. 580 of 2015



REGISTER OF PATENT AGENT RULES

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I, RICHARD BRUTON, Minister for Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by sections 99, 109 and 114 of the Patents Act 1992 (No. 1 of 1992) and in relation to said section 99, with the sanction of the Minister for Public Expenditure and Reform hereby make the following Rules:

Citation and commencement

1. (1) These Rules may be cited as the Register of Patent Agent Rules 2015.

(2) When these Rules come into force, any person whose name was, immediately prior to the coming into force of these Rules, entered in the Register of Patent Agents kept under the Register of Patent Agents Rules 1992 shall be construed to be entered in the Register of Patent Agents kept under these Rules.

Interpretation

2. In these Rules, unless the context otherwise requires:-

“the Act” means the Patents Act 1992;

“patent agent” shall be construed as including a reference to a “patent attorney”;

“Register of Patent Agents” means the register kept under section 106(1) of the Patents Act 1992 as amended;

“registered patent agent” means a person whose name is entered in the Register of Patent Agents.

Fees

3. The fees to be paid in relation to the registration of patent agents shall be those specified in the Schedule to these Rules and shall be paid in such manner as may be approved by the Controller from time to time and published in the Patents Office Journal.

Application by an individual for entry in Register of Patent Agents

4. An application by an individual for entry in the Register of Patent Agents shall be in writing in a form approved by the Controller and shall state—

- (a) the full name and home address of the person making the application and the name or style under which the person proposes to carry on business as a patent agent (if other than his or her full name),

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 1st January, 2016.

- (b) the address at which the person proposes to carry on business as a patent agent,
- (c) the date of birth and the nationality of the person, and
- (d) full particulars of the education and professional qualifications of the person, including the name of any patent agent acting in accordance with the law of the State or another Member State of the European Economic Area, under whom the person has trained or by whom the person has been employed and the duration of such training or employment,

and shall be accompanied by the prescribed fee set out in item 1 of the Schedule.

Eligibility for registration in the Register of Patent Agent of a body corporate, an unincorporated body or partnership

5. A body corporate, unincorporated body or partnership may be eligible to be entered in the Register of Patent Agents if the board established under Rule 7 is satisfied that—

- (a) the body or partnership undertakes, *inter alia*, the provision of patent agent services including, but not limited, to the business of acting as agent for others for the purpose of:
 - (i) applying for or obtaining patents in the State or elsewhere; and/or
 - (ii) conducting proceedings before the Controller or the Court relating to applications for, or otherwise in connection with patents described above;

and
- (b) at least one of its directors, partners, managers or employees is registered as a patent agent in the State.

Application by a body corporate, unincorporated body or partnership for entry in Register of Patent Agents

6. An application by a body corporate, unincorporated body or partnership for entry in the Register of Patent Agents shall be in writing in a form approved by the Controller and shall state—

- (a) the name of each director, manager, partner and employee of the body corporate, unincorporated body or partnership who is registered as a patent agent in the State,
- (b) the date of birth and nationality of each director, manager, partner and employee who is registered as a patent agent in the State,
- (c) the name or style under which the body corporate, unincorporated body or partnership proposes to carry on business as a patent agent,

- (d) the address at which the body proposes to carry on business as a patent agent,
- (e) full particulars of the education and professional qualifications of each director, manager, partner and employee who is registered as a patent agent in the State,

and shall be accompanied by:

- (f) the prescribed fee set out in item 1 of the Schedule, and
- (g) a copy of a certificate of incorporation, an entry in a relevant register or other proof of legal personality.

Consideration of applicants

7. (1) An application in accordance with Rule 4 or Rule 6 of these Rules shall be considered by a board consisting of the person who is the Controller for the time being, and such other persons as may be nominated for the purpose by the Minister.

(2) The board shall consider the fitness of the applicant to perform the professional duties of a patent agent in the light of the educational and professional qualifications set out in Rule 8 which the applicant possesses. If the board is in doubt as to the fitness of the person making the application, it may require the person to undergo written or oral examinations or tests in such subjects as it considers necessary. The board may allow exemptions in respect of particular subjects on the basis of the results achieved at previous examinations in those subjects.

(3) In the case of an application by a body corporate, unincorporated body or partnership the board will consider the fitness of the body or partnership to carry on the business of a patent agent having regard to the educational and professional qualifications, set out in Rule 8, of the directors, managers, partners and employees intending to provide patent agent services in the State. If the board is in doubt as to the fitness of the body or partnership making the application to carry on the business of a patent agent, it may require some or all of the persons intending to provide patent agent services in the State to undergo written or oral examinations or tests in such subjects as it considers necessary.

(4) The board shall fix the time and place for the holding of any examination, shall appoint examiners to conduct examinations or tests and shall make such other arrangements as may be necessary in relation to such tests or examinations.

(5) The consideration of applications, including the holding of any necessary tests or examinations, shall be carried out as expeditiously as is practicable having regard to the number of applications received.

(6) The board shall cause a report to be made to the Minister on the applications considered by it and shall furnish to him the names of individuals or

bodies considered suitable to be entered in the Register of Patent Agents, having regard to their educational and professional fitness and their status as a fit and proper person to carry on business as a patent agent.

Qualifications

8. (1) Subject to paragraph (2) of this Rule, a person shall not be entered in the Register of Patent Agents unless—

- (a) he or she has a knowledge of engineering, or chemistry, or physics (or such other scientific or technical subjects as the board may deem appropriate) of the minimum standard of Level 7 that is recognised within the Framework of Qualifications as defined by the Qualifications (Education and Training) Act 1999,
- (b) he or she has a knowledge of the law and practice of patents in the State, including the ability to prepare, interpret and criticise patent specifications and has passed the qualifying examinations required by the board,
- (c) he or she has undergone training under the supervision of a patent agent for not less than three years in the office of a patent agent in accordance with the law of the State or another Member State of the European Economic Area, or
- (d) he or she has been acting as a patent agent for not less than three years in the office of a patent agent acting in accordance with the law of another Member State of the European Economic Area.

(2) The board may, for the purpose of establishing that an applicant possesses the required educational and professional qualifications specified in paragraph (1) of this Rule,

- (a) require that the applicant submit evidence to that effect,
- (b) require the submission of a statutory declaration attesting to the training specified in subparagraph (c) or to acting as a patent agent specified in subparagraph (d), and
- (c) may require such further particulars as are considered necessary.

(3) The board may, however, waive or vary any of the requirements specified in subparagraphs (a), (c) and (d) of paragraph (1) of this Rule, if it is otherwise satisfied in light of the educational and professional qualifications which the applicant possesses, that the applicant is fit to perform the professional duties of a patent agent.

Entry in Register of Patent Agents and certificates of registration

9. (1) Subject to the provisions of section 106 of the Act and these Rules, a person who has applied in accordance with Rule 4 or Rule 6 of these Rules for registration in the Register of Patent Agents and whose name has been approved by the Minister to be entered in the Register of Patent Agents shall,

upon payment of the prescribed fee, be entered by the Controller in the Register of Patent Agents.

(2) The Register of Patent Agents shall include the date of registration and, in case the entry is of a partnership, body corporate or unincorporated body, the business name and address thereof and the full name and home address of each director, manager, partner or employee registered as a patent agent in the State and in the case of an individual, the full name, the business name (if any), nationality and home and business address of the applicant and such other particulars as the Controller may require.

(3) On request, the Controller shall provide a person entered in the Register of Patent Agents with a certificate of registration and this shall constitute evidence of eligibility to practice as a registered patent agent.

Refusal of entry in Register of Patent Agents

10. (1) The board may decide not to include an applicant for entry in the Register of Patent Agents in the report provided under Rule 7(6) if:

- (a) an application has failed to provide the information required by Rules 4 or rule 6;
- (b) an applicant has provided inadequate or misleading information; or
- (c) for any other reason, the board reasonably considers that it would be against the public interest to recommend registration to the Minister.

(2) In reaching a decision under paragraph (1), the board may take into account:

- (a) any conduct on the part of an individual applicant or of any director, manager, partner and employee of an applicant body which calls into question their honesty, integrity or respect for the processes of law;
- (b) whether an individual applicant or any director, manager, partner and employee of an applicant body has been disqualified from being a company director;
- (c) whether an individual applicant or any director, manager, partner and employee of an applicant body has been the subject of disciplinary sanction by, or refused registration with, or authorisation by, another professional regulatory body, board or competent authority, in the State or elsewhere;
- (d) any failure or refusal to disclose, or attempt to conceal, a matter in relation to the application.

(3) The board shall notify an applicant if it decides to refuse to include an applicant for entry in the Register of Patent Agents in the report provided under Rule 7 (6) and set out in the notice the reasons for the refusal.

Publication of entries in Register of Patent Agents

11. (1) The Controller shall make available to the public a copy of the Register and the entries therein by means of electronic or printed publication and shall maintain an up-to-date list in alphabetical order of the names entered in the Register of Patent Agents.

(2) The Register of Patent Agents shall be available for public inspection at such times and in such form and manner as the Controller may direct.

Annual registration fee

12. The prescribed annual fee in respect of each registration shall be payable on or before the 31st day of December in each year in respect of the following year, and in case it is not paid within one month from that date the Controller shall send to the registered patent agent, at his registered business address, a notice in writing requesting payment of the fee on or before a date to be mentioned in the notice, and, in the case of failure to pay the fee within the time specified in the notice, the Controller may cause the name of the agent to be erased from the Register of Patent Agents.

Request for removal from Register of Patent Agents

13. Upon request in writing by a registered patent agent, the Controller shall remove the name of the registered patent agent from the Register of Patent Agents.

Removal from Register of Patent Agents on death

14. The Controller may remove from the Register of Patent Agents the name of a person who has died.

Notice to Controller of application to the Court under section 108 (4)

15. Any person who applies to the Court under section 108 (4) of the Act for cancellation of a decision of the Controller under that section shall, at the same time, give notice to the Controller of his application. The notice shall be accompanied by a copy of the application.

Action following decision of Court

16. Any decision of the Court under section 108 of the Act shall provide for service of notice of the decision on the Controller and on receipt of any such notice the Controller shall amend the Register of Patent Agents in accordance with the terms of the decision to which the notice relates.

Restoration to Register of Patent Agents

17. Where the name of a individual, body corporate, unincorporated body or partnership has been erased from the Register of Patent Agents that person shall, if desirous of having his name restored to the Register of Patent Agents, apply in writing to the Controller for restoration.

Alteration of address and amendment and correction of Register of Patent Agents

18. (1) Where the address or other particulars of an individual, body corporate, unincorporated body or partnership which have been entered in the Register of Patent Agents changes, the Controller shall record the new address or

amend the Register of Patent Agents accordingly on receipt of a written request from the individual or body concerned.

(2) Any individual, body corporate, unincorporated body or partnership may apply to the Controller for correction of an entry in the Register of Patent Agents and the Controller, on being satisfied that such entry has been made in error or that any entry is incorrect, may correct the entry in whatever manner seems most appropriate.

(3) No correction of any entry under subparagraph (2) shall be made unless the Controller has—

- (a) first notified the proposed correction to the individual, body corporate, unincorporated body or partnership appearing to the Controller to be affected,
- (b) given that individual, body corporate, unincorporated body or partnership the opportunity to make written representations regarding same, and
- (c) taken into account any such representations.

Revocations

19. The Register of Patent Agents Rules 1992 (S.I. No. 180 of 1992) are revoked.

SCHEDULE

FEES PAYABLE IN RELATION TO THE REGISTRATION OF PATENT AGENTS.

Reference Number	Item	Amount €
(1)	(2)	(3)
1.	On application for entry in the Register of Patent Agents (Rule 4 and Rule 6)	50
2.	To sit a written examination in Irish patent law and practice pursuant to a requirement under Rule 7	200
2A.	On application for a review of marks obtained in the written examination in Irish patent law and practice	70
2B.	To undergo any test in any subject, other than a written examination in Irish patent law and practice, pursuant to a requirement under Rule 7	290
3.	On entry in the Register	125
4.	Annual fee payable by a registered patent agent (payable before 31st December in each year in respect of the following year)	250



GIVEN under my official Seal,
17 December 2015.

RICHARD BRUTON,
Minister for Jobs, Enterprise and Innovation.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Rules prescribe the procedures and fees connected with the registration of Patent Agents pursuant to Part X of the Patents Act 1992.

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