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STATUTORY INSTRUMENTS

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**2007 No. 3291**

**The Patents Rules 2007**

**PART 2**

**APPLICATIONS FOR PATENTS**

*International exhibitions*

**International exhibitions**

**5.—**(1) The statement mentioned in section 2(4)(c) that an invention has been displayed at an international exhibition must be in writing.

(2) The prescribed period for the purposes of section 2(4)(c) is four months beginning with the date of filing.

(3) But paragraphs (1) and (2) do not apply where rule 67(2) applies.

(4) The written evidence required by section 2(4)(c) must be in the form of—

(a) a certificate issued by the authority responsible for the international exhibition; and

(b) a statement, duly authenticated by that authority, identifying the invention as being the invention displayed at the exhibition.

(5) The certificate must include the opening date of the exhibition (or if later, the date on which the invention was first displayed).

(6) The comptroller may publish a statement in the journal that a particular exhibition falls within the definition of “international exhibition” in section 130(1) (interpretation).

*Declarations of priority*

**Declaration of priority for the purposes of section 5(2) (priority date)**

**6.—**(1) Subject to paragraph (2) and rule 7(9), a declaration for the purposes of section 5(2) must be made at the time of filing the application for a patent.

(2) Subject to rule 7(9), a declaration for the purposes of section 5(2) may be made after the date of filing provided that—

(a) it is made on Patents Form 3;

(b) it is made before the end of the period of sixteen months beginning immediately following the date of filing of the earlier relevant application (or if there is more than one, the earliest of them) specified in that, or any earlier, declaration; and

(c) the condition in paragraph (3) is met.

(3) The condition is that—

- (a) the applicant has not made a request under section 16(1) for publication of the application during the period prescribed for the purposes of that section; or
  - (b) any request made was withdrawn before preparations for the application's publication have been completed by the Patent Office.
- (4) A declaration for the purposes of section 5(2) must specify—
- (a) the date of filing of each earlier relevant application; and
  - (b) the country it was filed in or in respect of.
- (5) In the case of a new application filed as mentioned in section 15(9), no declaration shall be made which has not also been made in, or in connection with, the earlier application.

### **Request to the comptroller for permission to make a late declaration under section 5(2B)**

- 7.—(1) The period prescribed for the purposes of section 5(2A)(b) is two months.
- (2) Subject to paragraph (4), a request under section 5(2B) must be—
- (a) made on Patents Form 3; and
  - (b) supported by evidence of why the application in suit was not filed before the end of the period allowed under section 5(2A)(a).
- (3) Where that evidence does not accompany the request, the comptroller must specify a period within which the evidence must be filed.
- (4) In relation to a new application, a request under section 5(2B) may be made in writing, instead of on Patents Form 3, and no evidence shall accompany it.
- (5) Subject to paragraph (6) and rule 66(3), a request under section 5(2B) may only be made before the end of the period allowed under section 5(2A)(b).
- (6) Where a new application is filed after the end of the period allowed under section 5(2A)(b), a request under section 5(2B) may be made on the initiation date.
- (7) A request under section 5(2B) may only be made where—
- (a) the condition in paragraph (8) is met; or
  - (b) the request is made in relation to an international application for a patent (UK).
- (8) The condition is that—
- (a) the applicant has not made a request under section 16(1) for publication of the application during the period prescribed for the purposes of that section; or
  - (b) any request made was withdrawn before preparations for the application's publication have been completed by the Patent Office.
- (9) Where an applicant makes a request under section 5(2B), he must make the declaration for the purposes of section 5(2) at the same time as making that request.

### **Filing of priority documents to support a declaration under section 5(2)**

- 8.—(1) In respect of each priority application to which this paragraph applies the applicant must, before the end of the relevant period, furnish to the comptroller the application number of that application; otherwise the comptroller must disregard the declaration made for the purposes of section 5(2), in so far as it relates to the priority application.
- (2) In respect of each priority application to which this paragraph applies the applicant must, before the end of the relevant period, furnish to the comptroller a copy of that application—
- (a) duly certified by the authority with which it was filed; or
  - (b) otherwise verified to the satisfaction of the comptroller,

otherwise the comptroller must disregard the declaration made for the purposes of section 5(2), in so far as it relates to the priority application.

(3) Paragraph (1) applies to every priority application except where the application in suit is an international application for a patent (UK) and the application number of the priority application was indicated in compliance with the Patent Co-operation Treaty.

(4) Paragraph (2) applies to every priority application except where—

- (a) the application in suit is an international application for a patent (UK) and a certified copy of the priority application was filed in compliance with the Patent Co-operation Treaty; or
- (b) the priority application or a copy of the priority application is available to the comptroller.

(5) For the purposes of this rule the relevant period is sixteen months beginning with the declared priority date, subject to rule 21.

### **Translation of priority documents**

**9.—**(1) The comptroller may direct the applicant to comply with the requirements of paragraph (4), if—

- (a) a copy of the priority application has been—
  - (i) furnished in accordance with rule 8(2),
  - (ii) filed in compliance with the European Patent Convention,
  - (iii) filed in compliance with the Patent Co-operation Treaty, or
  - (iv) made by the comptroller in accordance with rule 112(2);
- (b) that copy is in a language other than English or Welsh; and
- (c) the matters disclosed in the priority application are relevant to the determination of whether or not an invention, to which the application in suit relates, is new or involves an inventive step.

(2) In his direction under paragraph (1), the comptroller shall specify a period within which the applicant must comply with the requirements of paragraph (4).

(3) But the comptroller shall not specify a period that ends after the grant of the patent.

(4) Where the comptroller has given a direction under paragraph (1), the applicant must, before the end of the period specified by the comptroller, file—

- (a) an English translation of the priority application; or
- (b) a declaration that the application in suit is a complete translation into English of the priority application,

otherwise the comptroller must disregard the declaration made for the purposes of section 5(2), in so far as it relates to the priority application.

### *Mention of the inventor*

### **Mention of the inventor**

**10.—**(1) An inventor or joint inventor of an invention, if not mentioned in any published application for a patent, or in any patent granted, for the invention, must be mentioned in an addendum or an erratum to the application or patent.

(2) A person who alleges that any person ought to have been mentioned as the inventor or joint inventor of an invention may apply to the comptroller for that person to be so mentioned—

- (a) in any patent granted for the invention; and

(b) if possible in any published application for a patent for the invention, and, if not so mentioned, in the manner prescribed by paragraph (1).

(3) Subject to rules 21, 58(4), 59(3) and 68(2), the period prescribed for the purposes of section 13(2) is sixteen months beginning with—

- (a) where there is no declared priority date, the date of filing of the application; or
- (b) where there is a declared priority date, that date.

(4) A statement filed under section 13(2) must be made on Patents Form 7.

### **Waiving the right to be mentioned**

**11.**—(1) The inventor may, before preparations for the application's publication have been completed by the Patent Office, apply to the comptroller in writing to waive his right—

- (a) to have his name and address mentioned as those of the inventor; or
- (b) to have his address mentioned as that of the inventor.

(2) An application by an inventor under paragraph (1)(a) must—

- (a) include his reasons for making the application; and
- (b) be accepted by the comptroller where the comptroller is satisfied by those reasons.

(3) An application by an inventor under paragraph (1)(b) must be accepted by the comptroller.

(4) Where the comptroller has accepted an inventor's application to make a waiver under this rule, the inventor may apply to the comptroller to end that waiver.

(5) The comptroller may, if he thinks fit, accept an application to end a waiver, and his acceptance may be made subject to such conditions as he may direct.

(6) An application under paragraph (1)(a) or (b) or under paragraph (4) may also be made by a person who is not the inventor, but who has been identified as such for the purposes of section 13(2).

(7) Where a person makes an application in reliance on paragraph (6), the reference in this rule to an application to waive his right to have his name and address (or his address) mentioned shall be construed as a reference to an application not to have his name and address (or his address) mentioned; and paragraphs (4) and (5) shall be construed accordingly.

### *Form and content of applications*

### **Applications for the grant of patents under sections 14 and 15**

**12.**—(1) A request for the grant of a patent must be made on Patents Form 1.

(2) Where the documents filed at the Patent Office to initiate an application for a patent do not include the applicant's name and address, the comptroller shall notify the applicant that his name and address are required.

(3) Where the applicant has been so notified, he must, before the end of the period of two months beginning with the date of the notification, file his name and address; otherwise the comptroller may refuse his application.

(4) The specification mentioned in section 14(2)(b) must be preceded by the title of the invention and must be set out in the following order—

- (a) description;
- (b) the claim or claims; and
- (c) any drawing referred to in the description or any claim.

(5) But paragraph (4) does not apply where an application is delivered in electronic form or using electronic communications.

(6) The title of the invention must be short and indicate the matter to which the invention relates.

(7) Where the specification includes drawings, the description must include a list of drawings briefly describing each of them.

(8) Where—

(a) the documents filed at the Patent Office to initiate an application for a patent include something which is or appears to be a description of the invention in a language other than English or Welsh; and

(b) the applicant has not filed a translation into English or Welsh of that thing, the comptroller shall notify the applicant that a translation is required.

(9) Where the applicant has been so notified, he must, before the end of the period of two months beginning with the date of the notification, file a translation; otherwise the comptroller may refuse his application.

### **Biological material and sequence listings**

**13.**—(1) The provisions of Schedule 1 prescribe the circumstances in which the specification of an application for a patent, or of a patent, for an invention which involves the use of or concerns biological material is to be treated as disclosing the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art.

(2) Where the specification of an application for a patent discloses a sequence, it must include a sequence listing.

(3) Where an applicant has not provided a sequence listing on filing the application, the comptroller may specify a period within which the applicant must provide the sequence listing; and if it is not provided within this period, the comptroller may refuse the application.

(4) Where a sequence listing is provided after the date of filing the application, the listing must be accompanied by a declaration that it does not contain matter extending beyond the sequence disclosed in the application.

(5) The sequence listing must comply with any requirements and standards adopted under the Patent Co-operation Treaty for the presentation of sequence listings in patent applications.

(6) A sequence listing shall, if it is reasonably possible, be delivered to the comptroller in electronic form or using electronic communications, even where the application for the patent is not delivered in electronic form or using electronic communications.

(7) A sequence listing may be set out either in the description or at the end of the application, but if set out at the end of the application rule 12(4) shall not apply.

### **Size and presentation of application**

**14.**—(1) The contents of all documents (including annotations to drawings) contained in an application for a patent must be in English or Welsh.

(2) The requirements for the documents contained in an application for a patent (other than drawings) are set out in Parts 1 and 2 of Schedule 2.

(3) The requirements for a drawing contained in an application are set out in Parts 1 and 3 of that Schedule.

(4) All documents contained in an application (including drawings) must comply with the requirements set out in Part 4 of that Schedule.

(5) Paragraphs (2) and (3) do not apply to an application, or a sequence listing contained in an application, which is delivered in electronic form or using electronic communications.

### **The abstract**

**15.**—(1) The abstract must start with a title for the invention.

(2) The abstract must contain a concise summary of the matter contained in the specification.

(3) That summary must include—

- (a) an indication of the technical field to which the invention belongs;
- (b) a technical explanation of the invention;
- (c) the principal use of the invention.

(4) Where the specification contains more than one drawing, the abstract must include an indication of the drawing which should accompany the abstract when it is published.

(5) Where it appears to the comptroller that a drawing included in the specification better characterises the invention he shall publish it with the abstract.

(6) Where a feature of the invention included in the abstract is illustrated in a drawing, the feature must be followed by the reference for that feature used in that drawing.

(7) The abstract must not contain any statement on the merits or value of the invention or its speculative application.

### **Single inventive concept**

**16.**—(1) For the purposes of the Act, two or more inventions shall be treated as being so linked as to form a single inventive concept where there exists between those inventions a technical relationship which involves one or more of the same or corresponding special technical features.

(2) In paragraph (1) “special technical features” means those technical features which define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

### **References under section 15(1)(c)(ii)**

**17.**—(1) A reference made under section 15(1)(c)(ii) must include—

- (a) the date of filing of the earlier relevant application;
- (b) its application number; and
- (c) the country it was filed in or in respect of.

(2) Subject to paragraph (3), the copy of the application provided under section 15(10)(b)(ii) must—

- (a) be duly certified by the authority with which it was filed or otherwise verified to the satisfaction of the comptroller; and
- (b) where it is in a language other than English or Welsh, be accompanied by—
  - (i) a translation into English of that application, or
  - (ii) a declaration that the description filed under sub-paragraph (i) of section 15(10)(b) is a complete and accurate translation into English of the description contained in the application provided under sub-paragraph (ii) of that provision.

(3) Where the application or a copy of the application is available to the comptroller it shall, for the purposes of section 15(10)(b)(ii), be treated as having been filed in accordance with rules.

### **Missing parts**

**18.**—(1) The period prescribed for the purposes of section 15(5)(b) and (6) is the period beginning with the date of filing of the application for a patent and ending with the date of the preliminary examination.

(2) But where the applicant is notified under section 15A(9) that a drawing or part of the description of the invention has been found to be missing, the period prescribed for the purposes of section 15(5)(b) and (6) shall be the period of two months beginning with the date of the notification.

(3) An applicant may only withdraw a missing part by giving written notice to the comptroller.

(4) A request made under section 15(7)(b) must—

(a) be made in writing;

(b) include sufficient information to identify where in the priority application the contents of the document filed under section 15(5)(b) were included; and

(c) be made before the end of the period prescribed for the purpose of section 15(5)(b).

(5) Any request under section 15(7)(b) shall be considered never to have been made where—

(a) the priority application does not contain every missing part filed under section 15(5); or

(b) the applicant fails, before the end of the relevant period, to furnish to the comptroller copies of all earlier relevant applications—

(i) duly certified by the authority with which they were filed, or

(ii) otherwise verified to the satisfaction of the comptroller.

(6) But paragraph (5)(b) does not apply in respect of an earlier relevant application where that application or a copy of the application is available to the comptroller.

(7) For the purposes of paragraph 5(b) the relevant period is—

(a) sixteen months beginning with the declared priority date; or

(b) if it expires earlier, the period of four months beginning with the date on which the request was made under section 15(7)(b).

### *New applications*

#### **New applications filed as mentioned in section 15(9)**

**19.**—(1) A new application for a patent may be filed as mentioned in section 15(9)—

(a) before the end of the relevant period; or

(b) if earlier, before the earlier application is terminated or withdrawn.

(2) Such an application must include a statement that it is filed as mentioned in section 15(9).

(3) For the purposes of this rule the relevant period is—

(a) where an applicant is notified under section 18(4) that his earlier application complies with the requirements of the Act and these Rules, two months beginning with the date of that notification; or

(b) in any other case, the period ending three months before the compliance date of the earlier application.

#### **New applications under sections 8(3), 12(6) and 37(4)**

**20.**—(1) The period prescribed for filing a new application under section 8(3) or section 12(6) is the relevant period.

(2) A new application for a patent may be filed under section 37(4) before the end of the relevant period.

(3) For the purposes of this rule the relevant period is—

- (a) where the comptroller's decision to make an order under those provisions is not appealed, three months beginning with the date on which the order was made; or
- (b) where that decision is appealed, three months beginning with the date on which the appeal was finally disposed of.

(4) But the comptroller may, if he thinks fit, shorten the relevant period after giving the parties such notice and subject to such conditions as the comptroller may direct.

### **Extensions for new applications**

**21.**—(1) Where a new application is filed—

- (a) the period prescribed for the purposes of section 13(2) is—
  - (i) two months beginning with its initiation date, or
  - (ii) if it expires later, the period prescribed by rule 10(3); and
- (b) the relevant period for the purposes of rule 8 is—
  - (i) two months beginning with its initiation date, or
  - (ii) if it expires later, the period specified in rule 8(5),

and the reference in rule 10(3) to the date of filing of the application is a reference to the date of filing of the earlier application.

(2) But where the new application is filed less than six months before the compliance date—

- (a) the period prescribed for the purposes of section 13(2) is the period ending with its initiation date; and
- (b) the relevant period for the purposes of rule 8 is the period ending with its initiation date.

(3) The second requirement in Schedule 1 must be complied with—

- (a) on the initiation date; or
- (b) if it expires later, before the end of the relevant period specified in paragraph 3(3) of that Schedule.

### *Periods for filing contents of application*

### **Periods prescribed for the purposes of sections 15(10) and 17(1)**

**22.**—(1) The period prescribed for the purposes of section 15(10)(a) and (b)(i) is the relevant period.

(2) Subject to rules 58(4), 59(3) and 68(3), the period prescribed for the purposes of section 15(10) (c) and (d) and section 17(1) is the relevant period.

(3) The period prescribed for the purpose of section 15(10)(b)(ii) is four months beginning with the date of filing of the application.

(4) But paragraphs (1) to (3) do not apply to a new application.

(5) In relation to a new application—

- (a) the period prescribed for the purposes of section 15(10)(a), (b)(i), (c) and (d) and section 17(1) is—
  - (i) two months beginning with its initiation date, or

- (ii) if it expires later, the relevant period; and
- (b) the period prescribed for the purposes of section 15(10)(b)(ii) is—
  - (i) two months beginning with its initiation date, or
  - (ii) if it expires later, the period of four months beginning with the date of filing of the earlier application,

and the reference in paragraph (7) to the date of filing of the application is a reference to the date of filing of the earlier application.

(6) But where the new application is filed less than six months before the compliance date, the period prescribed for the purposes of section 15(10)(a) to (d) and section 17(1) is the period ending with its initiation date.

- (7) For the purposes of this rule the relevant period is—
  - (a) where there is no declared priority date, twelve months beginning with the date of filing of the application; or
  - (b) where there is a declared priority date—
    - (i) twelve months beginning with the declared priority date, or
    - (ii) if it expires later, the period of two months beginning with the date of filing of the application.

#### *Preliminary examination*

#### **Preliminary examination under section 15A**

**23.**—(1) On the preliminary examination under section 15A of an application the examiner shall determine whether the application complies with the requirements of rules 6 to 9.

(2) The examiner must report to the comptroller his determinations under paragraph (1), and the comptroller must notify the applicant accordingly.

#### **Correcting a declaration made for the purposes of section 5(2)**

**24.**—(1) Where, on the preliminary examination under section 15A of an application, the examiner finds that a declaration made for the purposes of section 5(2) specifies a date of filing for an earlier relevant application—

- (a) more than twelve months before the date of filing of the application in suit; or
- (b) where the comptroller has given permission for a late declaration to be made under section 5(2), more than fourteen months before the date of filing of the application in suit,

he must report this finding to the comptroller, and the comptroller must notify the applicant accordingly.

(2) Where the comptroller has notified the applicant under paragraph (1), the applicant must, before the end of the period of two months beginning with the date of that notification, provide the comptroller with a corrected date; otherwise the comptroller must disregard the declaration in so far as it relates to the earlier relevant application.

(3) In paragraph (2) “corrected date” means a date that would not have been reported by the examiner under paragraph (1).

### **Formal requirements**

**25.**—(1) Subject to paragraphs (2) and (3), the requirements of the following provisions of these Rules are formal requirements—

- (a) rule 12(1) (application for a patent on Patents Form 1);
- (b) rule 14(1) (application in English or Welsh);
- (c) rule 14(2) and (3) (form of documents and drawings).

(2) Where an application is delivered in electronic form or using electronic communications, only the requirements of rule 14(1) are formal requirements.

(3) Where an international application for a patent (UK) was filed in accordance with the provisions of the Patent Co-operation Treaty, the requirements mentioned in paragraph (1) shall be treated as complied with to the extent that the application complies with any corresponding provision of that Treaty.

### *Publication of application*

### **Publication of application**

**26.**—(1) The period prescribed for the purposes of section 16(1) is eighteen months beginning with—

- (a) where there is no declared priority date, the date of filing of the application; or
- (b) where there is a declared priority date, that date.

(2) Where a person's application under rule 11(1)(a) or (b) has been accepted by the comptroller, the comptroller must ensure that the application for the patent as published does not mention that person's name and address as those of the person believed to be the inventor (or, as the case may be, that person's address as that of the person so believed).

### *Search and substantive examination*

### **Search under section 17**

**27.**—(1) A request under section 17(1)(c)(i) for a search must be made on Patents Form 9A.

(2) The comptroller may, if he thinks fit, send to the applicant a copy of any document (or any part of it) referred to in the examiner's report made under section 17.

(3) Where an examiner conducts a search in relation to the first only of two or more inventions, in accordance with section 17(6), he must report this fact to the comptroller, and the comptroller must notify the applicant accordingly.

(4) The applicant must pay any search fee in relation to those inventions (other than the first) on or before the relevant date.

(5) The relevant date is the first day of the three month period ending with the compliance date of the application.

(6) The fee for a supplementary search under section 17(8), or a search under section 17(6), must be accompanied by Patents Form 9A.

### **Request for substantive examination under section 18**

**28.**—(1) A request under section 18 for a substantive examination of an application must be made on Patents Form 10.

(2) Subject to paragraphs (3) and (4) and rules 60 and 68(4), the period prescribed for the purposes of section 18(1) is six months beginning with the date the application was published.

(3) Where the comptroller has given directions under section 22(1) or (2) in relation to information contained in the application, the period prescribed for the purposes of section 18(1) is the relevant period.

(4) Paragraphs (2) and (3) do not apply to a new application.

(5) In relation to a new application, the period prescribed for the purposes of section 18(1) is—

- (a) two months beginning with its initiation date; or
- (b) if it expires later, the relevant period,

and the reference in paragraph (7) to the date of filing of the application is a reference to the date of filing of the earlier application.

(6) But where the new application is filed less than six months before the compliance date, the period prescribed for the purposes of section 18(1) is the period ending with its initiation date.

(7) For the purposes of this rule the relevant period is two years beginning with—

- (a) where there is no declared priority date, the date of filing of the application; or
- (b) where there is a declared priority date, that date.

### **Substantive examination reports**

**29.**—(1) Whenever the examiner reports to the comptroller under either section 18(3) or (4) on whether the application complies with the requirements of the Act and these Rules, the comptroller must send a copy of that report to the applicant.

(2) The comptroller may, if he thinks fit, send to the applicant a copy of any document (or any part of it) referred to in the examiner's report.

(3) For the purposes of rules 30 and 31—

- (a) “first substantive examination report” means the first report sent to the applicant under paragraph (1); and
- (b) “first observations report” means a report sent to the applicant under paragraph (1) which meets the condition in paragraph (4).

(4) The condition is that—

- (a) a person has made observations to the comptroller under section 21(1) on the question whether the invention is a patentable invention;
- (b) the examiner has reported to the comptroller, as a consequence of those observations, that the invention does not comply with the requirements of the Act or these Rules; and
- (c) the comptroller has not previously sent to the applicant a report, relating to those observations, under paragraph (1).

### **Period for putting application in order**

**30.**—(1) The period prescribed for the purposes of sections 18(4) and 20(1) (failure of application) is the compliance period.

(2) For the purposes of paragraph (1), subject to paragraphs (3) and (4), the compliance period is—

- (a) four years and six months beginning with—
  - (i) where there is no declared priority date, the date of filing of the application, or
  - (ii) where there is a declared priority date, that date; or

- (b) if it expires later, the period of twelve months beginning with the date on which the first substantive examination report is sent to the applicant.
- (3) Subject to paragraph (4), where a new application is filed the compliance period is—
  - (a) where it is filed under section 8(3), 12(6) or 37(4)—
    - (i) the period specified in paragraph (2) in relation to the earlier application, or
    - (ii) if it expires later, the period of eighteen months beginning with the initiation date; and
  - (b) where it is filed as mentioned in section 15(9), the period specified in paragraph (2) in relation to the earlier application.
- (4) Where the first observations report is sent to the applicant during the last three months of the period specified in paragraphs (2) or (3), the compliance period is three months beginning with the date on which that report is sent.

#### **Amendment of application before grant**

- 31.**—(1) A request to amend an application for a patent under section 19(1) must be made in writing.
- (2) The conditions prescribed under section 19(1) are as follows.
  - (3) The applicant may amend his application only within the period beginning with the date on which the applicant is informed of the examiner's report under section 17(5) and ending with the date on which the comptroller sends him the first substantive examination report.
  - (4) But after the end of this period, the applicant may—
    - (a) where the first substantive examination report states that his application complies with the requirements of the Act and these Rules, amend his application once before the end of the period of two months beginning with the date on which that report was sent; or
    - (b) where the first substantive examination report states that his application does not comply with the requirements of the Act and these Rules—
      - (i) amend his application once at the same time as he makes his first observations on, or amendments to, his application under section 18(3), and
      - (ii) if the first substantive examination report is sent before preparations for the application's publication have been completed by the Patent Office, amend his application prior to any further amendment he may make under sub-paragraph (b)(i).
  - (5) However, the conditions in paragraphs (3) and (4) do not apply—
    - (a) where the comptroller consents to the amendment; or
    - (b) to an amendment of a request for the grant of a patent.
  - (6) Where the comptroller's consent is required, or the applicant wishes to amend the request for the grant of a patent, the applicant must include the reasons for the amendment.

#### **Reinstatement of applications under section 20A**

- 32.**—(1) A request under section 20A for the reinstatement of an application must be made before the end of the relevant period.
- (2) For this purpose the relevant period is—
    - (a) two months beginning with the date on which the removal of the cause of non-compliance occurred; or

- (b) if it expires earlier, the period of twelve months beginning with the date on which the application was terminated.
- (3) The request must be made on Patents Form 14.
- (4) Where the comptroller is required to publish a notice under section 20A(5), it must be published in the journal.
- (5) The applicant must file evidence in support of that request.
- (6) Where that evidence does not accompany the request, the comptroller must specify a period within which the evidence must be filed.
- (7) Where, on consideration of that evidence, the comptroller is not satisfied that a case for an order under section 20A has been made out, he must notify the applicant accordingly.
- (8) The applicant may, before the end of the period of one month beginning with the date of that notification, request to be heard by the comptroller.
- (9) Where the applicant requests a hearing, the comptroller must give him an opportunity to be heard, after which the comptroller shall determine whether the request under section 20A shall be allowed or refused.
- (10) Where the comptroller reinstates the application after a notice was published under paragraph (4), he must advertise in the journal the fact that he has reinstated the application.
- (11) In determining the date on which the removal of the cause of non-compliance occurred, the comptroller shall have regard to any relevant principles applicable under the European Patent Convention.

### **Observations by third parties on patentability**

- 33.**—(1) The comptroller must send to the applicant a copy of any observations on patentability he receives under section 21.
- (2) But paragraph (1) does not apply to any observation which, in the opinion of the comptroller, would—
    - (a) disparage any person in a way likely to damage such person; or
    - (b) be generally expected to encourage offensive, immoral or anti-social behaviour.
  - (3) The comptroller may, if he thinks fit, send to the applicant a copy of any document referred to in the observations.
  - (4) The comptroller must send to an examiner any observations on patentability.
  - (5) But paragraph (4) does not apply where the observations are received after the examiner has reported under section 18(4) that an application complies with the requirements of the Act and these Rules.