STATUTORY INSTRUMENTS

2007 No. 3292

PATENTS

The Patents (Fees) Rules 2007

Made - - - -	*19th November 2007*
Laid before Parliament	*22nd November 2007*
Coming into force - -	*17th December 2007*

The Secretary of State makes the following Rules in exercise of the powers conferred upon him by section 123 of the Patents Act 1977(**a**).

In accordance with article 7 of the Department of Trade and Industry (Fees) Order 1988(**b**), he has taken into account the functions and matters specified in Part 4 of Schedule 1 and Parts 1 and 2 of Schedule 2 to that Order.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Patents (Fees) Rules 2007 and they shall come into force on 17th December 2007.

(2) In these Rules—

(a) "the Act" means the Patents Act 1977 and references to a section are references to a section of the Act; and

(b) "the 2007 Rules" means the Patents Rules 2007(**c**).

Use of a form

2.—(1) Except where any of rules 3 to 7 apply, the fees to be paid in respect of any matters arising under the Act are those specified in Schedule 1.

(2) Where a form—

(a) is required to be used by the 2007 Rules; and

(b) is specified in Schedule 1 as the corresponding form in relation to any matter,

that form must be accompanied by the fee specified in respect of that matter.

(3) But where any provision of the 2007 Rules permits payment to be made before or after the form has been filed, the fee may be paid accordingly.

(**a**) 1977 c. 37. Section 123 was amended by the Copyright, Designs and Patents Act 1988 (c.48), Schedule 5, paragraph 29, and the Patents Act 2004 (c.16), Schedule 2, paragraph 26.
(**b**) SI 1988/93, amended by SI 1990/1473, which were made under section 102 of the Finance (No 2) Act 1987 (c. 51).
(**c**) SI 2007/ 3291

Application fee and the fee to begin the national phase

3.—(1) The application fee is—

(a) in respect of an international application for a patent (UK), nil;

(b) in respect of any other application for a patent, including an application treated as an application under the Act following a direction under section 81 (conversion of European patent applications), £30.

(2) The prescribed fee to begin the national phase of an international application for a patent (UK) is £30.

Renewal fees

4.—(1) Subject to paragraphs (2) and (3), the fee to be paid to keep a patent in force after a renewal date which falls on the anniversary indicated in the first column of the table in Part 1 of Schedule 2 is the amount specified in relation to that anniversary in the second column.

(2) Where rule 37(3) of the 2007 Rules applies, the fee to be paid to keep a patent in force after the first renewal date is the sum of the following amounts—

(a) the amount specified in relation to the relevant anniversary; and

(b) the amounts specified in relation to all previous anniversaries.

(3) Where rule 37(4) of the 2007 Rules applies, the fee to be paid to keep a patent in force after the first renewal date is the amount specified in relation to the relevant anniversary.

(4) For the purposes of paragraphs (2) and (3), the relevant anniversary is the last anniversary to fall on or before the first renewal date.

Additional fees for late renewal

5.—(1) The additional fees prescribed for late payment under section 25(4) are specified in Part 2 of Schedule 2.

(2) Where payment is made before the end of the month indicated in the first column of that table, the fee to be paid is the amount specified in the second column.

Supplementary protection certificates

6.—(1) The prescribed fee payable for a supplementary protection certificate to take effect is set in accordance with paragraph (2).

(2) Where the certificate expires during the period of one year beginning with—

(a) the start date, the fee is £600;

(b) the first anniversary of the start date, the fee is £1,300;

(c) the second anniversary of the start date, the fee is £2,100;

(d) the third anniversary of the start date, the fee is £3,000; or

(e) the fourth anniversary of the start date, the fee is £4,000.

(3) The period in paragraph (2) shall be calculated without reference to any extension of the duration of a supplementary protection certificate under Article 13(3) of the Medicinal Products Regulation(**a**).

(4) The additional fee prescribed for the purposes of paragraph 5(b) of Schedule 4A to the Act (supplementary protection certificates) shall be half the prescribed fee.

(5) In this rule "start date" is the first day following the day on which the basic patent expires.

(**a**) Council Regulation (EEC) No 1768/92 (OJ No L 182, 2.7.92, p1) as amended by Regulation (EC) 1901/2006 (OJ No L 378, 27.12.2006, p1).

Other fees

7.—(1) The prescribed fee to publish a translation filed at the Patent Office under section 89A(3) or (5) (international and national phases of application) is £12.

(2) The prescribed fee for an application to the comptroller for an order under the Evidence (Proceedings in Other Jurisdictions) Act 1975(**a**) as applied by section 92(1) (obtaining evidence for proceedings under the European Patent Convention) is nil.

(3) The fee to transmit an international application for a patent filed at the Patent Office to the International Bureau and the International Searching Authority is £55.

(4) In paragraph (3) "International Searching Authority" has the same meaning as in the Patent Co-operation Treaty.

Triesman
Parliamentary Under Secretary of State for Intellectual Property and Quality
19th November 2007 Department for Innovation, Universities and Skills

(**a**) 1975 c. 34.

SCHEDULE 1

Rule 2

USE OF FORMS

Patents Form Number	*Item*	*Amount (£)*
1	On request for the grant of a patent in accordance with rule 12(1) of the 2007 Rules	—
2	On starting proceedings in relation to applications, references or requests in accordance with rule 76(1) of, and the provisions mentioned in Part 1 of Schedule 3 to, the 2007 Rules (except those started on Form SP3)	50
	On applying for the review of an opinion in accordance with rule 98(3) of the 2007 Rules	50
3	On making a declaration for the purposes of section 5(2), in relation to an earlier relevant application filed during the period allowed by section 5(2A)(a), in accordance with rule 6 of the 2007 Rules	40
	On request for permission to make a late declaration of priority under section 5(2B) in accordance with rule 7 of the 2007 Rules	150
7	On making a statement identifying the inventor and indicating the derivation of the right to the grant of a patent under section 13(2) in accordance with rule 10(4) of the 2007 Rules	—
8	On request for a certificate authorising the release of a sample of biological material in accordance with rule 13(1) of, and paragraph 4 or 7 of Schedule 1 to, the 2007 Rules	—
8A	On request that a sample of the biological material should only be made available to an expert in accordance with rule 13(1) of, and paragraph 6 of Schedule 1 to, the 2007 Rules	—
9	On request for a further search under section 17(6) or payment for a supplementary search under section 17(8) (in relation to applications initiated before 1st January 2005) in accordance with paragraph 5 of Schedule 5 to the 2007 Rules	100
9A	On request for a search under section 17(1) in accordance with rule 27 of the 2007 Rules—	
	(a) in respect of an international application for a patent (UK), which has already been the subject of a search by the International Searching Authority;	80
	(b) in respect of any other application.	100
	On request for a further search under section 17(6) or payment for a supplementary search under section 17(8) in accordance with rule 27 of the 2007 Rules	100
10	On request for a substantive examination of an application in accordance with rule 28 of the 2007 Rules	70

12	(See Schedule 2)	
14	On request under section 20A for reinstatement of an application in accordance with rule 32 of the 2007 Rules	150
15	On giving notice of opposition in accordance with rule 76 of, and the provisions mentioned in Part 2 of Schedule 3 to, the 2007 Rules	50
16	On application under section 28 for restoration of a patent in accordance with rule 40 of the 2007 Rules	135
17	On request for an opinion under section 74A in accordance with rule 93 of the 2007 Rules	200
20	On request to correct a name in accordance with rule 49 of the 2007 Rules	—
21	On application to register (or to give notice of) any transaction, instrument or event mentioned in section 32(2)(b) or 33(3) in accordance with rule 47 of the 2007 Rules	—
23	On application for a certified copy of an entry in the register, or a certified extract from the register, or of a relevant document in accordance with rule 46(1) or 48(5) of the 2007 Rules	20
	On application for an uncertified copy of an entry in the register, or an uncertified extract from the register, or of a relevant document in accordance with rule 46(2) or 48(5) of the 2007 Rules	5
	On request for a certified copy of an international application filed at the Patent Office as the competent receiving Office in accordance with rule 65(4) of the 2007 Rules	20
	On application for a certificate in accordance with rule 46(3) of the 2007 Rules	20
28	On application under section 46(1) for an entry to be made on the register that a licence is available as of right in accordance with rule 43(1) of the 2007 Rules	—
30	On application under section 47(1) for the cancellation of an entry made under section 46 in accordance with rule 43(3) of the 2007 Rules	—
49	On request to be notified of a relevant event in accordance with rule 54 of the 2007 Rules	25
51	On appointment of an agent in accordance with rule 101 of the 2007 Rules	—
52	On request for extension of a period of time in accordance with rule 108(2) and (3) of the 2007 Rules	135
54	On filing a translation of the specification of a European patent (UK) in accordance with rule 56 of the 2007 Rules	—
	On filing a translation of the claims of the specification of an application for a European patent (UK) in accordance with rule 56 of the 2007 Rules	—
	On filing a corrected translation under section 80(3) in accordance with rule 57 of the 2007 Rules	—

SP1	On application for a supplementary protection certificate under Article 8 of the Medicinal Products or Plant Protection Products Regulations(**a**)in accordance with rule 116 of the 2007 Rules	250
SP2	(see rule 6)	
SP3	On application to review lapse or for a declaration of invalidity under Articles 14 or 15 of the Medicinal Products or Plant Protection Products Regulations or for revocation of an extension of the duration of a supplementary protection certificate under Article 15a of the Medicinal Products Regulation in accordance with rule 76 of the 2007 Rules	50
SP4	On application for an extension of the duration of a supplementary protection certificate under Article 8 of the Medicinal Products Regulation in accordance with rule 116 of the 2007 Rules	200

(**a**) Regulation (EC) No 1610/96 (OJ No L 198, 8.8.96, p30).

SCHEDULE 2

Rules 4 and 5

RENEWAL FEES

PART 1

RENEWAL FEE

Anniversary of date of filing	*Amount (£)*
4th	50
5th	70
6th	90
7th	110
8th	130
9th	150
10th	170
11th	190
12th	210
13th	230
14th	250
15th	270
16th	300
17th	330
18th	360
19th	400

PART 2

ADDITIONAL FEE

Month beginning after the expiry of the period for payment of the renewal fee	*Amount of additional renewal fee (£)*
1st	0
2nd	24
3rd	48
4th	72
5th	96
6th	120

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules prescribe fees in relation to matters arising under the Patents Act 1977 and the Patents Rules 2007 (SI 2007/[ ]. These Rules take into account the Patents Rules 2007 and the revocation by those Rules of the Patents (Fees) Rules 1998 (SI 1998/1778) as last amended by the Patents (Amendment) Rules 2005 (SI 2005/2496). There have been no fee increases.

Where a form is specified in Schedule 1 in relation to any matter, that form must be sent to the comptroller together with the relevant fee for that matter, unless the Patents Rules 2007 specify otherwise (rule 2).

The application fees for a national (UK) patent application and for an international application for a patent (UK) are set out in rule 3(1) and the fee for an international application for a patent (UK) to enter the UK national phase is set out in rule 3(2).

Fees for renewal of a patent, including late renewal, are set out in Schedule 2 (rules 4 and 5).

Provision is also made for fees in respect of supplementary protection certificates for medicinal and plant protection products. These relate to matters arising under the provisions of Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products (OJ No L 182, 2.7.92, p1) as amended by Regulation (EC) 1902/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use (OJ No L 378, 27.12.2006, p1). As regards plant protection products, the fees relate to Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ No L 198, 8.8.96, p. 30).

The Patents (Supplementary Protection Certificates) Rules 1997 (SI 1997/64), which formerly made provision for fees in respect of supplementary protection certificates for medicinal and plant protection products, have been revoked by the Patents Rules 2007. Schedule 1 sets out certain fees relating to supplementary protection certificates, and rule 6 sets out the fees payable for a supplementary protection certificate to take effect.

Rule 7 sets out other fees relating to publication of translations of international applications and applications to the comptroller for orders to assist in obtaining evidence for proceedings under the European Patent Convention made in Munich on 5th October 1973 (published in Cmnd 8510 Treaty Series 16/1982 and also available on the website of the European Patent Organisation), and the transmission of an international application for a patent from the Patent Office to the International Bureau and the International Searching Authority under the Patent Co-operation Treaty signed at Washington on 19th June 1970 (published in Cmnd 7340 Treaty series 78/1978 and also available on the website of the World Intellectual Property Organisation).

An impact assessment has been prepared and copies placed in the libraries of both Houses of Parliament. Copies are also available from Patents Legal Section, Concept House, Cardiff Road, Newport NP10 8QQ.

£3.00

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1606 11/2007 171606T 19585