

**ESTONIA**  
**Patent Regulations**

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## **GENERAL PROVISIONS**

### **§ 1. Definition of terms**

Terms in the field of patents used in these Regulations which are not defined in the Patent Act are interpreted pursuant to the definitions specified in the Paris Convention for the Protection of Industrial Property (RT II 1994, 4/5, 19) and other international agreements in the field of patents ratified by the Riigikogu and implementing legislation thereof.

### **§ 2. Extension of Regulations to international applications**

(1) These Regulations shall not apply to international applications filed, pursuant to Articles 3 - 12 of the Patent Cooperation Treaty entered into on 19 June 1970 in Washington (RT II 1994, 6/7, 21), with the Patent Office as the receiving office according to Article 2(xv) of the said Treaty.

(2) These Regulations shall apply, taking into account the restrictions provided for in Article 27 of the said Patent Cooperation Treaty, to international applications filed with the Patent Office as the designated office according to Article 2(xiii) or as the elected office according to Article 2(xiv) of the said Treaty.

## **Chapter 1 SUBJECT OF INVENTION AND FEATURES THEREOF**

### **§ 3. Types of subjects of invention**

Pursuant to subsection 6(1) of the Patent Act, the subject of an invention may be a device, process or material. A group of the aforementioned subjects so linked as to form a single general inventive concept is also considered to be the subject of an invention.

### **§ 4. Device as subject of invention**

(1) "Device" means any construction in the technical field which can be industrially produced. Industrial production is deemed possible if a construction can be manufactured in copies identical to each other.

(2) Both machines, appliances, tools, means of transport, building structures, necessities, etc. and structural elements thereof with independent function (components and details) are considered to be devices.

### **§ 5. Features of device**

(1) Devices are characterized by structural features (hereinafter features).

(2) The features of a device are:

- 1) structural elements (hereinafter element) of which the device consists;
- 2) the placement of elements;
- 3) the realization of connections between elements;
- 4) the particulars of the structural and technical characteristics of the elements;
- 5) the particulars of the dimensions and geometric shape of the elements;
- 6) materials used for the manufacture of the elements or environment which performs the function of an element.

### **§ 6. Process as subject of invention**

(1) "Process" means any process having an effect on a material object through a set of interconnected operations which is necessary to obtain a certain technical result.

(2) All kinds of processes (technologies) used for industrial production, measurement and verification methods, etc. and independently usable parts thereof are considered to be processes.

## § 7. Features of process

The features of a process are:

- 1) an operation or a set of operations as such;
- 2) the order of the operations in a set (consecutive, simultaneous, different combinations, etc.);
- 3) conditions, regimes, materials (for example raw materials, reagents, catalysts), devices (jigs, instruments and other equipment), microorganism strains, etc. used for performing the operations.

## § 8. Material as subject of invention

(1) "Material" means an artificially created set of related chemical elements or ingredients.

(2) Materials are divided into:

- 1) individual compounds, whereas high-molecular compounds are also considered to be individual compounds, as an exception;
- 2) compositions (mixtures);
- 3) biological materials, which include also microorganisms and viruses.

## § 9. Features of material

(1) Features of individual compounds are:

- 1) in the case of low-molecular compounds, qualitative composition (the existence of atoms of certain chemical elements), quantitative composition (the number of atoms of each element), inter-atomic bond and the reciprocal location of atoms in molecules expressed by the formula of chemical structure;
- 2) in the case of individual compounds with unspecified structure, physico-chemical and other characteristics thereof, including characteristics of the process of creation, which allow identification of such compounds;
- 3) in the case of high-molecular compounds, the chemical composition and the structure of a monomeric unit of the macro-molecule, the structure of the macro-molecule as a whole (linear, branched), periodicity of monomeric units, molecular weight and distribution thereof, the geometry and stereometry of the macro-molecule and the end and side groups of the macro-molecule.

(2) The features of a composition are:

- 1) qualitative composition;
- 2) quantitative composition;
- 3) the structure of the composition;
- 4) the structure of the ingredients.

(3) The physico-chemical, physical and usage specifications and characteristics of the process of creation of compositions with unspecified structure can be used to characterize such compositions.

(4) "Biological material" means, according to the definition provided in subsection 6(3) of the Patent Act, any material, including plants and animals (except plant varieties and animal breeds), parts of plants and body parts of animals, microorganisms, viruses, etc. which contains genetic information and is capable of reproducing itself or being reproduced in a biological system and which is characterized by features attributed to each of the specified species (for example, nucleotide and amino acid sequence listing, sequence of genes, determining features of a microorganism strain as a culture).

#### **§ 10. Microorganism as subject of invention**

(1) In the case of microorganisms as biological material, the subject of invention is the microorganism strain.

(2) "Microorganism strain" is an aggregate of cells originating from a common source and sharing similar permanent characteristics.

(3) Microorganism strains are the following living organisms:

- 1) traditional microorganisms (mycoplasmas, bacteria, microscopic fungi, yeasts);
- 2) microorganisms with a diameter less than 100  $\mu\text{m}$  (microscopic algae, lichens, invertebrates);
- 3) microscopic organisms created by man (cultivated somatic cells of plants and animals, somatic structures of macroscopic fungi, protoplasts, etc.);
- 4) consortia of microorganisms (mixed cultures, associations);
- 5) organisms in the cellular structure of which other organisms exist;
- 6) immobilized microorganisms (structures in an inactive state, growing cultures, consortia).

#### **§ 11. Characteristics of microorganism strain**

(1) The features of a microorganism strain shall allow the determination

of the type of strain and characterize the strain as a novel culture which has not been described before.

(2) The characteristics of microorganism strains are:

- 1) morphological characteristics of the culture;
- 2) physiological-biochemical characteristics.

## **§ 12. Unity of invention**

(1) Pursuant to § 9 of the Patent Act, a patent application may contain only one invention or a group of inventions so linked as to form a single general inventive concept.

(2) The requirement of unity of invention is complied with, if:

- 1) a patent application concerns one subject of invention, i.e. a device, process or material;
- 2) a patent application concerns one subject of invention the essential features of which are developed or specified unless this results in the replacement or omission of one or several essential features;
- 3) a patent application concerns a group of subjects of invention, for example:
  - a) subjects of invention of which one is intended for the creation (manufacture) of the other and/or for the use of the first (a device or material, process of manufacture or creation thereof and the use of the device or material);
  - b) subjects of invention of which one is necessary for the use of the other (a process and device for executing the process);
  - c) subjects of invention of which one is necessary for the creation of the other and the third for execution of the first (a material, process for the creation thereof and a device for executing the process).

## **Chapter 2 UNPATENTABLE SUBJECTS**

### **§ 13. Subjects which are not inventions**

(1) Pursuant to subsection 6(2) of the Patent Act, the following subjects shall not be regarded as inventions:

- 1) discoveries, including descriptions of the formation or development of the human body or sequence or partial sequence of human gene;
- 2) scientific theories;
- 3) mathematical methods;
- 4) schemes, rules and methods for performing mental acts or doing business;
- 5) design documentation for and plans of constructions, buildings or areas;
- 6) symbols;
- 7) algorithms for computers and computer programs;
- 8) designs;
- 9) presentations of information;
- 10) plant and animal varieties.

(2) "Design" means both industrial designs and designs created in visual arts.

(3) "Presentation of information" means mainly the format of presentation of information, the design of a data medium, for example the design of tables and graphs, etc.

### **§ 14. Unpatentable inventions**

(1) Pursuant to subsection 7(1) of the Patent Act, the following shall not be protected by a patent:

- 1) inventions which are contrary to public order and morality;
- 2) methods of treatment;
- 3) diagnostic methods practiced on the human or animal body for diagnosis or treatment, except the direct measurement of a single physiological parameter (for example, the body temperature) of the human or animal body if such parameter does not allow to clearly determine the state of health of the person or animal;
- 4) layout designs of integrated circuits.

(2) Pursuant to subsection 7(2) of the Patent Act, the following biotechnological inventions, which are contrary to morality by nature, shall not be protected by a patent:

- 1) processes for cloning human beings;
- 2) processes for modifying the germ line genetic identity of human beings;
- 3) uses of human embryos for commercial purposes, including processes prohibited by the Artificial Insemination and Embryo Protection Act (RT I 1997, 51, 824);
- 4) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial benefit to man or animal, and animals resulting from such processes.

(3) Pursuant to subsection 7(2) of the Patent Act, the following solutions which are not directed at solving a technical problem or the use of which is restricted shall not be protected by a patent:

- 1) essentially biological processes for the derivation of biological materials or the production of plant or animal varieties, except microbiological processes for the derivation of microorganisms;
- 2) solutions the application of which is confined to a single plant or animal variety.

(4) Inventions the purpose of use of which is the unlawful interference with the privacy of persons are generally considered to be contrary to public order.

(5) The following are contrary to morals:

- 1) devices, materials and processes which violate the security of a person by physical or psychological influence on the person;
- 2) inventions the publication or use of which degrades human dignity or which influences or alters the identity of a person;
- 3) inventions the use of which damages the natural environment without any substantial benefit to the progress of humankind or the protection of human health or natural environment.

(6) The use of a substance as a medicinal product or otherwise for the treatment or diagnosis of disease in human beings or animals (use for medical purposes) shall not be protected by a patent if earlier use of such substance in the specified fields (initial or repeated use for medical purposes) forms a part of the state of the art.

## **Chapter 3 PATENT APPLICATION**

### **Division 1 Patent application documents**

#### **§ 15. Documents submitted**

(1) A patent application shall include the following documents:

- 1) a request for the grant of a patent;
- 2) the description of the invention;
- 3) patent claims consisting of one or several claims;
- 4) drawings or other illustrative material referred to in the description of the invention;
- 5) an abstract of the subject matter of the invention;
- 6) a document certifying payment of the state fee.

(2) The following documents shall be annexed to a patent application:

- 1) an authorization document if the patent application is filed via a patent agent;
- 2) documents certifying the priority claim if priority is claimed pursuant to the Paris Convention for the Protection of Industrial Property or another agreement;
- 3) a document certifying the deposit of a biological material, including microorganism strain, if the subject of the invention is a biological material or the invention requires the use of a biological material and if the said biological material is not available to the public and it cannot be described in the description of the invention in a manner which would enable a person skilled in the art to make the invention.

(3) An applicant may annex other documents to the application if the applicant deems it necessary.

#### **§ 16. Number of copies of documents**

The description of the invention, patent claims and drawings or other illustrative material are submitted in three copies. An abstract of the subject matter of the invention is submitted in two copies. The other documents are submitted in a single copy.

#### **§ 17. Language of documents**

(1) Patent applications are filed with the Patent Office in Estonian, except abstracts of the subject matter of the invention which are filed

in Estonian and English.

(2) The use of language in patent application documents shall be in compliance with the Estonian Literary Standard (the Language Act - RT I 1995, 23, 334; 1996, 37, 739; 40, 773; 1997, 69, 1110; 1998, 98/99, 1618; 1999, 1, 1; 16, 275 and the "Procedure for Establishment of Estonian Literary Standard" approved by the Government of the Republic Regulations No. 323 of 3 October 1995 - RT I 1995, 79, 1349; 1997, 75, 1272).

(3) If the description of an invention, patent claims, a document certifying payment of state fee or any other document included in a patent application is submitted in a foreign language, translation thereof into Estonian shall be included, unless otherwise provided by these Regulations.

(4) If a drawing or other illustrative material contains text in a foreign language, a drawing or illustrative material on which the text in the foreign language is replaced by the text in Estonian shall be submitted.

(5) A request for the grant of a patent shall be solely in Estonian.

## **Division 2 Requirements for format and content of requests for grant of patents**

### **§ 18. Information to be submitted**

(1) A request for the grant of a patent shall set out:

- 1) information concerning the applicant(s);
- 2) information concerning the representative of the applicant(s) if the applicant(s) is/are represented by a patent agent or a joint representative in the case of several applicants;
- 3) information concerning the author(s);
- 4) the name of the invention;
- 5) priority claim if priority is claimed pursuant to the Paris Convention for the Protection of Industrial Property or other provisions specified in § 11 of the Patent Act;
- 6) information concerning correspondence;
- 7) a list of other patent application documents;
- 8) signature(s) of the applicant(s) or a patent agent;
- 9) signature(s) of the author(s) who has (have) prohibited the disclosure of his or her (their) name(s).

(2) A request for the grant of a patent shall clearly set out:

- 1) a request for the grant of a patent;
- 2) whether the applicant is a natural person or a legal person;
- 3) the residence or seat of the applicant;
- 4) the legal basis of applying for a patent and becoming the proprietor of a patent pursuant to the provisions of § 12 of the Patent Act;
- 5) the name(s) of the author(s) who has (have) prohibited the disclosure of his or her (their) name(s).

(3) If it is not evident from the name of a natural person which part of the name is the given name and which part is the surname, the surname shall be underlined. The name of a natural person shall be provided in Latin alphabet pursuant to the rules of capitalization in Estonian.

(4) The name of a legal person shall be provided in compliance with the requirements provided for in Chapter 2 of the Commercial Code (RT I 1995, 26 - 28, 355; 1998, 91 - 93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907) and the Estonian Literary Standard according to which the names in the Latin alphabet are provided in their source language forms and the names in other alphabets are transcribed into Estonian letters. In the case of a name of a legal person, the rules of capitalization in Estonian or in the language of the home country of the legal person apply.

(5) No titles, honorary titles, academic degrees or anything else shall be added to the name of a natural person.

(6) No artistic elements of letter design, including calligraphy, shall be employed upon writing persons' names. No special elements of design originating, for example, from the design of the trademark shall be used in the case of business names.

#### **§ 19. Form of request for grant of patent**

(1) Requests for the grant of patents are filed on the form provided in the Annex to these Regulations.

(2) Information which cannot be supplied in the data fields of the request for the grant of a patent may be provided on one or several additional sheets of paper signed by the same person(s) who signs (sign) the request for the grant of the patent.

**§ 20. Information concerning applicant**

(1) Information concerning the applicant shall be provided in data field 1 of the request for the grant of a patent.

(2) Information concerning a natural person shall consist of the given name, surname and residential address or the address of the seat of the enterprise of the person. The residence of a natural person is the place where the person lives permanently or primarily or the place with which the person is most connected personally and economically. If places in different countries can simultaneously be deemed the residence of a natural person, the residence of the person shall be indicated as the place in the country of the person's citizenship.

(3) Information concerning a legal person shall consist of the full or abbreviated name as entered in the commercial register or another official register pursuant to the laws of the home country of the legal person and the full address of the seat of the legal person. The seat of a legal person is the place where its management board or a substituting body thereof is located.

(4) If the residence or seat of an applicant is located outside the Republic of Estonia, the two-letter code of the country pursuant to Standard ST. 3 of the World Intellectual Property Organization (hereinafter WIPO) for the identification of countries (hereinafter two-letter code of a country) shall be indicated in addition to the address.

(5) If there are several applicants, information concerning all applicants shall be submitted.

(6) If the applicant is a natural or legal person (hereinafter person) of a federal state, the federated state shall also be indicated in the address and the name of the city or other settlement shall be underlined or distinguished in some other manner.

(7) The Patent Office shall be immediately informed of any later changes to the information concerning an applicant. At the request of the Patent Office, an applicant shall submit documents certifying changes to the information by the due date specified by the Patent Office.

**§ 21. Information concerning representative of applicant**

(1) Data field 2 shall be completed only if the applicant is represented

by a patent agent in filing the patent application or performing procedures with the Patent Office, or if several applicants are represented by a joint representative.

(2) In the case of a joint representative, only the name of the person shall be entered in the data field. The name of the joint representative shall be identical with his or her name as entered in data field 1 as the applicant.

(3) Information concerning a patent agent consists of the given name and surname of the patent agent, full name, address, phone number and fax number of the patent agent's office and the registration number of the patent agent in the state register of patent agents. A name and address stamp may be used to provide the information if the stamp contains all the required information.

(4) If both the names of a joint representative and a patent agent are provided in data field 2, the patent agent is deemed to be the representative of the applicant.

(5) The Patent Office shall be immediately informed of any later changes to the information concerning the representative of an applicant.

## **§ 22. Correspondence data**

(1) Data field 3 shall be completed if a patent application is filed and procedures related to the application for a patent are performed by the applicant or, in the case of several applicants, a joint representative. Information concerning the applicant or the joint representative shall also be indicated in data field 3 if the information concerning a patent agent is indicated in data field 2 but the patent agent is not authorized to accept written communications from the Patent Office or exchange oral information.

(2) If the applicant is a natural person or, in the case of several applicants, the joint representative is a natural person, the name of the person and an address, phone number and fax number which would ensure the fastest and most reliable communication of messages shall be indicated in data field 3.

(3) If the applicant is a legal person or, in the case of several applicants, the joint representative is a legal person, the head of the legal person,

an employee appointed by the head or a procurator may be the person indicated in data field 3. The name and title of the person and an address, phone number and fax number which would ensure the fastest and most reliable communication of messages shall be indicated in the data field.

(4) If data field 3 is not completed in the prescribed cases, contains clearly incorrect information or mistakes, the Patent Office shall send communications to the joint representative indicated in data field 2 or, in the absence thereof, to the applicant indicated in data field 1. If, in the case of several applicants, a joint representative is not indicated, communications shall be sent to the applicant indicated first in data field 1 at the address of the residence or seat of the applicant. If there are persons among the applicants whose residence or seat is in the Republic of Estonia and persons whose residence or seat is in a foreign country, communications shall be sent to the person whose residence or seat is in the Republic of Estonia and who is indicated first in data field 1.

(5) The Patent Office shall be immediately notified of any later changes to the correspondence data.

### **§ 23. Information concerning author**

(1) The given name, surname and full address of the author, together with the two-letter code of the country added thereto, shall be indicated in data field 4.

(2) If there are several authors, the information specified in subsection 1 concerning all authors shall be indicated in data field 4.

(3) If the author is also the applicant, only the given name and surname of the author or the word "taotleja" [applicant] may be written in data field 4. In such case, providing the address is not required.

(4) An author who wishes not to disclose his or her name as the author shall provide a request for the prohibition of disclosure of name as the author in data field 4 and shall confirm the request with signature. If it is impossible to obtain the signature of the author on the request for the grant of a patent, a separate document signed by the author(s) which contains a request for the prohibition of disclosure of the author's name or a corresponding request may be annexed to the patent application. A request for the prohibition of disclosure of the author's name may also be submitted later but not later than one month prior to the publication

of the patent application.

(5) If the author is deceased, the given name and surname of the author, the word "surnud" [deceased] and the two-letter code of the country of the last residence of the author shall be indicated in data field 4.

**§ 24. Information concerning right to apply for patent**

The legal basis of applying for a patent and becoming the proprietor of a patent shall be indicated in data field 5 by marking the appropriate box. Submission of a contract or any other document to confirm the legal basis is not required upon filing the patent application.

**§ 25. Name of invention**

The name of the invention which is identical with the name of the invention provided in the description of the invention and patent claims shall be indicated in data field 6.

**§ 26. Priority claim**

(1) If data field 7 is completed priority is deemed to be claimed. The data field shall be completed if the applicant wishes to use the opportunities provided for in § 11 of the Patent Act to establish priority.

(2) If priority is claimed, pursuant to subsections 11(2) or 61(5) of the Patent Act, on the basis of a first patent application or registration application of a utility model filed in any State party to the Paris Convention for the Protection of Industrial Property or member of the World Trade Organization or on the basis of a first patent application or registration application of a utility model filed in a state which is not a State party to the Paris Convention for the Protection of Industrial Property or in a state which is not member of the World Trade Organization, the filing date of the first patent application or registration application of the utility model and the number and the two-letter country code of the first patent application or registration application of the utility model shall be indicated in the data field. If the first patent application or registration application of the utility model is a regional or international application, the executive agency of the state or the intergovernmental organization where the first application was filed shall be indicated by a two-letter code.

(3) If, on the filing date of a patent application with the Patent Office, the applicant does not yet know the number of the first patent application

or registration application of a utility model, the applicant shall indicate only the filing date and state of the first patent application or registration application of a utility model in the priority claim.

(4) If priority is claimed, pursuant to subsection 11(4) of the Patent Act, on the basis of an earlier patent application and the patent application being filed is separated from the earlier patent application, the number and filing date of the earlier patent application shall be indicated.

(5) If priority is claimed, pursuant to subsection 11(5) of the Patent Act, on the basis of an earlier patent application or registration application of a utility model, the number and filing date of the earlier patent application or registration application of a utility model shall be indicated.

(6) If priority is claimed, pursuant to subsection 11(3) of the Patent Act, on the basis of corrections and amendments which alter the nature of an invention of an earlier patent application, the date of receipt of the corrections and amendments at the Patent Office and the number of the patent application to which corrections and amendments were applied for shall be indicated.

**§ 27. Information concerning state fee**

The amount of all state fees paid, the overall figure and the method of payment shall be indicated in data field 8. If the payment is made by a bank transfer, the number and date of the payment document according to the document certifying payment of the fee shall be indicated in the data field.

**§ 28. Information concerning deposit of biological material**

The full or abbreviated name of the international depositary authority pursuant to Article 6 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter the Budapest Treaty - RT II 1996, 14/15, 49), accession number and date of the deposit shall be indicated in data field 9. If, by the filing date of a patent application with the Patent Office, the applicant has not yet obtained the certificate of the international depositary authority provided for in Rule 7 of the guidelines of the said Treaty and does not know the accession number of the deposit, the applicant shall indicate the name of the depositary authority and the filing date of the deposit application in the data field.

### **§ 29. Information concerning annexes**

In data field 10, the boxes shall be marked according to the documents included in the patent application. The number of pages of each document shall also be indicated. If a patent application contains a document which is not listed, the list shall be supplemented by adding the name, number of pages and original copies of the document.

### **§ 30. Signature**

(1) A request for the grant of a patent shall be signed by the applicant, or a patent agent if he or she has authorization. If there are several applicants, all applicants or a patent agent or a joint representative shall sign the request.

(2) A signature shall consist of the given name and the surname, be legible or deciphered in capital letters. If the patent applicant is a legal person, the title of the competent official who signed the request shall be added.

(3) When signing a request, the place (city, other settlement, farm) and date of signing shall be indicated.

(4) A signature on an additional sheet of paper shall be in compliance with the requirements provided for in subsections 2 and 3 of this Section.

## **Division 3 Requirements for Format and Content of Description of Invention**

### **§ 31. Purpose of description of invention**

(1) The description of an invention shall disclose the nature of the invention to such an extent which would enable a person skilled in the art to comprehend the nature of the technical problem and the solution thereof by means of the invention.

(2) The description of an invention shall ensure the precise interpretation of the scope of patent protection determined by the patent claims.

### **§ 32. Structure of description of invention**

(1) The name of the invention shall be the title of the description of an invention. The index of the international patent classification may be added to the title in the upper right corner of the page.

(2) The description of an invention consists of the following parts:

- 1) the technical field;
- 2) the state of the art;
- 3) the subject matter of the invention;
- 4) a list of drawings or other illustrative material;
- 5) an example or examples of making the invention and other information which certifies the possibility of making the invention and industrial usage thereof;
- 6) nucleotide and/or amino acid sequence listing (hereinafter sequence listing).

(3) Single parts of the description of an invention shall not be replaced by references to literature, other patent application documents or other sources of information.

### **§ 33. Name of invention**

(1) The name of an invention shall clearly and precisely indicate the technical purpose of the invention and correspond to the subject matter of the invention. The name of an invention shall not be narrower or broader than the subject matter of the invention. The subject of the invention (device, process, material) shall be evident from the name of the invention.

(2) It is recommended that the terminology of international patent classification be used in names of inventions.

(3) The name of an invention shall not contain:

- 1) the name of a natural person, including the name of the author;
- 2) the business name of an enterprise;
- 3) place names;
- 4) a trademark consisting of words or an element of a trademark consisting of words;
- 5) the text of advertisements;
- 6) slang words and expressions, except in cases where these are well-known technical terms or parts thereof (Hooke's joint, Bessemer process, Maltese cross mechanism, jeep, etc.).

(4) The name of an invention shall be provided in the singular. The names of inventions relating to chemical compounds with a common structural formula constitute an exception.

(5) In the name of an invention relating to an individual chemical compound,

the name of the compound shall be indicated according to a nomenclature used in chemistry, preferably the IUPAC nomenclature. The specific purpose of the compound and, in the case of bioactive compounds, the type of biological activity of the compound may be indicated as well.

(6) In the case of processes for the creation of high-molecular compounds with unspecified structure, the name of the high-molecular compound and the purpose thereof, if necessary, shall also be indicated in the name of an invention.

(7) In the case of processes for the creation of mixtures of substances with unspecified composition, the purpose or bioactive qualities of the mixture of substances shall be indicated in the name of an invention.

(8) If the subject of an invention contains a group of subjects of invention so linked as to form a single general inventive concept, the name of the invention shall characterize all the subjects and the connection thereof, for example "Material, process for the creation thereof and use of the material", "Process and device for executing the process", "Material, process for the creation thereof and device for executing the process", etc.

(9) The name of an invention shall not be abbreviated using abbreviations of terms or the abbreviation "etc." or other similar abbreviations.

#### **§ 34. Technical field**

The technical field where an invention belongs and the area of application of the invention shall be indicated in the part of the description of the invention titled "Technical field". If there are several such fields and areas, the technical fields and areas where the invention is intended to be used should be indicated.

#### **§ 35. State of the art**

(1) Previously known analogous inventions and other technical solutions shall be described in the part of the description of an invention titled "State of the art".

(2) The solution which provides most similar technical results and is closest to an invention known to an applicant by the filing date of the patent application shall be described separately.

(3) Upon describing analogous inventions, terminology consistent with the terminology of the invention to the extent possible shall be used. Common and distinguishing technical features of analogous inventions and an invention shall be clearly evident from the description of analogous inventions and such technical features shall also constitute the basis for the formulation of patent claims.

(4) If a patent application contains a group of subjects of invention, solutions analogous to each subject of invention shall be described separately.

(5) Bibliographical references to sources of information containing analogous solutions shall be presented in the text of the description of an invention in such a manner that it would be possible to locate the sources according to the references.

(6) If a patent or another protection document of an invention is referred to, the name of the country or the two-letter code of the country, the name of the protection document or code of the type of the protection document, the number of the protection document, the index of the international patent classification, the name of the proprietor of the protection document or of the author and the year of publication of the protection document shall be indicated.

### **§ 36. Subject matter of invention**

(1) The subject matter of an invention is expressed as a set of essential features of the invention. The set of essential features of an invention includes all features that are necessary and sufficient to obtain the technical result which is the purpose of the invention.

(2) This part of the description of an invention shall contain all the features of the invention presented in patent claims and the technical result which is the purpose of the invention and explain the causal relation between the features and the technical result.

(3) Upon disclosing the subject matter of an invention, other technical results provided by the invention, including in individual cases or upon specific forms of execution or special conditions of use, shall preferably be indicated as well. The technical result which is the purpose of an invention may be, for example, the reduction of friction coefficient, prevention of jamming, avoidance of defects from metal casting, increase

of the sensitivity of a measuring instrument, increase of the activity of a medicinal product, localization of the effects of a proprietary medicinal product, etc.

(4) In the case of a group of subjects of invention, the subject matter of each invention belonging to the group and the technical result achieved shall be described separately.

**§ 37. List of drawings or other illustrative material**

Besides the list of drawings or other illustrative material, a short explanation concerning the content thereof shall be provided in this part of the description of an invention, for example: Figure 1 - perspective view of the device, or Drawing fig 1 - perspective view of the device; Figure 2 - Section on A-A, or Drawing fig 2 - Section on A-A; Figure 3 - electric circuit of the device, or Drawing fig 3 - electric circuit of the device, etc.

**§ 38. General requirements for preparation of examples of carrying out invention**

(1) At least one example describing the way in which the invention is capable of exploitation in industry shall be provided. Generally such example shall describe the best way in which the invention is capable of exploitation known to the applicant at the time of preparation of the patent application.

(2) If the industrial exploitation of an invention may cause doubts in a person skilled in the art or in a patent expert, proof shall be provided and the susceptibility of the invention to industrial exploitation shall be explained in this part of the description of the invention.

**§ 39. Example of executing device**

(1) In an example of executing an invention relating to a device, the device shall first be described in static state.

(2) Upon describing a device, the drawings shall be referred to. The structural elements shall be numbered in the course of preparing the description according to the order of their first occurrence in the text. The numeration begins with number one. Other numbering systems may be used as well. For example, independent details are numbered with one- and two-digit numbers, components and details thereof with three-digit numbers ("frame 1", "electric motor 100", "rotor 110 of electric motor

100", "terminal plate 111 of rotor 110 of electric motor 100", "terminal 112 of rotor 110 of electric motor 100") etc.

(3) After a device is described in static state, the functioning or exploitation thereof shall be described referring to drawings and other illustrative material (diagrams, time charts, etc.).

(4) If a device contains a polyfunctional element or device which is to be programmed (adjusted) or presumes the use thereof, information confirming the possibility of using such element or device specifically in this device shall be provided. If such information contains algorithms, especially computational algorithms, such algorithms shall preferably be presented as block schematics or as corresponding mathematical expressions, if possible.

#### **§ 40. Example of executing process**

(1) In an example of executing an invention relating to a process, procedures (methods, operations) performed with a material object, the order thereof, the conditions or technological regime (temperature, pressure, etc.) of performing a procedure, equipment and materials, including biological materials, used shall be described. If a process is characterized by using known means (known devices, materials, including biological materials and microorganism strains), such devices shall be indicated and knowledge thereof shall be proven, if necessary. If unknown means are used, such means shall be characterized. If a biological material is deposited, information concerning the deposit shall be provided.

(2) If novel materials are used in the process, the process of creation thereof shall be described.

(3) In the case of an invention relating to the creation of a group of novel chemical compounds with a common structural formula, an example of the process of creation of a compound belonging to the group shall be provided and, if the group contains compounds with different chemical radicals, examples of the creation of specific compounds with different chemical radicals shall be provided. In the case of a homologous series, examples of the creation of the first and last members and an intermediate member of the series shall be provided. Structural formulae of the compounds belonging to the group which are proven (determined) utilizing known methods, the physico-chemical characteristics and bioactive qualities of the compounds shall be provided and the purpose of the compounds shall

be described.

(4) In the case of an invention relating to the process of creating a high-molecular compound with an unspecified structure, information necessary for the identification of such compound, information concerning the precursors necessary for the creation thereof and application characteristics of the compound shall be provided in the examples.

(5) In the case of an invention relating to a process of creating a mixture with a specific purpose or specific bioactive qualities but with an unspecified composition and structure, a characterization of the mixture itself necessary for the identification of the mixture and the application characteristics of the mixture shall be provided in examples in addition to a description of the procedures and conditions of the process of creation.

(6) If an object is made of a material with unspecified composition and structure, in the case of an invention relating to a process of creating such object, information concerning the characteristics of the material and the application characteristics of the object shall be provided in such a manner that it allows the identification of the material and the object.

#### **§ 41. Examples of materials**

(1) In the case of a novel individual compound with a specified structure, the structural formula proven (determined) with known methods, physico-chemical constants and a description of the process of creation of the compound shall be provided. Information on the possibility of using the compound for a certain specified purpose and, in the case of bioactive compounds, quantitative indicators of activity and toxicity and of selective action, if necessary, and other characteristics shall be provided.

(2) If a novel compound is to be used for medical purposes and clinical trials have been carried out in connection therewith, data of such trials shall be provided indicating the dose and intended purpose of the medical product, the process of preparation of the recipe and the results of toxicity tests.

(3) If a novel individual chemical compound is created by use of a microorganism strain, the method of biosynthesis and information concerning the microorganism strain and deposit thereof, if necessary,

shall be provided.

(4) In the case of a material relating to the creation of a group of novel individual compounds with a common specified structural formula, the possibility of creation of all compounds belonging to the group shall be proven on the basis of the common scheme of the process of creation and an example of creation of a specific compound and, if the group contains compounds with different chemical radicals, also an example of the creation of specific compounds with different chemical radicals. Structural formulae of the compounds created which are proven (determined) utilizing known methods, their physico-chemical constants and evidence demonstrating the possibility of using some compounds in the group for a specific purpose shall be provided.

(5) If novel compounds are bioactive, indicators of activity and toxicity and of selective action, if necessary, of such compounds shall be provided.

(6) In the case of an invention relating to an intermediate product, the possibility of processing such product into a known final product or a novel final product with a specific intended purpose or bioactive qualities.

(7) In the case of an invention relating to a composition (mixture, solution, alloy, glass, etc.), ingredients belonging to the composition, characterization and quantitative relation of the ingredients and a description of the process of creation of the composition shall be provided in the examples. If a novel substance is used as an ingredient of a composition, the process of creation of such substance shall also be described.

(8) In the examples, the content of each ingredient shall be provided as a fixed amount which is in compliance with the limits provided in patent claims. Upon expression of the relation of the percentage by mass or volume of ingredients in patent claims, the sum of the percentage of content of all ingredients shall equal 100 per cent.

(9) In the case of a microorganism strain, the following information shall be provided:

1) the name of the type of microorganism strain in Latin and method of creation thereof;

- 2) identifying mark (number, symbols) given to the microorganism by the applicant;
- 3) the exact name of the international depositary authority, if the microorganism is deposited;
- 4) the registration number given to the microorganism by the international depositary authority, if the microorganism is deposited;
- 5) features of the microorganism strain distinguishing the strain from the original strain or other related strains;
- 6) substances obtained by use of the microorganism strain, or another intended purpose of the strain, whereupon the stability and lifetime of the products shall be indicated;
- 7) assessment of the productivity of the microorganism strain.

(10) If a microorganism strain is not known to the public on the filing date of the patent application or, if priority is claimed, on the date of priority and it is not deposited pursuant to the Budapest Treaty, the microorganism strain shall be described in the description of the invention in a manner which enables a person skilled in the art to make the invention.

(11) The methods of determining and identifying a microorganism strain (environment, test conditions) shall be presented in the description of an invention which contains the microorganism strain.

(12) Upon presenting the features of a microorganism strain, permissible limits of variation thereof shall be indicated.

#### **§ 42. Sequence listing**

(1) A sequence listing shall be provided if nucleotide and/or amino acid sequences are disclosed in a patent application.

(2) A sequence listing shall be prepared and filed as a separate document pursuant to Standard ST. 25 of WIPO.

### **Division 4 Requirements for format and content of patent claims**

#### **§ 43. Purpose of patent claims**

Patent claims determine the object and scope of patent protection.

#### **§ 44. Structure of and general requirements for patent claims**

(1) Patent claims may consist of one or several claims.

(2) Patent claims consist of one independent claim and as many dependent (subordinate) claims as necessary.

(3) If a patent application contains a group of subjects of invention so linked as to form a single general inventive concept, patent claims consist of an independent claim characterizing each subject of invention and as many dependent claims as necessary. For example:

1) in addition to an independent claim concerning a material, an independent claim concerning the process of creating the material and an independent claim concerning the application of the material;

2) in addition to an independent claim concerning a process, an independent claim concerning the device or equipment intended to be used in the process;

3) in addition to an independent claim concerning a material, an independent claim concerning the process of creating the material and an independent claim concerning the device or equipment necessary to carry out the process.

(4) The claims of patent claims are numbered in the order they are presented (successive numeration).

(5) The independent claim of patent claims shall always be presented first and numbered number 1.

(6) In the case of a group of subjects of invention, all patent claims concerning one subject of invention are presented successively starting with the independent claim characterizing the subject, thereafter all patent claims concerning the second subject are presented, etc. The numeration of claims is successive throughout patent claims.

(7) If the patent claims consist of only one claim, such claim shall not be numbered.

(8) The patent claims are prepared only as a set of essential technical features of an invention. The wording of the text of the patent claims shall be clear and precise and as short as possible.

(9) Each independent claim of patent claims shall contain the essential technical features of an invention and each dependent claim shall specify the essential technical features of the invention included in the previous claim(s) of the patent claims.

(10) The terminology of patent claims and the description of the invention shall be consistent.

(11) Upon generalizing the features of an invention, it shall be taken into account that the extent of definitions presented as features of the invention in patent claims shall not exceed the extent to which such definitions can be interpreted with the help of the description of the invention and the drawings or other illustrative material. If it is not possible to use a generalized notion to express a feature of an invention, alternative features may be used in patent claims. The need to use alternative features shall be explained in the description of the invention.

(12) A claim of patent claims consists of a single sentence.

#### **§ 45. Independent claim of patent claims**

(1) An independent claim of patent claims consists of a set of essential features that are necessary and sufficient to obtain the technical result which is the purpose of the invention in all cases when patent protection is applied for.

(2) An independent claim of the patent claims consists of a restrictive part and differentiating part.

(3) A restrictive part begins with the name of an invention. Essential features of an invention which the invention shares with the closest solution known in the state of the art shall be presented in the restrictive part.

(4) A restrictive part begins with the expression "differs in that ...", "which is characterized by ...", "further contains ..." or another suitable expression. The expressions "differs", "characterized by", "contains", etc. are printed double-spaced or distinguished in another manner. The essential features of an invention which are novel compared to the features of the closest solution known in the state of the art shall be presented in the differentiating part.

(5) An independent claim of patent claims shall be prepared without dividing it into a restrictive part and differentiating part, if:

1) the invention is an individual compound;

- 2) a differentiating feature of the invention is the use of a device, process or material;
- 3) the invention shares no essential features with solutions known in the state of the art in its field;
- 4) the invention has no known analogues in the state of the art.

(6) An independent claim of patent claims shall not contain insignificant features.

An invention shall be considered not compatible with the criterion of patentability due to lack of inventive step if the set of features presented in the independent claim of patent claims is obtained by merely omitting a feature of a technical solution known in the state of the art (so-called negative novelty) without adding any new features. A solution created by omitting an insignificant feature shall be considered, with regard to the state of the art, obvious to a person skilled in the art.

#### **§ 46. Dependent claim of patent claims**

(1) A dependent claim of patent claims is subordinate to an independent claim. A dependent claim may, at the same time, be subordinate to another dependent claim.

(2) Upon preparation of a dependent claim, an independent claim and other dependent claims which the dependent claim is subordinate to shall be referred to and essential features which characterize special cases of carrying out or using the invention shall be provided (for example, "3. The device according to claims 1 and 2 differs in that the frame is made of copper.").

(3) Dependent claims may be subordinate to an independent claim directly or indirectly, through one or several dependent claims. Direct subordination of a dependent claim is used if, besides the features presented in such claim, only the features of an independent claim are necessary to characterize special cases of carrying out or using the invention. If the features of one or several other dependent claims are necessary to characterize the said special cases, indirect subordination of a dependent claim to an independent claim is used.

#### **§ 47. Particulars of patent claims pertaining to device**

(1) In patent claims, a device shall be described in static state. Verbs expressing unfinished activities, such as "roll", "pulls", "descends",

shall not be used in patent claims. If it is necessary to use an activity as the feature of a device, it shall be presented as a finished activity, for example "executed", "attached", "placed", "descended".

(2) In patent claims, the mobility of an element may be indicated ("a disk capable of rotating", "a longitudinally movable blade", etc.) or an element may be characterized through the function thereof ("a pin for the fixation of the position of the lever", etc.).

(3) In patent claims, it is preferable to add reference numbers in brackets to the features. However, upon the preparation of patent claims, it shall be taken into account that the nature of a technical solution shall become evident also without using the reference numbers. Other references to the description of an invention and the drawings or other illustrative material shall not be used in patent claims.

#### **§ 48. Particulars of patent claims pertaining to process**

(1) Verbs characterizing a procedure (method, operation) shall be used in the present tense of the Indicative Mood using passive voice, for example "is heated", "is irrigated", etc.

(2) The structure of patent claims, if the claims are formulated through the use of a device, process or material, including microorganism strain or other biological material, is the following: the word "Using", a name allowing the identification of the device, process, material, including microorganism strain or other biological material and the purpose of the use.

#### **§ 49. Specifications upon use of known device, process or material**

(1) Processes based on the use of known devices, processes, materials, including microorganism strains, for a novel purpose are patentable if the novel use is not obvious with regard to known qualities of the object or indicators characterizing the object.

(2) The use of a known substance for medical purposes is patentable if the subject matter of the invention involves the use of the substance as a medicinal product or active ingredient upon diagnosing or preparation of a medicinal product or active ingredient on condition that the substance is used for medicinal purposes for the first time.

(3) The use of a known substance for medicinal purposes on a second or

further occasion (repeated use for medicinal purposes) is patentable only if the substance is used for the preparation of a medicinal product intended for the treatment of a particular disease and if the use of such medicinal product for the treatment of the said disease is not known in the state of the art or it is not obvious, with regard to the state of the art, to a person skilled in the art.

(4) First use of natural or artificial materials is deemed equal to the use for a novel purpose.

(5) In order to characterize the use for a novel purpose of a known device, process or material, including microorganism strain, the novel purpose thereof shall be indicated.

#### **§ 50. Particulars of patent claims pertaining to material**

(1) In the patent claims of any individual compound, the purpose or type of biological activity of the compound and the name or sign of the compound shall be indicated.

(2) If a composition is characterized by the quantitative composition of the ingredients in patent claims, the minimum and maximum limits of the content of ingredients shall be indicated using uniform units.

(3) It is permitted to indicate the content of one ingredient in a composition using certain units and the content of other ingredients in proportion to the first ingredient (for example, providing the content of ingredients per 100 mass units of the main ingredient or per one liter of the solution).

(4) It is permitted to indicate the content of antibiotics, ferments, etc. in a composition in other units than the content of other components of the composition (for example, in units of fermentative activity per a unit of mass of the other ingredients of a composition).

(5) The differentiating part of patent claims of an invention pertaining to a composition begins with the expression "contains additionally" if the introduction of an ingredient into the composition is to be emphasized.

(6) If the purpose of a composition is determined only by a novel active component and other components perform the usual function in a composition of this type, only the active component and the quantitative content thereof in the composition may be indicated in patent claims.

(7) If the feature of an invention is a known material with a complicated composition, the use of a special name of such material is permitted provided that the qualities or functions of the material and components thereof are indicated. In such case, the complete composition and manner of creation, if necessary, of the material shall be provided in the description of the invention.

**§ 51. Particulars of patent claims pertaining to biological material, including microorganism strain**

If the biological material (gene, microorganism strain) which is the subject of an invention is deposited, the following shall be indicated in patent claims:

- 1) the name of the biological material (the name of the microorganism strain in Latin);
- 2) registration number of the deposit given by the international depositary authority;
- 3) the exact name of the international depositary authority;
- 4) the practical purpose of the use of the material.

**Division 5 Other patent application documents**

**§ 52. Drawings or other illustrative material**

(1) Drawings or other illustrative material shall be submitted if they are necessary for understanding the description of an invention.

(2) Drawings or other illustrative material submitted shall be consistent with the text of the description of an invention.

(3) Drawings or other illustrative material shall be submitted as graphic materials (figures, schematics, graphs, diagrams, drawings, oscillograms, etc.), photographs, tables or charts.

(4) Drawings shall be submitted in case an invention cannot be illustrated with figures or plans. Photographs shall be submitted to supplement graphic materials. In exceptional cases, for example upon illustrating the stages of surgical operations, the main explanatory material may consist of photographs.

(5) Drawings or other illustrative material referred to in the description

of the invention shall be filed with the Patent Office upon filing a patent application. Filing the drawings and other illustrative material later may result in the determination of the filing date of the patent application according to the date of receipt of the said materials at the Patent Office on the basis of the provisions of subsection 21(5) of the Patent Act.

**§ 53. Abstract of subject matter of invention**

(1) The purpose of the abstract of the subject matter of an invention is to provide solely technical information about the invention.

(2) An abstract of the subject matter of an invention shall be comprehensive and easy to understand and enable a person skilled in the art rapidly to realize how to solve the technical problem presented using the invention.

(3) The name of an invention, the field of application of the invention if it is not evident from the name of the invention, the technical problem the invention is to solve or the technical result achieved shall be provided in the abstract of the subject matter of the invention.

(4) The subject matter of an invention is disclosed through a free presentation of the essential features of the invention.

(5) Upon preparation of the text, suitability thereof for an information search on a computer should be taken into account.

(6) An abstract of the subject matter of an invention shall be prepared in Estonian and English. The text in either language shall not exceed 150 words.

(7) An applicant may indicate at the end of the abstract of the subject matter of the invention in Estonian the number of the image of the drawing or other illustrative material which, in the applicant's opinion, characterizes the invention best.

**§ 54. Payment of state fee and document certifying payment of state fee**

(1) The state fee shall be paid into the bank account of the Patent Office designated for payment of state fees.

(2) Upon filing a patent application with patent claims consisting of more than ten claims, a supplementary state fee shall be paid for each claim beginning with claim 11 and the state fee for filing a patent

application shall be added thereto.

(3) If an applicant wishes to obtain copies of patent documents or other printed material an expert refers to in the course of the examination of the patent application, the applicant may pay an additional fee upon filing the patent application by marking the appropriate box in the request for the grant of a patent.

(4) The name of the invention and the number of receipt of the patent application, if the applicant knows the latter, shall be indicated on the document certifying payment of the state fee.

#### **§ 55. Authorization document**

(1) An authorization document is issued to a patent agent or several patent agents or, if the applicants have a joint representative, to the joint representative for the filing of one or several patent applications or the performance of all or certain procedures related to application for a patent or continued validity of a patent.

(2) An authorization shall set out the following:

1) the given name, surname and the address of the residence or the seat of the enterprise of the person represented (applicant), or the name and address of the seat of the person represented if the person is a legal person;

2) the given name and surname of the patent agent;

3) in the case of a joint representative who is a natural person, the given name, surname and the address of the residence or the seat of the enterprise of the representative or, in the case of a joint representative who is a legal person, the name of the representative;

4) the scope of the authorization;

5) a notation of the right to delegate authority, if the person represented grants such right to the representative;

6) the date on which the term of validity of the authorization commences, if the authorization is granted prior to signing the authorization document;

7) the term of validity of the authorization, if the authorization is granted for a specified term;

8) the signature of the person represented;

9) the place and date of signing the authorization document.

(3) An authorization document is issued in the name of several patent agents if joint authorization is granted. If joint authorization is granted, all patent agents listed in the authorization document are deemed competent to represent the applicant to the full extent of the authorization granted by the authorization document unless the restriction of the authorization of a certain patent agent is prescribed by the authorization document. If the scope of authorization is equal, the Patent Office shall perform procedures with any of the patent agents listed in the authorization document.

(4) If there are several applicants, all of them shall sign the authorization document. A signature shall consist of the given name and surname of the person, be legible or deciphered in capital letters. If the patent applicant is a legal person, the title of the competent official shall be added.

(5) Notarization or legalization of an authorization document is not required.

(6) If the date on which the term of validity of an authorization commences is not specified in the authorization document, the term of authorization shall commence as of the date of signing the authorization document. In the case of an authorization document without a date, the term of authorization shall be deemed to commence as of the date of receipt of the authorization document at the Patent Office. The right to file a patent application granted by an authorization document which arrives during the term provided for in subsection 20(3) of the Patent Act shall be deemed valid unless such right is contrary to the content of the authorization document.

(7) The term of validity of authorization shall be written out in words.

(8) If the term of validity of authorization is not indicated in the authorization document, the authorization document is deemed to be issued for an unspecified term.

(9) An authorization document may be issued on the basis of the right to delegate authority by a patent agent authorized pursuant to the provisions of subsections 20(2) and (3) of the Patent Act if the patent agent has the right to delegate authority according to the initial authorization document issued by the applicant. An authorization document delegating authority may also be issued by a joint representative who

is granted the right to delegate authority.

(10) If the patent agent indicated in an authorization document is not entered in the state register of patent agents, the authorization document shall be considered invalid and the patent application shall be returned to the person who signed the request for the grant of a patent.

(11) Upon performing procedures with the Patent Office, a request for the grant of a patent in which information required in § 21 of these Regulations is entered in data field 2 and which is signed, in the case of a joint representative, by the other applicants or, in the case of a patent agent, by all applicants shall be considered a document certifying authorization and substituting for an authorization document. In such case, the performance of all procedures related to the processing of a patent application and the continued validity of a patent shall be deemed to be the extent of authorization of the joint representative and the patent agent.

(12) If several authorization documents for the performance of the same procedure are issued to different persons at different times, the more recent authorization document is deemed to be valid.

#### **§ 56. Documents certifying declaration of priority**

(1) If priority is claimed on the basis of the Paris Convention for the Protection of Industrial Property, the Agreement Establishing the World Trade Organization or another agreement, originals of the documents certifying priority issued to the applicant by the patent office which received the first patent application shall be annexed to patent application documents.

(2) If priority is claimed on the basis of several earlier patent applications or applications for the registration of an industrial design, original documents certifying priority shall be included concerning all such applications.

#### **§ 57. Document certifying deposit of biological material**

The copy of a certificate of an international depositary authority which is in compliance with Rule 7 of the Guidelines to the Budapest Treaty shall be deemed to be a document certifying the deposit of a biological material, including microorganism strain.

**§ 58. General requirements for translations**

(1) The translation of all documents included in a patent application shall correspond to the original document and be in correct Estonian.

(2) A translator shall be proficient in the language of the original document and in Estonian and be competent in the technical field where the invention belongs.

(3) The translator or the patent agent shall be responsible for the authenticity of translations. The authenticity of a translation shall be confirmed by a statement included at the end of the text stating "I confirm the authenticity of the translation" and the signature of the translator or the patent agent. The signature shall be legible or deciphered in capital letters.

**§ 59. Authenticity of translation and corrections thereto**

(1) Saving proof to the contrary, the Patent Office shall consider translations to be authentic patent application documents in the filing and processing of a patent application.

(2) Texts of documents in a foreign language shall be taken into account solely for information purposes.

(3) An applicant, the proprietor of a patent or a patent agent may apply for corrections to be made in a translation to correct obvious wording and spelling mistakes if the corrections correspond to the text in the foreign language. Upon application for corrections to be made to the translation of the description of an invention and patent claims, the restriction established in subsection 25(4) of the Patent Act shall be taken into account.

**Division 6 Requirements for completion of patent application documents**

**§ 60. General requirements for completion of text documents**

(1) All text documents of a patent application shall be completed and submitted on strong white paper in format A4 (210 x 297 mm).

(2) Each sheet of paper shall be used in portrait format and on one side only.

(3) Each patent application document shall begin on a new page.

(4) The minimum margins used upon the preparation of descriptions of invention, patent claims and abstracts of the subject matter of invention shall be:

top margin - 20 mm;  
left margin - 25 mm;  
right margin - 20 mm;  
bottom margin - 20 mm.

(5) The maximum margins used upon the preparation of descriptions of invention, patent claims and abstracts of the subject matter of invention shall be:

top margin - 20 mm;  
left margin - 40 mm;  
right margin - 30 mm;  
bottom margin - 30 mm.

(6) The pages of text documents shall be numbered with Arabic numerals. The description of an invention, except the sequence listing, patent claims and abstract of the subject matter of an invention shall be consecutively numbered beginning with the description of the invention. The sequence listing shall begin on a new page and is separately numbered. The number of a page shall be placed in the center of the page under the top margin. The number of the page shall not be indicated on the first page of the description of an invention.

(7) Every fifth line of the description of an invention and patent claims shall preferably be numbered on the right side of the left margin.

(8) The text of the documents shall be in typewritten form, printed or presented using another technical method.

(9) Documents shall not be written by hand.

(10) Documents must be typed with black non-erasable permanent ink and with such contrast which allows making an unlimited number of copies of the documents using modern copying devices.

(11) The text of the description of an invention, patent claims and abstract of the subject matter of an invention shall be typed with minimum line

spacing of 1.5 and using a font in which the height of capital letters is at least 2.1 mm.

(12) Graphic symbols, names in Latin, Latin and Greek letters, mathematical and chemical formulae may be handwritten using black ink, fountain pen or Indian ink. A mixture of a technical method and handwriting shall not be used in formulae.

#### **§ 61. Terms and symbols**

(1) Standard terms, symbols, abbreviations and measurement units or, in the absence thereof, terms, symbols, abbreviations and measurement units ordinarily used in scientific and technical literature shall be used in descriptions of inventions, patent claims and abstracts of the subject matter of inventions.

(2) If a term or sign is used which is not common in professional publications, the meaning of the term or sign shall be explained when the term or sign is first used in the description of an invention. In the absence of a term in Estonian, a term in a foreign language may be used and the foreign term shall be in italics.

(3) All conventional signs shall be explained.

(4) Descriptions of inventions, patent claims and abstracts of the subject matter of inventions shall be in compliance with the requirement of uniform terminology (i.e. terms used in the description of an invention, patent claims and abstract of the subject matter of the invention shall be the same). The requirement of uniform terminology also applies to measurement units of physical quantities, dimensions and conventional signs.

(5) Physical quantities shall be expressed in the SI or CGS system of units.

(6) The percentage sign (%) shall be used only following a number. The words "per cent" shall be used in the text.

#### **§ 62. Non-permissible expressions**

(1) The text of patent application documents shall not contain expressions which are contrary to public order and morals or derogatory to other persons and their inventions.

(2) Texts or images advertising an invention or the applicant shall not be included in the description of the invention or other patent application documents.

(3) A trademark consisting of words may be used in the text only if it unequivocally determines an essential feature of an invention.

#### **§ 63. Chemical formulae**

(1) Chemical formulae may occur in descriptions of inventions, patent claims and abstracts of the subject matter of inventions.

(2) Upon writing structural formulae of chemical compounds, the symbols of elements in general use shall be used and the bonds between elements and radicals shall be indicated in an accurate manner.

#### **§ 64. Mathematical expressions and symbols**

(1) Mathematical expressions (formulae) and symbols may be used in descriptions of inventions, patent claims and abstracts of the subject matter of inventions.

(2) The format of presenting mathematical expressions is not regulated.

(3) All signs used in mathematical formulae shall be deciphered in the order of their occurrence. Clarifications of a formula shall be written in a column under the formula.

(4) Mathematical symbols ">", "<", "=", etc. shall be used only in mathematical formulae, in the text such symbols shall be presented by words ("more", "less", "equal", etc.).

(5) The sign "-" ("from ... to ...") may be used to designate intervals between positive numbers. In other cases, the words "from" and "to" shall be used.

(6) Upon expression of quantities as a percentage, the percentage sign (%) shall be used following a number. The percentage sign shall not be used in the text.

(7) Mathematical formulae may be split only at a sign.

#### **§ 65. Requirements for format of drawings or other illustrative material**

(1) The drawings and other illustrative material shall be made, pursuant

to the requirements of technical drawing, with black non-erasable lines without shadings or colorings using drawing instruments on strong white and smooth paper in format A4 (210 x 297 mm).

(2) Drawings shall be submitted without titles, descriptive texts or remarks, except references such as "water", "steam", "open", "closed", "A-A" (to designate a section), etc. and signs used in electric circuits and other schematics.

(3) Letters and numbers shall not be in brackets, circles or quotation marks.

(4) The minimum height of letters and numbers shall be 3.2 mm.

(5) Orthographic projection should preferably be used in drawings. Axonometry may be used as well.

(6) The size of details and other elements shall not be indicated in drawings. Proportions of different sizes shall be provided in the description of the invention, if necessary. Absolute dimensions shall be provided if they belong to the essential features of the invention.

(7) Drawings shall not contain frames.

(8) The minimum margins of a sheet of paper shall be:

top margin - 25 mm;  
left margin - 25 mm;  
right margin - 15 mm;  
bottom margin - 10 mm.

The usable surface area of drawings shall not exceed 262 x 170 mm.

(9) Elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure.

(10) Information not mentioned in the description of an invention or unnecessary for understanding the subject matter of the invention shall not appear in the drawings and other illustrative material. (For example, the image of a trademark on a drawing of a device.) Reference signs not

mentioned in the description and claims shall not appear in the drawings and vice versa.

(11) If images on two or more sheets are parts of one drawing, the images shall be placed in such a way that it is possible to form the whole drawing by putting the sheets together.

(12) It is recommended that the drawings be placed on a sheet in portrait format so that the sheet would be filled to the maximum. If drawings cannot be placed on a sheet in portrait format, they shall be placed so that the upper part is on the left side of the sheet.

(13) More than one image (figure) may be placed on one sheet but the images must be clearly separated from each other. All images shall be numbered with Arabic numerals with the sign FIG added before the numeral, for example, FIG 1, FIG 2, etc. regardless of the type of the image (figure, schematic, graph, drawing, etc.). If only one image is used to explain the description of an invention, the image need not be numbered.

(14) Upon numbering the sheets of drawings and other illustrative material, the order in which they are referred to in the description of the invention should be followed. The pages of drawings shall be numbered with Arabic numerals which are placed in the center of the page under the top margin and which measure at least 3.2 mm. The number of each page shall consist of two Arabic numerals which are separated by a slash and of which the first numeral is the number of the page and the second numeral is the total number of pages of the drawings or other illustrative material. (For example 1/3, where number 1 indicates the sequence number of the page of the drawing and number 3 the total number of pages of drawings.)

(15) Graphic images shall not be provided in the text of the description of an invention and patent claims.

(16) The scale of an image shall be such that upon reduction to 2/3 of the linear dimensions all details can be clearly distinguished.

(17) All elements of graphic images mentioned in the description of an invention shall be designated in the description of the invention and the drawings. Reference numbers of elements of graphic images shall be designated by Arabic numerals according to the numbering of such elements in the description of the invention and patent claims. It is recommended

that the numeration in the description of an invention begin with one and go on according to the order in which the elements occur in the text. In order to number the elements in the drawings, straight or freely drawn leading lines are used which are thinner than other lines. In the case of certain references, the leading lines may be omitted. References which are not connected to any element designate the surface or section where they are located and such references may be underlined in order to emphasize that the leading lines have not been omitted by mistake. The same elements on different drawings shall be denoted by the same reference numbers.

(18) If a graphic image is presented as a schematic, standard graphic symbols are used. Elements of a schematic of a certain type may be used on a schematic of different type. (For example, single elements of a cinematic or hydraulic schematic and corresponding symbols may be added to a schematic of an electric circuit.) If rectangles are used as graphic signs on a schematic, the name of the element shall be written in the rectangle in addition to the numeral designation. If the size of the graphic sign of an element does not allow this, the name of the element may be written on the leading line.

(19) The format of a photograph shall not exceed format A4. Smaller photographs shall be glued to a white sheet of paper in format A4.

(20) Drawings shall not be folded or rolled up.

## **Chapter 4 PROCEDURE FOR FILING PATENT APPLICATIONS**

### **§ 66. Filing of patent application**

(1) Patent applications shall be filed with the receiving section of the Patent Office in person or by post. A patent application may also be posted in the post box for applications for the registration of legal protection of objects of industrial property open at the Patent Office for twenty-four hours every day of the year.

(2) The actual date of receipt of a patent application at the Patent Office is deemed to be the filing date of the patent application. This applies also if a patent application is delivered using a postal or delivery service.

(3) Patent applications filed by telefax or other electronic means shall not be accepted.

### **§ 67. Filing of patent application by applicant whose residence or seat is in the Republic of Estonia**

All persons whose residence or seat is in the Republic of Estonia may file a patent application with the Patent Office and perform procedures related to the processing of the application independently or authorize an Estonian patent agent as their representative.

### **§ 68. Filing of patent application by applicant whose residence or seat is in foreign state**

(1) Persons whose residence or seat is outside the Republic of Estonia may file a patent application with the Patent Office independently or through a patent agent.

(2) Persons whose residence or seat is outside the Republic of Estonia perform, pursuant to the provisions of subsection 20(3) of the Patent Act, procedures related to the processing of the patent application with the Patent Office only through a patent agent.

### **§ 69. Filing of patent application by several applicants**

(1) If two or more applicants, all of whom reside or have their seat in the Republic of Estonia are indicated in a patent application, such applicants authorize a joint representative from among themselves to file the patent application with the Patent Office and to perform procedures related to the processing of the patent application with the Patent Office. Applicants may also authorize a patent agent as their representative.

(2) If the residence or seat of all applicants indicated in a patent application is in a foreign state, such applicants shall authorize a patent agent as their representative to perform procedures related to applying for a patent with the Patent Office.

(3) If there are persons among the applicants indicated in a patent application whose residence or seat is in the Republic of Estonia and persons whose residence or seat is in a foreign country, such applicants may perform procedures related to applying for a patent with the Patent Office without a patent agent if they authorize, as a joint representative, an applicant with residence or seat in the Republic of Estonia.

(4) In order to authorize a joint representative, applicants shall indicate the joint representative in the request for the grant of a patent upon filing the patent application. In order to authorize a joint representative in the course of processing or alter the joint representative, applicants shall file a joint authorization document.

(5) If applicants have not indicated a joint representative in the request for the grant of a patent or authorized a joint representative later, the Patent Office shall consider the applicant indicated first in the request for the grant of a patent to be the joint representative.

**§ 70. Filing of document certifying payment of state fee**

(1) A document certifying payment of state fee shall be filed with the Patent Office with the patent application or within one month as of the date of receipt of the patent application in the Patent Office.

(2) The document certifying payment of the state fee shall generally be submitted separately for each patent application. If state fees paid at once for the filing of several patent applications are paid at the same time, the name of the invention or the number of receipt of the patent application and the amount of the state fee paid shall be indicated in the document certifying payment of the state fee concerning each patent application.

(3) If payment is made via the internet, the print-out of the receipt confirmed by the signature of the payer shall be submitted.

(4) Payment of state fee by electronic means, via a bank, by post or through another person shall not exempt an applicant from including a document

certifying payment of state fee in the patent application documents or from filing thereof with the Patent Office.

(5) If a document certifying payment of the state fee has not arrived at the Patent Office within one month as of the receipt of the patent application at the Patent Office or the state fee is paid in an amount less than the prescribed rate, the Patent Office shall refuse to accept the patent application for processing. In the case of partial payment, the amount paid shall be refunded.

**§ 71. Submission of authorization document**

(1) An authorization document shall be filed with the Patent Office in a patent application if the request for the grant of a patent is signed by a patent agent.

(2) If an authorization document is not filed together with a patent application, a patent agent shall file the authorization within two months as of the date of receipt of the patent application at the Patent Office. If the patent agent who signed the request for the grant of a patent does not file an authorization document with the Patent Office during the specified term, the patent application shall be deemed withdrawn.

(3) If an applicant whose residence or seat is located outside the Republic of Estonia files a patent application, the applicant shall authorize a patent agent to perform procedures related to the processing of the patent application and the patent agent shall file an authorization document with the Patent Office within the term of three months provided for in subsection 20(3) of the Patent Act. If an authorization document is not filed within three months as of the receipt of the patent application at the Patent Office, the Patent Office shall refuse to accept the patent application for processing.

**§ 72. Submission of documents certifying priority claim**

(1) Documents certifying a priority claim shall be filed with the Patent Office in a patent application.

(2) If documents certifying a priority claim are not filed in a patent application, such documents shall be filed, pursuant to the provisions of subsection 11(7) of the Patent Act, within sixteen months as of the priority date.

(3) Documents certifying the priority claim need not be submitted if priority is claimed on the basis of a first patent application or registration application of a utility model in the Republic of Estonia.

(4) Translations of documents certifying a priority claim into Estonian shall be filed only at the request of the Patent Office. The term for filing translations is two months as of the date of the request of the Patent Office.

(5) If priority is claimed in a patent application but the applicant does not file the documents certifying the priority claim in the patent application or within sixteen months after the date of priority, or if the documents filed are not in compliance with the requirements provided for in these Regulations, the Patent Office shall refuse to satisfy the priority claim.

**§ 73. Submission of document certifying deposit of biological material**

(1) A document certifying the deposit of a biological material shall be filed with the Patent Office in a patent application.

(2) If the certificate of a deposit has not arrived from the international depositary authority by the filing date of a patent application, the document certifying the deposit of the biological material may be filed later but not later than within sixteen months as of the filing date of the patent application or, if priority is claimed, as of the priority date.

(3) If an applicant requests earlier publication of a patent application on the basis of subsection 24(3) of the Patent Act, the applicant shall file a document certifying the deposit of a biological material with the Patent Office not later than one month prior to the date of publication of the patent application requested by the applicant.

## **Chapter 5 IMPLEMENTING PROVISIONS**

### **§ 74. Repeal of Regulations of the Minister of Economic Affairs "Requirements for Content and Format of Patent Application Documents and Procedure for Filing Thereof"**

To repeal Regulations No. 45 of the Minister of Economic Affairs of 25 November 1998 "Approval of Requirements for Content and Format of Patent Application Documents and Procedure for Filing Thereof" (RTL1998, 360/361, 1532).

### **§ 75. Entry into force of Regulations**

These Regulations enter into force on 1 January 2000.