

ESTONIA
Patent Regulations

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Chapter 1 General Provisions

§ 1. Definition of terms

Terms used in this Regulation which are not defined in the Patents Act are interpreted pursuant to the definitions specified in the Paris Convention for the Protection of Industrial Property (RT II 1994, 4/5, 19), the Patent Cooperation Treaty (hereinafter PCT) (RT II 1994, 6/7, 21), the Convention of the Grant of European Patents Act (hereinafter EPC) (RT II 2002, 10, 40), the Patent Law Treaty (hereinafter PLT) (RT II 2003, 6, 22), the Implementation of the Convention of the Grant of European Patents Act (RT I 2002, 38, 233; 2003, 88, 594; 2004, 20, 141), the Principles of Legal Regulation of Industrial Property Act (RT I 2003, 18, 98; 82, 555; 2004, 20, 141) and in the legislation of the European Union and in other international agreements concerning legal protection ratified by the Riigikogu.

§ 2. Extension of Regulation to international applications

(1) This Regulation shall not apply to international applications filed, pursuant to Articles 3 - 12 of the PCT, with the Patent Office as the receiving office according to Article 2 (xv) of the said Treaty.

(2) This Regulation shall apply to international applications filed pursuant to Article 22 or 39 of the PCT 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 after they have been accepted for national processing.

Chapter 2 Subject and Unity of Invention

§ 3. Types of subjects of invention

Pursuant to subsection 6 (1) of the Patents Act, the subject of an invention is a device, process or material, including biological material. A group of the aforementioned subjects is also considered to be the subject of an invention.

§ 4. Unity of invention

Pursuant to subsection 9 (1) of the Patents Act, patent protection for only one invention or a group of inventions so linked as to form a single general inventive concept can be applied for in a patent application.

Chapter 3 Unpatentable Subjects

§ 5. Subjects which are not inventions

Pursuant to subsection 6 (2) of the Patents Act, the following shall not be the subject of an invention, inter alia:

- 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;
- 11) layout-designs of integrated circuits.

§ 6. Unpatentable inventions

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

- 1) inventions which are contrary to public order and morality;
- 2) methods of treatment and diagnostic methods practised on the human or animal body.

(2) Pursuant to subsection 7 (2) of the Patents Act, the following biotechnological inventions 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; 2003, 18, 102);
- 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;
- 5) essentially biological processes for the derivation of biological materials or the production of plant or animal varieties, except microbiological processes for the derivation of micro-organisms;
- 6) inventions the application of which is confined to a single plant or animal variety.

Chapter 4 Patent Application

Division 1 Patent Application Documents

§ 7. 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 or patent claims;
- 5) an abstract of the subject matter of the invention.

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

- 1) an authorisation 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, unless a specification specified in the Patents Act applies;
- 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;
- 4) a document which sets out the information concerning payment of the state fee (hereinafter document certifying payment of state fee).

(3) If the patent applicant is not the author, a document containing a declaration concerning the legal basis for the right of the patent applicant to apply for a patent and to become the proprietor of a patent shall be annexed to the patent application. The separate document need not be submitted if the information concerning legal basis is set out in the request for the grant of a patent specified in clause (1) 1) of this section pursuant to § 16.

(4) The document certifying payment of the state fee need not be submitted if the information concerning payment of the state fee is set out in the request for the grant of a patent specified in clause (1) 1) of this section pursuant to § 19.

§ 8. 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.

§ 9. Language of documents

(1) Patent application documents are filed with the Patent Office in Estonian, except the name of the invention in the request for the grant of a patent and the abstract 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 within the meaning of 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; 2000, 51, 326; 2001, 58, 354; 65, 375; 93, 565; 2002, 9, 47; 53, 337; 63, 387; 90, 521; 2003, 82, 551).

(3) In case of foreign language documents included in patent applications or appended thereto, translations thereof into Estonian shall be filed pursuant to the Patents Act and this Regulation.

Division 2 Requirements for Content and Format of Requests for Grant of Patents

§ 10. Information to be submitted

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

- 1) information concerning the patent applicant or, in the case of several applicants, all patent applicants (hereinafter patent applicant);
- 2) information concerning the representative of the patent applicant if the applicant is represented by a patent agent or a joint representative in the case of several patent applicants;
- 3) information concerning the author or, in case of joint authors, all joint authors (hereinafter author);
- 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 Patents Act;
- 6) information concerning correspondence, if the patent applicant is a person whose residence or seat is in the Republic of Estonia or if patent applicants are represented by a joint representative;
- 7) a list of other patent application documents;
- 8) signature of the patent applicant or the patent agent;
- 9) signature of the author who has prohibited the disclosure of his or her name.

(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 patent applicant is a natural person or a legal person;
- 3) the residence or seat of the patent 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 Patents Act;
- 5) the name of the author who has prohibited the disclosure of his or her name.

(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 capitalisation in Estonian.

(4) The name of a sole proprietor or legal person shall be provided pursuant to 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; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387 and 388; 96, 564; 102, 600; 110, 657; 2003, 4, 19; 13, 64; 18, 100; 78, 523; 88, 591) or pursuant to the requirements provided for in § 4 of the Nonprofit Associations Act (RT I 1996, 42, 811; 1998, 96, 1515; 1999, 10, 155; 23, 355; 67, 658; 2000, 55, 365; 88, 576; 2001, 56, 336; 93, 565; 2002, 53, 336; 2003, 88, 591), respectively. In event of legal persons whose seat is in a foreign country, the law of the home country may be applied. Names of natural or legal persons shall be written in compliance with the Estonian Literary Standard according to which the names in the Latin alphabet are provided in their source language forms. The names in other alphabets are transcribed into Estonian letters. In the case of a name of a legal person, the rules of capitalisation 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 trade mark shall be used in the case of business names.

§ 11. Form of request for grant of patent

(1) Requests for the grant of patents are filed on the standard form provided in the Annex to this Regulation. The forms can be obtained without charge from the Patent Office or the website of the Patent Office.

(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 who signs the request for the grant of the patent.

(3) Information shall be entered on the form of the request for the grant of a patent in typewritten form or in typescript, printed or presented using another technical method.

§ 12. Information concerning patent applicant

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

(2) The given name, surname and full residential address or, if he or she has an enterprise, the full address of the residence or the seat of the enterprise is the information concerning a natural 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 of the legal person which is entered in the commercial register or in the non-profit associations and foundations register or in another official register pursuant to the law 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 unless the articles of association prescribe otherwise.

(4) If the residence or seat of a patent 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 patent applicants, information concerning all applicants shall be submitted.

(6) If the patent 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 a patent applicant. In case of change of the name of the patent applicant (for example, change of the name of a natural person or transformation of a legal person), the patent applicant shall file a request for amendment of data and a document certifying the change of name or an officially certified copy thereof. If patent applicant changes in the case provided for in subsection 44 (1) of the Patents Act in connection with transfer of a patent application to another person or in connection with transition of a patent application to a legal successor

in the case provided for in subsection (2) of the same section, the patent applicant or the person to whom the patent application is transferred or transfers shall file a request for amendment of data which sets out the information concerning both the former and the new patent applicant to the Patent Office. A request shall include a document certifying payment of the state fee. If a request is filed by the person to whom the patent application is transferred or transfers, the request shall be accompanied by a document certifying the transfer or an officially certified copy thereof.

§ 13. Information concerning representative of patent applicant

(1) Data field 2 shall be completed only if the patent applicant is represented by a patent agent in filing the patent application or performing procedures with the Patent Office, or if several patent 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 patent applicant.

(3) Information concerning a patent agent consists of the given name and surname of the patent agent, full name, address and phone number of the patent agent's office and the registration number of the patent agent in the state register of patent agents.

(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 patent applicant.

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

§ 14. Correspondence data

(1) Data field 3 shall be completed if the patent application is filed and the procedures related to the application for a patent are performed by a patent applicant whose residence or seat is in the Republic of Estonia or, in the case of several patent applicants, their joint representative whose residence or seat is in the Republic of Estonia and if the patent applicant or joint representative prefers to use a postal address of a destination located within the territory of the Republic of Estonia

different from the address provided in data field 1 in order to ensure more expeditious receiving of written notices. It is recommended that the contact telephone number be included.

(2) Information concerning the patent 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 authorised to accept written communications from the Patent Office.

(3) If the patent applicant is a legal person or, in the case of several patent applicants, the joint representative is a legal person, then the head of the legal person, an employee appointed by the head or a procurator shall be the person who accepts written communications from the Patent Office indicated in data field 3. On the basis of the provisions of subsection 131 (1) of the Patents Act, third persons or other contractual representatives in addition to the patent agent may not be authorised to accept written communications from the Patent Office.

(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 patent applicant indicated in data field 1, including the person whose residence or seat is in a foreign country. If, in the case of several patent 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 patent applicant. If there are persons among the patent 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.

§ 15. 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 patent 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 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 and the word "surnud" [deceased] shall be indicated in data field 4.

§ 16. Information concerning right to apply for patent

(1) If the author is not simultaneously the patent applicant, the legal basis of applying for a patent and becoming the proprietor of a patent shall be declared in data field 5 by marking the appropriate box. Submission of a contract or any other document certifying legal succession to confirm the legal basis is not required upon filing the patent application.

(2) The right to apply for a patent and to become the proprietor of a patent may also be declared in a separate document which shall be annexed to patent application documents upon filing a patent application.

(3) The Patent Office may require submission of a contract or a document certifying legal succession specified in subsection (1) of this section or an officially certified copy thereof only if the legal basis of applying for a patent and becoming the proprietor of a patent has not been declared in prescribed cases and the corresponding explanations requested by the Patent Office are insufficient or give reason to suspect that the provisions of § 12 of the Patents Act have been ignored upon filing of the patent application.

§ 17. Name of invention

(1) The name of the invention which shall be identical with the name of the invention provided in the description of the invention shall be indicated in data field 6.

(2) The translation of the name of the invention into English shall also be indicated in data field 6.

§ 18. Priority claim

(1) If data field 7 is completed priority is deemed to be claimed.

(2) If priority is claimed, pursuant to subsections 11 (2) of the Patents 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 Organisation 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 Organisation, the first box shall be marked in the data field and the filing date of the first patent application or registration application of the utility model and the two-letter country code and the number of the patent application or registration application of the utility model (priority data) shall be entered in the data field after the INID-code pursuant to Standard ST. 9 of WIPO. 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 organisation where the first application was filed shall be indicated by a two-letter code. If the patent application is filed on the basis of several first patent applications or registration applications of a utility model, priority data of all such applications shall be entered in the data field.

(3) If, on the day of filing of a patent application with the Patent Office, the patent applicant does not yet know the number of the first patent application or registration application of a utility model, only the filing date and state of the first patent application or registration application of a utility model in the priority claim shall be indicated.

(4) In event of a patent application separated from an initial patent application pursuant to subsection 9 (2) or (3) of the Patents Act, the first box on shall be marked in the data field if priority was claimed

in the initial patent application, and the second box, and priority data of the initial patent application to such extent as applies to the separated invention shall be entered in the data field on the basis of subsection 11 (4) of the Patents Act. The filing date of the initial patent application and the number of the patent application shall be set out on the lower edge of the data field. If the initial patent application is based on an international application, the international filing date shall be indicated as the filing date.

(5) In event of a patent application filed with the Patent Office for the same invention by the same patent applicant within twelve months, the fourth box shall be marked in the data field and the filing date and number of the earlier patent application or registration application of a utility model shall be entered in the data field on the basis of subsection 11 (5) of the Patents Act.

(6) In event of a patent application which is filed on the basis of corrections and amendments to an earlier patent application which alter the subject matter of the invention, the third box shall be marked in the data field and the date of filing of the corrections and amendments with the Patent Office and the number of the earlier patent application shall be entered in the data field on the basis of subsection 11 (3) of the Patents Act.

§ 19. Information concerning payment of state fee

(1) The first box shall be marked in data field 8 and the amount of state fee for filing a patent application and the method of payment by which the specified state fee was paid shall be entered in the data field. Upon payment of the supplementary state fee in case of patent claims exceeding ten claims, the second box shall also be marked in data field 8 and the amount of the supplementary state fee paid shall be entered in the data field.

Upon payment of the state fee for the issue of copies of patent documents of other printed material referred to by the Patent Agent, the third box shall be marked in data field 8 and the amount of state fee paid shall be entered in the data field.

(2) Upon payment of the state fee by payment order, by a cash payment to the bank account of the Patent Office or in another manner, the number and date of the payment document shall be indicated in the data field.

(3) The appropriate box shall be marked in the data field depending on whether the state fee is paid by the patent applicant, patent agent or another person, including the joint representative. If another person paid the state fee, the name of the payer shall be entered in the data field.

§ 20. Other information

(1) Data field 9 shall be completed if:

- 1) information concerning the first patent application or registration application of a utility model is filed, pursuant to subsection 21 (2) of the Patents Act, instead of filing the description of the invention,
- 2) a document certifying the deposit of a biological material, including microorganism strain, is to be submitted pursuant to clause 19 (2) 3) of the Patents Act, or
- 3) disregard of the disclosed information concerning the invention in determining the state of the art on the basis of subsection 8 (3) of the Patents Act is required.

(2) If information concerning the first patent application or registration application of a utility model is submitted instead of the description of the invention, the first box shall be marked in data field 9 and the filing date of the first application, the state or international organisation where the first application was filed and the number of the first application shall be entered in the data field. The description of an invention of the first application and patent claims or translation thereof into Estonian shall be annexed to a patent application if the first application is in a foreign language. If the description of an invention of the first application and patent claims are not filed upon filing of a patent application, it is recommended to file them as soon as possible. If the description of an invention of the first application and patent claims is not filed on own initiative, it shall be filed by the due date set by the Patent Office pursuant to subsection 22 (7) of the Patents Act, but not later than within sixteen months from the filing date of the first patent application or registration application of a utility model. In addition to the abovementioned, a priority claim conforming to subsection 18 (2) of this Regulation shall be indicated in data field 7, on the basis of the first application, as a rule, and documents certifying the priority claim shall be filed together with the patent application.

(3) Upon submission of information concerning the deposit of biological

material, including micro-organism, the second box shall be marked in data field 9, and accession number, date of the deposit and the full or abbreviated name of the international depositary authority shall be entered in the data field.

(4) Marking of the third box in data field 9 is deemed to be the filing of the request provided for in subsection 8 (3) of the Patents Act. The date of disclosure of the information concerning the invention which is desired not to be disclosed in determining the state of the art, and the specific data concerning the source or event of disclosure as accurately as possible, including the date of display of the invention as an exhibit at the exhibition and the name and place of the exhibition shall be entered in the data field.

§ 21. Information concerning annexes

(1) In data field 10, the boxes next to such documents as were actually filed in the patent application shall be marked in the list of annexes. The number of pages of each document shall also be indicated.

(2) 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.

§ 22. Signature

(1) A request for the grant of a patent shall be signed by the patent applicant. If there are several patent applicants, all of them shall sign.

(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 legal representative 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.

(5) A request for the grant of a patent may also be signed by a patent agent or a joint representative if he or she has authorisation. An

authorisation document which complies with the requirements established in § 47 shall be annexed to a patent application for certification of authority. If it is impossible to annex an authorisation document to the patent application at the time of filing the patent application, it shall be forwarded to the Patent Office at the earliest opportunity but not later than by the due date set by the Patent Office on the basis of subsection 251 (1) of the Patents Act.

Division 3 Requirements for Content and Format of Description of Invention

§ 23. Purpose of description of invention

(1) The purpose of the description of an invention is to disclose the subject matter of an invention. The subject matter of an invention shall be disclosed 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.

§ 24. Structure of description of invention

(1) The name of the invention shall be the title of the description of an invention.

(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) one or several examples of making the invention and other information, as necessary, which certifies the susceptibility of making the invention, industrial usage thereof and of obtaining of the technical result presented.

(3) A nucleotide and/or amino acid sequence listing which complies with the requirements established in § 34 (hereinafter sequence listing) shall also be part of a description of an invention if nucleotide and/or amino acid sequences are disclosed in the patent application.

(4) Single parts of the description of an invention or descriptions of the technical solutions contained therein as well as explanations of the subject matter of an invention or arguments for obtaining of the prescribed technical result by means of the invention shall not be replaced by references to sources of literature, other patent application documents or other sources of information.

(5) The beginning and end of the text of the parts of the description of an invention specified in subsection (2) of this section shall be distinguishable. The parts may bear titles which correspond to their names.

§ 25. 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 trade mark consisting of words or an element of a trade mark consisting of words;
- 5) the word "new" or any advertising appeals or advertising text;
- 6) slang words and expressions;
- 7) other words and expressions which do not have a definite meaning as technical terms.

(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 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 a patent application contains a group of inventions so linked as to form a single general inventive concept, the name of the invention shall include all inventions belonging to the group and the connection thereof, for example "Material X, process for the creation thereof and use of the material X", "Process Y and device for executing the process", "Material Z, process for the creation of material Z 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.

(10) It is recommended that names of inventions be formulated on the basis of Standard ST. 15 of WIPO.

§ 26. 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.

§ 27. State of the art

(1) Analogous inventions previously known to the patent applicant and other technical solutions which may be useful for understanding the subject matter of the invention and for conducting an examination, preferably with references to documents in which they are presented, shall be described in the part of the description of an invention titled "State of the art".

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

(3) The solution which provides most similar technical results and is closest to an invention known to a patent applicant in the state of the art shall be described separately and the technical problem which renders the solution defective and which is to be eliminated by the invention shall be indicated.

(4) If a patent application contains a group of inventions, solutions analogous to each invention and the closest solution shall be described separately and the technical problem which is to be solved by the corresponding invention contained in the group shall be indicated in case of the latter.

(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 locating of the sources according to the references would be as easy as possible.

(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, the index of the international patent classification and the name of the proprietor or author of the protection document, and the year of publication of the protection document shall preferably be indicated.

§ 28. Subject matter of invention

(1) The subject matter of an invention is expressed as a set of essential features of an invention. The set of essential features of an invention includes all features that are necessary and sufficient to obtain a specific technical result which is the closest to the invention and 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, localisation of the effects of a proprietary medicinal product, etc.

(4) In the case of a group of inventions, the subject matter of each invention belonging to the group and the technical result obtained shall be described separately. For confirmation of the unity of an invention, it is recommended that the technical connection between the inventions belonging to the group and their role in the integral contribution made to the state of the art be explained.

§ 29. 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.

§ 30. General requirements for preparation of examples of making 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 patent applicant at the time of preparation of the patent application.

(2) If the industrial exploitation of an invention may potentially cause doubts in a person skilled in the art or in a patent expert, it is expedient to provide proof and explain the susceptibility of the invention to industrial exploitation in that part of the description of the invention in order to dispel the doubts.

§ 31. Example of executing device

(1) In an example of making an invention relating to a device, the device shall first be described in static state. If a device is described in the form of a scheme (electric, hydraulic, pneumatic or other scheme), all elements of the schematic shall be listed and connections between them are described.

(2) Upon describing a device, the drawings shall be referred to. The structural elements shall be numbered in the course of preparing the description of an invention 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. As the number of a structural element is part of the name of the structural element in case of an example of making, then the number shall not be in brackets, as a rule.

(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 (including computer) 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.

§ 32. Example of executing process

(1) In an example of making 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, devices and materials, including biological materials, used shall be described. If a process is characterised by using known means (known devices, materials, including biological materials and micro-organism strains), such devices shall be indicated and knowledge thereof shall be proven, if necessary. If means unknown from the state of the art are used, such means shall be characterised. 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 to such an extent which would enable a person skilled in the art to prepare them.

(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 an 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) utilising 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 characterisation 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.

§ 33. 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 micro-organism strain, the method of biosynthesis and information concerning the micro-organism 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) utilising 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, characterisation 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 micro-organism strain, the following information shall be provided:

- 1) the name of the type of micro-organism strain in Latin and method of creation thereof;
- 2) identifying mark (number, symbols) given to the micro-organism by the patent applicant;
- 3) the exact name of the international depositary authority, if the micro-organism is deposited;
- 4) the registration number given to the micro-organism by the international depositary authority, if the micro-organism is deposited;
- 5) features of the micro-organism strain distinguishing the strain from the original strain or other related strains;
- 6) substances obtained by use of the micro-organism 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 micro-organism strain.

(10) If a micro-organism 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 specified in subsection 61 (4) of the Patents Act, the micro-organism 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 micro-organism strain (environment, test conditions) shall be presented in the description of an invention which contains the micro-organism strain.

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

§ 34. 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.

(3) The sequence listing is separately numbered. The number of the page

shall not be indicated on the first page of the sequence listing.

(4) The sequence listing is placed after patent claims upon filing a patent application; however, if there are drawings or other illustrative material, it shall be placed after the latter.

Division 4 Requirements for Content and Format of Patent Applications

§ 35. Purpose and meaning of patent claims

Patent claims determine the object and scope of patent protection. The contents and scope of a patent protection are interpreted as they result from the wording of patent claims.

The description of the invention, drawings or other illustrative material or other patent application documents shall not be taken into account upon interpreting patent claims in a way which restricts or extends the wording thereof. In view of the foregoing, the wording of patent claims is independent of wordings presented in other documents of a patent application. Other documents of a patent application have legal effect only if it is possible to prove and correct any obvious spelling and calculation mistakes in patent claims on the basis thereof.

§ 36. 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 inventions so linked as to form a single general inventive concept, patent claims consist of an independent claim characterising each 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 execute the process;

(4) If the patent claims consists of two or more claims, they are numbered in the order in which they occur (successive numeration).

(5) The independent claim of patent claims shall always be presented at the beginning of the patent application and numbered number 1.

(6) In the case of a group of inventions, all patent claims concerning one subject of invention are placed successively starting with the independent claim characterising 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. References to the description of an invention and the drawings or other illustrative material may not be used, unless unavoidably necessary. It is prohibited to replace features with references to the state of the art, description of the invention or drawings or other illustrative material.

(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 generalising 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 generalised 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.

(13) In event of a group of inventions, the first claim of patent claims is the main claim of the patent claims and the invention contained therein is directed at solving of the technical problem which is necessary from the point of view of the state of the art. The main claim of the patent

application is the basis for definition of the single general inventive concept. In order for the requirement of unity of invention to be complied with, other inventions belonging to the group must have technical connection with the invention contained in the main claim and they shall be subordinated to a single general inventive concept such that all inventions contained in independent claims of the patent application together constitute an integrate contribution to the state of the art.

§ 37. Independent claim of patent claims

(1) An independent claim of patent claims consists of a set of essential features, that is, features which are necessary and sufficient to obtain the specific 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 (subsection 27 (3)) shall be presented in the restrictive part except in the case when the invention shares no essential features with solutions known in the state of the art in its field.

(4) A restrictive part begins with the expression "differs in that ...", "which is characterised by ...", "further contains ..." or another suitable expression. The expressions "differs", "characterised 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 has no known analogues in the state of the art.

(6) An independent claim of patent claims shall not contain insignificant features, including negative features, for example, in the form "does

not contain element X". 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, an invention shall be considered not compatible with the criterion of patentability due to lack of inventive step, as a rule, because 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.

(7) An independent claim of patent claims may contain alternative features if this is unavoidable for obtaining of the specific technical result which is the purpose of the invention in all cases when patent protection is applied for. Alternative features may not be included in patent claims for the purposes of obtaining of an additional technical result if unity of the invention is violated thereby.

(8) Patent claims may contain only one independent claim of patent claims with regard to one invention. As an exception, the subject matter of an invention may be expressed with more than one independent claim if the character of the invention does not allow the subject-matter of the invention to be expressed with one claim. On the basis of subsection 10 (3) of the Patents Act, there may be more than one independent claim with regard to one invention in the following cases:

- 1) the invention consists of several products grouped together, for example, a lock and a key, a plug connector and a plug-in socket, in some cases, also a radio transmitter and receiver, etc.;
- 2) the device or other product is used for various purposes;
- 3) such alternative solutions to the technical problem exist as not to allow the subject matter of the invention to be covered by a single claim through alternative features. The requirement of unity of invention must be met in all abovementioned cases.

(9) In event of a group of inventions, patent claims may contain more than one independent claim in order to characterise the use of a device or other product, provided that the requirement of unity of invention is complied with.

(10) In event of a group of inventions, the main claim of the patent claims or the preceding independent claim is referred to in a following independent claim of the patent claims.

§ 38. 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) A dependent claim shall consist of a restrictive part and differentiating part as an independent claim, with the difference that an independent claim and other dependent claims which the dependent claim is subordinate to are referred to instead of the features of the restrictive part. The essential features which characterise special cases of making or using the invention (for example, "3. The device according to claims 1 and 2 which differs in that the frame is made of copper.") shall be presented in the differentiating part.

(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 characterise special cases of carrying out or using the invention. If the features of one or several other dependent claims are necessary to characterise the said special cases, indirect subordination of a dependent claim to an independent claim is used.

(4) Technical solutions contained in a dependent claim which specify the essential technical features of the invention included in the previous claim(s) of the patent claims may be both technical solutions known in the state of the art and independent inventions.

If an invention contained in an independent claim is patentable, then the non-patentability of a technical solution contained in a dependent claim or lack of unity shall not be taken into account.

§ 39. Particulars of patent claims pertaining to device

(1) In patent claims, a device shall be described in static state (subsection 31 (1) also applies to electric circuits and other schematics). 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 characterised through the function thereof ("a pin for the fixation of the position of the lever", etc.) on the condition that a person skilled in the art is capable of making the element independently.

(3) In patent claims, reference numbers of the elements represented on drawings or, in case of electric and other schemes, symbols of the elements (for example, symbols of electric circuit "R1", "C1", etc.) may be added to 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, unless unavoidably necessary.

§ 40. Particulars of patent claims pertaining to process

Verbs characterising 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.

§ 41. Specifications upon use of known device, process or material

In order to characterise the use for a novel purpose of a known device, process or material, including micro-organism strain, the novel purpose thereof shall be indicated in the independent claim of patent claims. In such case, the structure of patent claims is the following: the word "Using", a name allowing the identification of the device, process, material, including micro-organism strain or other biological material and the purpose of the use.

§ 42. 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 characterised 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 litre 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 emphasised.

(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.

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

If the biological material (e.g. gene, micro-organism 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 micro-organism strain in Latin);
- 2) registration number of the deposit given by the international depositary authority;
- 3) the name of the international depositary authority;
- 4) the practical purpose of the use of the material.

Division 5 Other Patent Application Documents

§ 44. Drawings or other illustrative material

(1) Drawings or other illustrative material shall be submitted if they are necessary for understanding the example of making the invention set out in 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 (technical drawings, schematics, graphs, diagrams, drawings, oscillograms, etc.), photographs, tables or charts.

(4) Drawings shall be submitted in case an invention cannot be illustrated with technical drawings or plans. As a rule, 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 and other illustrative material referred to in the description of the invention or patent claims shall be filed with the Patent Office upon filing a patent application. If a drawing or illustrative material referred to in the description of the invention or claims (or all or some of them in case of several drawings or illustrative materials) has been omitted from patent application documents for some reason upon filing the patent application with the Patent Office, it may be filed within two months as of the day of filing of the patent application. In such case, it must be taken into account that, pursuant to subsection 21 (7) of the Patents Act, the Patent Office will change the filing date of the patent application regardless of the reasons for failure to file the application and shall deem the date on which the Patent Office receives the drawing or other illustrative material that was missing to be the new filing date of the patent application. Drawings and other illustrative material referred to in the description of the invention or claims which was not filed earlier, as well as drawings and other illustrative material which are not referred to, which are filed after termination of the aforementioned term of two months shall be included in the patent application documents only if it is established in the course of the examination of the patent application that no violation of the provisions of subsection 25 (1) of the Patents Act is involved.

§ 45. Abstract of subject matter of invention

(1) The purpose of an 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 realise 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 obtained 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) A patent applicant may indicate at the end of the abstract of the subject matter of the invention the number of the image of the drawing or other illustrative material which, in the applicant's opinion, characterises the invention best.

§ 46. Payment of state fee and document certifying payment of state fee

(1) The state fee for filing a patent application and all subsequent state fees related to the processing of a patent application and the continued validity of a patent shall be paid into the bank account of the Patent Office designated for payment of state fees. The Patent Office shall publish the information concerning the bank account in the official gazette of the Patent Office and on the website of the Patent Office.

(2) In the case of patent applications with patent claims containing more than ten claims, a supplementary state fee shall be paid for each claim starting with the eleventh claim of the patent claims.

(3) If a patent applicant wishes to obtain copies of patent documents and other printed material an expert refers to in the course of the examination of the patent application, the applicant may additionally pay the corresponding state fee upon filing the patent application.

(4) The amount of state fee payable for the filing of a patent application is different depending on whether the applicant is a natural person or a legal person. If the patent applicant is a natural person or, in the case of several patent applicants, all applicants are natural persons, the state fee for filing a patent application shall be paid in a smaller amount than in a case when the patent applicant is a legal person or, in the case of several patent applicants, any of them is a legal person, pursuant to the provisions of § 121 of the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30, correction notice; 51, 352; 66, 449; 68, 461; 71, 471; 78, 527; 79, 530; 81, 545; 88, 589 and 591; 2004, 2, 7; 6, 31; 9, 52 and 53; 14, 91 and 92; 18, 131 and 132; 20, 141; 24, 165; 25, 170; 26, 173; 27, 177; 28, 189; 30, 205; 32, 226 and 228; 34, 236; 36, 251; 38, 257 and 258; 45, 315 and 317; 71, 502; 75, 521).

(5) If the state fee for the filing of a patent application is paid in an amount more than the prescribed rate in error, the Patent Office shall notify the applicant thereof. A person who pays a state fee has the right to be refunded the amount paid in excess of the prescribed amount.

(6) Concerning the payment of the state fee, the document certifying payment of the state fee specified in clause 7 (2) 4) of this Regulation which contains the following information shall be submitted to the Patent Office on paper:

- 1) the number and date of the payment document;
- 2) the name of the payer;
- 3) the amount paid;
- 4) a notation which clearly indicates that the state fee is paid for the filing of a patent application unless information concerning payment of the state fee is provided in the corresponding data field of the request for the grant of a patent;
- 5) the patent application number, the number of receipt of the patent

application in the Patent Office or the name of the invention unless information concerning payment of the state fee is provided in the corresponding data field of the request for the grant of a patent.

(7) A document certifying payment of the state fee shall clearly set out which agency or person prepared the document.

(8) If the document certifying payment of the state fee does not include a confirmation of the banking establishment, it shall have been signed by the person who signed the document.

§ 47. Authorisation document

(1) An authorisation document is issued to a patent agent or several patent agents for the filing of one or several patent applications or the performance of all or certain procedural acts related to application for a patent or continued validity of a patent. An authorisation document cannot be issued to a patent agent for carrying out of transactions performed in connection with disposal of ownership of an invention, including transfer of a patent application or a patent (registration) to another person, entry into pledge contracts and licence agreements, and other transactions.

(2) An authorisation document is issued to the joint representative if:

- 1) restriction of the scope of his or her authority is requested;
- 2) the joint representative has signed the request for the grant of a patent as a representative, or
- 3) a patent applicant has not signed the request for the grant of a patent;
- 4) the joint representative is designated after filing the patent application.

(3) An authorisation document 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 (patent 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 and surname of the natural person, in the case of a joint representative who is a legal person, the name of the legal person;
- 4) the scope of the authorisation, except in the case of a joint representative if restriction the scope of his or her authority is not

requested;

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

6) the term of the authorisation, if the authorisation is granted for a specified term;

7) the signature of the person represented;

8) the place and date of signing the authorisation document.

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

(5) On the basis of subsection 131 (1) of the Patents Act, only an authorisation granted directly to the patent agent by the patent applicant or, in the case of several patent applicants, to the joint representative shall apply. The right of representation cannot be accepted or transferred by delegation of authority even if such right is provided for in the authorisation document.

(6) If there are several patent applicants, all of them shall sign the authorisation document. Instead of a joint authorisation document, each patent applicant may file a separate authorisation document or some of them may file a joint authorisation document on the condition that the scope of authorisation is similar in all authorisation documents. A signature of the person represented 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 legal representative shall be added.

(7) Notarisation or legalisation of an original authorisation document is not required.

(8) If the date on which the term of validity of an authorisation commences is not specified in the authorisation document, the term of authorisation

shall commence as of the date of signing the authorisation document. If a patent agent submits the authorisation document after the performance of an act in the cases prescribed by law, the date of performing the act shall be deemed to be the date of granting authorisation on the basis of subsection 3 (1) of the Patents Act (RT I 2001, 27, 151; 93, 565; 2002, 53, 336; 2003, 88, 594), except if this is contrary to the content of the authorisation document or the authorisation document is invalid for another reason.

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

(10) If the patent agent specified in an authorisation document is not entered in the state register of patent agents or if he or she has not been awarded the qualification of a patent agent for operation in the area of inventions, the authorisation document shall be considered invalid.

(11) Upon performing procedures with the Patent Office, a request for the grant of a patent in which information required in § 13 of this Regulation is entered in data field 2 and which is signed, in the case of a joint representative, by all other patent applicants together with the joint representative or, in the case of a patent agent, by all patent applicants shall be considered a document certifying authorisation and substituting for an authorisation document. In such case, the performance of all acts related to the processing of a patent application and the continued validity of a patent, except transfer of ownership of invention to another person, shall be deemed to be the scope of authorisation of the joint representative and the patent agent.

(12) If authorisation documents issued to different persons are valid for the performance of the same act, the Patent Office shall send communications to the person authorised by the authorisation document issued more recently unless otherwise provided in the authorisation documents or another document concerning the authorisation.

§ 48. 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 Organisation or another agreement, originals of the documents certifying priority issued to the patent applicant by the patent office

which received the first patent application or registration application of a utility model 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.

§ 49. 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 micro-organism strain.

§ 50. General requirements for translations

(1) Translations of all documents included in a patent application shall correspond to the original documents.

(2) 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 correctness of the translation" and the signature of the translator or the patent agent. The signature shall be legible or deciphered in capital letters.

(3) If translation is made by a sworn translator, he or she may certify the translation pursuant to the procedure established for certification of translations made by a sworn translator, taking into consideration, however, that the means and requisites used for the certification shall not hinder making an unlimited number of copies of the documents using copying devices in general use.

(4) If a translated document is filed in several original copies, the declaration and signature specified in subsection (2) of this section shall be appended to the end of only one copy.

§ 51. Correctness of translation and corrections thereto

(1) Saving proof to the contrary, a translation is presumed to be correct until the contrary is proved.

(2) A patent 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 Patents Act shall be taken into account.

Division 6 Requirements for Completion of Patent Application Documents

§ 52. General requirements for completion of text documents

(1) All patent application documents shall be completed and submitted on dense matt strong and flexible 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, sequence listing and abstracts of the subject matter of invention shall be:

- 1) top margin - 20 mm;
- 2) left margin - 25 mm;
- 3) right margin - 20 mm;
- 4) bottom margin - 20 mm.

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

- 1) top margin - 40 mm;
- 2) left margin - 40 mm;
- 3) right margin - 30 mm;
- 4) bottom margin - 30 mm.

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

(7) Every fifth text line of the description of an invention and patent claims shall preferably be numbered on the right side of the left margin. Line spaces which separate text paragraphs, or blank rows shall not be

deemed to be text lines and shall not be numbered.

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

(9) 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 with all copying devices in general use.

(10) No document sheet may be stained or crumpled. They shall not contain visible paper defects, folding lines, stains, spots or lines resulting from typing or copying, or other defects which appear during further copying.

(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.

§ 53. 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 and patent claims shall be in compliance with the requirement of uniform terminology (i.e. terms used in the description of an invention and patent claims shall be the same). The

requirement of uniform technology 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 (%), the symbol of temperature ($^{\circ}\text{C}$, etc.) and other similar symbols shall be used only following a number. The words "per cent", "degree", etc. shall be used in the text correspondingly and not expressions such as for example "temperature rises by some % or $^{\circ}\text{C}$ " or "volume increases $2\times$ ".

§ 54. 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 patent applicant shall not be included in the description of an invention or other patent application documents.

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

§ 55. Chemical formulae

(1) Chemical formulae may be presented 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.

§ 56. 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) 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.

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

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

(5) Upon expression of quantities as a percentage, the percentage sign (%) and unit of measurement shall be used following a number. The percentage sign and symbols of measurement units shall not be used in the text (subsection 53 (6)).

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

§ 57. Requirements for format of drawings or other illustrative material

(1) Any type of drawings or illustrations (schemes, tables, diagrams, graphs, drawings, oscillograms, etc.) shall be made, pursuant to the requirements of technical drawing, with black non-erasable lines without shadings or colourings using drawing instruments and shall be submitted on dense matt strong and flexible white paper in format A4 (210 x 297 mm). Drawings or other illustrative material may not be prepared with relief surface or in any other technique three-dimensionally.

(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 and bottom margin - 10 mm. The usable surface area of drawings shall not exceed 262 × 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 drawings (for example, the image of a trade mark on a drawing of a device, etc.). 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 an invention, the image need not be numbered.

(14) Upon numbering the sheets of drawings, 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 centre 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 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 the drawing).

(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 $\frac{2}{3}$ 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. This serves to emphasise 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) Photographs shall be filed in black-and-white. Representations on photographs must be distinguishable and adequately contrasted so that high-quality copies can be made of the photographs. The format of a photograph shall not exceed format A4.

Smaller photographs shall be attached (glued or copied) to a white sheet

of paper in format A4.

(20) If a drawing or other illustrative material in the initially filed patent application contains text in a foreign language, or if drawings or illustrative material of an earlier application which contain text in a foreign language are used as drawings or other illustrative material, the text in the foreign language shall be replaced by the text in Estonian.

(21) No sheet of drawings or other illustrative material may be stained or crumpled. They shall not contain visible paper defects, folding lines, stains, spots or lines resulting from tying or copying, or other defects which appear during further copying. Drawings shall not be folded or rolled up.

Chapter 5 Procedure for Filing of Patent Applications

§ 58. Filing of patent applications

(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 application documents shall not be accepted by fax or other electronic means.

§ 59. Filing of patent application by patent 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 then perform procedures related to the processing of the patent application independently on the basis of the provisions of subsection 131 (1) of the Patents Act or authorise a patent agent to represent them.

§ 60. Filing of patent application by patent 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, on the basis of the provisions of subsection 131 (2) of the Patents Act.

(2) Persons whose residence or seat is outside the Republic of Estonia perform, on the basis of the provisions of subsection 131 (2) of the Patents Act, procedures related to the processing of the patent application with the Patent Office only through a patent agent.

§ 61. Filing of patent application by several patent applicants

(1) If two or more patent applicants, all of whom reside or have their seat in the Republic of Estonia are indicated in a patent application, such applicants may file a patent application with the Patent Office independently. They may authorise a joint representative from among

themselves on the basis of the provisions of subsection 131 (3) of the Patents Act for performance the subsequent procedures related to the processing of the application with the Patent Office. Patent applicants may also authorise a patent agent to represent them.

(2) If the residence or seat of all patent applicants indicated in a patent application is in a foreign state, such applicants may file a patent application with the Patent Office independently. They shall authorise a patent agent to represent them on the basis of the provisions of subsection 131 (2) of the Patents Act for performance of the subsequent procedures related to the processing of the application with the Patent Office.

(3) If there are persons among the patent 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 file a patent application with the Patent Office independently. However, they shall authorise a patent agent to represent them on the basis of the provisions of subsection 131 (2) of the Patents Act or they shall authorise a person whose residence or seat is in the Republic of Estonia from among themselves (a joint representative) on the basis of the provisions of subsection 131 (3) of the Patents Act for performance of the subsequent procedures related to the processing of the application with the Patent Office. Patent applicants may also authorise a patent agent as their representative.

(4) In order to authorise a joint representative, patent applicants may indicate the joint representative in the request for the grant of a patent upon filing of a patent application, pursuant to the provisions of subsection 47 (11) of this Regulation. In order to authorise a joint representative in the course of processing or alter the joint representative, patent applicants shall file a joint authorisation document.

(5) If patent applicants have not authorised a patent agent or have not indicated a joint representative in the request for the grant of a patent or have not authorised a joint representative later in a case specified in subsection (1) or (3) of this section, the Patent Office shall consider the patent applicant whose residence or seat is in the Republic of Estonia indicated first in the request for the grant of a patent to be the joint representative.

§ 62. Filing of document certifying payment of state fee

(1) The document certifying payment of the state fee shall generally be filed with the Patent Office upon filing a patent application. Filing of the document certifying payment of the state fee together with the patent application is not required if the information concerning payment of the state fee is set out in the request for the grant of a patent in pursuance of § 19 upon filing of the patent application.

(2) If no document certifying payment of the state fee has been annexed to the patent application and the information concerning payment of the state fee has not been entered on the request for the grant of a patent pursuant to § 19, the document certifying payment of the state fee shall be filed with the Patent Office within two months as of the filing date of the patent application, on the basis of subsection 20 (2) of the Patents Act. The specified term shall not be extended or restored.

(3) The document certifying payment of the state fee shall be filed with the receiving section of the Patent Office in person or by post. It 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.

(4) If state fee is paid by several persons at different times, the state fee is deemed to be paid by the person whose document certifying payment of the state fee arrived at the Patent Office first.

(5) In the case of doubt, the Patent Office may verify payment of the state fee to the bank account of the Patent Office. If state fee has not been received into the bank account of the Patent Office or if the information concerning payment of the state fee submitted to the Patent Office pursuant to this section does not agree with the information of the bank account of the Patent Office, the Patent Office may require that the patent applicant submit a document certifying payment of the state fee confirmed by the banking establishment for the purpose of verification of payment of the state fee. The date of receipt of the state fee has no legal effect in the course of processing a patent application, on the basis of subsection 41 (2) of the Patents Act.

§ 63. Submission of authorisation document

(1) An authorisation 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 or the joint representative.

(2) If an authorisation document is not filed upon filing of a patent application, it is recommended to file it as soon as possible. If the authorisation document is not filed on own initiative, it shall be filed by the due date set by the Patent Office on the basis of subsection 251 (1) of the Patents Act.

(3) Subsection (2) of this section also applies in event of a patent applicant whose residence or seat is outside the Republic of Estonia if he or she files a patent application independently.

§ 64. Submission of documents certifying priority claim

(1) Documents certifying the priority claim shall be filed together with the patent application upon filing thereof with the Patent Office.

(2) If documents certifying a priority claim are not appended to a patent application, such documents shall be filed, pursuant to the provisions of subsection 201 (2) of the Patents 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 or if subsections 201 (4) and (5) of the Patents Act apply.

(4) Translations of documents certifying a priority claim into Estonian shall be filed pursuant to subsection 201 (6) of the Patents Act at the request of the Patent Office on the basis of subsection 23 (2) of the Patents Act within the term set by the Patent Office. On the basis of subsection 19 (6) of the Patents Act, the Patent Office has the right to require that translations be submitted within two months as of the date of the request. In the latter case, the term for submission of translations cannot be extended.

(5) If a patent applicant requests earlier publication of a patent application on the basis of subsection 24 (3) of the Patents Act, the applicant shall file the documents certifying the priority claim with the Patent Office not later than one month prior to the date of publication of the patent application requested by the applicant.

§ 65. Submission of document certifying deposit of biological material

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

(2) If the certificate of a deposit has not arrived from the international depositary authority by the filing date of a patent application, it is recommended to file it as soon as possible. If the certificate of a deposit is not filed on own initiative, it shall be filed by the due date set by the Patent Office pursuant to subsection 22 (7) of the Patents Act, but not later than within sixteen months from the filing date of the patent application.

(3) If a patent applicant requests earlier publication of a patent application on the basis of subsection 24 (3) of the Patents 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 6 Separation of Invention from Patent Application and Procedure for Filing of Separated Patent Application

§ 66. Definition of separation of invention from patent application

(1) An invention shall be separated from the patent application in the following cases:

- 1) the patent applicant wishes to file an independent patent application concerning an invention contained in the description of the invention or patent claims on own initiative;
- 2) the Patent Office requires that an invention which violates the requirement of unity contained in patent claims be separated on the basis of subsection 9 (3) of the Patents Act.

(2) An invention shall be deemed to be separated from a patent application if the patent applicant submits a new text of patent claims and, generally, a new description of the invention (hereinafter remaining part) from which all parts concerning the invention which is separated have been eliminated concerning a patent application which is being processed (hereinafter initial patent application).

(3) The provisions of § 25 of the Patents Act concerning the correction or amendment of a patent application apply with regard to the remaining part.

§ 67. Term of separation

(1) A patent applicant may separate an independent patent application from a patent application on own initiative during the entire period when the initial patent application is being processed, by filing the remaining part of the patent application with the Patent Office as corrections and amendments in accordance with § 25 of the Patents Act and at the same time notifying the Patent Office of the intention of filing of a separate patent application.

(2) In event of violation of the unity of an invention, the patent applicant shall separate the part which violates the unity of the invention from the initial patent application and shall file the remaining part within the term set by the Patent Office on the basis of subsection 9 (3) of the Patents Act.

§ 68. Term of filing of separated patent application

(1) The term of filing of a separated patent application shall be not

later than six months as of completion of the processing of the initial patent application continued on the basis of the remaining part.

(2) On the basis of the provisions of subsection 9 (2) of the Patents Act, the beginning of the term of six months for filing of a separated patent application is calculated as of completion of the processing of the remaining part of the initial patent application as follows:

1) in event of issue of a patent, as of the publication of the corresponding notice in the Eesti Patendileht⁴;

2) in event of rejection of the patent application, as of the date of the corresponding decision of the Patent Office;

3) if a patent application is withdrawn or deemed to be withdrawn, as of the date on which it is withdrawn or deemed to be withdrawn.

§ 69. Filing of separated patent applications

(1) All requirements established to patent applications by this Regulation and the specifications established in this section shall apply to separated patent applications.

(2) For distinguishing of a separated patent application, the filing date of the initial patent application and the number of the patent application shall be marked in data field 7 of the request for the grant of a patent, in pursuance of the provisions of subsection 18 (4).

(3) Nothing which does not correspond to the subject matter of the separated invention set out in the initial patent application may be added to the separated patent application, on the basis of subsection 9 (2) of the Patents Act. If a separated application is not in compliance with the abovementioned requirements, the actual date of filing of the separated patent application with the Patent Office shall be determined therefor instead of the filing date of the initial patent application, as selected by the applicant, or the provisions of subsection 25 (3) of the Patents Act apply.

(4) In event of a separated patent claim, the term of payment of the state fee for filing a patent application provided for in subsection 20 (2) of the Patents Act shall be calculated on the basis of the actual filing date of the separated patent application with the Patent Office.

§ 70. Payment of state fee for year of validity upon filing of separated patent applications

(1) In event of a separated patent application, state fees for the years of validity shall also be paid for all preceding years of validity within two months as of the actual filing date of the separated patent application with the Patent Office in addition to the state fee specified in subsection 69 (4) pursuant to the provisions of subsection 42 (10) of the Patents Act.

(2) The filing date of the initial patent application shall be the basis for the calculation of years of validity of a separated patent application. If the initial patent application is based on an international application, the international filing date shall be the filing date of the initial patent application.

(3) If, in the case of a year of validity the due date of payment for which has passed, the term of six months for the payment of state fee together with a supplementary state fee has not yet passed, the state fee for such year of validity may be paid without a supplementary state fee within two months as of the actual filing date of a separated patent application with the Patent Office. If a state fee for the year of validity is not paid within the specified two months' period in the abovementioned case, it may be paid together with a supplementary state fee until the end of the six months' period provided for in subsection 42 (3) of the Patents Act.

Chapter 7 Implementing Provision

§ 71. Repeal of Regulation

Regulation No. 100 of the Minister of Economic Affairs and Communications of 11 June 2003 "Requirements for Format and Content of Patent Applications and Procedure for Filing of Patent Applications" is repealed.