

i.	<b>लघु अस्तित्व संबंधी स्थिति का दावा करने हेतु:</b>	
	(क) भारतीय आवेदकों के लिए: सूक्ष्म लघु और मध्यम उद्यम अधिनियम, 2006 (2006 का 27) के तहत पंजीकरण का साक्ष्य। (ख) विदेशी इकाई के मामले में: पात्रता के साक्ष्य के रूप में कोई भी दस्तावेज।	
ii.	<b>स्टार्टअप संबंधी स्थिति का दावा करने हेतु:</b>	
	(क) भारतीय आवेदक के लिए: औद्योगिक नीति एवं संवर्धन विभाग से मान्यता का प्रमाणपत्र (ख) विदेशी इकाई के मामले में: पात्रता के साक्ष्य के रूप में कोई भी दस्तावेज।	
iii.	<b>सरकारी उपक्रम संबंधी स्थिति का दावा करने हेतु:</b>	
	(क) भारतीय आवेदक के मामले में: पात्रता के साक्ष्य के रूप में कोई भी दस्तावेज। (ख) विदेशी इकाई के मामले में: पात्रता के साक्ष्य के रूप में कोई भी दस्तावेज।	
iv.	<b>केवल प्रकृत व्यक्तियों के मामले में, आवेदक या आवेदकों में से कम से कम एक आवेदक महिला होने पर त्वरित परीक्षण का दावा करने हेतु:</b>	
	(क) भारतीय आवेदक के मामले में: पात्रता के साक्ष्य के रूप में सक्षम प्राधिकारी द्वारा जारी फोटो पहचान पत्र (ख) विदेशी आवेदक के मामले में: पात्रता के साक्ष्य के रूप में सक्षम प्राधिकारी द्वारा जारी फोटो पहचान पत्र	
v.	त्वरित परीक्षण का दावा करने के लिए आवेदक भारतीय पेटेंट कार्यालय और अन्य प्रतिभागी पेटेंट कार्यालय के बीच हुए करार के अनुसार अन्तर्राष्ट्रीय आवेदन पर कार्रवाई के लिए व्यवस्था के तहत पात्रता के साक्ष्य के रूप में:	
	नियंत्रक द्वारा यथा अपेक्षित घोषणा और दस्तावेज	
3.	शपथ	इसमें दी गयी सूचना मेरी/हमारी जानकारी और विश्वास के अनुसार सही है।  दिनांक .....दिन ..... 20...
4.	आवेदक (आवेदकों)/पेटेंटधारक (पेटेंटधारकों)/ प्राधिकृत पंजीकृत पेटेंट एजेंट द्वारा हस्ताक्षर किया जाना अपेक्षित। हस्ताक्षरकर्ता प्रकृत व्यक्ति का नाम	हस्ताक्षर .....

[फा. सं. 09/26/2015-आईपीआर-III]

राजीव अग्रवाल, संयुक्त सचिव

**MINISTRY OF COMMERCE AND INDUSTRY**  
**(Department of Industrial Policy and Promotion)**

**NOTIFICATION**

New Delhi, the 4th December, 2018

**G.S.R. 1172(E).**—The following draft rules to further amend the Patents Rules, 2003 which the Central Government proposes to make in exercise of the powers conferred by section 159 of the Patents Act, 1970, are hereby published as required by sub-section (3) of the said section for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft rules will be taken into consideration after the expiry of a period of thirty days from the date on which copies of the Gazette of India, in which this notification is published, are made available to the public.

Objections or suggestions, if any, may be addressed to Shri Sushil K Satpute, Director, DIPP, Ministry of Commerce and Industry, Government of India, Udyog Bhawan, New Delhi-110011 or by e-mail at sushil.satpute@nic.in.

The objections and suggestions, which may be received from any person with respect to the said draft rules before the expiry of the period so specified, shall be considered by the Central Government.

#### DRAFT RULES

(1) These rules may be called the Patents (Amendment) Rules, 2018.

(2) In the principal rules, after sub-rule (2) of rule 18, the following proviso shall be inserted, namely:-

“Provided that, in respect of international application, a patent agent shall file, leave, make or give all documents including scanned copies that are required to be submitted in original, only by electronic transmission duly authenticated;”

“Provided further that the original documents, if required to be submitted in original, shall be submitted within a period of fifteen days; failing which such documents shall be deemed not to have been filed”.

(3) In the principal rules, in sub-rule (1) of rule 24 C, clause (b) shall be substituted, as follows:-

“(b) that the applicant is a startup; or

(c) that the applicant is a small entity as defined in rule 2(fa) of the principal rules; or

(d) that in case of natural persons only, the applicant or at least one of the applicants is a female; or

(e) that the applicant is a government undertaking in accordance with clause (h) of sub-section (1) of section 2 of the Act in case of an Indian applicant, or is a similar entity in case of a foreign applicant.

Explanation:- The term ‘substantially financed’ in sub-clause (iv) of clause (h) of sub-section (1) of section 2 of the Act shall have the same meaning as in the Explanation to sub-section (1) of section 14 of the Comptroller and Auditor-General’s (Duties, Powers and Conditions of Service) Act, 1971, or

(f) that the applicant is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office with another participating patent office.

Explanation: The patentability of patent applications filed under clause (f) above will be in accordance with the relevant provisions of the Act.”

(4) In the principal rules, in sub-rule (4) of rule 24-C, the following proviso shall be inserted:

Provided that if such requirements are met before issuance of FER, the application shall be processed for expedited examination in accordance with the provisions of rule 24-C.

(5) In rule 55 of the principal rules,

(i) after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(2A) The Controller shall, by order, constitute a bench comprising two members, who shall proceed to dispose of the application and the representation jointly:

Provided that if the members of the bench differ in opinion on any issue, the Controller shall nominate a third member to the bench and subsequently the majority decision will be treated as final.”

(ii) in sub-rules (3) and (5), for the word “Controller”, wherever it occurs, the word “bench” shall be substituted.

(6) In THE FIRST SCHEDULE of the principal rules,-

(a) after entry number 48, the following entry shall be inserted, namely:-

“48A	Transmittal fee for International application (for e PCT filing).	No fee	No fee	No fee	Not applicable	Not applicable	Not applicable”;
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(b) after entry number 49, the following entry shall be inserted, namely:-

“49A	For preparation of certified copy of priority document and e-transmission through WIPO DAS	No fee	No fee	No fee	Not applicable	Not applicable	Not applicable”.
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(7) In THE SECOND SCHEDULE of the principal rules,-

(i) In Form 18A, for para 3, the following shall be substituted, namely:-

3. The applicant(s) to indicate (by ticking the appropriate box) any of the grounds applicable for request for expedited examination:
<input type="checkbox"/> that the applicant is a startup, or
<input type="checkbox"/> that India has been indicated as the competent International Searching Authority or elected as an International Preliminary Examining Authority in the corresponding international application; or
<input type="checkbox"/> that the applicant is a small entity; or
<input type="checkbox"/> that the applicant is a Government undertaking in accordance with
a) Sec 2(h)(i) ( )
b) Sec2(h)(ii) ( )
c) Sec2(h)(iii) ( )
d) Sec2(h)(iv) ( ); or
<input type="checkbox"/> that in case of natural persons only, the applicant or at least one of the applicants is a female; or
<input type="checkbox"/> that the applicant is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office with another participating patent office.

(iii) In the Note portion of Form 18A, the following shall be added, namely:

“Form 28 is to be mandatorily submitted if applicant avails expedited examination under any of the clauses (b) to (f) of sub-rule (1) of rule 24C”.

<b>FORM 28</b> <b>THE PATENTS ACT, 1970</b> <b>(39 of 1970)</b> <b>AND</b> <b>THE PATENTS RULES, 2003</b> <b>TO BE SUBMITTED BY AN APPLICANT AVAILING EXPEDITED EXAMINATION</b> <b>[See Section 2(1)(h) and rules 2(fa), (fb), 7 and 24 C (1) (b-f)]</b>		
1	Insert name, address and nationality.	I/We ..... applicant/ patentee in respect of the patent application no. ....or patent no..... hereby declare that I/we am/are a small entity or a startup or a Government undertaking or that in case of natural persons only, the applicant or at least one of the applicants is a female; or that the applicant is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office with another participating patent office and submit the following document(s) as proof:
2	Documents to be submitted as evidence of eligibility:	
<b>i.</b>	<b>For claiming the status of a small entity:</b>	
	A. For an Indian applicant: Evidence of registration under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006). B. In case of a foreign entity: Any document as evidence of eligibility	
<b>ii.</b>	<b>For claiming the status of a startup:</b>	
	A. For an Indian applicant: The certificate of recognition from Department of Industrial Policy and Promotion B. In case of a foreign entity: Any document as evidence of eligibility	
<b>iii.</b>	<b>For claiming the status of a Government undertaking:</b>	
	A. In case of Indian applicant: Any document as evidence of eligibility B. In case of a foreign applicant: Any document as evidence of eligibility	

iv.	<b>For claiming expedited examination in case of natural persons only, the applicant or at least one of the applicants is a female:</b>	
	A. In case of Indian applicant: Photo identity card issued by competent authority as evidence of eligibility. B. In case of a foreign applicant: Photo identity card issued by competent authority as evidence of eligibility.	
v.	<b>For claiming expedited examination an applicant is eligible under an arrangement for processing an international application pursuant to an agreement between Indian Patent Office with another participating patent office as evidence of eligibility:</b>	
	Declarations and documents as maybe required by the Controller.	
3.	Undertaking	The information provided herein is correct to the best of my/our knowledge and belief.  Dated this .....day of ..... 20...
4.	To be signed by the applicant(s) / patentee (s) / authorised registered patent agent. Name of the natural person who has signed.	Signature .....

[F.No. 09/26/2015-IPR-III]

RAJIV AGGARWAL, Jt. Secy.