



South Africa

Patent Requirements

International Arrangements:

- Paris Union (from 1 December 1947)
- Convention on Establishing the World Intellectual Property Organisation (WIPO)
- PCT (from 16 March 1999)

Types of Patents Available:

- Patents of Invention
- Patents of Addition
- National Phase PCT application

Novelty Requirements:

Absolute Novelty is required. Novelty is destroyed by:

- all matter which has been made available to the public anywhere by written or oral description, by use or in any other way before the priority date;
- matter contained in a South African patent application both as lodged and as open to public inspection if the priority date of that matter is earlier than the priority date of the invention; and
- secret use on a commercial scale in South Africa before the priority date.

Exceptions: Disclosure or use which was made without the inventor's/assignee's knowledge or consent, and working of the invention in South Africa by way of reasonable technical trial or experiment, by the inventor or assignee.

Patentability:

A discovery; a scientific theory; a mathematical method; a literary, dramatic, musical or artistic work or any other aesthetic creation; a scheme, rule or method for performing a mental act, playing a game or doing business; a program for a computer; or the presentation of information are not patentable. However, an invention incorporating one or more of these items as a feature of the invention may still be patentable.

A patent will not be granted for a plant, or an animal or an essentially biological process for the production of an animal or a plant, unless it is a microbiological process or the product of such a process. It is, however, possible to obtain protection for plant varieties by the grant of plant breeders' rights.

Methods of treatment of the human or animal body by surgery or therapy or diagnosis are not patentable. However, a substance or composition for use in such a method is patentable even if the substance or composition itself is known.

Filing Requirements:

Ordinary Applications

Minimum formal filing requirements:

- Name(s) and address(es) of applicant(s).
- Name(s) and address(es) of inventor(s).
- Specification and claims in the language of any Paris Convention country together with any drawings.
- Number date and country of the basic application if Paris Convention priority is to be claimed.

Full formal filing requirements (including time limits):

- Name(s) and address(es) of applicant(s) (required for filing).
- Name(s) and address(es) of inventor(s) (required for filing).
- Specification, claims and abstract in the language of any Paris Convention country together with any drawings (required for filing).

Note: A foreign language specification must be supplemented with a certified English translation thereof (3 months from filing).



South Africa (continued)

Patent Requirements

- Declaration and Power of Attorney (form P.3) signed by or on behalf of the applicant - no legalisation required (6 months from filing).
- Statement on the Use of Indigenous Biological Resource, Genetic Resource, Traditional Knowledge or Use (form P.26) signed by or on behalf of the applicant - no legalisation required (6 months).
- Assignment from inventor where an assignee is the applicant - no legalisation required (18 months from filing date).
- Assignment of priority rights where the applicant in South Africa differs from the applicant in the Paris Convention country - no legalisation required (18 months from filing date).
- Certified copy of the basic application where Paris Convention priority is claimed, together with a verified English translation where necessary (6 months from filing date).
- The class into which the invention falls under the International Patent Classification (18 months from filing date).

Requirements for filing urgent Paris Convention applications:

- Name and address of applicant.
- Number, date and country of the basic application in a Paris Convention country.
- Title of the invention.

Note: An urgent filing must be supported within 14 days by a specification and claims in the language of any Paris Convention country together with any drawings.

National Phase Applications under the PCT

Minimum formal filing requirements:

- Name(s) and address(es) of applicant(s).
- Name(s) and address(es) of inventor(s).
- Number date and country of the basic application if Paris Convention priority is to be claimed.
- International application number and filing date

Full formal filing requirements (including time limits):

- Name(s) and physical address(es) of applicant(s) (required for filing).
- Name(s) and address(es) of inventor(s) (required for filing).
- Translation into English of specification, claims and textual matter of drawings (only if filed or published in a language other than English), including any amendments made under PCT Rules 19 and 34 (3 months).
- Declaration and Power of Attorney (form P.3) signed by or on behalf of the applicant - no legalisation required (6 months).
- Statement on the Use of Indigenous Biological Resource, Genetic Resource, Traditional Knowledge or Use (form P.26) signed by or on behalf of the applicant - no legalisation required (6 months).
- Assignment of invention (where an assignee is the applicant) - no legalisation required (12 months).
- Assignment of priority rights (where the South African applicant differs from the priority applicant) (12 months).
- Certified copy of the priority application where Paris Convention priority is claimed, if not filed with the PCT Receiving Office in terms of PCT Rule 17.1 (6 months).
- Copy of published specification, International Search Report and International Preliminary Examination Report, as well as any amendments made during the International phase, for our file.
Note: The deadline for filing national phase applications in terms of PCT Chapter I and Chapter II is 31 months from the earliest priority date. This deadline may be extended by 3 months to 34 months from the earliest priority date.

The term of a South African patent is 20 years from the date of filing, in the case of ordinary patent applications, or from the international filing date in the case of national phase applications, subject to the payment of annual renewal fees from the third year following filing.

Extension of the patent term or extension of protection by way of Supplementary Protection Certificates cannot be obtained.