

立法會
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Subcommittee on Patents (General) (Amendment) (No. 2) Rules 2002

**Examples of provisions on time limits in the
Patents Ordinance (Cap. 514) and the Patents (General) Rules (Cap. 514 sub. leg.)**

Provision in the Patents Ordinance	Act to be done under the provision	Time limit for doing the act	Consequence for non-compliance with time limit
Section 15	Filing of request to the Registrar of Patents to record a designated patent application in the register	Within 6 months after the date of publication of an application in a designated patent office for a patent	The request shall not be dealt with as an application for a standard patent in Hong Kong
Section 18	Correcting deficiencies as regards the minimum requirements for the accordance of a date of filing a request to record a designated patent application	Within 1 month of the date the Registrar communicates the deficiencies to the applicant and the time limit cannot be extended (sections 16 and 100 of the Patents (General) Rules)	The request to record a designated patent application will not be dealt with as application for a standard patent
Section 19	Correcting deficiencies as regards the formal requirements of a request to record a designated patent application	Within 2 months from the date the Registrar notifies the applicant to remedy the deficiencies and the Registrar may extend the time limit (section 17 of the Patents (General) Rules)	Application for a standard patent will be refused or deemed to be withdrawn

Provision in the Patents Ordinance	Act to be done under the provision	Time limit for doing the act	Consequence for non-compliance with time limit
Section 23	Filing of request for registration of a designated patent granted in a designated patent office and grant of a standard patent in Hong Kong	Within 6 months after the date of grant of the designated patent by the designated patent office or publication of the request to record a designated patent application, whichever is the later	The application shall be deemed to be withdrawn
Section 25	Correcting deficiencies as regards the requirements for the accordance of a date of filing the request for registration of a designated patent and grant of a standard patent	Within 1 month of the date the Registrar communicates the deficiencies to the applicant and the time limit cannot be extended (sections 23 and 100 of the Patents (General) Rules)	Application for a standard patent will be refused or deemed to be withdrawn
Section 26	Correcting deficiencies as regards the formal requirements of the request for registration of a designated patent and grant of a standard patent	Within 2 months from the date the Registrar notifies the applicant to remedy the deficiencies and the Registrar may extend the time limit (section 24 of the Patents (General) Rules)	Application for a standard patent will be refused or deemed to be withdrawn
Section 29	Application for restoration of rights lost because of failure to comply with time limit	Application shall be made not later than 1 year after the expiry of the original time limit or 2 months after the removal of the cause of non-compliance with the time limit, whichever is the earlier. The Registrar may by regulation amend the above periods	Applicant will lose the right to restore his rights

Provision in the Patents Ordinance	Act to be done under the provision	Time limit for doing the act	Consequence for non-compliance with time limit
Section 43	Amendment of standard patent following opposition or revocation proceedings in a designated patent office	Filing of a verified copy of the amended specification within 3 months from the date of the amendment in the designated patent office, or the date of grant of the standard patent, whichever is the later and the time limit cannot be extended (sections 35 and 100 of the Patents (General) Rules)	No amendment will be allowed under section 43
Section 46	Amendment of specification of patents allowed by courts	Filing of the court order and supporting documents within 1 month of the making of the court order and the time limit cannot be extended (sections 39 and 100 of the Patents (General) Rules) ¹	The Patents (General) Rules require the court order to be filed within one month of the making of the order, failing which the Registrar cannot record the amendments to the specification of the patent
Section 48	Giving to the Registrar notice of opposition to the surrender of patent	Within 2 months from the date when details of the notice to surrender a patent are advertised by the Registrar in the Gazette and the time limit cannot be extended (sections 40 and 100 of the Patents (General) Rules)	No notice of opposition can be given

¹ Section 39(1) of the Patents (General) Rules and such part of section 100(2) of the Rules as refers to section 39(1) have been ruled by the Court of Final Appeal as *ultra vires* and of no legal effect (*Merck Sharp & Dohme Limited v The Registrar of Patents* (FACV No. 11 of 2002))

Provision in the Patents Ordinance	Act to be done under the provision	Time limit for doing the act	Consequence for non-compliance with time limit
Sections 51 and 87	Registration of transactions, instruments or events affecting rights in or under patents	Application for registration of the particulars of the transactions, instruments or events to be made before the end of the period of 6 months beginning with its date, or as soon as practicable thereafter if the court is satisfied that it was not practicable for such an application to be made before the end of that period	Patent proprietor is not entitled to damages or an account of profits in respect of any patent infringement occurring after the date of the transaction, instrument or event and before the particulars of the transaction, etc. are registered
Section 114	Correcting deficiencies as regards the minimum requirements for the accordance of a date of filing a short-term patent application	Within 1 month from the date the Registrar communicates the deficiencies to the applicant and the time limit cannot be extended) (sections 67 and 100 of the Patents (General) Rules)	Application for short-term patent will not be dealt with
Section 115	Correcting deficiencies as regards the formal requirements of short-term patent applications	Within a period of 2 months from the date the Registrar notifies the applicant to remedy the deficiencies and the Registrar may extend the time limit (section 68 of the Patents (General) Rules)	Application for short-term patent will be refused or deemed to be withdrawn

