

Patent Act 1970 UPSC Notes

The Indian Patent Act 1970 illustrates that an innovation, which might be a product or a procedure that generally provides a unique method of performing a task or the latest innovative solution for a problem, is given an exclusive license by way of a patent. Technical details concerning the innovation must be publicly disclosed in a patent filing in order to obtain one.

Indian Patent Act 1970 UPSC

- The history of Indian patent law began with the passage of Indian Patents and Designs Act, of 1911, in that year.
- The Patent Act 1970 is the statute that still governs patents in India. It first went into effect in 1972.
- The Department of the Controller General of Patents, Designs, and Trademarks, or CGPDTM, is responsible for monitoring the Indian Patent Act 1970.
- The Patent Office has offices in Mumbai, New Delhi, Chennai, and Calcutta in addition to its headquarters there. The headquarters of the CGPDTM are in Mumbai. Both the National Institute for Intellectual Property Management and the Patent Information System center are situated in Nagpur.
- The Controller General supervises the Act's implementation and provides advice to the executive branch on relevant issues.

What is Patent?

A patent can be described as the sole right granted to an invention which can be any product or technique that helps to enhance how something can be done more effectively or merely offers a solution to an issue. It offers the patent holder protection for the invention. The Indian Patent Act 1970 illustrates the rules and provisions pertaining to patents.

During the duration of the patent's protection, the owner of the patent has the authority to decide who is and is not permitted to utilise the innovation. If the patent holder is fine then other parties may be granted a licence to use the innovation under mutually agreed-upon terms by the patentee. The proprietor may also transfer the ownership of the innovation to a third party who will thereafter have the rights of the patent. The innovation is no longer under the owners' exclusive control after the patent expires and reaches the public realm making it available for commercialisation by others.

What are the types of Patents?

The patent is given for a limitless 20-year duration. Without any permission of the patentee, the innovation cannot be made, utilised, disseminated or marketed for a profit. There are a total of three types of patents in India such as the Ordinary patent application, convention patent application, and OCT national phase patent application. Let's discuss all three types of patents in detail-

1. Ordinary Patent Application

Ordinary patent applications with partial or complete specifications can be submitted in India. It also distinguishes itself from other patents by not claiming a reference from any other application. The specification is a statement of Technical disclosure that enables the average skilled person to implement an innovation.

2. **Convention Patent Application**

Within a year after the relevant date the convention application must be submitted in India with a statutory declaration and an assertion of priority.

3. **PCT National Phase Patent Application**

Following a pct application filed at w IPO within about 31 months of the relevant date, the national step patent request must be filed with India in line with the strict English language standards. The English translation of the essential papers must be submitted within 31 months of the date of the earliest primary consideration or within 3 months of the controller's demand.

Patent Law Amendment Act 2005

The Patents (Amendment) Bill 2005 was approved by the Indian Parliament, replacing the Patents (Amendment) Ordinance 2004 that had previously been issued by the Indian government in December 2004. Important aspects of the 2005 Patent (Amendment) Act that affect product patents include:

- The expansion of goods patent rights to include goods in the chemical, food, and pharmaceutical industries.
- A product patent should be valid for a period of twenty years.
- The creation of a clause that permits the granting of a mandatory license for the export of medicines to nations with completely inadequate or no production capabilities, provided that the procurement of patent-protected pharmacological products manufactured in India has been authorized in some other way by the importing nation, such as by notification (as Per the Doha Declaration on TRIPS and Global Health).

Importance of Intellectual Property Rights

IPR stands for Intellectual Property Rights. Intellectual property rights are popularly known as IPR a rights granted to people over their creative works that include artistic productions, literary productions, and inventions like symbols names and pictures to be used as commercial commodities. A time-limited exclusive right to utilize their creations.

It is important to have IPR since it is one of the important means of securing intangible assets that are still accessible to the general public and easily duplicable by anyone. A

patent is used to restrict other parties' use or sale of the original work for a predetermined amount of time.

Challenges Associated with Patent Regime

Patenting of products and new inventions are really important. The owner of the invention has to do a lot of paperwork to get the patent for their product or inventions. The Indian Patent Act 1970 illustrates the provisions of the patent law, however, there are numerous challenges associated with the patent regime. There are a number of challenges associated with the patent regime, like-

- Public disclosure of the invention's specifics. The creator must provide the technical details of the innovation in order to submit a patent application. Depending on the invention, some inventors opt to withhold this information and maintain trade secrecy about the specifics of their good or service.
- The application procedure can take a lot of time and effort. A patent application may be finished and approved in three to four years. Additionally, there is a chance that the market or technology could undergo major long-term change.
- Costs are involved with maintaining a patent, which is necessary. A patent must be renewed three times during the course of its lifetime after it has been awarded. The owner of the patent may lose their rights to protect if renewal charges are not paid.

Effects of Patent Law 2005

The Patent (Amendment) Act of 2005 clarifies that nothing that is already known or created can be patented and specifies what constitutes an invention. The clause provides that "novelty" is one of three requirements for "patentable subject matter," along with "quasi" or "original idea" and industrial application.

- Increased product pricing was seen as a major barrier at the time due to the new patents act. However, the government took aggressive steps to guarantee cheap pricing for necessary medications and has utilized compulsory licensing as a mechanism to rein in high rates.
- The legislation aimed to level the playing field between domestic and international pharmaceutical and medicine businesses.
- Indian pharmacological companies that produce generic medications have prospered over the past ten years despite early doubts.
- Additionally, MNCs have established R&D Centers in India.

Biotech and Pharmaceutical Patents

The Indian Patent Act 1970 also elucidates biotech and pharmaceutical patents. It is important to remember that India only experienced a significant boom in the

pharmaceutical industry after implementing WTO standards (TRIPS) and admitting global investors.

- After going through a rigorous evaluation process, pharmaceutical and biotech patents are filed in India.
- When a novel use of an already-existing material, technique, or machine produces a new product, or at most one high flexibility, it is permissible to patent the innovation under clause (d) of Section 3, which lists innovations that are not patentable.
- Additionally, the patent law's clauses permit the patenting of finished goods in the fields of chemicals, biotechnology, food manufacturing, medications, and pharmaceuticals and the process itself.

Rights Granted by Indian Patent Act 1970

When a patent is granted in India, the patentee is given exclusive rights to use the patented item, create the innovation, or employ the patented method that goes along with the invention.

- If the patent is for a method, the patentee has the right to stop others from employing the method, making the product generated directly from the process available for sale, exporting it, or bringing it into India.
- The patentee has the right to prohibit others from creating, using, offering for sale, selling, or having to import the patented product within the country if the patent was granted for a product.

Patents Act Amendment Rules 2021

To encourage the creation, innovative thinking, and advancement of new technologies in the educational sector, the Ministry for Promotion of Industry and Internal Trade publicly released the Patents (Amendment) Rules, 2021 in September, which also added academic institutions to the list of individual citizens, start-ups, and small organizations.

Reduced Patent Fees for Educational Institutes

- A number of Educational institutes are involved in the task of research and development for new inventions and generating the latest technologies. For this patents are required for them before commercializing the technology or product.
- When submitting a patent application the inventors must do so on behalf of the institution and will be responsible for paying the hefty amount of fees associated with large applicants, which serves as a deterrent.

- With the help of patent amendment rules, in 2021 the official fees of educational Institutes that had to be paid in relation to the number of acts under the patent roles of 2003 were decreased.
- All types of education institutes are now eligible for benefits attached to the 80% fee reduction of patent filing and prosecution. Earlier only government-accredited educational institutes were eligible for this benefit.

Extending of Expedited Exam System

- The patent issued 41 days after the application was filed is the one issued the quickest. Initially, patent claims submitted by startups were eligible for the expedited examination method.
- It has recently been expanded to include 8 additional classifications of patent applicants: SME, that is, Small and Medium Enterprises, female candidates, government departments, institutions and organisations created by central, provincial, or state laws, government companies, institutions whose funding is entirely or largely provided by the government, and those applying through the Patents Prosecution Highway.
- The Patent Prosecution Highway (PPH) is a series of efforts that various patent offices are participating in to provide expedited patent prosecution processes.

