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# Patent Attorneys Act

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Amended by the following acts

Passed	Published	Entry into force
14.11.2001	RT I 2001, 93, 565	01.02.2002
05.06.2002	RT I 2002, 53, 336	01.07.2002
17.12.2003	RT I 2003, 88, 594	08.01.2004
07.12.2006	RT I 2006, 58, 439	01.01.2007
12.03.2008	RT I 2008, 15, 108	01.11.2008
19.06.2008	RT I 2008, 30, 191	01.07.2008
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced under subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
09.12.2015	RT I, 30.12.2015, 1	18.01.2016
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, partially 01.11.2018 and 01.01.2021
20.02.2019	RT I, 19.03.2019, 4	29.03.2019

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

This Act provides the legal bases for the activities of patent attorneys.

### § 2. Patent attorney

(1) A patent attorney is a person who provides legal services in the field of industrial property (hereinafter legal services).

(2) A person who is a member of the Chamber of Patent Attorneys and who has been awarded, on the bases and pursuant to the procedure provided for in this Act, the profession of a patent attorney to act in one or both

areas of professional activities of patent attorneys may act as a patent attorney. A person who has acquired the profession of a patent attorney abroad may also act as a patent attorney if his or her professional qualification has been recognised in accordance with the Recognition of Foreign Professional Qualifications Act and if he or she is a member of the Chamber of Patent Attorneys. The Ministry of Justice is the competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(3) The areas of professional activities of patent attorneys are:  
1) inventions and layout designs of integrated circuits;  
2) trade marks, industrial designs and geographical indications.

(4) In the cases prescribed by law, legal services may be provided to a person only by a patent attorney.

(5) The professional title “patent attorney” can be used only by a member of the Chamber of Patent Attorneys. The name “patent bureau” can only be used by a company of a patent attorney.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 3. Validity of authorisation**

(1) The contents and duration of the right of representation of a patent attorney are determined by a valid authorisation.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(1<sup>1</sup>) If it is prescribed by law that a patent attorney may submit the power of attorney after the performance of an act, the date of performing the act shall be deemed to be the date of granting authorisation, regardless of the date of signing the power of attorney.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(1<sup>2</sup>) In case a single power of attorney is issued to several patent attorneys, all the patent attorneys named in the power of attorney shall be deemed to have an independent right of representation of equal scope, unless otherwise specified in the power of attorney. A patent attorney may delegate the right of representation to another patent attorney operating via the same company in the cases and on the conditions specified in the power of attorney.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(1<sup>3</sup>) A patent attorney performing acts or participating in processing at the Patent Office and at the Board of Appeal as a representative is presumed to have the right of representation. In case of doubts about the existence of the right of representation, the Patent Office or the Board of Appeal will be entitled to request the patent attorney to submit a power of attorney.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) An authorisation terminates:

- 1) if a patent attorney declines to represent a person in the cases specified in subsection 5 (4) of this Act;
- 2) if registration data on a patent attorney are deleted from the state register of patent attorneys (hereinafter the register);
- 3) if the professional activities of a patent attorney are suspended;
- 4) in other cases prescribed by law.

(3) In the cases specified in subsection (2) of this section, a patent attorney shall immediately inform the person who authorised the patent attorney about the event.

(4) If a patent attorney dies or is placed under guardianship due to restricted active legal capacity, the successor or guardian of the patent attorney as well as the company of the patent attorney shall immediately inform the Chamber of Patent Attorneys thereof.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **Chapter 2**

# **PROFESSIONAL ACTIVITIES OF PATENT ATTORNEYS AND SUPERVISION OF PROFESSIONAL ACTIVITIES OF PATENT ATTORNEYS**

### **§ 4. Competence of patent attorneys**

In his or her area of professional activities, a patent attorney is competent to:

- 1) provide legal services;
- 2) represent a person in state authorities, in court and in other cases;
- 3) collect evidence;

- 4) in the provision of legal services to persons, freely choose and use the means and methods prescribed by law;
- 5) certify translations and copies of documents concerning industrial property which are to be submitted to authorities.

#### **§ 5. Duties of patent attorneys**

- (1) A patent attorney is required to:
- 1) use all means and methods prescribed by law in the interests of the person who authorised him or her while preserving his or her professional integrity and dignity;
  - 2) inform the person who authorised him or her of acts related to the provision of legal services;
  - 3) maintain a list of acts related to the provision of legal services;
  - 4) undergo the in-service training specified in § 18<sup>1</sup> of this Act.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(2) When a patent attorney provides legal services to a person, the patent attorney does not acquire the rights of the person.

(3) A patent attorney shall not provide legal services to a person whose interests are in conflict with the interests of another person to whom the patent attorney provides or has provided legal services in the same matter, and in other cases prescribed by law.

(4) A patent attorney may decline to provide legal services to a person on the initiative of the patent attorney if the person:

- 1) has requested something for performance whereof the patent attorney should violate a law or the requirements of professional practice;  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]
- 2) repeatedly fails to pay for the legal services on time;
- 3) renders, by his or her action, the provision of legal services to the person impossible;
- 4) abuses the name or profession of the patent attorney.

#### **§ 6. Guarantees of professional activities of patent attorneys**

(1) In the provision of legal services, a patent attorney shall be independent and shall act pursuant to law, the requirements of professional practice, good morals and conscience.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(2) Information disclosed to a patent attorney shall be confidential. Patent attorneys and the employees of a company of patent attorneys shall not be heard as witnesses with regard to information which became known to them in the provision of legal services nor shall explanations be requested from them with regard to such information.

(3) Data media received in the course of provision of legal services shall not be confiscated from patent attorneys or the employees of a company of patent attorneys, or from a company of patent attorneys.

#### **§ 7. Professional secrecy obligation**

(1) A patent attorney is required to maintain the confidentiality of business secrets that have become known to him or her in the provision of legal services. Such obligation shall not be limited in time and it shall also apply after the discontinuation of the professional activities of the patent attorney.

(2) The obligation specified in subsection (1) of this section shall extend to the employees of a company of patent attorneys and to public servants to whom a patent attorney's professional secret has become known in connection with the performance of their official duties.

(3) A person or his or her legal successor may, by his or her written consent, exempt a patent attorney from the professional secrecy obligation.

(4) The professional secrecy obligation shall not extend to the collection of costs for legal services provided by a patent attorney.

(5) Disclosure of information to an official exercising state supervision of the professional activities of a patent attorney shall not be deemed to be a violation of the professional secrecy obligation.

#### **§ 8. Forms of professional activities of patent attorney**

(1) A patent attorney may operate as a sole proprietor, through a company of patent attorneys or, holding the profession of a patent attorney, on the basis of an employment contract entered into with another person.

(2) Data on a patent attorney operating as a sole proprietor shall be entered in the commercial register.

(3) A patent attorney operating as a sole proprietor or a company of patent attorneys shall inform the register about the contact details of the patent attorney and the company of patent attorneys. Information concerning patent attorneys operating through a company of patent attorneys shall be forwarded to the register by the company. A person who has the profession of a patent attorney and operates on the basis of an employment contract entered into with another person shall submit his or her contact details and the contact details of his or her employer to the register.

#### **§ 9. Company of patent attorneys**

(1) A company of patent attorneys shall not provide any services except legal services.

(2) A company of patent attorneys may merge only with another company of patent attorneys.

(3) The partnership agreement of a company of patent attorneys operating as a general partnership or limited partnership shall be entered into in writing and it shall be appended to the petition for entry of the company in the commercial register.

(4) The business name of a company of patent attorneys or a patent attorney operating as a sole proprietor shall contain the words “patent bureau” or “patent attorney”.

#### **§ 10. Proprietary liability**

(1) In the provision of legal services, a patent attorney shall be liable for wrongfully caused proprietary damage.

(2) If a patent attorney provides legal services through a company of patent attorneys, the patent attorney and the company shall be solidarily liable for the damage specified in subsection (1) of this section.

#### **§ 11. Professional liability insurance of patent attorneys**

(1) In order to ensure compensation for damage specified in § 10 of this Act, a patent attorney or a company of patent attorneys is required to enter into a contract insuring the liability of the patent attorney.

(1<sup>1</sup>) An insured event means causing of direct proprietary damage by the company of a patent attorney or by a patent attorney in relation to provision of legal services irrespective of the place of providing the legal services. The liability arising from intentional violation of professional duties does not need to be insured.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(2) The minimum amount of insurance coverage shall be 63 910 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) An insurer has the right of recourse against a patent attorney operating as a sole proprietor and against a company of patent attorneys or a patent attorney if an indemnity is paid to compensate for damage caused by an intentional act of the patent attorney.

#### **§ 12. Publication of information regarding patent attorneys**

Information regarding the names, areas of professional activities and contact details of all patent attorneys and companies of patent attorneys shall be published by the Patent Office in the official gazette and on the website of the Patent Office.  
[RT I 2008, 15, 108 – entry into force 01.11.2008]

#### **§ 13. State supervision**

[Repealed – RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 13<sup>1</sup>. Special state supervision measures**

[Repealed – RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 13<sup>2</sup>. Specifications of state supervision**

[Repealed – RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **Chapter 3**

# AWARD OF PROFESSION OF PATENT ATTORNEY

## § 14. Conditions for award of profession of patent attorney

(1) A person may be awarded the profession of a patent attorney if the person:

- 1) has active legal capacity;
- 2) is a citizen of Estonia or of a Member State of the European Union and his or her permanent place of residence is in Estonia;
- 3) has at least a nationally recognised Master's degree, an equivalent qualification within the meaning of subsection 28 (2<sup>2</sup>) of the Republic of Estonia Education Act, or an equivalent qualification of a foreign state; [RT I 31.05.2018, 2 – entry into force 01.11.2018]
- 4) has oral and written proficiency in Estonian;
- 5) has, prior to applying for the profession of a patent attorney, worked for a patent attorney or for a company of patent attorneys in the area in which he or she is applying for the profession for at least four years during the last ten years, except the person specified in subsection (4) of this section; [RT I, 19.03.2019, 4 – entry into force 29.03.2019]
- 6) is proficient in two foreign languages to the extent necessary for the professional activities of a patent attorney and at least one of the foreign languages shall be an official language of the European Patent Office;
- 7) has not been punished pursuant to criminal procedure for an intentionally committed criminal offence.

(2) The period of time of working for the Patent Office in the relevant area, but not more than two years, shall be included in the period of time of working for a patent attorney or for a company of patent attorneys.

(3) To acquire the profession of a patent attorney in the area specified in clause 2 (3) 1) of this Act, the education specified in subsection (1) 3) of this section must have been obtained in the field of science or engineering.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(4) The profession of a patent attorney may be acquired in the area of professional activities specified in clause 2 (3) 2) of this Act also by a sworn advocate who has worked in the respective area at a law office for at least four years during the last ten years before applying for the profession of a patent attorney, and who meets the requirements provided for in clauses (1) 1)–4), 6) and 7) of this section. The time of working at a law office shall be deemed to include the time of working in the respective area at the Patent Office, but not more than two years, and the time of working in the respective area for a patent attorney or for a company of patent attorneys.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(5) The minister responsible for the area may by a regulation establish specified requirements for the tasks to be performed at a law office in order to conform to the condition specified in subsection (4) of this section, and the procedure for evidencing compliance with these requirements.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## § 15. Patent attorneys' professional qualifications committee

[Repealed – RT I 31.05.2018, 2 – entry into force 01.11.2018]

## § 16. Application for profession of patent attorney

(1) An applicant for the profession of a patent attorney shall submit the following to the professional qualifications committee (hereinafter the *committee*):

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

- 1) an application in writing;
- 2) documents certifying compliance with the requirements provided for in clauses 14 (1) 2), and 3) and clause 14 (1) 5) or subsection 14 (4) of this Act; [RT I, 19.03.2019, 4 – entry into force 29.03.2019]
- 3) a report on acts performed by the applicant, while working for a patent attorney or at a law office, in the area of professional activities in which he or she is applying for the profession. [RT I, 19.03.2019, 4 – entry into force 29.03.2019]
- 4) [Repealed – RT I 31.05.2018, 2 – entry into force 01.11.2018]

(2) An application for the profession of a patent attorney shall contain at least the following information:

- 1) one of the areas of activity specified in subsection 2 (3) of this Act for which the profession is applied for;
- 2) confirmation from the applicant for the profession that he or she meets the requirements provided for in clauses 14 (1) 1), 4), 6) and 7) of this Act.

(3) If an application for the profession of a patent attorney or the report does not comply with the requirements provided for in this section or in the rules of procedure of the committee, the committee shall make a decision to

refuse to accept the application for the profession of a patent attorney for processing and shall send the decision to the applicant for the profession within five working days after the date of making the decision.  
[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 17. Professional examination for patent attorneys**

(1) The professional examination for patent attorneys (hereinafter examination) is the verification of the knowledge of the applicant for the profession of a patent attorney in the area of professional activities in which he or she is applying for the profession.

(2) Examinations shall be conducted as needed but not less frequently than once a year. A notice of an examination shall be published on the website of the Chamber of Patent Attorneys at least one month before the date of the examination.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(3) The committee shall determine the time and place of an examination.

(4) The examination is a written examination. The examination consists of the verification of the theoretical knowledge of the examinee and case analyses in the field of industrial property.

(5) Examination results shall be evaluated on a ten-point scale.

(6) The grade for an examination shall be the average of the grades given by the members of the committee, rounded to a whole number. A grade below six is deemed to be non-satisfactory.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(7) If an examinee receives a non-satisfactory grade for at least one part of the examination, the applicant for the profession of a patent attorney has failed the examination.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(8) If an applicant for the profession of a patent attorney fails an examination, he or she may take the examination again after three months.

(9) An applicant for the profession of a patent attorney may take an examination for a third or more time after three years have passed since the last examination.

(10) The fee for an examination for applying for the profession of a patent attorney and for a re-examination shall be established by a meeting of the Chamber of Patent Attorneys. The fee for participating in a professional examination and re-examination shall not be more than 300 euros. Participation in a re-examination shall always be for a fee.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 18. Decision**

(1) The committee shall make a decision to award an applicant the profession of a patent attorney if the applicant for the profession of a patent attorney:

1) conforms to the requirements provided for in clauses 14 (1) 2), and 3) and clause 14 (1) 5) or subsection 14 (4) of this Act;

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

2) has confirmed his or her compliance with the requirements provided for in clauses 14 (1) 1), 4), 6) and 7) of this Act;

3) has passed the examination.

(2) The committee shall make a decision to refuse to award an applicant the profession of a patent attorney if the applicant for the profession of a patent attorney does not conform to the requirements provided for in § 14 of this Act or fails the examination.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) A decision to award a person the profession of a patent attorney shall enter into force upon the registration of the decision to award the profession of a patent attorney in the register.

(4) A decision to refuse to award a person the profession of a patent attorney shall enter into force as of the date of making the decision.

(5) A copy of a decision to award an applicant the profession of a patent attorney shall be sent to the applicant for the profession of a patent attorney and to the register within three working days after the date of making the decision to award the profession of a patent attorney.

(6) A copy of a decision to refuse to award an applicant the profession of a patent attorney shall be sent to the applicant for the profession of a patent attorney within three working days after the date of entry into force of the decision to refuse to award the profession of a patent attorney.

(7) The fee for participation in an examination for applying for the profession of a patent attorney or in a re-examination is not refunded.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 18<sup>1</sup>. In-service training**

(1) A patent attorney shall undergo periodic professional in-service training in every area of the professional activities of a patent attorney for which he or she has been awarded the profession of a patent attorney.

(2) The bases, procedure and volume of in-service training shall be decided by the board of the Chamber of Patent Attorneys. The specialisation of a patent attorney in the area of professional activities shall be taken into account while organising in-service training. The bases and procedure for in-service training shall be reviewed by the board as needed.

(3) The professional qualifications committee shall verify the compliance with the in-service training obligation once in every five years (hereinafter the *evaluation period*).

(4) The professional qualifications committee shall send a notice of the expiry of the evaluation period to a patent attorney at least three months before the expiry of the evaluation period, explaining which data in which area of professional activities and by which date shall be submitted to prove compliance with the in-service training obligation.

(5) The board of the Chamber of Patent Attorneys may exempt a person from the in-service training obligation during an evaluation period when the person has defended a Doctoral or Master's thesis in a speciality connected with the area of professional activities of a patent attorney.

(6) If a patent attorney has not undergone in-service training in a required volume during an evaluation period or has not submitted data on undergoing in-service training to the professional qualifications committee by a specified date, the professional qualifications committee requires the patent attorney to take a professional examination. The examination shall be taken within four months after the requirement for taking the examination was made. If the patent attorney fails the examination, the patent attorney shall be required to take a re-examination. If the patent attorney does not appear to take an examination or re-examination without good reason, he or she is deemed to have failed the examination.

(7) If a patent attorney does not appear to take a re-examination without good reason or fails to pass the examination at a second attempt, the professional qualifications committee submits a proposal to the board of the Chamber of Patent Attorneys to deprive the person of the profession of a patent attorney.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 19. Suspension and resumption of professional activities of patent attorneys**

(1) The professional activities of a patent attorney shall be suspended if:

- 1) the patent attorney is unable to perform the duties of a patent attorney for health or other reasons for more than six consecutive months;
- 2) the patent attorney is bankrupt;
- 3) the company of patent attorneys through which the patent attorney provides legal services is bankrupt;
- 4) the patent attorney has filed a request for suspension with the register.

(2) In the cases specified in clauses (1) 2)-4) of this section, the patent attorney shall submit an application for suspension of the professional activities of the patent attorney and a document certifying the grounds for suspension to the Chamber of Patent Attorneys within five working days after the date on which the grounds for suspension of the professional activities arose. The patent attorney shall notify persons to whom he or she provides legal services of the application for suspension of the professional activities of the patent attorney within five working days after the date on which the grounds for suspension of the professional activities arose.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(3) A decision to suspend the professional activities of a patent attorney shall be made by the Chamber of Patent Attorneys within five working days after the date of submission of the application for suspension of the professional activities of the patent attorney or within ten working days after the date on which the grounds for the suspension of the professional activities arose.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(4) A copy of a decision to suspend the professional activities of a patent attorney shall be sent to the patent attorney and to the register within three working days after the date of making the decision to suspend the professional activities of the patent attorney.

(5) In order to resume the professional activities of a patent attorney, the patent attorney shall submit to the Chamber of Patent Attorneys an application and documents certifying that the grounds for suspension of professional activities have ceased to exist.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(6) On the basis of the application, the Chamber of Patent Attorneys shall make a decision to permit or refuse resumption of the professional activities of the patent attorney.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(6<sup>1</sup>) The suspension of the professional activities does not exempt a person from the in-service training obligation provided for in § 18<sup>1</sup> of this Act, except in case the person enters into civil service, is elected a member of the Riigikogu or the European Parliament or is elected the President of the Republic or is appointed a member of the Government of the Republic or the European Commission. In addition, a person whose professional activities have been suspended for health reasons or for the duration of maternity or parental leave, is exempted from the in-service training obligation.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(7) If the profession of a patent attorney has been suspended for longer than five years, the profession of the patent attorney shall be restored after passing the examination specified in § 17 of this Act.

[RT I 2003, 88, 594 – entry into force 08.01.2004]

## **§ 20. Deprivation of profession of patent attorney**

(1) A patent attorney shall be deprived of his or her profession as a patent attorney if the patent attorney:

1) has violated the law in the professional activities of the patent attorney;

2) repeatedly fails to perform the duties provided for in subsection 5 (1) of this Act;

2<sup>1</sup>) the professional qualifications committee has made the proposal specified in subsection 18<sup>1</sup>(7) of this Act;

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

3) does not conform to the requirements provided for in clauses 14 (1) 1)–4), 6) and 7);

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

4) files an application to renounce the profession of a patent attorney.

(2) The Chamber of Patent Attorneys shall make a decision to deprive a patent attorney of the profession of a patent attorney within ten working days after the date of becoming aware of the grounds for deprivation of the profession of the patent attorney.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(3) A decision to deprive a patent attorney of the profession of a patent attorney shall enter into force upon the registration of the decision to deprive the patent attorney of the profession of a patent attorney in the register.

(4) A copy of a decision to deprive a patent attorney of the profession of a patent attorney shall be sent to the patent attorney and to the register within three working days after the date of making the decision to deprive the patent attorney of the profession of a patent attorney.

[RT I 2003, 88, 594 – entry into force 08.01.2004]

# **Chapter 3<sup>1</sup>** **CHAMBER OF PATENT ATTORNEYS**

[RT I, 31.05.2018, 2 - entry into force 01.11.2018]

## **§ 20<sup>1</sup>. Legal status of the Chamber**

(1) The Chamber of Patent Attorneys (hereinafter the *Chamber*) is a legal person in public law, and all persons holding the profession of a patent attorney (hereinafter *patent attorneys*) are members of the Chamber.

(2) The Chamber shall be registered in the state register of state and local government authorities.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>2</sup>. Statutes of the Chamber**

(1) The statutes of the Chamber shall be adopted and amended by a decision of the meeting of the Chamber. A draft of the statutes or amendments thereto shall be approved by the Ministry of Justice before adoption thereof.

(2) The statutes of the Chamber shall specify the work organisation of the bodies of the Chamber, legal relationship between the bodies and members of the Chamber, procedure for administration and management of the Chamber, and regulate other matters connected with the activities of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]



### **§ 20<sup>3</sup>. Ensuring legality of the Chamber's activities**

(1) Administrative supervision over the legality of the Chamber's activities shall be exercised by the Ministry of Justice that may demand the submission of data and documents necessary for exercising administrative supervision from the board of the Chamber and file an appeal with an administrative court against an instrument or act of a body of the Chamber.

(2) The Chamber shall submit a report concerning the activities of the Chamber in the previous year to the Ministry of Justice not later than in March each year.

(3) If the Chamber does not perform the obligations imposed on the Chamber by law, the Ministry of Justice may issue a precept to the Chamber. In order to ensure compliance with the precept, the Ministry of Justice may determine a penalty payment to the Chamber in an amount of up to 6400 euros pursuant to the procedure prescribed in the Substitutive Enforcement and Penalty Payment Act.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>4</sup>. Assets of the Chamber**

(1) Assets of the Chamber comprise of:

- 1) obligatory membership fees of patent attorneys;
- 2) fines collected on the basis of a decision of the court of honour;
- 3) revenue received from allocation of the Chamber's resources;
- 4) donations;
- 5) other receipts.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>5</sup>. Budget of the Chamber**

The budgetary year of the Chamber shall be a calendar year. The budget of the Chamber shall be approved by the board not later than in December of the year preceding the budgetary year.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>6</sup>. Financial year of the Chamber**

(1) The financial year of the Chamber shall be a calendar year.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>7</sup>. Membership fee of the Chamber**

(1) The minimum membership fee of the Chamber shall be established by the meeting of the Chamber.

(2) The amount of the membership fee of a patent attorney and the bases for calculating the fee shall be established by the board of the Chamber, taking account of the minimum membership fee. The membership fee shall be established in an amount which ensures sufficient funding of the Chamber in order to achieve the objectives and perform the functions provided for in legislation.

(3) Based on a reasoned request, the board of the Chamber may exempt a patent attorney from the obligation to pay the membership fee or reduce the amount of the membership fee. Exemption from the payment of the membership fee or reduction of the membership fee may be granted for up to three years.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>8</sup>. Good professional practice**

The meeting of the Chamber shall establish a good professional practice which shall be mandatory for patent attorneys.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 20<sup>9</sup>. Right to use image of national coat of arms**

The Chamber shall have a seal with the image of the national coat of arms of Estonia. The seal with the image of the national coat of arms of Estonia shall be used in accordance with the procedure established by the National Coat of Arms Act.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>10</sup>. Website of the Chamber**

On the website of the Chamber, the Chamber shall make available information concerning patent attorneys which is necessary for the public and above all, shall indicate the addresses, office hours and telecommunication numbers of their offices. The statutes, good professional practice and other public documents shall be published on the website.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>11</sup>. Functions of the Chamber**

The functions of the Chamber include but are not limited to the following:

- 1) promotion of the professional activities of patent attorneys;
- 2) development and publication of good professional practice and exercising supervision over compliance therewith;
- 3) maintaining the list of patent attorneys;
- 4) organising the in-service training of patent attorneys;
- 5) supervision over the professional activities and dignified behaviour of patent attorneys;
- 6) preparation of recommendations for harmonising the professional practice of patent attorneys;
- 7) organising the training of patent attorneys;
- 8) conduct of the examinations of patent attorneys;
- 9) inspecting compliance with the in-service training obligation of patent attorneys;
- 10) ensuring the availability of information related to patent attorneys which is necessary for the public on the Chamber's website;
- 11) resolving of issues related to international communication and representation of the members of the Chamber in domestic and foreign institutions;
- 12) drawing of statistical reports concerning the activities of patent attorneys;
- 13) verifying the existence of professional liability insurance of patent attorneys;
- 14) governing the Chamber's assets.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>12</sup>. Bodies of the Chamber**

(1) The bodies of the Chamber are:

- 1) meeting;
- 2) board;
- 3) professional qualifications committee;
- 4) court of honour;
- 5) revision committee.

(2) The board of the Chamber is entitled to form committees for the performance of the functions which are within the competence of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>13</sup>. Meeting of the Chamber**

(1) The annual meetings of the Chamber shall be held once a year.

(2) Extraordinary meetings shall be convened:

- 1) at the initiative of the board of the Chamber;
- 2) at the request of at least 1/5 of the members of the Chamber.

(3) The meetings of the Chamber shall be convened by the board of the Chamber notifying the members of the Chamber about the time, place and agenda of the meeting at least two weeks in advance.

(4) A member of the Chamber shall attend the meeting in person or via a representative. The representative can be another patent attorney on the basis of a power of attorney. A patent attorney shall not represent more than two patent attorneys at the same meeting.

(5) A meeting has a quorum if at least one-half of total number of the members of the Chamber are represented at the meeting. The decisions of the meeting shall be passed by a simple majority of votes.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>14</sup>. Competence of meeting of the Chamber**

(1) A meeting of the Chamber may include in its agenda and decide on all matters which are within the competence of the Chamber.

(2) The following matters shall be decided exclusively by the meeting:

- 1) adoption of the statutes;
- 2) election of the board;
- 3) approval of the annual budget;

- 4) establishment of the amount of obligatory payments to be made to the Chamber by patent attorneys;
- 5) approval of the annual report;
- 6) election of the patent attorneys who shall be members of the professional qualifications committee;
- 7) election of the revision committee;
- 8) election of the court of honour;
- 9) appointment of an auditor.

(3) A meeting may entitle the board to make changes in the budget of the Chamber with good reason, and the changed budget shall be submitted for approval at the next meeting.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>15</sup>. Passing of resolutions without convening meeting**

(1) On the proposal of the board, patent attorneys are entitled to pass resolutions on matters that are within the competence of a meeting without convening the meeting. In such case resolutions shall be passed electronically.

(2) A patent attorney may not, without good reason, refuse to participate in resolving of matters pursuant to the procedure specified in subsection (1) of this section.

(3) If a resolution is made pursuant to the procedure specified in subsection (1) of this section, the resolution is passed if more than one-half of the votes of patent attorneys have been given in favour thereof, unless the law requires a higher majority of votes.

(4) Bodies of the Chamber shall not be elected pursuant to the procedure specified in subsection (1) of this section.

(5) The specific procedure for resolving of matters pursuant to the procedure specified in subsection (1) of this section shall be stipulated in the statutes of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>16</sup>. Election of bodies of the Chamber**

(1) The bodies of the Chamber shall be elected at a meeting of the Chamber in accordance with the following principles:

- 1) members of every body shall be elected separately;
- 2) voting shall be by secret ballot;
- 3) the candidate who receives more votes shall be deemed voted, unless a different requirement for voting is provided for in this Act.

(2) In the election of the board of the Chamber, first the chairman and vice-chairman of the Chamber, and then the remaining members of the board shall be elected.

(3) The candidate who receives more than one-half of the votes of the persons participating in voting shall be deemed elected in the election of the chairman of the Chamber. If no candidate has received the required majority of votes, a second round of the elections shall be held between two candidates who received the largest number of votes. The candidate who receives more votes in the second round shall be deemed elected. In case of equal division of votes, lots shall be drawn.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>17</sup>. Membership and sessions of board of the Chamber**

(1) The board is the permanent body for management of the Chamber. The board shall consist of at least three members. The board of the Chamber shall consist of the chairman, vice-chairman and members of the board. The chairman and vice-chairman shall be elected from among the members of the board who are patent attorneys.

(2) The minister responsible for the area may appoint a representative of the Ministry of Justice as a member of the board.

(3) The board shall be elected for three years.

(4) A session of the board shall be convened by the chairman of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>18</sup>. Competence of board and chairman of the Chamber and their obligation to maintain secrecy of data**

(1) During the time between the meetings of the Chamber, the board of the Chamber shall perform all the functions of the Chamber which are not within the competence of the revision committee, court of honour or exclusively within the competence of the meeting of the Chamber. The board shall ensure compliance with the statutes of the Chamber and implementation of the resolutions of meetings of the Chamber.

(2) The chairman of the Chamber shall represent the Chamber in all legal acts.

(3) Patent attorneys who are members of the board of the Chamber, professional qualifications committee, revision committee or court of honour and the employees of the Chamber shall not disclose data concerning the content of the professional activities of a patent attorney which have become known to them through their activities. They are allowed to disclose such data only in court if they have a respective permission of the board. The obligation to maintain the confidentiality of data shall continue also after resignation from a body of the Chamber or the service of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>19</sup>. Professional qualifications committee**

(1) The professional qualifications committee shall organise and conduct professional examinations of patent attorneys, verify the conformity of the applicants for the profession of a patent attorney with the conditions provided for in law, and compliance with the in-service training obligation of a patent attorney.

(2) The professional qualifications committee shall be formed of at least three members for five years. The board may nominate a person who is not a member of the Chamber to serve as a member of the professional qualifications committee. The chairman of the professional qualifications committee shall be elected by the committee from among the members who are patent attorneys.

(3) The professional qualifications committee has a quorum if more than one-half of the members of the committee participate in the passing of a resolution. Meetings of the professional qualifications committee shall be chaired by the chairman. Upon equal division of votes upon passing of resolutions, the chairman of the professional qualifications committee shall have the casting vote.

(4) The rules of procedure of the professional qualifications committee shall be set out in the statutes of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>20</sup>. Revision committee**

(1) The revision committee shall audit the economic activities and management of the Chamber on the initiative of the committee or at the request of at least 1/5 of the patent attorneys.

(2) The board of the Chamber shall submit the annual report of the Chamber to the revision committee for its opinion before submitting the report to the meeting of the Chamber for approval.

(3) The revision committee of at least three members shall be elected for up to three years. A member of the revision committee shall not be a member of the board or the court of honour.

(4) The revision committee shall pass resolutions by a majority of votes of its members.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>21</sup>. Court of honour**

(1) The court of honour may resolve:

- 1) offences of wrongful non-performance or inadequate performance of obligations deriving from the decisions of the Chamber and good professional practice;
- 2) complaints filed against the conduct of patent attorneys;
- 3) complaints filed against the activities of patent attorneys or disciplinary matters commenced against patent attorneys and also matters which have been transferred for hearing by the Ministry of Justice.

(1<sup>1</sup>) The court of honour shall not resolve the matters specified in subsection (1) of this section with regard to advocates.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) The court of honour shall be composed of at least three members for five years. The members of the court of honour shall be elected from among patent attorneys. The minister responsible for the area may nominate a representative of the Ministry of Justice to serve as a member of the court of honour. The members of the court of honour shall elect the chairman of the court of honour from among the members who are patent attorneys. A member of the court of honour who is a patent attorney shall not be a member of the board or revision committee.

(4) The court of honour shall pass resolutions by a majority of votes of its members who participate in the hearing of a matter.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>22</sup>. Commencement of proceedings of court of honour**

(1) An interested person has a right of recourse to the court of honour or the board in order to commence the proceedings of the court of honour. An application for commencement of proceedings of the court of honour shall be filed within six months after the date on which the applicant became aware or should have become aware of the circumstances being the basis for the application.

(2) The court of honour shall commence the proceedings of the court of honour on the initiative of an interested person, Ministry of Justice, on its own initiative or on the initiative of an other body of the Chamber if there is reason to believe that a patent attorney has committed a disciplinary offence.

(3) The commencement of the proceedings of the court of honour shall be decided by the court of honour within one month as of the date on which it became aware of the commission of an act with elements of a disciplinary offence. The court of honour shall forward the decision on commencement or non-commencement of the proceedings of the court of honour immediately to the board of the Chamber and to the Ministry of Justice.

(4) Upon delivery of a complaint filed by the Ministry of Justice to the court of honour, the proceedings of the court of honour shall be deemed to have commenced.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>23</sup>. Proceedings of court of honour**

(1) The proceedings of the court of honour are mandatory for patent attorneys.

(2) A patent attorney has the right of access to the materials of the case, the right to be heard, to submit objections, reasoning and considerations regarding all issues raised in the proceeding of the court of honour, submit a petition of challenge against a member of the court of honour or a court reporter, if circumstances raise doubt as to whether they are impartial, to submit petitions and evidence, and participate in the inspection and examination of evidence, submit questions to the persons invited to a session and receive a copy of a decision of the court of honour. If a patent attorney fails to appear to a session of the court of honour without good reason, the matter can be heard without his or her presence.

(3) The court of honour can adjudicate a matter in a written proceeding, unless the patent attorney has requested the adjudication of the matter in an oral proceeding.

(4) While hearing a matter, the court of honour shall demand statements from the persons concerned. The court of honour shall investigate the facts that are significant for the given matter, and if necessary, gather evidence therefor on its own initiative. At the request of the court of honour, a patent attorney shall submit the evidence at his or her disposal to the court of honour. The court of honour may apply for the assistance of an administrative court for gathering of evidence or for safeguarding of evidence. The administrative court shall adjudicate an application of the court of honour by a ruling in accordance with the provisions of the Code of Administrative Court Procedure concerning the grant of permission for an administrative measure.

(5) The court of honour shall adjudicate a disciplinary offence matter and make a reasoned decision within six months after the commencement of the proceeding of the court of honour. The court of honour shall make a reasoned decision also in case the court of honour does not establish a disciplinary offence. With good reason the court of honour may extend the duration of hearing a disciplinary offence matter by up to three months. The time during which it is not possible to hear a disciplinary offence matter due to circumstances depending on the patent attorney against whom the proceeding of the court of honour has been commenced shall not be included in the duration of the proceeding of the disciplinary offence.

(6) The specific procedure for the proceeding of the court of honour shall be set out in the statutes of the Chamber. The proceedings of the court of honour shall be governed by the provisions of the Administrative Procedure Act to the extent which is not regulated by this Act and the statutes of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

#### **§ 20<sup>24</sup>. Contestation of decision of court of honour**

(1) An interested person may file an action against a decision of the court of honour with an administrative court within 30 days after receipt of the decision.

(2) The Ministry of Justice may file a protest against a decision of the court of honour with an administrative court within 30 days after receipt of the decision.

(3) The court of honour shall send its decision immediately to the Ministry of Justice. The Ministry of Justice will be entitled to require also other documents of the proceeding of the court of honour for peruse regarding the matters of the court of honour.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **§ 20<sup>25</sup>. Disciplinary liability**

(1) The court of honour may impose a disciplinary penalty on a patent attorney for noncompliance with the requirements of legislation regulating the activities of patent attorneys or companies of patent attorneys or noncompliance with good professional practice, unless the disciplinary offence has expired by the time of commencement of the proceeding of the court of honour.

(2) The disciplinary penalties are:

- 1) reprimand;
- 2) fine for the benefit of the Chamber in the amount of 64 to 16,000 euros;
- 3) suspension of professional activities for up to one year;
- 4) expulsion from the Chamber;
- 5) deprivation of the right to act as a patent attorney for up to five years.

(3) A patent attorney is prohibited to provide legal services during the time of suspension of the professional activities imposed as a disciplinary punishment. In case of a violation of the prohibition set out in this subsection, the patent attorney shall be expelled from the Chamber.

(4) The court of honour shall impose a disciplinary penalty considering, inter alia, the gravity of the disciplinary offence, the nature of the matter in hand and the repeat offences of the patent attorney.

(5) The court of honour may impose one disciplinary penalty for one disciplinary offence. The penalties for misdemeanours or criminal penalties imposed for the same act shall not be taken into account while imposing a disciplinary penalty. A continuing disciplinary offence shall be deemed a new disciplinary offence if the patent attorney does not terminate the violation after communication of the decision of the court of honour.

(6) A disciplinary penalty shall not be imposed if the disciplinary offence has expired. A disciplinary offence expires three years after the commission thereof. The limitation period of a disciplinary offence starts from the time when the patent attorney terminates the commission of the act. The limitation period of a disciplinary offence shall be suspended for the period of the proceedings of the disciplinary matter in the court of honour and in court as well as for the period of filing an appeal and an appeal in cassation. Regardless of the limitation period of a disciplinary offence, the court of honour has the right to hear the disciplinary matter.

(7) A fine imposed as a disciplinary penalty shall be paid within three months as of the imposition thereof. It can be prescribed in the decision imposing a fine that the fine shall be paid in instalments on specified dates during a period of one year.

(8) A decision concerning a fine imposed as a disciplinary penalty serves as an enforcement instrument for the purposes of clause 2 (1) 21) of the Code of Enforcement Procedure.

(9) A disciplinary penalty expires three years after the entry into force of the decision on imposing the penalty. The disciplinary penalty specified in clause (2) 4) of this section shall not expire.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

## **Chapter 4 STATE REGISTER OF PATENT ATTORNEYS**

### **§ 21. Establishment of register**

(1) The register shall be established by the Government of the Republic.

(2) The statutes of the register shall be established by the Government of the Republic.

### **§ 22. Maintenance of register**

(1) The controller of the register is the Patent Office.

(2) Registry entries are:

- 1) entries of registration data,
- 2) entries to amend registration data, and
- 3) entries to delete registration.

(3) A register entry is made on the basis of a decision of the committee, the minister responsible for the area or an official authorised by him or her or a decision of the Chamber or court within five working days after the date of receipt of the documents which are the basis of the register entry by the register.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

(4) A register entry becomes valid on the date on which it is made.

(5) Notices of registry entries are published in the official gazette of the Patent Office.

[RT I 2003, 88, 594 – entry into force 08.01.2004]

### **§ 23. Access to and release of data from register**

(1) The register is public. Everyone has the right to examine registry entries and to obtain copies thereof.

(2) A state fee shall be paid for the release of written information from the register except for the release of information to an official with supervisory rights or a court.

### **§ 24. Registration data**

Registration data are:

- 1) the registration number of a patent attorney;
- 2) the name, personal identification code and contact details of the patent attorney;
- 3) information concerning the education of the patent attorney;
- 4) the area of professional activities of the patent attorney;
- 5) foreign languages in which the patent attorney is proficient to the extent necessary for his or her professional activities;
- 6) the date of making the decision to award the person the profession of a patent attorney;
- 7) registry card information from the commercial register, address of the place of business and other contact details of the patent attorney or the company of patent attorneys through which the patent attorney operates;
- 8) information concerning decisions to suspend the professional activities of the patent attorney, to permit the resumption of the professional activities of the patent attorney, to refuse the resumption of the professional activities of the patent attorney and to deprive the patent attorney of the profession of a patent attorney.

## **Chapter 5 FINAL PROVISIONS**

### **§ 25. Application of Act to patent attorneys entered in register prior to entry into force of this Act**

Patent attorneys entered in the state register of patent attorneys of the Republic of Estonia shall be re-registered in the register established on the basis of this Act in the same areas of activity in which they had the right to act prior to entry into force of this Act.

### **§ 25<sup>1</sup>. Specifications of requirements for patent attorney**

The patent attorneys who have been granted the profession of a patent attorney before 1 November 2018 are not required to conform to the requirements concerning education specified in clause 14 (1) 3) and subsection 14 (3) of this Act.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 26. State fees**

State fees are charged for the performance of acts prescribed in this Act according to the rates provided for in the State Fees Act.

[RT I 2006, 58, 439 – entry into force 01.01.2007]

**§ 27.–§ 33.**[Omitted from this text.]

### **§ 33<sup>1</sup>. Requirements for becoming member of the Chamber**

(1) A patent attorney who wishes to continue acting as a patent attorney shall submit an application for becoming a member of the Chamber to the Ministry of Justice by 28 February 2019. If a patent attorney does not submit the application for becoming a member of the Chamber on time, the Minister of Justice will deprive the person of the profession of a patent attorney.

(2) A patent attorney whose profession has been suspended will be able to submit the application specified in subsection (1) of this section if he or she complies with the requirements specified in subsection 19 (7) of this Act as at 1 November 2018.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 33<sup>2</sup>. Convening the first meeting of the Chamber**

The Minister of Justice convenes the first meeting of the Chamber. The meeting shall elect the bodies of the Chamber, establish the minimum membership fee and adopt the statutes of the Chamber. Up until the election of the chairman, the Chamber shall be managed by a person appointed by the Minister of Justice.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 33<sup>3</sup>. Statutes of the Chamber**

The first meeting of the Chamber shall adopt the statutes which have been previously approved by the Ministry of Justice. If the first meeting does not adopt the statutes, an extraordinary meeting shall be convened within two months after the first meeting. If the extraordinary meeting does not adopt statutes which have been previously approved by the Ministry of Justice, the statutes of the Chamber shall be established by a regulation of the minister responsible for the area. The regulation of the minister responsible for the area shall be repealed when a meeting adopts statutes which have been previously approved by the Ministry of Justice which shall enter into force as of the repeal of the regulation of the minister responsible for the area.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 33<sup>4</sup>. Evaluation period of in-service training**

The time of registration of a patent attorney in the register of the respective area of professional activities shall be deemed to be the start of the first evaluation period of performance of the in-service training obligation. The first in-service training report shall be submitted upon the arrival of the first evaluation period calculated at five years interval after the establishment of the Chamber, but not earlier than three years after the establishment of the Chamber.

[RT I 31.05.2018, 2 – entry into force 01.11.2018]

### **§ 34. Entry into force of Act**

This Act enters into force one month after the date of its publication in the *Riigi Teataja*.