

# SUPREMEiP



## Proposed changes in Bangladesh Patent law 2022

1. **Extends the examination time:** The Patent Act 2022 extends the examination time of 36 months from the filing date to 3 months for exceptional cases.
2. **False registration fine:** Anyone failing to abide by the law will have to face a court-imposed fine. Any false registration under the act will be punished with a fine of Tk 20,000. Anyone falsely claiming to be a patent holder or who applies for a false patent will face a fine of Tk

50,000. The cases, particularly general rights and compensation-related issues under the law, will be treated as civil affairs and tried by civil courts. However, the penal code will deal with cheating and similar offenses.

3. **Rights of the inventor-successor:** The Patent Act 2022 also secures the rights of the inventor-successor by allowing such patent rights to be transferred or handed over to the successor.
4. **Cognizant of the TRIPS:** The new Act is aware of the international Intellectual Property Rights (IPRs) standards as established under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and brings about much clarity on the laws on patents. While in the 1911 Act, definitions of "patent" and "invention" were broadly formulated without any carve-out for exceptions or limitations, the new law provides more explicit guidance on patentability. Section 5 of the newly passed Act lists exceptions to "patentability." The list includes plants and animals and their parts (other than microorganisms) and the biological processes and the biological processes necessary for the production of plants or animals and their parts (except inorganic and microbiological processes). Section 5 also excludes traditional knowledge and innovation arising out of traditional knowledge or from a combination.
5. **Excludes from patentability any invention:** Section 5 also excludes from patentability any invention whose production within the borders of Bangladesh must be prevented from maintaining public order and morality, as well as any process contrary to the course of nature. These exceptions broadly fall within Article 27(2) of the TRIPS Agreement, which allows member states to exclude from patentability any invention on the grounds of "the prevention within their territory of the commercial exploitation of which is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment." The TRIPS provision under article 27(2), which sets the standard for exclusion on the grounds of public order and morality, has been the subject of longstanding debate, which remains unresolved. Therefore, it remains to be seen how the debates unfold as it will understandably impact the interpretation of the exceptions under section 5 of the newly enacted Act. It will be helpful to note that the willingness to conform to the TRIPS standard on patentability is evident from framing the provisions on patentability.
6. **20 years of protection:** According to the new Patent Act, a patent in Bangladesh will have a 20-year protection period (previously, 16 years) in which no parties can infringe upon the patentee's rights within this jurisdiction.

### **Patent applications in Bangladesh can be filed in two categories:**

- (1) Ordinary Applications without claiming priority
- (2) Convention Application with claiming priority (within 12 months from the date of an application made in a convention country)

### **Who can apply for a patent in Bangladesh?**

1. The application can be made by any of the following persons, either alone or jointly with any other person, whether he is a citizen of Bangladesh or not:

2. the true and first inventor of the invention;
3. the assignee of a person claiming to be the true and first inventor;
4. The legal representative of any deceased person is entitled to make such an application immediately before his/her death.
5. For foreigners, applications should be made through a local Bangladeshi law Firm.

## **Basic requirements of patent filing in Bangladesh?**

1. Title of the invention, the nature of the invention, and how it is to be performed.
2. Whether the invention is a product/device/product process or both.
3. Filed of the invention
4. The prior art of the invention.
5. Objective of the invention.
6. Brief description of the drawings (if any).
7. Provide a detailed description of the invention regarding the accompanying drawings (if any).
8. Novelty of the invention.
9. Inventive steps of the invention.
10. Industrial applicability of the invention.
11. Claims (showing novelty).
12. Abstract.
13. Computer printed specification with font size 11-13 in A4 offset paper.
14. In the case of the priority application, the priority documents should be submitted along with the application or within 12 months from the date of first filing, as provided by the Paris Convention.

## **Cost for Patent filing to Registration**

Official cost: \$600 to \$1000