

Patents (Amendment) Act, 2005

Section 10 - Amendment of Section 11a

In section 11A of the principal Act,- (a) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:- "(1) Save as otherwise provided, no application for patent shall ordinarily be open to the public for such period as may be prescribed. (2) The applicant may, in the prescribed manner, request the Controller to publish his application at any time before the expiry of the period prescribed under sub-section (1) and subject to the provisions of sub-section (3), the Controller shall publish such application as soon as possible. (3) Every application for a patent shall, on the expiry of the period specified under sub-section (1), be published, except in cases where the application- (a) in which secrecy direction is imposed under section 35; or (b) has been abandoned under sub-section (1) of section 9; or (c) has been withdrawn three months prior to the period specified under sub-section (1)."; (b) in sub-section (4), for the words "of eighteen months", the words, brackets and figure "prescribed under sub-section (1)" shall be substituted; (c) after sub-section (6), the following sub-section shall be inserted, namely:- "(7) On and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application: Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted: Provided further that the rights of a patentee in respect of applications made under sub-section (2) of section 5 before the 1st day of January, 2005 shall accrue from the date of grant of the patent.".