



ALL EYES ON THE PATENT LAW TREATY

September 2019

The purpose of this monthly update is to provide the latest news on implementing the new *Patent Rules* leading to the implementation of the Patent Law Treaty, in order to help you prepare for the coming changes.

Implementation of the amended *Patent Act* and the new *Patent Rules*

Amendments to the *Patent Act* and the new *Patent Rules* will come into force (CIF) on October 30, 2019, shortly after the federal election on October 21. Once the federal election period begins upon dissolution of the House of Commons, which is anticipated to take place in early September 2019, the government will implement the [caretaker convention](#). As a result, most governmental communications will be paused until after the election.

This means that while we will still be able to post new information on the implementation of the amended patent legislation on our website, we will be unable to use social media or email alerts (Canadian Patent News) to announce updates about our services or web pages.

This newsletter provides all known information at this time. We encourage you to consult our website frequently leading up to the CIF date.

Patent practice updates – information sessions

As announced during our June 2019 webinars, we will offer in-person info sessions for the patent practice updates in late September and October. Please consult the [registration page](#) for updates.

The current plan is to offer eight sessions in five cities:

- **Ottawa/Gatineau:** September 23 (English) and 24 (French)
- **Montreal:** September 30 (French) and October 1 (English)
- **Toronto:** October 3 and 4 (English both dates)
- **Calgary:** October 8 (English)
- **Vancouver:** October 10 (English)

Reference and information documents

Revised Manual of Patent Office Practice

An updated Manual of Patent Office Practice (MOPOP) is expected to be published by mid-October, before the CIF date. MOPOP is being updated with respect to the amended *Patent Act* and the new *Patent Rules*. It will be available on the [MOPOP web page](#).





ALL EYES ON THE PATENT LAW TREATY

Systems maintenance and transition

During the transition to the amended *Patent Act* and new *Patent Rules*, the Canadian Intellectual Property Office will remain open and available to receive applications, submissions, payments and requests.

- All documents submitted to our offices, in paper or electronic form, will be date stamped and processed on a first-in, first-out basis once the systems are back online.
- Due dates that end on or after the CIF date must be respected, because the office will be open.
- Mailing of examiner's reports will be suspended a few days prior to the CIF date, and resume once the systems are back online. This will ensure that the reports reference the new *Patent Rules*.
- The process of granting patents is expected to proceed as usual throughout the transition.
- Turnaround time on some services may be slightly affected, but we will take special measures to return to normal turnaround times as soon as possible.

Please note that in order to upgrade our databases, some online services may have limited or no availability for 3–5 business days following the CIF date of October 30 (length of shutdown to be confirmed). Here are some of the impacts:

- The general correspondence e-service will remain working and available, with only a short outage at the time of the update.
- The payment of patent maintenance fees e-service will be unavailable for a few days (see section below).
- The Canadian Patents Database will be available after a short outage. Please note that daily updates to the database will be suspended for a few days. Additionally, some documents may be unavailable for short periods of time.
- Internal “back office” systems will be unavailable to employees for a short period, thus they may be unable to provide normal services such as providing status updates or information on specific applications or documents.

Systems maintenance and transition of the payment of patent maintenance fees e-service

Interruption

We will temporarily shut down access to the payment of patent maintenance fees e-service starting on October 30 for a few days to make updates based on the amended legislation.





ALL EYES ON THE PATENT LAW TREATY

If you use the e-service and have any fees due between October 30 and November 4, we recommend paying them prior to October 30. Alternatively, you can submit payments through the [general correspondence portal](#), by mail or in person.

We will share more information regarding the planned outage on our [Service and Website Interruptions](#) page closer to the CIF date.

Modification of the type of fees that can be paid through the payment of patent maintenance fees e-service

As of October 30, 2019, the following services will be:

No longer possible¹:

- Reinstate application abandoned due to unpaid maintenance fee (and late fee)
- Reverse deemed expiry of patent due to unpaid maintenance fee (and late fee)

The new *Patent Rules* require a determination of due care by the Commissioner in cases of reinstatement of applications or reversal of deemed expiry of patents due to unpaid maintenance fees and late fees. The request to reinstate or reverse the deemed expiry should be accompanied with documentation in order for the Commissioner to make the determination. It is currently not possible to submit that documentation in the online Payment of Patent Maintenance Fee system.

Unchanged: late fee

- Pay maintenance fees (applications and patents)
- Bulk payment of maintenance fees (applications and patents)

New:

- Pay late fees for maintenance fees (applications and patents)²

If after October 30, you submit a payment of a maintenance fee through the e-service for an application that is abandoned or a patent that is deemed expired (with or without the reinstatement fee), you will receive an error message. You will have the option of cancelling the payment of all fees or to cancel only the ones that cannot be processed.

¹ For reinstatement of applications and reversal of deemed expiry of patents, the [general correspondence portal](#) can still be used on and after October 30. Note that each submission to the general correspondence online system must only relate to one application or patent.

² Only when the application is not abandoned or the patent is not deemed expired.





ALL EYES ON THE PATENT LAW TREATY

Questions or comments?

If you have any questions, comments or suggestions about the contents of this monthly update, please contact us at ic.cipo-consultations-opic.ic@canada.ca.

