



## JPO Starts New Fee Reduction System

from April 1, 2019

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### Abstract

The Japan Patent Office (JPO) has announced that it will introduce a new fee reduction system targeting small and micro entities (SMEs) and research and development entities (RDEs). According to the new fee reduction system, the scope of SMEs and RDEs eligible for fee reduction will be enlarged, and the procedures for requesting fee discount will be simplified. The new system will apply to patent applications for which substantive examination is requested on or after April 1, 2019.

### 1. Overview

According to the revised Patent Law and Cabinet Orders<sup>1</sup>, which will come into effect on April 1, 2019, the JPO will provide the following two systems for reduction of, exemption from, or granting of a grace period for the payment of patent-related fees.

- (A) Fee reduction system for small and micro entities (SMEs) and research and development entities (RDEs) (Articles 109-bis and 195-bis-bis of the Patent Law: NEW system)
- (B) Fee exemption/reduction/grace system for entities which are not well-capitalized (Articles 109 and 195-bis of the Patent Law: already-existing system)<sup>2</sup>

The newly-introduced fee reduction system (A) is available for a wide variety of SMEs and RDEs including foreign entities, and requires simpler procedures compared to the existing fee exemption/reduction/grace system (B).

The types of fees subject to these systems are:

- (i) the fees for requesting substantive examination of patent applications (examination request fees); and
- (ii) the fees for registering and maintaining patents (patent fees).

The newly-introduced fee reduction system (A) will apply to patent applications for which substantive examination is requested on or after April 1, 2019.

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<sup>1</sup> Include (a) the Order for Enforcement of the Patent Law (hereinafter "Enforcement Order") and (b) the Order for Fees Relating to the Patent Law and Other Related Fees (hereinafter "Fee-Related Order").

<sup>2</sup> We omit explanation of the already-existing fee exemption/reduction/grace system (B) in this article, since this system is substantially unavailable for foreign entities.



## 2. New Fee Reduction System for SMEs and RDEs

### (1) Entities eligible for fee reduction and the ratio of fee reduction

	Eligible entities (see Appendix for details)	Ratio of reduction
A	Small entities	1/2 discount of: * Examination request fees; and * Patent fees of 1st to 10th years.
B	R&D-type small entities	
C	R&D entities	
D	Micro entities	2/3 discount of: * Examination request fees; and * Patent fees of 1st to 10th years.
E	Venture-type small entities	

The requirements for these entities are prescribed in Article 10 of the Enforcement Order. For details, please see the Appendix.

### (2) Procedures

In principle, it is necessary to submit the following documents when making the payment (Article 10, items 1 to 6 of the Enforcement Order).

(a) Application form stating:

- (i) the name and address of the fee payer; and
- (ii) the number of the subject patent application/patent.

(b) Specific form proving that the fee payer satisfies the requirements prescribed in the cabinet orders.

According to the JPO's guidelines, however, it is possible to omit submission of the documents (a) and (b) above, by indicating necessary information (e.g., the specific category of eligible entity prescribed in the cabinet orders under which the fee payer falls) in the payment form. It is also not necessary to submit any evidence proving that the fee payer satisfies the requirements prescribed in the cabinet orders.

END



## APPENDIX

### Entities eligible for new fee reduction system

Article 10 of the Enforcement Order<sup>3</sup>

	Eligible entities	Enforcement Order	Ratio of reduction
A	Small- and medium-sized enterprises (small entities)	Article 10, item 1	1/2 discount of: * Examination request fees; and * Patent fees of 1 <sup>st</sup> to 10 <sup>th</sup> years.
B	Research and development type small- and medium-sized enterprises (R&D-type small entities)	Article 10, item 2	
C	Research and development entities (R&D entities)	Article 10, item 3	
D	Micro-sized enterprises and individuals (Micro entities)	Article 10, item 4	2/3 discount of: * Examination request fees; and * Patent fees of 1 <sup>st</sup> to 10 <sup>th</sup> years.
E	Venture-type small- and medium-sized enterprises (Venture-type small entities)	Article 10, item 5	

#### A. Small- and medium-sized enterprises (small entities)

(Article 10, item 1 of the Enforcement Order)

Entities which fall under any one of the following, at the time when the payment form is submitted (excluding entities also falling under D or E below and entities under the control of a large entity<sup>4</sup>).

- (a-1) Small businesses
- (a-2) Unions and Cooperatives
- (a-3) Non-profitable organizations (NPO)

<sup>3</sup> The Order for Enforcement of the Patent Law.

<sup>4</sup> Means, e.g., entities more than half of whose shares are owned by a large entity.

**(a-1) Small businesses**

	Business/industry fields	Sizes			Note
		Businesses with a capital of	or	Businesses or individuals with	
(i)	Manufacturing, Construction, transportation, etc.	≤ JPY 300M <sup>5</sup>	or	≤ 300 employees <sup>6</sup>	Excluding (ii) to (vii)
(ii)	Wholesale	≤ JPY 100M	or	≤ 100 employees	
(iii)	Service	≤ JPY 50M	or	≤ 100 employees	Excluding (iv) and (v)
(iv)	Retailing	≤ JPY 50M	or	≤ 50 employees	
(v)	Rubber product manufacturing <sup>7</sup>	≤ JPY 300M	or	≤ 900 employees	
(vi)	Software and information-processing	≤ JPY 300M	or	≤ 300 employees	
(vii)	Hotels	≤ JPY 50M	or	≤ 200 employees	

**(a-2) Unions and Cooperatives**

	Eligible entities
(i)	Joint enterprise cooperatives
(ii)	Cooperative partnerships
(iii)	Business cooperatives, minor business cooperatives, and federations thereof
(iv)	Agricultural cooperatives and federations thereof
(v)	Fishery cooperatives, marine product processing cooperatives, and federations thereof
(vi)	Forestry cooperatives and federations thereof
(vii)	Commercial and industrial associations and federations thereof
(viii)	Shopping-district promotion associations and federations thereof
(ix)	Consumer cooperatives and federations thereof

\* Foreign entities corresponding to any of the Japanese unions and cooperatives indicated above are also deemed to be eligible for fee reduction.

<sup>5</sup> “JPY 1M” means 1 million Japanese yen in this article unless otherwise indicated.

<sup>6</sup> “Employees” means full-time employees in this article unless otherwise indicated.

<sup>7</sup> Exclude manufacturing industries of tires and tubes for cars and airplanes and of industrial belts.



**(a-3) Non-profitable organizations (NPO)**

Business/industry fields	Organizations with
Retailing	≤ 50 employees
Wholesale and service	≤ 100 employees
Others	≤ 300 employees

**B. Research and development type small- and medium-sized enterprises (R&D type small entities)**

(Article 10, item 2 of the Enforcement Order)

Individuals and corporates whose ratio of experiment and research expenses accounts for more than 3/100 of the gross business income in the previous year (excluding entities also falling under D or E below and entities under the control of a large entity).

**C. Research and development entities (R&D entities)**

(Article 10, item 3 of the Enforcement Order)

Entities which fall under any one of the following, at the time when the payment form is submitted (excluding entities also falling under D or E below and entities under the control of a large entity).

	Eligible entities	
(i)	Universities	Presidents, vice presidents, deans, professors, associate professors, assistant professors, lecturers, assistants, and full-time researchers
	Technical colleges	
	Inter-university research institute corporations	Presidents and full-time researchers
(ii)	Universities	Founders
	Technical colleges	
	Inter-university research institute corporations	Corporations
(iii)	Public research and development institutes	Founders



#### D. Micro-sized enterprises and individuals (micro entities)

(Article 10, item 4 of the Enforcement Order)

Entities which fall under any one of the following, at the time when the payment form is submitted.

	Business/ industry fields	Sizes	Note
Individuals	Commercial or service	$\leq$ 5 employees	
	Others	$\leq$ 20 employees	
Cooperates	Commercial or service	$\leq$ 5 employees	Excluding entities under the control of a large entity
	Others	$\leq$ 20 employees	

#### E. Venture-type small- and medium-sized enterprises (venture-type small entities)

(Article 10, item 5 of the Enforcement Order)

Entities which fall under any one of the following, at the time when the payment form is submitted.

	Size	Conditions	Note
Individuals		less than 10 years from the date of starting business	
Cooperates	Having a capital of $\leq$ JPY 30M	less than 10 years from the date of establishment	Excluding entities under the control of a large entity

END