

Patent Agency Services (28)

1. Who may benefit from the opening up of patent agency services in the Mainland?

All Hong Kong permanent residents who hold Chinese citizenship and meet the prescribed requirements in Question 4 below may benefit from the opening up of the Mainland patent agency services by taking the National Qualification Examination for Patent Agents and, subject to compliance with certain prescribed conditions, practising as patent agents in the Mainland.

2. What types of services do Mainland Patent Agents provide?

The services include:

- (1) providing patent-related consultation services;
- (2) drafting patent application documents and handling patent applications, handling matters relating to request for substantive examination and re-examination of patent applications;
- (3) raising disagreements, handling matters relating to revocation of patents; and
- (4) handling matters relating to transfer and licensing of patents.

3. How can I qualify and practise as a patent agent in the Mainland?

Any person who wishes to qualify as a patent agent in the Mainland has to pass the National Qualification Examination for Patent Agents and obtain a Patent Agent Qualification Certificate. After obtaining the above certificate, he/she has to complete one full year of apprenticeship in an authorised patent agency in the Mainland (or the Hong Kong or Macao office of such Mainland patent agency). According to *the Measures for the Administration of Patent Agencies* (《專利代理管理辦法》), a successful candidate, after completing one-year apprenticeship, can apply for the Patent Agent Work Permit through the All-China Patent Agents Association (《中華全國專利代理人協會》), as long as he/she continues to practise in an authorised patent agency in the Mainland (or the Hong Kong or Macao office of such Mainland patent agency).

Any Hong Kong resident who is permitted to practise in the Mainland may, subject to complying with certain prescribed

conditions, become a partner or shareholder of a Mainland patent agency.

4. What are the eligibility requirements for taking the Examination?

Hong Kong residents taking the National Qualification Examination for Patent Agents are required to satisfy the following eligibility requirements:

- (1) being permanent residents of the Hong Kong Special Administrative Region holding Chinese citizenship;
- (2) possessing graduate qualifications in the field of science or engineering from tertiary education institutions in the Mainland, Hong Kong or Macao, or equivalent qualifications from other countries or territories approved by the Ministry of Education of the People's Republic of China;
- (3) having attained the age of 18; and
- (4) having more than two years' working experience in the applied science or legal field.

5. How often will the Examination be held?

The National Qualification Examination for Patent Agents will be held annually. For the latest details, please refer to the website of Intellectual Property Department (IPD) at http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm.

6. Where and when should applicants submit their applications for the National Qualification Examination for Patent Agents?

Applicants should submit their applications through the online application system on the website of the State Intellectual Property Office of the People's Republic of China (SIPO) (<http://www.sipo.gov.cn>) during the application period as announced in the SIPO website and bring along relevant documents to the Guangdong Intellectual Property Office (GIPO) in person for verification during the application period, or submit the relevant documents to IPD for forwarding to SIPO during the application period.

Alternatively, applicants may submit their application forms together with the relevant documents in person to IPD during the application period.

Contact details of IPD and GIPO are as below:

IPD

Address: 24th Floor, Wu Chung House, 213 Queen's Road East,
Wan Chai, Hong Kong

Tel.: (852) 2961 6901

Fax.: (852) 2838 6082

Website: www.ipd.gov.hk

GIPO

Address: 100 Xianlie Zhong Road, Guangzhou

Postal Code: 510070

Tel.: (86 20) 8768 0843

Fax.: (86 20) 3766 6320

Website: www.gdipo.gov.cn

Late application will not be accepted. For the latest details, please refer to IPD's website

(http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm).

For use of personal data, please see

http://www.ipd.gov.hk/eng/whats_new/news/2010/personal_data_e.pdf.

7. Which organisation is responsible for determining the eligibility of applicants?

SIPO is the sole organisation responsible for determining whether Hong Kong applicants comply with the eligibility requirements set out in Question 4.

8. How much is the application fee? Should it be paid when the application form is submitted?

Where forwarding of application documents to SIPO through IPD is required, applicants need to pay the expenses for sending the applications and relevant documents to Beijing by speed post, plus 20% of such expenses as the administration fee. The fee should be paid to IPD at the time when the applicants collect their notifications of eligibility for examination.

For the latest details, please refer to IPD's website at (http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm).

9. What documents are required to be submitted by applicants at the time of application?

The following documents and information should be submitted on application:

- (i) copies of identification documents and proof of academic qualifications and working experience which have been attested by a China-appointed attesting officer with the original attesting certificate attached;
- (ii) if any document in paragraph (i) above is not in Chinese, a copy of its Chinese translation; the translation may be prepared by the applicant and need not be attested;
- (iii) one completed and signed application form;
- (iv) three recent colour photos of the applicant (without headgear) measuring 1 inch ; and
- (v) two copies of all the documents and information listed in paragraphs (i), (ii) and (iii) above.

10. In relation to Question 9, what identification documents could serve as proof for being Hong Kong permanent residents holding Chinese citizenship?

Applicants should submit the following identification documents:

- (i) a copy of their Hong Kong permanent identity card; and
- (ii) a copy of their Hong Kong Special Administrative Region Passport or Home Visit Permit for Hong Kong and Macao Residents.

As stated in Question 9, these identification documents should be attested by a China-appointed attesting officer and verified to correspond with the original documents.

11. How can applicants obtain information about China-appointed attesting officers?

The relevant information can be obtained from the website of the Association of China-Appointed Attesting Officers Limited at <http://www.caa.org.hk/>.

12 Will applicants re-taking the examination (i.e. they have applied for the National Qualification Examination for Patent Agents in the past) be exempted from submitting the original attesting certificates as required?

Hong Kong candidates applying for the National Qualification Examination for Patent Agents in the current year will be exempted from the requirement of submitting the original attesting certificates if they meet the following criteria:

- (1) having taken the National Qualification Examination for Patent Agents in previous years starting 2004;
- (2) being able to provide the copy of the examination pass or its number for the National Qualification Examination for Patent Agents taken in previous years starting 2004; and
- (3) having no change regarding the identification documents.

In case of changes (for example, replacement with smart identity cards), copies of the new identification documents which have been attested by a China-appointed attesting officer should be submitted together with the original attesting certificates.

Candidates who meet the above criteria only need to submit the following documents and information on application:

- (i) copies of identification documents and proof of academic qualifications and working experience which have been attested by a China-appointed attesting officer (but **original** attesting certificates are not required);
- (ii) if any document in paragraph (i) above is not in Chinese, a copy of its Chinese translation; the translation may be prepared by the applicant and need not be attested;
- (iii) one completed and signed application form;
- (iv) three recent colour photos of the applicant (without headgear) measuring 1 inch; and
- (v) two copies of all the documents and information listed in paragraphs (i), (ii) and (iii) above.

Candidates who do not meet the above criteria are still required to submit the original attesting certificates issued by a China-appointed attesting officer for attesting copies of their identification documents and proof of academic qualifications and working experience.

For the latest details, please refer to IPD's website at

http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm).

13. What subjects are covered by the fields of “science and engineering”?

According to the information compiled by the Ministry of Education of the People’s Republic of China, the subjects listed in the Appendix in SIPO’s website are covered under the fields of “science and engineering”

<http://www.sipo.gov.cn/sipo/zldl/doc/lgkdzb.doc>).

As regards other subjects or combined programmes that are related to science or engineering but are not listed in the Appendix, SIPO will consider them on a case-by-case basis. Applicants may refer to Question 16 regarding the arrangements for recognition of academic qualifications.

14. Are all degrees, diplomas or associate degrees in the field of science or engineering that are awarded by Hong Kong tertiary education institutions accepted for the purpose of the Examination?

Generally speaking, degrees in the field of science or engineering awarded by all Hong Kong universities would be accepted for the purpose of the Examination. Diplomas or associate degrees in the field of science or engineering awarded by other tertiary educational institutions are required to be approved by the Ministry of Education of the People’s Republic of China on a case-by-case basis. Applicants may refer to Question 16 regarding the arrangements for recognition of academic qualifications.

15. Will overseas academic qualifications be accepted?

Academic qualifications in the field of science or engineering from tertiary education institutions of other countries or territories would also be accepted if they are approved by the Ministry of Education of the People’s Republic of China. Applicants may refer to Question 16 regarding the arrangements for recognition of academic qualifications.

16. What should applicants do if they need to seek recognition of their academic qualifications?

It is not necessary for applicants to approach SIPO or the Ministry

of Education of the People's Republic of China directly to obtain recognition of their academic qualifications. They are only required to submit the documents and information listed in Question 9 at the time of application. Upon receipt of the relevant documents, SIPO will forward their academic qualifications to the Ministry of Education for processing.

17. How can applicants prove their work experience in the applied science or legal field?

Applicants should furnish documentary evidence provided by the relevant employer(s) setting out information on their employment period, their post and the nature and areas of their work. As stated in Question 9, such documentary evidence should be attested by a China-appointed attesting officer. If any of the above-mentioned documents is not in Chinese, applicants should prepare and submit corresponding Chinese translation. The translation copy of the documents need not be attested.

18. Is overseas working experience counted?

Yes.

19. How would applicants be notified of the results of their applications?

SIPO is responsible for determining whether the applicants have satisfied the eligibility requirements of the Examination. Applicants who satisfy the eligibility requirements will receive notification letters containing details which include the examination venue, the time and procedures for reporting at the examination centre, and the arrangements for collecting the examination passes, etc.

20. What subjects will be covered in the Examination?

The Examination consists of three subjects as follows:

- (1) Knowledge on Patent Laws;
- (2) Related Legal Knowledge; and
- (3) Work Practices of Patent Agents.

21. What form will the Examination take?

All examinations will be closed book examinations. The examination of Knowledge on Patent Laws and Related Legal

Knowledge will be in the form of multiple-choice questions, while essay-type questions will be found in the examination paper of Work Practices of Patent Agents.

22. How can applicants obtain revision materials for the Examination?

Applicants may base their revision and preparation on “The Guidebook on National Qualification Examination for Patent Agents” for that year as compiled by the Office of the Patent Agent Examination Board (專利代理人考核委員會辦公室). For the latest details, please refer to IPD’s website at (http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm).

23. Is the Examination going to be conducted in Chinese?

The examination papers would be in simplified Chinese characters. Answers should be provided in Chinese. However, Hong Kong candidates may use traditional Chinese characters in answering the questions.

24. Will the Examination papers and results be published?

After the examination, SIPO will release the examination papers on the subjects of Knowledge on Patent Laws and Related Legal Knowledge with draft model answers and invite comments from the public within a specified period.

After issuing the Patent Agent Qualification Certificates, SIPO will release the examination paper of the subject Work Practices of Patent Agents with model answers.

25. How to determine the threshold for passing the examination?

The Patent Agent Examination Board will determine the threshold after thorough deliberations by taking into account the actual demand for patent agent service and the difficulty level of the examination papers in that particular year.

26. How can the application form be obtained?

The application form can be downloaded from the following websites: IPD’s website: (http://www.ipd.gov.hk/eng/whats_new/news/Opening_up_patent_and_trade_mark_agency_services_in_the_Mainland.htm); and

SIPO's website:

(http://www.sipo.gov.cn/sipo2008/dlrzgks/200906/t20090617_465508.html).

27. How can further information about the Examination be obtained?

For further information about the Examination, please visit SIPO's website at <http://www.sipo.gov.cn>. For matters relating to online applications, applicants may contact SIPO

Contact Person: Mr SUN Ping

Tel.: (86 10) 6208 6552

Fax.: (86 10) 6208 3620

E-mail: sunping@sipo.gov.cn

Enquiries may also be directed to SIPO by way of e-mail to dinghuiling@sipo.gov.cn. SIPO may answer these enquiries directly by means of e-mails or may do so by posting replies to questions that are commonly raised on their official website. Moreover, Hong Kong residents intending to take the Examination may direct their enquiries by way of e-mail to IPD (Email: enquiry@ipd.gov.hk). IPD will forward such enquiries to SIPO for their next action.

28. Is there any pre-examination training course?

Various parties including the China Intellectual Property Training Centre, local intellectual property office and the All-China Agents Association may arrange pre-examination training courses for the National Qualification Examination for Patent Agents. Candidates can enrol in the pre-examination training courses organised in the Mainland. IPD will post on its website details of the training courses that come to their knowledge.