



Reinstatement (Section 35A)(Rule 33A)

Where an application for a patent has been refused or deemed withdrawn, the applicant may, under section 35A of the Patent Act 1992, apply to have the application reinstated provided that it is not part of proceedings before the Controller, it is not related to right of priority and it is not covered by Section 118A.

The time limit for making a request under section 35A for reinstatement shall be the earlier to expire of the following periods:

- (a) two months from the date on which the removal of the cause of non-compliance occurred, or
- (b) twelve months starting from the date the application was removed.

Where an application for a patent is refused or is treated as having been withdrawn, as a direct consequence of a failure by the applicant to comply with a requirement of the Patents Act, 1992 or the Patents Rules, 1992 the Controller shall reinstate the application only if—

- (a) the applicant requests the Controller to do so,
- (b) the request complies with the prescribed requirements, and
- (c) the Controller is satisfied that the said failure to comply occurred despite reasonable care having been taken to so comply.

Under Rule 33A the prescribed requirements include:

- the name and address of the applicant for reinstatement
- the number of the patent application in question
- the circumstances which led to the failure to comply with the time limit and verifying evidence to support the statement of circumstances
- the prescribed fee of €125

Please complete and submit the application form available ([here](#)) in order to ensure that all of the requirements under Rule 33(A) have been met.

It is important to note that payment of the reinstatement fee does not automatically constitute the reinstatement of the Patent – this decision will be determined by the Controller on the facts provided.

Should the application in question already have been published, the application for reinstatement will also be published, and an opportunity afforded to persons to object to the reinstatement.

Should the reinstatement application be successful the applicant will be afforded a period not less than 2 months in order to comply with the requirement of the Act or Rules which had led to its removal.

Should the Controller decide upon consideration of the evidence provided that a valid case for reinstatement has not been made, the applicant will be notified accordingly and afforded a period of one month to request a hearing. Should such a request not be received in this period, the application for reinstatement will be refused.