

REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
NUMBER 46 OF 2020
ON
REQUIREMENTS OF AND PROCEDURES FOR RECORDATION ON TRANSFER OF
PATENT¹

BY THE GRACE OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

that in order to implement provisions under Article 74 paragraph (5) of Law [Number 13 of 2016](#) on Patent, it is deemed necessary to establish Regulation of the Government on Requirements of and Procedures for Recordation on Transfer of Patent;

In view of:

1. Article 5 paragraph (2) of 1945 Constitution of the Republic of Indonesia;
2. Law [Number 13 of 2016](#) on Patent (State Gazette of the Republic of Indonesia of 2016 Number 176, Supplement to the State Gazette of the Republic of Indonesia Number 5922);

HAS DECIDED:

To establish:

REGULATION OF THE GOVERNMENT ON REQUIREMENTS OF AND PROCEDURES
FOR RECORDATION ON TRANSFER OF PATENT.

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CHAPTER 1

GENERAL PROVISIONS

Article 1

Under this Regulation of the Government, the following definitions are employed:

1. Patent is exclusive right which is granted by the state to Inventor upon its invention result within technology sector for a certain time period to self-exercise such invention or authorize consent for another party to exercise it.
2. Inventor is a person or several persons who jointly execute idea which is manifested into activity which creates Invention.
3. Patent Holder is Inventor acting as Patent holder, party who receives right over such Patent from Patent owner, or another party who further receives right over such Patent which is registered in general registry of Patent.
4. Applicant for Transfer of Patent, hereinafter referred to as Applicant, is party who files application for recordation on transfer of Patent.
5. Proxy is intellectual property consultant who resides or has permanent domicile within the territories of the Unitary State of the Republic of Indonesia.
6. Special Power of Attorney is power of attorney which is drawn up by Applicant to Proxy in order to file application for recordation on transfer of Patent.
7. Claim is part of application which depicts the core of invention which is applied for legal protection, which should be clearly described and supported by description.
8. Day is business day.
9. Minister is minister who organizes governmental affairs within legal sector.

Article 2

- (1) Right over Patent may transfer or be transferred, either wholly or partially, due to:
 - a. inheritance;
 - b. grant;
 - c. testament;
 - d. waqf;
 - e. written agreement; or

- f. other causes which are justified based on provisions under laws and regulations.
- (2) Transfer of right over Patent as referred to in paragraph (1) is performed in accordance with provisions under laws and regulations.

Article 3

- (1) Transfer of Patent as referred to under Article 2 paragraph (1) should be recorded in general registry of Patent, as well as be published through electronic media and/or non-electronic media by Minister.
- (2) Against transfer of right over Patent which is not in accordance with provisions as referred to in paragraph (1), all rights and obligations are still attached to Patent Holder.

Article 4

Transfer of Patent as referred to under Article 2 paragraph (1) is performed for:

- a. the whole Claims over Patent; or
- b. a part of Claims over Patent.

Article 5

- (1) Annual fee of Patent which transfers or is transferred wholly, is attributed to receiver of Patent due to inheritance, grant, testament, waqf, written agreement, or other causes which are justified based on provisions under laws and regulations, unless the Patent:
- a. has been granted license to another party, in accordance with license agreement or
 - b. is exercised by the Government, in accordance with provisions under laws and regulations within the sector of exercise of Patent by Government.
- (2) Annual fee of Patent which transfers or is transferred partially, is attributed to the previous Patent Holder or receiver of Patent.

CHAPTER II
REQUIREMENTS OF APPLICATION FOR RECORDATION ON TRANSFER OF
PATENT

Article 6

Application for recordation on transfer of Patent as referred to under Article 3 paragraph (1) may only be filed for Patent which has been granted by the state.

Article 7

- (1) Application as referred to under Article 6 should fulfill these requirements:
- a. paying fee for application for recordation on transfer of Patent;
 - b. paying annual fee of Patent;
 - c. completing documents relating to application for recordation on transfer of Patent; and
 - d. attaching affidavit that the documents which are submitted are in conformity with their originals.
- (2) Amount of fee as referred to in paragraph (1) letter a and letter b is determined in accordance with provisions under laws and regulations within the sector of non-tax state revenue.

Article 8

Applicant for recordation on transfer of Patent due to inheritance as referred to under Article 2 paragraph (1) letter a files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. death certificate of Patent Holder;
- c. copy of document which proves the position as heir in the forms of inheritance stipulation from religious court for those who are Moslems, deed of inheritance which is drawn up by public notary, or inheritance stipulation which is issued by district court;

- d. heir certificate which appoints one of the heirs to administer application for recordation on transfer of Patent, in case heirs are more than 1 (one) person;
- e. Special Power of Attorney, in case application is filed using Proxy;
- f. payment receipt of fee for application for recordation on transfer of Patent;
- g. payment receipt of annual fee of Patent;
- h. heir certificate on the relinquishment of Patent, in case there is heir who performs relinquishment of Patent;
- i. proof of recordation on license agreement, in case the Patent has been licensed to another party;
- j. copy of fiduciary-security certificate and written agreement from fiduciary-security creditor [*penerima fidusia*], in case the right over Patent is put as fiduciary-security object; and
- k. copy of Regulation of the President on Exercise of Patent by Government, in case Patent is exercised by Government.

Article 9

Applicant for recordation on transfer of Patent due to grant as referred to under Article 2 paragraph (1) letter b files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. copy of deed of grant;
- c. Special Power of Attorney, in case application is filed using Proxy;
- d. payment receipt of fee for application for recordation on transfer of Patent;
- e. payment receipt of annual fee of Patent;
- f. grantee certificate on relinquishment of Patent, in case there is grantee who performs relinquishment of Patent;
- g. proof of recordation on license agreement, in case the Patent has been licensed to another party;

- h. copy of fiduciary-security certificate and written agreement from fiduciary-security creditor [*penerima fidusia*], in case the right over Patent is put as fiduciary-security object; and
- i. copy of Regulation of the President on Exercise of Patent by Government, in case Patent is exercised by Government.

Article 10

Applicant for recordation on transfer of Patent due to testament as referred to under Article 2 paragraph (1) letter c files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. death certificate of Patent Holder;
- c. copy of deed of testament;
- d. Special Power of Attorney, in case application is filed using Proxy;
- e. payment receipt of fee for application for recordation on transfer of Patent;
- f. payment receipt of annual fee of Patent;
- g. heir certificate on the relinquishment of Patent, in case there is heir who performs relinquishment of Patent;
- h. proof of recordation on license agreement, in case the Patent has been licensed to another party;
- i. copy of fiduciary-security certificate and written agreement from fiduciary-security creditor [*penerima fidusia*], in case the right over Patent is put as fiduciary-security object; and
- j. copy of Regulation of the President on Exercise of Patent by Government, in case Patent is exercised by Government.

Article 11

Applicant for recordation on transfer of Patent due to waqf as referred to under Article 2 paragraph (1) letter d files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. deed on waqf pledge which is issued by authorized official;
- c. Special Power of Attorney, in case application is filed using Proxy;
- d. payment receipt of fee for application for recordation on transfer of Patent;
- e. payment receipt of annual fee of Patent;
- f. affidavit from Patent Holder that Patent is not licensed to another party exclusively, is not put as fiduciary-security object, and is not Patent which is exercised by Government based on consideration in relation to state defense and security or Patent which disrupts or contradicts with state defense and security interests.

Article 12

Applicant for recordation on transfer of Patent due to written agreement as referred to under Article 2 paragraph (1) letter e files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. copy of deed of agreement;
- c. Special Power of Attorney, in case application is filed using Proxy;
- d. payment receipt of fee for application for recordation on transfer of Patent;
- e. payment receipt of annual fee of Patent;
- f. proof of recordation on license agreement, in case the Patent has been licensed to another party;
- g. copy of fiduciary-security certificate and written agreement from fiduciary-security creditor [*penerima fidusia*], in case the right over Patent is put as fiduciary-security object; and

- h. copy of Regulation of the President on Exercise of Patent by Government, in case Patent is exercised by Government.

Article 13

Applicant for recordation on transfer of Patent due to other causes which are justified based on provisions under laws and regulations as referred to under Article 2 paragraph (1) letter f files application for recordation on transfer of Patent by attaching completeness documents in the forms of:

- a. quotation or copy of Patent documents or copy of Patent certificate and Patent documents;
- b. copy of court decision which has been final and binding or proof of transfer of Patent due to other causes which are justified by laws and regulations;
- c. Special Power of Attorney, in case application is filed using Proxy;
- d. payment receipt of fee for application for recordation on transfer of Patent;
- e. payment receipt of annual fee of Patent;
- f. affidavit from receiver of Patent on relinquishment of Patent, in case there is receiver of Patent who performs relinquishment of Patent;
- g. proof of recordation on license agreement, in case the Patent has been licensed to another party;
- h. copy of fiduciary-security certificate and written agreement from fiduciary-security creditor [*penerima fidusia*], in case the right over Patent is put as fiduciary-security object; and
- i. copy of Regulation of the President on Exercise of Patent by Government, in case Patent is exercised by Government.

Article 14

In case transfer of Patent is performed for a part of Claims over Patent as referred to under Article 4 letter b, application for recordation on Patent should be accompanied with affidavit from Patent Holder which mentions Claims which are transferred.

CHAPTER III
PROCEDURES FOR APPLICATION FOR RECORDATION ON TRANSFER OF
PATENT

Article 15

- (1) Applicant files application for recordation on transfer of Patent as referred to under Article 2 paragraph (1) to Minister.
- (2) Application as referred to in paragraph (1) is filed in writing in Indonesian Language by filling-out form and attaching requirements as referred to under Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, and/or Article 14.
- (3) Form as referred to in paragraph (2) at least contains the followings:
 - a. date, month, and year of application;
 - b. name and complete address of Applicant;
 - c. name and complete address of Patent Holder;
 - d. number and title of Patent; and
 - e. name and complete address of Proxy, in case application is filed using Proxy.
- (4) Filing of application as referred to in paragraph (1) is performed electronically and/or non-electronically.

Article 16

- (1) Application which is filed by Applicant who does not reside or does not have permanent domicile within the territories of the Unitary State of the Republic of Indonesia should be filed through its Proxy in Indonesia.
- (2) Application which is filed by Applicant who resides within the territories of the Unitary State of the Republic of Indonesia may be filed using Proxy.
- (3) In case Application is filed using Proxy, address of Proxy becomes domicile of Applicant.

Article 17

Minister performs examination against application and completeness of requirements as referred to under Article 15 paragraph (2) within maximum time period of 14 (fourteen) Days.

Article 18

- (1) In case requirements of application as referred to under Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, and/or Article 14 are not yet complete, Minister notifies in writing to Applicant or Proxy to complete requirements of application no later than 60 (sixty) Days since the date of notification on the lacking of requirements of application.
- (2) If within time period as referred to in paragraph (1), Applicant or Proxy fails to complete the requirements, application for recordation on transfer of Patent is deemed to be withdrawn.
- (3) In case application for recordation on transfer of Patent is withdrawn, fee which has been paid cannot be returned.
- (4) Application which is withdrawn as referred to in paragraph (2) may be refiled.

Article 19

- (1) In case requirements of application as referred to under Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, and/or Article 14 are declared to be complete, Minister performs recordation on transfer of Patent within maximum time period of 14 (fourteen) Days since the date when completeness of requirements was fulfilled.
- (2) Minister publishes on electronic media and/or non-electronic media, as well as notifies recordation on transfer of Patent to Applicant or Proxy within maximum time period of 30 (thirty) Days since the recordation on transfer of Patent as referred to in paragraph (1).

Article 20

- (1) In case heir, grantee, beneficiary of testament, or receiver of Patent due to other causes which are justified based on provisions under laws and regulations, refuses to become Patent Holder, the relevant person declares the relinquishment of such Patent.
- (2) Relinquishment of Patent must be notified to Minister by attaching affidavit from heir, grantee, beneficiary of testament, or receiver of Patent due to other causes which are justified based on provisions under laws and regulations on relinquishment of Patent.
- (3) In case all heirs, grantees, beneficiaries of testament, or receivers of Patent due to other causes which are justified based on provisions under laws and regulations perform relinquishment of Patent, Minister performs erasure of Patent in accordance with provisions under laws and regulations.
- (4) In case a part of heirs, grantees, beneficiaries of testament, or receivers of Patent due to other causes which are justified based on provisions under laws and regulations perform relinquishment of Patent, Minister performs re-recording of transfer of Patent.



CHAPTER IV TRANSITIONAL PROVISIONS

Article 21

When this Regulation of the Government enters into force, application for recordation on transfer of Patent which has been filed and undergoing process, but it is not yet concluded, is continue to be concluded based on Regulation of the President [Number 37 of 2010](#) on Requirements of and Procedures for Recordation on Transfer of Patent.

CHAPTER V FINAL PROVISIONS

Article 22

When this Regulation of the Government enters into force, Regulation of the President [Number 37 of 2010](#) on Requirements of and Procedures for Recordation on Transfer of Patent is revoked and declared to be invalid.



Article 23

This Regulation of the Government enters into force on the date of its promulgation.

For the purposes of public cognizance, it has been ordered that the promulgation of this Regulation of the Government should be achieved through its publication in the State Gazette of the Republic of Indonesia.

Established in Jakarta

on 10 August 2020

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed.

JOKO WIDODO

Promulgated in Jakarta

on 11 August 2020

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

signed.

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2020 NUMBER 191

**ELUCIDATION
OF
REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
NUMBER 46 OF 2020
ON
REQUIREMENTS OF AND PROCEDURES FOR RECORDATION ON TRANSFER OF
PATENT**

I. GENERAL

Government has established Regulation of the President [Number 37 of 2010](#) on Requirements of and Procedures for Recordation on Transfer of Patent as implementing provisions of Article 66 paragraph (5) of Law [Number 14 of 2001](#) on Patent. Considering that Law [Number 14 of 2001](#) on Patent has been replaced with Law [Number 13 of 2016](#) on Patent, its implementing regulation should be adjusted with amendment of Law in question.

Patent is exclusive right which is granted by the state to Inventor upon its invention result within technology sector for a certain time period to self-exercise such invention or give consent for another party to exercise it. Patent, besides from being able to be self-owned by its inventor, it may also be transferred to another party, so that it may utilize such patent. Based on Article 74 paragraph (1) of Law [Number 13 of 2016](#) on Patent, there is addition in substance on causes of right over Patent may transfer of be transferred, either wholly or partially, due to waqf.

Law [Number 41 of 2004](#) on Waqf states that waqf is legal act of *wakif* in order to separate and/or convey a part of its assets to be utilized forever or for a certain period of time in accordance with its interest for religious and/or public welfare purposes according to sharia. Waqf assets consist of immovable object and movable object. Movable object is assets which cannot be exhausted due to consumption, including intellectual property right.

In light of such condition, besides from addressing requirements of and procedures for recordation on transfer of Patent as a result of inheritance, grant, testament, written agreement, or other causes which are justified based on

provisions under laws and regulations, this Regulation of the Government aims to breakdown requirements of and procedures for recordation on transfer of Patent which is caused due to waqf, so that it is in line with Law [Number 41 of 2004](#) on Waqf.

In addition, development of information technology and communication on one hand assumes strategic role in legal development within intellectual property sector. Hence, recordation on transfer of Patent may also be performed by using information technology which eases Applicant in filing application for recordation on transfer of Patent.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Paragraph (1)

As exclusive right, Patent may be transferred by its Inventor or the eligible party over such invention to person or incorporated entity.

“May transfer or be transferred”, refers only to economic rights, meanwhile moral rights remain to be attached to the individual of Inventor. Transfer of right over Patent should also be performed in notarial manner (notarial deed).

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Letter e

Self-explanatory.

Letter f

“Other causes which are justified based on provisions under laws and regulations”, for instance, ownership of Patent due to dissolution of incorporated entity which was originally the Patent Holder.

Paragraph (2)

Self-explanatory.

Article 3

Paragraph (1)

“Electronic media” refers to media which uses electronic or electro-mechanical energy to access its content, namely internet site.

“Non-electronic media” takes form as placement in official gazette of Patent which is issued periodically by Minister, placement on special media which is easily, and clearly, may be seen by the public, among others, periodic print which is issued by Directorate General of Intellectual Property and/or announcement board at Minister’s office.

Paragraph (2)

Self-explanatory.

Article 4

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Self-explanatory.

Article 7

Paragraph (1)

Letter a

Self-explanatory.

Letter b

“Pay annual fee” refers to Patent Holder has paid annual fee of Patent up to the last year before the application for recordation on transfer of Patent is filed.

Letter c

Self-explanatory.

Letter d

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article 8

Self-explanatory.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.



Article 13

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Self-explanatory.

Article 19

Self-explanatory.

Article 20

Self-explanatory.

Article 21

Self-explanatory.

Article 22

Self-explanatory.



Article 23

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 6546

