

Patent hearings

Which Act applies

Transitional provisions for hearing proceedings

Before reading our hearings information, you need to know which Act applies to you. The Patents Act 2013 came into force on 13 September 2014. However, the Patents Act 1953 continues to apply in certain situations:

- hearing proceedings started before 13 September 2014
- hearing proceedings started after 13 September 2014 which concern a patent application deemed to have been 'made' under the 1953 Act (see explanation below)
- the grounds available for revocation or re-examination, where the proceedings started after 13 September 2014 and they relate to a patent granted under the Patents Act 1953.

Note: In such cases, the Patents Act 1953 will only apply to the grounds available for revocation or re-examination, while the Patents Act 2013 will apply to the rest of the hearing proceedings.

How do I know if a patent application was 'made' under the Patents Act 1953?

PCT national phase applications

For PCT National Phase applications, the Patents Act 1953 continues to apply if the New Zealand **national phase entry date** is on or before 13 September 2014. For National Phase applications received after that date, the new Act applies.

All other patent applications

For all other types of patent applications, the key date is when the **complete specification** was filed. If the complete specification was filed:

- before 13 September 2014, it is deemed to be made under the Patents Act 1953
- after 13 September 2014, it is deemed to be made under the Patents Act 2013*

* The exception to this is that the Patents Act 1953 applies to any **divisional application** filed after 13 September 2014 which:

- relates to any part of the subject matter of the parent patent application to which the Patents Act 1953 applies; **and**
- is given a date before 13 September 2014.

For more information, see sections 253 to 259 of the Transitional Provisions of the Patents Act 2013.
