

# IPONZ Guide for Releasing Official Information held under Patents Act 1953, Patents Regulations 1954 and Official Information Act 1982

The information in this guide only relates to patent applications that are made under the **Patents Act 1953**<sup>1</sup>. This Act was repealed, but still applies to some cases as set out in [section 253](#) of the Patents Act 2013.

The guiding principle of the [Official Information Act 1982](#) (OIA) is that official information must be made available unless there are good reasons for withholding it.

The [Patents Act 1953](#) and [Patents Regulations 1954](#) place some restrictions on what information can be released. These predominantly relate to patent specifications and examiner's reports. Where enactments place restrictions on the release of information, this is a reason for refusal of a request under section 18(c)(i) of the OIA. Section 52(3)(b)(i) of the OIA also specifies that nothing in the OIA deviates from any provision in an Act or regulations which imposes a prohibition or restriction in relation to the availability of official information.

If there is no specific restriction in the Patents Act 1953 or the Patents Regulations 1954, the normal rules of the OIA apply, including the grounds for withholding information set out in [section 6](#) and [section 9](#) of the OIA and the grounds of refusal set out in [section 18](#) of the OIA.

## What information is likely to be able to be released?

The tables on the following pages give an overview of the information that may or may not be released. Additional information is provided in written form at the end of the document.

Release of information generally depends on:

- whether the patent is open to public inspection (OPI) or not,
- whether the information is already available, and
- who is requesting the information.

## How do I know which category a case falls into?

The complete specification of a patent application becomes open to public inspection (OPI) on the date it is advertised as accepted in the Journal, under section 20(2).

If a complete specification is OPI, the "Case Data" section displays an "Acceptance Date" and "Published Date" on the bibliographic page of the case in the online [Patents register](#). If a complete specification is granted, the "Case Data" section also displays a "Grant date".

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<sup>1</sup> "The "Bibliographic Data", "Patent Information" section of an application shows "1953 Act" where this applies. To view this, use the [Search function](#) of the IPONZ online Patents Register.

## Applications that are not open to public inspection

	<b>Applicant or Agent of Applicant</b>	<b>Third parties</b>
<b>Information that is already available</b>	<p>Bibliographical information.</p> <p>All documents filed or issued as part of the patent case.</p> <p><i>These are available via the case management facility.</i></p>	<p>Bibliographic information published under s.91(1), including:</p> <ul style="list-style-type: none"> <li>• Patent number</li> <li>• Date of filing</li> <li>• Convention date &amp; country (if applicable)</li> <li>• Title of application</li> <li>• Applicant</li> <li>• Agent</li> <li>• Journal number</li> </ul> <p><i>This is available via the Patents register.</i></p>
<b>Information that may not be released</b>	<p>Any information for which good reason exists to withhold it under section 6 or section 9 of the OIA.</p>	<p>Patent applications and related specifications. <i>These are withheld under section 91(1).</i></p> <p>Examiner's reports, or any information that could be used to establish the contents of the examination reports, such as responses to examination reports (unless ordered by the Court). <i>These are withheld under section 91(2).</i></p> <p>Information in respect of which there is an order prohibiting release due to relevance to defence purposes or atomic energy. <i>This is withheld under sections 25 and 26.</i></p> <p>Any other information held by IPONZ relating to an application not covered by the above reasons, but for which good reason exists to withhold it under section 6 or section 9 of the OIA.</p>
<b>Information that may be released</b>	<p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>	<p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>

## Applications that are open to public inspection, but a patent has not been granted

	<b>Applicant or Agent of Applicant</b>	<b>Third parties</b>
<b>Information that is already available</b>	<p>Bibliographical information.</p> <p>All documents filed or issued as part of the patent case.</p> <p><i>These are available via the case management facility.</i></p>	<p>Bibliographical information as above.</p> <p>The accepted application and complete specification, published under section 20(2).</p> <p><i>These are available via the Patents register.</i></p>
<b>Information that may not be released</b>	<p>Any information for which good reason exists to withhold under section 6 or section 9 of the OIA.</p>	<p>Examiner's reports, or any information that could be used to establish the contents of the examination reports, such as responses to examination reports (unless ordered by the Court). <i>These are withheld under section 91(2).</i></p> <p>Any other information held by IPONZ relating to an application not covered by the above reasons, but for which good reason exists to withhold under section 6 or section 9 of the OIA.</p>
<b>Information that may be released</b>	<p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>	<p>The result of any search made under section 13 or section 14 or any information furnished under section 15(1)(b)(i) (where an application is made under section 91(2), in accordance with the Patents Regulations 1954).</p> <p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>

## Applications that are open to public inspection, and a patent has been granted

Note that the Patents Act 2013 applies to these cases

	<b>Applicant or Agent of Applicant</b>	<b>Third parties</b>
<b>Information that is already available</b>	<p>Bibliographical information.</p> <p>All documents filed or issued as part of the patent case.</p> <p><i>These are available via the case management facility.</i></p>	<p>Bibliographical information as above.</p> <p>The accepted application and complete specification, published under section 20(2).</p> <p><i>These are available via the Patents register.</i></p>
<b>Information that may not be released</b>	<p>Any information for which good reason exists to withhold under section 6 or section 9 of the OIA.</p>	<p>Any information held by IPONZ relating to an application for which good reason exists to withhold under section 6 or section 9 of the OIA.</p>
<b>Information that may be released</b>	<p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>	<p>All other information and documents associated with the case that are in the possession of the Commissioner (not covered above).</p>

## **Details of the restrictions on the release of information**

### **Patent applications and related specifications**

Section 91(1) of the Patents Act 1953 provides that patent applications and any specifications filed in respect of those applications shall not be published or open to public inspection until after acceptance under section 20, except with the consent of the applicant.

This does not include the date and number of an application and such details of the application and invention as are required to be given in the application form.

The complete specification of a patent application becomes open to public inspection (OPI) on the date it is advertised as accepted in the Journal, under section 20(2).

### **Examiners' reports**

For applications where the Patents Act 1953 continues to apply, section 91(2) of the Patents Act 1953 provides that the reports of examiners shall not be published or open to inspection at any time unless discovery is ordered by the Court in legal proceedings.

The Commissioner may however, on application made in the prescribed manner by any person, disclose the result of any search made under section 13 or section 14 or any information furnished under subparagraph (i) of paragraph (b) of section 15 in respect of any application for a patent where the complete specification has been published.

The Patents Act 2013 applies after a patent has been granted, and the restriction ceases.

### **Defence purposes and atomic energy**

For applications where the Patents Act 1953 applies, sections 25 and 26 of the Patents Act 1953 provide that the Commissioner of Patents and the Minister of Defence may give directions in certain circumstances prohibiting the release of information relating to applications for patents that are relevant to defence purposes or relate to atomic energy.