

**Update of the 16th edition of
the Annotated European Patent Convention
from 31-12-2008 till 31-01-2009**

I Amendments in view of OJ 1 of 2009

Convention

p.60, Art.52(2):5, two but last paragraph, replace ‘(see EPO website under ‘Pending Referrals’)’ by ‘(OJ 2009, 32)’.

p.320, Art.134a(1):2, replace the first sentence by:
‘The amended regulations on the European qualifying examination (REE) mentioned in Art.134a(1)(b) have been published in OJ 2009,9. The consolidated instructions for the examination have been published in a supplement to OJ 12/2008.’

Implementing Regulations

p.558, R.115(1), first paragraph, replace ‘OJ 2000, 456 point 2.2’ by ‘OJ 2009, 115’.

Rules relating to fees

p.666, first paragraph below law text: add ‘Amendment Rfees 2(1a) by decision of the Administrative Council, see OJ 2009,7.

p.678, Rfees 8(2), deleted by decision of the Administrative Council and applicable to applications filed on or after 01.04.2009 (see OJ 2009, 7).

Case Law Table

p.803, add ‘OJ 2009, 36’ to decision T1319/04.

II Corrections

Implementing Regulations

p.417, R.40:1, last sentence ‘As no individual ... p.159)’ replace by:

‘The EPO applies R.40 to divisional applications for determining a date of receipt (see A-IV,1.2.1 and 1.3.1), in spite of the fact that the Travaux Préparatoires of the EPC 2000 state that R.40 should not be applied to divisional applications (see Spec. Ed. 1 of OJ 2003, p.159).’

p.467, R.57:2.2, replace the two paragraphs ‘Non-compliance ... R.136 is available’ by ‘Non-compliance results in the application being deemed to be withdrawn under Art.14(2). The EPO will notify the applicant of the loss of rights according to R.112(1). The periods of R.40(3) and R.58 are excluded from further processing; however, re-establishment may be requested. (A-III,14)

It should be noted that the Travaux Préparatoires of the EPC 2000 state that non-compliance will result in the application being refused under Art.90(5) (Spec. ed. 5, OJ 2007, p.106). The EPO has admitted that this statement is erroneous.’

Rules relating to fees

p.667, Rfees2:3, second paragraph, replace ‘01.04.2008’ by ‘01.04.2009’ (twice).

p.667, Rfees2:5: replace ‘Rfees2(15)’ by ‘Rfees2(3)’.