



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

***Policy on the Evaluation of Creative Outputs and Innovations Produced by
Public Higher Education Institutions (2017)***

Implementation guidelines

2019

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1 Background

- 1.1. The purpose of this document is to provide guidelines for universities with regard to the implementation of the *Policy on the Evaluation of Creative Outputs and Innovations Produced by Public Higher Education Institutions (Policy)* in South Africa. The Policy recognises quality creative research outputs and innovations produced by public higher education institutions. The Policy was published by the Minister of Higher Education and Training in Government Gazette (Vol. 40819 April 2017 no 395), for implementation in 2019.
- 1.2. The document interprets the policy, and is solely intended to assist with its implementation. Where there are conflicts or contradictions with the provisions of the Policy, the latter will take pre-eminence.
- 1.3. The role of the National Intellectual Management Office (NIPMO) is to provide incentives to recipients and their intellectual property, to reward them for proactively securing protection for intellectual property and commercialising it and, generally, for promoting innovation. The Department of Higher Education and Training (the Department) is working with NIPMO on the implementation of the creative outputs policy regarding the innovations and patents.
- 1.4. The first submissions are due to the Department of Higher Education and Training (the Department) by 15 November 2019. The submission date will be revised by the Department for subsequent years.
- 1.5. This document is applicable to **only innovations**, within the following subfields:
 - Registered Patents; and
 - Registered Plant Breeders' Rights.

2. SUBMISSION PROCESS

2.1. Innovation Outputs:

- 2.1.1. When submitting to the Department, the Higher Education Institution must adhere to the following:

- a) The Office of Technology Transfer (OTT) or the institutional research office whichever is relevant must consolidate the evidence for the (i) first granted patent application in a patent family in a jurisdiction with substantive search and examination (see table 1) and (ii) the first granted plant breeders' right for a new plant variety (see table 2) in an area with examination for onward submission to the institutional internal evaluation committee.

Table 1: Major Jurisdiction that conduct substantive examination of patent application

African Regional Intellectual Property Organisation Contracting states	Malaysia
Australia	Malta
Brazil	Monaco
Canada	New Zealand
China	Philippines
Egypt	Republic of Korea
Ethiopia	Russian Federation
European Patent organisation contracting states	Saudi Arabia
India	Singapore
Indonesia	Sri Lanka
Israel	Sweden
Japan	Switzerland
Jordan	United States of America
Libya	Vietnam

Table 2: Major Jurisdiction that conduct examination of plant breeders rights application

African Regional Intellectual Property Organisation Contracting states	Lithuania
Albania	Macedonia
Argentina	Mexico
Australia	Moldova

Austria	Morocco
Azerbaijan	Netherlands
Belgium	New Zealand
Bolivia	Nicaragua
Brazil	Norway
Bulgaria	Oman
Canada	Panama
China	Paraguay
Chile	Peru
Colombia	Poland
Costa Rica	Portugal
Czech Republic	Republic of Korea
Denmark	Romania
Dominican Republic	Russia Federation
Ecuador	Serbia
Estonia	Singapore
Finland	Slovakia
France	Slovenia
Georgia	South Africa
Germany	Spain
Guatemala	Sweden
Hungary	Switzerland
Iceland	Trinidad and Tobago
Ireland	Tunisia
Israel	Turkey
Italy	Ukraine
Japan	United Kingdom
Jordan	United States of America
Kenya	Uruguay
Kyrgyzstan	Uzbekistan
Latvia	Vietnam

- b) The institutional internal evaluation committee must screen and verify the submitted material in order to ensure policy compliance prior to submission to the Department for final evaluation and allocation of units.

- c) All claims must be submitted with a letter of declaration signed by the Vice Chancellor (VC), or the designated Deputy Vice Chancellor (DVC) or equivalent on or before the due date. The letter must confirm that the patent and/or plant breeders' right for which an allocation is being claimed is the first of the patent in the family and the first plant breeders' right for the new plant variety. The letter of declaration must reference the internal evaluation committee members of each institution.
- d) Submissions will be applicable for Intellectual Property (IP) rights granted for the year's n-3.

2.1.2. Application Process

- a) The National Intellectual Property Management Office (NIPMO) will mine granted (IP) rights data from the IP7 database and send formal communication to identified institutions through the OTT office to send supporting documents.
- b) All submissions will be screened, captured and prepared by the OTT] for the patent or plant breeders' rights verification panel at institutions i.e. check if all supporting documents are attached; correct affiliation; and proportion of inventors/ breeders per Higher Education Institution. The verification panel comprising representatives from NIPMO and the Department will check for compliance.
 - Certificate of compliance
 - A copy of granted patent including the allowed claims together with any drawings
 - Certificate of issuance
 - A copy of the granted PBR including the technical questionnaire and illustrations
 - Copy of the Certificate of registration.
- c) The verification panel must confirm that the submission which is being verified is for the first member of the patent family or the first member of the plant breeders' rights family.

- d) The verified submissions will be packaged and sent to the DHET advisory panel for final recommendation/decision.

2.1.3. What to submit to the Department:

- a) **Spreadsheet/template provided by DHET and NIPMO capturing all submissions.**
- b) **Proof that the patentee/ PBR holder is a bona fide patentee/ PBR holder**

The institution(s) must demonstrate through the provision of assignment document(s) and/or employment contracts that the rights have legitimately passed from the inventor to the patentee or the breeder to the plant breeders' rights holder. No application will qualify for a subsidy if the patentee/ PBR holder is the inventor/ breeder. Instead the patentee and the PBR holder must be the institution(s). The determination of patentee versus inventor should be handled in accordance with the IP policy of the institution.

In the instance where more than one institution (patentee) owns the patent or plant breeder's right, the unit allocation will be divided equally between the institutions. The equal undivided sharing of the unit allocation is only applicable to public higher education institutions and excludes instances where the patent or plant breeder's right is owned by a private party or science council. This that, where the other party is a private company or science council, the public higher education institution will only be allocated subsidy in accordance with its' share of the unit and the private party or science council will not get any subsidy.

c) Evidence of the innovation outputs

- Each registered patent submission must be accompanied by a copy of the granted patent including the allowed claims together with any drawings (if applicable). In addition, a copy of the Certificate of Issuance (such as a Patent Letter) must accompany the submission providing proof of grant.
- Should a granted right be obtained in a jurisdiction not contained in table 1 and 2 above proof of substantive examination must be provided in the form of all the examination reports received and the responses provided, including the correspondence indicating acceptance by the examiner in the relevant jurisdiction.
- Each registered plant breeders' right submission must be accompanied by a copy of the granted right (as subjected to examination in a particular jurisdiction) including the

technical questionnaire and illustrations. In addition, a copy of the Certificate of Registration must accompany the submission providing proof of grant.

- Evidence that the granted patent is the first granted right of a patent family in a jurisdiction with substantive examination must be provided (such as the INPADOC Patent family on Espacenet)

2.2. DHET advisory panel

In terms of *paragraph (74)* of the policy, the Department will establish a Creative Outputs and Innovations Evaluation Panel. The panel will comprise professionals from the higher education community and/or any individuals with a clear understanding of intellectual property, in particular patents and plant breeders' rights, to evaluate all creative outputs and innovation submitted by claiming institutions. The DHET advisory panel is appointed by the Director-General for a term of three years and is tasked with advising the department on the submission of the innovation outputs from institutions and on matters relating to the policy on this regard.

3. ALLOCATION OF UNITS

Approved individual submissions are awarded **2 units**. In the case where authors are affiliated with two or more institutions, the subsidy will be shared between the claiming institutions.

The following criteria for unit allocation is used:

- First patent application of a patent family granted in a particular substantive examination jurisdiction
- First Plant Breeders' Right (PBR) application of a PBR family granted in a particular substantive examination jurisdiction.