

The new Law on Patents and entrepreneurs-

Point 1 of article 186 of the new Law 24/2015, of 24 July, on Patents establishes that: *“Entrepreneurs who, as individuals or small and medium-sized enterprises (SMEs), wish to obtain protection for an invention through a national patent or utility model may request this to be granted by paying 50 percent of the fees established for the application, along with the third, fourth and fifth annuities, and in the case of national patents, for the application of the report on the state of the art and a substantive examination.*

To do this, the application for a reduction of fees must be submitted together with the national patent or utility model application, and proof must be given, through the documentation required by the regulation, that they meet the definition of an entrepreneur provided for in Law 14/2013, of 27 September, on support for entrepreneurs and their internationalisation, and the definition of small and medium-sized enterprises (SMEs) adopted through Recommendation 2003/361/EC, of the European Commission, of 6 May, on the definition of micro-, small and medium-sized enterprises or that which, in the case of modification or substitution thereof, is applicable at the time the application is submitted.”

On the other hand, point 1 of article 105 of Royal Decree 316/2017, of 31 March, approving the Regulation for the implementation of Law 24/2015, provides that applicants must provide the documents proving that they meet the definition of an entrepreneur established in the aforementioned standards, by any means recognised by Law.

On this basis, an applicant is considered to have the status of an entrepreneur, for the purposes of the reduction in fees provided for in article 186.1 of Law 24/2015, on Patents, if they are an individual or SME who, at the time of applying for a patent or utility model, certifies that they perform a professional or business economic activity.

Individual or SME entrepreneurs can accredit the development of their economic activity by being registered in the Register of Businesses, Professionals and Withholders of the Ministry of the Treasury and Public Administration.

SME entrepreneurs must also prove that their activity is carried out within the limits established in Recommendation 2003/361/EC, of the European Commission, in other words, that they have less than 250 workers, an annual turnover of less than 50 million euros, and annual results of less than 43 million euros. This data can also be accredited through any means recognised by law, in accordance with point 1 of art. 105 of the Regulation.