

Instructions for Technology Transfer and Intellectual Property Rights

With a view to encourage the institutions to file patent applications on their innovations, motivate them to transfer their technologies for commercialisation, and facilitate them to reward their inventions, the following instructions are issued.

1. In these instructions :

- (a) **“Institution”** means any technical, scientific or academic establishment where research work is carried out through funding by the Central / State Government.
- (b) **“Intellectual Property Rights”** include patents, registered designs, copyrights and layout design of integrated circuits.
- (c) **“Inventor”** means an employee of the institution whose duties involve carrying out of scientific or technical research.

2. Scope : These instructions apply to those institutions receiving funds for research projects from the Ministry of Science and Technology and the Department of Ocean Development.

3. Inventions by institutions : Institutions shall be encouraged to seek protection of Intellectual Property Rights (IPR) to the results of research through R&D projects. While the patent may be taken in the name(s) of inventor(s), the institutions shall ensure that the patent is assigned to it. The institution shall get its name entered in the Register of Patents as the proprietor of the patent. The institution shall take necessary steps for commercial exploitation of the patent on exclusive / non-exclusive basis. The institution is permitted to retain the benefits and earnings arising out of the IPR. However, the institution may determine the share of the inventor(s) and other persons from such actual earnings. Such share(s) shall be limited to 1/3rd of the actual earnings.

- 4. Inventions by institutions and industrial concerns :** IPR generated through joint research by institution(s) and industrial concern(s) through joint efforts can be owned jointly by them as may be mutually agreed to by them through a written agreement. The institution and industrial concern may transfer the technology to a third party for commercialisation on exclusive/non-exclusive basis. The third party, exclusively licensed to market the innovation in India, must manufacture the product in India. The joint owners may share the benefits and earnings arising out of commercial exploitation of the IPR. The institution may determine the share of the inventor(s) and other persons from such actual earnings. Such share(s) shall not exceed 1/3rd of the actual earnings.
- 5. Patent Facilitating Fund:** The institution shall set apart not less than 25 per cent of such earnings for crediting into a fund called Patent Facilitating Fund. This Fund shall be utilised by the institution for updating the innovation, for filing new patent applications, protecting their rights against infringements, for creating awareness and building competency on IPR and related issues.
- 6. Information:** The institutions shall submit information relating to the details of the patents obtained, the benefits and earnings arising out of IPR and the turnover of the products periodically to the Department/Ministry, which has provided funds.
- 7. Royalty-free license:** The Government shall have a royalty-free license for the use of the intellectual property for the purposes of the Government of India.
- 8. Review:** These instructions shall be reviewed by the Central Government after a period of five years.
- 9.** These instructions are issued with the approval of Finance Minister, Ministry of Finance, Government of India vide Department of Expenditure, Plan Finance-II Division Letter No. 33(5)/PF.II/99 Dated 22nd February, 2000.

