

本紙は「大学共同利用機関法人自然科学研究機構職務発明等規程（平成16年4月1日自機規程第12号）」を翻訳したものです。なお、この翻訳は公定訳ではありません。法的効力を有するのは日本語の規程自体であり、翻訳はあくまでその理解を助けるための参考資料です。

This is an unofficial translation of Rules No. 12 of the National Institutes of Natural Sciences, an Inter-University Research Institute Corporation, Rules on Employee Invention, Etc. dated April 1, 2004. Only the original Japanese text of these Rules has legal effect, and this translation is to be used solely as reference material to aid in understanding the original Japanese version.

National Institutes of Natural Sciences, an Inter-University Research Institute Corporation,  
Rules on Employee Invention, Etc.

April 1, 2004  
NINS Rules No. 12

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Chapter 1 General Provisions

(Purpose)

Article 1 The purposes of these Rules are to set forth basic matters concerning the handling of an invention, etc., made at the National Institutes of Natural Sciences, an Inter-University Research Institute Corporation (hereinafter referred to as “NINS”) in accordance with the provision of Article 50 of the National Institutes of Natural Sciences, an Inter-University Research Institute Corporation, Employee Regulations (General Rules No. 2 of 2004) and thereby promote the social utilization of the results of academic research, as well as contribute

to the promotion of academic research.

(Definitions)

Article 2 The term “invention, etc.” as used in these Rules means any of the items listed in the following items.

- (i) Invention prescribed in the Patent Act (Act No. 121 of 1959)
  - (ii) Device prescribed in the Utility Model Act (Act No. 123 of 1959)
  - (iii) Design prescribed in the Design Act (Act No. 125 of 1959)
  - (iv) Breeding of varieties prescribed in the Plant Variety Protection and Seed Act (Act No. 83 of 1998)
2. The term “employee invention” as used in these Rules means those that satisfy all of the requirements listed in the following items.
- (i) An invention, etc., made by executive officers, employees, etc.
  - (ii) An invention that falls within the scope of business of NINS from the characteristics of the invention, etc., based on research using publicly funded research funds, funds provided by NINS or any other support, research using the facilities managed by NINS, etc.
  - (iii) An act leading to the invention, etc., falls within the scope of current or past duties performed by executive officers, employees, etc. of NINS
3. The term “executive officers, employees, etc.” as used in these Rules means executive officers or employees who perform or performed research, etc., and contract researchers, etc., prescribed in Paragraph 4.
4. The term “contract researchers, etc.” as used in these Rules means researchers who have a contractual employment relationship with NINS and students, etc., who receive consideration for their service from NINS under a contract. If a contract with contract researchers, etc., contains any provision different from the provisions of these Rules, the provision of the contract shall prevail.

(Operation of Rules)

Article 3 If NINS succeeds to the right to receive a patent, etc., related to an employee invention or any right acquired based thereon (hereinafter referred to as a “patent right, etc.”), these Rules shall apply.

## Chapter 2 Notification and Application

(Notification of Invention, Etc.)

Article 4 Executive officers, employees, etc., who made an invention, etc. (hereinafter referred to as an “inventor”) shall immediately submit a notification of invention to the president.

(Recognition of Employee Invention, Etc.)

Article 5 When the president receives the notification of invention under the previous Article, he/she shall consult with a committee on intellectual property established in the Inter-University Research Institute (hereinafter referred to as the "institute") established by NINS as provided for in Article 11, Paragraph 2 (in the case of a notification of invention by an inventor belonging to a research facility directly controlled by NINS as provided for in Article 2-2, Paragraph 1 of the National Institutes of Natural Sciences, an Inter-University Research Institute Corporation, General Rules for Organization and Operation (General Rules No. 1 of 2004) or the Okazaki Research Facilities as provided for in Article 50, Paragraph 1; this shall be a committee established in an institute that has close liaison and cooperation with the inventor; the same applies hereinafter) on the matters listed in the following items.

- (i) Judgment on whether an invention, etc. is an employee invention
  - (ii) Judgment on whether an invention, etc., fulfills the required degree of technical completion and social contribution and satisfies the requirements for patent
  - (iii) Judgment on whether NINS should succeed to the patent right, etc., related to the employee invention when an invention, etc., is judged to be an employee invention that fulfills the requirements under the preceding two items
2. A committee on intellectual property established within the institute shall report the results of its judgment on the matters under each item of the preceding paragraph to the president.
  3. When an invention, etc., has been recognized as an employee invention and the judgment on whether NINS should succeed to the patent right, etc., related to the employee invention has been made based on the report made in accordance with the preceding paragraph, the president shall promptly notify the inventor in writing to that effect together with the reason therefor.
  4. The provisions of the preceding three paragraphs shall apply *mutatis mutandis* to cases where the inventor does not submit a notification of invention under the preceding article and the president comes to know of the existence of the invention, etc., made by the inventor through the patent gazette or any other materials.

(Restrictions on Application and Transfer of Right)

Article 6 An inventor shall not file an application for a patent, etc., or transfer to any third party any patent right, etc., related to an invention, etc., notified to NINS until the inventor receives a notice to the effect that the invention, etc., has been recognized as not being an employee invention or NINS has decided not to succeed to the patent right, etc., pursuant to the provision of paragraph 3 of the preceding article (including the case applied *mutatis mutandis* pursuant to paragraph 4 of the same article; the same shall apply hereinafter in Articles 7, 8, 14, 16, 18, and 20).

(Obligation to Transfer Patent Right, Etc.)

Article 7 In cases where an invention, etc., has been recognized as an employee invention and the

president has decided that NINS will succeed to the patent right, etc., related to the employee invention pursuant to the provision of Article 5, paragraph 3, the inventor shall transfer the right to NINS.

2. An inventor shall submit a transfer deed to the president, if his/her patent right, etc., is to be transferred to NINS pursuant to the provision of the preceding paragraph.
3. In cases where a patent right, etc., related to an invention, etc., is co-owned as it is derived from joint research, the preceding two paragraphs shall apply to the interest held by the inventor who belongs to NINS.

(Letter of Confirmation of Non-Exclusive License)

Article 8 In cases where the president has made the decision that NINS will not succeed to a patent right, etc., related to an employee invention made by an inventor pursuant to the provision of Article 5, paragraph 3, the inventor shall promptly submit a Letter of Confirmation of Non-Exclusive License concerning the patent right, etc., acquired by him/her to the president and if any change to the right such as transfer, divisional application and patent invalidation occurs in relation to the patent right, etc., he/she shall promptly report it to the president.

(Patent Application, Etc.)

Article 9 Upon the submission of a transfer deed under Article 7, paragraph 2, the president shall promptly undertake procedures for a patent application, change of name of patent applicant or change of name of the person under which a patent is registered (hereinafter referred to as the "patent application, etc.") in relation to such right.

2. In cases where the right to obtain a patent, etc., related to an invention, etc., is co-owned as such invention, etc., is derived from joint research, the president shall undertake the Patent Application, etc., jointly with the other party.

(Notice of Examiner's Decision of Refusal, Etc.)

Article 10 In cases where the examiner's decision of refusal is rendered, disposition invalidating a patent application is rendered or a petition for a trial for invalidation is filed after the establishment of a patent right, etc., in relation to the employee invention for which the patent application, etc., was made under paragraph 1 of the preceding article, the president shall notify the inventor in writing to that effect without delay.

2. The president shall, if he/she intends to waive or withdraw the patent application, etc., or waive a patent right, etc., notify the inventor in advance. NINS may deem that the inventor has granted the approval, if he/she does not respond to the notice within the period specified in the notice.

### Chapter 3 Committee on Intellectual Property

(Establishment, etc., of a Committee on Intellectual Property)

Article 11 A committee on intellectual property shall be established in NINS in order to deliberate on rules concerning employee inventions at NINS and other important matters.

2. A committee on intellectual property shall be established in each institute to investigate and deliberate the filing of, management of and other matters concerning a patent right, etc.
3. The organization of the committee on intellectual property established at NINS and each institute shall be specified separately.

#### Chapter 4 Working under Non-Registered Exclusive License

(Working under Non-Registered Exclusive License)

Article 12 The president may grant a non-registered exclusive license to work under a patent right, etc., owned by NINS to a specific person designating a period upon hearing the opinion of the committee on intellectual property established in the institute, if doing so conforms to the purpose of NINS and doing so is reasonably necessary. In this case, if such invention, etc., relates to an employee invention, upon request of the inventor, the inventor shall be given the opportunity to attend a meeting of the committee on intellectual property established in the institute and express his/her opinion.

#### Chapter 5 Compensation for Invention

(Types of Compensation)

Article 13 The consideration paid by NINS to the inventor who transferred his/her patent right, etc., to NINS pursuant to the provision of Article 7, paragraph 1 shall be the compensation listed in the following items.

- (i) Compensation for transfer
- (ii) Compensation for working

(Compensation for Transfer)

Article 14 In cases where NINS succeeds to a patent right, etc., pursuant to the provision of Article 5, paragraph 3, the president shall pay compensation for transfer in the amount of 6,000 yen per case to the inventor.

2. If the patent right, etc., is co-owned, in applying the preceding paragraph, the interest held by NINS shall be treated as one case.
3. If there are several inventors belonging to NINS, the compensation for transfer shall be paid according to the interest held by each inventor.

(Compensation for Working)

Article 15 In cases where NINS uses a patent right, etc., transferred to it or earns income due to

transfer, etc., the president shall distribute the amount based on the actual annual revenue minus necessary expenses separately prescribed at a rate prescribed in the following items.

- (i) 40% to the inventor
- (ii) 30% to the institute to which the inventor belonged at the time of invention
- (iii) 30% to the institute to which the inventor belonged at the time of invention and NINS

2. The institute to which the inventor belonged at the time of invention under paragraph 1, item (ii) may allocate the amount distributed to it to a research fund for the inventor.
3. Allocation for both parties of the amount allocated to the institute and NINS under paragraph 1, item (iii) shall be specified separately.

(Payment of Compensation for Working)

Article 16 NINS shall pay the compensation for working under the preceding article by the day specified by NINS.

2. If a patent right, etc., transferred to NINS is co-owned, the provision of the preceding article shall apply to the interest held by NINS.
3. In cases where there are multiple inventors, the distribution shall be made according to the interest held by each inventor for each applicable item of paragraph 1 of the preceding article.

(Compensation for Working to an Inventor Who Retired or Died)

Article 17 The right to receive payment of compensation for working shall remain valid after the retirement of the inventor.

2. If person who has the right to receive payment of compensation for working has died, an heir shall succeed to the right.
3. In cases where an inventor ceases to belong to NINS, the inventor or an heir shall notify NINS of his/her address and contact information and the method of the receipt of payment to receive the payment of compensation for working. The president may not make such payment, if no such notice is submitted.
4. In cases where an Inventor or an heir intends to transfer or establish the right of pledge for the right to receive payment of compensation for working, he/she shall obtain the approval of the president upon the discussion of the committee for intellectual property established in NINS and the institute in advance.

## Chapter 6 Miscellaneous Provisions

(Filing an Objection)

Article 18 If an inventor has an objection to the recognition or decision under Article 5, paragraph 3, he/she may file an objection with the president in writing within thirty (30) days from the day he/she received the notice under the same paragraph.

2. If an inventor has an objection to the compensation paid pursuant to Articles 14 and 15, he/she may file an objection with the president in writing within thirty (30) days from the receipt of the compensation.
3. Upon the filing of an objection pursuant to the provision of the preceding two paragraphs, the president shall review and render the decision concerning the objection without delay, and notify the inventor who filed the objection of the result in writing.
4. In rendering the decision under the preceding paragraph, the president shall hear the opinion of the committee for intellectual property established in NINS and the relevant institute in advance.

(Duty of Confidentiality)

Article 19 An inventor and relevant persons who come to know of the contents of the invention, etc., shall maintain the confidentiality of the contents of such invention, etc., and matters related to the interest of NINS and the inventor for a period necessary to ensure the right to obtain a patent, etc.; provided however, that this shall not apply to cases where the information is publicly announced upon agreement between NINS and the inventor and the information becomes publicly known through no fault of NINS or the inventor.

(Invention that is Not an Employee Invention)

Article 20 In cases where an inventor whose invention, etc., has been recognized as not being an employee invention expresses his/her wish to transfer a patent right, etc., related to such invention, etc., to NINS, the president shall decide on whether NINS should succeed to such patent right, etc. pursuant to the provisions of Article 5, paragraph 3.

2. The handling of the case under the preceding paragraph shall be specified separately.

(Handling of a Foreign Application, Etc.)

Article 21 The rights to be acquired by NINS pursuant to these Rules shall include such rights that will, when a foreign law is applicable, become the rights under such foreign law.

(Handling of Literary Work or Tangible Object Created in the Course of Duties)

Article 22 The handling of literary work and tangible objects created in the course of duties shall be specified separately.

(Disclosure of Rules)

Article 23 The president shall keep these Rules at the Administrative Bureau of NINS and each institute, provide them for browsing, and publish them on the Internet.

(Revision or Abolition of Rules)

Article 24 The revision or abolishment of these Rules shall be made by the president through discussions by NINS, executive officers, employees, etc., and deliberation by the committee for intellectual property established in NINS.

2. In addition to what is provided in these Rules, necessary matters concerning the handling of an employee invention shall be specified separately.

Supplementary Provision

These rules shall come into effect as of April 1, 2004.

Supplementary Provision

These rules shall come into effect as of April 1, 2005.

Supplementary Provision

These rules shall come into effect as of April 1, 2018.