



ST. CHRISTOPHER AND NEVIS

CHAPTER 18.25

PATENTS ACT and Subsidiary Legislation

Revised Edition
showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

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CHAPTER 18.25

PATENTS ACT

AN ACT TO MAKE PROVISION IN RESPECT OF PATENTS, AND, IN PARTICULAR, TO PROVIDE FOR THE PROTECTION OF PATENTS; TO GIVE EFFECT TO CERTAIN INTERNATIONAL CONVENTIONS ON PATENTS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Patents Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Court” means the High Court;

“foreign application” means any application for a patent filed by an applicant outside Saint Christopher and Nevis;

“International Patent Classification” means the classification according to the Strasbourg Agreement of March 24, 1971;

“invention” means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology;

“Minister” means the Minister responsible for patents;

“Paris Convention” means the Paris Convention for the Protection of Industrial Property of March 20, 1883 as last revised;

“patent” means a title granted to a patentee by the Registrar, which protects the patentee’s right in an invention;

“patentee” means the person to whom a patent is granted;

“Patent Co-operation Treaty” means the Patent Co-operation Treaty of June 19, 1970;

“priority date” means the date of the earlier application that serves as the basis for the right of priority provided for in the Paris Convention;

“Register” means the Register of Patents referred to in section 7 of this Act;

“Registrar” means the Registrar of the office responsible for granting patents;

“utility model certificate” means a certificate granted for an invention under Part XII of this Act.

PART II
ADMINISTRATION

Intellectual Property office.

3. There is, in accordance with the provisions of section 63 of the Constitution, established an office to be known as the Intellectual Property Office, which office shall, in accordance with the provisions of this Act, be responsible for the administration of all laws relating to intellectual property.

Registrar, etc.

4. (1) There shall, for the purposes of this Act, be appointed a Registrar of Intellectual Property who shall be a public officer, and who shall, subject to the control of the Minister, be responsible for performing such functions and duties, and exercise such powers as are conferred on him or her by this or any other enactment.

(2) There shall be appointed a Deputy Registrar of Intellectual Property and such number of Assistant Registrars as are considered necessary, and their offices shall be public offices.

(3) The Deputy Registrar and Assistant Registrars shall perform such functions, and exercise such powers as the Minister may, by Order, delegate to them, except that in performing their functions and exercising their powers they shall be under the superintendence and direction of the Registrar.

Powers and functions of the Registrar.

5. (1) The Registrar shall perform the functions and exercise the powers specified in this section, that is to say—

- (a) process all applications made under this Act;
- (b) grant patents and register utility model certificates;
- (c) administer granted patents and registered utility model certificates;
- (d) carry out studies, programmes or exchanges of items or services regarding domestic and international patent law;
- (e) promote inventiveness among citizens of Saint Christopher and Nevis;
- (f) provide patent information services such as making available, for use by the public, in the prescribed manner, and on payment of any prescribed fees, patent literature.

(2) The Minister may give the Registrar written directions which are not inconsistent with the provisions of this Act, concerning the exercise and performance of powers and functions in relation to any matter which appears to the Minister to concern the development of industrial property and other matters related thereto, and the Registrar shall comply with such directions.

Seal.

6. (1) The Registrar shall have a seal approved by the Minister, which he or she shall affix to every document issued by him or her, and to any copy of a document issued by him or her in lieu of the original document.

(2) Impressions of the Registrar's seal shall be judicially noticed and admitted in evidence.

Register.

7. (1) The Registrar shall maintain a Register of Patents in which he or she shall record all matters required by this Act or the Regulations made thereunder, to be recorded, and shall also, in a section of the Register created for that purpose, register utility certificates.

(2) Any person may, upon payment of the prescribed fee, and in accordance with any prescribed conditions, consult, inspect or make a copy of, or obtain an extract from the Register.

(3) The Register shall be *prima facie* evidence of anything required or authorised by this Act to be registered, and shall be admissible and sufficient evidence of any such thing.

(4) A certificate signed by the Registrar and certifying that an entry which he or she is authorised by this Act to make has been made or has not been made, or that any other thing which he or she is authorised to do has or has not been done, shall be *prima facie* evidence, and shall be admissible and sufficient evidence, of the matters so certified.

(5) The following documents, that is to say, a copy of—

- (a) an entry in the Register or an extract from the Register which is supplied under subsection (2) of this section; and
- (b) any document kept by the Registrar, or an extract from any such document, which is to be a certified copy or a certified extract,

shall be admissible in evidence without further proof, and such evidence shall be sufficient evidence of the matter stated therein, unless there is evidence that the copy of the entry, extract, or document, as the case may be, was tampered with.

(6) In this section, “certified copy” or “certified extract” means a copy or extract certified by the Registrar and sealed with his or her seal.

PART III

PATENTABILITY OF INVENTIONS

Patentable Inventions

8. (1) Subject to section 10 of this Act, a patent in respect of an invention shall be granted only if the invention satisfies the following conditions, that is to say—

- (a) if the invention is new;
- (b) if the invention involves an inventive step; and
- (c) if the invention is capable of industrial application.

(2) An invention may be, or may relate to, a product or a process.

(3) For the purposes of this Act, an invention shall be considered to involve an inventive step if, having regard to the prior art relevant to the application claiming the invention as defined in subsection (2) of section 8, it is not obvious to a person having ordinary skill in the art.

(4) For the purposes of this Act, an invention shall be considered to be capable of industrial application if it can be made or used in any kind of industry including agriculture, fishery, handicraft and services.

Novelty.

9. (1) An invention shall be considered to be new if the invention does not form part of a prior art.

(2) For the purposes of this Act, prior art in relation to an invention means anything which has, at any time prior to the filing date or, where priority is claimed, the priority date, of the application claiming the invention, been disclosed to the public anywhere in the world by oral or written description, by use, or in any other way.

(3) For the purposes of subsection (2) of this section, the disclosure to the public of matter constituting an invention shall not be taken into consideration if it occurred within twelve months immediately preceding the filing date or, where priority is claimed, the priority date of the application, and the disclosure was due to or in consequence of—

- (a) acts committed by the applicant or his or her predecessor in title; or
- (b) an abuse committed by a third party with regard to the applicant or his or her predecessor in title.

(4) In the case of an invention consisting of a substance or composition for use in a method of treatment of the human or animal body by surgery or therapy, or of diagnosis practised on the human or animal body, the fact that the substance or composition forms part of prior art shall not prevent the invention from being taken to be new if the use of the substance or composition in any such method does not form part of prior art.

Matters excluded from patent protection.

10. (1) The following, even if they are inventions within the meaning of this Act, shall be excluded from patentability, that is to say, anything which consists of—

- (a) a discovery, scientific theory or mathematical method;
- (b) a scheme, rule or method for doing business, performing a mental act of playing a game; and
- (c) methods for the treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practised on the human or animal body.

(2) Paragraph (c) of subsection (1) of this section shall not apply to products for use in any of the methods specified therein.

(3) A patent shall not be granted in respect of an invention if the commercial exploitation of the invention in Saint Christopher and Nevis would be—

- (a) contrary to public order or morality;
- (b) prejudicial to human, animal or plant life or health; or
- (c) prejudicial to the environment.

(4) The refusal to grant a patent in respect of an invention referred to in subsection (3) of this section shall not be based solely on the ground that the

commercial exploitation is prohibited by a law in force in Saint Christopher and Nevis.

PART IV

RIGHT TO APPLY FOR AND OBTAIN A PATENT

Right to apply for a patent.

11. Where a person, either alone or jointly with another, makes an invention that satisfies the requirements of sections 8 and 9 of this Act, he or she may make an application for a patent under this Act either alone or jointly with another.

Right to a patent.

12. (1) The right to a patent shall belong to the inventor.

(2) If two or more persons have made an invention jointly, the right to the invention shall belong to them jointly.

(3) Where two or more persons make the same invention independently of each other, the person whose application—

(a) bears the earliest filing date; or

(b) bears the earliest validly claimed priority date, if priority is claimed,

shall, unless the application is abandoned or withdrawn by the applicant, or rejected by the Registrar, have the right to the patent.

(4) The inventor shall be named as such in the patent unless in a special written declaration signed by him or her and addressed to the Registrar, he indicates that he or she does not wish to be so named.

(5) The right to a patent may be assigned or transferred by succession.

Invention made by an employee or pursuant to a commission.

13. (1) In the absence of any provisions to the contrary in any contract of employment or for the execution of work, the right to a patent for an invention made in the performance of the contract of employment or in the execution of the work shall, notwithstanding the provisions of section 12, be deemed to accrue to the employer, or the person who commissioned the work, as the case may be.

(2) Where an invention, referred to in subsection (1) of this section, acquires an economic value much greater than the parties could reasonably have foreseen at the time of concluding the contract of employment or for the execution of the work, as the case may be, the inventor shall be entitled to equitable remuneration which may be fixed by the Court in the absence of agreement between the parties.

(3) Subject to subsection (4) of this section, where an employee, whose contract of employment does not require him or her to engage in any inventive activity, makes an invention in the field of activities of his or her employer using data or means placed at his or her disposal by his or her employer, the right to the patent for the invention shall, in the absence of any provision in the contract of employment to the contrary, be deemed to accrue to the employer.

(4) Where a patent is vested in the employer by virtue of subsection (3) of this section the employee shall be entitled to equitable remuneration which, in the absence

of agreement between the parties, shall be fixed by the Court taking into account his or her emoluments, the economic value of the invention and any benefit derived from it by the employer.

(5) Where an employee, whose contract of employment does not require him or her to engage in an inventive activity or field of activity different to that of his or her employer, makes an invention without using information or means put at his or her disposal by the employer the right to the patent for the invention shall accrue to the employee.

(6) The rights conferred on the inventor under subsections (1), (2), (3), (4) and (5) of this section shall not be restricted by contract.

(7) This section shall not apply to an invention made before the coming into force of this Act.

Judicial assignment of patent application or patent.

14. (1) Where the essential elements of the invention claimed in a patent application or patent have been unlawfully derived from an invention for which the right to the patent belongs to another person, such other person may apply to the Court for an order that the said patent application or patent be assigned to him or her.

(2) The Court shall, upon receipt of the application, make such orders and grant such relief as it sees fit.

(3) No application for the assignment of a patent under subsection (1) of this section shall be entertained by the Court after the expiry of five years from the date of the grant of the patent, unless it is shown that the person registered as a proprietor of the patent knew at the time of the grant or transfer of the patent to him or her, as the case may be, that he or she was not entitled to the patent.

Mention of inventor.

15. (1) The inventor or joint inventors of an invention shall have a right to be mentioned as such in any patent granted for the invention unless, in a written declaration addressed to the Registrar, he or she indicated or, in the case of joint inventors, they indicated a wish not to be named.

(2) Any promise or undertaking by the inventor made to any person to the effect that he or she will make a declaration referred to in subsection (1) of this section shall be void.

PART V

APPLICATION FOR A PATENT

Application for a patent.

16. (1) An application for a patent shall be made to, and filed with the Registrar, which application shall be in the prescribed form.

(2) The application shall contain the following information, that is to say—

(a) a request for the grant of a patent;

(b) a specification containing a description of the invention;

- (c) a claim or claims and any drawings referred to in the description or any claim; and
 - (d) an abstract.
- (3) The request referred to in paragraph (a) of subsection (2) of this section shall contain the following, that is to say—
- (a) a petition that a patent be granted;
 - (b) the name of and other prescribed information relating to the applicant, the inventor, and agent, if any; and
 - (c) the title of the invention.
- (4) Where the applicant is not the inventor or a joint inventor, the request shall be accompanied by a written statement justifying the applicant's right to the patent.
- (5) The description referred to in subsection (1) of this section shall disclose the invention in a manner which is sufficiently clear and complete to permit a person having ordinary skill in the art to carry out the invention, and shall, in particular, indicate at least one mode known to the applicant in which the invention can be carried out.
- (6) The claim or claims referred to in subsection (2) of this section shall—
- (a) define the matter for which protection is sought;
 - (b) be clear and concise; and
 - (c) be supported by the description.
- (7) The description and the drawings may be used to interpret the claim or claims.
- (8) The Registrar may require an applicant to file drawings where these are necessary for the understanding of the invention.
- (9) The purpose of the abstract referred to in subsection (2) is to provide technical information and shall not be taken into account for the purpose of interpreting the scope of the protection sought.
- (10) An applicant may, at anytime before the patent is granted, withdraw his or her application.
- (11) An application for a patent shall be accompanied by the prescribed application fee.

Unity of invention.

- 17.** (1) An application for a patent shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.
- (2) The applicant may, at anytime before a patent is granted, divide the application into two or more applications, referred to in this section as "divisional applications", provided that each divisional application shall not include any matter which was not disclosed in the initial application as filed.
- (3) Each divisional application shall be accorded the filing date and, where applicable, the priority date, of the initial application.
- (4) The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention under subsection (1) of this section shall not be a ground for the invalidation of the patent.

Amendment of application.

18. The applicant may, at any time before a patent is granted, amend the application, but the amendment shall not include any matter which was not disclosed in the initial application as filed.

Joint applicants.

19. (1) Where two or more persons apply jointly for a patent they shall, in the absence of an agreement to the contrary, have equal undivided shares in the application and none of them shall deal with the application in any way without the consent of the other.

(2) Notwithstanding the provisions of subsection (1) of this section, if any step is required to be taken to save the application from being abandoned, any applicant may, on his or her own behalf and on behalf of any other joint applicant, take such step without recourse to the other applicant or applicants.

Right of priority.

20. (1) An applicant for a patent may, as provided for in the Paris Convention, contain a declaration claiming priority of one or more earlier national, regional or international applications filed by an applicant or his or her predecessor in title—

- (a) in a country that is a party to the Paris Convention;
- (b) for any State party to the Paris Convention; or
- (c) for any member of the World Trade Organisation.

(2) Where the application contains a declaration referred to in subsection (1) of this section the Registrar may require—

- (a) that the applicant furnishes, within the prescribed time, a copy of the earlier national, regional or international application certified as correct by the office with which it was filed; and
- (b) where the earlier application is not in English, that the application be translated into English and be verified by the translator that the translation is to the best of his or her knowledge complete and true.

(3) The effect of the declaration referred to in subsection (1) of this section shall be as provided in the Paris Convention.

(4) Where any of the requirements of this section or the regulations made in that respect are not being complied with, the declaration referred to in subsection (1) of this section shall be considered not to have been made.

Conversion of patent application.

21. An applicant for a patent may, at anytime before the grant or refusal of a patent and upon payment of the prescribed fee, convert his or her application into an application for an utility model certificate.

Information concerning corresponding foreign applications.

22. (1) The applicant shall, if requested by the Registrar, furnish him or her with the date and number of any other application for a patent filed by him or her abroad relating to the same or essentially the same invention as that claimed in the application filed with the Registrar.

(2) The applicant shall also, if requested by the Registrar, furnish him or her with the following documents relating to any of the foreign applications referred to in subsection (1) of this section, that is to say—

- (a) a copy of any communication received by the applicant concerning the result of any search or examination carried out in respect of the foreign application;
- (b) a copy of the patent or other title of protection granted on the basis of the foreign application;
- (c) a copy of any final decision rejecting the foreign application or refusing the grant requested in the foreign application;
- (d) a copy of any final decision invalidating the patent granted on the basis of the foreign application referred to in subsection (1) of this section.

(3) Paragraphs (a) and (c) of subsection (2) of this section shall not apply where the Office of the Registrar is an elected office within the meaning of section 55 of this Act and has received or will receive an international preliminary examination report.

(4) Any document furnished pursuant to the provisions of this section—

- (a) shall, if not in English, be accompanied by a translation of the document in English verified by the translator that the translation is to the best of his or her knowledge complete and true; and
- (b) may be used only for facilitating the evaluation of the novelty and inventive step of the invention for which the patent application is made.

Disclosure of matter etc., between earlier and later applications.

23. Where an application is made for a patent under section 16 of this Act, and a declaration is made in accordance with the provisions of subsection (1) of section 20 of this Act, in or in connection with that application specifying an earlier application, the first-mentioned application and any patent granted in pursuance thereof shall not be invalidated by reason only of the fact that any subject matter disclosed in the earlier application was made available to the public at anytime after the date of filing the earlier application.

Date of filing application.

24. (1) The Registrar shall accord as the filing date of an application for a patent the date of receipt of the application, so long as, at the time of receipt of the application, the following requirements are satisfied, that is to say—

- (a) the documents filed contain an express or implied indication that a patent is sought in pursuance of the application;
- (b) the documents filed identify the applicant or applicants for the patent;
- (c) the documents filed contain a description of the invention for which a patent is sought.

(2) Where the applicant's application does not satisfy the requirements of subsection (1) of this section, the Registrar shall accordingly inform the applicant in writing and, subject to the provisions of section 18 of this Act, shall invite him or her

to file the required amendment, and upon the filing of the amendment, the Registrar shall accord, as the filing date, the date of receipt of the amendment.

(3) Where the applicant fails to make the amendment referred to in subsection (2) of this section, the application shall be treated as if it had not been filed.

(4) Where an application for a patent refers to drawings which are not included in the application, the Registrar shall invite the applicant to furnish the missing drawings and, if the applicant complies, the Registrar shall accord as the filing date of the application, the date of receipt of the missing drawings.

(5) Where the applicant fails to comply with the provisions of subsection (4) of this section, the Registrar shall accord as the filing date of the application, the date of receipt of the application and shall treat any reference to the said drawings as non-existent.

Examination.

25. After according a filing date, and if the application is not withdrawn, the Registrar shall examine the application to determine whether—

- (a) it satisfies the requirements of subsections (1), (2), (3) and (10) of section 16 of this Act and the regulations pertaining thereto;
- (b) it complies with the requirements of this Act;
- (c) it complies with the requirements of the regulations as prescribed by the regulations to be formal requirements; and
- (d) information requested under section 22, if any, has been provided.

Refusal or grant of patent.

26. (1) Subject to the provisions of subsections (2), (3) and (4) of section 24 of this Act, where the Registrar is not satisfied that the requirements of this Act and the regulations made under this Act have been satisfied or complied with, as the case may be, he or she shall refuse the application, and shall accordingly inform the applicant in writing, stating the reasons for the refusal.

(2) Where two or more applications for a patent, having the same filing date or the same priority date, are made in respect of the same invention and filed by the same applicant or his or her successor in title, the Registrar may, on that ground, refuse to grant a patent in respect of more than one of the applications.

(3) Where the Registrar refuses any one of the applications referred to under subsection (2) of this section he or she shall, in writing, accordingly inform the applicant, stating the reasons for his or her refusal.

(4) Where the Registrar is satisfied that the application, as originally filed or as amended, complies with the requirements of section 25 of this Act, he or she shall grant the applicant a patent.

(5) Where the Registrar grants a patent, he or she shall—

- (a) publish in the *Gazette* a notice of the grant of the patent;
- (b) issue a certificate of the grant of the patent and a copy of the patent to the applicant; and
- (c) record the patent in the Register.

(6) The Registrar shall, on payment of the prescribed fee, make a copy of any patent granted under this section available to any person who requests such copy.

(7) The Registrar shall, upon the request of the patentee, amend the text or drawings of the patent in order to limit the extent of the protection conferred by the patent, if the amendment would not result in the disclosure contained in the patent going beyond the disclosure contained in the initial application on the basis of which the patent was granted.

(8) The patent shall be deemed to be granted on the date on which the Registrar publishes a notice of the grant of the patent.

PART VI

PROVISIONS AS TO PATENTS AFTER GRANT

Duration and maintenance of patent.

27. (1) Subject to subsection (2) of this section, a patent shall expire twenty years after the filing date of the application for the patent.

(2) In order to maintain an application for a patent or patents, the patentee or the applicant shall pay in advance to the Registrar for each year starting one year after the filing date of the application for the grant of the patent, the prescribed annual fee.

(3) Where the period prescribed for the payment of the annual fee expires and payment of the said fee has not been made, the Registrar shall give the owner of the patent or the applicant, as the case may be, a period of grace not exceeding six months, within which he or she must pay the annual fee.

(4) The patentee or applicant, as the case may be, shall, when paying the annual fee in accordance with subsection (3) of this section, also pay, to the Registrar, the surcharge prescribed for late payment.

(5) An application for a patent shall be deemed to have been withdrawn if the annual fee is not paid in accordance with the provisions of this section.

(6) A patent shall lapse if the annual fee is not paid in accordance with the provisions of this section.

(7) If a patent ceases to have effect under this section, the Registrar shall enter the lapse in the Register and publish it in the *Gazette*.

Surrender of patent or claim.

28. (1) A patentee may, at anytime by notice given to the Registrar in the prescribed manner, offer to surrender his or her patent or one or more claims contained in his or her patent.

(2) Where an offer is made under this section, the Registrar shall advertise the offer in the prescribed manner and any interested person may, within the prescribed period commencing on the date of the publication of the advertisement, give notice to the Registrar of his or her opposition to the proposed surrender.

(3) Where notice of opposition is duly given under this section, the Registrar shall notify the patentee in writing and determine the question.

(4) Where the Registrar is satisfied that the patent or any claim or claims contained in the patent may properly be surrendered, he or she may accept the offer and record his or her acceptance in the Register and shall, as soon as practicable, publish a notice of his or her acceptance in the *Gazette*.

(5) From the date of publication of the notice referred to under subsection (4) of this section, the patent or claim shall cease to have effect, but no action for infringement shall lie in respect of any act done before that date, and no right to compensation shall accrue for any use of the patented invention before that date for purposes of the State.

(6) Where a patent is granted to two or more persons, and a notice is required to be given as provided by subsection (1) of this section, the notice shall be signed by each of the joint patentees.

Effect of registration, etc., on rights in patents.

29. (1) Any person who claims to have acquired property in an application for a patent or a patent by virtue of any transaction to which this section applies shall be entitled as against any other person who claims to have acquired that property by virtue of an earlier transaction to which this section applies if, at the time of the later transaction—

- (a) the earlier transaction was not registered; or
- (b) in the case of an application for a patent, notice of the earlier transaction had not been given to the Registrar; and
- (c) in any other case, the person claiming under the later transaction did not know of the earlier transaction.

(2) Subsection (1) of this section shall apply equally to the case where any person claims to have acquired any right in an application for a patent or under a patent by virtue of a transaction to which this section applies, and that right shall be incompatible with the right acquired by virtue of an earlier transaction to which this section applies.

(3) This section shall apply to the following transactions, that is to say—

- (a) the assignment of an application for a patent or patents or a right in either of them, as the case may be;
- (b) the mortgage of an application for a patent or patents, or the granting of security over it;
- (c) the grant, assignment of a licence or sub-licence, or mortgage of licence or sub-licence, under an application for a patent or patents;
- (d) the death of—
 - (i) the owner of an application for a patent;
 - (ii) the patentee or one of the joint patentees;
 - (iii) any person having a right in an application for a patent or patents; and
- (e) any order or directions of a court or other competent authority—
 - (i) transferring an application for a patent or patents, or any right in or under either of them, as the case may be, to any person; or
 - (ii) that an application should proceed in the name of any person, and

in either case, the event by virtue of which the court or authority had power to make the order or give the directions.

(4) Where an application for the registration of a transaction is made, while the transaction is not yet registered, registration of the application shall, for the

purposes of subsection (1)(a) of this section, be treated as registration of the transaction.

(5) For the purposes of this section, “transaction” includes an instruction and an event.

PART VII

PROPERTY IN APPLICATIONS FOR PATENT AND PATENTS

Nature of and transactions in patents.

30. (1) Without being a thing in action—

- (a) an application for a patent; or
- (b) a patent,

shall be personal property, and any of them, and any rights in or under them, as the case may be, may be transferred, created or granted in accordance with the provisions of subsections (2), (3), (4), (5), and (6) of this section.

(2) Subject to the provisions of section 32(2)(b) of this Act—

- (a) any application for a patent; or
- (b) any patent, and

any right in either of them, as the case may be, may be assigned or mortgaged.

(3) An application for a patent, a patent, or any right in either of them, as the case may be, shall vest by operation of law in the same way as any other personal property, and may be vested by an assent of personal representative.

(4) Subject to the provisions of section 32(2)(b) of this Act, a licence may be granted under an application for a patent or patents for working the invention which is the subject of the application or the patent, and—

- (a) to the extent that the licence so provides, a sub-licence may be granted under that licence and the licence or sub-licence may be assigned or mortgaged;
- (b) the licence or sub-licence shall vest by operation of law in the same way as any other personal property, and may be vested by an assent of personal representative.

(5) Any of the following transactions, that is to say—

- (a) an assignment or mortgage of—
 - (i) an application for a patent;
 - (ii) a patent;
 - (iii) any right in an application for a patent or patents;
- (b) any assent relating to any—
 - (i) application for a patent;
 - (ii) patent;
 - (iii) right in an application for a patent or patents,

shall be void unless the transaction is in writing and signed by the parties or by the personal representatives of the parties to the transaction, and in the case of a body corporate, the transaction shall be signed in the same manner and sealed with the seal of that body.

(6) An assignment of an application for a patent, a patent, or a share in either of them, as the case may be, and an exclusive licence granted under any of them, as the case may be, may confer on the assignee or licensee the right of the assignor or licensor to bring proceedings by virtue of the provisions of section 50 of this Act for a previous infringement.

Joint ownership of patents.

31. (1) Where a patent is granted to two or more persons jointly, each of the patentees shall, in the absence of any agreement to the contrary, be entitled to an equal undivided share in the patent.

(2) Subject to the provisions of subsection (4) of this section, a joint patentee shall not, in the absence of any agreement to the contrary, and in the absence of the consent of the joint patentee or patentees, be entitled to—

- (a) make use, exercise, or dispose of the patented invention;
- (b) grant a licence or assign or mortgage the whole or any part of his or her interest in the patent; or
- (c) take any step or institute any proceedings relating to the patent.

(3) Where a patent is disposed of by a joint patentee, the person who acquires the patent, or any person making a claim through him or her shall be entitled to deal with that article in the same manner as though the article had been disposed of by the patentees jointly.

(4) Any joint patentee may institute proceedings for infringement of the patent and, if he or she does so, he or she shall give notice of the proceedings to the other joint patentee, who may, on notification, intervene as co-plaintiff and recover any damages in respect of any damage he or she may have suffered as a result of the infringement of the patent.

PART VIII

RIGHTS OF OWNER OF PATENT

Rights conferred by a patent.

32. (1) No person, other than the patentee, shall exploit a patented invention in Saint Christopher and Nevis without the patentee's authority.

(2) For the purposes of this section, exploiting a patented invention means—

- (a) where the patent is granted in respect of a product—
 - (i) making, importing, offering for sale, selling, and using it into Saint Christopher and Nevis; and
 - (ii) stocking the product for the purpose of offering it for sale or selling, or using it; and
- (b) where the patent is granted in respect of a process—

- (i) using the process; and
- (ii) doing any act referred to in paragraph (a) in respect of a product obtained by means of that process.

(3) Subject to subsection (4) of this section and to sections 33, 34, and 37 of this Act, the patentee may bring an action against any person who, without the authority of the patentee, exploits the patentee's patented invention in Saint Christopher and Nevis.

(4) The rights in a patent referred to in subsection (3) of this section shall not extend to—

- (a) acts in respect of articles put on the market in Saint Christopher and Nevis by the patentee or with his or her consent;
- (b) the use of articles on an aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Saint Christopher and Nevis;
- (c) acts done only for experimental purposes relating to a patented invention;
- (d) the extemporaneous preparation for individual cases, in a pharmacy, of a medicine in accordance with a medical prescription or acts concerning the medicine so prepared; or
- (e) acts performed by any person who was, in good faith, while in Saint Christopher and Nevis, before the filing date or where priority is claimed, the priority date of the application on which the patent is granted, using the invention or making effective and serious preparation for such use.

(5) The right of prior user referred to in paragraph (e) of subsection (4) of this section may be transferred or devolve only together with the enterprise or business, or with that part of the enterprise or business in which the use or preparations for use have been made.

Right to continue use begun before date of filing or priority.

33. (1) Where a patent is granted, a person who, before the date of filing the application for a patent or, if priority was claimed, the date of priority, in good faith, while in Saint Christopher and Nevis, does an act which would constitute an infringement of the patent if it were then in force, or, in good faith, makes effective and serious preparations to do such an act, shall have the rights specified in subsection (2) of this section.

- (2) The rights referred to in subsection (1) shall be the following, namely—
- (a) to continue to do or, as the case may be, to do that act himself or herself;
 - (b) if the act was done or preparations had been made to do it in the course of a business—
 - (i) to assign the right referred to in paragraph (a) of this subsection;
 - (ii) to transmit the right referred to in paragraph (a) of this subsection to his or her heirs upon his or her death or, in the case of a body corporate, on its dissolution, to any person who acquires that part of the business in the course of which the act was done or preparations had been made to do it;

- (iii) to authorise the act to be done by any partners of his or her for the time being in that business, and

the doing of that act by virtue of the provisions of this subsection shall not amount to an infringement of the patent concerned.

(3) The rights specified in subsection (2) of this section shall not include the right to grant a licence to any person to do an act referred to in subsection (1) of this section.

(4) Where a product which is the subject of a patent is disposed of by any person to another in exercise of a right conferred by subsection (2) of this section, the recipient of the product or a person claiming through him or her may deal with the product in the same way as if it had been disposed of by a sole owner of the patent.

Exploitation by Government or person authorised thereby.

34. (1) Where—

- (a) the public interest, in particular, National Security, Nutrition, Health, or the development of other vital sectors of the national economy so requires; or
- (b) the Minister has determined that the manner of exploitation, by the owner of the patent or his or her licensee, is anti-competitive, and he or she is satisfied that the exploitation of the invention in accordance with this subsection would remedy such practice,

the Minister may decide that, even without the agreement of the owner of the patent, a Government agency or a third person designated by the Ministry may exploit the invention.

(2) The exploitation of the patented invention shall be limited to the purpose for which it was authorised and shall be subject to the payment to the said owner of an adequate remuneration therefor, taking into account the economic value of the Minister's authorisation, as determined in the said decision, and, where a decision has been taken under subsection 1(b), the need to correct anti-competitive practices.

(3) The Minister shall make his or her decision after hearing the owner of the patent and any interested person.

(4) A request for the Minister's authorisation to exploit a patented invention shall be accompanied by evidence that the owner of the patent has received, from the person seeking the authorisation, a request for a contractual licence, but that that person has been unable to obtain such a licence on reasonable commercial terms and conditions and within a reasonable time.

(5) Subsection (4) of this section shall not apply in cases of—

- (a) national emergency or other circumstances of extreme urgency provided, however, that in such cases the owner of the patent shall be notified of the Minister's decision as soon as reasonably practicable;
- (b) public non-commercial use; and
- (c) anti-competitive practices determined as such by the Minister in accordance with subsection (1)(b) of this section.

(6) The exploitation of a patented invention in the field of semi-conductor technology shall only be authorised for public non-commercial use or where a judicial or administrative body has determined that the manner of exploitation of the patented invention, by the owner of the patent or his or her licensee, is anti-

competitive, and if the Minister is satisfied that the issuance of the non-voluntary licence would remedy such practice.

- (7) The authorisation shall not exclude—
- (a) the conclusion of license contracts by the owner of the patent;
 - (b) the continued exercise, by the owner of the patent, of his or her rights under section 33(2); or
 - (c) the grant of a non-voluntary licence under section 38 of this Act.

(8) Where a third person has been designated by the Minister, the authorisation may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within which the patented invention is being exploited.

(9) The exploitation of the patented invention by the Government agency or third person designated by the Minister shall be predominantly for the supply of the market in Saint Christopher and Nevis.

(10) Upon the request of the owner of the patent, of the Government agency or of the third person authorised to exploit the patented invention, the Minister may, after hearing the parties, vary the terms of the decision authorising the exploitation of the patented invention to the extent that changed circumstances justify such variation.

(11) Upon the request of the owner of the patent, the Minister shall terminate the authorisation if he or she is satisfied, after hearing the parties, that the circumstances which led to his or her decision have ceased to exist and are unlikely to recur, or that the Government agency or third person designated by him or her has failed to comply with the terms of the decision.

(12) Notwithstanding subsection (11) of this section, the Minister shall not terminate the authorisation if he or she is satisfied that the need for adequate protection of the legitimate interests of the Government agency or third person designated by him or her justifies the maintenance of the decision.

Prevention of indirect use of invention.

35. (1) While in force, a patent shall confer, on its owner, the right to prevent all persons not having his or her authorisation, from supplying or offering to supply in Saint Christopher and Nevis, a person (other than a person entitled to engage in commercial working of the patented invention) with means relating to an essential element of that invention, for putting it into effect therein, provided that the person knows, or it is obvious to a reasonable person in the circumstances that those means are suitable for putting, and are intended to put, that invention into effect.

(2) The provisions of subsection (1) of this section shall not apply where the means referred to therein are staple commercial products, except where the person induces the person supplied to commit acts which the owner of the patent is entitled to prevent by virtue of section 33 of this Act.

(3) Any person who commits an act referred to in paragraph (c) or (d) of section 33(4) of this Act shall not be considered to be a person entitled to engage in commercial working of the invention for the purposes of subsection (1) of this section.

PART IX

VOLUNTARY AND NON-VOLUNTARY LICENCES

Voluntary licences.

36. (1) Subject to section 33 of this Act, a proprietor of a patent application or patent may grant a licence in respect of the relevant invention.

(2) A licence contract concerning an application for a patent or patents shall be filed with the Registrar in writing and may, on payment of the prescribed fee, be recorded in the register and the relevant notice published in a periodical as prescribed by the rules.

(3) Until the contract referred to in subsection (2) of this section has been so recorded, the licence shall have no effect against third parties, unless otherwise decided by the Court.

(4) In the absence of any provision to the contrary in the terms of a licence contract, a licensee shall not extend to another person the authorisation conferred on him or her by the owner in accordance with subsection (1) of this section, nor shall he or she assign or mortgage his or her licence.

(5) In the absence of any provision to the contrary in the terms of a licence contract, the patentee may continue to enjoy the rights conferred on him or her by sections 33 and 36 of this Act.

(6) To the extent that the licence is granted as an exclusive licence, the patentee may not grant a licence in respect of the invention to a third person and may not himself or herself do any of the acts referred to in sections 33 and 36 of this Act.

(7) If, before the expiration of the licence contract, any of the following events occur with respect to any patent application or patent, the subject of that contract—

- (a) the patent application is withdrawn or is deemed to be withdrawn;
- (b) the patent application is treated as if it had not been filed;
- (c) the grant of a patent is refused; or
- (d) the patent is revoked,

the licensee shall, from the date of the event, no longer be bound to make any payment directly relating to that patent application or patent.

(8) In any of the cases referred to in subsection (7) of this section, the licensee shall have the right to repayment of the payments already made and directly relating to the patent application or patent in question, provided he or she has not benefited from the licence.

Non-voluntary licences.

37. (1) At any time after the expiration of four years from the date of grant of a patent under this Act or three years from the date of the filing, whichever is later, any person interested may apply to the Court for the grant of a non-voluntary licence under the patent on the grounds that the patented invention is not being exploited or is being insufficiently exploited by working the invention in Saint Christopher and Nevis, or by importation into Saint Christopher and Nevis.

(2) Notwithstanding subsection (1) of this section, a non-voluntary licence shall not be issued if the patentee satisfies the Court that circumstances exist which

justify the non-exploitation or insufficient exploitation of the patented invention in Saint Christopher and Nevis.

- (3) The Court shall, where it grants a non-voluntary licence, fix—
 - (a) the scope and function of the licence;
 - (b) the time limit within which the licensee must begin to exploit the patented invention; and
 - (c) the amount of the remuneration to be paid to the patentee, and the conditions of the payment thereof.
- (4) The beneficiary of the non-voluntary licence shall—
 - (a) have the right to exploit the patented invention in Saint Christopher and Nevis in accordance with the Court's order;
 - (b) commence the exploitation of the patented invention within the time stipulated in the said order; and
 - (c) thereafter, exploit the patented invention sufficiently.

(5) Where the invention claimed in a patent, referred to in this section as a "later patent", cannot be exploited in Saint Christopher and Nevis without infringing a patent granted on the basis of an application benefiting from an earlier filing, or, where appropriate, priority date, referred to in this section as an "earlier patent", and if the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent, the Court may, upon the application of the owner of the later patent, issue a non-voluntary licence to the extent necessary to avoid infringement of the earlier patent.

(6) Where a non-voluntary licence is issued in accordance with subsection (5) of this section, the court shall, upon the application of the owner of the earlier patent, issue a non-voluntary licence in respect of the later patent.

(7) In the case of an application for the issuance of a non-voluntary licence in accordance with subsections (4) and (5) of this section, subsection (2) of this section shall apply *mutatis mutandis*, except that the Court need not fix any time limit.

(8) In the case of a non-voluntary licence issued under subsection (1) of this section, the transfer shall only be made with the later patent, and, in the case of a non-voluntary licence issued under subsection (5) of this section, only with the earlier patent.

(9) An application for a non-voluntary licence shall be subject to payment of the prescribed fee.

(10) No licence shall be granted under this section in respect of a patented invention in the field of semi-conductor technology.

(11) Subsections (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12), of section 35, and section 62(2) of this Act shall, *mutatis mutandis*, apply.

Exercise of powers on applications under section 46.

38. The powers of the Court on an application under section 46 shall be exercised with a view to securing that the inventor or other person beneficially entitled to a patent receives reasonable remuneration having regard to the economic value of the licence.

PART X
INFRINGEMENT

Infringement.

39. Subject to the provisions of sections 33(4), 35 and 38 of this Act, the performance, in relation to a patent, of any act referred to in sections 33 and 36 of this Act without the authorisation of the patentee shall, while it is in force, constitute an infringement of the patent.

Action for infringement.

40. (1) The patentee shall, in addition to any other right, remedy or action available to him or her, have the right, subject to sections 33(4), 35, 38 and 42 of this Act, to institute Court proceedings against any person who infringes the patent by performing, without his or her authorisation, any of the acts referred to in section 33(2) of this Act or who performs acts which make it likely that infringement will occur.

(2) A plaintiff in proceedings for infringement shall be entitled to relief by way of—

- (a) an injunction restraining the defendant from any apprehended act of infringement;
- (b) an order for him or her to deliver up or destroy any patented product in relation to which the patent is infringed or any article in which that product is inextricably comprised;
- (c) damages in respect of the infringement;
- (d) an account of the profits derived by him or her from the infringement;
- (e) any other relief provided for in the general law.

(3) The Court shall not, in awarding damages under this section, also order, in respect of the same infringement, that the plaintiff be given an account of the profits derived from the infringement.

(4) In any proceedings for infringement, the defendant may counterclaim for the invalidation of the patent and, by way of defence, rely upon any ground on which a patent may be invalidated.

(5) In any proceedings under this section, the plaintiff shall, before instituting the proceedings, give notice thereof to every licensee under the patent in question whose name is recorded in the Register, and the licensee shall be entitled to intervene as co-plaintiff.

(6) Where a licensee requests the owner of a title of protection granted under this Act to institute court proceedings for a specific relief and the owner fails to do so, the licensee may bring an action under this section and the Court shall grant any relief specified in subsection (2) or any other relief provided for in the general law.

(7) In any proceedings for infringement, other than criminal proceedings, where the subject matter of the patent is a process for obtaining a product, the burden of establishing that the product was not made by the process shall rest on the defendant if—

- (a) the product is new; or

(b) a substantial likelihood exists that the product was made using another process and the patentee has been unable, through reasonable efforts, to determine the process used.

(8) In requiring the production of evidence in respect of subsection (7) of this section, the Court shall take into account the legitimate interests of the defendant in not disclosing his or her manufacturing and business secrets.

(9) The Court shall, in awarding damages under this section, calculate such damages taking into account the amount of a reasonable royalty which would have been payable by a licensee or sub-licensee in respect of the patent concerned.

Restriction on recovery of damages for infringement.

41. (1) In proceedings for infringement of a patent, damages shall not be awarded, and no order shall be made for an account of profits, against a defendant who proves that at the date of the infringement he or she was not aware, and had no reasonable grounds for supposing that the patent existed, and a person shall not be taken to have been so aware or to have had reasonable grounds for so supposing by reason only of the application to a product of the word "patent" or "patented", or any word or words expressing or implying that a patent has been obtained for the product, unless the number of the patent accompanied the word or words in question.

(2) Where an amendment of the specification of a patent is allowed under any of the provisions of this Act, no damages shall be awarded in proceedings for an infringement of the patent committed before the decision to allow the amendment unless the Court is satisfied that the specification of the patent as published was framed in good faith and with reasonable skill and knowledge.

Relief for infringement of partially valid patent.

42. (1) If the validity of a patent is put in issue in proceedings for infringement of the patent and it is found that the patent is only partially valid, the Court may, subject to subsection (2) of this section, grant relief in respect of that part of the patent which is found to be valid and infringed.

(2) Where, in the proceedings referred to in subsection (1) of this section, it is found that a patent is only partially valid, the Court shall not grant relief by way of damages, costs of expenses, except where the plaintiff proves that the specification for the patent was framed in good faith and with reasonable skill and knowledge and in that event the Court may grant relief in respect of that part of the patent which is valid and infringed, subject to the discretion of the Court as to costs or expenses and as to the date from which damages should be reckoned.

(3) As a condition of relief under this section the Court may direct that the specification of the patent shall be amended to its satisfaction upon an application made for that purpose under section 63, and an application may be so made accordingly, whether or not all other issues in the proceedings have been determined.

Certificate of contested validity of patent.

43. (1) Where in any proceedings before the Court the validity of a patent to any extent is contested and that patent is found by the Court to be wholly or partially valid, the Court may certify the finding and the fact that the validity of the patent was so contested.

(2) Where a certificate is granted under this section, then, if in any subsequent proceedings before the Court for infringement of the patent concerned or for

revocation of the patent a final order or judgment is made or given in favour of the party relying on the validity of the patent as found in the earlier proceedings, that party shall, unless the Court otherwise directs, be entitled to his or her costs or expenses as between attorney-at-law and client, other than the costs of expenses of any appeal in the subsequent proceedings.

Proceedings for infringement by exclusive licensee.

44. (1) Subject to the provisions of this section, the holder of an exclusive licence under a patent shall have the same right as the owner of the patent to bring proceedings in respect of any infringement of the patent committed after the date of the licence, and references to the patentee in this Act relating to infringement shall be construed accordingly.

(2) In awarding damages or granting any other relief in the proceedings the Court shall take into consideration any loss suffered or likely to be suffered by the exclusive licensee as such as a result of the infringement, or, as the case may be, the profits derived from the infringement, so far as it constitutes an infringement of the rights of the exclusive licensee as such.

(3) In any proceedings taken by an exclusive licensee by virtue of this section, the patentee shall be made a party to the proceedings, except that a defendant shall not be liable for any costs or expenses unless he or she enters an appearance and takes part in the proceedings.

Effect of non-registration on infringement proceedings.

45. Where by virtue of a transaction, instrument or event to which section 35 applies, a person becomes the owner or one of the owners or an exclusive licensee of a patent and the patent is subsequently infringed, the Court shall not award him or her damages or order that he or she be given an account of the profits in respect of the subsequent infringement occurring before the transaction, instrument or event is registered unless—

- (a) the transaction, instrument or event is registered within a period of six months beginning with its date; or
- (b) the Court is satisfied that it was not practicable to register the transaction, instrument or event before the end of that period, and that it was registered as soon as was practicable thereafter.

PART XI
REVOCATION OF PATENT

Application for revocation of patent.

46. (1) Subject to the provisions of this Act, the Court may, on the application of any interested party, revoke a patent on any of the following grounds—

- (a) that the invention is not an invention as defined in this Act;
- (b) that the patent concerned is not patentable under section 7 or does not satisfy the requirements of sections 8(1), (2) and (3), and sections 9 and 10;

- (c) that the invention is a matter which should, in accordance with section 11, have been excluded from patent protection;
- (d) that the patent was granted to a person who was not entitled thereto under section 13 or 14, as the case may be;
- (e) that the patentee's application did not satisfy the requirements of section 17(4) to (7);
- (f) that the subject matter of the patent extends beyond the content of the patent application as filed or, if the patent was granted on a divisional application, it extends beyond the content of the relevant earlier application as filed;
- (g) that the protection conferred by the patent has been extended by an amendment by an instrument which should not have been allowed.

(2) A revoked patent, claim or part of a claim shall be regarded as being null and void from the date of the grant of the patent.

(3) An application for the revocation of a patent shall be served on the patentee and filed with the Court in the manner and within the time prescribed.

(4) The Registrar of the High Court, if different from the Registrar of Patents, shall notify the Registrar of the final decision of the Court and the Registrar shall forthwith record it and publish a reference thereto in the *Gazette*.

Amendment of patent in infringement or revocation proceedings.

47. (1) Subject to subsection (5) of this section, in any proceedings before the Court in which the validity of a patent is put in issue, the Court may allow the patentee to amend the patent in such a manner, and subject to such terms as to advertising the proposed amendment and as to costs, expenses or otherwise, as the Court thinks fit.

(2) Any interested person may give notice to the Court of his or her opposition to an amendment proposed by the patentee under this section, and if he or she does so the Court shall notify the owner and consider the opposition in deciding whether the amendment should be allowed.

(3) An amendment of a description under this section shall have effect and shall always be deemed to have effect from the grant of the patent.

(4) Where an application for an order under this section is made to the Court, the applicant shall notify the Registrar who shall be entitled and be heard, and shall appear if so directed by the Court.

(5) No amendment shall be allowed under this section if it discloses matter which extends beyond that disclosed in the description of the granted patent or extends the scope of the protection conferred by the patent.

PART XII

UTILITY CERTIFICATES

Provisions applicable to utility certificates.

48. (1) The provisions in this Act relating to applications for patents or to patents shall, unless otherwise provided under this Part, be applicable to utility certificates or to utility certificate applications, as the case may be.

(2) Sections 7, 9, 24, 29, 30(1) and 60(a) shall not apply to utility certificate applications nor to utility certificates.

Qualification for utility certificate.

49. (1) A utility certificate may be granted only for an invention which is new and is capable of industrial application.

(2) An invention for which a utility certificate is requested shall not be considered new if it differs from earlier inventions only in minor respects or in details which are immaterial to the function or application of the invention.

Term of utility certificate.

50. A utility model certificate shall expire seven years after the filing date of its application and shall not be renewed.

Grounds for revocation.

51. (1) Subject to the provisions of this Act, the Court may, on the application of any interested person, revoke a utility model certificate on any of the following grounds, that is to say—

- (a) that the invention relating to the certificate is—
 - (i) not new or industrially applicable; or
 - (ii) contrary to public order or morality;
- (b) that the description and claim or claims does or do not disclose the invention in a manner which is sufficiently clear and complete to permit a person having ordinary skill in the art to carry out the invention, and do not indicate at least one mode known to the applicant for carrying out the invention;
- (c) that the claim or claims does not or do not define the matter for which protection is sought;
- (d) that the claim or claims is or are not clear or concise and is or are not fully supported by the description;
- (e) that the drawings necessary for the understanding of the invention have not been filed as required under this Act; and
- (f) that the person to whom the utility model certificate has been granted is not the inventor or his or her successor in title.

(2) An application for the invalidation of a utility model certificate shall be served on the person to whom the certificate has been issued and filed with the Court in the manner and time prescribed.

(3) The Registrar of the High Court shall, unless he or she is also the Registrar of Patents, notify the Registrar of the decision of the Court to invalidate a utility model certificate and the Registrar shall forthwith record it and publish a reference in the *Gazette*.

Conversion of application.

52. (1) At anytime before a patent is granted or before the refusal of a patent application is notified under this Act, an applicant for a patent may, in accordance with the prescribed conditions, request that his or her application be treated as a utility certificate application.

(2) In the same circumstances mentioned in subsection (1) of this section, an applicant for a utility certificate may, in accordance with the prescribed conditions and upon payment of the prescribed fees, request that his or her application be treated as a patent application.

(3) No person may convert an application under subsection (1) or (2) more than once.

PART XIII

INTERNATIONAL ARRANGEMENTS

Notification as to convention countries.

53. The provisions of any international treaty in respect of industrial property to which Saint Christopher and Nevis is a party shall apply to matters dealt with by this Act and, in case of conflict with the provisions of this Act, shall prevail over the latter.

Implementation of Patent Co-operation Treaty.

54. (1) The Patent Co-operation Treaty, referred to in this section as “the Treaty”, and any Regulations made thereunder shall be given full effect.

(2) Where this Act does not provide for any matter provided for by the Treaty, the provisions of the Treaty shall apply.

(3) The Registrar’s Office shall act as a receiving office, designated office and elected office as provided for in the Treaty.

(4) The processing and examination of an international application for a patent designating Saint Christopher and Nevis shall not commence before the expiration of the time limit prescribed in Articles 22 and 39 of the Treaty, except that such processing and examination may commence if the applicant files an express request at the Registrar’s Office within that time limit.

(5) The Registrar shall not grant or refuse to grant a patent on an international application before the expiration of the time limit prescribed in Rule 52 as provided for in Article 28 or in Rule 78 as provided for in Article 41, as the case may be, except with the consent of the applicant in writing.

(6) Where an international application for a patent which purports to designate Saint Christopher and Nevis is refused an international filing date under this Treaty because—

(a) it is declared considered withdrawn; or

- (b) the International Bureau has made a finding under Article 12 (3) of the Treaty; or
- (c) the receiving office has declared that the designation of Saint Christopher and Nevis is considered withdrawn,

and the Registrar determines that the refusal was caused by an error or omission in the Registrar's Office or any other institution having functions under the Treaty, he or she may direct that the application shall be treated as an application under this Act.

Judicial notice of certain treaties and instruments thereunder.

55. (1) Judicial notice shall be taken of the Paris Convention, the Budapest Treaty, the Patent Corporation Treaty and of any bulletin, journal or *Gazette* published under such Convention or Treaty.

(2) Any document referred to in any such bulletin, journal or *Gazette* shall be admissible as evidence of any instrument or other act thereby communicated, or of any institution established by or having functions under any Convention or Treaty mentioned in subsection (1).

PART XIV

GENERAL PROVISIONS

Changes in ownership.

56. (1) Any change in the ownership of a patent or utility model certificate or in the ownership of the application therefor shall be in writing and shall, upon the request of any interested party to the Registrar, be recorded and, except in the case of an application, be published in the *Gazette*.

(2) A change under subsection (1) of this section shall be of no effect against third parties until it has been recorded.

Correction of errors.

57. (1) The Registrar may, of his or her own volition or upon the written request of any interested person, correct any clerical error or error in translation or transcription in any application filed under this Act, or in any document filed in pursuance of such application, and the Registrar may also correct any clerical error in the Register.

(2) Subsection (1) of this section shall not be construed as giving the Registrar any power to correct in the Register, any application or document in a material way.

Extension of time.

58. (1) Where the Registrar is satisfied that the circumstances justify it, he or she may, upon the written request of any interested person, and upon such terms as he or she may direct, extend the time for doing any act or taking any proceeding under this Act and the Regulations.

(2) The extension may be granted even though the time for doing the act or taking the proceeding has expired.

(3) The Registrar shall give written notice of any extension to the parties concerned.

Exercise of discretionary powers.

59. The Registrar shall, before exercising any discretionary power vested in him or her by this Act or the Regulations made thereunder, give any party to a proceeding before him or her the opportunity of being heard if his or her decision might adversely affect that party.

Agents.

60. Any applicant whose ordinary residence or principal place of business is outside Saint Christopher and Nevis shall be represented by a legal practitioner who is resident in Saint Christopher and Nevis and practising in Saint Christopher and Nevis in accordance with the relevant law.

Jurisdiction of Court.

61. (1) The Court shall have jurisdiction in cases of disputes relating to the application of this Act and the Regulations, and in matters which, under this Act, may be brought before it.

(2) Any person who is aggrieved by a decision of the Minister or the Registrar under this Act may, within two months of that decision, appeal to the Court.

Offences.

62. (1) Any person who intentionally or wilfully performs an act which constitutes an infringement as defined under section 40 of this Act commits an offence, and is liable to a fine of not less than fifteen thousand dollars and not more than forty thousand dollars, or to imprisonment for a term of not less than five years and not more than twelve years, or both.

(2) Any person who, knowing the same to be false—

- (a) makes or causes to be made a false entry in the Register;
- (b) makes or causes to be made any document falsely purporting to be a copy of an entry in the Register; or
- (c) produces, tenders or causes to be produced or tendered as evidence any such entry or copy thereof,

commits an offence and is liable to a fine of not less than ten thousand dollars and not more than thirty thousand dollars, or to imprisonment for a term of not less than three years and not more than ten years, or both.

(3) Any person who, knowing the same to be false, makes a false statement or representation that—

- (a) a patent or utility model certificate has been granted to him or her or to any other person in respect of any invention; or
- (b) he or she has been granted an exclusive or non-voluntary licence to use any patent or utility model certificate,

which statement or representation induces another person to act thereon, commits an offence and is liable to a fine of not less than five thousand dollars and not more than twenty thousand dollars, or imprisonment for a term of not less than two years and not more than five years, or both.

(4) Any person who falsely represents that anything disposed of by him or her for value is patented product or process he or she shall, subject to subsections (5) to

(7) of this section, be liable to a fine of not less than four thousand dollars and no more than ten thousand dollars.

(5) For the purposes of subsection (4) of this section, a person who for value disposes of an article having stamped, engraved or impressed on it or otherwise applied to it the word “patent” or “patented” or anything expressing or implying that the article is a patented product, shall be taken to represent that the article is a patented product.

(6) Subsection (4) of this section shall not apply where the representation is made in respect of a product after the patent for that product or, as the case may be, the process in question has expired or been revoked and before the end of a period which is reasonably sufficient to enable the accused to take steps to ensure that the representation is not made or does not continue to be made.

(7) In proceedings for an offence under this section it shall be a defence for the accused to prove that he or she used due diligence to prevent the commission of the offence.

(8) Any person who represents that a patent has been applied for in respect of any article disposed of for value by him or her—

- (a) and no such application has been made; or
- (b) the application has been refused or withdrawn,

commits an offence and is liable to a fine of not less than four thousand dollars and not more than ten thousand dollars.

(9) Subsection (8)(b) of this section shall not apply where the representation is made in respect of a product after the patent for that product or, as the case may be, the process in question has expired or been revoked, and before the end of a period which is reasonably sufficient to enable the accused to take steps to ensure that the representation is not made, or does not continue to be made.

(10) For the purposes of subsection (8) of this section, a person who for value disposes of an article having stamped, engraved or impressed upon it or otherwise applied to it the words “patent applied for” or “patent pending” or anything expressing or implying that a patent has been applied for in respect of the article, shall be taken to represent that a patent has been applied for in respect of the article.

(11) Where an offence under this Act which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributed to, any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate commits an offence and is liable to be proceeded against and punished accordingly.

(12) Where the affairs of a body corporate are managed by its members, subsection (11) of this section shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Immunity regarding official acts.

63. Neither the Minister nor any person employed by the State shall—

- (a) be taken to warrant the validity of any patent granted under this Act; or
- (b) incur any liability by reason of or in connection with any examination or investigation required or authorised by this Act or any report or

other proceedings consequent upon any such examination or investigation.

Registrar's annual report.

64. The Registrar shall, before the 1st day of June every year, make an annual report to the Minister with respect to the operation of this Act and the discharge of his or her functions thereunder.

Saving in respect of rights to sell forfeited articles.

65. Nothing in this Act shall affect the right of the State or any person employed by it to dispose of or use articles forfeited under the laws relating to customs and excise.

Time limit for prosecution.

66. A prosecution for an offence under this Act shall not be commenced after the expiration of five years after the commission of the offence or one year after the discovery thereof, whichever occurs last.

Regulations.

67. (1) The Minister may make Regulations providing for any matter which is to be prescribed under this Act, or for giving effect to the provisions of this Act.

(2) Without derogating from the generality of subsection (1) of this section, the Minister may make Regulations providing further details for the processing of international applications by, and other functions of, the Registrar in connection with the Patent Co-operation Treaty, including fees payable, time limits, prescribed languages and other requirements relating to international applications.

Administrative Instructions.

68. The Registrar may issue administrative instructions relating to the procedure under this Act, the Regulations made thereunder, and any other enactment relating to industrial property.

Act to bind Crown.

69. This Act shall bind the Crown.

FIRST SCHEDULE
PATENTS REGULATIONS

(Saved by section 70 of Act 9 of 2002)

Short Title.

1. These Regulations may be cited as the Patents Regulations.

Interpretation.

2. (1) In these Regulations—

“Act” means the Patent Act;

“Foreign Application” means an application duly made by any person for protection of his or her invention in any place to which the provisions of the Act shall have become applicable.

(2) Save as aforesaid any words herein used defined by the Act shall have the meanings thereby assigned to them respectively.

Forms.

3. The Forms contained in the Schedule to these regulations may, as far as they are applicable, be used in any proceedings under the Act or under these Regulations.

Application by Representative of Deceased Inventor.

4. In the case of an application for a patent by the legal representative of a person who has died possessed of an invention, the Probate of his or her Will, or the Letters of Administration granted of his or her estate and effects, or an official copy of such Probate or Letters, shall be produced at the Registrar’s office in proof of the applicant’s title as such legal representative, and must be supported by such further evidence as the Registrar may require.

Order of Recording Applications.

5. (1) Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post.

(2) Applications left at the Registrar’s office otherwise than through the post shall be in like manner numbered in the order of their receipt at the Registrar’s office.

Claims.

6. The statement of the invention claimed, with which a complete specification must end, shall be clear and succinct as well as separate and distinct from the body of the specification.

One Invention.

7. (1) When a specification comprises several distinct matters, they shall not be deemed to constitute an invention by reason only that they are all applicable to or may form parts of an existing machine, apparatus, or process.

(2) Where a person making application for a patent has included in his or her specification more than one invention, the Registrar may require or allow him or her

to amend such application and specification and drawings or any of them so as to apply to one invention only, and the applicant may make application for a separate patent for any invention excluded by such amendment.

(3) Every such last mentioned application may, if the Registrar at any time so direct, bear the date of the original application or such date between the date of the original application and the date of the application in question, as the Registrar may direct, and shall otherwise be proceeded with as a substantive application in the manner prescribed by the Act and by any regulations thereunder for the time being in force.

(4) When the Registrar has required or allowed any application, specification or drawings to be amended as aforesaid, such application shall, if the Registrar at any time so direct, bear such date, subsequent to the original date of the application and not later than the date when the amendment was made, as the Registrar shall consider reasonably necessary to give sufficient time for the subsequent procedure relating to such application.

Extension of time for Leaving and Accepting Complete Specification.

8. An application for extension of time for leaving or accepting a complete specification shall be made on Form U or on Form V in the Schedule to these regulations as the case may require, and shall state in detail in what circumstances, and upon what grounds such extension is applied for, and the Registrar may require the applicant to substantiate such allegations by such proof as the Registrar may think necessary.

Notice and Advertisement of Acceptance.

9. On the acceptance of a provisional or complete specification, the Registrar shall give notice thereof to the applicant, and shall advertise the acceptance of every complete specification in the *Gazette*.

Inspection of Complete Specification.

10. Upon such acceptance in the case of a complete specification, the application and specification, or specifications, with the drawings (if any), may be inspected at the Registrar's office upon payment of the prescribed fee.

Convention Applications.

11. (1) Every convention application shall contain a declaration that foreign application has been made for protection of the invention to which such convention application relates, and shall specify all the places in which such foreign applications have been made, and the official date or dates thereof, respectively.

(2) The application must be made within twelve months from the date of the first foreign application, and must be accompanied by a complete specification, and signed by the person or persons by whom such first foreign application was made.

(3) If such person, or any of such persons be dead, the application must be signed by the legal representative of such dead person, as well as by the other applicants, if any.

Foreign Specification etc. to Accompany Specification.

12. (1) Every convention application, in addition to the specification left therewith, must be accompanied by a copy or copies of the specification, and

drawings or documents filed or deposited by the applicant in the Patent office of the place in respect of the first foreign application, duly certified by the official chief or head of the Patent office of such place as aforesaid, or otherwise verified to the satisfaction of the Registrar.

(2) If any specification or other document relating to the application is in a foreign language, a translation thereof shall be annexed thereto and verified by statutory declaration or otherwise to the satisfaction of the Registrar.

Proceedings.

13. Save as aforesaid and as provided by regulation 50, all proceedings in connection with a convention application shall be taken within the times and in the manner prescribed by the Act or these regulations for ordinary applications.

Size, etc. of Documents.

14. (1) All documents and copies of documents, except drawings, sent to or left at the Registrar's office, or otherwise furnished to the Registrar, shall be written, typewritten, lithographed, or printed in the English language (unless otherwise directed) in large and legible characters with deep permanent ink upon strong white paper, and, except in the case of statutory declarations and affidavits, on one side only, of a size of approximately 13 inches by 8 inches, leaving a margin of at least one inch and a half on the left hand part thereof, and the signatures thereto must be written in a large and legible hand.

(2) Duplicate documents shall at any time be left, if required by the Registrar.

(3) At the top of the first page of a specification a space of about two inches should be left blank.

Drawings Accompanying Specifications.

15. (1) Drawings, when furnished, should accompany the provisional or complete specification to which they refer, except in the case provided for by regulation 22.

(2) No drawing or sketch such as would require the preparation for the printer of a special illustration for use in the letterpress of the specification when printed should appear in the specification itself.

Requirements as to Paper.

16. (1) Drawings may be made by hand or lithographed, printed, etc.

(2) They must be made on pure, white, hot-pressed, rolled, or calendared strong paper of smooth surface, good quality, and medium thickness without washes or colours, in such a way, as to admit of being clearly reproduced on a reduced scale by photography.

(3) Mounted drawings must not be used.

Size of Drawings and Arrangement of Figures.

17. (1) Drawings must be on sheets which measure 13 inches from top to bottom and are either from 8 inches to 8¼ inches or from 16 inches to 16½ inches wide, the narrower sheets being preferable.

(2) If there are more figures than can be shown on one of the smaller sized sheets, two or more of these sheets should be used in preference to employing the larger size.

(3) When an exceptionally large drawing is required, it should be continued on subsequent sheets.

(4) There is no limit to the number of sheets that may be sent in, but no more sheets should be employed than are necessary, and the figures should be numbered consecutively throughout, and without regard to the number of sheets.

(5) The figures should not be more numerous than is absolutely necessary, and they should be separated by a sufficient space to keep them distinct.

Drawings to be suitable for Reproduction.

18. (1) Drawings must be prepared in accordance with the following requirements—

- (a) they must be executed with absolutely black ink;
- (b) each line must be firmly and evenly drawn, sharply defined, and of the same strength throughout;
- (c) section lines, lines for effect, and shading lines, should be as few as possible, and must not be closely drawn;
- (d) shade lines must not contrast too much in thickness with the general lines of the drawing;
- (e) sections and shading should not be represented by solid black or washes;
- (f) they should be on a scale sufficiently large to show the invention clearly, and only so much of the apparatus, machine, etc., should appear as effects this purpose, and if the scale is given, it should be drawn, and not denoted by words.

(2) Reference letters and figures, and index numerals used in conjunction therewith must be bold, distinct, and not less than one-eighth of an inch in height.

(3) The same letters should be used in different views of the same parts.

(4) Where the reference letters are shown outside the figure, they must be connected with the parts referred to by fine lines.

Drawings to Bear Name of Applicant etc., but no Descriptive Matter.

19. (1) Drawings must bear the name of the applicant, (and, in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the left hand top corner; the number of sheets of drawings sent, and the consecutive number of each sheet, in the right hand top corner; and the signature of the applicant or his or her agent in the right hand bottom corner.

(2) Neither the title of the invention nor any descriptive matter should appear in the drawings.

Copies of Drawings

20. (1) A facsimile or “true copy” of the original drawings must be filed at the same time as the original drawings, prepared strictly in accordance with the above regulations, except that it may be on tracing cloth and the reference letters and figures should be in black-lead pencil.

(2) The words “original” or “true copy” must in each case be marked at the right hand top corner, under the numbering of the sheet.

Delivery of Drawings.

21. Drawings must be delivered at the Registrar’s Office so as to be free from folds, breaks, or creases, which would render them unsuitable for reproduction by photography.

Provisional Drawings used for Complete Specification.

22. If an applicant desires to adopt the drawings lodged with his or her provisional specification as the drawings for his or her complete specification, he or she should refer to them in the complete specification, as those left with the provisional specification.

Form of Statutory Declaration and Affidavit.

23. (1) The statutory declarations and affidavits required by these regulations, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate and shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as possible be confined to one subject.

(2) Every statutory declaration or affidavit shall state the description and true place of abode of the person making the same, and shall be written or printed bookwise, and shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

Manner in which, and Persons before whom, Declaration or Affidavit is to be Taken.

24. The statutory declarations and affidavits required by the Act and these regulations, or used in any proceedings thereunder, shall be made and subscribed as follows—

- (a) in the State, before any Commissioner or other Officer authorised by law to administer an oath for the purpose of any legal proceeding;
- (b) in the United Kingdom, before any Justice of the Peace, or any Commissioner or other Officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;
- (c) in any other part of the Commonwealth, before any Court, Judge, Justice of the Peace, or any Officer authorised by law, to administer an oath there for the purpose of any legal proceeding; and
- (d) if made out of the Commonwealth, before a British Minister, or person exercising the functions of a British Minister, or a Consul, Vice-Consul, or other person exercising the functions of a British Consul, or before a Notary Public or before a Judge or Magistrate.

Industrial or International Exhibitions.

25. (1) Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention, during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where the exhibition is held, may after the Registrar has

given a certificate that the exhibition is an industrial or international one, give to the Registrar notice on Form O in the Schedule to these regulations of his or her intention to exhibit, publish, or use the invention as the case may be.

(2) For the purpose of identifying the invention in the event of an application for a patent being subsequently made, the inventor shall furnish to the Registrar a brief description of his or her invention, accompanied, if necessary, by drawings and such other information as the Registrar may in each case require.

Exercise of Discretionary Powers by Registrar.

26. Before exercising any discretionary power given to the Registrar by the Act or these regulations adversely to the applicant for a patent or for amendment of a specification, the Registrar shall give ten days' notice, or such longer notice as he or she may think fit, to the applicant of the time when he or she may be heard personally or by his or her agent before the Registrar.

Notice by Applicant.

27. Within five days from the date when such notice would be delivered in the ordinary course of the post, or such longer time as the Registrar may appoint in such notice, the applicant shall notify in writing to the Registrar whether or not he or she intends to be heard upon the matter.

Registrar may require Statement, etc.

28. Whether the applicant desires to be heard or not, the Registrar may at any time require him or her to submit a statement in writing within a time to be notified by the Registrar, or to attend before him or her and make oral explanations with respect to such matters as the Registrar may require.

Decision to be Notified to Parties.

29. The decision or determination of the Registrar in the exercise of any such discretionary power as aforesaid, shall be notified by him or her to the applicant, and to any other person who appears to him or her to be affected thereby.

Notice of Opposition.

30. (1) A notice of opposition to the grant of a patent shall be on Form D in the Schedule to these regulations, and shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the grant, and must be signed by him or her.

(2) The notice shall state his or her address for service, and shall be accompanied by a copy, which copy shall be transmitted by the Registrar to the applicant.

Evidence in Support of Allegation that Invention has been Obtained from Opponent.

31. Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, unless evidence in support of such allegation be left at the Registrar's Office within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification, the opposition shall be deemed to be abandoned.

Attendance of Declarant on Registrar.

32. Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, the Registrar may request or allow any person who has made a statutory declaration in the matter to which the opposition relates to attend before him or her at the hearing of the case and make oral explanations with respect to such matters as the Registrar may require.

Particulars of Prior Patent.

33. Where the ground or one of the grounds of opposition is that the invention has been patented in this State on an application of prior date, the number and date of such prior application shall be specified in the notice.

Opponent's Evidence.

34. Except in the case provided for in regulation 31, statutory declarations need not be left in connection with an opposition, but the opponent may, within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification, leave at the Registrar's Office statutory declarations in support of his or her opposition, and on so leaving shall deliver to the applicant copies thereof.

Applicant's Evidence.

35. (1) Within fourteen days from the delivery of such copies, the applicant may leave at the Registrar's Office statutory declarations in answer, and on so leaving shall deliver to the opponent copies thereof, and within fourteen days from such delivery the opponent may leave at the Registrar's Office his or her statutory declarations in reply, and on so leaving shall deliver to the applicant copies thereof.

(2) The last-mentioned declarations shall be confined to matters strictly in reply.

Applicant's Evidence if Opponent does not leave Statutory Declarations.

36. If the opponent does not leave statutory declarations in support of his or her opposition, the applicant may (if he or she desires so to do) within three months from the date of the advertisement of the acceptance of his or her complete specification, leave at the Registrar's Office statutory declarations in support of his or her application, and on so leaving shall deliver to the opponent copies thereof.

Opponent's Evidence.

37. (1) Within fourteen days from the delivery of such copies, the opponent may leave at the Registrar's Office statutory declarations in answer, and on so leaving shall deliver to the applicant copies thereof, and within fourteen days of such delivery, the applicant may leave at the Registrar's Office his or her statutory declarations in reply, and on so leaving shall deliver to the opponent copies thereof.

(2) The last-mentioned declarations shall be confined to matters strictly in reply.

Closing of Evidence.

38. No further evidence shall be left on either side except by leave, or on the requisition, of the Registrar.

Hearing.

39. (1) On completion of the evidence (if any) or at such other time as he or she may see fit, the Registrar shall appoint a time for the hearing of the case, and shall give the parties ten days' notice at the least of such appointment.

(2) If either party does not desire to be heard, he or she shall as soon as possible notify the Registrar to that effect.

(3) If either party desires to be heard, he or she must leave Form E in the Schedule to these regulations at the Registrar's Office.

(4) The Registrar may refuse to hear either party who has not left Form E prior to the date of hearing.

(5) If either party intends to refer at the hearing to any publication other than a specification mentioned in the notice of opposition, he or she should, unless the same has been referred to in a statutory declaration already filed, give to the other party and to the Registrar five days' notice at the least of his or her intention, together with details of each publication to which he or she intends to refer.

(6) After hearing the party or parties desirous of being heard, or if neither party desires to be heard, then without a hearing the Registrar shall decide the case and notify his or her decision to the parties.

Request for Leave to Amend.

40. (1) A request for leave to amend a specification must be signed by the applicant and shall contain an address for service in the State.

(2) When not made in pursuance of an order of the Court, or a Judge, the request must, where the patent has been sealed, also contain a statement that no action for infringement nor proceeding for revocation of the patent is pending.

(3) The request must be accompanied by a duly certified copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by the publication of the request, and the nature of the proposed amendment in the *Gazette*, and in such other manner (if any), as the Registrar may in each case direct.

Leave by Order of Court.

41. Where a request for leave to amend is made in pursuance of an order of the Court or a Judge, an office copy of the order shall be left with the request at the Registrar's Office.

Notice of Opposition.

42. (1) A notice of opposition to the amendment shall be on Form G in the Schedule to these regulations and shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the amendment, and must be signed by him or her.

(2) The notice shall state his or her address for service, and shall be accompanied by a copy, which copy shall be transmitted by the Registrar to the applicant.

Opponent's Evidence.

43. Within fourteen days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent may leave at the Registrar's Office statutory declarations in support of his or her opposition, and on so doing shall deliver to the applicant copies thereof.

Further Proceedings.

44. Upon such declarations being left, and such copies being delivered, the provisions of regulations 35, 38 and 39, shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Applicant's Evidence if Opponent does not leave Statutory Declarations.

45. If the opponent does not leave statutory declarations in support of his or her opposition, the applicant may (if he or she desires so to do) within two months from the date of the first advertisement of the application for leave to amend, leave at the Registrar's Office statutory declarations in support of his or her application, and on so leaving shall deliver to the opponent copies thereof.

Further Proceedings.

46. Upon such declarations being left, and such copies being delivered, the provisions of regulations 37, 38 and 39, shall apply to the case, and further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

Requirements on Amendments.

47. Where leave to amend is given the applicant shall, if the Registrar so require, and within a time to be limited by him or her, leave at the Registrar's Office a new specification and drawings as amended, to be prepared in accordance with regulations 14 to 21.

Advertisement of Amendment.

48. Every amendment of a specification shall be advertised forthwith by the Registrar in the *Gazette*, and in such other manner (if any), as the Registrar may direct.

Entry of Grant.

49. Upon the sealing of a patent the Registrar shall cause to be entered in the register of patents the name, address, and calling of the patentee as the grantee thereof, and the title of the invention, together with the address for service.

Entry in Respect of Convention Application.

50. The patent granted on any convention application shall be entered in the register as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application.

Alteration of Address.

51. If a patentee sends to the Registrar on Form R in the Schedule to these regulations, notice of an alteration in his or her address, the Registrar shall cause the register to be altered accordingly.

Request for Entry of Subsequent Proprietorship.

52. Where a person becomes entitled to a patent, or to any share or interest therein, by assignment, or by transmission, or other operation of law, a request for the entry in his or her name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the Registrar, and left at the Registrar's Office.

Form and Signature of Request.

53. Such request shall be on Form L in the Schedule, and shall in the case of individuals be made and signed by the person requiring to be registered as proprietor, or by his or her agent duly authorised to the satisfaction of the Registrar, and in the case of a body corporate by its agent, authorised in like manner.

Particulars to be stated in Request.

54. Every such request shall state the name, address and calling of the person claiming to be entitled to the patent, or to any share or interest therein, as the case may be, and the particulars of the assignment, transmission, or other operation of law, by virtue of which he or she claims to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the patent, or such share or interest therein as aforesaid, has been assigned or transmitted.

Production of Documents of Title and other Proof.

55. (1) Every assignment, and every other document containing, giving effect to, or being evidence of, the transmission of a patent, or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record, shall, unless the Registrar in his or her discretion otherwise directs, be produced to him or her together with the request, and such other proof of title as he or she may require for his or her satisfaction.

(2) As to a document which is a matter of record, an official or certified copy thereof shall in like manner be produced to the Registrar.

Copies for Registrar's Office.

56. There shall also be left with the request an attested copy of the assignment or other document or copy above required to be produced.

Body Corporate.

57. A body corporate may be registered as proprietor by its corporate name.

Entry of Orders of Minister or of the Court

58. (1) Where an order has been made by the Minister for the extension of a patent for a further term, or for the grant of a new patent, or where an order has been made for the revocation of a patent under the Act, or otherwise affecting the validity or proprietorship of the patent, the person in whose favour such order has been made shall forthwith leave at the Registrar's office an office copy of such order.

(2) The register shall thereupon be rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be.

Entry of date of Payment of Fees on issue of Certificates.

59. Upon the issue of a certificate of payment under regulation 66, the Registrar shall cause to be entered in the register a record of the date of payment of the fee on such certificate.

Entry of Failure to Pay Fees.

60. If a patentee fails to make any prescribed payment within the prescribed time, or any enlargement thereof duly granted, there shall be duly entered in the register a notification of such failure.

Entry of Notification of Licence or other Document.

61. (1) An attested copy of every licence granted under a patent, or of any other document purporting to affect the proprietorship of a patent, shall be left at the Registrar's office, with a request on Form M in the Schedule to these Regulations, that a notification thereof may be entered in the register.

(2) The accuracy of such copy shall be certified as the Registrar may direct, and the original document shall at the same time be produced and left at the Registrar's office if required for further verification.

Hours of Inspection of Register.

62. The register of patents shall be open to the inspection of the public on every week day except Saturday between the hours of 9 a.m. and 3.30 p.m. and on Saturday between the hours of 9 a.m. and 12 noon, except on the days and the times following—

- (a) Christmas Day, Good Friday, the day observed as Her Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as public holidays; or
- (b) days which may from time to time be notified by a placard posted in a conspicuous place at the Registrar's office;
- (c) times when the register is required for any purpose of official use.

Certified Copies of Documents.

63. Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Registrar's office, or of or from registers or other books kept there, may be furnished by the Registrar on payment of the prescribed fee.

Payment of Fees for Continuance of Patent.

64. (1) If a patentee intends at the expiration of the fourth year from the date of his or her patent to keep the same in force, he or she shall, before the expiration of the fourth and each succeeding year during the term of the patent, pay the prescribed fee.

(2) The patentee may pay the whole or any portion of the aggregate of such prescribed annual fees in advance.

(3) The Form J in the Schedule to these regulations should be used for the purpose of this payment.

Enlargement of time for Payments.

65. An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in which the patentee by accident, mistake, or inadvertence has failed to make such payment, and the Registrar may require the patentee to substantiate by such proof as he or she may think necessary the allegations contained in the application for enlargement.

Certificate of Payment.

66. On due compliance with the terms of regulation 64, and as soon as may be after such respective periods as aforesaid, or any enlargement thereof respectively duly granted, the Registrar shall issue a certificate that the prescribed payment has been duly made.

Petition for Grant of Compulsory Licence or Revocation of Patent.

67. A petition to the Minister for an order under the Act shall show clearly the nature of the petitioner's interest, and the ground or grounds upon which he or she claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he or she asks that an order may be made, and the purport of such order, and the name and address of the patentee, and any other person who is alleged in the petition to have made default.

Petition to be left with Evidence at Registrar's Office.

68. The petition and an examined copy thereof shall be left at the Registrar's office accompanied by affidavits or statutory declarations in proof of the allegations contained in the petition together with any other documentary evidence in support, and the petitioner shall simultaneously with, or as soon as may be after the leaving of such petition, deliver to the patentee and any other person who is alleged in the petition to have made default, copies of the petition and of such affidavits or statutory declarations and other documentary evidence in support.

Opponent's Evidence.

69. (1) The persons to whom such copies are delivered by the petitioner, may within fourteen days after being invited to do so by the Minister, leave at the Registrar's office their affidavits or statutory declarations in answer, and if they do so shall deliver copies thereof to the petitioner; and the petitioner may within fourteen days from such last-mentioned delivery leave at the Registrar's office his or her affidavits or statutory declarations in reply, and if he or she does so shall deliver copies thereof to the patentee or any other person alleged in the petition to have made default, such last-mentioned affidavits or statutory declarations being confined to matters strictly in reply.

(2) The times prescribed by this regulation may be altered or enlarged by the Minister if he or she thinks fit, upon such notice to parties interested, and upon such terms, if any, as he or she may direct.

Closing of Evidence.

70. No further evidence than as aforesaid may be left by either side at the Registrar's office, except by leave or on requisition of the Minister, and upon such terms, if any, as the Minister may think fit.

Power of Amendment, etc.

71. Any document, for the amending of which no special provision is made by the Act may be amended, and any irregularity in procedure, which in the opinion of the Registrar may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the Registrar may think fit.

General Power to Enlarge Time.

72. The times prescribed by these regulations for doing any act, or taking any proceeding thereunder, other than the times for lodging evidence referred to in regulation 31, or in the procedure in these regulations relating to compulsory licences and revocation of patents, may be enlarged by the Registrar if he or she thinks fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he or she may direct.

Power to Dispense with Evidence.

73. Where, under these regulations, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or herself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the Registrar's office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, upon the production of such other evidence, and subject to such terms as he or she may think fit, to dispense with any such act or thing, document, declaration, or evidence.

Hours of Business.

74. The Registrar's office shall be open to the public every week day except Saturday between the hours of 9 a.m. and 3.30 p.m. and on Saturday between the hours of 9 a.m. and 12 noon, except on the following days:

Christmas Day, Good Friday, the day observed as Her Majesty's birthday, the days observed as days of public fast or thanksgiving, or as public holidays, and days which may from time to time be notified by a placard posted in a conspicuous place at the Registrar's office.

Leaving Documents.

75. (1) Any application, notice, or other document, authorized or required to be left, made, or given at the Registrar's office, or to the Registrar, or to any other person under these regulations, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given at the time when the letter containing the same, would be delivered in the ordinary course of post.

(2) In proving such service, or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Agency.

76. (1) With the exception of the signing of the following documents, namely, applications for patents, requests for leave to amend applications, specifications, or letters patent, authorizations of agents, notices of oppositions, requests for issue of duplicate letters patent, notices of abandonment of or of intention not to proceed with applications, surrenders of letters patent, and petitions for compulsory license and

revocation of patent, all communications to the Registrar under the Act and these regulations may be signed by and all attendances upon the Registrar may be made by or through an agent duly licensed under the Act.

(2) In any particular case, the Registrar may, if he or she think fit, require the personal signature or presence of an applicant, opponent, or other person.

SCHEDULE TO THE REGULATIONS

(Regulation 3)

PATENTS ACT

FORM A.

(To be accompanied by two copies of Form B and of Form C.)

Application for Patent

I (a) of
in do solemnly and sincerely declare
that I am in possession of an invention for (b)
.....; that I am the true and first inventor
thereof; and that the same is not in use by any other person or
persons to the best of my knowledge and belief; and humbly pray
that a patent may be granted to me for the said invention.

(a) Here insert (in full) name,
address and calling of inventor

(b) Here insert title of
invention

And I make the above solemn declaration conscientiously
believing the same to be true, etc.

..... (c)

(c) Signature of inventor. In
the case of a Firm, each member
of the Firm must sign.

Declared at in
this day of 20.....

..... (d)

(d) Signature and title of the
officer before whom the
declaration is made.

Registrar.

(Note.—This declaration must be accompanied by the
statement of an address in the State, for the reception of all
notices, and other communications with respect to the application
or invention.)

To the Registrar,
Registrar's Office,

MEMORANDUM

(To be endorsed on back of Form A.)

(Regulation 76)

(1) Where application is made through an Agent.

..... hereby appoint of to act as Agent in respect of the written application for a Patent, and request that all notices, requisitions and communications relating thereto may be sent to such Agent at the above address.

..... day of 20.....

..... *

*To be signed by applicant or applicants

(2) Where application is made without an Agent. hereby request that all notices, requisitions, and communications in respect of the within application may be sent to at

..... day of 20.....

..... †

† To be signed by applicant or applicants

PATENTS ACT

FORM A 1.

(To be accompanied by two copies of Form B or of Form C.)

Application for Patent for Inventions communicated from abroad

I (a) of in do solemnly and sincerely declare that I am in possession of an invention for (b) which invention has been communicated to me by (c) that I claim to be the true and first inventor thereof; and that the same is not in use within the State by any other person or persons to the best of my knowledge and belief; and I humbly pray that a Patent may be granted to me for the said invention.

(a) Here insert (in full) name, address and calling of applicant

(b) Here insert title of invention

(c) Here insert name, address, and calling of communicator

Declared at this day of 20 before me } (d)

(d) To be signed by applicant or applicants

Memorandum to be endorsed on back of Form A 1.

(r. 76)

(1) Where application is made through an Agent.

..... hereby appoint
of to act as
agent in respect of the within application for a Patent, and request
that all notices, requisitions, and communications relating thereto
may be sent to such agent at the above address.

..... day of 20.....

.....*

*To be signed by applicant or
applicants

(2) Where application is made without an agent.

..... hereby request that all notices,
requisitions, and communications in respect of the within application
may be sent to at
.....

..... day of 20.....

..... †.....

†To be signed by applicant or
applicants

PATENTS ACT

FORM A 2.

(To be accompanied by two copies of Form C.)

*Application for Patent under International and Colonial
Arrangements*

(a)
do hereby solemnly and sincerely declare that I (or we) have made
applications for protection of my (or our) invention of (b)

(a) Here insert (in full) name,
address, and calling of
applicant, or of each of the
applicants

(b) Here insert title of
invention

in the following Foreign States and on the following official dates,
viz : (c)

(c) Here insert the name of
each Foreign State, followed
by the official date of the
application in each
respectively

and in the following British Possessions and on the following
official dates, viz : (d)

(d) Here insert the name of
each British possession,
followed by the official date
of the application in each
respectively

that the said invention was not in use within the State by any other person or persons before the (e)

(e) Here insert the official date of the earliest foreign application

to the best of knowledge, information, and belief, and humbly pray that a patent may be granted to for the said invention in priority to other applicants, and that such patent shall have the date (f)

(f) Here insert the official date of the earliest foreign application

..... (g)

(g) Signature of applicant or of each of applicants

(Note.—If the application be made through an agent a proper authorisation should be supplied; if not, an address for service to which communications may be sent should be furnished.)

To the Registrar,
Registrar’s Office,

PATENTS ACT

FORM B.

Provisional Specification

(To be issued with Form A or Form A 1.)

(To be furnished in Duplicate.)

(a).....

(a) Here insert title verbally agreeing with that in the application form

(b).....

(b) Here insert (in full) name, address and calling of applicant or applicants as in application form

do hereby declare the nature of my invention to be as follows (c)

(c) Here begin description of the nature of the invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper. The specification and the duplicate thereof must be dated thus:

Dated this day of 20....., and signed at the end

PATENTS ACT

FORM C.

Complete Specification

(To be furnished in Duplicate.)

.....(a).....

(a) Here insert title verbally agreeing with that in the application form

.....(b).....

(b) Here insert (in full) name, address and calling of applicant or applicants as in application form

do hereby declare the nature of my invention for,
and in what manner, the same is to be performed, to be particularly described and ascertained in and by the following statement:

(c)

(c) Here begin full description of invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper.

The completion of the description should be followed by the words:

“Having now particularly described and ascertained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is:” After which should be written the claim or claims numbered consecutively. The specification and the duplicate thereof must be dated thus:

“Dated this day of 20,” and signed at the end

PATENTS ACT

FORM D.

(Regulation 30)

Form of opposition to Grant of Patent

(To be accompanied by a copy.)

I * hereby give notice of my intention to oppose the grant of Letters Patent upon application No. of applied for by upon the ground †

*Here state (in full) name and address

†Here state upon which of the grounds of opposition permitted by the Act the grant is opposed.

(Signed)‡

‡To be signed by opponent

To the Registrar, Registrar's Office,

PATENTS ACT

FORM E.

(Regulation 39)

Form of Notice that hearing before Registrar will be attended.

Oppositions to the Grant of Patents or to Amendments.

Sir,

..... of (a) hereby give notice that the hearing in reference to will be attended by myself or by some person on my behalf.

(a) Here insert address.

Sir,

Your obedient Servant,

(Signed)

To the Registrar, Registrar's Office,

PATENTS ACT

FORM F.

Form of application for amendment of Specification.

*

*Here state (in full) name and address of applicant or patentee.

seek leave to amend the specification of Letters Patent No. of 1, as shown in red ink in the certified copy of the original specification hereunto annexed.

†I declare that no action for infringement or proceeding for revocation of the Letters Patent in question is pending.

†These words are to be struck out when Letters Patent have not been sealed, or when, if Letters Patent have been sealed, the application is made in pursuance of an order of the Court or a Judge.

My reasons for making this amendment are as follows‡

‡Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the Letters Patent.

(Signed)§

§To be signed by applicant.

My address for service in the State is

To the Registrar,
Registrar's Office,

PATENTS ACT

FORM G.

(Regulation 42)

Form of opposition to amendment of Specification.

(To be accompanied by a copy.)

*

*Here state (in full) name and address of opponent.

hereby give notice of objection to the proposed amendment of the specification of Letters Patent No. of 1, for the following reason†

†Here state reason of opposition.

(Signed)

My address for service in the State is

To the Registrar,
Registrar's Office,

PATENTS ACT

FORM H.

Form of application for grant of Compulsory Licence or revocation of Patent.

(To be accompanied by a copy.)

*

*Here state (in full) name and address of applicant.

hereby request you to bring to the notice of the Minister the accompanying petition for the grant of a licence to me by†

†Here state name and address of patentee, and number and date of his or her Patent.

(Signed)

(Note.—The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. [See Form H 1.]

To the Registrar, Registrar's Office,

PATENTS ACT

FORM H 1.

Form of Petition for Grant of compulsory Licence or revocation of Patent.

To the Minister.

The petition of(a) of in the of being a person interested in the matter of this petition as hereinafter described:

(a) Here insert (in full) name, address and calling.

Sheweth as follows:

1. A patent dated No. was duly granted to for an invention of (b)

(b) Here insert title of invention.

2. The nature of my interest in the matter of this petition is as follows:(c)

(c) Here state fully the nature of the petitioner's interest.

3. (d)

(d) Here state in detail the circumstances of the case under the Act, and show that it arises by reason of the default of the patentee, or as the case may be, of any other person claiming an interest in the

Patent as exclusive licensee or otherwise to work his or her Patent or to manufacture the patented article in the State to an adequate extent, or to grant licences on reasonable terms, the statement of the case should give the names and addresses of any persons who are alleged in the petition to have made default. The paragraphs should be numbered consecutively.

The evidence which I propose to leave at the Registrar's Office accompanying this petition is as follows:—(e)

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default, the reasonable requirements of the public with respect to the invention patented as above stated have not been satisfied.

Your petitioner therefore prays that an order may be made granting to him or her a compulsory licence on the terms following, viz:(f)
or that the said patent may be revoked.

(Signed)

(Note.—In pursuance of the requirements of Regulation 68 the petitioner must deliver to the patentee and to any other person alleged to have made default, copies of the petition and of the affidavits or statutory declarations and other documentary evidence in support.)

PATENTS ACT

FORM I.

Form of opposition to petition for grant of Compulsory Licence or revocation of Patent.

(a)
hereby give notice of opposition to the petition of for the grant of a Compulsory Licence under Patent No. of 1 , or the revocation of the said patent. The grounds upon which I oppose the said application are as follows, viz:(b)

(Signed)

(Note.—In pursuance of the requirements of regulation 69 copies of the affidavits or statutory declarations in reply to the evidence left with the petition must be delivered to the petitioner.)

To the Registrar,
Registrar's Office,

(e) Here state what affidavits or statutory declarations together with any other documentary evidence will be left at the Registrar's office with the Petition as required by regulation 68.

(f) Here state the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

(a) Here state (in full) name and address.

(b) Here state fully the grounds of opposition.

PATENTS ACT

FORM J.

Application for Certificate of Payment or renewal.

(When stamped this Form must be sent at once to the Registrar's Office.)

I hereby transmit the fee prescribed for the continuation in force of* Patent No. of 1, for a further period of

*Here insert name of patentee.

Name†

†Here insert name and address.

Address

To the Registrar,

Registrar's Office,

Certificate of Payment or Renewal.

(This part of the Form to be filled in at the Registrar's Office.)

Letters Patent No. of 1

This is to certify that did this day of 20, make the prescribed payment of \$ in respect of a period of from and that by virtue of such payment the rights of the patentee remain in force*

*See section 19 of the Act.

The Registrar's Office,

PATENTS ACT

FORM K.

Form of Application for enlargement of time for payment of Renewal Fee.

Sir,

I hereby apply for an enlargement of time for month in which to make the payment of upon my Patent No. of 1

The circumstances in which the payment was omitted are as follows:(a)

(a) The circumstances must be stated in detail: See regulation 15.

I am,

Sir,

Your obedient Servant,

(b).....

(b) Here insert full address to which receipt is to be sent.

To the Registrar,

Registrar's Office,

PATENTS ACT

FORM L.

(Regulation 53)

Form of Request to enter name upon the Register of Patents.

I(a)

(a) or We

Here insert (in full) name, address, and description

hereby request that you will enter (b) name (c) in the Register of Patents:

(b) my or our. (c) or names.

(d)..... claim to be entitled(e)

(d) I or We.

(e) Here insert the nature of the claim e.g. as Assignee.

of the Patent No. of 1, granted to (f)

(f) Here give name and address of person to whom Patent was granted.

the title of which is (g)

(g) Here insert title of the invention.

by virtue of (h)

(h) Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated.

And in proof whereof I transmit the accompanying (i) with an attested copy thereof.

(i) Here insert the nature of the document.

I am,

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

PATENTS ACT

FORM M.

(Regulation 61)

Form of Request to enter notification of Licence or other document in the Register of Patents.

Sir,

I hereby transmit an attested copy of(a) under Patent No. of 20, as well as the original document for verification, and I have to request that a notification thereof may be entered in the Register.

(a) Here insert a description of the nature of the document.

I am,

Sir,

Your obedient Servant,

(Signed)

(b)

(b) Here insert full address.

To the Registrar, Registrar's Office,

PATENTS ACT

FORM N.

Application for duplicate of Patent.

Date

Sir,

I regret to have to inform you that the Patent dated* No. and granted to for an invention the title of which is †

*Here insert date, number, full name, and address of grantee.

†Here insert title of invention.

has been‡

‡Here insert the word "destroyed" or "lost" as the case may be, and state, in full, the circumstances of the case, which must be verified by statutory declaration.

I beg therefore to apply for the issue of a duplicate of such Patent§

§Here state interest possessed by applicant in the patent.

(Signature of Patentee)

To the Registrar, Registrar's Office,

PATENTS ACT

FORM O.

(Regulation 25)

Notice of intended exhibition of an unpatented Invention.

*
hereby give notice of my intention to exhibit a of
..... at the exhibition, which†
..... of 20,
under the provisions of the Patents Act.

*Here state (in full) name and
address of applicant.

†State “opened” or “is to
open”.

‡ herewith enclose a brief description of
my invention.

‡This description of invention
should be accompanied by
drawings if necessary.

(Signed)

To the Registrar,
Registrar’s Office,

PATENTS ACT

FORM P.

Form of Request for correction of clerical error.

Sir,

I hereby request that the following clerical error (a) in the (b)

(a) or errors.

.....

No. of 1, may
be corrected in the manner shown in red ink in the certified copy of
the original(b) herewith annexed.

(b)Here state whether in
application, specification, or
register.

Signature

Full address

To the Registrar,
Registrar’s Office,

PATENTS ACT

FORM Q.

Certificate of Registrar.

The Registrar’s Office,

20

I,, Registrar of
Patents, hereby certify

To†

†Here insert (in full) name and address of person requiring the certificate.

PATENTS ACT

FORM R.

(Regulation 51)

Form of Notice for alteration of an Address in Register.

Sir,

(a) Here state (in full) name or names and address of applicant or applicants.

(a) hereby request that address now upon the Register may be altered as follows:

(b)

(b) Here insert full address.

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

PATENTS ACT

FORM S.

Form of Application for Entry of Order of Minister in Register.

(a) hereby transmit an office copy of an order of the Minister with reference to(b)

(a) Here state (in full) name and address of applicant.

(b) Here state the purport of the order.

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

PATENTS ACT

FORM T.

Form of Appeal to a Judge in Chambers.

I(a) hereby give notice of my intention to appeal to a Judge in Chambers from(b) of the Registrar of the day of 20, whereby he or she(c)

(a) Here insert (in full) name and address of applicant.

(b) Here insert "the decision" or "that part of the decision" as the case may be.

(c) Here insert "refused (or allowed) application for Patent," or "refused (or allowed) application for leave to amend Patent", or otherwise as the case may be.

No. (d) of the year 1, (d)

(d) Insert number and year.

Signature

Date

PATENTS ACT

FORM U.

(Regulation 8)

Form of Application for extension of time for leaving a complete Specification.

Sir,

..... hereby, in respect of Application No. dated, apply for one month's extension of time in which to leave a complete Specification.

The circumstances in and grounds upon which this extension is applied for are as follows:(a)

(a) The circumstances and grounds must be stated in detail, see regulation 8.

Sir,

Your obedient Servant,

..... (b)

(b) To be signed by applicant or applicants or his or her or their agent.

To the Registrar,

Registrar's Office,

PATENTS ACT

FORM V.

(Regulation 8)

Form of Application for extension of time for acceptance of a Complete Specification.

Sir,

..... hereby apply for months extension of time for the acceptance of the Complete Specification upon Application No. dated

The circumstances in and grounds upon which this extension is applied for are as follows:(a)

(a)The circumstances and grounds must be stated in detail, see regulation 8.

Sir,

Your obedient Servant,

..... (b)

(b)To be signed by applicant or applicants or his or her or their agent.

To the Registrar,
Registrar's Office,

PATENTS ACT

FORM W

Form of Patent

[L.S.]By His Honour (here insert the name of the Minister)

Minister of the State of

To all to whom these presents shall come, Greeting:

WHEREAS of in,
....., hath by his or her solemn declaration represented unto me that he or she is in possession of an invention for, that he or she is the true and first inventor thereof, and that the same is not in use by any other person to the best of his or her knowledge and belief:

And Whereas the said inventor hath humbly prayed that I would be pleased to grant unto him or her (hereinafter together with his or her executors, administrators, and assigns, or any of them, referred to as the said patentee) Letters Patent in the name of Her Majesty for the sole use and advantage, of his or her said invention within the State:

And Whereas the said inventor hath by and in his or her complete specification particularly described the nature of his or her invention:

Know Ye, therefore, that I, in the name and on behalf of Her Majesty, do by these Presents, give and grant unto the said patentee my special licence, full power, sole privilege, and authority, that he or she the said patentee by himself or herself, his or her agent, or licensees, and no others, may at all times hereafter, during the term of years herein mentioned, make, use, exercise, and vend the said invention within in such manner as to him or her or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: and to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, I do by these presents require and strictly command all and every person and persons, bodies politic and corporate, and all others of what estate, quality, degree, name, or condition soever they be within this State, that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly, make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his or her hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt and of being answerable to the said patentee according to law for his or her damages thereby occasioned; Provided always and these Letters Patent are on this condition, that, if any time during the said term it be made to appear to the Supreme Court that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the said invention is not a new invention as to

the public use and exercise thereof or that the said patentee is not the first and true inventor thereof within this State as aforesaid, these Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained; Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied, for Her Majesty's service in this State, all such articles of the said invention as may be required by the Officers administering any department of Her Majesty's service in this State in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Minister of this State then, and in any of the said cases, these Letters Patent, and all privileges and advantages whatever hereby granted shall determine and become void, notwithstanding anything hereinbefore

contained: Provided also, that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted; and lastly, I do by these Presents in the name and on behalf of Her Majesty grant unto the said patentee that these Letters Patent shall be construed in the most beneficial sense for the advantage of the said patentee.

In witness whereof I have caused these Letters to be made Patent this day of and and to be sealed and dated as of the said day of 20 in the year of Her Majesty's Reign.

SECOND SCHEDULE

PATENTS (FEES) REGULATIONS

(Preserved by Section 70 of Act 9 of 2000)

Citation.

1. These Regulations may be cited as the Patents (Fees) Regulations.

Fees.

2. The fees specified in the Schedule to these Regulations shall be payable in respect of the matters to which they are specifically applicable.

SCHEDULE TO THE REGULATIONS

(Regulation 2)

	\$	¢
For every application for a patent accompanied by a provisional specification only	200.00	
Examiner's fee on reference of application with provisional specification not exceeding	100.00	
For every application for a patent accompanied by a complete specification	400.00	
On filing complete specification after provisional specification	200.00	
Examiner's fee on reference of complete specification not exceeding	100.00	

On extending the time for leaving complete specification	50.00
On extending the time for acceptance of complete specification	50.00
On advertisement or publication in the <i>Gazette</i> of any acceptance, request, amendment or other matter required to be advertised or published	50.00
On sealing Letters Patent	400.00
On every patent before the expiration of four years from its date	700.00
And further before the expiration of seven years	1,000.00
Or in lieu of the fees of \$2,500 and \$5,000 the following annual fee before the expiration of the	
Fourth year from the date of the patent	300.00
Fifth year from the date of the patent	300.00
Sixth year from the date of the patent	300.00
Seventh year from the date of the patent	300.00
Eighth year from the date of the patent	350.00
Ninth year from the date of the patent	350.00
Tenth year from the date of the patent	400.00
Eleventh year from the date of the patent	400.00
Twelfth year from the date of the patent	400.00
Thirteenth year from the date of the patent	400.00
On filing every amended or substituted specification	75.00
On notice of opposition to grant of patent	100.00
On every summons to witness	50.00
On hearing of every opposed application	75.00
On extension of patent	500.00
On filing every disclaimer or memorandum of alteration	100.00
For every office copy per folio of seventy-two words	2.00
On filing every certificate coiding a patent	10.00
On deposit of any assignment, deed, licence or other document affecting proprietorship of patent	100.00
On delivering triplicate patent after loss, etc.	100.00
On every search, including inspection	50.00
Annual fee for licence to patent agent	200.00
Certified copies or extracts under seal, at per folio	4.00
For every matter or thing not above provided for	50.00

THIRD SCHEDULE
REGISTRATION OF UNITED KINGDOM PATENTS RULES

(Preserved by Section 70 of Act 9 of 2000)

Short Title.

1. These Rules may be cited as the Registration of United Kingdom Patents Rules.

A Solicitor in the State to Represent Non-Resident Applicants.

2. Where the applicant does not reside in the State, a solicitor of the Supreme Court with an address in the State shall be appointed to attend upon the Registrar, receive notices and other communications and pay all fees in respect of any application.

Form of Application.

3. Application for registration shall contain an affidavit or a declaration in Form "A" or Form "B" respectively set out in Schedule 1 to these Rules.

Endorsement of Solicitor's Name.

4. On the back of the affidavit or declaration the applicant shall endorse the name and address of the solicitor for the reception of notices and other communications and payment of fees in respect of the application.

Specification & United Kingdom's Certificate.

5. The affidavit or declaration shall be accompanied by the certified copy of the specification or specifications (including drawings if any) of the patent and the relative certificate of the Comptroller General of the United Kingdom Patent Office, which are to be marked with the attesting officer's signature.

Execution of Affidavits, etc.

6. (1) Affidavits or declarations may be sworn or declared—
- (a) in the United Kingdom, before any Justice of the Peace, or any Commissioner or other officer authorised by law to administer an oath for the purpose of any legal proceedings;
 - (b) in any other part of Her Majesty's Dominions, before any Court, Judge, Justice of the Peace, or any officer authorised by law to administer an oath for the purpose of any legal proceedings;
 - (c) if made out of Her Majesty's Dominions, before a British Minister or person exercising the functions of a British Minister a British Consul or other British Consular Officer, or before a Notary Public or before a Judge or Magistrate.
- (2) Statutory Declarations under the Statutory Declarations Act, 1835, (5 & 6 Wm. 4. c. 62), may be used in the United Kingdom or at a British Embassy or Consulate, elsewhere an affidavit shall be used.

Power of Solicitor.

7. All communications to the Registrar, other than those mentioned in the foregoing rules, may be signed by and all attendances upon the Registrar may be made by or through a solicitor of the Supreme Court.

Form of Advertisement.

8. Advertisement of application by the Registrar shall be in form "C" set out in Schedule 1 to these Rules.

Preparation of Advertisement.

9. The notice of advertisement shall be prepared by the applicant's solicitor and submitted to the Registrar with the application.

Amended Specifications & Drawings.

10. Where an applicant desires to substitute amended specifications and drawings for those originally filed he or she shall transmit the request with the certificate of the Comptroller General of the United Kingdom Patent Office supported by an affidavit or declaration as to his or her rights through a solicitor with an address in the State.

Assignment, etc.

11. Where a person by assignment, transmission or other operation of law has become entitled to the privileges and rights conferred by a certificate of registration he or she shall transmit for entry in the register the assignment or other document showing his or her title or interest through a solicitor with an address in the State.

Fees.

12. The fees to be paid to general revenue and to solicitors in respect of proceedings under these rules are contained in the Schedule 2 to these Rules.

SCHEDULE 1 TO THE RULES

(Rule 3)

FORM A

APPLICATION FOR REGISTRATION

UNITED KINGDOM PATENTS

AFFIDAVIT

I of make oath and say as follows: I am the Grantee (or the assignee or as the case may be) of the United Kingdom Patent No. issued on the day of 20.....: I am in possession of the invention therein described, and the same is not in use by any other person or persons to the best of my knowledge, information and belief: and I humbly pray that a certificate of registration in the State may be granted to me.

Sworn at }
..... }
this day of }
20..... before me: }

FORM B

(Rule 3)

APPLICATION FOR REGISTRATION

UNITED KINGDOM PATENTS

DECLARATION

I of do solemnly and sincerely declare that I am the Grantee (or the assignee or as the case may be) of the United Kingdom Patent No. issued on the day of 20..... that I am in possession of the invention therein described, and that the same is not in use by any other person or persons to the best of my knowledge, information and belief: and humbly pray that a certificate of registration in the State may be granted to me.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835 (5 & 6 Wm. 4.C.62).

Subscribed and declared at
.....
this day of
20..... before me:

}
}
}

.....

FORM C

(Rule 8)

NOTICE

THE REGISTRATION OF UNITED KINGDOM PATENTS ACT

NOTICE IS HEREBY GIVEN that have applied for registration in the State of United Kingdom Patent No. dated the day of 20..... and issued on the day of 20..... and have filed in the Registrar's Office at the Court House at a complete copy of the specifications and the certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of this patent which will be open to public inspection at the said office at any time between the hours of 9 a.m. and 3.30 p.m. on working days except on Saturdays when the hours will be from 9 a.m. to 12 noon.

Any person may within two months from the date of this advertisement give notice to the Registrar of opposition to the issue of a certificate of registration upon any of the grounds prescribed by the Patents Act, for opposition to the grant of Letters Patent.

Dated the day of 20.....

.....

Registrar.

Registrar's Office,
Court House,

.....

SCHEDULE 2 TO THE RULES*(Rule 12)*

1. Fees to be paid to general revenue in addition to the fee of \$20.00 for a certificate of Registration.

	\$	¢
For advertisement of application.....	20.00	
On filing every amended or substituted specification	20.00	
On notice of opposition to grant of certification	30.00	
On hearing of every opposed application	20.00	
For every office copy per folio of seventy-two words.....	2.00	
On deposit of every assignment of document affecting title	20.00	
On every search.....	10.00	
For every matter or thing not above provided	15.00	

Fees payable to solicitors:

	\$	¢
In respect of each application.....	25.00	
	\$	¢
For registering assignments, etc	25.00	
Copying any document per folio of seventy-two words.....	2.00	
On opposition such fees as the Registrar may allow on taxation as between Solicitor and client.		

(Substituted by S.R.O. 37/1998)

FOURTH SCHEDULE

(Preserved by Section 70 of Act 9 of 2000)

PATENTS (PUBLIC OFFICERS) REGULATIONS**Short Title.**

1. These Regulations may be cited as the Patents (Public Officers) Regulations.

Application for Provisional Protection.

2. (1) Any officer in the employment of the Government who has made an invention—

(a) may, at his or her own expense, and

(b) shall, at the expense of the Government if so required by the Minister, lodge an application for provisional protection with the Registrar of Patents, and shall at the same time send a copy of the application to the Minister through the head of his or her department.

(2) The Minister shall decide as expeditiously as possible whether the invention shall be regarded as secret, and the decision shall be forthwith communicated to the head of the officer's department for the information of the officer.

Control of Patent.

3. (1) As soon as practical the Minister shall decide whether the officer shall or shall not be allowed controlling rights in the patent and his or her decision shall be communicated to the head of the officer's department for the information of the officer.

(2) Pending the decision of the Minister as to such controlling rights, rights in the invention shall be deemed to belong to and to be held in trust for the Government.

Control by Officer.

4. If the Minister decides that the officer shall be allowed controlling rights in the patent, the following provisions shall apply—

- (a) the officer shall, subject to the provisions of regulation 2, be responsible for all expenditure in taking out the patent;
- (b) the Minister may attach to his or her decision such conditions as he or she may think fit and, in particular, may reserve to the Government a right of user of the invention free of royalty, or a right to a share of any commercial proceeds, or both such rights;
- (c) the officer may, whether any rights are reserved under paragraph (b) of this regulation or not, apply to the Awards Committee as constituted under regulation 8 (hereinafter referred to as "the Committee") through the head of his or her department for an award in respect of his or her invention;
- (d) the question whether an award shall be made, the amount thereof, and, if a share of commercial proceeds is reserved to the Government, the amount of such share shall be determined by the Minister after investigation by the Committee;
- (e) a reservation to the Government of user of the invention free of royalty under paragraph (b) of this regulation may include a like reservation to Her Majesty's Government in the United Kingdom, or the Government of any British Colony or Protectorate or any territory in respect of which Her Majesty's Government in the United Kingdom exercises a mandate.

Control by Government.

5. If the Minister decides that the officer shall not be allowed controlling rights in the patent, the following provisions shall apply—

- (a) the officer shall assign all his or her rights in the invention to the Government;
- (b) the Government shall be responsible for all expenditure in taking out the patent;
- (c) the Minister shall decide whether the officer shall or shall not be allowed a share of any commercial proceeds;

- (d) the officer may, whether he or she is allowed a share in the commercial proceeds or not, apply to the Committee through the head of his or her department for an award in respect of his or her invention;
- (e) the question whether an award shall be made, the amount thereof, and, if the Minister decides that the officer shall be allowed a share in the commercial proceeds, the amount of such share, shall be determined by the Minister after investigation by the Committee.

Power to Revise Decision.

6. In the event of material change taking place in the circumstances which existed at the time when an award or allocation of commercial proceeds was made, the original decision may be modified by the Minister after further investigation by the Committee; provided that, in any such modification of the original decision, the amount of an award which has been paid shall not be reduced.

Grant of Full Rights in Certain Cases.

7. Where an invention is in all respects alien to the employment of the officer, he or she shall normally be granted the full rights in such invention.

Power to Appoint Committee.

8. There shall be constituted for the purposes of these regulations, an Awards Committee which shall consist of a judicial or legal officer appointed by the Minister as Chairperson and such other persons as the Minister may from time to time by notice in the *Gazette* appoint.

Officer's Right of Audience.

9. An officer shall be entitled at his or her own expense to appear personally before the Committee or to be represented in such manner as the Committee may approve.

Committee's Recommendations.

10. (1) All conclusions of the Committee shall be embodied in recommendations which shall be forwarded to the Minister.

(2) The reservation of a right of user free of royalty to Her Majesty's Government in the United Kingdom or the Government of any other territory mentioned in regulation 4(e) shall not be taken into account, but if and when such right shall be exercised by any such Government, a material change shall, for the purpose of regulation 6, be deemed to have taken place.

Power to Make Rules.

11. The Committee may make rules for regulating their proceedings, but no such rules shall come into force until they shall have been approved by the Minister.

Allowance for Expenses.

12. In fixing the amount of any award or of the share of any commercial proceeds reserved to the Government under regulation 4(d) or allowed to the officer under regulation 5(e) (as the case may be), any reasonable expenses to which an officer may have been put in connection with his or her invention shall be taken into account.

Right of Appeal.

13. Nothing in these regulations shall restrict any officer's right of appeal to the Secretary of State under Colonial Regulations.
