

Repealed by sec. 111 of Ord. 9 of 1937

CHAPTER 62.

PATENTS.

[No. XXXI of 1902.]

[6th December, 1902.]

1. This Ordinance may be cited as the Patents Ordinance. Short title.

2.—(1) In this Ordinance, unless the context otherwise requires, Interpretation.

“the Court” means the Supreme Court of the colony;

“examiner” means any skilled person or persons to whom the registrar refers questions concerning patents under this Ordinance;

“prescribed” means prescribed by any of the schedules hereto or by regulations hereunder;

“the registrar” means the registrar of deeds, or anyone for the time being acting in that character;

“British possession” means any territory or place situate within his Majesty’s dominions, not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man; and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Ordinance;

“legislature” includes any person or persons exercising legislative authority in the British possessions and, where there are local legislatures as well as a central legislature, means the central legislature only.

(2) The terms “true and first inventor,” “true inventor,” and “inventor,” to the extent that the context does not express, include the person who is the actual inventor of any invention or his assigns, or, if the actual inventor is dead, his legal representatives, or, if the actual inventor, his legal representatives or assigns, is or are not resident in the colony, any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns, but do not include a person

importing an invention from any other colony or country without the authority of the actual inventor, his legal representatives or assigns.

APPLICATION FOR PATENT.

Persons entitled to apply for patent.

3.—(1) Anyone, whether a British subject or not, may make an application for a patent.

(2) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

(3) An applicant may be:—

(a) the actual inventor; or

(b) his assigns; or

(c) the actual inventor jointly with the assigns of a part interest in the invention; or

(d) the legal representative of a deceased actual inventor or of his assigns; or

(e) any person to whom the invention has been communicated by the actual inventor, his legal representatives or assigns, if the actual inventor, his legal representatives or assigns is or are not resident in the colony.

Application and specification; first schedule:

4.—(1) An application for a patent must be made in the form set forth in the first schedule hereto or in any other form from time to time prescribed, and must be left at the registrar's office in the prescribed manner.

(2) An application must contain a declaration by the applicant, or, in the case of a joint application, by one of the applicants, to the effect that the applicant, or one or more of the applicants, is or are in possession of an invention, whereof the applicant, or one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which the applicant or applicants desires or desire to obtain a patent; and the application must be accompanied by either a provisional or complete specification and must state an address in Georgetown for the reception of notices and other communications with respect to the application or invention.

(3) The application, if signed out of the colony, shall be authenticated in manner required by the Evidence Ordinance, for proof of documents executed abroad; if signed by the attorney in the colony of an applicant residing abroad, the power of attorney shall be authenticated in manner aforesaid.

(4) A provisional specification must describe the nature of the invention and be accompanied by drawings, if required.

(5) A complete specification, whether left on application or subsequently, must particularly describe and ascertain the nature of the invention and in what manner it is to be performed, and must be accompanied by drawings, if required :

Provided that the requirements as to drawings shall not be deemed to be insufficiently complied with by reason only that, instead of being accompanied by drawings, the complete specification refers to the drawings which accompanied the provisional specification. Proviso.

(6) A specification, whether provisional or complete, must commence with the title and, in the case of a complete specification, end with a distinct statement of the invention claimed.

5.—(1) The registrar shall, if he thinks fit, refer any application to an examiner, who shall ascertain whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject-matter of the invention, and shall report thereon to the registrar. Registrar may refer application to examiner.

(2) If the registrar is of opinion, or if, after reference to an examiner the examiner reports, that any of the conditions in the preceding sub-section have not been complied with, he may refuse to accept the application, or require it and the specification or drawings to be amended, before he proceeds with it; and in the latter case the application shall, if he so directs, bear date as from the time of compliance with the requirement. Registrar may refuse application or require amendment.

(3) Where the registrar refuses to accept the application or requires an amendment the applicant may appeal from his decision to the Attorney General.

(4) The Attorney General shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

(5) The registrar shall, when an application has been accepted, give notice thereof to the applicant.

(6) If after an application has been made, but before the patent thereon has been sealed, another application for a patent is made, accompanied by a specification bearing

the same or a similar title, the registrar, if he thinks fit, on the request of the second applicant or of his legal representative may, within two months of the grant of a patent on the first application either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.

Time for leaving complete specification.

6.—(1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application, and the registrar may, on payment of the prescribed fee, extend that time to ten months.

(2) Unless a complete specification is left within nine months or the extended time, the application shall be deemed to be abandoned.

Comparison of provisional with complete specification.

7.—(1) Where a complete specification is left after a provisional specification, the registrar may, if he thinks fit, refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

(2) If the registrar is of opinion, or if, after reference to an examiner the examiner reports, that the conditions hereinbefore contained have not been complied with, the registrar may refuse to accept the complete specification unless and until it has been amended to his satisfaction; but the refusal shall be subject to appeal to the Attorney General.

(3) The Attorney General shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4) Unless a complete specification is accepted within twelve months from the date of application, or any extended time, not exceeding fifteen months from the date of application, which the registrar, on payment of the prescribed fee, allows then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of the said twelve months, or the extended time, become void.

(5) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding

other than an appeal to the Attorney General under this Ordinance, unless the Court or officer having power to order discovery in the legal proceeding certifies that production or inspection is desirable in the interests of justice and ought to be allowed.

8. On the acceptance of the complete specification the registrar shall publish the acceptance in the Gazette, and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Publication
on acceptance
of complete
specification.

OPPOSITION TO GRANT.

9.—(1) Anyone may, at any time within two months from the date of the advertisement of the acceptance of a complete specification, give notice in writing at the deeds registry of opposition to the grant of the patent on the ground :—

Opposition
to grant of
patent.

- (a) of an applicant having obtained the invention from him, or from a person of whom he is the legal representative; or
- (b) that the invention has been patented in the colony on application of prior date; or
- (c) that the complete specification describes or claims an invention other than that described in the provisional specification, and that the other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, but on no other ground.

(2) Where that notice is given, the registrar may require the person giving it to give security to an amount not exceeding one hundred and twenty dollars for the costs of the opposition; and if the security so required is not given within the two months aforesaid, the opposition shall lapse.

(3) Where the notice and the security, if required, are given, the registrar shall give notice in writing of the opposition to the applicant, and shall, on the expiration of the two months aforesaid, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the Attorney General.

(4) The Attorney General shall, on the appeal, hear the applicant and any person so giving notice and in his opinion entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(5) The Attorney General may, if he thinks fit, obtain the assistance of an expert, who shall be paid the remuneration the Attorney General determines.

(6) The Attorney General or the registrar, as the case may be, may, after decision, make any order thought fit for the payment of costs by the applicant to the party giving notice or vice versâ, and that order may be made a rule of court on an application ex parte.

Specifications,
and drawings,
not to be
published
unless
application
accepted.

10. Where an application for a patent has been abandoned or become void, the specification or specifications and drawings (if any) accompanying or left in connection therewith shall not at any time be open to public inspection or be published by the registrar.

SEALING OF PATENT.

Sealing of
patent.

11.—(1) If there is no opposition, or, in the case of opposition, if the determination is in favour of the grant of a patent, the patent shall be sealed with the public seal of the colony.

(2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned, that is to say,—

- (a) where the sealing is delayed by an appeal to the Attorney General, or by opposition to the grant of the patent, the patent may be sealed at the time directed by the Attorney General;
- (b) if the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within six months after the death of the applicant;
- (c) where the registrar has extended the time for leaving, or the time for accepting, the complete specification, or both those times, the total period of time so extended shall be added to the period of fifteen months above provided.

12. Every patent shall be in duplicate and one duplicate shall be retained in the deeds registry, and every patent shall be dated and sealed as of the day of the application :

Date of
patent :

Provided that—

Proviso.

- (a) no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification; and,
- (b) in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

PROTECTION BEFORE SEALING OF PATENT.

13. Where an application for a patent in respect of an invention has been accepted, the invention may, during the period between the date of the application and the date of sealing the patent, be used and published without prejudice to the patent to be granted for it; and that protection from the consequences of use and publication is in this Ordinance referred to as provisional protection.

Provisional
protection.

14. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or until the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification; but an applicant shall not be entitled to institute any proceeding for infringement, unless and until a patent for the invention has been granted to him.

Effect of
acceptance
of complete
specification.

EXTENT AND TERMS OF PATENT.

15. All letters patent for inventions under this Ordinance shall be granted by the Governor in the name of His Majesty, under the public seal of the colony.

Grant of
letters patent
by Governor.

16. A patent may be granted to several applicants jointly, although some or one of them only are or is the true and first inventors or inventor.

Power to
grant patents
jointly,
though some
grantees are
not inventors.

17. Every patent when sealed shall have effect throughout the colony.

Extent of
patent.

Term of
patent.

18.—(1) The term limited in every patent for the duration thereof shall be fourteen years from its date, but every patent shall, notwithstanding anything therein or in this Ordinance, cease if the patentee fails to make the prescribed payments within the prescribed times.

(2) Nevertheless, a patentee, who, in any case by accident, mistake, or inadvertence, fails to make any prescribed payment within the prescribed time may apply to the registrar for an enlargement of the time for making that payment.

(3) Thereupon the registrar, if satisfied that the failure has arisen from any of the above-mentioned causes shall, on receipt of the prescribed fee for enlargement (not exceeding forty-eight dollars) enlarge the time accordingly, subject to the following conditions:—

- (a) the time for making any payment shall not in any case be enlarged for more than six months;
- (b) if any proceeding is taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the court before which the proceeding is proposed to be taken may, if it thinks fit, refuse to award or give any damages in respect of that infringement.

AMENDMENT OF SPECIFICATION.

Amendment
of specifica-
tion.

19.—(1) An applicant or a patentee may, from time to time, by request in writing left at the deeds registry, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of the amendment and his reason for it.

(2) The request and the nature of the proposed amendment shall be advertised for three successive weeks in the Gazette, and at any time within one month from its first advertisement any person may give notice at the deeds registry of opposition to the amendment.

(3) Where that notice is given, the registrar shall give notice of the opposition to the person making the request and hear and decide the case, subject to an appeal to the Attorney General.

(4) The Attorney General shall, if required, hear the person making the request and the person so giving notice, who is, in the opinion of the Attorney General entitled to

be heard in opposition to the request, and shall determine whether and subject to what conditions (if any) the amendment ought to be allowed.

(5) Where no notice of opposition is given, or the person so giving notice does not appear, the registrar shall determine whether and subject to what conditions (if any) the amendment ought to be allowed.

(6) When leave to amend is refused by the registrar, the person making the request may appeal from his decision to the Attorney General.

(7) The Attorney General shall, if required, hear the person making the request and the registrar, and may make an order determining whether and subject to what conditions (if any) the amendment ought to be allowed.

(8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before amendment.

(9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall, in all courts and for all purposes, be deemed to form part of the specification.

(10) The foregoing provisions of this section do not apply when and so long as any action for infringement or proceeding for revocation of a patent is pending.

20. In an action for infringement, and in a proceeding for revocation, of a patent, the Court may order that the patentee shall, subject to the terms as to costs and otherwise imposed by the Court, be at liberty to apply at the deeds registry for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Power to disclaim part of invention during action, etc.

21. Where an amendment by way of disclaimer, correction, or explanation, has been allowed under this Ordinance, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Restriction on recovery of damages.

22. Every amendment of a specification shall be notified in the Gazette.

Notification of amendment.

COMPULSORY LICENCES.

Power for
Governor in
Council to
order grant
of licences.

23. If, on the petition of any person interested, it is proved to the Governor in Council that, by reason of the default of a patentee to grant licences on reasonable terms—

- (a) the patent is not being worked in the colony; or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied; or
- (c) anyone is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor in Council may order the patentee to grant licences on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, deems just, and that order may, on application to the Court, be enforced by mandamus.

REGISTER OF PATENTS.

Register of
patents.

24.—(1) There shall be kept at the deeds registry a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notification of assignments and transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and any other matters affecting the validity of proprietorship of patents from time to time prescribed.

(2) The register of patents shall be primâ facie evidence of any matters by this Ordinance directed or authorised to be inserted therein.

(3) Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patent, or in any licence thereunder, must be supplied to the registrar in the prescribed manner for filing in the registry.

FEES.

Fees ;
second
schedule.

25. There shall be paid, in respect of the several matters and things described in the second schedule hereto, the fees in that schedule mentioned; and no fees other than those described shall be payable in respect of any proceedings under this Ordinance, with regard to the granting of patents.

EXTENSION OF TERM OF PATENT.

26.—(1) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but the petition must be presented at least six months before the time limited for the expiration of the patent.

Extension of
term of
patent on
petition to
the Governor
in Council.

(2) Any person may enter a caveat, addressed to the clerk of the Executive Council, against the extension.

(3) If the Governor in Council is pleased to refer the petition to the Supreme Court, the Court shall proceed to consider it, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel thereon.

(4) The Court shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as patentee, and to all the circumstances of the case.

(5) If the Court reports that the patentee has been inadequately remunerated by his patent, the Governor in Council may extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years; or may order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Court thinks fit.

(6) The Governor in Council may make rules of procedure and practice for regulating proceedings on petitions, and from time to time rescind, alter, or vary those rules, and subject thereto the proceedings shall be regulated according to the existing procedure and practice relating to pleadings in the Court.

(7) The costs of all parties of and incident to the proceedings shall be in the discretion of the Court; and the orders of the Court respecting costs shall be enforceable in like manner as other orders of court.

REVOCATION.

27.—(1) No proceeding by scire facias to repeal a patent shall be taken.

Revocation
of patent.

(2) Revocation of a patent may be obtained on petition to the Court.

(3) Every ground on which a patent might, at the commencement of this Ordinance, be repealed by *scire facias* shall be available by way of defence to an action for infringement, and shall also be a ground of revocation.

(4) A petition for revocation of a patent may be presented by—

(a) the Attorney General, or any person authorised by him;

(b) any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims;

(c) any person alleging that he, or any person under or through whom he claims was the true inventor of any invention included in the claim of the patentee;

(d) any person alleging that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within the colony, before the date of the patent, anything claimed by the patentee as his invention.

(5) The plaintiff must deliver with his petition particulars of the objections on which he means to rely; and no evidence shall, except by leave of the Court, be admitted in proof of any objection of which particulars are not so delivered.

(6) Particulars delivered may be from time to time amended by leave of the Court.

(7) The defendant shall be entitled to begin, and give evidence in support of the patent; and if the plaintiff gives evidence impeaching the validity of the patent, the defendant shall be entitled to reply.

(8) Where a patent has been revoked on the ground of fraud, the registrar may, on the application of the true inventor, made in accordance with the provisions of this Ordinance, grant to him a patent in lieu of, and bearing the same date as the date of revocation of, the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

THE CROWN.

28. A patent shall have to all intents the like effect as against his Majesty the King, his heirs and successors, as it has against a subject, excepting always, that the

Governor may at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof, agreed between the Governor and the patentee, or in default of that agreement, on the terms settled by the Court after hearing all parties interested.

LEGAL PROCEEDINGS.

29.—(1) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, or on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the cause wholly or partially with his assistance. Hearing with assessors.

(2) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court, and be paid in the same manner as the other expenses of the execution of this Ordinance.

30.—(1) In an action for infringement of a patent, the plaintiff must deliver with his statement of claim, or, by order of the Court at any subsequent time, particulars of the breaches of which he complains. Delivery of particulars.

(2) The defendant must deliver with his statement of defence, or, by order of the Court at any subsequent time, particulars of any objections on which he relies in support thereof.

(3) If the defendant disputes the validity of the patent, the particulars delivered by him must state on what grounds he disputes it, and, if one of those grounds is want of novelty, must state the time and place of the previous publication or user alleged by him.

(4) At the hearing no evidence shall, except by leave of the Court, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.

(5) Particulars delivered may be from time to time amended by leave of the Court.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them, unless it is certified by the Court to have been proved or to have been reasonable and proper, without regard to the general costs of the cause.

Order in
action for
infringement.

31. In an action for infringement of a patent, the Court may, on the application of either party, make such order for an injunction, inspection, or account, and impose such terms and give such directions in respect thereof, and the proceedings thereon as the Court sees fit.

Certificate
of validity
questioned
and costs
thereon.

32. In an action for infringement of a patent, the Court may certify that the validity of the patent came in question; and if the Court so certifies, then in any subsequent action for infringement, the plaintiff in that action, on obtaining a final order or judgement in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the Court trying the action certifies that he ought not to have them.

Remedy in
case of
groundless
threats of
legal
proceedings:

33. Where anyone claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him and obtain an injunction against the continuance of those threats, and may recover any damage sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making the threats:

Proviso.

Provided that this section shall not apply if the person making the threats with due diligence commences and prosecutes an action for infringement of his patent.

REGISTRATION OF PATENTS GRANTED IN THE UNITED KINGDOM.

Registration
of patents
issued in
United
Kingdom.

34.—(1) Any grantee of a patent in the United Kingdom hereafter in this section called "the Kingdom," or anyone deriving his right from the grantee by assignment, transmission, or other operation of law, may apply within three years from the date of issue of the patent to have that patent registered in the colony; and where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration.

Application
for registra-
tion.

(2) The application shall be accompanied by a certified copy of the specification or specifications (including drawings, if any) of the Kingdom patent and a certificate

of the Comptroller General of the United Kingdom Patent Office giving full particulars of the issue of the patent on that specification or those specifications.

(3) Upon receipt of the application, together with the documents mentioned in the last preceding sub-section, the registrar shall register the patent in the register of patents and issue a certificate of registration, and shall thereupon give notice in the Gazette of the fact that that certificate has been issued.

Registration on compliance with requirements.

(4) The certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of the colony as though the patent had been issued in the Kingdom with an extension to the colony.

Effect of registration.

(5) Privileges and rights so granted shall date from the date of the patent in the Kingdom and shall continue in force only so long as the patent remains in force therein :

Duration of privileges on registration :

Provided that no action for infringement shall be entertained in respect of any manufacture, use, or sale of the invention prior to the date of the publication in the Gazette of the notice of issue of the certificate of registration in the colony.

Proviso.

(6) Where a person becomes entitled by assignment, transmission, or other operation of law, to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the registrar for the entry on the register of that assignment, transmission, or other instrument affecting the title, or giving an interest therein.

Registration of title to rights conferred by certificate.

(7) The Supreme Court, or any judge thereof, shall have power, upon the application of anyone who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by that certificate have not been acquired on any of the grounds upon which the Kingdom patent might be revoked under the law for the time being in force in the Kingdom.

Right of persons affected to apply to the Court for declaration as to privileges acquired by registration.

(8) Whenever the specification or drawings of a Kingdom patent registered in the colony has or have been amended by way of disclaimer, correction, or explanation, according to the law of the Kingdom, a request, accompanied by a copy of the specification and drawings (if any) as amended, duly certified by the Comptroller General of the United Kingdom Patent Office, may be made to the

Amendment of specifications of Kingdom patent.

registrar to substitute a copy of the specification and drawings as amended, for the specification and drawings originally filed.

Rules, forms
and fees.

35.—(1) The registrar may make any general rules he thinks expedient, subject to the provisions of the preceding section, for regulating procedure under that section, and for prescribing the fees to be paid and forms to be used in respect of proceedings thereunder.

(2) The rules so made shall be approved by the Governor in Council and, upon publication in the Gazette, shall come into force and have effect.

MISCELLANEOUS.

Licensed
patent
agents.

36. The registrar, with the sanction of the Governor, may license fit and proper persons to be patent agents for transacting business under the provisions of this Ordinance, and, upon proof to the registrar's satisfaction of the malfeasance or incapacity of any licensed patent agent, or on non-payment of any annual fee for the licence, as prescribed by the second schedule hereto, and with sanction as aforesaid, may revoke the licence.

Patent for
one invention
only ;
first
schedule.

37. Every patent may be in the form in the first schedule hereto, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on
application of
representative
of deceased
inventor.

38.—(1) If a person possessed of an invention for which he is entitled to obtain a patent dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2) The application must be made within six months of the decease of the inventor, and must contain a declaration by the legal representative of belief that he was the true and first inventor of the invention.

Patent to first
inventor not
invalidated
by applica-
tion in fraud
of him.

39. A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

40. A patentee may assign his patent for the whole of the colony or any place in or on any part thereof.

Assignment of patent for particular place.

41. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the registrar, he may at any time cause a triplicate thereof to be sealed and delivered to the person entitled thereto.

Loss or destruction of patent.

42.—(1) For the purpose of any application or opposition or other matters requiring the decision of the registrar or the Attorney General, they or either of them may, and at the request of any party to be heard shall, cause summonses under the seal of the Court to be issued for the attendance of witnesses, and may examine witnesses on oath and administer oaths for that purpose under this Ordinance.

Witnesses may be summoned.

(2) Every witness so summoned shall be bound to attend at the time and place mentioned in the summons, and shall be paid his expenses according to the scale for the time being allowed to witnesses on trials in the Court, and shall continue in attendance until the matter has been disposed of, and produce any document in his power, possession, custody, or control, which by the summons he is required to produce.

43. The Attorney General may from time to time make rules regulating references and appeals to him, and the practice and procedure before him under this Ordinance; and in any proceeding before him under this Ordinance, he may order costs to be paid by either party, and that order may be made a rule of court.

Proceedings and cost before Attorney General.

44. The exhibition of an invention at an industrial or international exhibition, whether within or without his Majesty's dominions, certified as an invention under the hand of the registrar, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention, or the validity of any patent

Exhibition at industrial or international exhibition not to prejudice patent rights.

granted on the application, provided that both the following conditions are observed, namely,—

- (a) the exhibitor must, before exhibiting the invention, give the registrar the prescribed notice of his intention to do so; and
- (b) the application for a patent must be made before or within six months from date of the opening of the exhibition.

Power to
require
models.

45. Where the invention is one which admits of being represented by a model, the registrar may require the patentee at his own expense to furnish him with the model.

Assignment
to Colonial
Secretary
of certain
inventions.

46.—(1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression “the inventor”) may (either for or without valuable consideration) assign to the Colonial Secretary, on behalf of His Majesty, all the benefit of the invention and of any patent obtained or to be obtained for it: and the Colonial Secretary may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Colonial Secretary on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Colonial Secretary for the time being.

(3) Where any assignment aforesaid has been made to the Colonial Secretary, he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the registrar his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed ought to be kept secret.

(4) If the Colonial Secretary so certifies, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications, and any copies of those documents and drawings, shall, instead of being left in the ordinary manner at the deeds registry, be delivered to the registrar in a packet sealed by authority of the Colonial Secretary.

(5) That packet shall, until the expiration of the term, or extended term, during which a patent for the

invention is in force, be kept sealed by the registrar, and shall not be opened save under the authority of an order of the Colonial Secretary or the Attorney General.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the Colonial Secretary to receive it, and shall, if returned to the registrar, be again kept sealed by him.

(7) On the expiration of the term, or extended term, of the patent, the sealed packet shall be delivered to any person authorised by writing under the hand of the Colonial Secretary to receive it.

(8) Where the Colonial Secretary certifies as aforesaid, after an application for a patent has been left at the deeds registry, but before the publication of the specification or specifications, the application, specification or specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the registrar, and that packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Colonial Secretary.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the Colonial Secretary has certified as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this Ordinance shall apply in respect of any invention and patent aforesaid.

(11) The Colonial Secretary may, at any time, by writing under his hand, waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings, shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Colonial Secretary, or to any person or persons authorised by him, with the sanction of the Governor, to investigate the invention or the merits thereof, shall not, nor shall anything done for the purpose of the investigation, be deemed use or publication of the invention so as to prejudice the grant or validity of any patent for it.

Holder or assignee of patents obtained in other countries may obtain letters of registration.

47. The Governor in his discretion, on the application of any person being the holder or assignee of any patent granted or issued in the United Kingdom or any other country for any new discovery or invention, and upon any proof the Governor deems sufficient that the person is the holder or assignee in good faith of that patent, and that it is in full force, and upon payment to the Colonial Treasurer of the sum of seventy-two dollars, may grant letters of registration under the public seal of the colony to the holder of the patent aforesaid or his assignee, and the letters of registration shall be deposited in the deeds registry, and shall be deemed to be letters patent issued under this Ordinance, for that invention or improvement, and shall have the same force and effect as letters patent so issued; and shall enure for the benefit of the holder during the continuance of the original patent in the country in which it was issued or granted, and no longer, and all the provisions of this Ordinance shall apply to those letters of registration in the same way *mutatis mutandis* and as fully as to letters patent or an instrument in the nature of letters patent issued under this Ordinance.

International arrangements for protection of invention.

7 Edw. 7,
c. 29.

48.—(1) If His Majesty is pleased, by order in Council, to apply the provisions of section ninety-one of the Patents and Designs Act, 1907, to the colony, then any person who has applied for protection for any invention in the United Kingdom, or in any foreign state with the government of which His Majesty has made an arrangement under that section, for mutual protection of inventions, shall be entitled to a patent for his invention under this Ordinance, in priority to other applicants; and that patent shall take effect from the same date as the date of the application in the United Kingdom or the foreign state, as the case may be.

Duration of protection.

(2) That application shall be made within twelve months from the time when the person applies for protection in the United Kingdom or the foreign state with which the arrangement is in force.

Nothing to be deemed an infringement before acceptance of complete specification. Use within certain periods not to invalidate grant of patent.

(3) Nothing in this section contained shall entitle the patentee to recover damages for infringement happening prior to the date of the actual acceptance of his complete specification in the colony.

(4) The publication in the colony during the respective periods aforesaid of any description of the invention, or the use therein, during those periods, of the invention, shall not invalidate the patent granted for the invention.

(5) The application for the grant of a patent under this section shall be made in the same manner as an ordinary application under this Ordinance.

Manner of applying for grant of patent.

(6) An application under this section shall be accompanied by a complete specification which, if it is not accepted within the period of twelve months, shall, with drawings (if any), be open to public inspection at the expiration of that period.

(7) The provisions of this section shall, in the case of foreign States, apply only in the case of those foreign States with respect to which His Majesty, from time to time, by order in Council, declares the provisions of the aforesaid section ninety-one of the said first recited Imperial Act to be applicable, and so long only in the case of each State as that order continues in force with respect to that State.

Application of this section to foreign states.

49.—(1) Whenever it appears to the Governor in Council that the legislature of any British possession has made satisfactory provision for the protection in that possession of inventions patented in the colony, the Governor in Council may, by order, apply all or any of the provisions of the preceding section relating to the protection of inventions patented in the United Kingdom, with any variations or additions to the Governor in Council seeming fit, to inventions patented in that British possession.

Provision for inter colonial arrangements.

(2) An order in Council under this section shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Ordinance; but the Governor in Council may revoke the order.

Date when order to take effect.

50. The Governor in Council may make and from time to time rescind, alter, or vary, regulations for carrying into effect the provisions of this Ordinance and for regulating the amount, collection, and disposal of the fees in the schedules hereto mentioned and all those regulations shall, upon publication in the Gazette, be in force and effect :

Governor in Council may make regulations :

Provided that no regulations regulating the amount, collection, and disposal of the fees shall be deemed binding until they have been approved by the Legislative Council, subject to disallowance by His Majesty, and until those regulations are made, the fees in the second schedule hereto contained shall be the fees payable in respect of the matters to which they are respectively applicable.

Proviso.

Second schedule.

Saving for
prerogative.

51. Nothing in this Ordinance shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

SCHEDULES.

FIRST SCHEDULE.

(Section 4.)

FORMS OF APPLICATION, ETC.

FORM A.

Form of Application for Patent.

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

(b) Here insert
title of
invention.

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 in this colony to the
best of my knowledge and belief; and humbly pray that a patent may be
granted to me for the said invention.

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

(c) Signature
of inventor.

(c)
Declared at , in this day
of , 19 .

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

(d)
Registrar.

[NOTE.—This declaration must be accompanied by the statement of an address in the city of Georgetown for the reception of all notices and other communications with respect to the application or invention.]

FORM B.

Form of Provisional Specification.

(a) Here insert
title as in
declaration.

(b) Here insert
name, address,
and calling of
inventor as in
declaration.

(c) Here insert
short descrip-
tion of
invention.

(d) Signature
of inventor.

(a)
I, (b) , of , in , do
hereby declare the nature of my invention for
to be as follows (c) :—

(d)
Dated this day of , 19 .

FORM C.

Form of Complete Specification.

(a)
 I, (b) of _____, in _____,
 of _____ 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) :—

* * * * *

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 (d)

- 1.
- 2.
- 3., etc.

(e)

Dated this _____ day of _____, 19 _____.

(a) Here insert title as in declaration.

(b) Here insert name, address, and calling of inventor as in declaration.

(c) Here insert full description of invention.

(d) Here state distinctly the features of novelty claimed.

(e) Signature of inventor.

FORM D.

Form of Patent.

[L.S.] By His Excellency (here insert the name and dignities
 (in full) of the Governor), Governor and Com-
 mander in Chief in and over the Colony of British
 Guiana. To all to whom these Presents shall
 come, Greeting.

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

AND WHEREAS the said inventor hath humbly prayed that I would
 be pleased to grant unto him (hereinafter together with his heirs, executors,
 administrators, and assigns, or any of them, referred to as the said patentee)
 letters patent in the name of His Majesty for the sole use and advantage
 of his said invention within this colony :

AND WHEREAS the said inventor hath by and in his complete speci-
 fication particularly described the nature of his invention :

KNOW YE, THEREFORE, THAT I, in the name and on behalf of
 His Majesty, do by these presents, give and grant unto the said patentee my
 especial licence, full power, sole privilege, and authority, that he the said
 patentee by himself, his 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 this colony in such manner as to him
 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

For every application for a patent accompanied by a complete specification	\$ c.
specification	20 00
On filing complete specification after provisional specification ...	15 00
Examiner's fee on reference of complete specification, not exceeding	15 00
On extending the time for leaving complete specification	1 00
On extending the time for acceptance of complete specification ...	1 00
On every patent before the expiration of seven years from its date	100 00
On filing every amended or substituted specification	5 00
On notice of opposition to grant of patent	2 50
On every summons to witness	1 00
On hearing of every opposed application	5 00
On extension of patent	96 00
On filing every disclaimer or memorandum of alteration	7 50
For every office copy (including the seal) per page of eighteen lines of thirty letters each	25
On filing every certificate avoiding a patent	1 00
On deposit of any assignment, deed, licence, or other document affecting proprietorship of patent	10 00
On delivering triplicate patent after loss, etc.	10 00
On every search, including inspection	50
Annual fees for licence to patent agent	12 00
Certified copies or extracts seal, at per page	25
For every matter or thing not above specified	1 00
