

REPUBLIC OF ZAMBIA

THE PATENTS ACT

CHAPTER 400 OF THE LAWS OF ZAMBIA

CHAPTER 400 THE PATENTS ACT

THE PATENTS ACT

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APPLICATION AND TRANSITIONAL PROVISIONS

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CHAPTER 400

PATENTS

An Act to make provision relating to patents for inventions and for other purposes incidental thereto.

[1st April, 1958]

Federal Acts

13 of 1957

12 of 1959

36 of 1960

1 of 1962

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26 of 1987

Act No.

18 of 1980

Act No.

13 of 1994

Government Notices

185 of 1964

497 of 1964

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175 of 1965

PART I PRELIMINARYPART I

PRELIMINARY

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

Short title

2. (1) In this Act, unless the context otherwise requires-

"applicant" includes a person in whose favour a direction has been given under section *twenty-three*, or his legal representative;

"article" includes any substance or material, and any equipment, machinery or apparatus, whether affixed to land or not;

"assignee" means-

- (a) the person who has derived his title to the invention for Zambia directly or indirectly from the inventor thereof or from the latter's assignee; or
- (b) the legal representative of such person;

"Convention" means the Union Convention of Paris, dated the 20th March, 1883, for the Protection of Industrial Property, revised at Brussels on the 14th December, 1900, at Washington on the 2nd June, 1911, at The Hague on the 6th November, 1925, and at London on the 2nd June, 1934, and any revision thereof to which the *(1)former Federation of Rhodesia and Nyasaland or the former Protectorate of Northern Rhodesia may have acceded or to which the **(2)Republic may accede in terms of section *seven*;

"convention application" means an application made by a person referred to in paragraph (c) of section *eleven*;

"convention country", in relation to any provision of this Act, means a country (including any colony, protectorate or territory subject to the authority or under the suzerainty of that country, or any territory over which a mandate or trusteeship is exercised) which the Minister has, with a view to the fulfilment of the provisions of the Convention, by statutory notice, declared to be a convention country;

* Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

** Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

"date of lodging", in relation to any document lodged under this Act, means the date on which the document is lodged or, where it is deemed by virtue of any provision of this Act to have been lodged on any different date, the date on which it is deemed to have been lodged;

"effective date" means, in relation to-

- (a) an application which has been ante-dated or post-dated under this Act, the date to which that application has been so ante-dated or post-dated;
- (b) an application in a convention country, the date on which the application in respect of the relevant invention was made in the convention country in question or is in terms of the laws of that country deemed to have been so made;
- (c) any other application, the date on which that application was lodged at the Patent Office;

"examiner" means an examiner appointed under section *four*;

"exclusive licence" means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and "exclusive licensee" shall be construed accordingly;

"invention" means any new and useful art (whether producing a physical effect or not), process, machine, manufacture or composition of matter which is not obvious, or any new and useful improvement thereof which is not obvious, capable of being used or applied in trade or industry and includes an alleged invention;

(2) A reference in this Act to the date of a patent shall be construed as a reference to the appropriate date specified in subsection (1) of section *twenty-seven*.

(As amended by No. 12 of 1959, G.N. No. 185 of 1964 ,
S.I. No. 175 of 1965 and Act No. 18 of 1980)

PART II ADMINISTRATIONPART II

ADMINISTRATION

3. There shall be established under the direction of the Minister an office to be called the Patent Office. Establishment of Patent Office

4. There shall be-

Appointment of officers

- (a) a Registrar of Patents who shall exercise the powers and perform the duties assigned to the Registrar by this Act and shall be responsible for its administration;
- (b) one or more Deputy Registrars of Patents who shall, subject to the control of the Registrar, have all the powers conferred by this Act upon the Registrar;
- (c) such examiners and other officers as may be necessary for carrying out the provisions of this Act.

5. There shall be a seal of the Patent Office, and impressions thereof shall be judicially noticed. Seal

6. (1) There shall be kept at the Patent Office a register of patents, in which shall be entered- Register of patents

- (a) particulars of patents in force, of assignments and transmissions of patents and of licences under patents; and
- (b) notice of all matters which are required by or under this Act to be entered in the register and of such other matters affecting the validity or proprietorship of patents as the Registrar thinks fit.

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(2) All registers of patents established and kept under the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, or the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") shall, under arrangements made by the Registrar with the approval of the Minister, be incorporated with and form part of the register established under subsection (1), so, however, that such arrangements shall in no way be deemed to extend the term and effect of any patent registered in such registers beyond the term and effect provided in respect of such patent by such legislation under which it was granted.

(3) Subject to the provisions of this Act, the register of patents shall, at all convenient times, be open to inspection by the public, and certified copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.

(4) The register of patents shall be *prima facie* evidence of any matters required or authorised by or under this Act to be entered therein.

(5) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register, and the Registrar shall not be affected by any such notice.

PART III INTERNATIONAL PROVISIONS

INTERNATIONAL PROVISIONS

7. If the Republic accedes to the Convention and any revision thereof as a country of the Union for the Protection of Industrial Property constituted thereunder, the Minister shall, by Gazette notice, declare that Zambia has become such a country with effect from the date stated in such notice.

Convention
arrangements

(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)

* Republic of Zambia declared to be a country of the Union with effect from 24th October, 1964, by G.N. No. 1751 of 1965.

8. (1) Subject to the provisions of section *eleven*, any person who qualifies under Article 2 or 3 of the Convention and who has applied for protection for an invention in a convention country or his legal representative or assignee (if such assignee is also so qualified) shall be entitled to a patent for his invention under this Act in priority to other applicants if application therefor is made in terms of this Act within twelve months after the effective date of the first application for protection in the first convention country in which he made such application or, where more than one such application for protection has been made, from the effective date of the first such application, and the patent shall have the same date as the effective date of the application in such convention country but the term of the patent shall run from the date on which the complete specification is lodged at the Patent Office:

Convention applications

Provided that-

- (i) nothing in this subsection shall entitle the patentee to recover damages for infringements occurring prior to the date on which his complete specification is advertised as having been accepted in Zambia;
- (ii) no patent granted on a convention application lodged within twelve months after the date stated in terms of section *seven* shall bear a date or be effective from a date prior to the date so stated.

(2) Where, after the lodging of the first application in the first convention country in respect of any invention, a subsequent application is lodged in that country in respect of the same invention, such subsequent application shall be regarded as the first application in that country in respect of that invention, if at the time of the lodging thereof-

- (a) the previous application has been withdrawn, abandoned or refused without having been open to public inspection; and
- (b) no priority rights have been claimed by virtue of such previous application; and
- (c) no rights are outstanding in that convention country in connection with such previous application.

(3) An application which has been withdrawn, abandoned or refused shall not, after the lodging of the subsequent application, be capable of supporting a claim for priority rights under this section.

(4) Where all the rights of each of two or more applicants referred to in subsection (1) who have made application for protection of inventions in any one or more convention countries have become vested in the same person, those applications shall for the purposes of subsection (4) of section *thirteen* be deemed to have been made by the same applicant.

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(5) Where an applicant referred to in subsection (1) has applied for protection for any invention by an application which, in accordance with the law of any convention country, is equivalent to an application duly made in that convention country, he shall be deemed for the purposes of this section to have applied in that convention country.

(6) In determining for the purposes of this Act whether an invention described or claimed in a specification lodged in the Patent Office is the same as that for which protection has been applied for in a convention country, regard shall be had to the disclosure contained in the whole of the documents put forward at the same time as and in support of the application in the convention country, being documents of which copies have been lodged at the Patent Office within such time and in such manner as may be prescribed.

(7) A patent granted in Zambia for an invention upon an application made in terms of this section shall not be invalidated by reason only of-

- (a) the invention having been known or used or published in Zambia or elsewhere on or after the effective date of the application in the convention country in which application was first made; or
- (b) the granting in Zambia after the effective date of the application in the convention country of a patent of another person for the same invention:

Provided that-

- (i) the effective date of the patent of such other person shall not be prior to the effective date in Zambia of the convention application; and
- (ii) the convention patentee shall be entitled to have the patent of such other person revoked upon due application under and in compliance with the provisions of section *fifty*.

(8) An application for a patent under this section shall be made in the same manner as for an application in terms of section *twelve*, save that the application shall be accompanied by a complete specification.

(9) For the purposes of this Act, matter shall be deemed to have been disclosed in an application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or in documents submitted by the applicant for protection in support of and at the same time as that application, but no account shall be taken of any disclosure by any such document unless a copy of the document is lodged at the Patent Office with the convention application or within such period as may be prescribed after the lodging of that application.

*(As amended by No. 36 of 1960
and G.N. No. 185 of 1964)*

9. (1) Where a vessel or aircraft registered in a convention country or a land vehicle owned by a person ordinarily resident in such a country comes into Zambia temporarily or accidentally only, the rights conferred by a patent for an invention shall not be deemed to be infringed by the use of the invention-

Special provisions as to vessels, aircraft and land vehicles

- (a) in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof, so far as the invention is used on board the vessel and for its actual needs only; or
- (b) in the construction or working of the aircraft or land vehicle or of the accessories thereof;

as the case may be.

(2) This section shall not affect the provisions of section *sixteen* of the Aviation Act (which exempts certain aircraft from seizure on patent claims).

Cap. 444

(As amended by G.N. No. 185 of 1964)

10. (1) Subject to the provisions of this section, the Minister may, by statutory instrument, make regulations for securing that, where an invention has been communicated in accordance with any agreement or arrangement made by or on behalf of the Government with the government of any country for the supply or mutual exchange of information or articles-

Protection of inventions communicated under international agreements

- (a) an application for a patent for an invention so communicated made by a person, his legal representative or assignee, entitled under section *eleven* to make such application, shall not be prejudiced, and a patent granted on such an application shall not be invalidated by reason only that the invention has been communicated as aforesaid or that in consequence thereof-
 - (i) the invention has been published, made, used, exercised or vended; or
 - (ii) an application for a patent has been made by any other person, or a patent has been granted on such an application;
- (b) any application for a patent made in consequence of such a communication as aforesaid by a person who is not entitled so to do under section *eleven* may be refused and any patent granted on such an application may be revoked.

(2) Regulations made under subsection (1) may provide that the publication, making, use, exercise or vending of an invention or the making of any application for a patent in respect thereof shall, in such circumstances and subject to such conditions or exceptions as may be prescribed by the regulations, be presumed to have been in consequence of such a communication as is mentioned in that subsection.

(3) The powers of the Minister under this section, so far as they are exercisable for the benefit of persons from whom inventions have been communicated to the Government by the government of any country, shall only be exercised if and to the extent that the Minister is satisfied that substantially equivalent provision has been or will be made under the law of that country for the benefit of persons whose inventions have been communicated by the Government to the government of that country.

(4) References in subsection (3) to the communication of an invention to or by the Government or the government of any country shall be construed as including references to the communication of the invention by or to any person authorised in that behalf by the government in question.

(As amended by G.N. No. 185 of 1964)

10A. (1) In this section-

ARIPO Industrial
patents

- (a) "ARIPO" means the African Regional Industrial Property Organisation, formerly known as the Industrial Property Organisation for English-Speaking Africa (ESARIPO), which was established, under the former name, by an agreement adopted at Lusaka on 9th December, 1976; and
- (b) "ARIPO Protocol" means the Protocol on Patents and Industrial Designs within the Framework of ARIPO, adopted at Harare on 10th December, 1982.

(2) Where a patent has been granted by ARIPO under section 3 (7) of the ARIPO Protocol and the Registrar has not objected, under section 3 (6) of the Protocol, to the patent having effect in Zambia, the patent shall for all purposes be deemed to have been granted under this Act.

(3) A patent shall not be deemed to have been granted under this section if, under section 3 (6) of the ARIPO Protocol, the Registrar objects to its having effect in Zambia.

(As amended by Act No. 26 of 1987)

PART IV APPLICATIONS GENERALLY PART IV

APPLICATIONS GENERALLY

The Laws of Zambia

11. Application for a patent for an invention may be made by any of the following persons, that is to say: Persons entitled to make application

- (a) a person claiming to be the inventor of the invention who owns the invention in respect of Zambia;
- (b) an assignee;
- (c) a person entitled under subsection (1) of section *eight*;
- (d) the legal representative of any person who immediately before his death or disability was entitled to make such application;

and may be made by any above-mentioned person either alone or jointly with any other person.

(As amended by G.N. No. 185 of 1964)

12. (1) Every application for a patent shall- Form of application

- (a) be made in the prescribed form, which must be signed by the applicant or by a person authorised to sign on his behalf;
- (b) be lodged at the Patent Office in the prescribed manner;
- (c) state an address for service in Zambia to which all notices and communications may be sent; and
- (d) in so far as they are not already stated for the purposes of paragraph (c), state the full postal, residential and business addresses of the applicant.

(2) An assignee or legal representative making or joining in an application shall furnish such proof of title or authority as the Registrar may require or as may be prescribed.

(3) Every application form shall-

- (a) state that the applicant owns the invention in respect of Zambia;
- (b) give the full name of the inventor; and
- (c) where the inventor is not the applicant or one of the applicants, contain a declaration that the applicant believes him to be the inventor.

(4) Every convention application, in addition to the requirements set out in subsection (3), shall state-

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- (a) the convention country in which such application for protection was made;
- (b) its number;
- (c) the effective date of such application; and
- (d) the respect in which the applicant in the convention country and in Zambia qualifies under Article 2 or 3 of the Convention.

(As amended by G.N. No. 185 of 1964)

13. (1) Every application for a patent, other than a convention application, shall be accompanied by either a complete specification or a provisional specification and every convention application shall be accompanied by a complete specification.

Complete and
provisional
specifications

(2) If a complete specification does not accompany an application, it shall be lodged within twelve months after the date of lodging of the application or within such further period, not exceeding three months, as the Registrar may in writing allow upon payment of the prescribed fee, and if the provisions of this subsection are not complied with the application shall lapse.

(3) Where two or more applications accompanied by provisional specifications have been lodged in respect of inventions which are cognate or of which one is a modification of another, a single complete specification may, subject to the provisions of this section and section *fourteen*, be lodged in pursuance of those applications, or, if more than one complete specification has been lodged, may with the leave of the Registrar be proceeded with in respect of those applications.

(4) Where applications for protection have been made in one or more convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single convention application may, subject to the provisions of sections *eleven* and *fourteen*, be made in respect of those inventions at any time within twelve months from the effective date of the earliest of the said applications for protection.

(5) In considering the validity of applications made in terms of subsection (3) or (4) and in determining other relevant matters under this Act, the Registrar shall have regard to the effective dates of the applications or the convention applications concerned relating to the several matters claimed in the specification, and the requirements of subsection (4) of section *twelve* shall, in the case of any such application, apply separately to the applications for protection in respect of each of the said inventions.

(6) Where an application for a patent, not being a convention application, is accompanied by a specification purporting to be a complete specification, the Registrar may, if the applicant so requests at any time before the acceptance of the specification, direct that it shall be treated for the purposes of this Act as a provisional specification and proceed with the application accordingly.

(7) Where a complete specification has been lodged in pursuance of an application for a patent accompanied by a provisional specification or by a specification treated by virtue of a direction under subsection (6) as a provisional specification, the Registrar may, if the applicant so requests at any time before the acceptance of the complete specification, cancel the provisional specification and post-date the application to the date of lodging of the complete specification.

14. (1) Every specification shall indicate whether it is a provisional or a complete specification and shall commence with a title sufficiently indicating the subject to which the relevant invention relates.

Contents of
specification

(2) A provisional specification shall fairly describe the invention.

(3) A complete specification shall-

- (a) fully describe the invention and the manner in which it is to be performed;
- (b) disclose the best method of performing the invention known to the applicant at the time when the specification is lodged at the Patent Office; and
- (c) end with a claim or claims defining the subject-matter for which protection is claimed.

(4) The claim or claims of a complete specification must relate to a single invention, must be clear and succinct, and must be fairly based on the matter disclosed in the specification.

(5) Every specification shall be accompanied by drawings if required by the Registrar, and such drawings shall be deemed to be part of the specification, but if drawings which accompanied a provisional specification are sufficient for the purpose of a complete specification, it shall suffice if that complete specification refers to such drawings.

(6) Subject to the foregoing provisions of this section, a complete specification lodged at the Patent Office after a provisional specification, or with a convention application, may include claims in respect of developments of or additions to the invention which was described in the provisional specification or, as the case may be, in respect of which application for protection was made in a convention country, being developments of or additions in respect of which the applicant would be entitled to make a separate application for a patent:

Provided that an application shall, in so far as the complete specification contains claims in respect of any such developments or additions, be deemed to have been made on the date on which the complete specification was lodged at the Patent Office.

(7) Where a complete specification claims a new substance, the claim shall be construed as not extending to that substance when found in nature.

15. (1) Every claim of a complete specification shall have effect from the date prescribed by this section in relation to that claim and a patent shall not be invalidated by reason only of the publication or use of the invention, so far as claimed in any claim of the complete specification, on or after the effective date of that claim, or by the grant of another patent upon a specification claiming the same invention in a claim of the same or later effective date.

Effective date of claims of complete specification

(2) Where the complete specification is lodged in pursuance of a single application preceded by a provisional specification or by a specification which is treated by virtue of a direction under subsection (6) of section *thirteen* as a provisional specification, and the claim is fairly based on the matter disclosed in that specification, the effective date of that claim shall be the effective date of the application.

(3) Where the complete specification is lodged or proceeded with in pursuance of two or more applications accompanied by such specifications as are mentioned in subsection (2), and the claim is fairly based on the matter disclosed in one of those specifications, the effective date of that claim shall be the effective date of the application accompanied by that specification.

(4) Where the complete specification is lodged in pursuance of a convention application and the claim is fairly based on the matter disclosed in the application for protection in a convention country or, where the convention application is founded upon more than one such application for protection, in one of those applications, the effective date of that claim shall be the effective date of the relevant application for protection.

(5) Where, under the foregoing provisions of this section, any claim of a complete specification would, but for this provision, have two or more effective dates, the effective date of that claim shall be the earlier or earliest of those dates.

(6) In any case to which subsection (2), (3), (4) or (5) does not apply, the effective date of a claim shall be the date of lodging of the complete specification in Zambia.

(As amended by G.N. No. 185 of 1964)

16. (1) The Registrar shall examine every application for a patent and every specification accompanying such application or lodged at the Patent Office in pursuance of such application, in order to ascertain-

Examination of applications and specifications

- (a) whether such application or specification complies with the requirements of this Act;

- (b) in the case of a complete specification lodged after a provisional specification, or of a convention application, whether the invention claimed is substantially the same as that disclosed in the provisional specification or in the application lodged in the convention country, as the case may be.

(2) Any examination or investigation required in terms of subsection (1) may, on the direction of the Registrar, be undertaken by an examiner who shall report his findings on any such examination or investigation to the Registrar.

(3) An examination or investigation required by the provisions of this Act shall not be deemed to warrant the validity of any patent, and no liability shall be incurred by the Government, the Minister, the Registrar or any officer of the Patent Office by reason of or in connection with any such examination or investigation or report or other proceeding consequent thereon.

(As amended by G.N. No. 185 of 1964)

17. (1) At any time after an application has been lodged under this Act and before acceptance of the complete specification, the Registrar may, at the request of the applicant and upon payment of the prescribed fee, direct that the application shall be post-dated to such date as may be specified in the request:

Ante-dating and
post-dating of
applications

Provided that-

- (i) no application shall be post-dated under this subsection to a date later than six months from the date on which it was actually lodged or would, but for this subsection, be deemed to have been so lodged; and
- (ii) a convention application shall not be post-dated under this subsection to a date later than the last date on which, under the provisions of this Act, the application could have been made.

(2) Where an application or specification lodged under this Act is amended before acceptance of the complete specification, the Registrar may direct that the application or specification shall be post-dated to the date on which it is amended or, if it has been returned to the applicant, to the date on which it is again lodged under this Act.

(3) Where, at any time after an application or specification has been lodged at the Patent Office and before acceptance of the complete specification, a fresh application or specification is lodged in respect of any part of the subject-matter of the first-mentioned application or specification, the Registrar may direct that the fresh application or specification shall be antedated to a date not earlier than the date of lodging of the first-mentioned application or specification.

(4) An appeal shall lie from any decision of the Registrar under subsection (2) or (3).

18. (1) If it appears to the Registrar in the case of any application for a patent-

Refusal of application
in certain cases

- (a) that it is frivolous on the ground that it claims as an invention anything obviously contrary to well-established natural laws; or
- (b) that the use of the invention in respect of which the application is made would be contrary to law or morality; or
- (c) that it claims as an invention a substance capable of being used as food or medicine which is a mixture of known ingredients possessing only the aggregate of the known properties of the ingredients, or that it claims as an invention a process producing such a substance by mere admixture;

he may refuse the application.

(2) If it appears to the Registrar that any invention in respect of which an application for a patent is made might be used in any manner contrary to law, he may refuse the application unless the specification is amended by the insertion of such disclaimer in respect of that use of the invention, or such other reference to the illegality thereof, as the Registrar thinks fit.

(3) An appeal shall lie from any decision of the Registrar under this section.

19. (1) If, in the case of a complete specification lodged in pursuance of an application for a patent, which application was accompanied by a provisional specification, the result of any examination or investigation made in terms of section *sixteen* is adverse to the applicant in regard to any matter referred to in that section, or it is found that the invention described in the complete specification is not substantially the same as that described in the provisional specification or that the complete specification includes an invention not included in the provisional specification, the Registrar may, subject to the provisions of subsection (6) of section *fourteen*-

Powers of Registrar if
specification or
application defective

- (a) refuse to accept the complete specification until it has been amended to his satisfaction;
- (b) with the consent of the applicant, cancel the provisional specification and direct that the application be post-dated to the date upon which the complete specification was lodged at the Patent Office; or
- (c) where the complete specification includes an invention not included in the provisional specification, allow the application to be proceeded with in so far as the invention included both in the provisional and in the complete specification is concerned and allow an application for the additional invention included in the complete specification to be made and authorise the application for such additional invention, if lodged at the Patent Office within such period as he may determine, to be dated with the date on which the complete specification was lodged at the Patent Office.

(2) If the case of a convention application it is found that the invention claimed is not substantially the same as that claimed in the application made in the convention country in question, the Registrar may, subject to the provisions of subsection (6) of section *fourteen-*

- (a) refuse to accept the application until it has been amended to his satisfaction; or
- (b) with the consent of the applicant, treat the application as an application in terms of section *twelve*.

(3) If in the case of a convention application it is found that the specification lodged in Zambia includes an invention not included in the specification lodged in the convention country, the Registrar may allow the application to be proceeded with in so far as the invention included in both the convention and the Zambian specification is concerned, and allow an application for the additional invention to be made and authorise such application, if lodged at the Patent Office within the period he may determine, to be dated with the date on which the Zambian specification was lodged at the Patent Office.

(4) An appeal shall lie from any decision of the Registrar under this section.

(As amended by G.N. No. 185 of 1964)

20. (1) If a complete specification is not accepted within thirty months from the date of lodging of an application, the application shall lapse unless- Lapsing of applications

- (a) an appeal has been lodged in respect of the application;
- (b) the time within which such appeal may be lodged has not expired; or
- (c) the delay in accepting the specification was not due to any neglect or default on the part of the applicant:

Provided that where an application is made for an extension of time for the acceptance of a complete specification, the Registrar shall, on payment of the prescribed fee, grant an extension of time to the extent applied for, but not exceeding three months.

(2) If, at the expiration of the period allowed under the provisions of subsection (1), an appeal to the High Court is pending under any of the provisions of this Act in respect of the application (or, in the case of an application for a patent of addition, either in respect of that application or in respect of the application for the patent for the main invention) or the time within which such an appeal could be brought in accordance with the provisions of Part XI, apart from any future extension of time thereunder, has expired, then-

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- (a) where such an appeal is pending, or is brought within the time aforesaid or before the expiration of any extension of that time granted, in the case of the first extension, on an application made within that time or, in the case of a subsequent extension on an application made before the expiration of the last previous extension, the said period shall be extended until such date as the High Court determine;
- (b) where no such appeal is pending or is so brought, the said period shall continue until the end of the time aforesaid, or, if any extension of that time is granted as aforesaid, until the expiration of the extension or the last extension so granted.

(As amended by No. 12 of 1959, S.I. No. 175 of 1965
and Act No. 18 of 1980)

21. (1) Subject to the provisions of section *twenty*, the complete specification may be accepted by the Registrar at any time after the applicant has complied with the requirements imposed upon him by this Act:

Acceptance and
publication of
complete specification

Provided that the applicant may give notice to the Registrar requesting him to postpone acceptance until such date, not being later than eighteen months from the date of lodging of the application, as may be specified in the notice and the Registrar may postpone acceptance accordingly.

(2) On the acceptance of a complete specification, the Registrar shall give notice to the applicant who shall, within the prescribed period or within such further period as the Registrar may allow, advertise in the prescribed manner the fact that the specification has been accepted and, unless the acceptance of the specification is so advertised, the application shall lapse.

(3) Upon advertisement under the provisions of subsection (2), the application form, the specification and other documents essential to obtain acceptance lodged in pursuance thereof shall be open to public inspection.

(4) After the date of the publication as prescribed in subsection (2) of notice of acceptance of a complete specification and until the sealing of a patent in respect thereof, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the publication of such notice.

22. (1) Any person interested, including the State, may, within three months from the date of the advertisement of the acceptance of a complete specification or within such further period as the Registrar, on application made to him within the said period of three months, may allow, or, with the consent of the applicant, at any time before the sealing of the patent, oppose the grant of a patent in accordance with the provisions of this section by giving written notice to the Registrar of opposition to such grant on any of the following grounds and no others, namely:

Opposition to grant of
patent

The Laws of Zambia

- (a) that the applicant is not a person entitled under section *eleven* to make the application;
- (b) that the application is in fraud of the rights of the person giving such notice or of any persons under or through whom he claims;
- (c) that the invention does not relate to an art (whether producing a physical effect or not), process, machine, manufacture or composition of matter, which is capable of being applied in trade or industry;
- (d) subject to the provisions of section *thirty-one*, that the invention is obvious in that it involves no inventive step having regard to what was common knowledge in the art at the effective date of the application;
- (e) that the invention is not useful;
- (f) that the complete specification does not fully describe and ascertain the invention and the manner in which it is to be performed;
- (g) that the claims of the complete specification do not sufficiently and clearly define the subject-matter for which protection is claimed;
- (h) that the complete specification does not disclose the best method of performing the invention known to the applicant at the time when the specification was lodged at the Patent Office;
- (i) that the application contains a material misrepresentation;
- (j) that the invention described or claimed in the complete specification is not the same as that described in the provisional specification, and-
 - (i) in so far as it is not described in the provisional specification, was not new at the date when the complete specification was lodged at the Patent Office; or
 - (ii) forms the subject of a pending application made in Zambia for a patent the effective date of which is prior to the date on which the complete specification was lodged at the Patent Office;
- (k) in the case of a convention application, that the specification describes or claims an invention other than that for which protection has been applied for in the convention country and that such other invention either-
 - (i) forms the subject of an application for a patent in Zambia which, if granted, would bear a date in the interval between the lodging of the application in the convention country and the effective date of the application in Zambia; or
 - (ii) is not an invention as defined in this Act;

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- (l) that the invention was not new at the effective date of the application;
- (m) that the specification includes claims which, in terms of subsection (1) of section *eighteen*, should have been refused.

(2) A copy of any notice given under subsection (1), and of any statement which in terms of subsection (3) accompanies such notice, shall be served by the objector on the applicant for the patent.

(3) Any notice of opposition given under subsection (1) shall state the grounds on which the objector intends to oppose the grant of the patent, and shall be accompanied by a statement setting out particulars of the facts alleged in support of the said grounds, and proof of service on the applicant concerned of a copy of such notice and of such statement shall be furnished to the Registrar.

(4) If the applicant wishes to contest the opposition, he shall, within such time as is prescribed, or such further time as the Registrar may allow, lodge at the Patent Office a counter-statement setting out particulars of the grounds upon which the opposition is to be contested.

(5) A copy of any such counter-statement lodged at the Patent Office shall be served by the applicant on the objector concerned.

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

(7) No evidence shall be admitted in proof of any ground on which particulars have not been delivered as aforesaid, except by leave of the High Court.

(8) When, in relation to any opposition, the foregoing provisions of this section have been complied with to the extent therein required, the Registrar shall hand all relevant papers to the registrar of the High Court who shall arrange for the matter to be heard by that Court in the manner prescribed and the Patents Tribunal may make such order therein as it deems just.

(9) Upon being notified of the order of the High Court by the registrar thereof, the Registrar shall take such further action therein as may be necessary.

*(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965
and Act No 18 of 1980)*

23. (1) If the Registrar is satisfied, on a claim made in the prescribed manner at any time before a patent has been granted, that by virtue of any assignment or agreement made by the applicant or one of the applicants for a patent, or by operation of law, the claimant would, if the patent were then granted, be entitled thereto or to the interest of an applicant therein, or to an undivided share of the patent or of that interest, the Registrar may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants, as the case may require.

Substitution of applicants

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for a patent except with the consent of the other joint applicant or applicants.

(3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the right to an invention unless-

- (a) the invention is identified therein by reference to the number of the application for the patent;
- (b) there is produced to the Registrar an acknowledgement by the person by whom the assignment or agreement was made that the assignment or agreement relates to the invention in respect of which that application is made; or
- (c) the rights of the claimant in respect of the invention have been finally established by a decision of the High Court or any court to which an appeal against such a decision has been brought.

(4) Where one of two or more joint applicants for a patent has died at any time before the patent has been granted, the Registrar, if satisfied of such decease, may alter the application by substituting the legal representative of such deceased applicant and shall thereafter seal the application in the names of the surviving applicants and of such legal representative unless, upon a request in that behalf made by the survivor or survivors, and with the consent of such legal representative, the Registrar directs that the application shall proceed and be sealed in the name of the survivor or survivors alone.

(5) If any dispute arises between joint applicants for a patent whether or in what manner the application should be proceeded with, the Registrar may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it shall be proceeded with, or for both those purposes, as the case may require.

(6) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 18 of 1980)

24. (1) In this section the expression "competent authority" means the Minister designated as a competent authority by the President in the *Gazette*.

Provisions for secrecy
of certain inventions

(2) Where, before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the Registrar that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions, and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(3) Where the Registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to the competent authority, and thereupon the following provisions shall have effect, that is to say:

- (a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the Republic and unless a notice under paragraph (c) has previously been given by that authority to the Registrar, shall reconsider that question before the expiration of nine months from the date of lodging of the application for the patent and at least once in every subsequent year;
- (b) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the Registrar in connection therewith;
- (c) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the Republic, that authority shall give notice to the Registrar to that effect;
- (d) on the receipt of any such notice the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(4) When directions have been given under this section, if any use of the invention is made during the continuance in force of such directions by or on behalf of or to the order of a Government department, the provisions of section *forty* shall apply in relation to that use as if a patent had been granted for the invention.

(5) If an applicant for a patent has suffered loss or damage by reason of his invention having been kept secret in pursuance of a direction under subsection (2), the Minister, with the consent of the Minister responsible for finance, shall pay to him such reasonable compensation as is agreed upon, or, in default of agreement, as may be determined by the High Court on a reference under subsection (1) of section *forty-two*.

(6) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(7) If any person fails to comply with any direction given under this section, he shall be guilty of an offence.

*(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965
and Act No 18 of 1980)*

PART V GRANT, EFFECT AND TERM OF PATENTPART V

GRANT, EFFECT AND TERM OF PATENT

25. (1) If the conditions precedent to the grant of a patent, as prescribed in this Act, have been complied with and there is no opposition to such grant or, in the event of such opposition, the final determination is in favour of the grant of a patent, a patent shall be granted to the applicant, or, in the case of an application by two or more persons jointly, to the applicants jointly, and the Registrar shall cause the patent to be sealed with the seal of the Patent Office:

Grant and sealing of
patent

Provided that-

- (i) where an applicant under a joint application has died, the patent may, with the consent of his heir or legal representative, be granted to the survivors of the joint applicants;
- (ii) where an applicant has agreed in writing to assign the invention or a share in the invention or, in the case of an application by two or more persons jointly, his interest in the invention, to another person, the patent may, upon proof of the agreement to the satisfaction of the Registrar, be granted to and in the name of the assignee either solely or jointly with the applicant or, in the case of an application by two or more persons jointly, to and in the name of the assignee jointly with the other applicants or their assignees.

(2) A patent shall be sealed as soon as may be, but not later than twenty-two months after the date of lodging of the application therefor:

Provided that-

- (i) where the Registrar or the High Court has allowed an extension of the time within which a complete specification may be lodged or accepted, a corresponding extension of the time for the sealing of the relevant patent shall be allowed;
- (ii) where the sealing is delayed by an appeal or by opposition to the grant of the patent, the patent may be sealed at such time as the Registrar may determine;
- (iii) where the patent is to be granted to the heir or legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at such later time as the Registrar may decide;
- (iv) the Registrar may, on payment of the prescribed fee, extend the period of twenty-two months for such further time as may be prescribed;
- (v) where it is proved to the satisfaction of the Registrar that hardship would arise in connection with the prosecution of the corresponding application for a patent in any country outside Zambia unless the period for the sealing of such patent is extended, that period may be extended from time to time by the Registrar to such periods as appear to him to be necessary in order to prevent the hardship arising, if an application in that behalf is made to him and the prescribed fee is paid within the first-mentioned period or, in the case of a subsequent application under this paragraph, within the period to which such first-mentioned period was extended on the last preceding application.

*(As amended by G.N. No. 185 of 1964
and Act No 18 of 1980)*

26. Where, at any time after a patent has been sealed in pursuance of an application under this Act, the Registrar is satisfied that the person to whom the patent was granted had died, or, in the case of a body corporate, had ceased to exist, before the patent was sealed, he may amend the patent by substituting for the name of that person the name of the person entitled thereto according to law, and the patent shall have effect, and shall be deemed always to have had effect, accordingly.

Amendment of patent
granted to deceased
applicant

27. (1) Subject to the provisions of this Act, the date of a patent shall be-

Date of patent

- (a) in the case of a patent granted under this Act, the effective date of the application therefor;
- (b) in the case of a patent granted under the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, the date the patent was sealed;
- (c) in the case of a patent registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, the date of the patent in the United Kingdom;

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- (d) in the case of a patent granted under the ⁽⁴⁾Patents (Transitional Provisions) Act, 1958, the date specified in paragraph (b) or (c), as the case may be.

*Repealed by Act No. 15 of 1965

(2) The date of a patent referred to in paragraph (a) or (d) of subsection (1) shall be entered in the register.

(3) The date of a patent referred to in paragraph (a) or (d) of subsection (1) shall be inserted in the patent.

*(No. 12 of 1959 as amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

28. (1) Subject to the provisions of this Act, a patent shall have the same effect against the State as it has against a subject.

Extent, effect and form
of patent

(2) A patent shall be in such form as may be prescribed.

(3) A patent shall be granted for one invention only, 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 has been granted for more than one invention.

(4) The effect of a patent shall be to grant to the patentee, subject to the provisions of this Act and the conditions of the patent, full power, sole privilege and authority by himself, his agents and licensees during the term of the patent to make, use, exercise and vend the invention within Zambia in such a manner as to him seems meet, so that he shall have and enjoy the whole profit and advantage accruing by reason of the invention during the term of the patent.

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

*Repealed by Act No. 15 of 1965.

29. The term of every patent shall, subject to the provisions of this Act, be- Term of patent

- (a) in the case of a patent granted under this Act, sixteen years from the date of lodging of the complete specification at the Patent Office;
- (b) in the case of a patent granted under the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, fourteen years from the date the patent was sealed;
- (c) in the case of a patent registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, the term of the relevant United Kingdom patent;
- (d) in the case of a patent granted under the Patents (Transitional Provisions) Act, 1958, the period specified in paragraph (b) or (c), as the case may be.

*(No. 12 of 1959 as amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

30. (1) A patentee or an exclusive licensee may, after advertising in the prescribed manner, apply to the Registrar for an extension of the term of the relevant patent on any one or more of the following grounds, namely: Extension of patent

- (a) that he has not derived adequate remuneration from that patent;
- (b) that by reason of hostilities between the Republic or any country of the Commonwealth and any foreign state, he has suffered loss or damage including-
 - (i) loss or damage arising out of action taken in pursuance of an official request to keep secret the specification of the invention to which the patent relates; and
 - (ii) loss of opportunity for dealing in or developing the invention on account of-
 - A. the fact that he or his employees were engaged in work of national importance; or
 - B. lack of supplies or loss of markets as a result of such hostilities, wherever such lack or loss occurs.

(2) Any such application may be made-

- (a) in the case of an application under paragraph (a) of subsection (1), not more than twelve and not less than six months before the date of expiration of the term of the patent in question or at such later time, being not later than the date of expiration of the patent, as the Registrar may allow; and
- (b) in the case of an application under paragraph (b) of subsection (1), at any time before the date of expiration of the patent or within two years after the date on which hostilities ceased, whichever is the later date.

(3) Any person may within the prescribed time give written notice to the Registrar and the applicant of objection to any such extension, and the Registrar shall fix a date for the hearing of the application and shall advise the applicant and any objector of the date so fixed.

(4) The Registrar may, after hearing the applicant and any person who may have objected to the extension, refuse the application or order the extension of the term of the patent in question for such period and subject to such conditions as it may deem fit or, if the patent has already lapsed, order the issue of a new patent for such a period and subject to such conditions:

Provided that no such extension shall be granted-

- (i) on the grounds mentioned in paragraph (a) of subsection (1) for a term exceeding five years or, in what the Registrar may deem to be exceptional circumstances, ten years; or
- (ii) on the grounds mentioned in paragraph (b) of subsection (1), for a term exceeding the period of hostilities.

(5) The provisions of section *thirty-four* shall *mutatis mutandis* apply in respect of any extension of the term of a patent granted as a result of an application under paragraph (b) of subsection (1):

Provided that in the application of those provisions the reference in that section to a period of three months from the date on which any renewal fee referred to therein was due shall be construed as a reference to the date on which any patent whereof the term is extended under this section lapsed by effluxion of time.

(6) An extension of the term of a patent under this section shall be endorsed on the relevant patent by the Registrar and recorded in the register.

(7) Except where the Registrar otherwise decides, an application based on the grounds specified in paragraph (b) of subsection (1) shall not be considered if the patentee or exclusive licensee is a subject of such foreign state as is referred to in that paragraph or is a company the business whereof is managed or controlled by such subjects or is carried on wholly or mainly for the benefit or on behalf of such subjects, notwithstanding that the company may be registered in accordance with the provisions of the Companies Act.

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(8) An appeal shall lie from any decision of the Registrar under this Section.

(As amended by G.N. No. 185 of 1964; S.I. No. 175 of 1965
and Act No. 18 of 1980)

31. (1) Subject to the provisions of this section, where an application for a patent is pending or has been granted thereon for an invention (hereinafter referred to as the main invention) and the applicant or patentee applies for a further patent in respect of any improvement in or modification of the main invention, the Registrar may, if the applicant so requests, grant a patent for the improvement or modification as a patent of addition.

(2) Subject to the provisions of this section, where an invention, being an improvement in or modification of another invention, is the subject of an independent patent and the patentee in respect of that patent is also the patentee in respect of the patent for the main invention, the Registrar may, if the patentee so requests, by order revoke the patent for the improvement or modification and grant to the patentee a patent of addition in respect thereof, bearing the same date as the date of the patent so revoked.

(3) A patent shall not be granted as a patent of addition unless the date of lodging of the complete specification was the same as or later than the date of lodging of the complete specification in respect of the main invention.

(4) A patent of addition shall not be sealed before the sealing of the patent for the main invention, and if the period within which, but for this provision, the sealing of a patent of addition could be made under section *twenty-five* expires before the period within which the sealing of the patent for the main invention may be so made, the sealing of the patent of addition may be made at any time within the last-mentioned period.

(5) A patent of addition shall remain in force for as long as the patent for the main invention shall remain in force, including any extension of the term thereof but no longer, and no fees shall be payable for renewal of a patent of addition:

Provided that, where the patent for the main invention is revoked, the Registrar or the High Court, as the case may be, may order that the patent of addition shall become an independent patent, and the fees payable in respect of such independent patent and the times for the payment thereof shall be determined according to the date of the former patent of addition, but the normal term of the independent patent shall not extend beyond the date on which the patent for the main invention would have expired if it had not been revoked.

(6) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for such a patent, and shall not be refused, nor shall any such patent be liable to be revoked or invalidated, on the ground only that the invention claimed in the complete specification does not involve any inventive step having regard to the main invention, so, however, that the provisions of this subsection shall not apply to an independent patent referred to in the proviso to subsection (5).

(7) A patent for a main invention and its patent of addition shall not be capable of assignment apart from one another.

(8) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 18 of 1980)

32. (1) Subject to the provisions of this section, every patent, including a patent granted or registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, or the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, or the Patents (Transitional Provisions) Act, 1958, shall lapse if the fees prescribed for its renewal are not paid within the prescribed times.

Renewal of patents

(2) The Registrar may, upon application of the patentee and subject to the payment of such additional fees as may be prescribed, extend the time for payment of a fee referred to in subsection (1) for a period not exceeding six months.

(No. 12 of 1959 as amended by No. 36 of 1960, G.N. No. 185 of 1964 and S.I. No. 175 of 1965)

33. (1) Where a patent has lapsed owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may in the prescribed manner apply to the Registrar for the restoration of the patent.

Restoration of lapsed patents

(2) If the Registrar is satisfied that such failure was unintentional, and that no undue delay has occurred in making the application, he shall direct the patentee to advertise the application in the prescribed manner, and thereupon any person may within such time as may be prescribed give notice in the prescribed manner of opposition to the restoration of the patent.

(3) If there is no opposition to such restoration, the Registrar shall, on payment of the unpaid renewal fees, make an order restoring the patent.

(4) Where notice of opposition is given, the Registrar shall notify the applicant thereof and shall, after the expiration of the prescribed period and after hearing the applicant and the objector, decide the matter and make an order either restoring the patent, subject to the provisions of section *thirty-four*, or dismissing the application.

(5) An appeal shall lie from any decision of the Registrar under this section.

34. In every order restoring a lapsed patent made under section *thirty-three*, there shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after a lapse of a period of three months from the date on which the renewal fee was due, the following provisions, namely, that the patentee shall not commence or prosecute any action or other proceedings or recover damages:

Protective provisions to be inserted in order for restoration of patent

- (a) in respect of any infringement of the patent which has taken place after the lapse of the said period and before the date of the order;
- (b) in respect of any use of the subject-matter of the patent at any time after the date of the order by the employment of any means or composition of matter actually made within or imported into Zambia, or in respect of any process put into operation in Zambia in infringement of the patent after the lapse of the said period and before the date of the order, or in respect of the sale, purchase or use of any article which is the product of the use of the said means, composition of matter or process:

Provided that the employment of the said means, composition of matter or process shall be limited to the person by or for whom the said means, composition of matter or process was so made, imported or put into operation, his legal representative, his successors or assigns, or his vendees, as the case may be;

- (c) in respect of the employment at any time after the date of the order of any further means, composition of matter or process, being a reproduction or improvement of the means, composition of matter or process referred to in paragraph (b) or in respect of the sale, purchase or use of any article which is the product of the said further means, composition of matter or process:

Provided that the employment of the said further means, composition of matter or process shall be limited to a person entitled to use as aforesaid the means, composition of matter or process specified in that paragraph.

(As amended by G.N. No. 185 of 1964)

35. (1) At any time after the sealing of a patent the patentee may apply to the Registrar for the patent to be endorsed with the words "licences of right" and where such an application is made, the Registrar shall notify the application to any person entered on the register as entitled to an interest in the patent and if satisfied, after giving any such person an opportunity to be heard, that the patentee is not precluded by contract from granting licences under the patent, cause the patent to be endorsed accordingly, so, however, that no such endorsement shall be made in respect of an exclusive licence.

Endorsement of patent "licences of right"

(2) Where a patent is endorsed under this section-

- (a) any person shall, at any time thereafter, be entitled as of right to a licence under the patent upon such terms as may, in default of agreement and subject to the provisions of subsection (3), be settled by the Registrar on the application of the patentee or the person requiring the licence;
- (b) the Registrar may, on the application of the holder of any licence granted under the patent before the endorsement, order the licence to be exchanged for a licence to be granted by virtue of the endorsement upon terms to be settled as aforesaid;

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- (c) if in proceedings for infringement of the patent, otherwise than by the importation of goods, the defendant undertakes to take a licence upon terms to be settled by the Registrar as aforesaid, no interdict or injunction shall be granted against him, and the amount, if any, recoverable against him by way of damages shall not exceed double the amount which would have been payable by him as licensee if such a licence had been granted before the earliest infringement;
- (d) the renewal fees payable in respect of the patent after the date of the endorsement shall be one-half of the renewal fees which would be payable if the patent were not so endorsed.

(3) In settling the terms of the licence for the purposes of paragraph (a) or (b) of subsection (2), the Registrar shall-

- (a) take cognizance of the provisions of section *thirty-eight* with respect to a patent falling under that section; and
- (b) provide, *inter alia*, for the following matters:
 - (i) the period of the licence;
 - (ii) the terms of renewal, if any;
 - (iii) the amount of and method for payment of royalties;
 - (iv) arrangements for cancellation of the licence upon application made to him by the patentee after failure by the licensee to pay royalties or to observe any other conditions included in the licence by the Registrar, who is hereby authorised to include such conditions, so, however, that no such licence may be cancelled unless the licensee, after reasonable notice given to him by the patentee, has failed to observe such conditions.

(4) The licensee under any licence granted by virtue of the endorsement of a patent under this section shall, unless in the case of a licence the terms of which are settled by agreement the licence otherwise expressly provides, be entitled to call upon the patentee to take proceedings to prevent any infringement of the patent, and if the patentee refuses or neglects to do so within two months after being so called upon, the licensee may institute proceedings for the infringement in his own name as if he were patentee, making the patentee a defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(5) An application for the endorsement of a patent under this section shall contain a statement, to be verified in such manner as may be prescribed, that the patentee is not precluded by contract from granting licences under the patent, and the Registrar may require from the applicant such further evidence as he may think necessary.

(6) An application made under this section for the endorsement of a patent of addition shall be treated as an application for the endorsement of the patent for the main invention also, and an application made under this section for the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the endorsement of the patent of addition also, and where a patent of addition is granted in respect of a patent already endorsed under this section, the patent of addition shall also be so endorsed:

Provided that no royalty shall be paid by a licensee in respect of such endorsement.

(7) All endorsements of patents under this section shall be entered in the register and shall be published in the prescribed manner.

(8) An appeal shall lie from any decision of the Registrar under this section.

36. (1) Within such time as may be prescribed after a patent has been endorsed under section *thirty-five*, the patentee may apply to the Registrar for cancellation of the endorsement and where such an application is made and the balance paid of all renewal fees which would have been payable if the patent had not been endorsed, the Registrar may, if satisfied that there is no existing licence under the patent or that all licensees under the patent consent to the application, cancel the endorsement accordingly.

Cancellation of
endorsement made
under section 35

(2) Within the prescribed period after a patent has been endorsed as aforesaid, any person who claims that the patentee is, and was at the time of the endorsement, precluded by a contract in which the claimant is interested from granting licences under the patent may apply to the Registrar for cancellation of the endorsement.

(3) Where the Registrar is satisfied, on application made under subsection (2), that the patentee is and was precluded as aforesaid, he shall cancel the endorsement, and thereupon the patentee shall be liable to pay, within such period as may be prescribed, a sum equal to the balance of all renewal fees which would have been payable if the patent had not been endorsed, and if that sum is not paid within that period the patent shall cease to have effect at the expiration of that period.

(4) Where the endorsement of a patent is cancelled under this section, the rights and liabilities of the patentee with respect to it shall thereafter be the same as if the endorsement had not been made.

(5) An applicant shall advertise in the prescribed manner any application made by him under this section and within the prescribed period after such advertisement-

- (a) in the case of an application under subsection (1), any person interested;
- and

(b) in the case of an application under subsection (2), the patentee and either additionally or alternatively any person interested; may give notice to the Registrar of opposition to the cancellation.

(6) Where any such notice of opposition is given, the Registrar shall fix a date for the hearing of the application and shall advise in writing the parties of the date so fixed, and shall, after giving the applicant and the opponent an opportunity to be heard, give such decision on the application as he may consider just.

(7) An application made under this section for the cancellation of the endorsement of a patent of addition shall be treated as an application for the cancellation of the endorsement of the patent for the main invention also, and an application made under this section for the cancellation of the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the cancellation of the endorsement of the patent of addition also.

(8) An appeal shall lie from any decision of the Registrar under this section.

37. (1) Subject to the provisions of subsection (14), any person interested who can show that he has been unable to obtain a licence under a patent on reasonable terms may, after the expiration of a period of three years subsequent to the date on which that patent was sealed or four years subsequent to the date on which the application in respect thereof was lodged, whichever period last expires, apply to the Registrar in the prescribed manner for a compulsory licence on the ground that the reasonable requirements of the public with respect to the invention in question have not been or will not be satisfied.

Compulsory licence in case of abuse or insufficient use of patent rights

(2) Every application under this section shall set out fully the nature of the applicant's interest, the facts on which he bases his case and the relief he seeks, and shall be accompanied by an affidavit verifying the facts set out in such application.

(3) If, after consideration of any such application, the Registrar is satisfied that the applicant has a *bona fide* interest, and that a *prima facie* case for relief has been made out, he shall direct the applicant to serve copies of the application and of the relevant affidavit upon the patentee and upon any other person appearing from the register to be interested in the patent, and to advertise the application in the prescribed manner.

(4) If the patentee or any other person wishes to oppose the grant of a licence under this section, he may, within the prescribed period or within such further period as the Registrar may on application allow, deliver to the Registrar a counter-statement, verified by affidavit, setting out fully the grounds on which the application is opposed, and shall at the same time serve upon the applicant copies of the counter-statement.

(5) When, in relation to an application or an opposition thereto, the foregoing provisions of this section have been complied with to the extent therein required, the Registrar shall send all relevant papers to the High Court, and that court shall arrange for the matter to be heard in the manner prescribed and, subject to the provisions of this section, the High Court may make such order therein as it deems just.

(6) The reasonable requirements of the public referred to in subsection (1) shall be deemed not to have been satisfied in any of the following circumstances, namely:

- (a) if the patented invention, being an invention capable of being worked in Zambia, is not being worked therein on a commercial scale and there is no satisfactory reason for such non-working:

Provided that, if an application for a compulsory licence is made on this ground and the High Court is of the opinion that the time which has elapsed since the sealing of the patent has by reason of the nature of the invention or for any other reason been insufficient to enable the invention to be worked within Zambia on a commercial scale, the High Court may make an order adjourning the hearing of the application for such period as will in its opinion be sufficient for that purpose;

- (b) if the working of the invention within Zambia on a commercial scale is being prevented or hindered by the importation of the patented article by the patentee or persons claiming under him, or by persons directly or indirectly purchasing from him or by persons against whom the patentee is not taking or has not taken proceedings for infringement;
- (c) if the demand for the patented article in Zambia is not being met to an adequate extent and on reasonable terms;
- (d) if by reason of the refusal of the patentee to grant a licence or licences upon reasonable terms, the trade or industry of Zambia or the trade of any person or class of persons trading in Zambia, or the establishment of any new trade or industry in Zambia, is being prejudiced, and it is in the public interest that a licence or licences should be granted;
- (e) if any trade or industry in Zambia, or any person or class of persons engaged therein, is being prejudiced by unfair conditions attached by the patentee, whether before or after the commencement of this Act, to the purchase, hire, licence or use of the patented article, or the using or working of the patented process;
- (f) if any condition which under the provisions of section *forty-nine* is null and void as being in restraint of trade and contrary to public policy, has been inserted in any contract made in relation to the sale or lease of or any licence to use or work any article or process protected by the patent:

Provided that, for the purpose of determining whether there has been any abuse of the monopoly rights under a patent, due regard shall be had to the fact that patents are granted not only to encourage invention but also to secure that inventions shall so far as possible be worked on a commercial scale in Zambia without undue delay.

(7) The High Court may order the grant to the applicant of a licence on such terms as it may think expedient, including a term precluding the licensee from importing into Zambia any goods whereof the importation by persons other than the patentee or persons claiming under him, would be an infringement of the patent.

(8) If in respect of an application under this section the High Court is satisfied that the invention which is the subject of the application is not being worked on a commercial scale within Zambia, and is such that it cannot be so worked without the expenditure of capital for the raising of which it will be necessary to rely on the patent monopoly, it may, unless the patentee or those claiming under him will undertake to find such capital, order the grant to the applicant or any other person, or to the applicant jointly with one or more other persons, if able and willing to provide such capital, of an exclusive licence on such terms as the High Court may think just, but subject as hereinafter provided.

(9) The terms of any exclusive licence ordered to be granted under subsection (8) shall, with due regard to the risks to be undertaken by the licensee in providing the capital and working the invention, be so framed as-

- (a) to secure to the patentee the maximum royalty compatible with the successful working of the invention within Zambia on a commercial scale and at a reasonable profit;
- (b) to guarantee to the patentee a minimum yearly sum by way of royalty, if and so far as it is reasonable to do so;

and in addition to any other terms of the licence or order, the licence and the order shall be made revocable at the discretion of the High Court if the licensee fails to-

- (i) work the invention within the time specified in the order;
- (ii) expend the amount specified in the licence as being the amount which he is able and willing to provide for the purpose of working the invention on a commercial scale within Zambia; or
- (iii) pay to the patentee the royalties payable in terms of the licence.

(10) In deciding to whom an exclusive licence is to be granted, the High Court shall, unless good reason is shown to the contrary, prefer an existing licensee to a person who, according to the register, has no interest in the patent.

(11) The order directing the grant of an exclusive licence under this section shall operate to divest the patentee of any right which he may have as patentee to work or use the invention, and to revoke all existing licences, unless otherwise provided in the order, and may, if considered fair and equitable by the High Court, be made subject to the condition that the licensee shall give proper compensation to be fixed by the High Court for any money or labour expended by the patentee or any existing licensee in developing or working the invention.

(12) A licensee under this section shall be entitled to call upon the patentee concerned to institute any proceedings which may be necessary to prevent infringement of the patent in question and shall in all other respects have the same rights as any other licensee, and if the patentee fails within two months after being called upon by the licensee, or within such further period as the High Court may allow, to institute any such proceedings, the licensee may himself institute such proceedings as if he were the patentee, making the patentee a defendant, but the patentee shall not be liable for any costs in connection with such proceedings unless he enters an appearance and takes part in those proceedings.

(13) The existence of a compulsory licence granted solely on the ground that an invention is not being worked in Zambia on a commercial scale shall not preclude the grant of further licences (including compulsory licences) in respect of that invention, but the holder of any compulsory licence shall not be entitled to transfer that licence or grant a sub-licence thereunder except to a person to whom the business, or the part of the business in connection with which the rights under the licence were exercised, has been transferred.

(14) Except in the case of a licence to be granted under subsection (8), no licence shall be granted in terms of this section or of section *thirty-eight* while the relevant patent remains endorsed "licences of right" under section *thirty-five*.

(15) For the purposes of this section, the expression "patented article" includes any article made by a patented process.

*(As amended by No. 36 of 1960, G.N. No. 185 of 1964
and Act No. 18 of 1980)*

38. (1) Subject to the provisions of subsection (14) of section *thirty-seven* and without prejudice to the other foregoing provisions of this Act, where a patent is in force in respect of-

Inventions relating to food or certain other commodities

- (a) a substance capable of being used as food or medicine, or in the production of food or medicine;
- (b) a process for producing such a substance as aforesaid; or

- (c) any invention capable of being used as or as part of a surgical or curative device;

the High Court shall, on application made to it by any person interested, order the grant to the applicant of a licence under the patent on such terms as it thinks fit unless it appears to the Court that there are good reasons for refusing the application.

(2) In setting the terms of licences under this section, the High Court shall endeavour to secure that food, medicines, and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees deriving a reasonable advantage from their patent rights.

(3) A licence granted under this section shall entitle the licensee to make, use, exercise and vend the invention as a food or medicine, or for the purposes of the production of food or medicine or as part of a surgical or curative device, but for no other purposes.

(As amended by Act No. 18 of 1980)

39. (1) Any order under this Act for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were an agreement executed by the patentee and all other necessary parties granting a licence in accordance with the order.

Supplementary provisions as to licences

(2) No order shall be made in pursuance of any application under section *thirty-seven* which would be at variance with the provisions of the Convention.

40. (1) Notwithstanding anything in this Act, any Government department or any person authorised in writing by the Minister may make, use or exercise any invention disclosed in any specification lodged at the Patent Office for the service of the State in accordance with the provisions of this section.

Use of patented inventions for services of the State

(2) If and so far as the invention has, before the effective date of the relevant claim of the completed specification, been duly recorded by or tried by or on behalf of a Government department or a person authorised in terms of subsection (1), otherwise than in consequence of the communication thereof directly or indirectly by the patentee or any person from whom he derives title, any use of the invention by virtue of this section may be made by such Government department or person free of any royalty or other payment to the patentee.

(3) If and so far as the invention has not been so recorded or tried as aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Minister and the patentee with the approval of the Minister responsible for finance, or as may in default of agreement be determined by the High Court on a reference under subsection (1) of section *forty-two*.

(4) The authority of the Minister in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person, whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.

(5) Where any use of an invention is made by or with the authority of the Minister under this section, then, unless it appears to him that it would be contrary to the public interest so to do, the Minister shall notify the patentee as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

(6) For the purposes of this section, section *forty-one* and section *forty-two*, any use of an invention for the supply to the government of any country outside Zambia, in pursuance of any agreement or arrangement between the Government and the government of that country, of articles required for the defence of that country shall be deemed to be a use of the invention for the services of the State, and the power of a Government department or a person authorised by the Minister under this section to make, use and exercise an invention shall include power-

- (a) to sell such articles to the government of any country in pursuance of any such agreement or arrangement as aforesaid; and
- (b) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

(7) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of the President.

(8) The Minister may, by statutory instrument, make regulations governing the rights of third parties in relation to any use of a patented invention, or an invention in respect of which an application for a patent is pending, made for the services of the State in terms of this section or section *forty-one*.

*(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965
and Act No. 18 of 1980)*

41. (1) For the purposes of this section, the expression "period of emergency" means any period beginning on such date as may be declared by the Minister by statutory notice to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency.

Special provisions as to State use during emergency

(2) During any period of emergency the powers exercisable in relation to an invention by a Government department or a person authorised by the Minister under section *forty*, shall include power to make, use, exercise and vend the invention for any purpose which appears to the Minister necessary or expedient-

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- (a) for the efficient prosecution of any war in which the Republic may be engaged;
- (b) for the maintenance of supplies and services essential to the life of the community;
- (c) for securing a sufficiency of supplies and services essential to the well-being of the community;
- (d) for promoting the productivity of industry, commerce and agriculture;
- (e) for fostering and directing exports and reducing imports or imports of any classes, from all or any countries and for redressing the balance of trade;
- (f) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community; or
- (g) for assisting the relief of suffering and the restoration and distribution of essential supplies and services in any part of Her Britannic Majesty's dominions or any foreign countries that are in grave distress as the result of war;

and any reference in that section or in section *forty-two* to the services of the State shall be construed as including a reference to the purposes aforesaid.

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

42. (1) Any dispute as to-

Reference of disputes
as to State use

- (a) the exercise by a Government department or a person authorised by the Minister of the powers conferred by section *forty*;
- (b) the terms for the use of an invention for the services of the State thereunder;
- (c) the compensation payable upon a reference to the High Court under subsection (5) of section *twenty-four*; or
- (d) the right of any person to receive any part of a payment determined in terms of paragraph (b) or (c);

may be referred to the High Court by any party to the dispute in such manner as may be prescribed.

(2) In any proceedings under this section to which a Government department is a party, the Minister may-

- (a) if the patentee is a party to the proceedings, apply for revocation of the patent upon any ground upon which a patent may be revoked under section *fifty*;
- (b) in any case, put in issue the validity of the patent without applying for its revocation.

(3) If in such proceedings as aforesaid any question arises whether an invention has been recorded or tried as mentioned in section *forty*, or has been used by or on behalf of or to the order of a Government department under subsection (4) of section *twenty-four*, and the disclosure of any document recording the invention, or of any evidence of the trial or use thereof, would, in the opinion of the Minister, be prejudicial to the public interest, the disclosure may be made confidentially to counsel appearing for the other party or to an independent expert agreed upon by the parties.

(4) In determining under this section any dispute between a Government department and any person as to terms for the use of an invention for the services of the State, the High Court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the invention in question.

(As amended by S.I. No. 175 of 1965
and Act No. 18 of 1980)

PART VI SPECIAL PROVISIONS RELATING TO SPECIFICATIONS, ANTICIPATION AND RIGHTS IN INVENTIONS PART VI

SPECIAL PROVISIONS RELATING TO SPECIFICATIONS, ANTICIPATION AND RIGHTS IN INVENTIONS

43. (1) An applicant for a patent or a patentee may, at any time by request in writing lodged at the Patent Office, seek leave to amend either his provisional or his complete specification, including drawings forming part thereof, and shall in making any such request state the nature of the proposed amendment and the reasons therefor.

Amendment of
specification by
Registrar

(2) Where there are joint applicants or patentees, the request shall be made by them jointly or by one or more of them with the written consent of the other or others, and in the case of disagreement between them the Registrar may, if satisfied that one or more of them should be allowed to proceed alone and subject to such conditions as he may impose, permit the request to be made without the consent of the others:

Provided that all parties interested shall be notified by the applicant of the request and be entitled to be heard before any decision is given thereon.

(3) An amendment of an accepted complete specification shall be allowed only if it is by way of disclaimer, correction or explanation, and no amendment of any specification, except by way of correcting an obvious mistake, shall be allowed if the result would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before amendment, or would include any claim not wholly within the scope of a claim included in the specification before amendment.

(4) The request for an amendment of an accepted complete specification and its nature shall be advertised by the applicant in the prescribed manner, and at any time within three months of the advertisement, or such further time as the Registrar, subject to such conditions as he may impose, may allow, any person may give notice at the Patent Office of opposition to the amendment.

(5) Notice of opposition shall be given in the prescribed manner to the Registrar and to the person making the request, and the Registrar shall hear the person making the request and the person who has given notice of opposition and determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) Where a complete specification has not been accepted or, if it has been accepted, no notice of opposition has been given or any such notice has been withdrawn, the Registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(7) No request for amendment under this section shall be allowed if and so long as any proceedings are pending for infringement or revocation of the patent in question.

(8) An appeal shall lie from any decision of the Registrar under this section.

44. In any action for infringement of a patent or any proceedings before the High Court for the revocation of a patent, that court may, subject to the provisions of subsection (3) of section *forty-three*, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise as that court may think fit, and, if in any such proceedings for revocation the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

Amendment of
specification with
leave of High Court

(As amended by Act No. 18 of 1980)

45. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act after the publication of the specification, no damages shall be awarded in any proceedings in respect of the use of the invention before the date of the decision allowing the amendment, unless the High Court is satisfied that the specification as originally published was framed in good faith and with reasonable skill and knowledge.

Restrictions on recovery of damages in certain cases

(As amended by Act No. 18 of 1980)

46. (1) A patent shall not be refused or held to be invalid by reason only of the fact that the invention in respect of which the patent is applied for or was granted or any part thereof was published, used or known prior to the effective date of the application, if the applicant or the patentee, as the case may be, proves that the knowledge was acquired or the publication or use was made without his knowledge or consent, and that the knowledge acquired or the matter published or used was derived or obtained from him, and, if he learnt of the disclosure, use or knowledge before the effective date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the disclosure:

Savings for anticipation

Provided that the protection afforded by this section shall not extend to a patentee or an applicant for a patent who has or whose predecessors in title have prior to the effective date of the application worked the invention in the former Federation of Rhodesia and Nyasaland or, after the 1st January, 1964, in the former Protectorate of Northern Rhodesia or, after the 24th October, 1964, in the Republic commercially, otherwise than for the purpose of reasonable technical trial thereof.

(2) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of the communication of the invention to a Government department or to any person authorised by the Minister to investigate the invention or its merits, or of anything done by any person whomsoever in consequence of such a communication, for the purpose of the investigation.

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

47. (1) Where a patent is granted to two or more persons, each of those persons shall, unless an agreement to the contrary is in force, be entitled to an equal undivided share in the patent.

Co-ownership of patents

(2) Subject to the provisions of this section, where two or more persons are registered as patentees then, unless an agreement to the contrary is in force, each of those persons shall be entitled by himself or his agents, to make, use, exercise and vend the patented invention for his own benefit without accounting to the other or others.

(3) Subject to the provisions of subsections (6), (7) and (8) and to any agreement for the time being in force, a licence under a patent shall not be granted, and a share in a patent shall not be assigned, except with the consent of all persons, other than the licensor or assignor, who are registered as patentees.

(4) Where a patented article is sold by one of two or more persons registered as patentees, the purchaser and any person claiming through him shall in respect of such article be entitled to deal with it in the same manner as if it had been sold by a sole patentee.

(5) Subject to the provisions of this section, the rules of law applicable to the ownership and devolution of movable or personal property generally shall apply in relation to patents as they apply in relation to other incorporeal rights or choses in action.

(6) Where two or more persons are registered as patentees, the Registrar may, upon application made to him in the prescribed manner by any of those persons, give such directions in accordance with the application as to the sale or lease of the patent or any interest therein, the grant of licences under the patent or the exercise of any right under subsections (1) to (5) in relation thereto, as he thinks fit.

(7) If any person registered as patentee fails to execute any instrument or to do any other thing required for the carrying out of any direction given under this section within fourteen days after being requested in writing so to do by any of the other persons so registered, the Registrar may, upon application made to him in the prescribed manner by any such other person, give directions empowering any person to execute that instrument or to do that thing in the name and on behalf of the person in default.

(8) Before giving directions in pursuance of an application under subsection (6) or (7), the Registrar shall give an opportunity to be heard-

(a) in the case of an application under subsection (6), to the other person or persons registered as patentees;

(b) in the case of an application under subsection (7), to the person in default.

(9) An appeal shall lie from any decision of the Registrar under this section.

(10) No directions shall be given under this section so as to affect the mutual rights or obligations of trustees or of the legal representatives of a deceased person, or their rights or obligations as such.

48. (1) Where a dispute arises between an employer and a person who is or was at the material time his employee as to the rights of the parties in respect of an invention made by the employee either alone or jointly with other employees or in respect of any patent granted or to be granted in respect thereof, the Registrar may, upon application made to him in the prescribed manner by either of the parties, and after giving to each of them an opportunity to be heard, determine the matter in dispute, and may make such orders for giving effect to his decision as he considers expedient.

Disputes as to
inventions made by
employees

(2) In proceedings before the High Court between an employer and a person who is or was at the material time his employee, or upon an application made to the Registrar under subsection (1), the High Court or Registrar, as the case may be, may, unless satisfied that one or other of the parties is entitled, to the exclusion of the other, to the benefit of an invention made by the employee, by order provide for the apportionment between them of the benefit of the invention, and of any patent granted or to be granted in respect thereof, in such manner as the High Court or Registrar considers just.

(3) A decision of the Registrar under this section shall have the same effect as between the parties and persons claiming under them as a decision of the High Court.

(4) An appeal shall lie from any decision of the Registrar under this section.

49. (1) It shall not be lawful in any contract made after the commencement of this Act in relation to the sale or lease of or a licence to use or work any article or process protected by a patent to insert a condition the effect of which will be-

Avoidance of certain restrictive conditions in contracts

- (a) to prohibit or restrict the purchaser, lessee or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor or licensor or his nominee; or
- (b) to require the purchaser, lessee or licensee to acquire from the seller, lessor or licensor or his nominee any article or class of articles not protected by the patent;

and any such condition shall be null and void, as being in restraint of trade and contrary to public policy:

Provided that this subsection shall not apply if-

- (i) the seller, lessor or licensor proves that at the time the contract was entered into, the purchaser, lessee or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms without such conditions as aforesaid; and
- (ii) the contract entitles the purchaser, lessee or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment, if the Registrar so directs, of compensation for such relief, in the case of a purchase of such sum, or in case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by the Registrar.

An appeal shall lie from any decision of the Registrar under proviso (ii).

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(2) Any contract relating to the lease of or licence to use or work any patented article or patented process may, at any time after the patent or all the patents by which the article or process was protected in Zambia at the time of the making of the contract has or have ceased to be in force, and notwithstanding anything to the contrary in the same or in any other contract, be determined by either party on giving three months' notice in writing to the other party.

(3) Nothing in this section shall-

- (a) affect any condition in a contract whereby any person is prohibited from selling any goods other than those of a particular person;
- (b) be construed as validating any contract which would, apart from this section, be invalid;
- (c) affect any right of determining a contract or condition in a contract exercisable independently of this section;
- (d) affect any condition in a contract for the lease of or a licence to use a patented article, whereby the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the patented article as may be required to put or keep it in repair.

(As amended by G.N. No. 185 of 1964)

50. (1) Application for revocation of a patent may be made to the High Court by any person interested, including the State, upon any one or more of the grounds on which the grant of a patent might have been opposed, but subject to the provisions of subsection (2), of proviso (ii) to paragraph (b) of subsection (7) of section *eight*, and of paragraph (b) of subsection (1) of section *ten*, on no other grounds.

Revocation of patents

(2) Where an order for the granting of a licence under the patent has been made in pursuance of an application under section *thirty-seven* any person interested may, at any time after the expiration of two years from the date of that order, apply to the High Court for the revocation of the patent upon any of the grounds specified in subsection (6) of the said section *thirty-seven*; and if upon such application the High Court is satisfied-

- (a) that any of the said grounds are established; and
- (b) that the purpose for which an order may be made in pursuance of an application under the said section *thirty-seven* could not be achieved by the making of any further order under that section;

it may order the patent to be revoked.

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(3) Any such application shall state the grounds on which the applicant relies, and shall be accompanied by a statement setting out particulars of the facts alleged in support of the said grounds, and a copy of the application and of the statement shall be served by the applicant on the patentee and proof of such service shall be furnished to the Registrar.

(4) If the patentee wishes to contest the application made in terms of subsection (1) or subsection (2), he shall, within such time as may be prescribed or such further time as the High Court may allow, lodge at the Patent Office a counter-statement setting out particulars of the grounds upon which the application is contested and deliver to the applicant a copy of that statement.

(5) Except by leave of the High Court, no evidence shall be admitted in proof of any ground, particulars of which are not delivered as aforesaid.

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

(7) The High Court shall appoint a time for the hearing of any such application, and shall thereafter decide whether the patent shall be revoked or whether and, if so, subject to what amendments, if any, of the specification or claims thereof, the patent shall be upheld:

Provided that the High Court-

- (i) shall not allow any amendment of the specification or claims as aforesaid if it is established to its satisfaction that the original complete specification and claims were not framed in good faith and with reasonable skill and knowledge; and
- (ii) may, in the exercise of its discretion as to costs, take into consideration the conduct of the patentee in framing his original specification and claims and permitting them to remain as so framed.

(8) An order for the revocation of a patent under this section may be made so as to take effect either unconditionally or, in the event of failure to comply, within such reasonable period as may be specified in the order, with such conditions as may be imposed by the order with a view to achieving the purposes aforesaid, and the High Court may, on reasonable cause shown in any case, by subsequent order, extend any period so specified.

*(As amended by S.I. No. 175 of 1965
and Act No. 18 of 1980)*

51. (1) Where a patent is revoked on the ground of fraud, or a patent fraudulently obtained has been surrendered and revoked, or the grant of a patent has been refused under the provisions of paragraph (b) of subsection (1) of section *twenty-two*, the High Court may, on the application of the person entitled to the invention for Zambia or his legal representative, made in accordance with the provisions of this Act, direct the grant to him of a patent for the whole or any part of the invention, bearing the same date as the patent so revoked or as would have been borne by the patent which has been refused, if the grant thereof had not been refused.

Consequences of revocation on grounds of fraud

(2) Where in proceedings before the High Court in connection with opposition to the grant of a patent, the High Court has found that an invention was in part obtained from the objector and has required that the specification be amended by the exclusion of that part of the invention, the High Court may direct that, on the application of the inventor or any person claiming through or under him made in accordance with the provisions of this Act within three months after the date of the direction or within such further period as the High Court may allow, a patent for that excluded part of the invention bearing the date of and having the same effective date as the opposed application be granted to the applicant concerned.

(3) No action shall be brought for any infringement of a patent committed-

- (a) in the case of a patent granted under subsection (1), before the date of sealing thereof; or
- (b) in the case of a patent granted under subsection (2), before the date of advertisement of acceptance of the complete specification lodged in pursuance of the application for such patent.

*(As amended by G.N. No. 185 of 1964
and Act No. 18 of 1980)*

52. (1) A patentee may at any time by notice given to the Registrar offer to surrender his patent.

Surrender of patents

(2) Where such an offer is made, the patentee shall advertise the offer in the prescribed manner, and within the prescribed period after such advertisement any person interested may give notice to the Registrar of opposition to the surrender.

(3) Where any such notice of opposition is duly given, the Registrar shall notify the patentee.

(4) If the Registrar is satisfied, after hearing the patentee and any opponent, if desirous of being heard, that the patent may properly be surrendered, he may accept the offer and by order revoke the patent.

(5) An appeal shall lie from any decision of the Registrar under this section.

PART VII INFRINGEMENTSPART VII

INFRINGEMENTS

53. (1) An action for infringement of a patent may only be instituted by the patentee or the exclusive licensee. Such action shall be heard and determined by the Court and, subject to the provisions of any rules made under section *eighty-one*, the following provisions shall apply in connection therewith, namely:

Procedure and conditions in action for infringement

- (a) any ground upon which a patent may be revoked under this Act may be relied upon by way of defence;
- (b) the defendant may, by way of counter-claim in the action, apply for the revocation of the patent;
- (c) the plaintiff shall, with his statement of claim or declaration or on the order of the Court at any subsequent time, deliver full particulars of the infringement complained of;
- (d) the defendant shall, with his statement of defence or plea or on the order of the Court at any subsequent time, deliver particulars of any objections on which he relies in support thereof;
- (e) at the hearing no evidence shall, except by leave of the Court, be admitted of any infringement or on any objections of which particulars have not been so delivered;
- (f) the Court may allow the patentee to amend his specification, subject to such terms as to costs, advertisement or otherwise as it may impose and to the provisions of subsection (3) of section *forty-three*.

(2) In any action under this section where an exclusive licensee is the plaintiff, the patentee shall, unless he is joined as plaintiff in such action, be added as defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(3) If the patentee is the plaintiff in any such action, he shall give notice thereof to the exclusive licensee under the patent in question and any such licensee shall be entitled to intervene as a co-plaintiff and to recover any damages he may have suffered as a result of the infringement.

(4) No action under this section shall lie in respect of an infringement which took place before the publication referred to in subsection (2) of section *twenty-one*.

(5) In an action for infringement of a patent, the plaintiff shall be entitled to relief by way of injunction or interdict and damages and the Court may, on application, make such order for an injunction, interdict, damages, inspection or account and impose such terms and give such directions as it may deem fit.

(6) In an action for infringement of a patent in respect of an invention which relates to the protection of a new substance, any substance of the same chemical composition and constitution shall in the absence of proof to the contrary be deemed to have been produced by the patented process.

(As amended by G.N. No. 185 of 1964)

54. Where, in any action for the infringement of a patent, the Court finds that any claim in the specification in respect of which the infringement is alleged is valid, but that any other claim thereunder is invalid, then, notwithstanding the provisions of section *fifty-three*, the following provisions shall apply, namely:

Relief for infringement of partially valid specification

- (a) unless the Court is satisfied that the invalid claim was not framed in good faith and with reasonable skill and knowledge, the Court shall, subject to its discretion as to costs and as to the date from which damages should be reckoned, and to such terms as to amendment of the specification as it may deem desirable, grant relief in respect of any valid claim which is or has been infringed, without regard to the invalidity of any other claim in the specification and, in exercising such discretion, the Court may take into consideration the conduct of the patentee in inserting the invalid claim in the specification or permitting that claim to remain there;
- (b) if the Court is so satisfied, it shall not grant any relief by way of damages or costs, but may grant such other relief in respect of any valid claim which is or has been infringed as to it seems just and may impose such terms as to amendment of the specification as a condition of granting any such relief as it may deem desirable;
- (c) if a counter-claim for revocation of the patent has been made in the action on the ground of invalidity of any claim in the specification, the Court may postpone the operation of any order made thereon for such time as may be requisite to enable the patentee to effect any amendment of the specification pursuant to terms imposed by the Court and may attach such other conditions to any order to be made on the counter-claim as the Court may deem desirable.

55. (1) In proceedings for the infringement of a patent, damages shall not be awarded against a defendant who proves that, at the date of the infringement, he was not aware, and had no reasonable grounds for supposing and had no reasonable means of making himself aware, that the patent existed, and the application to an article of the word "patent", "patented", or any word or words expressing or implying that a patent has been obtained for the article, shall not constitute such grounds or means unless the number and year of the patent accompanied the word or words in question.

Restrictions on recovery of damages for infringement

(2) If proceedings are taken in respect of infringement of a patent committed after the failure to pay any fee within the prescribed time and before any extension of time for such payment, the Court may, if it thinks fit, refuse to award any damages in respect of such infringement.

(3) Nothing in this section shall affect the power of the Court to grant an injunction or interdict in any proceedings for the infringement of a patent.

56. (1) Where any person (whether entitled to or interested in a patent or an application for a patent or not) by circulars, advertisements or otherwise threatens any other person with proceedings for infringement of a patent, any person aggrieved thereby may in the prescribed manner bring an action against him in the Court for any such relief as is mentioned in subsection (2).

Remedy for
groundless threats of
infringement
proceedings

(2) Unless in any action brought by virtue of this section the defendant proves that the acts in respect of which proceedings were threatened constitute or, if done, would constitute, an infringement of a patent or of rights arising from the publication of a complete specification in respect of a claim of the specification not shown by the plaintiff to be invalid, the plaintiff shall be entitled to the following relief, that is to say:

- (a) a declaration to the effect that the threats are unjustifiable;
- (b) an injunction or interdict against the continuance of the threats; and
- (c) such damages, if any, as he has sustained thereby.

(3) For the avoidance of doubt, it is hereby declared that a mere notification of the existence of a patent does not constitute a threat of proceedings within the meaning of this section.

(4) The defendant in any such action as aforesaid may apply, by way of counter-claim in the action, for any relief to which he would be entitled in a separate action in respect of any infringement by the plaintiff of the patent to which the threats relate.

(As amended by G.N. No. 185 of 1964)

57. (1) A declaration that the use by any person of any process, or the making or use or sale by any person of any article, does not or would not constitute an infringement of a claim of a patent may be made by the Court in proceedings between that person and the patentee or the holder of an exclusive licence under the patent, notwithstanding that no assertion to the contrary has been made by the patentee or licensee, if it is shown-

Power of Court to
make declaration as to
non-infringement

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- (a) that the plaintiff has applied in writing to the patentee or licensee for a written acknowledgment to the effect of the declaration claimed, and has furnished him with full particulars in writing of the process or article in question; and
- (b) that the patentee or licensee has refused or neglected to give such an acknowledgment.

(2) The costs of all parties in proceedings for a declaration brought by virtue of this section shall be ordered as the Court may deem fit:

Provided that a patentee or holder of an exclusive licence under the patent shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(3) The validity of a claim of the specification of a patent shall not be called in question in proceedings for a declaration brought by virtue of this section, and accordingly the making or refusal of such a declaration in the case of a patent shall not be deemed to imply that the patent is valid.

(4) Proceedings for a declaration may be brought by virtue of this section at any time after the date of the notice of the acceptance of the complete specification in pursuance of an application for a patent, and references in this section to the patentee shall be construed accordingly.

(As amended by G.N. No. 185 of 1964)

57A. In this Part, unless the context otherwise requires, Court means the High Court. Definition of Court

(As amended by Act No. 18 of 1980)

PART VIII ASSIGNMENTS AND CORRECTIONS

ASSIGNMENTS AND CORRECTIONS

58. (1) Subject to the provisions of subsection (7) of section *thirty-one*, the rights granted to a patentee by a patent shall be capable of assignment and of devolution by operation of law and of being mortgaged and pledged. Provisions as to assignments

(2) Where any person becomes entitled by assignment, transmission or operation of law to a patent or to a share in a patent, or becomes entitled as mortgagee, licensee or otherwise to any other interest in a patent, he may apply to the Registrar in the prescribed manner for the registration of his title as proprietor or co-proprietor, or, as the case may be, of notice of his interest, in the register, and the Registrar shall, upon proof of such entitlement to his satisfaction, register such title or notice against the patent accordingly.

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(3) Except for the purposes of an application to rectify the register under the provisions of this Act, a document in respect of which no entry has been made in the register under subsection (2) shall not be admitted in any proceedings as evidence of the title of any person to a patent, or a share of or interest in a patent, unless the High Court or Supreme Court otherwise directs.

(As amended by G.N. No. 185 of 1964 and Act No. 18 of 1980)

59. (1) The Registrar may authorise-

Power of Registrar to
authorise corrections

- (a) the correction of any clerical error or omission, or error in translation in any patent, application for a patent or document lodged in pursuance of such an application, or in the register;
- (b) the amendment otherwise of any documents for the amending of which no express provision is made in this Act;
- (c) the condonation or correction of any irregularity in procedure in any proceedings before him, if such condonation or correction is not detrimental to the interests of any person.

(2) A correction may be made in pursuance of this section, either upon a request in writing accompanied by the prescribed fee or without such a request.

(3) Where it is proposed to make a correction otherwise than upon such a request, the Registrar shall give notice of the proposal to the patentee or the applicant for the patent, as the case may be, and to any other person who appears to him to be concerned, and shall give any such person an opportunity of being heard before the correction is made.

(4) Where a request is made for the correction of any such clerical error or omission and it appears to the Registrar that the correction would materially alter the scope of the document to which the request relates, the Registrar may require notice of the request to be advertised in the prescribed manner and to be served upon such persons as he considers necessary.

(5) Any opposition to the request for such correction may be lodged and shall be dealt with by the Registrar in the manner prescribed.

(6) An appeal shall lie from any decision of the Registrar under this section.

60. (1) The High Court may, on the application of any person aggrieved, order the register to be rectified by the making of any entry therein or the variation or deletion of any entry therein. Rectification of register

(2) The High Court may determine any question which it may be necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of any application to the High Court under this section shall be given in the prescribed manner to the Registrar and all interested parties, and the Registrar and all such parties shall be entitled to appear and be heard on the application.

(4) Any order made by the High Court under this section shall be served on the Registrar in the prescribed manner, and the Registrar shall, on the receipt of the notice, rectify the register accordingly.

(As amended by Act No. 18 of 1980)

PART IX FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERSPART IX

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

61. (1) A certificate purporting to be signed by the Registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be *prima facie* evidence of the matters so certified. Evidence of certain entries and documents

(2) A copy of any entry in any register or of any document kept in the Patent Office or of any patent, or an extract from any such register or document, certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

62. The Registrar shall, on the request of any person and on payment of the prescribed fee, furnish copies of any documents which are open to public inspection and which are lodged at the Patent Office or particulars from the register, or furnish a certificate in respect thereof. Requests for information as to patent or patent application

63. Where the Registrar is satisfied that a patent has been lost or destroyed or cannot be produced, he may at any time cause a duplicate thereof to be sealed on payment of such fees as may be prescribed. Loss or destruction of patent

64. (1) Without prejudice to any provisions of this Act requiring the Registrar to hear any party to proceedings thereunder, or to give to any such party an opportunity to be heard, the Registrar shall give to any applicant for a patent, or for amendment of a specification, an opportunity to be heard before exercising adversely to the applicant any discretion vested in the Registrar by or under this Act.

Exercise of
discretionary powers
of Registrar

(2) Subject to the provisions of subsection (2) of section *eighty*, where by this Act any time is specified within which any act or thing is to be done, the Registrar may, save where it is expressly otherwise provided, extend the time, either before or after its expiration, if he is satisfied that the failure to comply with the provisions relating to such time has not been or will not be due to any neglect or default on the part of the person concerned.

65. (1) Evidence in any proceedings before the Registrar under this Act shall be given by affidavit, so, however, that the Registrar may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence as aforesaid, and may allow any witness to be cross-examined on his affidavit or oral evidence.

Proceedings before
Registrar

(2) The powers, rights and privileges of the Registrar in proceedings before him under this Act shall be the same as those conferred upon commissioners by the Inquiries Act and the provisions of that Act shall, *mutatis mutandis*, apply in relation to the hearing and determination of any matter before the Registrar under this Act and to any person summoned to give evidence or giving evidence before him.

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(As amended by G.N. No. 185 of 1964)

66. No advertisement or notice, other than a notice issued under the authority of the President or the Minister, shall be published by any person under the provisions of this Act unless it is in the prescribed form and the Registrar has approved the contents of such advertisement or notice, and no advertisement or notice which has not been so approved shall have any force or effect for the purposes of this Act.

Advertisements to be
approved by Registrar

(As amended by G.N. No. 185 of 1964)

PART X PATENT AGENTS PART X

PATENT AGENTS

67. (1) Subject to the provisions of this Act, a patent agent may act as agent on behalf of any person in connection with any matter or proceeding before the Registrar under this Act and may draw and sign all documents and make all communications between an applicant and the Patent Office and may represent an applicant at all attendances before the Registrar.

Patent agents and
their functions

(2) A patent agent shall not be guilty of an offence under the provisions of any written law in force in Zambia prohibiting the preparation for reward of certain documents by persons not legally qualified, by reason only of the preparation by him of any document relating to patents for use in the Patent Office or required in any proceedings under this Act before the Registrar or the High Court.

(As amended by G.N. No. 185 of 1964
and Act No. 18 of 1980)

68. (1) The Registrar shall keep a register of patent agents in which the name of every person, immediately upon his being accepted for registration, shall be registered, showing against his name such particulars as the Registrar shall from time to time deem necessary, and the Registrar shall enter in such register of patent agents all changes relating to registrations.

Qualification and
registration of patent
agents

(2) Any person ordinarily resident in Zambia who-

- (a) has passed the prescribed examinations;
- (b) produces proof that he is a Fellow in good standing of the Chartered Institute of Patent Agents, incorporated by Royal Charter on the 11th August, 1891;
- (c) produces proof that he is a British Oversea Member in good standing of such Institute;
- (d) produces proof that he holds any qualification recognised by the Minister as being equivalent to the qualifications required for the purposes of paragraph (a), (b) or (c); or
- (e) is a legal practitioner and satisfies the Registrar that prior to the commencement of this Act he has, within Zambia, performed the functions of a patent agent as set out in section *sixty-seven* and has publicly described himself as a patent agent in Zambia;

may make application to the Registrar in the prescribed manner to be registered as a patent agent, and the Registrar shall arrange such registration if he is satisfied that there is no good reason why it should not be arranged and that the applicant is not a person whose name could be removed from the register of patent agents under paragraph (b), (c) or (f) of subsection (1) of section *sixty-nine*;

Provided that a public officer who has been employed in the Patent Office shall not be registered as a patent agent or be permitted to practise as such until at least twelve months have expired since he ceased to be so employed.

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(3) An appeal shall lie from any decision of the Registrar made under the provisions of subsection (2).

*(As amended by No. 36 of 1960, G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

69. (1) The Registrar may remove from the register of patent agents the name of any patent agent upon proof to his satisfaction that such patent agent-

Removal of names
from register of patent
agents

- (a) has died;
- (b) has become of unsound mind;
- (c) has been adjudged or otherwise declared bankrupt under any written law or enactment in force in Zambia, or has made an assignment to or composition with his creditors;
- (d) has ceased to reside in Zambia, or has ceased to maintain a place of business therein;
- (e) has applied for his name to be so removed;
- (f) has, after being convicted, in Zambia or elsewhere, of the crime of theft, fraud, forgery or uttering a forged document or perjury, been sentenced to serve a term of imprisonment without the option of a fine, whether such sentence is suspended or not, and has not received a free pardon;
- (g) having been entitled to practise as a legal practitioner, or to be registered as a patent agent, has ceased to be so entitled; or
- (h) having been entitled to practise as a legal practitioner, or a patent agent, has ceased to practise as such.

An appeal shall lie from any decision of the Registrar made under the provisions of this subsection.

(2) Subject to the provisions of this section and such procedure as may be prescribed, the High Court may order the Registrar to remove the name of any patent agent from the register of patent agents or may suspend any patent agent from practising as such for such time as it thinks fit if it is satisfied, after due inquiry, that such person has been guilty of conduct discreditable to a patent agent or has been guilty of a breach of any regulations prescribed for the conduct of patent agents.

(3) *Repealed by Act No. 18 of 1980.*

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(4) Any institute or other organisation recognised by the Minister as being representative of the patent agents in Zambia shall be entitled to be represented, to adduce evidence and to be heard by the High Court before it makes any order in terms of subsection (2).

(5) Where the name of any patent agent has been removed from the register of patent agents under the provisions of subsection (1) or (2), his name shall not be restored to that register except by direction of the High Court, which may further direct that such restoration shall be made either without fee or on payment of such fee, not exceeding the registration fee, as it may fix, and the Registrar shall restore the name accordingly.

(As amended by No. 1 of 1962
and G.N. No. 185 of 1964)

70. Every person entitled to practise as a legal practitioner in Zambia may practise as a patent agent and perform the functions set out in section *sixty-seven* without being registered as a patent agent, but no such person shall be entitled to be so registered except under the provisions of section *sixty-eight*.

Privileges of legal practitioners

(As amended by G.N. No. 185 of 1964)

71. (1) No person shall practise as a patent agent unless he is registered as such or is, by virtue of section *seventy*, entitled so to practise.

Entitlement to practise as patent agent

(2) A person shall be deemed to practise as a patent agent if he performs any of the functions of a patent agent set out in section *sixty-seven* or if he carries on within Zambia the business of applying for or obtaining for others patents in Zambia or elsewhere.

(3) No person who is not a legal practitioner or registered as a patent agent shall describe himself as, or hold himself out to be, a patent agent or any term implying such a meaning, nor shall he permit himself to be so described or held out.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(As amended by G.N. No. 185 of 1964)

72. (1) No patent agent shall have an interest either as a partner or manager or otherwise in more than one firm of patent agents in Zambia.

Prohibition of certain acts by patent agents

(2) No patent agent shall practise under a name or title which includes the name of any person who is not or was not-

(a) in his lifetime ordinarily resident in Zambia; or

(b) registered as a patent agent under the provisions of this Act.

(3) No person shall practise as a patent agent if he is a party to-

(a) a contract of partnership; or

(b) an arrangement providing for the sharing or paying over of any professional fees;

relating to the business of a patent agent with any person who is prohibited from practising as a patent agent.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(No. 1 of 1962 as amended by G.N. No. 185 of 1964)

PART XI APPEALS

APPEALS

73. Where this Act provides for appeals from decisions of the Registrar, all such appeals shall be made to the High Court in accordance with the provisions of this Part. Appeals from Registrar

(As amended by Act No. 18 of 1980)

74. *Repealed by Act No. 18 of 1980.*

75. *Repealed by Act No. 18 of 1980.*

76. *Repealed by Act No. 18 of 1980.*

77. *Repealed by Act No. 18 of 1980.*

78. (1) Any party to proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of that court to the Supreme Court. Appeals to Supreme Court

(2) Upon the hearing of an appeal under the provisions of this section, the Supreme Court may, without prejudice to its other powers-

- (a) confirm, set aside or vary the order or decision in question;
- (b) remit the proceedings to the High Court with such instructions for further consideration, report, proceedings or evidence as the Supreme Court may think fit to give;
- (c) exercise any of the powers which could have been exercised by the High Court in the proceedings in connection with which the appeal is brought;
- (d) make such order it may think just as to the costs of the appeal or of earlier proceedings in the matter before the High Court.

*(As amended by G.N. No. 185 of 1964
and Act No. 18 of 1980)*

79. *Repealed by Act No. 18 of 1980.*

80. (1) Appeals under this Part, whether from decisions of the Registrar or orders or decisions of the High Court shall be brought within three months after the date of the decision or order in question, or within such further time as the High Court or the Supreme Court to which the appeal is brought may allow upon application by the appellant concerned.

Time for appeals

(2) The powers of the Registrar as to extensions of time under subsection (2) of section *sixty-four* shall not apply in relation to times for bringing appeals under this Part.

(As amended by Act No. 18 of 1980)

81. The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to-

Rules of court

- (a) the time within which any requirement of the rules is to be complied with;
- (b) the costs and expenses of and incidental to any proceedings;
- (c) the fees to be charged in respect of such proceedings; and
- (d) the summary determination of any appeal which appears to the High Court or Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

(As amended by Act No. 18 of 1980)

82. Where any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall, thereafter, in relation to such matter, act in accordance with the decision of that court or any decision substituted therefor on appeal to the Supreme Court.

References to High Court by Registrar

(As amended by Act No. 18 of 1980)

PART XII OFFENCES AND PENALTIESPART XII

OFFENCES AND PENALTIES

83. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of an offence.

Falsification of certain documents

84. (1) Any person who-

Deceiving or influencing the Registrar or an officer

(a) for the purpose of deceiving the Registrar or any other officer of the Patent Office in the execution of the provisions of this Act; or

(b) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder;

makes or submits a false statement or representation, whether orally or in writing, knowing the same to be false, shall be guilty of an offence.

(2) Any person who, having innocently made a false statement or representation, whether orally or in writing, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder and who, on becoming aware that such statement or representation was false, fails to advise the Registrar forthwith of such falsity, shall be guilty of an offence.

(No. 12 of 1959)

85. Any person who, after having been sworn, or having in lieu thereof made an affirmation or declaration, wilfully gives false evidence before the Registrar High Court concerning the subject-matter of the proceeding in question, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence.

Witness giving false evidence

(As amended by Act No. 18 of 1980)

The Laws of Zambia

86. (1) Any officer of the Patent Office who buys, sells, acquires, or traffics in any invention or patent or any right under a patent shall be guilty of an offence.

Prohibition on trafficking in patents by officers in Patent Office

(2) Every purchase, sale or acquisition, and every assignment of any invention or patent, by or to any such officer shall be null and void.

(3) Nothing in this section contained shall apply to the inventor or to any acquisition by bequest or devolution in law.

87. If any person falsely represents that any article sold by him is a patented article, he shall be guilty of an offence, and for the purposes of this provision a person who sells an article having stamped, engraved or embossed thereon or otherwise applied thereto the word "patent" or "patented" or any other word expressing or implying that the article is patented, shall be deemed to represent that the article is a patented article.

Unauthorised claim of patent right

88. If any person other than a person appointed in terms of section *four* uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office", or any other words suggesting that his place of business is, or is officially connected with, the Patent Office, he shall be guilty of an offence.

Unauthorised use of certain words

89. Any person who is guilty of an offence under this Act shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Penalties

(As amended by Act No. 13 of 1994)

PART XIII MISCELLANEOUSPART XIII

MISCELLANEOUS

90. (1) Any application, notice or document authorised or required under this Act to be lodged, made or given at the Patent Office, or to the Registrar or any other person, may be delivered by hand or sent by registered post.

Lodging and authentication of documents

(2) No authentication shall be required in respect of any document lodged in the Patent Office under the provisions of this Act and used in proceedings before the Registrar.

(As amended by Act No. 18 of 1980)

The Laws of Zambia

91. Any person who is required under the provisions of this Act to take any oath or swear to the truth of any affidavit may, in lieu thereof, make an affirmation or declaration in accordance with the written law relating to affirmations or declarations in Zambia.

Oaths and affirmations

(As amended by G.N. No. 185 of 1964)

92. All moneys necessary for the purposes of this Act shall be paid out of moneys appropriated for the purpose by Parliament.

Expenses of administration

(As amended by G.N. No. 185 of 1964 and S.I. No. 175 of 1965)

93. (1) Where under the provisions of this Act-

Provisions as to fees

- (a) a fee is payable in respect of the performance of any act by the Registrar, the Registrar shall not perform that act until the fee has been paid;
- (b) a fee is payable in respect of the doing of any act by any person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or
- (c) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

(2) All fees shall be paid at the Patent Office in such manner as the Registrar, with the approval of the Minister, may accept.

94. Nothing in this Act shall affect the right of the State or of any person deriving title directly or indirectly from the State to sell or use articles forfeited under the provisions of any written law in force in Zambia.

Saving for certain forfeitures

(As amended by G.N. No. 185 of 1964 and S.I. No. 175 of 1965)

95. (1) The Minister may, when he deems fit, direct the publication by the Registrar of a journal, to be referred to as the Patent Journal, containing particulars of applications for patents and other proceedings or matters arising under the provisions of this Act, together with such reports of cases and other relevant matters as the Minister may deem fit.

Patent Journal

(2) The Registrar shall make provision for selling copies of the Patent Journal at such price and in such manner as the Minister may direct.

96. (1) The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is to be prescribed and generally for the better carrying out of the objects and purposes of this Act or to give force or effect to its provisions or for its better administration. Regulations

(2) Without derogation from the generality of the provisions of subsection (1), regulations made by the Minister may provide for-

- (a) the form of applications for patents and of any specifications, drawings or other documents which may be lodged at the Patent Office, and the furnishing of copies of any such documents;
- (b) the procedure to be followed in connection with any application or request to the Registrar, or any proceeding before him, and the authorising of the rectification of irregularities of procedure;
- (c) the service of notices and other documents required to be served in connection with proceedings under this Act;
- (d) examinations for the qualification of patent agents in terms of this Act, the recognition for such purpose of qualifications obtained either in or outside Zambia, and the fees to be paid in connection with the registration of patent agents;
- (e) the conduct of the business of the Patent Office;
- (f) other fees payable under this Act, and fees which may be charged in relation to the conduct of patent business by patent agents and legal practitioners performing the functions of patent agents;
- (g) authorising the publication and the sale of copies of specifications, drawings and other documents in the Patent Office, and of indexes to and abridgements of such documents;
- (h) the professional conduct of patent agents.

(As amended by G.N. No. 185 of 1964)

PART XIV APPLICATION AND TRANSITIONAL PROVISIONSPART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

97. Save as is otherwise provided in this Act, the provisions of this Act shall, so far as they are applicable, apply in relation to- Application of Act

- (a) any patent granted or registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, or the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws (hereinafter in this section referred to as "such legislation"); and
- (b) any application in respect of a patent made under such legislation:

Provided that a patent referred to in this section shall not be liable to revocation except upon some ground upon which it would have been liable to revocation in terms of such legislation.

(No. 12 of 1959 as amended by G.N. No. 185 of 1964)

SUBSIDIARY LEGISLATION

PATENTS

*Federal Government
Notice
374 of 1963*

SECTION 2-THE PATENTS (CONVENTION COUNTRIES) NOTICE

1. This Notice may be cited as the Patents (Convention Countries) Notice. Title

2. The countries specified in the First Schedule shall be convention countries. Convention countries

3. Every country specified in the Second Schedule being a colony, protectorate or territory, subject to the authority or under the suzerainty of a country declared to be a convention country in terms of paragraph 2, or a territory over which a mandate or trusteeship is exercised, shall be a convention country. Dependencies of
convention countries

The Laws of Zambia
FIRST SCHEDULE
(Paragraph 2)

CONVENTION COUNTRIES

1. Algeria
2. Argentina
3. Australia
4. Austria
5. Bahamas
6. Bangladesh
7. Barbados
8. Belarus
9. Belgium
10. Benin
11. Bolivia
12. Brazil
13. Bulgaria
14. Burkina Faso
15. Burundi
16. Cameroon
17. Canada
18. Central African Republic
19. Chad
20. Chile
21. China
22. Congo
23. Cote d'Ivoire
24. Croatia
25. Cuba
26. Cyprus
27. Czech Republic
28. Democratic People's Republic of
korea
29. Denmark
30. Egypt
31. Finland
32. France
33. Gabon
34. Gambia
35. Germany
36. Ghana
37. Greece
38. Guinea
39. Guinea-Bissau
40. Haiti
41. Holy See
42. Hungary
43. Iceland
44. Indonesia
45. Iraq
46. Ireland
47. Israel
48. Italy
49. Japan
50. Jordan
51. Kazakhstan
52. Kenya
53. Lebanon
54. Latvia
55. Lesotho
56. Libya
57. Liechtenstein
58. Luxembourg
59. Madagascar
60. Malawi
61. Malaysia
62. Mali
63. Malta
64. Mauritania
65. Mauritius
66. Mexico
67. Monaco
68. Mongolia
69. Morocco
70. Netherlands
71. New Zealand
72. Niger
73. Norway
74. Philippines
75. Poland
76. Portugal
77. Republic of Korea
78. Republic of Macedonia (the
former Yugoslav Republic)
79. Republic of Moldova,
80. Romania
81. Russian Federation
82. Rwanda
83. San Marino
84. Senegal
85. Slovakia
86. Slovenia
87. South Africa
88. Spain
89. Sri Lanka
90. Sudan
91. Suriname
92. Swaziland
93. Sweden
94. Switzerland
95. Togo
96. Trinidad and Tobago
97. Tunisia
98. Turkey
99. Uganda
100. Ukraine
101. United Kingdom
102. United Republic of Tanzania
103. United States of America
104. Uruguay
105. Uzbekistan
106. Viet Nam
107. Yugoslavia
108. Zaire
109. Zimbabwe

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SECOND SCHEDULE
(Paragraph 3)

DEPENDENCIES OF CONVENTION COUNTRIES

1. <i>Dependency</i>	<i>Convention Country</i>
(a) Norfolk Island	Australia
(b) Faroe-Islands	Denmark
(c) Departments of Guyane, Guadeloupe, Martinique and Reunion and the overseas territories of New Caledonia, French Polynesia, St. Pierre and Miquelon, Wallis and Futuna Islands and the French Southern and Antarctic Territories	France
(d) Hong Kong and Isle of Man	United Kingdom
(e) Cook Islands, Niue and Tokelau	New Zealand
(f) Surinam and the Netherlands Antilles	Netherlands
(g) Puerto Rico and all other territories and possessions of the United States of America	United States of America
2. All other territories not included under (1) of this Schedule and which are dependencies of the convention countries named in the First Schedule.	

The Laws of Zambia

SECTION 3-THE PATENT OFFICE (ESTABLISHMENT) ORDER

Statutory Instrument
325 of 1968

Order by the Minister

- | | |
|--|-----------------------------------|
| 1. This Order may be cited as the Patent Office (Establishment) Order. | Title |
| 2. The Patent Office is hereby established at the place described in the Schedule. | Establishment of
Patent Office |

The Laws of Zambia

SCHEDULE
(*Paragraph 2*)

The Fourth Floor of the old Bank of Zambia Building situated at plot no. 9-10 Cairo Road, Lusaka.

THE PATENTS REGULATIONS

ARRANGEMENT OF REGULATIONS

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PRELIMINARY

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2. Interpretation

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5. Cognate application
6. Division of application if not cognate
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EXAMINATION OF APPLICATIONS AND ACCEPTANCE
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SUBSTITUTION OF APPLICANTS, ETC.

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SEALING AND FORM OF PATENT AND RENEWAL FEES

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RESTORATION OF LAPSED PATENTS

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VOLUNTARY ENDORSEMENT OF PATENTS "LICENCES OF RIGHTS"

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COMPULSORY LICENCES

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DIRECTIONS TO CO-OWNERS

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DISPUTES AS TO INVENTIONS MADE BY EMPLOYEES

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REGISTER OF PATENTS

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*Federal Government
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203 of 1962

Act 57 of 1964

Statutory Instruments

497 of 1964

38 of 1981

147 of 1990

54 of 1995

Act No.

13 of 1994

PART I PRELIMINARYPART I

PRELIMINARY

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

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"agent" means a patent agent registered as such in terms of section *sixty-eight*, and includes a legal practitioner;

"Office" means the Patent Office;

"section" means a section of the Act;

"Court" means the High Court

PART II APPLICATION FOR PATENTS AND SPECIFICATIONS

APPLICATION FOR PATENTS AND SPECIFICATIONS

3. (1) An application, other than a convention application, shall be made in Form No. 1.

Appropriate application forms to be used

(2) A convention application shall be made in Form No. 2.

(3) An application for a patent of addition shall be made in Form No. 3.

(4) An application in terms of subsection (2) of section *thirty-one* for the grant of a patent of addition instead of an independent patent shall be made in Form No. 4.

(5) Every application (other than a convention application) shall be accompanied by either a provisional specification in duplicate in Form No. 5 or a complete specification shall be accompanied in Form No. 6; and every convention application shall be accompanied by a complete specification in duplicate in Form No. 6.

4. An application for a patent by an assignee or the legal representative of a person who was the owner of an invention when he died shall be accompanied by the deed of assignment or the probate of the will of the deceased or the letters of administration, as the case may be, or a certified copy thereof, and such further evidence and proof of the applicant's title as the Registrar may require.

Assignee or legal representative to establish right to act

5. Where, in pursuance of subsection (3) of section *thirteen*, the Registrar allows a single complete specification to be proceeded with in respect of two or more applications in respect of which two or more complete specifications have been lodged, the single complete specification may include any matter disclosed in any of the said specifications and shall be deemed to have been lodged on such date, not earlier than the earliest date on which all the matter disclosed in the said single complete specification has been disclosed to the Office in or in connection with the applications, as the Registrar may direct.

Cognate application

6. Where a complete specification has been lodged pursuant to two or more applications accompanied by provisional specifications for inventions which the applicant believes to be cognate or modifications one of another and the Registrar is of the opinion that such inventions are not cognate or modifications one of another, the Registrar may allow the complete specification to be divided into such number of complete specifications as may be necessary to enable the applications to be proceeded with as two or more separate applications for patents.

Division of application if not cognate

7. (1) In addition to the specification lodged with every convention application, there shall be lodged with the application, or within six months thereafter, a copy of the specification and drawings or documents lodged in respect of the relevant first application or applications for protection in a convention country, duly certified by the official chief or head of the patent office of the convention country, or otherwise verified to the satisfaction of the Registrar.

Evidence in support of convention application

(2) If any specification or other document relating to the application is in a foreign language, it shall be accompanied by a translation thereof in the English language verified to the satisfaction of the Registrar.

8. Where a single convention application has been made in respect of all or part of the inventions in respect of which two or more applications for protection have been made in one or more convention countries, the Registrar may, if he is satisfied that the claims of the specification lodged with the said convention application relate to more than one invention, allow one or more further applications to be lodged and the specification to be divided into such number of specifications as may be necessary to enable two or more separate convention applications to be proceeded with, and may direct that the said applications be deemed to have been lodged on the date of lodging of the original application.

Division of convention application

9. A request in terms of subsection (2) of section *thirteen* for an extension of time for lodging a complete specification shall be made in Form No. 7.

Extension of period for lodging complete specification

10. A request in terms of subsection (1) of section *seventeen* for the post-dating of an application shall be made in Form No. 8.

Request for post-dating an application

PART III DRAWINGS PART III

DRAWINGS

11. Drawings, when supplied, shall accompany the provisional or complete specification to which they refer, except in the case provided for by regulation 18. A true copy of the original drawings shall be lodged at the same time as the original drawings.

When supplied, drawings to accompany specification

12. (1) Drawings shall be made on pure white tough drawing paper, not thinner than 100 sheets to the inch, of smooth surface and good quality, and without colour or washes, in such a way as to admit of being clearly reproduced on a reduced scale by photography.

Drawing paper

(2) Mounted drawings may not be used.

13. (1) Drawings shall be on sheets which measure 13 inches from top to bottom and are either 8 inches or 16 inches wide, and shall be made on one side of the paper only and have 1 1/2 inches clear binding margin on the left-hand side of the sheet and a 1/2 inch clear margin on the top, bottom and right-hand side of the sheet.

Size of sheets, etc.

(2) If there are more figures than can be shown on one of the smaller sized sheets, two or more of these sheets shall be used unless the large size is required by the size of any one figure.

(3) An exceptionally large figure may be continued on subsequent sheets.

(4) No more sheets shall be employed than are necessary.

(5) The figures shall be numbered consecutively without regard to the number of sheets, and shall as far as possible be arranged in numerical order, separated by a sufficient space to keep them distinct.

(6) Where figures on a number of sheets form in effect a single complete figure, they shall be so arranged that the complete figure can be assembled without concealing any part of another figure.

14. Drawings shall be prepared in accordance with the following requirements:

Preparation of drawings

- (a) they shall be executed in durable black or very dark markings;
- (b) each line shall be firmly and evenly drawn, sharply defined, and of the same strength throughout;
- (c) section lines, lines for effect, and shading lines shall be as few as possible, and shall not be closely drawn;
- (d) shading lines shall not contrast excessively in thickness with the general lines of the drawing;
- (e) sections and shading shall not be represented by solid black or washes;
- (f) they shall be on a scale sufficiently large to show the invention clearly, and only so much of the apparatus, machine or article may appear as effects this purpose;
- (g) if the scale is given, it shall be drawn and not denoted by words, and no dimensions may be marked on the drawings;
- (h) where convenient, the figures shall be drawn in an upright position in regard to the top and bottom of the sheet;
- (i) subject to any special directions of the Registrar in any particular case, reference letters and numerals and index letters and numerals used in conjunction therewith shall be bold, distinct and not less than 1/8 inch in height; the same letters or numerals shall be used in different views of the same parts; and where the reference letters or numerals are shown outside the parts referred to, they shall be connected with the said parts by fine lines.

15. (1) Drawings shall bear-

Identification of drawings

- (a) in the left-hand top corner the name of the applicant and, in the case of drawings lodged with a complete specification after one or more provisional specifications, the numbers and years of the applications;
- (b) in the right-hand top corner the number of sheets of drawings sent and the consecutive number of each sheet, and the words "original" or "true copy", as the case may require;

(c) in the right-hand bottom corner the signature of the applicant or his agent.

(2) The title of the invention shall not appear on the drawings.

16. (1) No descriptive matter shall appear on constructional drawings, but drawings in the nature of flow sheets may bear descriptive matter to show the materials used and the chemical or other reactions or treatments effected in carrying out the invention. Descriptive matter

(2) Drawings showing a number of instruments or units of apparatus and their interconnections, either mechanical or electrical, where each such instrument or unit is shown only symbolically, may bear such descriptive matter as is necessary to identify the instruments or units or their interconnections.

(3) Such descriptive matter shall be in black or very dark markings on both the original and the true copy drawings and on the latter the letters shall be not less than 1/4 inch in height.

(4) No drawing or sketch, other than a graphic chemical formula or a mathematical formula, symbol or equation, shall appear in the verbal part of the specification and if such a formula, symbol or equation is used therein a copy thereof, prepared in the same manner as original drawings, except that it may be a hand-made drawing on tracing-cloth, shall be furnished if the Registrar so directs.

17. Drawings shall be delivered at the Office free from folds, breaks or creases which would render them unsuitable for reproduction by photography. Drawings not to be creased

18. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings or part of the drawings for his complete specification, he shall refer to them in the complete specification as those lodged with the provisional specification. Drawings lodged with provisional specification

PART IV EXAMINATION OF APPLICATIONS AND ACCEPTANCE OF COMPLETE SPECIFICATIONS

EXAMINATION OF APPLICATIONS AND ACCEPTANCE OF COMPLETE SPECIFICATIONS

19. (1) When the Registrar, in making the investigation under section *sixteen*, finds that the application or specification does not comply with the requirements of subsection (1), the Registrar may refuse to accept the application or require the application or the specification which accompanied it to be amended in such manner as may be necessary. Examination procedure under section 16

(2) The Registrar may appoint a hearing if he considers it desirable to do so, having regard to the time remaining for putting the application in order or other circumstances of the case.

(3) When a hearing is appointed, the applicant shall be given fourteen days' notice of the appointment or such shorter notice as appears to the Registrar to be reasonable in the circumstances and shall as soon as possible notify the Registrar whether he will attend the hearing.

(4) After hearing the applicant, or without a hearing if the applicant has not attended or has notified that he does not desire to be heard, the Registrar may direct or permit such amendment of the specification as will be to his satisfaction, and may refuse to accept the specification unless such amendment is made within such period as he may fix.

20. An application under section *twenty* for extension of time for accepting a complete specification shall be given in Form No. 9. Extension of time under section 20

21. A notice under the proviso to subsection (1) of section *twenty-one* requesting postponement of the acceptance of a complete specification to a date, not being later than eighteen months from the date of lodging of the application, shall be given in Form No. 10. Extension of time under section 21

22. (1) When notice of acceptance of a complete specification has been given by the Registrar in terms of subsection (2) of section *twenty-one*, the applicant shall advertise the acceptance in the *Patent Journal* within one month of the date of such acceptance or within such further time as the Registrar may allow. Publication of acceptance

(2) At any time prior to the publication of the acceptance of a complete specification the Registrar may, if he thinks fit, on application made in Form No. 11, cancel such acceptance.

(As amended by F.G.N. No. 55 of 1960)

23. The fee for inspecting an application, specification and drawings shall be as set out in item 49 of the First Schedule. Inspection of application, specification and drawings

PART V OPPOSITION TO GRANT OF PATENTPART V

OPPOSITION TO GRANT OF PATENT

24. A notice of opposition to the grant of a patent shall be given in Form No. 12. Notice of opposition

- 25.** The period within which a counter-statement may be lodged by the applicant shall be two months from the date of receipt by him of the notice of opposition. If such counter-statement is not lodged within the said period or within such further period as the Registrar may allow, the application shall be deemed to be abandoned. Counter-statement
- 26.** The objector may, within two months from the receipt of the copy of the counter-statement, file evidence in accordance with the provisions of section *sixty-five* in support of his case and shall serve on the applicant a copy thereof. Filing of evidence by objector
- 27.** Within two months from the receipt of the copy of the objector's evidence or, if the objector does not file any evidence, within two months from the expiration of the time within which the objector's evidence might have been filed, the applicant may file evidence in accordance with the provisions of section *sixty-five* in support of his case and shall serve on the objector a copy of the evidence; and within two months from the receipt of the copy of the applicant's evidence, the objector may file evidence confined to matters strictly in reply and shall serve on the applicant a copy of the evidence. Filing of evidence by applicant
- 28.** The Registrar may extend the periods mentioned in regulations 25, 26 and 27 if a request in writing for such extension is made at any time within the said periods or extended periods. Extension of time under regulations 25, 26 and 27
- 29.** Proof of service of all notices, statements or other documents referred to in these Regulations shall be furnished to the Registrar. Proof of service of notices, statements, etc.
- 30.** (1) When the foregoing provisions of this Part have been complied with, the Registrar shall hand all relevant papers to the registrar of the High Court. Supply of documents, etc., to High Court
- (2) Copies of all documents, other than specifications, referred to in the notice of opposition or in any statement or evidence filed in connection with the opposition shall be furnished for the use High Court, unless the High Court otherwise directs.

PART VI SUBSTITUTION OF APPLICANTS, ETC.PART VI

SUBSTITUTION OF APPLICANTS, ETC.

- 31.** (1) A claim under subsection (1) of section *twenty-three* that an application for a patent shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants shall be made in Form No. 13 and shall be accompanied by a copy of any assignment or agreement upon which the claim is based, which copy shall be certified by the claimant, the applicant or the agent of either of them, as the case may be. Procedure under subsection (1) of section 23

(2) If so required by the Registrar, the original assignment or agreement shall also be produced for his inspection and he may also call for such other proof of title or written consent as he may require.

32. (1) An application under subsection (5) of section *twenty-three* by any party to a joint application for the directions of the Registrar as to the name of the party, or the manner in which an application for a patent shall be proceeded with, shall be made in Form No. 14 and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks.

Procedure under subsection (5) of section 23

(2) A copy of the application and statement shall be sent by the Registrar to each other joint applicant (the applicant shall supply a sufficient number of copies for that purpose) and thereafter the Registrar shall appoint a time for the hearing of the case and shall give the parties at least fourteen days' notice of the appointment.

(3) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall in accordance with the provisions of subsection (5) of section *twenty-three* give directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties or for regulating the manner in which it shall be proceeded with or for both those purposes, according as the case may require.

PART VII SEALING AND FORM OF PATENT AND RENEWAL FEESPART VII

SEALING AND FORM OF PATENT AND RENEWAL FEES

33. An application for the sealing of a patent shall be made in Form No. 15.

Request for sealing

34. (1) An application for an extension of time under proviso (iv) to subsection (2) of section *twenty-five* shall be made in Form No. 16 and the period of extension shall not exceed three months.

Time for sealing under subsection (2) of section 25

(2) An application under proviso (v) to subsection (2) of section *twenty-five* for a further extension of time shall be made in Form No. 17.

35. A patent shall be in the form set out in the Second Schedule or in such form modified as directed by the Registrar to meet the circumstances.

Form of patent

36. An application under section *twenty-six* for the amendment of a patent shall be made in Form No. 18 and shall be accompanied by evidence verifying the statements therein and by the letters patent.

Amendment of patent

The Laws of Zambia

37. If it is desired at the expiration of the third year of the term of a patent or of any succeeding year during the term of the patent to keep the patent in force, the renewal fees set out in item 18 of the First Schedule shall be paid by lodging Form No. 19 before the expiration of that year:

Payment of renewal fees

Provided that where the sealing of the patent is delayed beyond the periods set out herein, by reason of opposition or the application having been kept secret or an extension under proviso (v) to subsection (2) of section *twenty-five* having been granted, the renewal fees may be paid at the time the patent is sealed. The Registrar may in his discretion grant an extension of time not exceeding six months from the date of sealing for payment of such fees.

(As amended by F.G.N. No. 206 of 1959
and F.G.N. No. 363 of 1960)

38. All or any of the prescribed renewal fees may be paid in advance.

Renewal fees may be paid in advance

39. An application for extension of time for payment of any renewal fee shall be made in Form No. 20.

Extension of time for payment

40. On due compliance with the terms of regulation 37, the Registrar shall issue a certificate in Form No. 21 that the prescribed fee has been duly paid, and he shall cause to be entered in the register the fact that the fee has been paid and the date of payment as stated on the certificate.

Certificate of payment

PART VIII RESTORATION OF LAPSED PATENTSPART VIII

RESTORATION OF LAPSED PATENTS

41. (1) An application under section *thirty-three* for the restoration of a patent shall be made in Form No. 22 and shall be accompanied by evidence by affidavit in support of the statements made in the application.

Application

(2) The Registrar shall direct the patentee to advertise the application (if in compliance with subsection (2) of section *thirty-three*) in two consecutive issues of the *Patent Journal*.

(As amended by F.G.N. No. 206 of 1959 and F.G.N. No. 55 of 1960)

42. (1) At any time within two months of the advertisement of the application, any person may give notice of opposition thereto in Form No. 23.

Notice of opposition

(2) Such notice shall be accompanied by a copy thereof together with a statement, in duplicate, setting out fully the nature of the objector's interest and the facts upon which he relies.

(3) Upon notice of opposition being given, the provisions of regulation 25 to 29 shall *mutatis mutandis* apply in respect of the proceedings held before the Registrar under section *thirty-three*.

43. (1) On completion of the evidence (if any), or at such other time as the Registrar may see fit, the Registrar shall appoint a time for the hearing of the application and shall give the parties at least fourteen days' notice of the appointment. Hearing

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall decide the matter and notify his decision to the parties.

PART IX VOLUNTARY ENDORSEMENT OF PATENTS "LICENCES OF RIGHT"PART IX

VOLUNTARY ENDORSEMENT OF PATENTS "LICENCES OF RIGHT"

44. An application under subsection (1) of section *thirty-five* for endorsement of a patent "licences of right" shall be made in Form No. 24 and shall be accompanied by evidence verifying the statement in the application and by the letters patent. Application under subsection (1) of section 35

45. (1) An application under paragraph (a) or (b) of subsection (2) of section *thirty-five* for settlement of the terms of a licence under a patent endorsed "licences of right" shall be made in Form No. 25 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the applicant relies and the terms of the licence which he is prepared to accept or grant. Application under subsection (2) of section 35

(2) A copy of the application and statement shall be sent by the Registrar to the patentee or the person requiring a licence, as the case may be, who, if he does not agree to the terms set out in the statement, shall within two months of the receipt of such copies file a counter-statement setting out fully the grounds of the objection and serve a copy thereof on the applicant.

(3) The Registrar shall give such directions as he may think fit with regard to the filing of evidence and the hearing of the parties.

46. Upon the endorsement of a patent in terms of section *thirty-five*, the Registrar shall direct the applicant to publish notification thereof forthwith in the *Patent Journal*. Advertisement of endorsement

(As amended by F.G.N. No. 55 of 1960)

47. An application under subsection (1) of section *thirty-six* for the cancellation of an endorsement shall be made in Form No. 26 and shall be accompanied by evidence verifying the statement in the application and by a memorandum in Form No. 19 with fees to the amount of the balance of all renewal fees which would have been payable if the patent had not been endorsed. Cancellation of endorsement under subsection (1) of section 36

48. (1) An application under subsection (2) of section *thirty-six* for the cancellation of an endorsement shall be made in Form No. 27 within six months after the patent has been endorsed and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the nature of the applicant's interest and the facts upon which he relies. Cancellation of endorsement under subsection (2) of section 36

(2) The period within which renewal fees shall be paid on cancellation of an endorsement in terms of subsection (3) of section *thirty-six* shall be one month from the date of cancellation.

49. (1) Every application under subsection (1) or (2) of section *thirty-six* shall be advertised by the applicant in the *Patent Journal* and the period within which notice of opposition to the cancellation of an endorsement may be given under subsection (5) of section *thirty-six* shall be two months after the advertisement. Advertisement and opposition

(2) Such notice shall be given in Form No. 28 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the opponent relies, and, in the case of opposition to an application under subsection (1) of section *thirty-six*, the nature of his interest.

(3) A copy of the notice and of the statement shall be sent by the Registrar to the applicant for cancellation of the endorsement and thereafter the Registrar shall appoint a time for the hearing of the application and shall give the parties at least fourteen days' notice of the appointment.

(4) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall give such decision on the application as he may consider just.

(As amended by F.G.N. No. 55 of 1960)

PART X COMPULSORY LICENCESPART X

COMPULSORY LICENCES

50. An application under section *thirty-seven* for a licence under a patent shall be made in Form No. 29. Application under section 37

51. (1) If upon consideration of the evidence the Registrar is satisfied that the application falls within section *thirty-seven*, he shall direct the applicant to serve copies of the application and of the relevant affidavit upon the patentee and upon any other person appearing from the register to be interested in the patent and to advertise the application in one issue of the *Patent Journal* in such form as he may approve. Preliminary consideration by Registrar

(2) If the Registrar is not so satisfied, he shall notify the applicant accordingly and, unless within one month the applicant requests to be heard in the matter, the Registrar shall refuse the application.

(As amended by F.G.N. No. 55 of 1960)

52. (1) At any time within two months from the date of the advertisement, or within such further time as the Registrar may allow, the patentee or any other person who wishes to oppose the application shall deliver to the Registrar a counter-statement, verified by affidavit, setting out fully the grounds on which the application is opposed, and shall at the same time serve upon the applicant a copy of the counter-statement and of such affidavit. Opposition

(2) Proof of service shall be furnished to the satisfaction of the Registrar.

53. When the foregoing provisions of this Part have been complied with, the Registrar shall hand all relevant papers to the registrar of the High Court. Supply of documents, etc., to High Court

PART XI AMENDMENT OF SPECIFICATIONPART XI

AMENDMENT OF SPECIFICATION

54. (1) An application for leave to amend a provisional specification or a complete specification which has not been accepted, except when the amendment is made to meet an objection by the Registrar, shall be made in Form No. 30. Application to amend unaccepted specification

(2) The Registrar shall, if he thinks fit, appoint a time for a hearing of the application and shall give the applicant at least twenty-one days' notice of such appointment. If the applicant desires to be heard he must, not later than seven days prior to the date of the hearing or within such further time as the Registrar may allow, notify the Registrar to that effect.

(3) After hearing the applicant or, if the applicant does not desire to be heard, then without a hearing, the Registrar shall decide the case and notify his decision to the applicant.

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55. An application for leave to amend an accepted complete specification shall be made in Form No. 31 and the application and the nature of the proposed amendment shall be advertised by the applicant in the *Patent Journal* in the manner provided for in Form No. 32.

Application to amend accepted complete specification

(As amended by F.G.N. No. 55 of 1960)

56. An application for leave to amend a specification shall be accompanied by a copy, certified by the applicant or his agent, of the original specification, or of those pages of specification or drawings in which the proposed amendment appears, clearly showing in red ink the amendment sought.

Certified copy of original specification to accompany application

57. (1) Any person wishing to oppose an application for amendment under regulation 55 shall give notice to the Registrar in Form No. 33.

Opposition

(2) Such notice shall be accompanied by a statement setting out fully the nature of the objector's interest, the facts upon which he relies and the relief he seeks.

(3) A copy of the notice and of any statement which accompanies such notice shall be served by the objector on the applicant.

(4) Upon notice of opposition being given, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply in respect of the proceedings held before the Registrar under section *forty-three*.

58. (1) When leave to amend a specification is given the applicant shall, if the Registrar so requires and within a time to be fixed by him, lodge a new specification and drawings as amended.

New specification and drawings as amended may be required

(2) Where an application for leave to amend a specification is made pursuant to an order of the High Court, such application shall be accompanied by a copy of such order certified by the registrar of or the High Court the Supreme Court, as the case may be.

PART XII DIRECTIONS TO CO-OWNERSPART XII

DIRECTIONS TO CO-OWNERS

59. (1) An application for directions under subsection (6) of section *forty-seven* by any one or more of the proprietors of a patent shall be made in Form No. 34 and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks.

Application under subsection (6) of section 47

(2) A copy of the application and of the statement shall be sent by the Registrar to each of the other proprietors of the patent, and the applicant shall supply a sufficient number of copies for that purpose.

(3) Thereafter the Registrar shall appoint a time for the hearing of the case and shall give the parties at least fourteen days' notice of the appointment.

(4) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall give directions in accordance with the provisions of subsection (6) of section *forty-seven*.

60. (1) An application for directions under subsection (7) of section *forty-seven* shall be made in Form No. 35 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the applicant relies and the directions which he seeks.

Application under subsection (7) of section 47

(2) A copy of the application and of the statement shall be sent by the Registrar to the person in default.

(3) Thereafter the provisions of sub-regulations (3) and (4) of regulation 59 shall apply.

PART XIII DISPUTES AS TO INVENTIONS MADE BY EMPLOYEESPART XIII

DISPUTES AS TO INVENTIONS MADE BY EMPLOYEES

61. (1) An application under subsection (1) of section *forty-eight* to determine a dispute as to rights in respect of an invention or in respect of a patent granted or to be granted in respect thereof shall be made in Form No. 36 and shall be accompanied by a copy thereof together with a statement, in duplicate, setting out fully the facts of the dispute and the relief which is sought.

Application under subsection (1) of section 48

(2) A copy of the application and of the statement shall be sent by the Registrar to the other party to the dispute, who within three months after receipt thereof shall file a counter-statement, in duplicate, setting out fully the grounds on which he disputes the right of the applicant to the relief sought.

(3) The Registrar shall send a copy of this counter-statement to the applicant and thereafter, subject to such directions as the Registrar may think fit to give, the provisions of regulations 26 to 29 shall *mutatis mutandis* apply in respect of proceedings held before the Registrar, and references to the objector shall be substituted for references to the applicant and references to the applicant for references to the other party.

62. (1) Should the Registrar decide to hear the application, he shall thereafter appoint a time for the hearing and shall give the parties at least fourteen days' notice of the appointment. Hearing

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall determine the matter in dispute and make such orders for giving effect to his decision as he considers expedient.

PART XIV SURRENDER OF PATENTPART XIV

SURRENDER OF PATENT

63. A notice of an offer by a patentee under section *fifty-two* to surrender his patent shall be given in Form No. 37 and shall be advertised by the patentee in one issue of the *Patent Journal* . Form of offer to surrender a patent

(As amended by F.G.N. No. 55 of 1960)

64. (1) At any time within two months from such advertisement, any person may give notice of opposition to the Registrar in Form No. 38, which shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the nature of the opponent's interest, the facts upon which he relies and the relief which he seeks. Opposition

(2) A copy of the notice and of the statement shall be sent by the Registrar to the patentee.

(3) Upon such notice of opposition being given and a copy thereof sent to the patentee, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply and references to the patentee shall be substituted for references to the applicant.

PART XV REGISTER OF PATENTSPART XV

REGISTER OF PATENTS

65. (1) In addition to the particulars referred to in the Act, the Registrar shall cause to be entered in the register the name, address and nationality of the patentee as the grantee thereof, the title of the invention, the date of the patent and the date of the sealing thereof, together with the full postal address for service.

Register to record grant of patents

(2) The Registrar may at any time enter in the register such other particulars as he may deem necessary.

66. (1) A request by a patentee for the alteration of a name, nationality, address, or address for service entered in the register in respect of his patent shall be made in Form No. 39.

Alteration of entries

(2) Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alteration as he may think fit.

(3) If the Registrar is satisfied that the request may be allowed, he shall cause the register to be altered accordingly.

67. (1) An application for the registration of the title of any person becoming entitled by assignment to a patent or to a share in a patent shall be made in Form No. 40 by the person becoming so entitled.

Registration of assignments, etc.

(2) Application may be made in Form No. 41 for entry in the register of notification of an interest by way of mortgage, licence or otherwise.

68. (1) A copy of any document which is referred to in an application under regulation 67, duly certified to the satisfaction of the Registrar, shall be produced to the Registrar with the application.

Copies of documents

(2) Unless the Registrar otherwise directs, the original of any other document so referred to shall be produced to him with the application, and a certified copy of any such document shall be lodged therewith, and such original document shall be returned to the person who produced it.

69. A request under section *fifty-nine* for the correction of a mistake in the register, in any patent, or application for a patent or any document lodged in pursuance of such application, or in proceedings in connection with any patent, shall be made in Form No. 42.

Correction of errors

70. Where the Registrar requires notice of the nature of the proposed correction to be advertised in terms of subsection (4) of section *fifty-nine*, the advertisement shall be made by publication in the *Patent Journal* of the request and the nature of the proposed correction.

Advertisement

(As amended by F.G.N. No. 55 of 1960)

71. (1) Where such application is advertised in terms of regulation 70, notice of opposition may at any time within two months from the date of publication be given in Form No. 43.

Opposition

(2) Upon notice of opposition being given, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply in respect of the proceedings held before the Registrar under section *fifty-nine*.

72. Copies of any entry in the register, or copies of, or extracts from, patents, specifications and other public documents in the Office, or of or from registers and other records kept there, certified by the Registrar, may be furnished by the Registrar on payment of the fees prescribed in the First Schedule.

Certified copies of entries, etc.

73. An application under section *sixty-three* for a further patent to be sealed shall be made in Form No. 44 and shall be accompanied by evidence setting out fully and verifying the circumstances in which the patent was lost or destroyed or cannot be produced.

Lost patents

PART XVI PATENT AGENTS PART XVI

PATENT AGENTS

74. An application to be registered as a patent agent in terms of subsection (2) of section *sixty-eight* shall be-

Application for registration

- (a) made by affidavit on Form No. 45 sworn before a commissioner for oaths;
- (b) accompanied by-
 - (i) documentary proof that the applicant is entitled to be registered;
 - (ii) the appropriate fee.

(F.G.N. No. 203 of 1962)

PART XVII MISCELLANEOUSPART XVII

MISCELLANEOUS

75. The fees to be paid in respect of the grant of patents and applications therefor and in respect of other matters relating to patents arising under the Act shall be those prescribed in the First Schedule. Prescribed fees

76. The forms set out in the Third Schedule shall be used in all cases to which they are applicable and may be modified as directed by the Registrar. Prescribed forms

77. (1) All documents and copies of documents, except drawings, lodged at the Office shall, unless the Registrar otherwise directs, be written, typewritten, lithographed or printed in the English language- Size, etc., of documents

- (a) upon strong white paper of a size approximately 13 inches by 8 inches, leaving a margin of at least 1 1/2 inches on the left-hand part thereof;
- (b) in legible characters with a dark, indelible ink;
- (c) with the lines widely spaced;
- (d) except in the case of affidavits, on one side only.

(2) Duplicates of any documents shall at any time be lodged, if required by the Registrar.

(3) Duplicate documents required under these Regulations may be carbon copies of the original documents:

Provided that they shall be on paper of good quality and the typing shall be black and distinct.

78. Every person concerned in any proceedings to which these Regulations relate, and every patentee, shall furnish to the Registrar an address for service in Zambia and that address may be treated for all purposes connected with such proceedings or patent as the address of the person concerned in the proceedings or the patentee. Address for service

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79. (1) Where any notice, application or other document is required to be served on any person under the provisions of the Act, such service may be effected by the delivery of a copy thereof either-

Method and proof of service

- (a) at the address for service furnished to the Registrar in terms of these Regulations; or
- (b) to such person personally, or to his duly authorised agent; or
- (c) at his residence or place of business or employment, to some responsible person there residing or employed.

(2) Service effected by any person in accordance with the provisions of this regulation shall be proved by a certificate made in Form No. 46 and such certificate shall be filed with the Registrar.

80. Any notice, application or other document sent to the Office by post shall not be deemed to have been given, made or lodged until it is actually received in the Office.

Lodging of documents

81. The Registrar may in any proceedings held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.

Power of Registrar to fix time and place of proceedings

82. (1) Any application, request or notice which is required or permitted under this Act to be made or given to the Registrar, and all other communications between an applicant or a person making a request or giving a notice and the Registrar, and between the patentee and the Registrar or any other person, may be signed, made or given by or through an agent:

Agency

Provided that the Registrar is satisfied that the agent has been duly authorised so to act on behalf of such applicant, person or patentee.

(2) No power of attorney or any form of authorisation need be filed at the Office or exhibited to the Registrar in connection with any matter or proceeding under these Regulations unless the Registrar otherwise directs.

83. The Registrar may refuse to recognise as agent in respect of any proceedings under this Act a person who neither resides nor maintains a place of business in Zambia.

Refusal to recognise agent

84. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and may be signed by a partner, or by any other person who satisfies the Registrar that he is authorised to sign the document.

Signature of documents

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document.

85. Any document lodged in any proceedings before the Registrar may, if the Registrar thinks fit, be amended, and any irregularity in procedure may be rectified on such terms as he may direct.

Amendment of documents

86. (1) Where, under these Regulations, any person is required to do any act or thing, or any document or evidence is required to be produced or lodged, the Registrar may, upon the production of such evidence and subject to such terms and conditions as he thinks fit, modify or dispense with the doing of the act or thing or the production or lodging of the document or evidence if he is satisfied that it is reasonable so to do.

Power of Registrar to waive requirements

(2) The Registrar may allow an application for a patent or a provisional or complete specification, although not in accordance with these Regulations, to be left on such terms and conditions as he thinks fit, modify or dispense with the doing of the act or thing or the production or lodging of the document or evidence if he is satisfied that it is reasonable so to do.

(2) The Registrar may allow an application for a patent or a provisional or complete specification, although not in accordance with these Regulations, to be left on such terms and conditions as he thinks fit. In any such case the Registrar shall require the applicant to comply with these Regulations within the time specified by him. Until the prescribed requirements are complied with, no further action shall be taken by the Registrar in respect of the application.

87. (1) Where an order relating to a patent has been made by the Supreme Court or by the High Court, the person in whose favour such order has been made shall forthwith file at the Office an office copy of such order together with an application in Form No. 47.

Order of Supreme Court or High Court

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

88. The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in item 47 of the First Schedule, every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays.

Days and hours of business

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FIRST SCHEDULE
(Regulation 75)

TARIFF OF FEES PAYABLE TO THE REGISTRAR OF PATENTS
WITH EFFECT FROM 1ST MAY, 1995

The Laws of Zambia

The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

Item	Matter or Proceeding	Amount Payable by Local Firms, Corpora- tions and Individuals	Amount Payable by Foreign Firms, Corporations and Individuals	Corre- spond- ing Form No.
		Fee units	US\$	
1.	On application for a patent (Non-convention)	20,0	100.00	1
2.	On convention application, in respect of each application for protection in a convention country	20,0	100.00	2
3.	On application for a patent of addition	20,0	100.00	3
4.	On application for grant of a patent of addition of an independent patent	40,0	150.00	4
5.	On lodging specification-			
	(i) provisional	5,0	10.00	5
	(ii) complete	10,0	15.00	6
6.	For extension of the period for lodging complete specification	2,0	5.00	7
7.	On request for post-dating of an application under section 17 (1)	2,0	5.00	8
8.	On request for extension of time under section 20, where the extension requested-			
	(i) does not exceed one month	2,0	5.00	9
	(ii) exceeds one month but does not exceed two months	4,0	10.00	9
	(iii) exceeds two months	12,0	20.00	9
9.	For each extension of time under section 21	2,0	5.00	10
10.	On application for withdrawal of acceptance	2,0	5.00	11
11.	On notice of opposition to grant of patent by objector	5,0	7.00	12
12.	On a claim under section 23 (1) for application to proceed in name of claimants	2,0	5.00	13
13.	On application for directions under section 23 (5)	10,0	15.00	14
14.	On request for sealing of a patent (grant and publication fee)	50,0	200.00	15
15.	On application for extension of the period for requesting the sealing of a patent under paragraph (iv) of the proviso to section 25 (2), where the extension requested-			
	(i) does not exceed one month	2,0	5.00	16
	(ii) exceeds one month but does not exceed two months	4,0	10.00	16
	(iii) exceeds two months	12,0	15.00	16
16.	On application for extension of the period for requesting the sealing of a patent under paragraph (v) of the proviso to section 25 (2), where the extension requested-			
	(i) does not exceed one month	2,0	5.00	17
	(ii) exceeds one month-for each month after the first	2,0	5.00	17
17.	On application under section 26 for amendment			

The Laws of Zambia

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SECOND SCHEDULE
(Regulation 35)

FORM OF PATENT

KENNETH DAVID KAUNDA, President of the Republic of Zambia: To all whom these presents shall come, Greeting:

WHEREAS
(hereinafter called the patentee) has, pursuant to the Patents Act, made application for

Letters Patent for an invention for
and has made a declaration that he is the owner of that invention and that there is no lawful ground of objection to the grant of a patent to him and has by a complete specification fully described and ascertained the said invention.

NOW THEREFORE, the patentee is granted full power, sole privilege, and authority that the patentee by himself, his agent, or licensees, and no others, may at all times hereafter during the term herein mentioned make, use, exercise, and vend the said invention within the Republic of Zambia in such manner as to him seems meet, and the 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 Sixteen Years from.....

PROVIDED ALWAYS that these Letters Patent shall be granted subject to the provisions of the said Act.

IN WITNESS WHEREOF these Letters Patent have been sealed as of the
day of one thousand nine hundred and

Dated this day of 19

Seal of Patent Office

.....
Registrar of Patents

The Laws of Zambia

THIRD SCHEDULE
(Regulation 76)

PRESCRIBED FORMS

The Laws of Zambia

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The Laws of Zambia

The Laws of Zambia
REPUBLIC OF ZAMBIA

PATENTS FORM NO. 1

Sections 11, 12
Regulation 3 (1)

THE PATENTS ACT

Fee units: 24

APPLICATION FOR A PATENT (NON-CONVENTION)

I/We (1) (1) State name & address of applicant

..... (2) Declaration of inventorship

being a national/nationals of
do hereby declare that I am/we are the owner(s) of an invention in respect of the Republic of Zambia (2) by having invented it/by having acquired it by assignment, which invention is described in the accompanying (2) provisional/complete specification under the title (3) Her title of invention

that (2) I am/we are the assignee(s)/legal representative(s) of (4) (4) Her name(s) of inventor

who claim(s) to be the inventor(s) thereof, and that to the best of my/our knowledge and belief there is no lawful ground of objection to the grant of a patent to me/us on this application and I/we pray that a patent may be granted to me/us for the invention.

Dated this day of, 19

(5) (5) To be signed by applicant or his/their agent

My/Our address for service in Zambia:
.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 2

Sections 8, 11, 12
Regulation 3 (2)

THE PATENTS ACT

Fee units: 24

CONVENTION APPLICATION FOR A PATENT

(This is a comprehensive form and points inappropriate to a particular application should be deleted)

I/We (1) (1) Sta
name &
address
applica

being a national/nationals of (2) Del
do hereby declare that I am/we are the owner(s) of an invention in respect of the Republic of Zambia (2) by having not ap
invented it/by having acquired it by assignment, which invention (3) Her
title of
is entitled (3) inventi

..... (4) Her
and which invention is described in the accompanying complete specification, and that (2) name(s)
I am/we are the assignee(s)/legal representative(s) of (4) invent

.....
who claim(s) to be the inventor(s) thereof; that an application or applications for
protection for the invention or inventions has or have been made in the following country or countries and on the following
effective date or dates, namely:

in (5) on (6) (5) Her
numbered (7) the nar
in (5) on (6) the cor
numbered (7) country
in (5) on (6) which t
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in (5) on (6) (6) Her
numbered (7) the offi
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applic
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country

The Laws of Zambia

country/countries qualify under (8) Article 2/3 of the Convention by reason of being (8) a national of/
domiciled in/having a place of business in a member state, namely
....., and that I/we qualify under the said (8)
Article 2/3 by reason of being (8) a national of/domiciled in/having a place of business in
a member state, namely
and that to the best of my/our knowledge and belief there is no lawful ground of objection to the grant of a patent to me/us
on this application and that I/we pray that a patent may be granted to me/us for the invention in priority to other applicants,
and that such patent shall
have the date (6)
and (8) I/we declare the said invention(s) is/are an improvement in or modification of

(7) Her
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(8) Del
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my/our invention for which a patent was applied for/granted under No. (9)
....., and (8) I/we pray that a patent may be granted to me/us
for the said invention(s) as a patent of addition and request that the term of such further patent may be the same as that of
the patent for the main invention or so much of that term as is unexpired.

(9) Inse
numbe
main p
patent
applica

Dated this day of, 19

(10)
.....

(10) Tc
signed
applica
his/thei

My/Our address for service in Zambia:
.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee units: 40

APPLICATION FOR A PATENT OF ADDITION

I/We (1) (1) Sta
name &
address
applica

being a national/nationals of (2) Her
do hereby declare that I am/we are the owner(s) of an invention the title of which is (2) title of
inventi

and that I am/we are the (3) assignee(s)/legal representative(s) of (4) (3) Del
not app
(4) Her
name(s)
inventc

No. (5); (5) Her
that to the best of my/our knowledge and belief there is no lawful ground of objection to the grant of a patent to me/us on numbe
this application and I/we pray that a patent may be granted to me/us for the said invention as a patent of addition and main p
request that the term of such further patent may be the same as that of the patent for the main invention or so much of that patent
term as is unexpired applica

Dated this day of, 19

(6) (6) To l
signed
applica
his/thei

My/Our address for service in Zambia:
.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit:

APPLICATION FOR THE GRANT OF A PATENT OF ADDITION
INSTEAD OF AN INDEPENDENT PATENT

I/We (1) (1) State name & address of patentee

being a national/nationals of

hereby request that patent No. of which I am/we are the patentee(s) be revoked and that instead thereof a patent of addition to patent No. of which I am/we are also the patentee(s) be granted to me/us, such patent of addition to bear the same date as the patent so revoked.

Dated this day of, 19

(2) (2) To be signed by patentee or his/their agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

PROVISIONAL SPECIFICATION

(1) (1) Sta
..... verball;
..... agreeir
..... that in
..... applica
..... form

(2) I/We (2) Sta
..... name,
..... descrip
..... and ad
..... applica
do hereby declare this invention to be described in the following statement: in appli
..... form

COMPLETE SPECIFICATION
(To be furnished in duplicate)

(1)
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(1) Sta
verball;
agreeir
that in
applica
form

(2) I/We
.....
.....
.....

(2) Sta
name,
descrip
and ad
applica
in appli
form

do hereby declare this invention, the manner in which and the method by which it is to be performed, to be particularly described and ascertained in and by the following statement:

The Laws of Zambia

(3)

(3) Her full des of inve The continu the specific should upon p foolsca on one only, w lines w spacec with a r of one and a f the left part of paper. comple the des should followe words ' now particu describ ascerta my/our inventi in what manne same i perform l/we de that wh claim is which s be writi claim c numbe consec (see nc below). specific and the duplica thereof be sign the applica his/thei on the sheet s dated ("Dated day of 19

NOTE.-The claims must relate to a single invention, must be clear and succinct and must be fairly based on the matter disclosed in the specification. They should form in brief a clear statement of that which constitutes the invention. Applicants should be careful that their claims include neither more nor less than they desire to protect by their patent. Any unnecessary multiplicity of claim or prolixity of language should be avoided. Claims should not be made for the efficiency or advantages of the invention.

PATENTS FORM NO. 7

REPUBLIC OF ZAMBIA

Section 13 (2)
Regulation 9

THE PATENTS ACT

Fee unit: 01

APPLICATION FOR EXTENSION OF TIME FOR LODGING A COMPLETE SPECIFICATION

I/We (1)
.....
.....
hereby, in respect of application No., request
an extension of time until
in which to lodge a complete specification.

(1) Sta
and ad
applica

Dated this day of 19
(2)
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.....

(2) To l
signed
applica
his/the

My/Our address for service in Zambia:
.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

REQUEST FOR THE POST-DATING OF AN APPLICATION

I/We (1)

 hereby request that application No. lodged
 on the of 19
 be deemed to have been made on the following date, namely, the day
 of 19

(1) Sta
and ad
applica

Dated this day of 19

(2)

 My/Our address for service in Zambia:

(2) To l
signed
applica
his/thei

The Registrar,
The Patent Office,
Lusaka,
Zambia.

The Laws of Zambia

PATENTS FORM NO. 9

REPUBLIC OF ZAMBIA

Section 20 (1)
Regulation 20

THE PATENTS ACT

Fee units: 1, 2, 3

APPLICATION FOR EXTENSION OF TIME FOR ACCEPTANCE
OF A COMPLETE SPECIFICATION

I/We hereby apply for months' extension
of time for acceptance of the complete specification upon application No.
..... dated
Dated this day of 19

(1)
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(1) To l
signed
applica
his/the

My/Our address for service in Zambia:

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.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REQUEST FOR POSTPONEMENT OF ACCEPTANCE OF
COMPLETE SPECIFICATION

I/We hereby request a postponement of the acceptance of the complete specification of
application No. dated
..... to a date not later than the
expiration of months from the date of lodging of
the application.

Dated this day of 19

(1)

(1) To be
signed by
applicant
his/their

My/Our address for service in Zambia:

.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

(F.G.N. No. 206 of 1959)

APPLICATION FOR WITHDRAWAL OF ACCEPTANCE

I/We (1) (1) Sta and ad applica

apply for withdrawal of the acceptance of the specification of patent application No.

My/Our reasons for desiring such withdrawal are as follows:

(2) (2) The circum: and gr must b in full

Dated this day of 19

(3) (3) To l signed applica his/thei

My/Our address for service in Zambia:

The Registrar, The Patent Office, Lusaka, Zambia.

THE PATENTS ACT

Fee unit: 1 (1) Sta
name &
address

NOTICE OF OPPOSITION TO GRANT OF PATENT

I/We (1)

hereby give notice of opposition to the grant of Letters Patent upon application

No. applied for by

upon the ground (2)

.....
.....
.....
.....

Dated this day of 19

(3)

My/Our address for service in Zambia:

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The Registrar,
The Patent Office,
Lusaka,
Zambia.

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THE PATENTS ACT

Fee unit 1

CLAIM UNDER SECTION 23 (1) OF THE ACT TO PROCEED
AS AN APPLICANT OR CO-APPLICANTS

I/We (1) (1) Sta
of claim

..... (2) Sta
hereby request that patent application No. (2) dated numbe
..... made by of the a
for pate

(3) (3) Sta
of appl
for pate

may proceed in the name(s) of (4) (4) Her
name,
and na
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whose
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I/We claim to be entitled to proceed as applicant(s) for the patent by virtue of (5) (5) Giv
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And in proof whereof I/we transmit the accompanying (6) (6) Sta
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My/Our address for service in Zambia:

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The Laws of Zambia

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I/We (8) (8) To l
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applica
his/thei

consent to the above request.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

APPLICATION FOR DIRECTIONS UNDER SECTION 23 (5) OF THE ACT AS TO PROCEEDING WITH AN APPLICATION FOR A PATENT IN CASE OF DISPUTE BETWEEN JOINT APPLICANTS

I (1) (1) Sta
name &
address

being a joint applicant with (2) (2) Sta
and ad
other
applica

in the application for a patent No hereby
declare that a dispute has arisen between us and request that an order of the Registrar be made giving directions for
enabling the application to proceed.

Particulars of the matter in dispute are given in the annexed statement setting out the facts upon which I rely and the
relief which I seek.

Dated this day of 19

(3) (3) To l
signed
applica
agent

My address for service in Zambia:

NOTE.-The application must be accompanied by a statement of case and by copies of the application and statement
as required by regulation 32.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

The Laws of Zambia

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 15

Section 25 (1)
Regulation 33

THE PATENTS ACT

Fee units: 40

REQUEST FOR THE SEALING OF A PATENT

I/We (1) (1) Sta
..... of appl
request that a patent may be sealed on my/our application No.....

of 19, and I/we hereby transmit the prescribed fee for sealing, and further request that the following may be entered on the register as my/our address for service in Zambia:

.....
.....
.....

Dated this day of 19

(2) (2) To l
..... signed
..... applica
..... his/the

The Registrar,
The Patent Office,
Lusaka,
Zambia.

The Laws of Zambia

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 16

Section 25 (2)
Regulation 34 (1)

THE PATENTS ACT

Fee units: 123

APPLICATION UNDER PROVISIO (IV) TO SECTION 25 (2) OF THE ACT FOR AN
EXTENSION OF THE PERIOD FOR MAKING A REQUEST FOR SEALING OF A PATENT

I/We hereby apply for months' extension
of time for the sealing of a patent upon application No.
dated

Dated this day of 19

(1) (1) To l
..... signed
..... applica

My/Our address for service in Zambia:
.....
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.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER PROVISIO (V) TO SECTION 25 (2) OF THE ACT FOR AN
EXTENSION OF THE PERIOD FOR MAKING A REQUEST FOR SEALING OF A PATENT

I/We hereby apply for (1) months' extension
of the period for the sealing of a patent upon application No.
The circumstances and the grounds upon which the extension is applied for are as follows:

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I/We hereby declare that-

- (a) an extension of time of three months for making a request for sealing has been allowed under proviso (iv) to section 25 (2) of the Act and has not yet expired;
- (b) an extension of time of months for making a request for sealing has been allowed under proviso (v) to section 25 (2) of the Act and has not yet expired.

(a) and
Delete
words '
are not
applica

Dated this day of 19

(3)
.....

(3) To l
signed
applica
his/thei

My/Our address for service in Zambia:

.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee units: 1

APPLICATION UNDER SECTION 26 OF THE ACT FOR THE AMENDMENT OF A PATENT

I/We (1) (1) Sta
 and ad

 hereby request that Letters Patent No.
 granted to

may be amended by substituting the name of (2) (2) Sta
 and ad
 person
 whom I
 should
 for the name of the grantee. been g

Dated this day of 19

(3) (3) To I
 signed
 My/Our address for service in Zambia: applica
 his/thei

NOTE.-Application to be accompanied by evidence verifying the statements made therein and by the Letters Patent.

The Registrar,
 The Patent Office,
 Lusaka,
 Zambia.

The Laws of Zambia

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 19

Section 29 (4)
Regulations 37, 47

THE PATENTS ACT

Fee units: 10-30 depending on period

PAYMENT OF RENEWAL FEE

I/We (1) (1) State of person tendering fee

..... (2) Her name & address of patentee

hereby transmit the fee prescribed for the continuation in force of (2)
Patent No. for a further period of and request that the

Certificate of Payment may be sent to me/us at (3) (3) Her full address to which certificate should be sent

Dated this day of 19

NOTE.-If the address given above is not that entered in the register as the patentee's address for service and it is desired to amend the entry in the register, application therefor must be made in Patents Form No. 39.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

APPLICATION FOR EXTENSION OF THE PERIOD FOR PAYMENT OF RENEWAL FEE

I/We hereby apply for an extension of month(s)
of the period prescribed for payment of the years'
renewal fee upon my/our Patent No

(1)
.....
.....

(1) Her name & address which is to be

Dated this day of 19

(2)
.....

(2) To be signed by the applicant

The Registrar,
The Patent Office,
Lusaka,
Zambia.

The Laws of Zambia

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 21

Regulation 40

THE PATENTS ACT

CERTIFICATE OF PAYMENT OF RENEWAL FEE

Letters Patent No

This is to certify that

did this day of, 19

make the prescribed payment of K

in respect of a period of

from

.....

Registrar of Patents

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee units: 24

APPLICATION FOR THE RESTORATION OF A LAPSED PATENT

I/We
of
being the owner(s) of Patent No., hereby apply
for an order for the restoration of the said patent.

The circumstances which have led to the failure to pay the renewal fee of (1) (1) Her
..... amount
on or before the (2) (2) Sta
day wh
was du

are as follows: (3) (3) Sta
circum:
The
applica
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Dated this day of 19 applica
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(4) (4) To l
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applica
his/thei
My/Our address for service in Zambia:
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The Registrar,
The Patent Office,
Lusaka,
Zambia.

NOTICE OF OPPOSITION TO AN APPLICATION FOR THE RESTORATION OF A LAPSED PATENT

I/We (1)
.....
.....
hereby give notice of opposition to the application for restoration of Patent No.

(1) Her
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..... for the following reasons (2)
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(2) Her
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relies/t

Dated this day of 19

(3)
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My/Our address for service in Zambia:
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(3) To l
signed
object
his/the

The Registrar,
The Patent Office,
Lusaka,
Zambia.

VOLUNTARY APPLICATION FOR ENDORSEMENT OF PATENT "LICENCES OF RIGHT"

I/We (1) (1) Sta
..... and ad
..... patente

being the owner(s) of Patent No., hereby request
that the said patent may be endorsed "Licences of Right". I am/We are not precluded by contract from granting licences
under the patent.

Dated this day of 19

(2) (2) To l
..... signed
My/Our address for service in Zambia: patente
..... his/thei
.....

NOTE.-The application must be accompanied by evidence verifying the statement in the application and by the
Letters Patent.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit 1

APPLICATION UNDER SECTION 35 (2) (A) OR (B) OF THE ACT FOR SETTLEMENT
OF TERMS OF LICENCE UNDER PATENT ENDORSED "LICENCES OF RIGHT"

I/We (1) (1) Sta
and ad
applica

hereby apply for settlement of the terms of a licence to be granted under Patent No.

I am/We are the-

- (a).....patentee(s);
- (b).....person(s) requiring a licence;
- (c).....holder(s) of a licence under the patent granted before endorsement.

I/We (a) request that an order may be made entitling me/us to exchange my/our existing licence for a licence to be granted upon the terms as settled.

Dated this day of 19

(2) (2) To l
signed
applica
his/thei

My/Our address for service in Zambia:

NOTE.-The application must be compiled in duplicate and by a statement of case in duplicate. by a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 36 (1) OF THE ACT BY PATENTEE FOR
CANCELLATION OF ENDORSEMENT OF A PATENT "LICENCES OF RIGHT"

I/We (1) (1) Sta
and ad
patente

being the owner(s) of Patent No hereby request
that the endorsement of the said patent as "Licences of Right" may be cancelled, and I/we enclose Patents Form No. 19
bearing the balance of all renewal fees which would have been payable if the patent had not been endorsed.

I/We declare (a) that there is no existing licence under the patent; or (b) all the licensees consent to this application. (a), (b)
Dated this day of 19 whiche
not app

(2) (2) To l
signed
patente
his/thei

My/Our address for service in Zambia:
.....
.....
.....

NOTE.-The application must be accompanied by evidence in support of the application.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 36 (2) OF THE ACT BY ANY PERSON INTERESTED FOR CANCELLATION OF
ENDORSEMENT OF PATENT "LICENCES OF RIGHT"

I/We (1) (1) Sta
..... and ad
..... applica

hereby claim that the endorsement of Patent No
"Licences of Right" is and was at the time of the endorsement contrary to a contract in which I am/we are interested and
I/we request that such endorsement may be cancelled.

Dated this day of 19 (2) To I
(2) signed
..... applica
..... his/the

My/Our address for service in Zambia:

.....
.....
.....

NOTE.-The application must be completed in duplicate and accompanied by a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

NOTICE OF OPPOSITION BY PATENTEE OR BY ANY PERSON INTERESTED TO
CANCELLATION OF ENDORSEMENT OF A PATENT "LICENCES OF RIGHT"

I/We (1) (1) Sta
and ad
oppon

hereby give notice of opposition to the application for the cancellation of the endorsement

"Licences of Right" in respect of Patent No.

Dated this day of 19

(2) (2) To l
signed
oppon
his/thei

My/Our address for service in Zambia:

NOTE.-The notice must be accompanied by a copy thereof and a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR COMPULSORY LICENCE UNDER SECTION 37 OF THE ACT

I/We (1) (1) Sta
and ad
applica

hereby apply for an order of the High Court for a licence to be granted to me/us in respect
of Patent No for the following
reasons:

(2) (2) Sta
nature
applica
interes
upon w
relies/ti
and the
upon w
applica
made

Dated this day of 19

(3) (3) To l
by the
applica
his/thei
practiti

My/Our address for service in Zambia:
.....
.....
.....

NOTE.-The application must be accompanied by evidence verifying the statements set out in the application.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 43 OF THE ACT FOR AMENDMENT OF A PROVISIONAL SPECIFICATION OR OF A COMPLETE SPECIFICATION NOT YET ACCEPTED

I/We (1) (1) Sta
name &
address
aplica

seek leave to amend the provisional/complete specification of Patent Application

No. as shown in red ink in the certified copy of the original specification hereunto annexed.

My/Our reasons for making this amendment are in detail as follows:

(2) (2) Sta
particu
the rea
seeking
amend

Dated this day of 19

(3) (3) To l
signed
aplica
his/thei

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee units: 1-5

APPLICATION UNDER SECTION 43 OF THE ACT FOR AMENDMENT OF COMPLETE SPECIFICATION AFTER
ACCEPTANCE

I/We (1) (1) Her
 full name
 address
 applica
 seek leave to amend the specification of Letters Patent No. /
 Patent Application No. as shown in red ink in the certified
 copy of the original specification hereunto annexed.

I/We (2) (2) The
 declare that no action for infringement or proceedings for the revocation of the Letters Patent in question are pending. words :
 My/Our reasons for making this amendment are as follows: be stru
 when L
 Patent
 not bee
 sealed

(3) (3) Sta
 particu
 the rea
 making
 amend
 Dated this day of 19

(4) (4) To l
 signed
 My/Our address for service in Zambia: applica
 patente
 his/thei

The Registrar,
 The Patent Office,
 Lusaka,
 Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION TO AMEND SPECIFICATION

(Form of advertisement of request to amend specification)

I/We (1) (1) Sta
name &
address
applica

seek leave to amend by way of (2) (2) Sta
the specification of Letters Patent/Patent Application No. whethe
way of
disclair
correct
explan:

for (3) (3) Title
inventi

A copy of the original specification, showing in red ink the proposed amendment, is now open to public inspection at the Patent Office.

A notice of opposition (in Patents Form No. 33) may be filed at the Patent Office within three months from the date of this advertisement.

Dated this day of 19

(4) (4) To l
signed
applica
his/thei

THE PATENTS ACT

Fee unit: 1

NOTICE OF OPPOSITION TO AMENDMENT OF SPECIFICATION
UNDER SECTION 43 (5) OF THE ACT

I/We (1) (1) Sta
name &
address
object

hereby give notice of opposition to the proposed amendment of the specification of Letters

Patent/Patent Application No for the following reasons:

(2) (2) Her
reason
opposi

Dated this day of 19

(3) (3) To l
signed
object
his/thei

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR DIRECTIONS UNDER SECTION 47 (6) OF THE ACT

I/We (1) (1) Sta
and ad
patente

hereby apply for the following directions in respect of Patent No.

(2) (2) Sta
directic
sought

Dated this day of 19

(3) (3) To l
signed
patente
seeking
directic
his/thei

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by a statement of case and by copies of the application and statement as required by regulation 59.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR DIRECTIONS UNDER SECTION 47 (7) OF THE ACT

I/We (1) (1) Sta
and ad
patenc
joint pa

..... (2) Sta
of pers
default

hereby apply for directions in respect of the failure of (2)

to comply with the directions of the Registrar given under section 47 (6) of the Act on the

..... day of, 19 in the following manner:

(3) (3) Sta
directic
sought

Dated this day of 19

(4) (4) To l
signed
patente
his/thei

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by a copy thereof and a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 48 (1) OF THE ACT TO DETERMINE A DISPUTE BETWEEN EMPLOYER AND
EMPLOYEE AS TO RIGHTS IN AN INVENTION

I/We (1) (1) Sta
and ad
applica
hereby declare that in respect of the rights in the invention for which an application for a
patent was made by
and numbered, (2) and upon which a patent (2) Del
No. has been granted, a dispute has arisen between me/us patent
been g
and (3) (3) Sta
and ad
other p
dispute
and I/we hereby apply to the Registrar/High Court to determine the dispute.

The facts of the dispute and the relief which I/we seek are set out fully in the accompanying statement.
Dated this day of 19

(4) (4) To l
signed
applica
his/thei
My/Our address for service in Zambia:
.....
.....
.....

NOTE.-Application must be accompanied by a copy thereof and a statement in duplicate setting out the facts of the
dispute and the relief which is sought.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

OFFER TO SURRENDER A PATENT UNDER SECTION 52 (1) OF THE ACT

I/We (1) (1) Sta
name &
address
patente

hereby offer to surrender Patent No.

I/We declare that no action for infringement, proceeding for revocation or proceeding in which the validity of the patent or of a clause in the complete specification is disputed, is pending.

My/Our reasons for making this offer are:

.....
.....
.....

Dated this day of 19

(2) (2) To l
signed
patente
his/the

My/Our address for service in Zambia:

.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

NOTICE OF OPPOSITION UNDER SECTION 52 (2) OF THE ACT
TO OFFER TO SURRENDER A PATENT

The Laws of Zambia

I/We (1) (1) Sta
name &
address
oppon

hereby give notice of opposition to the offer to surrender Patent No.

for the following reasons (2) (2) Sta
briefly i
reason
opposi

Dated this day of 19

(3) (3) To l
signed
oppon
his/thei

My/Our address for service in Zambia:
.....
.....
.....

NOTE.-The application must be accompanied by a copy thereof and a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

REQUEST FOR ALTERATION OF A NAME OR NATIONALITY OR AN ADDRESS
OR AN ADDRESS FOR SERVICE IN THE REGISTER OF PATENTS

In the matter of Patent No.

I/We (1)

(1) State name & address of applicant

.....

(2) State words in application

hereby request that the (2) name, nationality, address, address for service, now upon the

register of patents may be altered to (3)

(3) Insert name, nationality, address, address for service, case number

Dated this day of 19

(4)

(4) To be signed by applicant or his/their agent

My/Our address for service in Zambia:

.....
.....
.....

NOTE.-Where the request is for alteration in a name or nationality, proof of the alteration must be furnished.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR REGISTRATION OF ASSIGNMENT

I/We (1) (1) State name & address applicable

..... (2) Her name & registered proprietor of Patent No. hereby request that you will enter my/our name in the register of patents as proprietor/co-proprietor of Patent No. at present registered in the name of (2)

I/We claim to be so entitled by virtue of (3) (3) Here specify particulars of each document giving rise to the same and show how the same is substantiated

And in proof whereof I/we transmit the accompanying (4) (4) Here state the nature of the documents transmitted with a certified copy thereof.

Dated this day of 19

(5) (5) To be signed and sealed by the applicant or his/their agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

THE PATENTS ACT

Fee unit: 1

REQUEST TO ENTER IN THE REGISTER OF PATENTS A NOTICE OF AN INTEREST IN A PATENT

I/We (1) (1) Sta
name &
address
aplica

hereby request that you will enter in the register of patents a notice of the following interest in a patent:

I/We claim to be entitled (2) (2) Her
the nat
the clai
whethe
way of
or othe

to an interest in Patent No. at present registered

in the name of (3) (3) Her
the nar
registe
proprie

by virtue of (4) (4) Her
specify
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substai

And in proof whereof I/we transmit the accompanying (5) (5) Her
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the doc

with a certified copy thereof.

Dated this day of 19

The Laws of Zambia

(6)
.....
My/Our address for service in Zambia:
.....
.....
.....

(6) To I
signed
applica
his/the

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REQUEST FOR CORRECTION OF CLERICAL ERROR

I/We (1) (1) Sta
name &
address
aplica

hereby request that the clerical error(s) in the (2) (2) Sta
whethe
aplica
specific
entry in
registe
or the
particu
relevar
docum
relating to Application Patent No indicated in red
ink in the annexed copy of the said (2)
..... or shown as follows:
.....
.....
.....
may be corrected.

Dated this day of 19

(3) (3) To l
signed
aplica
his/thei
My/Our address for service in Zambia:
.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

NOTICE OF OPPOSITION TO THE CORRECTION OF A CLERICAL ERROR

I/We (1) (1) Sta
 name (c
 hereby give notice of opposition to the correction of an alleged clerical error in object

 which said correction has been applied for by

The grounds upon which the said correction is opposed are as follows:

Dated this day of 19

(2) (2) To l
 signed
 My/Our address for service in Zambia: object
 his/thei

The Registrar,
 The Patent Office,
 Lusaka,
 Zambia.

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR DUPLICATE OF LETTERS PATENT

I/We (1) (1) Sta
name &
address
aplica

have to inform you that the Letters Patent dated (2) (2) Sta
No. granted to
full nar
grantee

for an invention the title of which is (3) (3) Inse
of invei
has been lost or destroyed, or cannot be produced in the following circumstances:

(4) (4) Sta
circum:
of the c
which r
verific
eviden

I/We beg therefore to apply for the issue of a duplicate of such Letters Patent.

(5) (5) Sta
interes
posses
applica
the pat

Dated this day of 19

(6) (6) To l
signed
patente
his/thei

My/Our address for service in Zambia:

.....
.....
.....

The Registrar,
The Patent Office,
Lusaka,
Zambia.

APPLICATION FOR REGISTRATION AS A PATENT AGENT UNDER SECTION 68 OF THE ACT

I (1) (1) Sta
name &
address

do hereby make oath and say as follows:

I am ordinarily resident in Zambia and have been so resident since (2) (2) Sta
of entry
Zambia

I possess the following qualifications which entitle me to be registered as a patent agent in terms of section 68 of the Act:

(3) (3) Her
full par
of
qualific

I desire to be registered as a patent agent.

Sworn before me at
this day of, 19

.....
Commissioner for Oaths
(As amended by F.G.N. No. 203 of 1962)

THE PATENTS ACT

CERTIFICATE OF SERVICE

I/We (1) (1) Sta
 and ad

hereby certify that at (2) (2) Sta
 precise
 on the day of, 19, where
 at, o'clock in the noon, I/we served the service
 following documents upon effecte

by (3) (3) Her
 descript
 Dated this day of 19 method
 service

(4) (4) To l
 signed
 The Registrar, person
 The Patent Office, effectir
 Lusaka, service
 Zambia.

APPLICATION FOR ENTRY OF ORDER OF SUPREME COURT OR HIGH COURT

I/We (1) (1) Sta and ad applica

in respect of Patent/Patent Application No.hereby transmit an office copy of an order by the High Court/by the Supreme Court with

reference to (2) (2) Her purport order

Dated this day of 19

(3) (3) To l signed applica his/thei

My/Our address for service in Zambia:

The Registrar, The Patent Office, Lusaka, Zambia.

The Laws of Zambia

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 48

Sections 21 (2),
30 (1), 36 (5),
52 (2), 59 (4)
Regulation 76

THE PATENTS ACT

GENERAL FORM OF ADVERTISEMENT

Notice is hereby given that in terms of section of
the Patents Act

.....
.....
.....

Dated this day of 19

(1)
.....

(1) Nar
addres
applica
his/the

NOTE.-The contents of this advertisement must be approved by the Registrar in terms of section 66.

(As amended by Act No. 13 of 1994)

SECTION 81-THE PATENTS (APPEALS) RULES
Regulations by the Chief Justice

- | | |
|--|--------------------------------------|
| 1. These Rules may be cited as the Patents (Appeals) Rules. | Title |
| 2. Subject to any specific provisions of the Act, the High Court (Appeals) (General) Rules, 1984, shall apply to any appeal to the High Court brought pursuant to the provisions of the Act. | Appeals to High Court |
| 3. Subject to any specific provisions of the Act, the Supreme Court Rules shall apply to any appeal to the Supreme Court brought pursuant to the provisions of the Act. | Appeals to Supreme Court.
Cap. 25 |

Endnotes

1 (Popup - Popup)

Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

2 (Popup - Popup)

Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

3 (Popup - Popup)

Republic of Zambia declared to be a country of the Union with effect from 24th October, 1964, by G.N. No. 1751 of 1965.

4 (Popup - Popup)

Repealed by Act No. 15 of 1965