

THE PATENT ACT

ARRANGEMENT OF SECTIONS

1. Short title.

Preliminary

2. Interpretation.

Application for grant of Patent

3. Patent for invention may be granted by Governor-General on petition.
4. Address in this Island of applicant.
5. Lodging of petition, etc., with Minister.
6. Fee to Attorney-General.

Declaration

7. Petitioner to make declaration that he is the true inventor, etc.

Specification

8. And deliver specification, etc.
9. Heading of specification.
10. Specification, etc., to be in duplicate.

Publication of notice of application

11. Notice in *Gazette* and newspaper.

Reference of petition to Attorney-General

12. Petition to be referred to Attorney-General.
13. Power of Attorney-General to require compliance with Act.
14. His certificate of allowance of petition.

PATENT

Notice of allowance and subsequent procedure

15. Notice of allowance of petition.
16. Lodgment of Letters Patent in Record Office.

Form, date, issue and renewal of Letters Patent

17. Form of Letters Patent.
18. Memorandum of identity of specification.
19. Date of patent.
20. Antedated patent.
21. Limitation of time for issuing patent.
22. Patent may issue to executors.
23. Patents lost or destroyed.

Provisional rights pending sealing of Letters Patent

24. Provisional rights pending sealing.

Privileges and duties of Patentee; revoking Patent

25. Privilege granted by Letters Patent and duties of patentee and provisions as to revoking same.
26. Patents obtained by fraud not to invalidate that of true inventor.
27. Patents not granted here of no validity.

Mutual rights in invention, and improvements therein

28. Patents for improvements in what already patented.

Right of Patentee elsewhere or his assignee to apply under this Act

29. Patent may be granted here though patent for same invention elsewhere.
30. Patentees may assign their rights.
31. Patent may be granted to assignee of patentee elsewhere.

Validity of Patent; defective or insufficient specification

32. Patents to be valid in law only for so much as shall be proved to be of new invention.
33. Patents void by defective description, arising from error may be renewed.

Disclaimers and alterations or additions to specifications

34. Disclaimer or alteration of any part of patent may be recorded.
35. Costs on alteration or disclaimer.
36. Improvement upon original invention or discovery.

Penalty for unlawful user, or making false marks, etc.

37. Treble damages to be paid to patentee for unlawful use of his invention.
38. Penalty for making false marks.

Evidence

39. Office copies of petition, etc.
How obtainable.
How far evidence.

Forms

40. Forms.

Construction of Act

41. Construction.

Legal proceedings in connection with Letters Patent

42. Procedure for revoking Letters Patent.
43. Power to call in the aid of an assessor.
44. Proceedings in action for infringement of patent.
45. Power to order an injunction, inspection or account.
46. Certificate that validity of the patent came in question, effect thereof.
47. Threats by patentee against third parties in respect of use, etc., of invention.
Action in respect thereof.
Proviso.

SCHEDULE

THE PATENT ACT

Cap. 283.
Acts
42 of 1974,
8 of 1975.

[1857.]

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

Short title.

Preliminary

2. In this Act—

Interpreta-
tion.

“invention”, “discovery” and “improvement” respectively shall mean any manner of new manufacture or new mode of manufacture the subject of Letters Patent and grant of privilege within the meaning of the United Kingdom Act of the twenty-first year of the reign of King James the First, chapter three;

“petition”, “declaration”, “reference”, “certificate” and “Letters Patent” respectively shall mean instruments in the forms respectively and to the effect in the Schedule, subject to such alterations as may from time to time be made therein under the powers and provisions of this Act.

Schedule.

Application for grant of Patent

3. Whenever any person whosoever shall, by himself, or if he be an absentee, by his attorney, apply to the Governor-General, by way of petition, alleging that he hath invented or discovered some new and useful art, machine, manufacture, or composition of matter, not heretofore known or used within this Island, or some improvement in any such invention or discovery, and praying to obtain an exclusive property in such new invention and discovery or improvement, and that Letters Patent be granted for the same, it shall be lawful for the Governor-General, in the name of and on behalf of Her Majesty, to direct Letters Patent, under the Broad Seal of this Island, to be issued; which Letters Patent

Patent for
invention
may be
granted by
Governor-
General on
petition.

shall recite the allegations and suggestions of the said petition so to be preferred as aforesaid, and shall therein give a short description of the said invention or discovery or improvement; and thereupon shall grant to such person so applying for the same, his executors, and administrators, or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing, and using, and vending to others to be used, the said new invention or discovery or improvement; and such Letters Patent shall be signed by the Governor-General, and shall be good and available to the grantee therein named by force of this Act :

Provided, that it shall be lawful for the Governor-General, if he should deem it expedient, to insert in any such Letters Patent a provision extending the operation thereof for a further term of seven years.

Address in
this Island
of applicant.

4. Every applicant shall in his application give a postal address within the Island, to which any notice or communication may be addressed, and any notice or communication duly sent by post addressed to the applicant at such address shall be deemed to have been duly given or made.

Lodging of
petition, etc.,
with
Minister.

5. Every petition for the grant of Letters Patent under this Act, and the declaration and specification in duplicate required to accompany such petition, shall be left at the office of the Minister; and the day of the delivery of every such petition, declaration and specification, and the date of every reference, shall be endorsed or written thereon respectively by the Minister; and an acknowledgment of receipt for the same, either separately or together as the same may be delivered, shall be given to the petitioner or person delivering the same respectively, or his agent.

Fee to
Attorney-
General.
42/1974
S. 2.

6. Together with the said petition the applicant for such Letters Patent shall pay and deposit a sum of fifteen dollars to be paid by way of fee to the Attorney-General on such reference of such petition as aforesaid.

Declaration

7. Before any person shall obtain or receive any Letters Patent under this Act, such person, or if he be an absentee, his attorney, shall make statutory declaration, in writing, before a Justice in this Island, that he doth verily believe that he is the true inventor, or discoverer, of the art, machine, composition of matter, or improvement, for which he solicits Letters Patent; and that such invention, or discovery, or improvement, hath not, to the best of his knowledge or belief, been known or used in this Island; which declaration shall be delivered together with the petition for such Letters Patent.

Petitioner to make declaration that he is the true inventor, etc.

Specification

8. Before any person shall receive or obtain any Letters Patent as aforesaid, such person, or his attorney, shall also deliver, together with such petition and declaration as aforesaid, a written description or specification of his invention, and of the manner of using, or process of compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known or used in this Island, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound, and use the same; and in case of any machine shall explain the principle and the several modes in which such person hath contemplated the application of that principle, or character by which it may be distinguished from other inventions; and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter; which description or specification shall be signed by such person or his attorney as aforesaid so applying for such Letters Patent, and attested by two witnesses.

And deliver specification, etc.

Heading of
specification.

9. Every specification shall be headed with the title of the invention therein described.

Specification,
etc., to be in
duplicate.

10. Every specification, together with all drawings and written references referred to in the same, shall be delivered in duplicate :

Provided that it shall be sufficient that one of such copies bears the stamp required by law.

All drawings and written references as aforesaid shall be deemed to form part of the specification, and to be included in that term whenever used.

An application shall not be received, or, if received, may be subsequently rejected, unless such application, together with the declaration and specification, be fairly and legibly written or printed, and the drawings (if any) properly and clearly made on good and durable paper or other material.

Publication of notice of application

Notice in
Gazette, and
newspaper.

11. No Letters Patent shall be granted under or by virtue of this Act, until notice shall be published in the *Gazette*, and one other of the newspapers of this Island, for at least four weeks, that application has been made for such Letters Patent; and such notice shall contain, in general terms, the description of invention or improvement for which such Letters Patent shall be desired.

When such notice as aforesaid shall have been duly given, the applicant shall deliver, at the office of the Minister, the numbers of the *Gazette* and the newspaper in which such notice has appeared, and no applicant shall be entitled to have his application proceeded with until such numbers of the *Gazette* and the newspaper have been delivered as aforesaid.

Reference of petition to Attorney-General

12. Before any Letters Patent shall be signed and issued, the petition, declaration and specification delivered therewith shall be referred to the Attorney-General of this Island, who shall examine the same, and shall be at liberty to call to his aid such scientific or other person, as he may think fit; and to cause to be paid to such person, by the applicant, such remuneration as the Attorney-General shall appoint, not exceeding twenty-five dollars; and if the Attorney-General shall be satisfied that the application is such as may properly be granted under the provisions of this Act, and that the specification describes the nature of the invention, discovery, or improvement, he shall allow the same, and give a certificate of his allowance, and return the same petition, declaration and specification, together with his certificate, into the office of the Minister; and if the Attorney-General shall not allow such application, he shall certify to the Governor-General his reasons for not so doing.

Petition to be referred to Attorney-General.

42/1974
S. 3.

13. If it appears to the Attorney-General, on reference being made to him as required by this Act, that the nature of the invention or the manner in which it is to be performed is not fairly described, or that the application, declaration, specification or drawings, has not or have not been prepared in manner required by this Act, or that in any way the requirements of this Act have not been observed, it shall be lawful for him to require that the application, declaration, specification or drawings, be amended, or that otherwise the requirements of this Act be complied with, before he proceeds with the application.

Power of Attorney-General to require compliance with Act.

14. When the Attorney-General shall, under section 12, allow any petition, he shall endorse on the petition a certificate in the Form E given in the Schedule or to the like effect, and shall return the petition, specification in duplicate and declaration, to the office of the Minister.

His certificate of allowance of petition. Schedule. Form E.

Notice of allowance and subsequent procedure

Notice of
allowance of
petition.

15. When the Attorney-General shall have allowed any petition as aforesaid, the Minister shall cause notice of such allowance to be given to the applicant, who shall thereupon prepare the Letters Patent for execution, and shall send the same, duly stamped, to the office of the Minister.

Lodgment of
Letters
Patent in
office of the
Registrar of
Companies.
8/1975
S. 2(a), (b),
(c).

16. When Letters Patent shall be granted, such Letters Patent, together with the petition for the same, and the declaration and specification in duplicate referred to therein, shall be lodged at the office of the Registrar of Companies.

The Registrar of Companies, or an officer specially appointed to examine the records with the original deeds, shall carefully examine the duplicate specification with the original.

If any variance shall be discovered between the two documents, the Registrar shall call the attention of the petitioner or his attorney or agent to the same, and the petitioner or his attorney or agent may, with the written consent of the Attorney-General, make such alteration in either the original or duplicate specification as may make the one agree with the other, and express the real meaning of the petitioner.

The Registrar or other officer as aforesaid shall duly initial any and every alteration or erasure in either copy of the specification; he shall then endorse on the duplicate specification a memorandum that it exactly agrees with the original, and that Letters Patent in the form required by law, and bearing date the _____ day of _____, have been granted to the petitioner in respect of the invention therein described for the term of _____ years from the _____ day of _____.

On such endorsement being made the duplicate specification, petition and declaration, shall be filed and preserved in the office of the Registrar of Companies, and a Register of all such papers, and of all disclaimers, memoranda of alterations, and assignments relating to the same shall be kept in the office. 8/1975
S. 2(b).

The Registrar of Companies shall then endorse on the Letters Patent a memorandum that the same have been duly recorded, and the said Letters Patent and the original specification shall be then deemed to be duly recorded to all intents and purposes, and shall be given up to the patentee or his attorney, or his executors, administrators or assigns, on their application and on payment of a fee of three dollars for recording the same in manner aforesaid. 8/1975
S. 2(c).

Form, date, issue and renewal of Letters Patent

17. In all cases in which Letters Patent are granted under this Act, the same shall be in the Form F given in the Schedule. Form of
Letters
Patent.
Schedule.
Form F.

18. Whenever Letters Patent shall be granted, a memorandum in the Form G given in the Schedule shall be made, on one copy of the specification referred to in the Letters Patent, that such specification is the specification so referred to; such memorandum shall be signed by the Governor-General at the time of his signing such Letters Patent. Memoran-
dum of
identity of
specifica-
tion.
Schedule.
Form G.

The copy of the specification bearing such memorandum is hereinafter referred to as the original, and the other as the duplicate.

19. It shall be lawful to cause any Letters Patent to be issued under this Act to be sealed and bear date as of the day of the application for the same, or where the Attorney-General or the Governor-General may think fit any such Letters Patent as aforesaid may be sealed and bear date, as of Date of
patent.

the day of the sealing thereof, or of any other day between the day of such application and the day of such sealing.

Antedated patent.

20. Any Letters Patent issued under this Act, sealed and bearing date as of any day prior to the day of the actual sealing thereof, shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date.

Limitation of time for issuing patent.

21. No Letters Patent save in the case of Letters Patent destroyed or lost, shall issue, unless the same shall be applied for within three months after the date of the filing of the applicant's petition.

Patent may issue to executors.

22. Where the applicant for Letters Patent dies during the pendency of his application, such Letters Patent may be granted to the executors or administrators of such applicant, at any time within three months after his death; and the Letters Patent so granted shall be of the like force and effect as if they had been granted to such applicant during his life time.

Patents lost or destroyed.

23. In case any Letters Patent, to be issued under this Act, shall be destroyed or lost, other Letters Patent, of the like tenor and effect, and sealed and dated as of the same day may, subject to such regulations as the Governor-General may direct, be issued under the authority of the grant in pursuance of which the original Letters Patent were issued.

Provisional rights pending sealing of Letters Patent

Provisional rights pending sealing.

24. After application has been duly made for Letters Patent under this Act, and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, or the refusal of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date when the petition was lodged with the Minister as provided by section 5 :

Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him.

Privileges and duties of Patentee; revoking Patent

25. Letters Patent granted to any person under and in pursuance of this Act, shall secure to the patentee the sole right and privilege during the term limited therein of making, using, exercising and vending, the said invention within this Island, so that, during the term aforesaid no other person shall within this Island directly or indirectly make use of or put in practice the said invention, or any part of the same or in anywise imitate the same, or make or cause to be made any addition thereto or subtraction therefrom whereby to pretend themselves the inventors thereof without the consent, licence or agreement, of the said patentee under his hand, on pain of being answerable to the patentee for his damages thereby occasioned :

Privilege granted by Letters Patent and duties of patentee and provisions as to revoking same.

Provided always, and any such Letters Patent shall be deemed to have been granted on this condition, that if at any time it be made to appear to the Supreme Court that the grant of such Letters Patent is contrary to law, or that the said alleged invention is not a new invention as to the public use and exercise thereof within this Island, or that the said patentee is not the true and first inventor thereof within this Island, it shall be lawful for the Supreme Court in the name and on behalf of Her Majesty the Queen to revoke the said Letters Patent, whereupon the same shall be void to all intents and purposes :

Provided also that, if the said patentee shall not supply or cause to be supplied, for the service of Her Majesty, all such articles of the said invention as may be required by the Officers or Commissioners administering any Department of the Public Service, in such manner, at such times, and at and upon such prices and terms as may be reasonable, then,

and in any of the said cases, it shall be lawful for the Supreme Court in the name and on behalf of Her Majesty to annul and determine such Letters Patent :

Provided also that it shall be lawful for the patentee, his executors, administrators or assigns to grant licences, to other persons to make, use, exercise and vend, the said invention on such terms as he or they may see fit :

Provided also that the provisions of this section and of all such Letters Patent shall be construed in the most beneficial sense for the advantage of the patentee.

Patents obtained by fraud not to invalidate that of true inventor.

26. In case of any Letters Patent for any invention being obtained in fraud of the true and first inventor, any Letters Patent granted to the true and first inventor of such invention shall not be invalidated by reason of such other Letters Patent as aforesaid, or of any use or publication of the invention subsequent to the granting of such other Letters Patent as last-mentioned.

Patents not granted here of no validity.

27. No Letters Patent heretofore obtained, or hereafter to be obtained, in Great Britain, or elsewhere, for the exclusive privilege of trade or manufacture, or any invention in connection therewith, shall be of any validity or effect in this Island, unless Letters Patent for the privilege or invention in such foreign Letters Patent may have been obtained shall be granted and issued in pursuance of this Act nor until all the provisions and requirements of this Act shall have been complied with in respect to Letters Patent.

Mutual rights in invention, and improvements therein

Patents for improvements in what already patented.

28. Where any Letters Patent shall be obtained by any person under this Act for any new and useful invention or discovery in any art, machine, or composition of matter; and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter for which such patent

hath been granted, and shall make application for and obtain Letters Patent under this Act for the exclusive right of such improvement, it shall not be lawful for the person who shall obtain and procure Letters Patent for any such improvement to make, use or vend the original invention or discovery, nor for the person who shall have procured Letters Patent for the original invention or discovery to make, use, or vend any such improvement :

Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this Act.

*Right of patentee elsewhere or his assignee to apply
under this Act*

29. No applicant shall be deprived of his right to a patent in this Island upon the like proceedings being had in all respects as in case of an original application for his invention by reason of his having previously taken out Letters Patent therefor in any other country :

Patent may
be granted
here
though
patent for
same inven-
tion else-
where.

Provided, that such invention shall not have been introduced into public and common use in this Island prior to the application for a patent therein; and that the patent granted in this Island shall not continue in force after the expiration of the patent granted elsewhere; and that where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the patents granted in this Island shall cease to be in force :

Provided further, that no Letters Patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which

shall be granted in this Island after the expiration of the term for which such patent or privilege was granted or was in force shall be of any validity.

Patentees
may assign
their rights.

30. Any patentee under Letters Patent issued under this Act, his executors, administrators, or assigns, may assign and transfer the whole or any part of his right, title, and interest in the said invention and discovery in the Letters Patent to him granted to any person whomsoever, and the assignee thereof, having recorded the said assignment in the office of the Registrar of Companies in this Island, shall thereafter stand in the place and stead of the original patentee, as well as to all or the part assigned, of right, privilege, and advantage, as also in respect of all or proportionate liability or responsibility as to the said Letters Patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand and be considered to be in the place and stead of the original patentee or inventor.

8/1975
S. 2(b).

Patent may
be granted
to assignee
of patentee
elsewhere.

31. Letters Patent may, upon the like proceedings being had in all respects as in the case of an original application, be issued by the Governor-General to the assignee of any person who may have taken out Letters Patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no Letters Patent have been there obtained :

Provided that the invention or discovery so assigned shall not have been introduced into public and common use into this Island prior to the application for a patent; and that the assignee of such foreign patent shall file with his application the assignment, duly proved, under which he claims a patent in this Island, and an affidavit setting forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this Island, and that he is the assignee for a good consideration.

Validity of Patent; defective or insufficient specification

32. If in any suit or action it shall be proved, or specially found by the verdict of a jury, that by mistake, accident, or inadvertence, and without any wilful default, or intent to defraud or mislead the public, a patentee under this Act shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which part he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be deemed good and valid for so much of the invention, or discovery, or improvement, as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee, and his legal representatives or assignees, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of such patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict, or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Registrar of Companies a disclaimer, attested by one, or more than one witness of that part of the thing patented was claimed without right :

Patents to be valid in law only for so much as shall be proved to be of new invention.

8/1975
S. 2(b).

Provided that no person bringing a suit shall be entitled to the benefits of this section, if he shall, in the opinion of the court before which any such matter shall be tried, have unreasonably neglected, or delayed, to record his disclaimer.

33. If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification as his own invention more than he had a right to claim, and

Patents void by defective description arising from error may be renewed.

the error has arisen from inadvertence, accident or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Governor-General upon the surrender of such patent, and upon petition therefor to cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification. In case of his death, or the assignment by him of the original patent, or any fractional interest therein, the right shall vest in his legal representatives, to the extent of their respective interest in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law, as though the same had been originally filed in such amended form before the issuing of the original patent.

*Disclaimers and alterations or additions to
specifications*

Disclaimer
or alteration
of any part
of patent
may be
recorded.
8/1975
S. 2(b).

34. Every patentee under this Act or his legal representative or assignee, whether holding the whole or any particular interest, may conjointly or separately, as the case may require, enter and record, at the office of the Registrar of Companies, having first obtained the leave of the Attorney-General certified by his fiat and signature, a disclaimer of any part of either the title of the invention or improvement or of the specification, stating the reason for such disclaimer; or may, with such leave as aforesaid, enter and record at the said office a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum of alteration, being recorded by the said Registrar of Companies shall be deemed and taken to be part of such Letters Patent, or such specification, in all courts whatever :

8/1975
S. 2(c).

Provided that any person may enter a caveat at the office of the Registrar of Companies against such disclaimer or alteration; which caveat being so entered, and a copy thereof being left with the Attorney-General, shall give the party entering the same a right to have notice of the application being heard by the Attorney-General:

8/1975
S. 2(b).

Provided also, that no such disclaimer or alteration shall be receivable in evidence in any action or suit pending at the time when such disclaimer or alteration was entered; but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the Letters Patent have been, or shall have been granted:

Provided also, that it shall be lawful for the Attorney-General, before granting such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such Attorney-General shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

35. It shall be lawful for the Attorney-General, if he see fit, by certificate under his hand, to order by or to whom the costs of any hearing or enquiry for any such alteration or disclaimer shall be paid, and in what manner and by whom such costs are to be ascertained; and if any costs so ordered to be paid be not paid within four days after the amount thereof shall be so ascertained, it shall be lawful for the Attorney-General to make an order for the payment of the same, and every such order may by leave of the Supreme Court or a Judge thereof, be enforced in the same manner as a judgment or order to the same effect.

Costs on
alteration or
disclaimer.

36. If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may upon the like

Improve-
ment
upon
original
invention or
discovery.

8/1975
S. 2(c).

proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification, and the Registrar of Companies shall certify upon such annexed description and specification the time of its being annexed and recorded; and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

Penalty for unlawful user, or making false marks, etc.

Treble
damages to
be paid to
patentee for
unlawful
use of his
invention.

37. Whenever in any case any Letters Patent shall be, or shall or may have been, granted to any person, under and by virtue of this Act, and any person, without the consent of the patentee, his executors, administrators, or assigns first had and obtained in writing, shall make, devise, use, or sell the thing, invention, or discovery whereof the exclusive right is secured to the said patentee by such Letters Patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns a sum equal to three times the actual damage sustained by such patentee, his executors, administrators, or assigns, from or by reason of such offence; which sum shall and may be recoverable, together with costs of suit in the Supreme Court of this Island.

Penalty for
making false
marks.

38. If any person shall write, paint, or print, or mould, cast, or carve, or engrave, or stamp upon anything made, used or sold by him, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name, or any imitation of the name, of any other person who hath or shall have obtained Letters Patent for the sole making and vending of such thing, without leave in writing of such patentee, or his assigns; or if any person shall, upon such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such

patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent", the words "Letters Patent", or the words "by the Queen's Patent", or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee; or shall, in any other manner, imitate or counterfeit the stamp or mark, or other device of the patentee, he shall for every such offence, be liable to a penalty of one hundred dollars, to be recovered by action of debt in the Supreme Court, one-half to Her Majesty, and the other to any person who shall sue for the same :

Provided that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping, or in any way marking, the word "Patent" upon anything made, for the sole making or vending of which a patent before obtained shall have expired.

Evidence

39. It shall be lawful for any person to obtain and receive from the office of the Registrar of Companies any copy or copies, certified by the Registrar of Companies, of any petition, declaration, duplicate specification, disclaimer, memorandum, assignment or paper connected therewith, together with every endorsement made thereon, on payment for such copy or copies of the like fees as are now payable in the office of the Registrar of Companies for copies of other documents; and every such certified copy shall be received in evidence in all courts, without further or other proof thereof, in every case in which the original would have been received as evidence, and the duplicate specification endorsed in accordance with the provisions of sections 5 and 16 shall be taken to be conclusive evidence that Letters Patent in the form required by this Act were granted as therein stated, without any necessity for the production of the originals.

Office copies
of petition,
etc.
8/1975
S. 2(a), (b).

How
obtainable.

How far
evidence.

*Forms*Forms.
Schedule.

40. The forms in the Schedule may be used for and in respect of the several matters therein mentioned, and the same may be varied as occasion may require.

*Construction of Act*Construc-
tion.

41. If any doubts shall arise in the construction of this Act, the same may be construed by analogy to the laws now or hereafter to be in force in England relating to the granting of Letters Patent for inventions, so far as the provisions of such laws shall be applicable.

*Legal proceedings in connection with Letters Patent*Procedure
for revoking
Letters
Patent.

42.—(1) The proceedings by *scire facias* to repeal a patent is hereby abolished.

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

(3) Every ground on which a patent might, on the twenty-seventh day of May, 1891, be repealed by *scire facias* shall be available by way of defence to an action of infringement, and shall also be a ground of revocation.

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

- (a) the Attorney-General of this Island;
- (b) any person authorized by the Attorney-General;
- (c) any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims;
- (d) any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee;

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

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

(6) Particulars delivered may be from time to time amended by leave of the court or a Judge.

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

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

43.—(1) In an action or proceeding for infringement or revocation of a patent, the court may, if it thinks fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the court shall otherwise direct.

Power to
call in the
aid of
an assessor.

(2) The remuneration, if any, to be paid to an assessor under this section, shall be determined by the court,

and be payable in the first instance, if ordered by the court of its own motion, by the plaintiff or petitioner, and if ordered on the request of any party, by such party, and it shall be lawful for the court or Judge to stay proceedings until funds for such remuneration be paid into court :

Provided that any sum so paid shall form part of the general costs of the action or proceeding, and it shall be lawful for the court or Judge to order by whom such expense shall be borne.

Proceedings
in action for
infringement
of patent.

44.—(1) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, and also upon order of a court or a Judge, at any subsequent time, particulars of the breaches complained of.

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

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

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

(5) Particulars delivered may be from time to time amended, by leave of the court or a Judge.

(6) On taxation of costs regard shall be had to the particulars delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is

certified by the court or a Judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.

45. In an action for infringement of a patent, the court or a Judge may on the application of either party make such order for an injunction, inspection or account, and impose such terms, and give such directions respecting the same and the proceedings thereon, as the court or a Judge may see fit.

Power to order an injunction, inspection or account.

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

Certificate that validity of the patent came in question, effect thereof.

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

Threats by patentee against third parties in respect of use, etc., of invention.

Action in respect thereof.

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

Proviso.

PATENT

(Section 3)

SCHEDULE

FORM A

Petition

To His Excellency, etc. (*here insert name and title of Governor-General*).

The humble petition of (*here insert name and address of petitioner*) for, etc.

Sheweth,

That your petitioner is in possession of an invention for
(*the title of the invention*)

which invention he believes will be of great public utility; that he is the true and first inventor thereof, and that the same is not in use by any other person or persons to the best of his knowledge and belief.

Your petitioner therefore humbly prays that your Excellency will be pleased, in the name and on behalf of Her Majesty the Queen, to grant unto him, his executors, administrators and assigns, Her Majesty's Letters Patent for this Island for the term of fourteen years, pursuant to the statute in that case made and provided.

And your petitioner will ever pray, etc.

(Section 7)

FORM B

Declaration

I, _____, of _____, in the parish
of _____, do solemnly and sincerely declare that I am in
possession of an invention for, etc., etc.

(*the title as in petition*)

which invention I believe will be of great public utility; that I am the true and first inventor thereof, and that the same is not in use by any other person or persons, to the best of my knowledge and belief; and that the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and the manner in which the same is to be performed; and I make this declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Voluntary Declarations Act.

A.B.

Taken and acknowledged this _____ day of _____, 19____,
before me.

Justice of the Peace.

FORM C

(Section 8)

Specification

To all to whom these presents shall come—
I, _____, of _____, send greeting: Know ye
that I, the said _____, do hereby declare the nature of
my invention for

(insert title as in petition)

and in what manner the same is to be performed, to be particularly
described and ascertained in and by the following statement (that is
to say)—

(Here describe the invention)

In witness whereof I, the said, A.B., have hereunto set my hand
this _____ day of _____, 19 _____.

We attest:

C.D., of _____, etc.
E.F., of _____, etc.

FORM D

(Section 12)

Reference

(To be endorsed on the petition)

His Excellency is pleased to refer this petition to the Attorney-
General to consider what may be properly done therein.

Minister.

FORM E

(Section 14)

Endorsement to be made on the Petition by the Attorney-General

I hereby certify that the within named petitioner has complied with
the several requirements of the Act in respect of applications for
Letters Patent for inventions, and that the application is one which
may properly be granted.

Attorney-
General's
certificate.

A.B.
Attorney-General.

FORM F

(Section 17)

Letters Patent

Elizabeth II, by the Grace of God of Jamaica and of Her Other Realms
and Territories Queen, Head of the Commonwealth.

Form of
Letters
Patent.

To all to whom these presents shall come, Greeting:

Whereas _____ of _____

in the _____ hath pursuant to the Act of Jamaica
in that behalf, duly applied to our Governor-General in and over our
Island of Jamaica for Letters Patent in respect of an invention for
the nature of which and the manner in

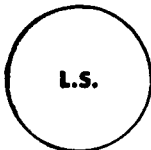
PATENT

which the same is to be performed are particularly set forth and described in the specification lodged with the said application :

And whereas the said _____ has duly complied with all the requirements of the said Act with respect to such application :

And whereas we are graciously pleased to condescend to the said request :

Know ye, therefore, that we do by these presents, under and in pursuance of the Act of our said Island intituled the Patent Act, give and grant unto the said patentee, his executors, administrators and assigns, our especial licence, full power, sole privilege and authority, that the said patentee, his executors, administrators and assigns, by himself or themselves, his or their agents or licensees, and no others, may at all times hereafter, during the term of fourteen years, from the date of these presents, make use, exercise and vend, the said invention within our said Island of Jamaica in such manner as to him or them may seem meet, and subject to the conditions and restrictions imposed by the laws of our said Island on patentees of inventions, have and enjoy during the said term in respect of the said invention all rights and privileges secured by the said laws to patentees: And we do hereby further declare that the said specification hereinbefore referred to is to be deemed and taken to be embodied in and made part of these presents and that for the purpose of identifying the same our said Governor-General has, at the time of executing these presents, endorsed thereon a memorandum under his hand to the effect that the said specification is the specification hereinbefore referred to: And that these our Letters Patent shall have no force or effect until they together with the said specification have been duly recorded in the Record Office of our said Island: And to the ends aforesaid, we have caused these our Letters Patent to be sealed with the Broad Seal of our said Island of Jamaica.



Witness—His Excellency, etc., Governor-General of our said Island of Jamaica, this
day of _____ in the year of our Lord
One thousand nine hundred and _____
and to be sealed as of the
day of _____ One thousand nine hundred
and _____

(Section 18)

FORM G

Memorandum to be made by the Governor-General on the Specification

Memorandum by the Governor-General.

This is the specification contained on _____ sheets of paper referred to in the Letters Patent granted in the Island of Jamaica and dated the _____ day of _____, 19 _____.

Governor-General of Jamaica.