

CHAPTER 308

THE PATENTS ACT

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PATENTS

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21/1921.
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1811989.

1. This Act may be cited as the Patents Act. **Short title.**
2. In this Act— **Interpretation.**
- "British Possession" means any territory or place situate within Her Majesty's dominions and not being or forming part of the United Kingdom or of the Channel Islands or of the Isle of Man: and all territories and places under one legislature as hereinafter defined are deemed to be one British Possession for the purposes of this Act.
- "Court" means the High Court.
- "examiner" means any skilled person or persons to whom the Registrar shall refer questions concerning patents under this Act.
- "legislature" includes any person or persons who exercise legislative authority in the British possession and where there are local legislatures as well as a central legislature means a central legislature only.
- "prescribed" means prescribed by any of the Schedules to this Act or by regulations under this Act.
- "Registrar" means the Registrar of the High Court.
- "true and first inventor" "true inventor" and "inventor" shall, to the extent that the context does not express, include the person who is the actual inventor of any invention or his assigns, or if the actual inventor be dead, his legal representatives, or (if the actual inventor, his legal representatives, or assigns, is or are not resident in Antigua and Barbuda) any person to whom such invention has

been communicated by the actual inventor, his legal representatives, or assigns, but shall not include a person importing an invention from any other country without the authority of the actual inventor, his legal representatives or assigns.

Persons entitled to apply for patent.

3. (1) Any person, whether a Commonwealth citizen or not, may make an application for a patent.

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

(3) An applicant may be—

(a) the actual inventor; or

(b) his assigns; or

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

(d) the legal representative of a deceased actual inventor or of his assigns; or any person to whom the invention has been communicated;

(e) by the actual inventor, his legal representatives, or assigns (if the actual inventor, his legal representatives, or assigns is or are not resident in Antigua and Barbuda).

Applications and specification.

4. (1) An application for a patent must be made in the form set forth in the Schedule. or in such other form as may from time to time be prescribed and must be left at the Registrar's office in the prescribed manner.

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

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

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

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

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

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

Registrar may refer application to examiner.

6. (1) If the Registrar is of opinion, or if, after reference to an examiner, such examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention the Registrar may refuse to accept the application or require that the application, specification, or drawings be amended, before he proceeds with the application; and in the latter case the application shall, if the Registrar so direct, bear date as from the time when the requirement is complied with.

Power for Registrar to refuse application or require amendment.

(2) Where the Registrar refuses to accept the application or requires an amendment, the applicant may appeal from his decision to a Judge in Chambers.

(3) The Judge shall, if required, hear the applicant and the Registrar, and may make an order determining whether, and subject to what conditions, (if any) the application shall be accepted.

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

(5) If after an application has been made, but before the patent thereon has been sealed, another application for a patent is made, accompanied by a specification bearing the same or a similar title, the Registrar, if he think fit, on the request of the second applicant or of his legal representative may, within two months of the grant of a patent on the first application either decline to proceed with the second application or allow the surrender of the patent, if any, granted thereon.

**Time for leaving
complete
specification.**

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

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

**Comparison of
provisional and
complete
specification.**

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

(2) If the Registrar is of opinion, or if, after reference to an examiner, such examiner report that the conditions hereinbefore contained have not been complied with, the Registrar may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to a Judge in Chambers.

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

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

(5) Reports of examiners shall not in any case be published or be open to public inspections, and shall not be liable to production or inspection in any legal proceeding, other than an appeal to a Judge in Chambers under this **Act**, unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interest of justice, and ought to be allowed.

9. On the acceptance of the complete specification, the Registrar shall advertise the acceptance in the *Gazette* and *the* application and specification or specifications with the drawings (if any) shall be open to public inspection at the Registrar's office during office hours.

Advertisement on acceptance of complete specification.

10. (1) Any person may, at any time within three months from the date of the advertisement of the acceptance of a complete specification, give notice at the Registrar's office of opposition to the grant of the patent on the ground of an applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in Antigua and Barbuda on application of prior date, or on the ground that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification, and the leaving of the complete specification, but on no other ground.

Opposition to grant of patent.

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

(3) Where such notice and such security, if required, is given, the Registrar shall give notice of the opposition to the applicant, and shall, on the expiration of the said three months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to a Judge in Chambers.

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

(5) The Judge may, if he think fit, obtain the assistance of an expert, who shall be paid by the party giving notice of opposition such remuneration as the Judge shall determine which may be recovered as costs.

(6) The Judge or the Registrar, as the case may be, may after decision, make such order as may be thought fit for the payment of costs by the applicant to the party giving notice or vice versa, and such order may be made a rule of Court on an application *ex parte*.

Specifications
&c., not to be
published unless
application
accepted.

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

Sealing of patent.

12. (1) If there be no opposition, or, in the case of opposition, if the determination is in favour of the grant of a patent, such patent shall be sealed with the public seal of Antigua and Barbuda.

(2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of

application, except in the cases hereinafter mentioned, that it is say—

(a) Where the sealing is delayed by an appeal to a Judge in Chambers, or by opposition to the grant of the patent, the patent may be sealed at such time as a Judge in Chambers may direct.

(b) If the person making the application die before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within six months after the death of the applicant.

(c) Where the Registrar has extended the time for leaving or the time for accepting the complete specification, or both such times, the total period of time so extended shall be added to the period of fifteen months above provided.

13. Every patent shall be in duplicate, and one duplicate shall be deposited in the Registrar's office, and every patent shall be dated and sealed as of the day of the application: **Date of patent.**

Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification:

Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

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

15. After the acceptance of a complete specification, and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: **Effect of acceptance of complete specification.**

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.

Granting of Letters Patent by Governor-General.

16. All Letters Patent for inventions under this Act shall be granted by the Governor-General in the name of Her Majesty, under the public seal of Antigua and Barbuda.

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

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

Extent of patent.

18. Every patent, when sealed, shall have effect throughout Antigua and Barbuda.

Term of patent.

19. (1) The term limited in every patent for the duration thereof shall be fourteen years from its date.

(2) Every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fail to make the prescribed payments within the prescribed times.

(3) If, nevertheless in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payments within the prescribed time, he may apply to the Registrar for an enlargement of time for making the payment.

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

(a) The time for making any payment shall not in any case be enlarged for more than six months;

(b) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

20. (1) An applicant or a patentee may, from time to time, by request in writing left at the Registrar's office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reason for the same. Amendment of specification.

(2) The request and the nature of such proposed amendment shall be advertised in the *Gazette*, and at any time within one month from its first advertisement any person may give notice at the Registrar's office of opposition to the amendment.

(3) Where such notice is given, the Registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case, subject to an appeal to a Judge in Chambers.

(4) The Judge shall, if required, hear the person making the request and the person so giving notice, and being, in the opinion of the Judge, entitled to be heard in opposition to the request, and shall determine whether, and subject to what conditions, if any, the amendment ought to be allowed.

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

(6) When leave to amend is refused by the Registrar, the person making the request may appeal from his decision to a Judge in Chambers.

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

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

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

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

Power to disclaim part of invention during action, &c.

21. In the action for infringement of a patent, and in a proceeding for revocation of a patent, the Court may order that the patentee shall, subject to such terms as to costs and otherwise as the Court may impose, be at liberty to apply at the Registrar's office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

Restriction on recovery of damages.

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

Advertisement of amendment.

23. Every amendment of a specification shall be advertised in the *Gazette*.

Power for Cabinet to order grant of licences.

24. If on the petition of any person interested it be proved to the Cabinet that, by reason of the default of a patentee to grant licences on reasonable terms—

(a) the patent is not being worked in Antigua and Barbuda; or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied; or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed;

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

25. (1) There shall be kept at the Registrar's office ^{Register of patents.} a book called the register of patents wherein shall be entered the names and addresses of grantees of patents, notification of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

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

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

26. Such fees as may be prescribed shall be levied ^{Fees.} and paid to the credit of the general revenue of Antigua and Barbuda.

27. (1) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Cabinet, praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent. ^{Extension of term of patent on petition to the Cabinet.}

(2) Any person may enter a caveat, addressed to the Secretary to the Cabinet at his office, against the extension.

(3) If the Cabinet shall be pleased to refer any such petition to the Court, the Court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

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

(5) If the Court report that the patentee has been inadequately remunerated by his patent, it shall be lawful for the Cabinet to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Court may think fit.

(6) It shall be lawful for the Cabinet to make rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice relating to pleadings in the Court.

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

Revocation of patent.

28. (1) No proceedings by *scire facias* to repeal a patent shall be taken.

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

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

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

- (a) the Attorney-General;
- (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 Antigua and Barbuda, before the

date of the patent, anything claimed by the patentee as his invention.

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

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

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

(8) Where a patent has been revoked on the ground of fraud, the Registrar may, on the application of the true inventor made in accordance with 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.

29. A patent shall have to all intents the like effect as against Her Majesty the Queen Her heirs and successors, as it has against a subject, excepting always that the Governor-General may at any time after the application use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, between the Governor-General and the patentee, or, in default of such agreement, on such terms as may be settled by the Court after hearing all parties interested.

Patent to bind Crown.

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

Hearing with assessors.

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

Delivery of particulars.

31. (1) In an action for infringement of a patent, the plaintiff must deliver with his statement of claim, or, by order of the Court at any subsequent time, particulars of the breaches complained of.

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

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

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

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

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

Order for inspection, &c., in action.

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

Certificate of validity questioned and costs thereon.

33. In an action for infringement of a patent, the Court may certify that the validity of the patent came in question; and if the Court so certify, 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 trying the action certifies that he ought not to have the same.

34. 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:

Remedy in case of groundless threats of legal proceedings.

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

35. It shall be lawful for the Registrar, with the sanction of the Governor-General, to license fit and proper persons to be patent agents for transacting business under the provisions of this Act, and, upon proof to the Registrar's satisfaction of the malfeasance or incapacity of any such licensed patent agent, or on non-payment of any annual fee for any such licence, and with such sanction as aforesaid, to revoke any such licence.

Licensed patent agents.

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

Patent for one invention only. Schedule.

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

Patent on application of representative of deceased inventor.

(2) Every such application must be made within six months of the decease of such person, and must contain a

declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

Patent to first inventor not invalidated by application in fraud of him.

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

Assignment of patent for particular place.

39. A patentee may assign his patent for the whole of Antigua and Barbuda or any part thereof.

Loss or destruction of patent.

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

Witnesses may be summoned.

41. For the purpose of any application or opposition or other matters requiring the decision of a Judge or the Registrar, the Registrar may, and at the request of any party to be heard shall, cause summonses under the seal of the Court to be issued for the attendance of witnesses and may examine witnesses on oath and administer oaths for that purpose under this part of the Act, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons and shall be paid his expenses according to the scale for the time being allowed to witnesses on trials in the Court, and shall continue in attendance until the matter shall have been disposed of, and produce any document in his power, possession, custody, or control which he shall by such summons be required to produce.

Proceedings and costs before Judge.

42. A Judge may make rules regulating references and appeals to the Judge, and the practice and procedure before him under this Act; and in any proceeding before the Judge under this Act, he may order costs to be paid by either party, and any such order may be made a rule of the Court.

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

43. The exhibition of an invention at an industrial or international exhibition, whether within or without Her Majesty's Dominions certified as such under the hand of the Registrar, or the publication of any description of the invention during the period of the holding of the exhibition,

or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely—

(a) The exhibitor must, before exhibiting the invention, give the Registrar the prescribed notice of his intention to do so; and

(b) The application for a patent must be made before or within six months from date of the opening of the exhibition.

44. Where the invention is one which admits of being represented by a model, the Registrar may require the patentee at his own expense to furnish him with a model of the invention. **Power to require models on payment.**

45. (1) The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression the inventor) may (either for or without valuable consideration) assign to the Governor-General on behalf of Her Majesty, all the benefit of the invention and of any patent obtained or to be obtained for the same; and the Governor-General may be a party to the assignment. **Assignment to Governor-General of certain inventions.**

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

(3) Where any such assignment has been made to the Governor-General he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Registrar his opinion that, in the interest of the public service, the par-

particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Governor-General so certify, the application and specification or specifications, with the drawings (if any), and any amendment of the specification or specifications and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Registrar's office, be delivered to the Registrar in a packet sealed by authority of the Governor-General.

(5) Such packet shall, until the expiration of the term or extended term during which a patent for the invention may be in force, be kept sealed by the Registrar, and shall not be opened save under the authority of an order of the Governor-General.

(6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by writing under the hand of the Governor-General to receive the same, and shall, if returned to the Registrar, be again kept sealed by him.

(7) On the expiration of the term or extended term of the patent, such sealed packet shall be delivered to any person authorized by writing under the hand of the Governor-General to receive it.

(8) Where the Governor-General certifies as aforesaid, after an application for a patent has been left at the Registrar's office, but before the publication of the specification or specifications, the application, specification, or specifications with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Registrar, and such packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Governor-General.

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

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open

to the inspection of the public, but save in this section otherwise directed, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

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

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

46. (1) If Her Majesty is pleased, by Order in Council, to apply the provisions of section 103 of the United Kingdom Act, entitled "The Patents, Designs, and Trade Marks Act, 1883," to Antigua and Barbuda, then any person who has applied for protection for any invention in England, or in any foreign state with the Government of which Her Majesty has made an arrangement under the said section, for mutual protection of inventions, shall be entitled to a patent for his invention under this Act, in priority to other applicants; and such patent shall take effect from the same date as the date of the application in England or such foreign state (as the case may be).

International
arrangements for
protection of
inventions.

(2) Such application shall be made within twelve months from such person applying for protection in England or the foreign state with which the arrangement is in force.

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

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

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

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

(7) The provisions of this section shall, in the case of foreign states, apply only in the case of those foreign states with respect to which Her Majesty from time to time, by Order in Council, declares the provisions of the aforesaid section 103 of the said first recited United Kingdom Act to be applicable, and so long only in the case of each state as such Order continues in force with respect to that state.

Provision for
intercolonial,
&c.,
arrangements.

47. (1) Whenever it appears to the Cabinet that the legislature of any British Possession has made satisfactory provision for the protection in such Possession of inventions patented in Antigua and Barbuda, the Cabinet may, by order, apply all or any of the provisions of the last preceding section relating to the protection of inventions patented in England, with such variations or additions (if any) as to the Cabinet seem fit, to inventions patented in such British Possession.

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

Cabinet may
make regulations.

48. The Cabinet may make regulations for carrying into effect the provisions of this Act, and for regulating the amount, collection, and disposal of fees.

Saving for
prerogative.

49. Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of any Letters Patent or to the withholding of a grant thereof.

SCHEDULE

s. 4

FORMS OF APPLICATION, ETC.

FORM A

FORM OF APPLICATION FOR PATENT

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

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

Declared at _____ in _____, this _____, 19 _____, (c) Signature of inventor.
 day of _____ (d) Signature and title of the officer before whom the declaration is made.
 _____ Registrar.

(NOTE: This declaration must be accompanied by the statement of an address in the City of St. John's for the reception of all notices and other communications with respect to the application or invention.)

FORM B

FORM OF PROVISIONAL SPECIFICATION

I, (a) _____, of _____, do hereby declare that the (a) Here insert title as in declaration.
 in _____, do hereby declare that the (b) Here insert name, address, and calling of inventor as in declaration.
 nature of my invention for _____ to be as (c) Here insert short description of invention.
 follows (c) _____ (d) Signature of inventor.
 Dated this _____ day of _____ 19 _____.

executors, administrators, and assigns, or any of them, referred to as the said patentee) Letters Patent in the name of Her Majesty for the sole use and advantage, of his said invention within Antigua and Barbuda:

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

Know Ye, therefore, that I, in the name and on behalf of Her Majesty, do by these Presents, give and grant unto the said patentee by special licence, full power, sole privilege, and authority, that he the said patentee by himself, his agent, or licensees, and no others may at all times hereafter, during the term of years herein mentioned, make, use, exercise, and vend the said invention within

in such manner as to him or them may seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the date hereunder written of these presents: and to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, I do by these Presents require and strictly command all and every person and persons, bodies politic and corporate, and all others of what estate, quality, degree, name, or condition soever they be within Antigua and Barbuda, that they do not at any time during the continuance of the said term of fourteen years, either directly or indirectly, make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, licence, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt and of being answerable to the said patentee according to law for his damages thereby occasioned:

Provided always and these Letters Patent are on this condition, that, if any time during the said term it be made to appear to the High Court that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof or that the said patentee is not the first and true inventor thereof within Antigua and Barbuda as aforesaid, these Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained:

Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time

