

ANTIGUA AND BARBUDA



PATENTS (AMENDMENT) BILL, 2021

No. of 2021

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ARRANGEMENT OF SECTIONS

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AN ACT to amend the Patents Act, No.22 of 2018.

1. Short title

This Act may be cited as the Patents (Amendment) Act, 2021.

2. Interpretation

In this Act—

“principal Act” means the Patents Act 2018. No. 22 of 2018

3. Amendment of section 20-Right of priority.

- (1) Section 20 of the principal Act is amended—
 - (a) by repealing subsection (2) and substituting the following—
 - (2) “Where the application contains a declaration under subsection (1), the applicant shall furnish, within 3 months from the filing date in Antigua and Barbuda, a copy of the earlier application certified as correct by the office with which it was filed.”.
 - (b) by repealing subsection (3) and substituting the following—
 - (3) “Where the earlier application is not in English, and the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable, the Registrar may invite the applicant to furnish a translation thereof in English verified by the translator that the translation is, to the best of his knowledge, complete and faithful.”.

4. Amendment of section 23-Filing Date.

Section 23, of the principal Act is amended by repealing subsection (5) and substituting the following—

“(5) Where the application refers to a part of description or drawings which are not included in the application, the Registrar shall invite the applicant to furnish that missing part of the description or drawings and, if the application complies, the Registrar shall accord as the filing date of the application, the date of receipt of the missing part of the description or drawings or the date on which all of the requirements under paragraph (1) are complied with, whichever is later.”.

5. Repeal of section 24- Examination.

Section 24 of the principal Act is amended by repealing section 24 and substituting the following—

“24.Publication

Where the application meets the formal requirements according to section 14 of this Act, eighteen months after the filing date, the Registrar shall publish the application in the Official Gazette including the application data and any other particulars as stated in the Regulations.”.

6. Addition of new section 24A- Examination.

The principal Act is amended by inserting after section 24 the following—

“24A- Examination

(1) “Within three years from the filing date of the patent application, the applicant shall request the Registrar that the patent application be examined as to its compliance with the conditions under sections 5, 6, 7, 8, 9 and 16 of this Act, and pay the prescribed fee.

(2) If the request of examination referred to in subsection (1) is not submitted within the prescribed term the application shall be deemed abandoned.

(3) For the purpose of examination, The Registrar shall cause a search to be conducted on the application. For the purpose of the search, the Registrar shall review the unity of invention of the application according to section 16 of this Act. If the Registrar considers that the application lacks unity of invention, the search will only be conducted on the first invention presented in the claims of the application for a patent.

(4) For purposes of the examination of the patent application, the Registrar may take into account—

- (a) any search conducted under this section including by an external examiner or a foreign national or regional search and examination authority in relation to the application;
- (b) any international search report and any international preliminary examination report established under the Patent Cooperation Treaty in relation to the application; and
- (c) any document in a corresponding application related to patentability including:
 - (i) a search report;
 - (ii) an examination report;
 - (iii) a final decision on the granting or refusal of the application; or
 - (iv) an invalidation or revocation decision of the patent;

(5) Where the Registrar is not satisfied that the requirements set forth in sections 6, 7, 8, 9 14 and 16 of this Act and the Regulations, it shall it shall invite the applicant within the following three months to submit observations and amend the application. If the applicant fails to file any response within the prescribed term, the application may deemed abandoned. The Registrar may invite the applicant to file observations up to a maximum of three times if it considers such action necessary.”.

7. Amendment of section 55-Extension of time.

Section 55 of the principal Act is amended—

- (a) by repealing subsection (1), and substituting the following—
 - (1) “Where the Registrar appoints a time for doing any act or taking any preceding in respect of an application, that application shall, except otherwise provided in the Act, be deemed abandoned if that act is not done or the proceeding not taken in the appointed time.
- (b) by repealing subsection (2) and substituting the following—
 - (2) “Upon the written request of an applicant or owner, and upon payment of the prescribed fee, the time limit for doing any act or taking any proceeding under this Act and the Regulations made hereunder may be extended, subject to

subsection (5). The request of the extension should be granted for the same amount of time contemplated in the law.”

(c) by repealing subsection (5), and substituting the following—

“(5) No extension of a time limit is granted under subsection (2) in the cases prescribed in the Regulations.”

8. Amendment of section 58-Agents.

Section 58 of the principal Act is amended by repealing section 58 and substituting the following—

“58. Where an applicant’s ordinary residence or principal place of business is outside Antigua and Barbuda, he shall be represented by a registered agent resident and practicing in Antigua and Barbuda before the Registrar of the Intellectual Property Office, except for certain procedures prescribed in the regulations.”

9. Addition of new Section 67A- Fee Reduction for Individual Inventors and Small Business

The principal Act is amended by adding immediately after section 67 the following—
“67A- Fee Reduction for Individual Inventors and Small Business

The Registrar may reduce the fees payable by a natural person or small business entity as prescribed in the Regulations.”

Paris Convention, of one or more earlier national, regional or international applications filed by the applicant or his predecessor.

Clause 4 amends section 23 of the Act and includes the “description” as part of the requirements falling under the Filing Date.

Clause 5 amends section 24 of the Act by repealing the section on “Examination” and substituting it with a section on “Publication”.

Clause 6 creates a new section 24A and re-inserts the section on “Examination”.

Clause 7 amends section 55 of the Act, bringing clarity to several sub-sections.

Clause 8 amends section 58 of the Act, again bringing a degree of clarity to the section.

Clause 9 adds a new section 67A which is a fee reduction for individual inventors and small business.

Hon. Steadroy C.O Benjamin
Attorney General and
Minister of Legal Affairs,
and Minister with responsibility
for the Patents Act