

Seychelles

Patents Act

Chapter 156

Legislation as at 1 December 2014

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Seychelles

Patents Act

Chapter 156

Commenced on 3 March 1901

[This is the version of this document at 1 December 2014.]

[Repealed by [Industrial Property Act, 2014 \(Act 7 of 2014\)](#) on 1 March 2015]

[Act 5 of 1901; Act [4 of 1925](#); Act [9 of 1933](#); Act [13 of 1958](#); Act [10 of 1960](#); Act [34 of 1967](#); SI. 95 of 1975; SI. 72 of 1976; Act [23 of 1976](#)]

[Note: This Cap has been repealed by the Industrial Property Act, 2014, which had not yet been brought into operation as at 1 December 2014.]

1. Short title

This Act may be cited as the Patents Act.

2. Interpretation

In this Act, unless the context otherwise requires, the following words and expressions shall have or include the meaning hereinafter assigned to them:

"**court**" means the Supreme Court;

"**examiner**" shall mean any skilled person or persons to whom the Registrar shall refer questions concerning patents under this Act;

"**prescribed**" shall mean prescribed by any of the schedules to this Act or by regulations under this Act;

"**Registrar**" means the person appointed by the President to be the Registrar of Patents for the purposes of this Act;*

"**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 the territories and places under one legislature as hereinafter defined are deemed to be one British possession for the purposes of this Act; and

"**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 the central legislature only.

The terms "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 representative or assigns is or are not resident in Seychelles) 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 colony or country without the authority of the actual inventor, his legal representatives, or assigns.

3. Provision for absence of Registrar

Any act or thing directed to be done by or to the Registrar may, in his absence, be done by or to any officer for the time being in that behalf authorised by him.

4. Persons entitled to apply for patent

- (1) Any person whether a citizen of Seychelles or not, may make an application for a patent.
- (2) Two or more persons may make an application for a patent and a patent may be granted to them jointly.
- (3) An applicant may be
 - (a) the actual inventor; or
 - (b) his assigns; or
 - (c) the actual inventor jointly with the assigns of a part interest in the invention; or
 - (d) the legal representative of a deceased actual inventor or of his assigns; or
 - (e) any person to whom the invention has been communicated by the actual inventor, his legal representatives, or assigns (if the actual inventor, his legal representatives, or assigns is or are not resident in Seychelles).

5. Applications and specification

- (1) An application for a patent must be made in the form in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at the Registrar's Office in the prescribed manner.
- (2) An application must contain a declaration by the applicant or, in the case of a joint application, by one of the applicants, to the effect that the applicant or one or more of the applicants is or are in possession of an invention, whereof the applicants 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 Victoria 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.

6. Registrar may refer application to examiner

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

7. Power for Registrar to refuse application or require amendment

- (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 requirements is complied with.

- (2) Where the Registrar refuses to accept the application or requires an amendment, the applicant may appeal from his decision to the court.
- (3) The court 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 thereof 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.

8. Time for leaving complete specification

- (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 or such extended time, the application shall be deemed to be abandoned.

9. Comparison of provisional and complete specification

- (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 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 in the court.
- (3) The court shall, if required, hear the applicant 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 be liable to production or inspection in any legal proceeding other than an appeal to the court 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 interests of justice, and ought to be allowed.

10. Advertisement on acceptance of complete specification

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

11. Opposition to grant of patent

- (1) Any person may at any time within two 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 Seychelles 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.
- (2) Where such notice is given, the Registrar may require the person giving such notice to give security to an amount not exceeding two hundred and fifty rupees for the costs of the opposition; and, if the security so required is not given within the said two 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 two 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 the court.
- (4) The court shall, on such appeal, hear the applicant and any person so giving notice and being, in the opinion of the court, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.
- (5) The court may, if it think fit, obtain the assistance of an expert who shall be paid such remuneration as the court shall determine.
- (6) The court 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*.

12. Specifications, etc., not to be published unless application accepted

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.

13. Sealing of patent

- (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 Seychelles.
- (2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned, that is to say:
 - (a) Where the sealing is delayed by an appeal to the court, or by opposition to the grant of patent, the patent may be sealed at such time as the court 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.

14. Date of patent

Every patent shall be deposited in the Registrar's Office, and every patent shall be dated and sealed as of the day of the application:

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

Provisional protection

15. Provisional protection

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.

Protection by complete specification

16. Effect of acceptance of complete specification

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:

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.

Patent

17. Granting of letters patent by the President

All letters patent for inventions under this Act shall be granted by the President in the name of the Republic, under the public seal of Seychelles.

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

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.

19. Extent of patent

Every patent, when sealed, shall have effect throughout Seychelles.

20. Term of patent

- (1) The term limited in every patent for the duration thereof shall be fourteen years from its date, but every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fail to make the prescribed payments within the prescribed times.
- (2) If, nevertheless, in any case by accident, mistake or inadvertence, a patentee fail to make any prescribed payments within the prescribed time, he may apply to the Registrar for an enlargement of the time for making that payment.

- (3) 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 one hundred rupees, 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.

21. Restoration of lapsed patents

- (1) Where a patent has ceased to have effect by reason of a failure to pay any renewal fee within the prescribed period or within that period as extended under subsection (3) of [section 20](#) and the Registrar is satisfied, upon application made within three years from the date on which the patent has ceased to have effect that the failure was unintentional and that no undue delay has occurred in the making or prosecution of the application, he shall by order restore the patent and any patent of addition specified in the application which has ceased to have effect on the cesser of that patent.
- (2) An application under this section may be made by the person who was the patentee or by his personal representative; and where the patent was held by two or more persons jointly, the application may, with the leave of the Registrar, be made by one or more of them without joining the others.
- (3) An application under this section shall contain a statement (to be verified in such manner as may be prescribed) fully setting out the circumstances which led to the failure to pay the renewal fee; and the Registrar may require from the applicant such further evidence as he may think necessary.
- (4) If after hearing the applicant (if the applicant so requires or the Registrar thinks fit) the Registrar is satisfied that a *prima facie* case has been made out for an order under this section, he shall advertise the application by notice in the *Gazette*, and within the period specified by the Registrar in such notice, any person may give notice to the Registrar of opposition thereto on either or both of the following grounds, that is to say:
 - (a) that the failure to pay the renewal fee was not unintentional; or
 - (b) that there has been undue delay in the making of the application.
- (5) If notice of opposition is given within the period aforesaid, the Registrar shall notify the applicant, and shall give to him and to the opponent an opportunity to be heard before he decides the case.
- (6) If no notice of opposition is given within the period aforesaid or if, in the case of opposition, the decision of the Registrar is in favour of the applicant, the Registrar, shall, upon payment of any unpaid renewal fee and such additional fee as may be prescribed, make the order in accordance with the application.
- (7) An order under this section for the restoration of a patent
 - (a) may be made subject to such conditions as the Registrar thinks fit, including in particular a condition requiring the registration in the register of patents of any matter in respect of which the provisions of this Act as to entries in that register have not been complied with; and

- (b) shall contain such provisions as may be prescribed for the protection of persons who may have begun to avail themselves of the patented invention between the date when the patent ceased to have effect and the date of the application under this section.

If any condition of an order under this Section is not complied with by the patentee, the Registrar may, after giving to the patentee an opportunity to be heard, revoke the order and give such directions consequential on the revocation as he thinks fit.

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

Amendment of specification

22. Amendment of specification

- (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.
- (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 the court.
- (4) The court shall, if required, hear the person making the request and the person so giving notice, and being, in the opinion of the court, entitled to the request, and shall determine whether, and subject to what conditions, if any, the amendment ought to be allowed.
- (5) Where no notice of opposition is given, or the person so giving notice does not appear, the Registrar shall determine whether, and subject to what conditions, if any, the amendment ought to be allowed.
- (6) When leave to amend is refused by the Registrar, the person making the request may appeal from his decision to the Court.
- (7) The court shall, if required, hear the person making the request and the Registrar, and may make an order determining whether, and subject to what conditions, if any, the amendment ought to be allowed.
- (8) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.
- (9) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud, and the amendment shall in all courts and for all purposes be deemed to form part of the specification.
- (10) The foregoing provisions of this section do not apply when and so long as any action for infringement or proceeding for revocation of a patent is pending.

23. Power to disclaim part of invention during action, etc.

In an 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 to 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.

24. Restriction on recovery of damages

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.

25. Advertisement of amendments

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

26. Power for President to order grant of licences

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

- (a) the patent is not being worked in Seychelles; 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 President may order the patentee to grant licences on such terms as to the amount of royalties, security for payment, or otherwise, as the President, 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.

Register of patents

27. Register of patents

- (1) There shall be kept at the Registrar's office 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 of 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.

Fees

28. Fees in schedule

There shall be paid, in respect of the several matters and things described in the Second Schedule, the fees in that schedule mentioned; and such fees shall be levied and paid to the credit of the general revenue of Seychelles.

Extension of term of patent

29. Extension of term of patent on petition to the President

- (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 President 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.*
- (2) Any person may enter a caveat against the extension.
- (3) If the President shall be pleased to refer any such petition to them 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 President 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 President to make rules of procedure and practice for regulating proceedings on such petitions, and from time to time to rescind, alter, or vary and such rules, 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 incidental 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

30. Revocation of patent

- (1) No proceeding 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 authorised 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;

[Note to official 1991 edition: Functions of President delegated to Registrar General by [SI 68/1992](#).]

- (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 Seychelles, 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 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 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 of which the revoked patent was granted.

Republic

31. Patent to bind the Republic

A patent shall have to all intents the like effect as against the Republic, as it has against a subject.

32. Use of patented inventions for services of the Republic

- (1) Notwithstanding anything in this Act, any Government department, and any person authorised in writing by a Government department may make, use, exercise and vend any patented invention for the services of the Republic in accordance with the following provisions of this section.
- (2) If and so far as the invention has before the priority date of the relevant claim of the complete specification been duly recorded by or tried by or on behalf of a Government department otherwise than in consequence of the communication thereof directly or indirectly by the patentee or any person from whom he derives title, any use of the invention by virtue of this section may be made free of any royalty or other payment to the patentee.
- (3) If and so far as the invention has not been so recorded or tried as aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the President and the patentee, or as may in default of agreement be determined by the court on a reference under [section 33](#).
- (4) The authority of a Government department in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.
- (5) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of the Republic.

33. Reference of disputes as to use by the Republic

- (1) Any dispute as to the exercise by a Government department or a person authorised by a Government department of the powers conferred by [section 32](#), or as to terms for the use of an invention for the services of the Republic thereunder, or as to the right of any person to receive any part of a payment made in pursuance of subsection (3) of that section, may be referred to the court by either party to the dispute.

- (2) In any proceedings under this section to which a Government department is a party, the department may
 - (a) if the patentee is a party to the proceedings, apply for revocation of the patent;
 - (b) in any case, put in issue the validity of the patent without applying for its revocation.
- (3) If in such proceedings as aforesaid any question arises whether an invention has been recorded or tried as mentioned in [section 32](#), and the disclosure of any document recording the invention, or of any evidence of the trial thereof, would in the opinion of the department be prejudicial to the public interest, the disclosure may be made confidentially to counsel for the other party or to an independent expert mutually agreed upon.
- (4) In determining under this section any dispute between a Government department and any person as to terms for the use of an invention for the services of the Republic, the court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the invention in question.

34. Special provision as to the use by the Republic during emergency

- (1) During any period of emergency within the meaning of this section, the powers exercisable in relation to an invention by a Government department, or a person authorized by a Government department under [section 32](#), shall include power to make, use, exercise and vend the invention for any purpose which appears to the department necessary or expedient
 - (a) for the maintenance of supplies and services essential to the life of the community;
 - (b) for securing a sufficiency of supplies and services essential to the well being of the community;
 - (c) for promoting the productivity of industry, commerce and agriculture;
 - (d) for fostering and directing exports and reducing imports, or imports of any classes, from all or any countries and for redressing the balance of trade;
 - (e) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community; or
 - (f) for assisting the relief of suffering and restoration and distribution of essential supplies and services in any foreign countries that are in grave distress as a result of war,and any reference in that section or [section 33](#) to the services of the Republic shall be construed as including a reference to the aforesaid.
- (2) In this section the expression "period of emergency" means any period beginning on such date as may be declared by the President by notice published in the *Gazette* to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency for the purposes of this section.

Legal proceedings

35. Hearing with assessors

- (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.
- (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.

36. Delivery of particulars

- (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 dispute the validity of the patent, the particulars delivered by him must state on what grounds he dispute 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.

37. Order for inspection, etc., in action

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.

38. Certificate of validity questioned and costs thereon

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 judgement in his favour, shall have his full costs, charges and expenses, unless the court trying the action certifies that he ought not to have the same.

39. Remedy in case of groundless threats of legal proceedings

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 threats of liability in respect of any alleged manufacture, use, sale, or legal 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:

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.

Miscellaneous**40. Licensed patent agents^{*}**

It shall be lawful for the Registrar with the sanction of the Minister, 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, as prescribed by the Second Schedule, and with such sanction as aforesaid, to revoke any such licence.

^{*} [Note to official 1991 edition: See *Licences (Services) Regulations Cap 113 (Sub. Leg.)*]

41. Patent for one invention only

Every patent may be in the form in the First 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.

42. Patent on application of representative of deceased inventor

- (1) If a person possessed of an invention for which he is entitled to obtain a patent die 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.
- (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.

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

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.

44. Assignment of patent for particular place

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

45. Loss or destruct of patent

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.

46. Witnesses may be summoned

For the purpose of any application or opposition or other matters requiring the decision of the Registrar or the court they or either of them may, and at the request of any party to be heard, shall cause summonses under the seal of the court to be issued for the attendance of witnesses and may examine witnesses on oath and administer oaths for that purpose under this part, 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.

47. Proceedings and costs before court

The Chief Justice may from time to time make, alter, and rescind rules regulating reference and appeals to the court, and the practice and proceeding before the court under this part, and in any proceedings before the court 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.

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

The exhibition of an invention at an industrial or international exhibition whether within or without Seychelles 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 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;
- (b) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

49. Power to require models on payment

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.

50. Assignment to the President of certain inventions

- (1) The inventor of any improvements 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 President, on behalf of the Republic, all the benefit of the invention and of any patent obtained or to be obtained for the same; and the President may be a party to the assignment.
- (2) The assignment shall effectually vest the benefit of the invention and patent in the President on behalf of the Republic, 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 President for the time being.
- (3) Where any such assignment has been made to the President he may at any time before the application for a patent for the invention, or before the publication of the specification or specifications, certify to the Registrar his opinion, that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.
- (4) If the President 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 President.
- (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 the President or of the court.
- (6) Such sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by writing under the hand of the President 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 authorised by writing under the hand of the President to receive it.
- (8) Where the President 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 President.
- (9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which the President has certified as aforesaid.

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

51. Registration of United Kingdom Patents

- (1) Any person being the grantee of a patent in the United Kingdom or any person deriving his right from such grantee by assignment, transmission or other operation of law may apply within three years from the date of issue of the patent to have such patent registered in Seychelles. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration.
- (2) Every application under this section shall be accompanied by a certified copy of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller General of the United Kingdom Patent Officer giving full particulars of the issue of the patent on such specification or specifications; together with such further evidence as the Registrar may require to prove that the applicant is the *bona fide* holder of the patent, and that the patent is in full force.
- (3) Upon such application being received, together with the documents mentioned in subsection (2), the Registrar shall report thereon to the President who will thereupon grant a certificate of registration under the public seal of Seychelles.
- (4) Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of Seychelles as though the patent had been issued under this Act.
- (5) Privileges and rights so granted shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom:

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

- (6) The court shall have power upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by such certificate of registration have not been acquired on any of the grounds upon which a patent might be revoked under this Act.

Such grounds shall be deemed to include the manufacture, use or sale of the invention in Seychelles before the priority date applicable to the patent in the United Kingdom, but not to include the manufacture, use or sale of the invention in Seychelles by some person or persons after the priority date applicable to the patent in the United Kingdom and before the date of issue of the certificate of registration under subsection (3).

For the purpose of this subsection the expression "priority date" in its applicable to a patent in the United Kingdom has the meaning assigned to it in section 5 of the Patents Act, 1949 of the United Kingdom.

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

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

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

52. International arrangements for protection of invention

- (1) If Her Majesty is pleased, by Order in Council, to apply the provisions of section 91 of the Patents and Designs Act, 1907 of the United Kingdom, as amended by the Patents and Designs Act, 1914 of the United Kingdom, to Seychelles, then any person who has applied for protection for any invention in any foreign State with the Government of which Her Majesty has made arrangements under the said section for mutual protection of inventions, or his legal representative or assignee, 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 such foreign States.
- (2) Such application shall be made within twelve months from such person applying for protection in 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 Seychelles.
- (4) The publication in Seychelles during the period aforesaid of any description of the invention or the use therein during such period 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) The provisions of this section shall 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 91 of the Patents and Designs Act, 1907, as amended by the Patents and Designs Act, 1914, to be applicable, and so long only in the case of each State as such Order continues in force with respect to that State.

53. Minister may make regulations

The Minister may make regulations for carrying into effect the provisions of this Act; and for regulating the amount, collection, and disposal of the fees in the schedules hereto.

54. Saving for prerogative

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

First Schedule (Section 5)**Form of Application, etc.****Form A Form of application for patent**

I, (a) _____ of _____ in _____

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

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

(c) _____

Declared at _____, in _____ this _____ day of _____ 19 _____

(d) _____

Registrar _____

Note. This declaration must be accompanied by the statement of an address in the town of Victoria in the Seychelles Islands for the reception of all notices and other communications with respect to the application or invention.

- (a) Here insert name, address, and calling of inventor.
- (b) Here insert title of invention.
- (c) Signature of inventor.
- (d) Signature and title of the officer before whom the declaration is made.

Form B Form of provisional specification

(a) _____

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

(d) _____

Dated this _____ day of _____ 19 _____

- (a) Here insert title as in declaration.
- (b) Here insert name, address, and calling of inventor as in declaration.
- (c) Here insert short description of invention.
- (d) Signature of inventor.

Form C Form of complete specification

(a) _____

I, (b) _____ of _____ in _____ of _____ do hereby declare the nature of invention for _____ and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (c)

- (a) Here insert title as in declaration.

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

(c) Here insert full description of invention.

Having now particularly described and ascertained the nature of my said invention and in what manner the same is to be performed, I declare that my claim is (d)

1. _____

2. _____

3. etc. _____

(e) _____

Dated this _____ day of _____ 19 _____

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

(e) Signature of inventor.

Form D Form of Patent

by the President: To all to whom these Presents shall come, greeting:

WHEREAS _____

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

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

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 the Republic, do, by these Presents, give and grant unto the said patentee my special licence, full power, sole privilege, and authority, that he the said patentee by himself, his agent, or licenses, 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 so ever they be within Seychelles 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 any wise 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 at any time during the said term it be made to appear to the Court that this grant is contrary to law, or prejudicial or inconvenient to the public 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 Seychelles, 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 or times and in manner for the time being by law provided; and also if the said patentee shall not supply or cause to be supplied for the

service of the Republic all such articles of the said invention as may be required by the officers administering any Government department in such manner, as such times, and at and upon such reasonable price and terms as shall be settled for that purpose by the President, then, and in any of the said cases, these letters patent, and all privileges and advantages whatever hereby granted shall determine, and become void, notwithstanding anything hereinbefore contained: Provided also, that nothing herein contained shall prevent the granting of licences in such manner and for such considerations as they may by law be granted: and lastly, I do by these Presents in the name and on behalf of the Republic grant unto the said patentee that these letters patent shall be construed in the most beneficial sense for the advantage of the said patentee.

In witness whereof I have caused these our letters to be made patent this _____ day of _____ one thousand nine hundred and _____ and to be sealed and dated as of the said _____ day of _____ one thousand nine hundred and _____ in the _____ year.

Second Schedule (Section 28)

Fees to be paid in respect of the several matters hereunder specified

						Rs.	Cts.
For every application for a patent accompanied by a provisional specification only						15	00
Examiner's fee on reference of application with provisional specification not exceeding						31	50
For every application for a patent accompanied by a complete specification						40	00
On filing complete specification after provisional specification						25	00
Examiner's fee on reference of complete specification, not exceeding						31	50
On extending the time for leaving complete specification						2	50
On extending the time for acceptance of complete specification						2	50
On every patent before the expiration of four years from its date						500	00
And further before the expiration of seven years						1,000	00
Or in lieu of the fees of Rs.500 and Rs.1,000 the following annual fees before the expiration of the fourth year from the date of the patent						100	00
"	"	"	fifth	"	" "	100	00
"	"	"	sixth	"	" "	100	00
" " " seventh " " "						100	00
"	"	"	eighth	"	" "	150	00
"	"	"	ninth	"	" "	150	00
"	"	"	tenth	"	" "	200	00
" " " eleventh " " "						200	00

" " " twelfth " " "	200	00
" " " thirteenth " "	200	00
On filing every amended or substituted specification	10	00
On notice of opposition to grant of patent	5	25
On every summons to witness	2	50
On hearing of every opposed application	10	00
On extension of patent	200	00
On filing every disclaimer or memorandum of alteration	25	00
For every office copy (including the seal) per folio of seventy two words	25	00
On filing every certificate voiding a patent	2	50
On deposit of any assignment deed, licence, or other document affecting proprietor ship of patent	20	00
On delivering triplicate patent after loss, etc.	20	00
On every search, including inspection	1	25
Annual fees for licence to patent agent	25	00
Certified copies of extracts seal, at per folio	50	
For every matter or thing not above provided for	2	50
For a certificate of registration of a patent granted or issued in the United Kingdom	15	00