

LAWS OF TRINIDAD AND TOBAGO

PATENTS AND DESIGNS ACT

CHAPTER 82:83

Act

10 of 1900

Amended by

13 of 1905

35 of 1905

15 of 1913

20 of 1918

20 of 1924

2 of 1929

25 of 1932

20 of 1933

5 of 1947

11 of 1955

17 of 1959

17 of 1966

45 of 1979

18 of 1996

21 of 1996

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
<i>1-16</i>	<i>.. 1/2006</i>

Note on Subsidiary Legislation

Subsidiary Legislation made under the Patents Act, 1996 (Act No. 21 of 1996) shall apply to this Act.

Note on Application of Act

Part I of this Act was repealed by the Patents Act, 1996 (Act No. 21 of 1996) and Parts II and III were repealed by the Industrial Designs Act, 1996 (Act No. 18 of 1996).

See section 2(2) for the application of this Act.

Note on the Industrial Designs Act, 1996 (Act No. 18 of 1996) and the Patents Act, 1996 (Act No. 21 of 1996)

Section 25 of the Industrial Designs Act, 1996 states as follows:

“Subject to the provisions of section 26, Parts II and III of the *Patents and Designs Act* are repealed, and section 2 and Part IV thereof insofar as they relate to industrial designs shall not apply.”.

Section 91 of the Patents Act 1996 states as follows:

“Subject to the provisions of this section, Part I of the *Patents and Designs Act* is repealed, and section 2 and Part IV thereof insofar as they relate to patents shall not apply.”.

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PATENTS AND DESIGNS ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation and application of Act.

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PATENTS

LOCAL PATENTS

Sections 3 to 19 Repealed by Act No. 21 of 1996.

PART II

DESIGNS

Sections 20 to 29 Repealed by Act No. 18 of 1996.

PART III

UNITED KINGDOM DESIGNS

Sections 30 to 40 Repealed by Act No. 18 of 1996.

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Patents and Designs

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RULES AND FEES

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SCHEDULE.

CHAPTER 82:83**PATENTS AND DESIGNS ACT****An Act relating to Patents for Inventions and Designs.**[28TH MARCH 1900]1950 Ed.
Ch. 31 No. 18.
10 of 1900.
Commencement.

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

Short title.
[17 of 1959].

2. (1) In this Act—

“certified” means certified in accordance with the provisions of Part V of the Evidence Act;

Interpretation
and application
of Act.
[11 of 1955].
Ch. 7:02.

“class” means prescribed class;

“company” means any body of persons, corporate or unincorporate, and, in relation to a country, means any such body having its principal place of business in that country or controlled by the government of that country or by a national thereof or by any such body having its principal place of business in that country; and the expressions “British company”, “German company” and “Japanese company” shall be construed accordingly;

“Controller” has the meaning assigned to this officer in the Patents Act;

Ch. 82:76.

“copyright” means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered;

“Court” means the High Court;

“design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or chemical, separate or combined;

“enemy territory” means—

Ch. 14:03.

- (a) any area which was enemy territory as defined by section 2(1) of the Trading with the Enemy Act;
- (b) any area in relation to which the provisions of the said Act applied by virtue of an Order made under section 2(2), as they applied in relation to enemy territory as so defined; and
- (c) any area which, by virtue of regulation 8 or regulation 9 of the Defence (Trading with the Enemy) Regulations 1940, or any Order made thereunder, was treated for any of the purposes of the said Act as enemy territory as so defined or as such territory as is referred to in paragraph (b);

“Germany” means territory comprised in the German State on the 1st March 1938;

“German national” does not include any person who at the relevant time was a German national by reason only of the incorporation of any territory in the German State after 1st March 1938, or was not an enemy for any of the purposes of the Trading with the Enemy Act;

21 Jac.I., c.3
(U.K.).

“invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section 6 of the Statute of Monopolies of the United Kingdom, and includes an alleged invention;

“Judge” means a Judge of the Court;

“patent” means certificate of registration in the Register of Patents, and includes all the rights conferred or evidenced by the registration;

“patentee” means the person for the time being registered as the proprietor of a patent;

“registered” means registered in the Register of Patents or the Register of Designs, as the case may be; and “registration” has a corresponding meaning;

“specification” includes all tracings, drawings, diagrams, and other exhibits referred to in the specification;

“United Kingdom patent” means letters patent for an invention granted in the United Kingdom.

(2) This Act shall be read as one with the Patents Act and where there is any conflict between this Act and the Patents Act, the Patents Act shall prevail. Ch. 82:76.

PART I

PATENTS

LOCAL PATENTS

Part I (Sections 3 to 19) repealed by Act No. 21 of 1996.

PART II

DESIGNS

Part II (Sections 20 to 29) repealed by Act No. 18 of 1996.

PART III

[8TH MARCH 1929]

UNITED KINGDOM DESIGNS

Part III (Sections 30 to 40) repealed by Act No. 18 of 1996.

PART IV

GENERAL

41. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust expressed, implied, or constructive. Trusts.

42. The Controller may refuse to grant a patent for an invention or to register a design which is, or of which the use would be, scandalous or contrary to law or morality. Scandalous patent or design. [11 of 1955].

43. Any patent or design shall be deemed to be registered when the name of any person is entered, as the proprietor thereof, in the Register of Patents or the Register of Designs, as the case may be. When patent, etc., deemed to be registered. [11 of 1955].

Entry of assignments and transmissions. [11 of 1955].

Power of proprietor to assign.

Priority.

Inspection of and extracts from register.

Correction of errors, cancellations and amendment. [11 of 1955].

44. Where a person becomes entitled by assignment, transmission, or other operation of law to a patent or to the copyright in a registered design, the Controller shall, on request, and on proof of title, cause the name of the person to be entered as proprietor of the patent or of the copyright in the design in the Register of Patents or the Register of Designs, as the case may be. The person for the time being entered in the Register of Patents or the Register of Designs as proprietor for a patent or copyright in a design, as the case may be, shall, subject to this Act, and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with the same, and to give effectual receipts for any consideration for the assignment, licence, or dealing. Any equities in respect of the patent or design may be enforced in like manner as in respect of any other personal property, and the priority of all assignments and charges shall, as regards purchasers for value without notice, be determined by priority of registration.

45. Every register kept under this Act shall be *prima facie* evidence of all matters duly entered therein; and every such register and the specification of every registered patent shall be open to the inspection of the public on payment of the prescribed fee, subject to this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Controller, of any entry in the register or of any such specification, shall be given to any person requiring the same on payment of the prescribed fee. Whenever any specification or extract includes any tracing, drawing, or diagram, an additional fee for any copy thereof shall be paid equal to the cost of preparing the tracing, drawing, or diagram.

46. The Controller may, on request in writing, accompanied by the prescribed fee—

- (a) correct any clerical error in or in connection with an application for a patent or for registration of a design;
- (b) correct any clerical error in the name, style, or address of the registered proprietor of a patent or design; or

- (c) permit an applicant for registration of a design to amend his application by omitting any particular goods or classes of goods in connection with which he has desired the design to be registered.

47. A certificate purporting to be under the hand of the Controller as to any entry, matter, or thing which he is authorised by this Act, or by any general Rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Controller to be evidence.

48. An order requiring the Controller to do or abstain from doing anything under this Act, may be made by a Judge on a summons in Chambers.

Order by a Judge.

49. In any proceedings under this Act, the Court or a Judge, as the case may be, may at any time make such orders for an injunction, inspection, or account, impose such terms, and give such directions as to the order in which the parties shall be heard, and the procedure under this Act generally, as the Court or Judge sees fit.

Powers of Court or Judge.

50. If any person is, by reason of infancy, mental illness, or other disability, incapable of making any declaration or doing anything required or permitted by this Act, or by any Rules made under the authority of this Act, then the guardian or committee, if any, of such incapable person, or if there be none, any person appointed by any Court or Judge possessing jurisdiction in respect of the property of persons under disability, upon the petition of any person on behalf of the incapable person, or of any other person interested in the making of such declaration or doing such thing, may make such declaration, or a declaration as nearly as possible corresponding thereto, as circumstances permit, and do such thing in the name and on behalf of the incapable person, and all acts done by the substitute shall for the purposes of this Act be as effectual as if done by the person for whom he is substituted.

Persons under disability.

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Publication of
quarterly lists.
[11 of 1955].

51. The Controller shall cause to be published, during each quarter, in the *Gazette*, a list of all patents granted and designs registered, during the preceding quarter, and any further information that he may deem generally useful or important.

Transmission of
copies, etc., to
England.

52. Copies of the specifications of all registered patents, and all registered amendments thereof, and of all published lists of registered designs, shall be transmitted to the Comptroller of Patents, Designs, and Trade Marks in England.

Declarations.

53. Any declaration required to be made under this Act may be taken by the Controller.

International
and
Commonwealth
arrangements.
[11 of 1955].
46 & 47 Vict.
c. 57.
1 Edw. VII.
c. 18.

54. (1) Any person who has applied for protection for any invention or design in the United Kingdom, or in any foreign State between the Government of which and the Government of Trinidad and Tobago arrangements have been made under the provisions of section 103 of the Patents, Designs, and Trade Marks Act 1883, as amended by the Patents Act 1901, of the United Kingdom or any subsequent written law, for mutual protection of inventions and designs shall be entitled to a patent for his invention, or to registration of his design, as the case may be, under this Act, in priority to other applicants; and the patent or registration shall take effect from the same date as the date of the application in the United Kingdom or such foreign State, as the case may be.

(2) The application shall be made, in the case of a patent, within twelve months or, in the case of a design, within four months, from the person applying for protection in the United Kingdom or the foreign State with which the arrangement is in force.

(3) Nothing contained in this section shall entitle the patentee or proprietor of the design to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification or the actual registration of his design, as the case may be, in Trinidad and Tobago.

(4) The publication in Trinidad and Tobago during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design or the publication therein during such periods of a description or representation of the design shall not invalidate the patent granted for the invention or the registration of the design.

(5) The application for the grant of a patent or the registration of a design under this section shall be made in the same manner, and subject to the payment of the same fees, as prescribed in the Patents Act.

Ch. 82:76.

(6) In the case of a patent, an application under this section shall be accompanied by a complete specification which if it is not accepted within the period of twelve months, shall with 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 the President, from time to time, by Order declares the provisions of the aforesaid section *103 of the said Patents, Designs, and Trade Marks Act, 1883, or any subsequent written law, to be applicable, and so long only in the case of each State as such Order continues in force with respect to that State.

55. (1) The President may, as respects any Convention country (as defined in section 91A of the Patents and Designs Acts 1907 to 1946 of the United Kingdom), if he is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, make Rules empowering the Controller to extend the time for making application under section 54 of this Act for the granting, in priority to other applicants, of a patent for an invention, or for the registration, in priority to other applicants, of a design, in any case where the period specified in section 54(2) for the making of an application under the section expires during a period prescribed by the Rules.

Extension of time for applications under section 54 in certain cases. 7 Edw. 7 c. 29.

*Prior to Independence various Orders in Council had been made by Her Majesty declaring this section applicable to certain foreign States.

- (2) Rules made under this section—
- (a) may, where any agreement or arrangement has been made between Her Majesty's government in the United Kingdom and the government of the Convention country for the supply or mutual exchange of information or articles, provide, either generally or in any class of case specified in the Rules, that an extension of time shall not be granted under this section unless the invention or design has been communicated in accordance with the agreement or arrangement;
 - (b) may, either generally or in any class of case specified in the Rules, fix the maximum extension which may be granted under this section and provide for reducing the term of any patent granted on an application made by virtue of this section, and (notwithstanding anything contained in Rules made under this Act) vary the times for the payment of renewal fees in respect of such a patent and the amount of such fees;
 - (c) may prescribe or allow any special procedure in connection with applications made by virtue of this section;
 - (d) may empower the Controller, as respects any application made by virtue of this section, to substitute for the period of twelve months specified in section 54(6) such other period as appears to him expedient;
 - (e) may empower the Controller to extend, subject to such conditions, if any, as may be imposed by or under the Rules, the time limited by or under the foregoing provisions of this Act for doing any act in relation to an application made by virtue of this section;
 - (f) may provide for securing that the rights conferred by a patent granted or registration made on an application made by virtue of this section shall

be subject to such restriction or conditions as may be specified by or under the Rules and in particular that where, otherwise than as the result of any communication made in accordance with such an agreement or arrangement as is mentioned in paragraph (a) and before the date of the application in question or such later date as may be allowed by the Rules, either the invention has been made, used, exercised or vended, or the design applied, by any person (including a person acting on behalf of the State), or application for a patent for the invention or for registration of the design has been made by any such person as aforesaid, the rights conferred by a patent granted, or registration made, upon the first-mentioned application shall be subject to such conditions and reservations for the protection of that person as may be specified by or under the Rules.

56. Where an agreement or arrangement has been made between Her Majesty's government in the United Kingdom and the government of another country for the supply or mutual exchange of information or articles, and the President is satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of that country, the President may make Rules to secure that the communication, in accordance with the agreement or arrangement, of an invention or design, or the publication, making, use, exercise or vending of an invention, or publication or application of a design, in consequence of the communication, shall not prejudice any application for a patent for the invention or registration of the design, being an application made by a person from whom the invention or design was so communicated or the legal representative or assignee of such a person, or invalidate the grant on such an application of a patent for the invention or the registration of such an application of the design.

Provisions as to communication of inventions and designs under agreements with other countries.

Provisions as to Rules under sections 55 and 56.

57. (1) Any Rules made in pursuance of sections 55 and 56 shall be laid before Parliament.

(2) Any such Rules and any order made, direction given, or other action taken under the Rules by the Controller, may be made, given or taken so as to have effect as respects things done or omitted to be done on or after such date, whether before or after the coming into operation of the Rules, as may be specified in the Rules.

Commonwealth arrangements.

58. (1) Whenever it appears to the President that the legislature of any Commonwealth territory has made satisfactory provision for the protection in such territory of inventions and designs patented or registered in Trinidad and Tobago, the President may, by Order, apply all or any of the provisions of section 57 relating to the protection of inventions and designs patented or registered in the United Kingdom, with such variations or additions, if any, as to the President seem fit, to inventions patented, and designs registered, in such Commonwealth territory.

(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.

Inventions and designs made in Germany or Japan.

59. (1) An application for a patent or for the registration of a design may be refused by the Controller at any stage of the proceedings on the ground that the invention or design was, during the period beginning with 3rd September 1938, and ending with 31st December 1945, invented or designed in Germany or Japan or invented or designed by a German or Japanese national in any territory which was then enemy territory.

(2) The ground mentioned in subsection (1) shall be an additional ground for revoking a patent under section 10, and shall also, on infringement proceedings, be an additional ground of defence or for a counterclaim for the revocation of a patent or the cancellation of the registration of a design.

(3) The foregoing provisions of this section shall not apply in any case where—

- (a) the applicant, patentee, or proprietor of a registered design, as the case may be, proves that the invention or design was invented or designed in Germany before 3rd September 1938, or was invented or designed in Japan before 7th December 1941, and has at no time since the said 3rd September or, as the case may be, the said 7th December, been beneficially owned in whole or in part by a German or Japanese national or a German or Japanese company;
- (b) the application for the patent or for the registration of the design was made before 1st February 1946, and the applicant, patentee, or proprietor of the design, as the case may be, proves that the invention or design was independently invented or designed outside Germany and Japan by a person, other than a German or Japanese national, being either the applicant, patentee or proprietor or a person through whom he claims; or
- (c) the invention or design was invented or designed by a prisoner of war in German or Japanese hands, unless it is shown that it was subsequently obtained from him by any German or Japanese national before 1st January 1946.

(4) An appeal shall lie from any decision of the Controller under this section to a Judge in Chambers.

(5) The Controller, with the sanction of the President, may make Rules under section 60 for carrying this section into effect and in particular for requiring applicants for a patent or for the registration of a design to furnish information as to matters arising under this section.

RULES AND FEES

60. Rules made under the Patents Act, and the fees prescribed under that Act shall apply to this Act.

Rules and fees.
[11 of 1955].
Ch.82:76.

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Chap. 82:83

Patents and Designs

SCHEDULE

FORMS A, B, C and D have been omitted since these forms were made under sections of the Act which have been repealed. (*See note at Page 2*).
