

Patents Act

Principal Act

Act. No. 1924-11

Commencement

19.12.1924

Assent

19.12.1924

Amending
enactment

Relevant current provisions

Commencement
date

Act.1932-14	s. 7	
1956-02	s. 7	
1977-24	ss. 2-3, 7	
1978-31	—	
1980-04	s. 10(1A)	
1991-16	s. 10(1)	18.7.1991
2007-17	ss. 10(1), (1A), 11	14.6.2007
2020-13	Long title, ss. 2, 13-14	1.1.2021

ARRANGEMENT OF SECTIONS

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AN ACT TO PROVIDE FOR THE REGISTRATION IN GIBRALTAR OF LETTERS PATENT GRANTED IN THE UNITED KINGDOM, AND TO IMPLEMENT, IN PART, THE PATENT COOPERATION TREATY SIGNED AT WASHINGTON ON 19TH JUNE 1970, AS REPLACED, AMENDED OR SUPPLEMENTED FROM TIME TO TIME; AND FOR CONNECTED PURPOSES.

Short title.

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

Grant of privileges in Gibraltar.

2. Subject to section 13, any person being the grantee of a United Kingdom patent (which expression shall in this Act include a patent treated under any Patents Act in force in the United Kingdom as being granted under such Act by reason of its being a European Patent (UK)) 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 Gibraltar. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration.

Documents to be forwarded.

3. Every application under this Act 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 Office giving full particulars of the issue of the patent on such specification or specifications and, in the case of a patent treated as being granted in the United Kingdom by virtue of the provisions of section 2, a certificate by an officer duly authorized under the Patents Act that the United Kingdom has accepted the European Patent (UK) designating the United Kingdom as being effective in the United Kingdom and that the particulars of the application are true.

Certificate of registration.

4. Upon such application being received, together with the documents mentioned in section 3, the Registrar of Patents shall issue a certificate of registration.

Effect of registration.

5. Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of Gibraltar as though the patent had been issued in the United Kingdom with an extension to Gibraltar.

Duration of protection.

6. 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 Gibraltar.

Power of Supreme Court.

7. The Supreme 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 the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom :

Provided that such grounds shall be deemed to include the manufacture, use or sale of the invention in Gibraltar 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 Gibraltar by some person or persons after the priority date applicable to the patent in the United Kingdom and before the date of the issue of the certificate of registration under section 4.

For the purposes of this proviso the expression “priority date” in its application to a patent in the United Kingdom has the meaning assigned to it in section 5 of the Patents Act, 1949, or any other Patents Act for the time being in force.

Amendment of specification, etc.

8. Whenever any specification or drawing of a United Kingdom patent registered in Gibraltar 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 of Patents to substitute a copy of the specification and drawings as amended, for the specification and drawings originally filed.

Assignment etc., of privileges.

9. 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 of Patents for the entry on the register of such assignment, transmission or other instrument affecting the title, or giving an interest therein.

Registrar of Patents, etc.

10.(1) The Registrar of Patents shall be such person as may be appointed by the Minister responsible for trade from time to time.

(1A) The Minister responsible for trade may appoint one or more Assistant Registrars of Patents, and any Assistant Registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar (other than the powers conferred by section it).

(2) A book to be called “The Patent Register” (in this Act referred to as the register) shall be kept by the Registrar of Patents in which shall be registered the particulars of every application made under this Act.

(3) The register and all documents relating to entries therein which may have accompanied an application for registration, shall be open to the inspection of any person, during office hours, on payment of the prescribed fees.

Rules.

11. The Registrar of Patents may make such rules and do such things as he may think expedient, subject to the provisions of this Act, for regulating procedure under this Act, and for prescribing the fees to be paid in respect of proceedings under this Act:

Provided that the scale of such fees shall be approved by the Minister responsible for trade.

Saving for prerogatives of Crown.

12. Nothing in any grant made under this Act shall prejudice, abridge or derogate from, the prerogatives of Her Majesty.

International Patent (UK).

13.(1) The registered proprietor of an international patent (UK) shall enjoy in Gibraltar the like privileges and rights as though the grant of the international patent (UK) had been extended to Gibraltar.

(2) The privileges and rights conferred by subsection (1) shall continue in force only for so long as the grant of the patent in the United Kingdom remains in force.

(3) For the purposes of this section-

“the Patent Cooperation Treaty” means the treaty of that name signed at Washington on 19th June 1970, or any other international convention or agreement replacing it; or as amended or supplemented by any convention or international agreement;

“international patent (UK)” refers to a patent (as may be amended from time to time) registered in the United Kingdom under the United Kingdom’s Patents Act 1977, or any Act amending or substituted for that Act, which results from an international application filed on or after 1 January 2021 for a patent under the Patent Cooperation Treaty that designates the United Kingdom.

Regulations.

14. The Minister responsible for trade may make regulations for the purpose of implementing or further implementing in Gibraltar an international agreement or convention or any other international obligation concerned with patents.