



MONTSERRAT

## CHAPTER 15.11

### **PATENTS ACT** and Subsidiary Legislation

#### **Revised Edition**

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

#### **PATENTS ACT**

Act 3 of 1906 .. in force 1 September 1906  
Amended by Act 21 of 1921  
Amended by S.R.O. 15/1956  
Amended by Acts: 23 of 1961  
24 of 1982  
7 of 2011 .. in force 11 October 2011 (S.R.O. 54/2011)  
9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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#### **PATENTS REGULATIONS – Section 48**

L.I. Gazette 22.10.1908 .. in force 7 December 1906  
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#### **PATENTS (FEES) REGULATIONS – Section 48**

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#### **PATENTS (PUBLIC OFFICERS) REGULATIONS**

S.R.O. (L.1) 15/1933 .. in force 12 July 1933  
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## **CHAPTER 15.11**

### **PATENTS ACT**

#### **ARRANGEMENT OF SECTIONS**

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## CHAPTER 15.11

### PATENTS ACT

*(Acts 3 of 1906, 21 of 1921, S.R.O. 15/1956,  
Acts 23 of 1961, 24 of 1982, 7 and 9 of 2011)*

#### Commencement

*[1 September 1906]*

#### Short title

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

#### Interpretation

2. In 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 territories and places under one legislature as hereinafter defined are deemed to be one British Possession for the purposes of this Act;

“**Court**” means the High Court;

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

“**legislature**” includes any person or persons who exercise legislative authority in the British possession and where there are local legislatures as well as a central legislature means a central legislature only;

“**prescribed**” means prescribed by any of the Schedules to this Act or by regulations under this Act;

“**Registrar**” means the Financial Services Commissioner appointed under the Financial Services Commission Act; *(Amended by Act 7 of 2011)*

“**true and first inventor**”, “**true inventor**” and “**inventor**” shall, to the extent that the context does not express, include the person who is the actual inventor of any invention or his assigns, or if the actual inventor be dead, his legal representatives, or, (if the actual inventor, his legal representatives, or assigns, is or are not resident in Montserrat) 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 Overseas Territory or country without the authority of the actual inventor, his legal representatives or assigns. *(Amended by Act 9 of 2011)*

### Persons entitled to apply for patent

3. (1) Any person, whether a Montserratian or not, may make an application for a patent. *(Amended by Act 9 of 2011)*

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

(3) An applicant may be—

(a) the actual inventor; or

(b) his assigns; or

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

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

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

*(Amended by Act 24 of 1982)*

### Applications and specification

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

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

### **Registrar may refer application to examiner**

5. 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.

### **Power for Registrar to refuse application or require amendment**

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

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

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

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

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

### **Time for leaving complete specification**

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

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

### Comparison of provisional and complete specification

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

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

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

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

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

### Advertisement on acceptance of complete specification

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

### Opposition to grant of patent

10. (1) Any person may, at any time within three months from the date of the advertisement of the acceptance of a complete specification, give notice at the Registrar's office of opposition to the grant of the patent on the ground of an applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in Montserrat 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 \$120 for the costs of the opposition; and if the security so required is not given within the said three months, the opposition shall lapse.

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

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

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

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

### **Specifications etc., not to be published unless application accepted**

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

### **Sealing of patent**

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

(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 a Judge in Chambers, or by opposition to the grant of the patent, the patent may be sealed at such time as a Judge in Chambers may direct;

- (b) if the person making the application dies 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.

### **Date of patent**

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

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

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

### **Provisional protection**

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

### **Effect of acceptance of complete specification**

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

Provided that, an applicant shall not be entitled to institute any proceeding for infringement, unless and until a patent for the invention has been granted to him.

### **Granting of Letters Patent by Governor**

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

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

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

### **Extent of patent**

18. Every patent, when sealed, shall have effect throughout Montserrat.

### **Term of patent**

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

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

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

(4) Thereupon the Registrar shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding \$48, 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.

### **Amendment of specification**

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

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

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

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

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

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

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

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

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

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

### **Power to disclaim part of invention during action, etc.**

21. 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 at the Registrar's office for leave to amend his specification by way of disclaimer, and may direct that in the meantime the trial or hearing of the action shall be postponed.

### **Restriction on recovery of damages**

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

### **Advertisement of amendment**

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

### Power for Governor to order grant of licences

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

- (a) the patent is not being worked in Montserrat; 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 Governor acting on the advice of Cabinet may order the patentee to grant licences on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor acting on the advice of Cabinet, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may on application to the Court be enforced by *mandamus*.

(Amended by Act 9 of 2011)

### Register of patents

25. (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 or proprietorship of patents as may from time to time be prescribed.

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

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

### Fees

26. Such fees as may be prescribed shall be levied and paid to the credit of the general revenue of Montserrat.

### Extension of term of patent on petition to the Governor acting on the advice of Cabinet

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

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

(3) If the Governor acting on the advice of Cabinet shall be pleased to refer any such petition to the High 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 Governor acting on the advice of Cabinet to extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Court may think fit.

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

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

*(Amended by Act 9 of 2011)*

### Revocation of patent

28. (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;

(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

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

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

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

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

(8) Where a patent has been revoked on the ground of fraud, the Registrar may, on the application of the true inventor made in accordance with provisions of this Act, grant to him a patent in lieu of and bearing the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

### **Patent to bind Crown**

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

### **Hearing with assessors**

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

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

### **Delivery of particulars**

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

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

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

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

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

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

### **Order for inspection, etc., in action**

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

### **Certificate of validity questioned and costs thereon**

33. In an action for infringement of a patent, the Court may certify that the validity of the patent came in question; and if the Court so certify, then, in any subsequent action for infringement, the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the Court trying the action certifies that he ought not to have the same.

### **Remedy in case of groundless threats of legal proceedings**

34. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats:

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.

### **Licensed patent agents**

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

### **Patent for one invention only**

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

### **Patent on application of representative of deceased inventor**

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

**(2)** Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to be the true and first inventor of the invention.

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

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

### **Assignment of patent for particular place**

**39.** A patentee may assign his patent for the whole of Montserrat or any part thereof.

### **Loss or destruction of patent**

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

### **Witnesses may be summoned**

**41.** For the purpose of any application or opposition or other matters requiring the decision of a Judge or the Registrar, the Registrar of the High Court may, and at the request of any party to be heard shall, cause

summonses under the seal of the Court to be issued for the attendance of witnesses and may examine witnesses on oath and administer oaths for that purpose under this part of the Act, and every witness so summoned shall be bound to attend at the time and place mentioned in such summons and shall be paid his expenses according to the scale for the time being allowed to witnesses on trials in the Court, and shall continue in attendance until the matter shall have been disposed of, and produce any document in his power, possession, custody, or control which he shall by such summons be required to produce. (*Amended by Act 7 of 2011*)

### **Proceedings and costs before Judge**

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

### **Exhibition at industrial or international exhibition not to prejudice patent rights**

**43.** The exhibition of an invention at an industrial or international exhibition, whether within or without Her Majesty's Dominions certified as such under the hand of the Registrar, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor or his legal personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely—

- (a) the exhibitor must, before exhibiting the invention, give the Registrar the prescribed notice of his intention to do so; and
- (b) the application for a patent must be made before or within six months from date of the opening of the exhibition.

### **Power to require models on payment**

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

### **Assignment to Governor of certain inventions**

**45. (1)** The inventor of any improvement in instruments or munitions of war, his executors, administrators, or assigns (who are in this section comprised in the expression the inventor) may (either for or without valuable consideration) assign to the Governor on behalf of Her Majesty,

all the benefit of the invention and of any patent obtained or to be obtained for the same: and the Governor may be a party to the assignment.

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

(3) Where any such assignment has been made to the Governor he may at any time before the application for a patent for the invention, or before publication of the specification or specifications, certify to the Registrar his opinion that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

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

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

(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 Governor 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 Governor to receive it.

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

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

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

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

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

(12) The communication of any invention for any improvement in instruments or munitions of war to the Governor 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.

### **International arrangements for protection of inventions**

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

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

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

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

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

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

(7) The provisions of this section shall, in the case of foreign states, apply only in the case of those foreign states with respect to which Her Majesty from time to time, by Order in Council, declares the provisions of the aforesaid section 103 of the said first recited Imperial Act to be

applicable, and so long only in the case of each state as such Order continues in force with respect to that state.

### **Provision for intercolonial, etc., arrangements**

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

**(2)** An order under this section shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act; but the Governor acting on the advice of Cabinet may revoke any such order. *(Amended by Act 9 of 2011)*

### **Governor may make regulations**

**48.** The Governor acting on the advice of Cabinet may make regulations for carrying into effect the provisions of this Act, and for regulating the amount, collection, and disposal of fees:

Provided that, all such regulations regulating the amount, collection and disposal of the fees, shall be subject to disallowance by Her Majesty.

*(Amended by Act 9 of 2011)*

### **Saving for prerogative**

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

**SCHEDULE***(Section 4)***FORMS 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 ....., 20..... .

*(d)**Registrar.*

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

---

<sup>(a)</sup> Here insert name, address, and calling of inventor.

<sup>(b)</sup> Here insert title of invention.

<sup>(c)</sup> Signature of inventor.

<sup>(d)</sup> Signature and title of the officer before whom the declaration is made.

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FORM B  
FORM OF PROVISIONAL SPECIFICATION

(a)

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

(d)

Dated this ..... day of ....., 20..... .

- 
- (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 .....  
of ..... do hereby declare the nature of my 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)—

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 what I  
claim is (d), .....

- 1. ....
- 2. ....
- 3., etc. ....

(e)

Dated this ..... day of ....., 20.....

\_\_\_\_\_  
(a) Here insert title as in declaration

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

(c) Here insert full description of invention

(d) Here state distinctly the features of novelty claimed

(e) Signature of inventor

\_\_\_\_\_

FORM D

FORM OF PATENT

(L.S.)

By His Honour (*here insert the name of the Governor*) .....  
Governor of Montserrat.

To all to whom these presents shall come, Greeting:

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

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

Know Ye, therefore, that I, in the name and on behalf of Her Majesty, do by these  
Presents, give and grant unto the said patentee my special license, full power, sole  
privilege, and authority, that he the said patentee by himself, his agent, or licensees,  
and no others may at all times hereafter, during the term of years herein mentioned,  
make, use, exercise, and vend the said invention within .....  
in such manner as to him or them may seem meet, and that the said patentee shall  
have and enjoy the whole profit and advantage from time to time accruing by reason  
of the said invention, during the term of fourteen years from the date hereunder  
written of these presents: and to the end that the said patentee may have and enjoy the  
sole use and exercise and the full benefit of the said invention, I do by these Presents  
require and strictly command all and every person and persons, bodies politic and  
corporate, and all others of what estate, quality, degree, name, or condition soever  
they be within Montserrat, that they do not at any time during the continuance of the  
said term of fourteen years, either directly or indirectly, make use of or put in practice  
the said invention, or any part of the same, nor in anywise imitate the same, nor make  
or cause to be made any addition thereto or subtraction therefrom, whereby to pretend  
themselves the inventors thereof, without the consent, license, or agreement of the  
said patentee in writing under his hand and seal, on pain of incurring such penalties as  
may be justly inflicted on such offenders for their contempt and of being answerable  
to the said patentee according to law for his damages thereby occasioned: Provided  
always and these Letters Patent are on this condition, that, if any time during the said  
term it be made to appear to the High Court that this grant is contrary to law, or  
prejudicial or inconvenient to Her Majesty's subjects in general, or that the said

invention is not a new invention as to the public use and exercise thereof or that the said patentee is not the first and true inventor thereof within Montserrat as aforesaid, these Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time 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 Her Majesty's service in Montserrat, all such articles of the said invention as may be required by the Officers administering any department of Her Majesty's service in Montserrat in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Governor of Montserrat, 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 Her Majesty 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 Letters to be made Patent this ..... day of ....., 20..... and to be sealed and dated as of the said ..... day of ....., 20..... in the ..... year of Her Majesty's Reign.

## **PATENTS REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

#### **REGULATION**

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SCHEDULE: Forms

**PATENTS REGULATIONS – SECTION 48**

*(L.I. Gazette 22.10.1908 and Act 9 of 2011)*

**Commencement**

*[7 December 1906]*

**Short title**

1. These Regulations may be cited as the Patents Regulations.

**Interpretation**

2. (1) In these Regulations—

“**Act**” means the Patents Act;

“**convention application**” means an application in Montserrat under the provisions of section 46 of the Act;

“**Foreign Application**” means an application duly made by any person for protection of his invention in any place to which the provisions of section 46 or 47 of the Act shall have become applicable;

“**United Kingdom**” includes the Isle of Man.

(2) Save as aforesaid any words herein used defined by the Act shall have the meanings thereby assigned to them respectively.

**Forms**

3. The Forms contained in the Schedule may, as far as they are applicable, be used in any proceedings under the Act or under these Regulations.

**Application by representative of deceased inventor**

4. In the case of an application for a patent by the legal representative of a person who has died possessed of an invention, the Probate of his Will, or the Letters of Administration granted of his estate and effects, or an official copy of such Probate or Letters, shall be produced at the Registrar’s office in proof of the applicant’s title as such legal representative, and must be supported by such further evidence as the Registrar may require.

**Order of recording applications**

5. (1) Applications for patents sent through the post shall, as far as may be practicable, be opened and numbered in the order in which the letters containing the same have been respectively delivered in the ordinary course of post.

(2) Applications left at the Registrar’s office otherwise than through the post shall be in like manner numbered in the order of their receipt at the Registrar’s office.

## Claims

6. The statement of the invention claimed, with which a complete specification must end, shall be clear and succinct as well as separate and distinct from the body of the specification.

## One invention

7. (1) When a specification comprises several distinct matters, they shall not be deemed to constitute an invention by reason only that they are all applicable to or may form parts of an existing machine, apparatus, or process.

(2) Where a person making application for a patent has included in his specification more than one invention, the Registrar may require or allow him to amend such application and specification and drawings or any of them so as to apply to one invention only, and the applicant may make application for a separate patent for any invention excluded by such amendment.

(3) Every such last mentioned application may, if the Registrar at any time so direct, bear the date of the original application or such date between the date of the original application and the date of the application in question, as the Registrar may direct, and shall otherwise be proceeded with as a substantive application in the manner prescribed by the Act and by any regulations thereunder for the time being in force.

(4) When the Registrar has required or allowed any application, specification or drawings to be amended as aforesaid, such application shall, if the Registrar at any time so direct, bear such date, subsequent to the original date of the application and not later than the date when the amendment was made, as the Registrar shall consider reasonably necessary to give sufficient time for the subsequent procedure relating to such application.

## Extension of time for leaving and accepting complete specification

8. An application for extension of time for leaving or accepting a complete specification shall be made on Form U or on Form V in the Schedule as the case may require, and shall state in detail in what circumstances, and upon what grounds such extension is applied for, and the Registrar may require the applicant to substantiate such allegations by such proof as the Registrar may think necessary.

## Notice and advertisement of acceptance

9. On the acceptance of a provisional or complete specification, the Registrar shall give notice thereof to the applicant, and shall advertise the acceptance of every complete specification in the *Gazette*.

## Inspection of complete specification

10. Upon such acceptance in the case of a complete specification, the application and specification, or specifications, with the drawings (if any), may be inspected at the Registrar's office upon payment of the prescribed fee.

### **Convention applications**

11. Every convention application shall contain a declaration that foreign application has been made for protection of the invention to which such convention application relates, and shall specify all the places in which such foreign applications have been made, and the official date or dates thereof, respectively. The application must be made within twelve months from the date of the first foreign application, and must be accompanied by a complete specification, and signed by the person or persons by whom such first foreign application was made. If such person, or any of such persons be dead, the application must be signed by the legal representative of such dead person, as well as by the other applicants, if any.

### **Foreign specification etc. to accompany specification**

12. Every convention application, in addition to the specification left therewith, must be accompanied by a copy or copies of the specification, and drawings or documents filed or deposited by the applicant in the Patent office of the place in respect of the first foreign application, duly certified by the official chief or head of the Patent office of such place as aforesaid, or otherwise verified to the satisfaction of the Registrar. If any specification or other document relating to the application is in a foreign language, a translation thereof shall be annexed thereto and verified by statutory declaration or otherwise to the satisfaction of the Registrar.

### **Proceedings**

13. Save as aforesaid and as provided by regulation 50, all proceedings in connection with a convention application shall be taken within the times and in the manner prescribed by the said Act or these Regulations for ordinary applications.

### **Size, etc. of documents**

14. (1) All documents and copies of documents, except drawings, sent to or left at the Registrar's office, or otherwise furnished to the Registrar, shall be written, typewritten, lithographed, or printed in the English language (unless otherwise directed) in large and legible characters with deep permanent ink upon strong white paper, and, except in the case of statutory declarations and affidavits, on one side only, of a size of approximately thirteen inches by eight inches, leaving a margin of at least one inch and a half on the left hand part thereof, and the signatures thereto must be written in a large and legible hand. Duplicate documents shall at any time be left, if required by the Registrar.

(2) At the top of the first page of a specification a space of about two inches should be left blank.

### **Drawings accompanying specifications**

15. Drawings, when furnished, should accompany the provisional or complete specification to which they refer, except in the case provided for by regulation 22. No drawing or sketch such as would require the preparation for the printer of a special illustration for use in the letterpress of the specification when printed should appear in the specification itself.

### Requirements as to paper

16. Drawings may be made by hand or lithographed, printed, etc. They must be made on pure, white, hotpressed, rolled, or calendered strong paper of smooth surface, good quality, and medium thickness without washes or colours, in such a way, as to admit of being clearly reproduced on a reduced scale by photography. Mounted drawings must not be used.

### Size of drawings and arrangement of figures

17. Drawings must be on sheets which measure thirteen inches from top to bottom and are either from eight inches to 8¼ inches or from sixteen inches to 16½ inches wide, the narrower sheets being preferable. If there are more figures than can be shown on one of the smaller sized sheets, two or more of these sheets should be used in preference to employing the larger size. When an exceptionally large drawing is required, it should be continued on subsequent sheets. There is no limit to the number of sheets that may be sent in, but no more sheets should be employed than are necessary, and the figures should be numbered consecutively throughout, and without regard to the number of sheets. The figures should not be more numerous than is absolutely necessary. They should be separated by a sufficient space to keep them distinct.

### Drawings to be suitable for reproduction

18. (1) Drawings must be prepared in accordance with the following requirements—

- (a) they must be executed with absolutely black ink;
- (b) each line must be firmly and evenly drawn, sharply defined, and of the same strength throughout;
- (c) section lines, lines for effect, and shading lines, should be as few as possible, and must not be closely drawn;
- (d) shade lines must not contrast too much in thickness with the general lines of the drawing;
- (e) sections and shading should not be represented by solid black or washes;
- (f) they should be on a scale sufficiently large to show the invention clearly, and only so much of the apparatus, machine, etc., should appear as effects this purpose. If the scale is given, it should be drawn, and not denoted by words.

(2) Reference letters and figures, and index numerals used in conjunction therewith must be bold, distinct, and not less than 1/8 of an inch in height. The same letters should be used in different views of the same parts. Where the reference letters are shown outside the figure, they must be connected with the parts referred to by fine lines.

### **Drawings to bear name of applicant, etc., but no descriptive matter**

19. Drawings must bear the name of the applicant, (and, in the case of drawings left with a complete specification after a provisional specification, the number and year of the application) in the left hand top corner; the number of sheets of drawings sent, and the consecutive number of each sheet, in the right hand top corner; and the signature of the applicant or his agent in the right hand bottom corner. Neither the title of the invention nor any descriptive matter should appear in the drawings.

### **Copies of drawings**

20. (1) A facsimile or “**true copy**” of the original drawings must be filed at the same time as the original drawings, prepared strictly in accordance with the above regulations, except that it may be on tracing cloth and the reference letters and figures should be in black-lead pencil.

(2) The words “**original**” or “**true copy**” must in each case be marked at the right hand top corner, under the numbering of the sheet.

### **Delivery of drawings**

21. Drawings must be delivered at the Registrar’s office so as to be free from folds, breaks, or creases, which would render them unsuitable for reproduction by photography.

### **Provisional drawings used for complete specification**

22. If an applicant desires to adopt the drawings lodged with his provisional specification as the drawings for his complete specification, he should refer to them in the complete specification, as those left with the provisional specification.

### **Form of statutory declaration and affidavit**

23. The statutory declarations and affidavits required by these Regulations, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate and shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as possible be confined to one subject. Every statutory declaration or affidavit shall state the description and true place of abode of the person making the same, and shall be written or printed bookwise, and shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

### **Manner in which, and persons before whom, declaration or affidavit is to be taken**

24. The statutory declarations and affidavits required by the Act and these Regulations, or used in any proceedings thereunder, shall be made and subscribed as follows—

- (a) in Montserrat, before any Commissioner or other Officer authorised by law to administer an oath for the purpose of any legal proceeding;
- (b) in the United Kingdom, before any Justice of the Peace, or any Commissioner or other Officer authorised by law in any part of the

United Kingdom to administer an oath for the purpose of any legal proceeding;

- (c) in any other part of Her Majesty's dominions, before any Court Judge, Justice of the Peace, or any Officer authorised by law, to administer an oath there for the purpose of a legal proceeding; and
- (d) if made out of Her Majesty's dominions, before a British Minister, or person exercising the functions of a British Minister, or a Consul, Vice-Consul, or other person exercising the functions of a British Consul, or before a Notary Public or before a Judge or Magistrate.

### **Industrial or international exhibitions**

25. Any person desirous of exhibiting an invention at an industrial or international exhibition, or of publishing any description of the invention, during the period of the holding of the exhibition, or of using the invention for the purpose of the exhibition in the place where the exhibition is held, may after the Registrar has given a certificate that the exhibition is an industrial or international one, give to the Registrar notice on Form O in the Schedule of his intention to exhibit, publish, or use the invention as the case may be. For the purpose of identifying the invention in the event of an application for a patent being subsequently made, the inventor shall furnish to the Registrar a brief description of his invention, accompanied, if necessary, by drawings and such other information as the Registrar may in each case require.

### **Exercise of discretionary powers by Registrar**

26. Before exercising any discretionary power given to the Registrar by the Act or these Regulations adversely to the applicant for a patent or for amendment of a specification, the Registrar shall give ten days' notice, or such longer notice as he may think fit, to the applicant of the time when he may be heard personally or by his agent before the Registrar.

### **Notice by applicant**

27. Within five days from the date when such notice would be delivered in the ordinary course of the post, or such longer time as the Registrar may appoint in such notice, the applicant shall notify in writing to the Registrar whether or not he intends to be heard upon the matter.

### **Registrar may require statement, etc.**

28. Whether the applicant desires to be heard or not, the Registrar may at any time require him to submit a statement in writing within a time to be notified by the Registrar, or to attend before him and make oral explanations with respect to such matters as the Registrar may require.

### **Decision to be notified to parties**

29. The decision or determination of the Registrar in the exercise of any such discretionary power as aforesaid, shall be notified by him to the applicant, and to any other person who appears to him to be affected thereby.

### **Notice of opposition**

**30.** A notice of opposition to the grant of a patent shall be on Form D in the Schedule, and shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the grant, and must be signed by him. Such notice shall state his address for service, and shall be accompanied by a copy, which copy shall be transmitted by the Registrar to the applicant.

### **Evidence in support of allegation that invention has been obtained from opponent**

**31.** Where the ground of an opposition is, that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, unless evidence in support of such allegation be left at the Registrar's office within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification, the opposition shall be deemed to be abandoned.

### **Attendance of declarant on Registrar**

**32.** Where the ground of an opposition is that the applicant has obtained the invention from the opponent, or from a person of whom such opponent is the legal representative, the Registrar may request or allow any person who has made a statutory declaration in the matter to which the opposition relates to attend before him at the hearing of the case and make oral explanations with respect to such matters as the Registrar may require.

### **Particulars of prior patent**

**33.** Where the ground or one of the grounds of opposition is that the invention has been patented in Montserrat on an application of prior date, the number and date of such prior application shall be specified in the notice.

### **Opponent's evidence**

**34.** Except in the case provided for in regulation 31, statutory declarations need not be left in connection with an opposition, but the opponent may within fourteen days after the expiration of two months from the date of the advertisement of the acceptance of the applicant's complete specification, leave at the Registrar's office statutory declarations in support of his opposition, and on so leaving shall deliver to the applicant copies thereof.

### **Applicant's evidence**

**35.** Within fourteen days from the delivery of such copies, the applicant may leave at the Registrar's office statutory declarations in answer, and on so leaving shall deliver to the opponent copies thereof, and within fourteen days from such delivery the opponent may leave at the Registrar's office his statutory declarations in reply, and on so leaving shall deliver to the applicant copies thereof. Such last-mentioned declarations shall be confined to matters strictly in reply.

### **Applicant's evidence if opponent does not leave statutory declarations**

36. If the opponent does not leave statutory declarations in support of his opposition, the applicant may (if he desires so to do) within three months from the date of the advertisement of the acceptance of his complete specification, leave at the Registrar's office statutory declarations in support of his application, and on so leaving shall deliver to the opponent copies thereof.

### **Opponent's evidence**

37. Within fourteen days from the delivery of such copies, the opponent may leave at the Registrar's office statutory declarations in answer, and on so leaving shall deliver to the applicant copies thereof, and within fourteen days of such delivery, the applicant may leave at the Registrar's office his statutory declarations in reply, and on so leaving shall deliver to the opponent copies thereof. Such last mentioned declarations shall be confined to matters strictly in reply.

### **Closing of evidence**

38. No further evidence shall be left on either side except by leave, or on the requisition, of the Registrar.

### **Hearing**

39. On completion of the evidence (if any) or at such other time as he may see fit, the Registrar shall appoint a time for the hearing of the case, and shall give the parties ten days' notice at the least of such appointment. If either party does not desire to be heard, he shall as soon as possible notify the Registrar to that effect. If either party desires to be heard, he must leave Form E in the Schedule at the Registrar's office. The Registrar may refuse to hear either party who has not left Form E prior to the date of hearing. If either party intends to refer at the hearing to any publication other than a specification mentioned in the notice of opposition, he should, unless the same has been referred to in a statutory declaration already filed, give to the other party and to the Registrar five days' notice at the least of his intention, together with details of each publication to which he intends to refer. After hearing the party or parties desirous of being heard, or if neither party desires to be heard, then without a hearing the Registrar shall decide the case and notify his decision to the parties.

### **Request for leave to amend**

40. A request for leave to amend a specification must be signed by the applicant and shall contain an address for service in Montserrat. When not made in pursuance of an order of the Court, or a Judge, the request must, where a patent has been sealed, also contain a statement that no action for infringement nor proceeding for revocation of the patent is pending. The request must be accompanied by a duly certified copy of the original specification and drawings, showing in red ink the proposed amendment, and shall be advertised by publication of the request, and the nature of the proposed amendment in the *Gazette*, and in such other manner (if any), as the Registrar may in each case direct.

### **Leave by Order of Court**

41. Where a request for leave to amend is made in pursuance of an order of the Court or a Judge, an office copy of the order shall be left with the request at the Registrar's office.

### **Notice of opposition**

42. A notice of opposition to the amendment shall be on Form G in the Schedule and shall state the ground or grounds on which the person giving such notice (hereinafter called the opponent) intends to oppose the amendment, and must be signed by him. Such notice shall state his address for service, and shall be accompanied by a copy, which copy shall be transmitted by the Registrar to the applicant.

### **Opponent's evidence**

43. Within fourteen days after the expiration of one month from the first advertisement of the application for leave to amend, the opponent may leave at the Registrar's office statutory declarations in support of his opposition, and on so doing shall deliver to the applicant copies thereof.

### **Further proceedings**

44. Upon such declarations being left, and such copies being delivered, the provisions of regulations 35, 38 and 39, shall apply to the case, and the further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

### **Applicant's evidence if opponent does not leave statutory declarations**

45. If the opponent does not leave statutory declarations in support of his opposition, the applicant may (if he desires so to do) within two months from the date of the first advertisement of the application for leave to amend, leave at the Registrar's office statutory declarations in support of his application, and on so leaving shall deliver to the opponent copies thereof.

### **Further proceedings**

46. Upon such declarations being left, and such copies being delivered, the provisions of regulations 37, 38 and 39, shall apply to the case, and further proceedings therein shall be regulated in accordance with such provisions as if they were here repeated.

### **Requirements on amendments**

47. Where leave to amend is given the applicant shall, if the Registrar so require, and within a time to be limited by him, leave at the Registrar's office a new specification and drawings as amended, to be prepared in accordance with regulations 14 to 21.

### **Advertisement of amendment**

48. Every amendment of a specification shall be advertised forthwith by the Registrar in the *Gazette*, and in such other manner (if any), as the Registrar may direct.

### **Entry of grant**

49. Upon the sealing of a patent the Registrar shall cause to be entered in the register of patents the name, address, and calling of the patentee as the grantee thereof, and the title of the invention, together with the address for service.

### **Entry in respect of convention application**

50. The patent granted on any convention application shall be entered in the register as dated of the date on which the first foreign application was made, and the payment of renewal fees, and the expiration of the patent, shall be reckoned as from the date of the first foreign application.

### **Alteration of address**

51. If a patentee send to the Registrar on Form R in the Schedule, notice of an alteration in his address, the Registrar shall cause the register to be altered accordingly.

### **Request for entry of subsequent proprietorship**

52. Where a person becomes entitled to a patent, or to any share or interest therein, by assignment, or by transmission, or other operation of law, a request for the entry of his name in the register as such complete or partial proprietor of the patent, or of such share or interest therein, as the case may be, shall be addressed to the Registrar, and left at the Registrar's office.

### **Form and signature of request**

53. Such request shall be on Form L in the Schedule, and shall in the case of individuals be made and signed by the person requiring to be registered as proprietor, or by his agent duly authorised to the satisfaction of the Registrar, and in the case of a body corporate by its agent, authorised in like manner.

### **Particulars to be stated in request**

54. Every such request shall state the name, address and calling of the person claiming to be entitled to the patent, or to any share or interest therein, as the case may be, and the particulars of the assignment, transmission, or other operation of law, by virtue of which he claims to be entered in the register as proprietor, so as to show the manner in which, and the person or persons to whom, the patent, or such share or interest therein as aforesaid, has been assigned or transmitted.

### **Production of documents of title and other proof**

55. (1) Every assignment, and every other document containing, giving effect to, or being evidence of, the transmission of a patent, or affecting the proprietorship thereof as claimed by such request, except such documents as are matters of record,

shall, unless the Registrar in his discretion otherwise directs, be produced to him together with the request, and such other proof of title as he may require for his satisfaction.

(2) As to a document which is a matter of record, an official or certified copy thereof shall in like manner be produced to the Registrar.

### **Copies for Registrar's office**

56. There shall also be left with the request an attested copy of the assignment or other document or copy above required to be produced.

### **Body Corporate**

57. A body corporate may be registered as proprietor by its corporate name.

### **Entry of Orders of Governor acting on the advice of Cabinet or of the Court**

58. Where an order has been made by the Governor acting on the advice of Cabinet for the extension of a patent for a further term, or for the grant of a new patent, or where an order has been made for the revocation of a patent under section 28 of the Act, or otherwise affecting the validity or proprietorship of the patent, the person in whose favour such order has been made shall forthwith leave at the Registrar's office an office copy of such order. The register shall thereupon be rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be. (*Amended by Act 9 of 2011*)

### **Entry of date of payment of fees on issue of certificate**

59. Upon the issue of a certificate of payment under regulation 66, the Registrar shall cause to be entered in the register a record of the date of payment of the fee on such certificate.

### **Entry of failure to pay fees**

60. If a patentee fails to make any prescribed payment within the prescribed time, or any enlargement thereof duly granted, there shall be duly entered in the register a notification of such failure.

### **Entry of notification of licence or other document**

61. An attested copy of every licence granted under a patent, or of any other document purporting to affect the proprietorship of a patent, shall be left at the Registrar's office, with a request on Form M in the Schedule, that a notification thereof may be entered in the register. The accuracy of such copy shall be certified as the Registrar may direct, and the original document shall at the same time be produced and left at the Registrar's office if required for further verification.

### **Hours of inspection of register**

62. The register of patents shall be open to the inspection of the public on every week day except Wednesday between the hours of 9 a.m. and 3.30 p.m. and on

Wednesday between the hours of 9 a.m. and 12 noon, except on the days and the times following—

- (a) Christmas Day, Good Friday, the day observed as Her Majesty's birthday, days observed as days of public fast or thanksgiving, and days observed as public holidays; or
- (b) days which may from time to time be notified by a placard posted in a conspicuous place at the Registrar's office;
- (c) times when the register is required for any purpose of official use.

### **Certified copies of documents**

**63.** Certified copies of any entry in the register, or certified copies of, or extracts from, patents, specifications, disclaimers, affidavits, statutory declarations, and other public documents in the Registrar's office, or of or from registers or other books kept there, may be furnished by the Registrar on payment of the prescribed fee.

### **Payment of fees for continuance of patent**

**64. (1)** If a patentee intends at the expiration of the fourth year from the date of his patent to keep the same in force, he shall, before the expiration of the fourth and each succeeding year during the term of the patent, pay the prescribed fee. The patentee may pay the whole or any portion of the aggregate of such prescribed annual fees in advance.

**(2)** The Form J in the Schedule should be used for the purpose of this payment.

### **Enlargement of time for payments**

**65.** An application for an enlargement of the time for making a prescribed payment shall state in detail the circumstances in which the patentee by accident, mistake, or inadvertence has failed to make such payment, and the Registrar may require the patentee to substantiate by such proof as he may think necessary the allegations contained in the application for enlargement.

### **Certificate of payment**

**66.** On due compliance with the terms of regulation 64, and as soon as may be after such respective periods as aforesaid, or any enlargement thereof respectively duly granted, the Registrar shall issue a certificate that the prescribed payment has been duly made.

### **Petition for grant of compulsory licence or revocation of patent**

**67.** A petition to the Governor acting on the advice of Cabinet for an order under section 24 of the Act shall show clearly the nature of the petitioner's interest, and the ground or grounds upon which he claims to be entitled to relief, and shall state in detail the circumstances of the case, the terms upon which he asks that an order may be made, and the purport of such order, and the name and address of the patentee, and any other person who is alleged in the petition to have made default. (*Amended by Act 9 of 2011*)

### **Petition to be left with evidence at Registrar's office**

**68.** The petition and an examined copy thereof shall be left at the Registrar's office accompanied by affidavits or statutory declarations in proof of the allegations contained in the petition together with any other documentary evidence in support, and the petitioner shall simultaneously with, or as soon as may be after the leaving of such petition, deliver to the patentee and any other person who is alleged in the petition to have made default, copies of the petition and of such affidavits or statutory declarations and other documentary evidence in support.

### **Opponent's evidence**

**69. (1)** The persons to whom such copies are delivered by the petitioner, may within fourteen days after being invited to do so by the Governor acting on the advice of Cabinet, leave at the Registrar's office their affidavits or statutory declarations in answer, and if they do so shall deliver copies thereof to the petitioner; and the petitioner may within fourteen days from such last-mentioned delivery leave at the Registrar's office his affidavits or statutory declarations in reply, and if he does so shall deliver copies thereof to the patentee or any other person alleged in the petition to have made default, such last-mentioned affidavits or statutory declarations being confined to matters strictly in reply.

**(2)** The times prescribed by this regulation may be altered or enlarged by the Governor acting on the advice of Cabinet if he thinks fit, upon such notice to parties interested, and upon such terms, if any, as he may direct.

*(Amended by Act 9 of 2011)*

### **Closing of evidence**

**70.** No further evidence than as aforesaid may be left by either side at the Registrar's office, except by leave or on requisition of the Governor acting on the advice of Cabinet, and upon such terms, if any, as the Governor acting on the advice of Cabinet may think fit. *(Amended by Act 9 of 2011)*

### **Power of amendment, etc.**

**71.** Any document, for the amending of which no special provision is made by the Act may be amended, and any irregularity in procedure, which in the opinion of the Registrar may be obviated without detriment to the interests of any person, may be corrected, if and on such terms as the Registrar may think fit.

### **General power to enlarge time**

**72.** The times prescribed by these Regulations for doing any act, or taking any proceeding thereunder, other than the times for lodging evidence referred to in regulation 31, or in the procedure in these Regulations relating to compulsory licences and revocation of patents, may be enlarged by the Registrar if he thinks fit, and upon such notice to other parties, and proceedings thereon, and upon such terms, as he may direct.

### Power to dispense with evidence

73. Where, under these Regulations, any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the Registrar's office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, document, declaration, or evidence.

### Hours of business

74. The Registrar's office shall be open to the public every week day except Wednesday between the hours of 9 a.m. and 3:30 p.m. and on Wednesday between the hours of 9 a.m. and 12 noon, except on the following days—

Christmas Day, Good Friday, the day observed as Her Majesty's birthday, the days observed as days of public fast or thanksgiving, or as public holidays, and days which may from time to time be notified by a placard posted in a conspicuous place at the Registrar's office.

### Leaving documents

75. Any application, notice, or other document, authorised or required to be left, made, or given at the Registrar's office, or to the Registrar, or to any other person under these Regulations, may be sent by a prepaid letter through the post, and if so sent shall be deemed to have been left, made, or given at the time when the letter containing the same, would be delivered in the ordinary course of post. In proving such service, or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

### Agency

76. With the exception of the signing of the following documents, namely, applications for patents, requests for leave to amend applications, specifications, or letters patent, authorisations of agents, notices of oppositions, requests for issue of duplicate letters patent, notices of abandonment of or of intention not to proceed with applications, surrenders of letters patent, and petitions for compulsory licence and revocation of patent, all communications to the Registrar under the Act and these Regulations may be signed by and all attendances upon the Registrar may be made by or through an agent duly licensed under section 35 of the Act. In any particular case, the Registrar may, if he thinks fit, require the personal signature or presence of an applicant, opponent, or other person.

**SCHEDULE**

**PATENTS ACT**

**FORM A**

*(To be accompanied by two copies of Form B and of Form C.)*

**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 ....., 20..... .

..... (d) .....

Registrar.

(NOTE. – This declaration must be accompanied by the statement of an address in  
Montserrat, for the reception of all notices, and other communications  
with respect to the application or invention.)

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_  
(a) Here insert (in full) name, address and calling of inventor.

(b) Here insert title of invention.

(c) Signature of inventor. In the case of a Firm, each member of the Firm must sign.

(d) Signature and title of the officer before whom the declaration is made.

MEMORANDUM.

(To be endorsed on back of Form A.)

Regulation 76

(1) Where application is made through an Agent. .... hereby appoint ..... of ..... to act as ..... Agent in respect of the written application for a Patent, and request that all notices, requisitions and communications relating thereto may be sent to such Agent at the above address.

..... day of ....., 20..... .

\*

(2) Where application is made without an Agent. .... hereby request that all notices, requisitions, and communications in respect of the within application may be sent to ..... at ..... day of ....., 20..... .

†

\* To be signed by applicant or applicants

† To be signed by applicant or applicants

PATENTS ACT

FORM A 1

*(To be accompanied by two copies of Form B or of Form C).*

**APPLICATION FOR PATENT FOR  
INVENTIONS COMMUNICATED FROM ABROAD**

I (a) ..... of .....  
in ..... do solemnly and sincerely declare that I am in  
possession of an invention for (b) ..... which  
invention has been communicated to me by (c) .....  
that I claim to be the true and first inventor thereof; and that the same is not in use  
within Montserrat by any other person or persons to the best of my knowledge and  
belief; and I humbly pray that a Patent may be granted to me for the said invention.

Declared at ..... }  
this ..... day of ....., } (d)  
20.....before me

- \_\_\_\_\_
- (a) Here insert (in full) name, address and calling of applicant
  - (b) Here insert title of invention
  - (c) Here insert name, address, and calling of communicator
  - (d) To be signed by applicant or applicants
- \_\_\_\_\_

## MEMORANDUM

*(To be endorsed on back of Form A 1.)**(Regulation 76)*

(1) Where application is made through an agent.

..... hereby appoint .....  
of ..... to act as ..... agent in respect of the within  
application for a Patent, and request that all notices, requisitions, and communications  
relating thereto may be sent to such agent at the above address

..... day of ....., 20..... .

\*

(2) Where application is made without an agent.

..... hereby request that all notices,  
requisitions, and communications in respect of the within application may be sent  
to ..... at .....

..... day of ....., 20..... .

†

\_\_\_\_\_  
\* To be signed by applicant or applicants

† To be signed by applicant or applicants

PATENTS ACT

FORM A 2

(To be accompanied by two copies of Form C.)

**APPLICATION FOR PATENT UNDER  
INTERNATIONAL AND COLONIAL ARRANGEMENTS**

(a).....  
do hereby solemnly and sincerely declare that I (or we) have made applications for protection of my (or our) invention of (b) .....  
in the following Foreign States and on the following official dates, viz: (c)  
.....  
.....  
.....  
and in the following British Possessions and on the following official dates, viz:  
(d).....  
.....  
.....  
that the said invention was not in use within Montserrat by any other person or persons before the (e) .....  
to the best of ..... knowledge, information, and belief, and ..... humbly pray that a patent may be granted to ..... for the said invention in priority to other applicants, and that such patent shall have the date (f) .....

(g)

(NOTE. – If the application be made through an agent a proper authorisation should be supplied; if not, an address for service to which communications may be sent should be furnished.)

To the Registrar,  
Registrar’s Office,  
Montserrat.

- 
- (a) Here insert (in full) name, address, and calling of applicant, or of each of the applicants.
  - (b) Here insert title of invention.
  - (c) Here insert the name of each Foreign State, followed by the official date of the application in each respectively.
  - (d) Here insert the name of each British possession, followed by the official date of the application in each respectively.
  - (e) Here insert the official date of the earliest foreign application.
  - (f) Here insert the official date of the earliest foreign application.
  - (g) Signature of applicant or of each of applicants.

## PATENTS ACT

## FORM B

**PROVISIONAL SPECIFICATION***(To be issued with Form A or Form A 1.)**(To be furnished in Duplicate.)**(a)**(b)*do hereby declare the nature of my invention to be as follows *(c)*

- 
- (a)* Here insert title verbally agreeing with that in the application form.
- (b)* Here insert (in full) name, address and calling of applicant or applicants as in application form.
- (c)* Here begin description of the nature of the invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper. The specification and the duplicate thereof must be dated thus:- Dated this ..... day of ....., 20....., and signed at the end.
-

PATENTS ACT

FORM C

**COMPLETE SPECIFICATION**

*(To be furnished in Duplicate.)*

(a)

(b)

do hereby declare the nature of my 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 verbally agreeing with that in the application form.
  - (b) Here insert (in full) name, address and calling of applicant or applicants as in application form.
  - (c) Here begin full description of invention. The continuation of the specification should be upon wide-ruled paper of the same size, on one side only, with a margin of two inches on the left hand of the paper.

The completion of the description should be followed by the words:-

“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 what I claim is: .....” After which should be written the claim or claims numbered consecutively. The specification and the duplicate thereof must be dated thus:

“Dated this ..... day of ....., 20.....,” and signed at the end.

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## PATENTS ACT

## FORM D

*(Regulation 30)***FORM OF OPPOSITION TO GRANT OF PATENT***(To be accompanied by a copy.)*

I \*

hereby give notice of my intention to oppose the grant of Letters Patent upon application No. .... of ..... applied for by ..... upon the ground†

(Signed)‡

To the Registrar,

Registrar's Office,

Montserrat.

---

\* Here state (in full) name and address.

† Here state upon which of the grounds of opposition permitted by section 10 of the Act the grant is opposed.

‡ To be signed by opponent.

---

PATENTS ACT

FORM E

*(Regulation 39)*

**FORM OF NOTICE THAT HEARING BEFORE  
THE REGISTRAR WILL BE ATTENDED**

Oppositions to the Grant of Patents or to Amendments.

Sir, .....  
of (a) ..... hereby give notice that the hearing in  
reference to ..... will be  
attended by myself or by some person on my behalf.

Sir,

Your obedient Servant,

(Signed)

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_  
(a) Here insert address.

\_\_\_\_\_

## PATENTS ACT

## FORM F

**FORM OF APPLICATION FOR AMENDMENT OF SPECIFICATION**

\*

seek leave to amend the specification of Letters Patent No. ....  
of ....., as shown in red ink in the certified copy of the  
original specification hereunto annexed.

†I declare that no action for infringement or proceeding for revocation of the  
Letters Patent in question is pending.

My reasons for making this amendment are as follows‡

(Signed)§

My address for service in Montserrat is

To the Registrar,

Registrar's Office,

Montserrat.

---

\* Here state (in full) name and address of applicant or patentee.

† These words are to be struck out when Letters Patent have not been sealed, or when, if Letters Patent have been sealed, the application is made in pursuance of an order of the Court or a Judge.

‡ Here state reasons for seeking amendment; and where the applicant is not the patentee, state what interest he possesses in the Letters Patent.

§ To be signed by applicant.

PATENTS ACT

FORM G

*(Regulation 42)*

**FORM OF OPPOSITION TO AMENDMENT OF SPECIFICATION**

*(To be accompanied by a copy.)*

\*

hereby give notice of objection to the proposed amendment of the specification of  
Letters Patent No.

of ....., for the following reason†

(Signed)

My address for service in Montserrat is

To the Registrar,

Registrar's Office,

Montserrat.

---

\* Here state (in full) name and address of opponent.

† Here state reason of opposition.

---

## PATENTS ACT

## FORM H

**FORM OF APPLICATION FOR GRANT OF  
COMPULSORY LICENCE OR REVOCATION OF PATENT**

*(To be accompanied by a copy.)*

\*

hereby request you to bring to the notice of the Governor acting on the advice of Cabinet the accompanying petition for the grant of a licence to me by†

(Signed)

(NOTE. – The petition must clearly set forth the facts of the case and be accompanied by an examined copy thereof. [See Form H 1.]

To the Registrar,

Registrar's Office,

Montserrat.

---

\*Here state (in full) name and address of applicant.

† Here state name and address of patentee, and number and date of his Patent.

*(Amended by Act 9 of 2011)*

---

PATENTS ACT

FORM H 1

**FORM OF PETITION FOR GRANT OF  
COMPULSORY LICENCE OR REVOCATION OF PATENT**

To the Governor acting on the advice of Cabinet.

The petition of *(a)* ..... of ..... in  
the ..... of ..... being a person interested in the  
matter of this petition as hereinafter described:

Sheweth as follows:-

1. A patent dated ..... No. .... was duly granted  
to ..... for an invention of *(b)*
  
2. The nature of my interest in the matter of this petition is as follows:-*(c)*
  
3. *(d)*

---

*(a)* Here insert (in full) name, address and calling.

*(b)* Here insert title of invention.

*(c)* Here state fully the nature of the petitioner's interest.

*(d)* Here state in detail the circumstances of the case under Section 24 of the Act, and show that it arises by reason of the default of the patentee, or as the case may be, of any other person claiming an interest in the Patent as exclusive licensee or otherwise to work his Patent or to manufacture the patented article in Montserrat to an adequate extent, or to grant licences on reasonable terms, the statement of the case should give the names and addresses of any persons who are alleged in the petition to have made default. The paragraphs should be numbered consecutively.

The evidence which I propose to leave at the Registrar's Office accompanying this petition is as follows:-(*e*)

Having regard to the circumstances above stated, the petitioner alleges that by reason of the aforesaid default, the reasonable requirements of the public with respect to the invention patented as above stated have not been satisfied.

Your petitioner therefore prays that an order may be made granting to him a compulsory licence on the terms following, viz:-(*f*)

or that the said patent may be revoked.

(Signed)

(NOTE. – In pursuance of the requirements of Regulation 68 the petitioner must deliver to the patentee and to any other person alleged to have made default, copies of the petition and of the affidavits or statutory declarations and other documentary evidence in support.)

---

(*e*) Here state what affidavits or statutory declarations together with any other documentary evidence will be left at the Registrar's office with the Petition as required by regulation 68.

(*f*) Here state the terms as to the amount of royalties, security for payment, or otherwise, upon which the petitioner claims to be entitled to the relief in question.

*(Amended by Act 9 of 2011)*

---

PATENTS ACT

FORM I

**FORM OF OPPOSITION TO PETITION FOR  
GRANT OF COMPULSORY LICENCE OR REVOCATION OF PATENT**

(a)

hereby give notice of opposition to the petition of ..... for the grant of a  
Compulsory Licence under Patent No. .... of ....., or the  
revocation of the said patent. The grounds upon which I oppose the said  
application are as follows, viz:-(b)

(Signed)

(Note. – In pursuance of the requirements of Regulation 69 copies of the  
affidavits or statutory declarations in reply to the evidence left with the petitioner must  
be delivered to the petitioner.)

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_

(a) Here state (in full) name and address

(b) Here state fully the grounds of opposition.

\_\_\_\_\_

## PATENTS ACT

## FORM J

**APPLICATION FOR CERTIFICATE OF PAYMENT OR RENEWAL**

*(When stamped this Form must be sent at once to the Registrar's Office.)*

hereby transmit the fee prescribed for the continuation in force of\* ..... Patent No. .... of ....., for a further period of

Name†

Address

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_

\*Here insert name of patentee

†Here insert name and address

**CERTIFICATE OF PAYMENT OR RENEWAL**

*(This part of the Form to be filled in at the Registrar's Office.)*

Letters Patent No. .... of .....

This is to certify that ..... did this ..... day of ....., 20....., make the prescribed payment of \$..... in respect of a period of ..... from ..... and that by virtue of such payment the rights of the patentee remain in force\*

The Registrar's Office,

Montserrat.

\_\_\_\_\_

\*See Section 19 of the Act

PATENTS ACT

FORM K

**FORM OF APPLICATION FOR ENLARGEMENT OF  
TIME FOR PAYMENT OF RENEWAL FEE**

Sir,

I hereby apply for an enlargement of time for ..... month in which  
to make the ..... payment of .....  
upon my Patent No. .... of .....

The circumstances in which the payment was omitted are as follows:-(a)

I am,

Sir,

Your obedient Servant,

(b)

To the Registrar,

Registrar's Office,

Montserrat.

- 
- (a) The circumstances must be stated in detail: See Regulation 15  
(b) Here insert full address to which receipt is to be sent

## PATENTS ACT

## FORM L

*(Regulation 53)***FORM OF REQUEST TO ENTER NAME  
UPON THE REGISTER OF PATENTS**I *(a)**(Here insert (in full) name, address, and description)*hereby request that you will enter *(b)* name *(c)* in the Register of Patents:-*(d)* ..... claim to be entitled *(e)*of the Patent No. .... of ....., granted to *(f)*the title of which is *(g)*by virtue of *(h)*And in proof whereof I transmit the accompanying *(i)* .....  
with an attested copy thereof.

I am,

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

Montserrat.

---

*(a)* or We*(b)* my or our*(c)* or names*(d)* I or We*(e)* Here insert the nature of the claim *e.g.* as Assignee*(f)* Here give name and address of person to whom Patent was granted*(g)* Here insert title of the invention*(h)* Here specify the particulars of such document, giving its date, and the parties to the same, and showing how the claim here made is substantiated*(i)* Here insert the nature of the document

PATENTS ACT

FORM M

(Regulation 61)

**FORM OF REQUEST TO ENTER NOTIFICATION OF LICENCE OR OTHER  
DOCUMENT IN THE REGISTER OF PATENTS**

Sir,

I hereby transmit an attested copy of (a) ..... under Patent No. .... of ....., as well as the original document for verification, and I have to request that a notification thereof may be entered in the Register.

I am,

Sir,

Your obedient Servant,

(Signed)

(b)

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_

(a) Here insert a description of the nature of the document

(b) Here insert full address

\_\_\_\_\_

## PATENTS ACT

## FORM N

## APPLICATION FOR DUPLICATE OF PATENT

Date

Sir,

I regret to have to inform you that the Patent dated\*

No. .... and granted to ..... for an invention the  
title of which is †

has been‡

I beg therefore to apply for the issue of a duplicate of such Patent §

(Signature of Patentee)

To the Registrar,

Registrar's Office,

Montserrat.

---

\* Here insert date, number, full name, and address of grantee

† Here insert title of invention

‡ Here insert the word "**destroyed**" or "**lost**" as the case may be, and state, in full, the circumstances of the case, which must be verified by statutory declaration

§ Here state interest possessed by applicant in the patent

---

PATENTS ACT

FORM O

(Regulation 25)

**NOTICE OF INTENDED EXHIBITION OF  
AN UNPATENTED INVENTION**

\*

hereby give notice of my intention to exhibit a .....  
of ..... at the ..... exhibition, which  
† ..... of ....., 20....., under the provisions of the Patents  
Act.

‡ ..... herewith enclose a brief description of my invention.

(Signed)

To the Registrar,

Registrar's Office,

Montserrat.

---

\* Here state (in full) name and address of applicant

† State "**opened**" or "is to open"

‡ This description of invention should be accompanied by drawings if necessary

---

PATENTS ACT

FORM P

FORM OF REQUEST FOR CORRECTION OF CLERICAL ERROR

Sir,

I hereby request that the following clerical error (a) in the (b)

No..... of ....., may be corrected in the manner shown in red ink in the certified copy of the original (b) ..... herewith annexed.

Signature

Full address

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_

(a) or errors.

(b) Here state whether in application, specification, or register.

\_\_\_\_\_

PATENTS ACT

FORM Q

CERTIFICATE OF REGISTRAR

The Registrar's Office,

....., 20.....

I, ....., Registrar of Patents, hereby certify

To†

\_\_\_\_\_

† Here insert (in full) name and address of person requiring the certificate.

PATENTS ACT

FORM R

*(Regulation 51)*

**FORM OF NOTICE FOR ALTERATION OF  
AN ADDRESS IN REGISTER**

Sir,

*(a)*

hereby request that ..... address now upon the Register may  
be altered as follows:-

*(b)*

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

Montserrat.

\_\_\_\_\_

*(a)* Here state (in full) name or names and address of applicant or applicants.

*(b)* Here insert full address.

\_\_\_\_\_

## PATENTS ACT

## FORM S

**FORM OF APPLICATION FOR ENTRY OF  
ORDER OF GOVERNOR ACTING ON THE ADVICE OF CABINET IN REGISTER**

(a)

hereby transmit an office copy of an Order in Council with reference to (b)

Sir,

Your obedient Servant,

To the Registrar,

Registrar's Office,

Montserrat.

---

(a) Here state (in full) name and address of applicant.

(b) Here state the purport of the order.

*(Amended by Act 9 of 2011)*

---

PATENTS ACT

FORM T

**FORM OF APPEAL TO A JUDGE IN CHAMBERS**

I (a)

hereby give notice of my intention to appeal to a Judge in Chambers from (b)

of the Registrar of the ..... day of ....., 20....., whereby he (c)

No. .... (d) ..... of the year ....., (d)

Signature

Date

- 
- (a) Here insert (in full) name and address of applicant
  - (b) Here insert **“the decision”** or **“that part of the decision”** as the case may be.
  - (c) Here insert **“refused (or allowed) application for Patent,”** or “refused (or allowed) application for leave to amend Patent”, or otherwise as the case may be.
  - (d) Insert number and year
-

## PATENTS ACT

## FORM U

*(Regulation 8)***FORM OF APPLICATION FOR EXTENSION OF TIME FOR  
LEAVING A COMPLETE SPECIFICATION**

Sir,

hereby, in respect of Application No. ....  
dated ....., apply for one month's extension of time in which to leave  
a complete Specification.

The circumstances in and grounds upon which this extension is applied for are  
as follows:-(a)

Sir,

Your obedient Servant,

*(b)*

To the Registrar,

Registrar's Office,

Montserrat.

---

*(a)* The circumstances and grounds must be stated in detail, see Regulation 8.

*(b)* To be signed by applicant or applicants or his or their agent.

---

PATENTS ACT

FORM V

(Regulation 8)

**FORM OF APPLICATION FOR EXTENSION OF TIME FOR  
ACCEPTANCE OF A COMPLETE SPECIFICATION**

Sir,

hereby apply for ..... months extension of time for the  
acceptance of the Complete Specification upon Application No. .... dated  
.....

The circumstances in and grounds upon which this extension is applied for are  
as follows:-(a)

Sir,

Your obedient Servant,

(b)

To the Registrar,

Registrar's Office,

Montserrat.

---

(a) The circumstances and grounds must be stated in detail, see Regulation 8.

(b) To be signed by applicant or applicants or his or their agent.

---

PATENTS ACT

FORM W

FORM OF PATENT

[L.S.] By His Honour (*here insert the name of the Governor*).

Governor of Montserrat

To all to whom these presents shall come, Greeting:

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

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

Know Ye, therefore, that I, in the name and on behalf of Her Majesty, do by these  
Presents, give and grant unto the said patentee my special licence, full power, sole  
privilege, and authority, that he the said patentee by himself, his agent, or licensees,  
and no others, may at all times hereafter, during the term of years herein mentioned,  
make, use, exercise, and vend the said invention within .....  
in such manner as to him or them may seem meet, and that the said patentee shall have  
and enjoy the whole profit and advantage from time to time accruing by reason of the  
said invention, during the term of fourteen years from the date here-under written of  
these presents: and to the end that the said patentee may have and enjoy the sole use  
and exercise and the full benefit of the said invention, I do by these presents require  
and strictly command all and every person and persons, bodies politic and corporate,  
and all others of what estate, quality, degree, name, or condition soever they be within  
Montserrat, that they do not at any time during the continuance of the said term of  
fourteen years, either directly or indirectly, make use of or put in practice the said

invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, licence, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt and of being answerable to the said patentee according to law for his damages thereby occasioned; Provided always and these Letters Patent are on this condition, that, if any time during the said term it be made to appear to the High Court that this grant is contrary to law, or prejudicial or inconvenient to Her Majesty's subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof or that the said patentee is not the first and true inventor thereof within Montserrat as aforesaid, these Letters Patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained; Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these Letters Patent, or in respect of any matter relating thereto at the time 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 Her Majesty's service in Montserrat, all such articles of the said invention as may be required by the Officers administering any department of Her Majesty's service in Montserrat in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled for that purpose by the Governor of Montserrat, 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 Her Majesty 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 Letters to be made Patent this ..... day of ....., 20..... and to be sealed and dated as of the said ..... day of ....., 20..... in the ..... year of Her Majesty's Reign.



**PATENTS (FEES) REGULATIONS – SECTION 48**

(S.R.O. 39/1973)

**Commencement**

[1 January 1974]

**Short title**

1. These Regulations may be cited as the Patents (Fees) Regulations.

**Fees**

2. The fees specified in the Schedule hereto shall be payable in respect of the matters to which they are specifically applicable.

---

**SCHEDULE**

	\$
1. For every application for a patent accompanied by a provisional specification .....	50
2. Examiner's fees on reference of application with provisional specification not exceeding .....	30
3. For every application for a patent accompanied by a complete specification .....	100
4. On filing complete specification after provisional specification .....	50
5. Examiner's fee on reference of complete specification not exceeding .....	30
6. On extending the time for leaving complete specification .....	5
7. On extending the time for acceptance of complete specification .....	5
8. On advertisement or publication in the <i>Gazette</i> of any acceptance, request, amendment or other matter required to be advertised or published .....	10
9. On sealing Letters Patent .....	100
10. On every patent before the expiration of four years from its date .....	400
11. And further before the expiration of seven years.....	800
12. Or <i>in lieu</i> of the fees of \$400 and \$800 the following annual fees before the expiration of the—	
(a) Fourth year from the date of the patent .....	80

(b)	Fifth	"	"	"	"	"	"	"	.....	80
(c)	Sixth	"	"	"	"	"	"	"	.....	80
(d)	Seventh	"	"	"	"	"	"	"	.....	80
(e)	Eighth	"	"	"	"	"	"	"	.....	120
(f)	Ninth	"	"	"	"	"	"	"	.....	120
(g)	Tenth	"	"	"	"	"	"	"	.....	160
(h)	Eleventh	"	"	"	"	"	"	"	.....	160
(i)	Twelfth	"	"	"	"	"	"	"	.....	160
(j)	Thirteenth	"	"	"	"	"	"	"	.....	160
13.	On filing every amended or substituted specification	.....								20
14.	On notice of opposition to grant of patent	.....								40
15.	On every summons to witness	.....								5
16.	On hearing of every opposed application	.....								20
17.	On extension of patent	.....								200
18.	On filing every disclaimer or memorandum of alteration	.....								25
19.	Fee for every office copy per folio of 72 words	.....								1
20.	On filing every certificate voiding a patent	.....								5
21.	On deposit of any assignment, deed, licence or other document affecting proprietorship of patent	.....								40
22.	On delivering triplicate patent after loss	.....								40
23.	On every search including inspection	.....								5
24.	Annual fee for licence to patent agent	.....								15
25.	Certified copies or extracts under seal, per folio	.....								1
26.	For every matter or thing not above provided for	.....								5

## PATENTS (PUBLIC OFFICERS) REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### REGULATION

1. Short title
  2. Application for provisional protection
  3. Control of patent
  4. Control by officer
  5. Control by Government
  6. Power to revise decision
  7. Grant of full rights in certain cases
  8. Power to appoint Committee
  9. Officer's right of audience
  10. Committee's recommendations
  11. Power to make rules
  12. Allowance for expenses
  13. Right of appeal
- 

## PATENTS (PUBLIC OFFICERS) REGULATIONS

*(S.R.O. (L.1) 15/1933 and Act 9 of 2011)*

### **Commencement**

*[12 July 1933]*

### **Short title**

1. These Regulations may be cited as the Patents (Public Officers) Regulations.

### **Application for provisional protection**

2. Any officer in the employment of the Government who has made an invention—

- (a) may, at his own expense; and
- (b) shall, at the expense of the Government if so required by the Governor, lodge an application for provisional protection with the Registrar of Patents, and shall at the same time send a copy of the application to the Governor through the head of his department. The Governor shall decide as expeditiously as possible whether the invention shall be regarded as secret, and the decision shall be forthwith communicated to the head of the officer's department for the information of the officer.

### Control of patent

3. (1) As soon as practical the Governor shall decide whether the officer shall or shall not be allowed controlling rights in the patent and his decision shall be communicated to the head of the officer's department for the information of the officer.

(2) Pending the decision of the Governor as to such controlling rights, all rights in the invention shall be deemed to belong to and to be held in trust for the Government.

### Control by officer

4. If the Governor decides that the officer shall be allowed controlling rights in the patent, the following provisions shall apply—

- (a) the officer shall, subject to the provisions of regulation 2, be responsible for all expenditure in taking out the patent;
- (b) the Governor may attach to his decision such conditions as he may think fit and, in particular, may reserve to the Government a right of user of the invention free of royalty, or a right to a share of any commercial proceeds, or both such rights;
- (c) the officer may, whether any rights are reserved under paragraph (b) or not, apply to the Awards Committee as constituted under regulation 8 (hereinafter referred to as "**the Committee**") through the head of his department for an award in respect of his invention;
- (d) the question whether an award shall be made, the amount thereof, and, if a share of commercial proceeds is reserved to the Government, the amount of such share shall be determined by the Governor after investigation by the Committee;
- (e) a reservation to the Government of user of the invention free of royalty under paragraph (b) may include a like reservation to Her Majesty's Government in the United Kingdom, or the Government of any British Overseas Territory or Protectorate or any territory in respect of which Her Majesty's Government in the United Kingdom exercises a mandate.

*(Amended by Act 9 of 2011)*

### Control by Government

5. If the Governor decides that the officer shall not be allowed controlling rights in the patent, the following provisions shall apply—

- (a) the officer shall assign all his rights in the invention to the Government;
- (b) the Government shall be responsible for all expenditure in taking out the patent;
- (c) the Governor shall decide whether the officer shall or shall not be allowed a share of any commercial proceeds;

- (d) the officer may, whether he is allowed a share in the commercial proceeds or not, apply to the Committee through the head of his department for an award in respect of his invention;
- (e) the question whether an award shall be made, the amount thereof, and, if the Governor decides that the officer shall be allowed a share in the commercial proceeds, the amount of such share, shall be determined by the Governor after investigation by the Committee.

#### **Power to revise decision**

6. In the event of a material change taking place in the circumstances which existed at the time when an award or allocation of commercial proceeds was made, the original decision may be modified by the Governor after further investigation by the Committee; provided that, in any such modification of the original decision, the amount of an award which has been paid shall not be reduced.

#### **Grant of full rights in certain cases**

7. Where an invention is in all respects alien to the employment of the officer, he shall normally be granted the full rights in such invention.

#### **Power to appoint Committee**

8. There shall be constituted for the purposes of these Regulations, an Awards Committee which shall consist of a judicial or legal officer appointed by the Governor as Chairman and such other persons as the Governor may from time to time by notice in the *Gazette* appoint.

#### **Officer's right of audience**

9. An officer shall be entitled at his own expense to appear personally before the Committee or to be represented in such manner as the Committee may approve.

#### **Committee's recommendations**

10. (1) All conclusions of the Committee shall be embodied in recommendations which shall be forwarded to the Governor.

(2) The reservation of a right of user free of royalty to Her Majesty's Government in the United Kingdom or the Government of any other territory mentioned in regulation 4(e) shall not be taken into account, but if and when such right shall be exercised by any such Government, a material change shall, for the purpose of regulation 6, be deemed to have taken place.

#### **Power to make rules**

11. The Committee may make rules for regulating their proceedings, but no such rules shall come into force until they shall have been approved by the Governor.

#### **Allowance for expenses**

12. In fixing the amount of any award or of the share of any commercial proceeds reserved to the Government under regulation 4(d) or allowed to the officer under

regulation 5(e) (as the case may be), any reasonable expenses to which an officer may have been put in connection with his invention shall be taken into account.

### **Right of appeal**

**13.** Nothing in these Regulations shall restrict any officer's right of appeal to the Secretary of State under Colonial Regulations.

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