

### No. III.

An Act to further amend the law relating to Patents for Inventions and Improvements in Arts or Manufactures and to authorize the appointment of an Examiner of Patents. [8th July, 1887.]

PATENTS LAW  
AMENDMENT  
(No. 2).

**W**HEREAS it is expedient that the sum now payable by way of Preamble.  
deposit with the Colonial Treasurer pursuant to the Act  
sixteenth Victoria number twenty-four intituled "*An Act to authorize  
the Governor-General with the advice of the Executive Council to  
grant Letters of Registration for all Inventions and Improvements in  
the Arts or Manufactures to have the same effect as Letters Patent in  
England so far as regards this Colony*" by persons desiring to obtain  
Letters Patent under the said Act should be reduced and that hence-  
forth the sums so reduced should be paid into and form part of  
the Consolidated Revenue Fund and it is also expedient to make  
provision for the temporary protection of such Inventions and Improve-  
ments and for the appointment of an Examiner of Patents to aid in  
carrying out the provisions of the Acts relating to Letters Patent  
Be it therefore enacted by the Queen's Most Excellent Majesty  
by and with the advice and consent of the Legislative Council and  
Legislative Assembly of New South Wales in Parliament assembled  
and by the authority of the same as follows:—

1. Every person claiming to be the author or designer of any  
invention in or improvement to the arts or manufactures or his agent  
or assignee who shall desire to obtain Letters Patent shall pay to the  
Colonial Deposit to be paid to  
Colonial Treasurer  
on applying for  
Letters Patent and  
mode of application.

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Colonial Treasurer the sum of five pounds sterling and shall after such payment lodge with the Minister of Justice a petition to the Governor setting forth that petitioner is the author or designer or the agent or assignee of such author or designer (as the case may be) of a certain invention in or improvement to the arts or manufactures and specifying (and where necessary illustrating) the particulars of such invention or improvement and that in connection therewith he has paid to the Colonial Treasurer the sum of five pounds.

Governor may grant Letters Patent on receipt of favourable report from Minister of Justice.

2. If the Minister of Justice shall after examination of the said petition and of the report thereon of the Examiner of Patents report to the Governor that he approves of the prayer of the petitioner it shall thereupon be lawful for the Governor to grant Letters Patent which shall then be forwarded to the Examiner of Patents who shall before issuing them to the grantee or his duly authorized agent register them as hereinafter provided.

Certificates of provisional protection may be obtained on payment of two pounds.

3. Any person so claiming as aforesaid or his agent or assignee may in like manner obtain a certificate entitling him to provisional protection for any such invention or improvement upon payment to the Colonial Treasurer of the sum of two pounds sterling and upon depositing with the Minister of Justice a petition addressed to the Governor and a provisional specification in the prescribed form.

Duration of certificates.

4. A certificate of provisional protection shall be in force for twelve months and no longer and shall be null and void if before the date of the expiration thereof the lawful holder of such certificate shall fail to make application for Letters Patent in terms of section one of this Act.

Certificates superseded by Letters Patent.

5. It shall be lawful for the Governor to grant and issue to the lawful holder of such certificate or to his agent or assignee Letters Patent for the invention or improvement provisionally specified provided that the petitioner so entitled shall have deposited a complete specification setting forth how the invention or improvement is to be carried out and performed and provided also that all the other conditions of sections one and two of this Act shall have been complied with. And upon the issue of such Letters Patent the certificate of provisional protection shall be deemed to be cancelled.

Fees payable on conversion of certificates into Letters Patent.

6. The payment of two pounds sterling to the Colonial Treasurer on petition for provisional protection and the payment of three pounds sterling on petition for Letters Patent for the same invention shall if both payments are made by the original petitioner or the latter payment by his legal representative be deemed to constitute the payment of five pounds sterling provided for in section one of this Act.

Definition of provisional protection.

7. While a certificate of provisional protection remains in force the lawful holder thereof may use and publish his invention or improvement without prejudice to the issue of Letters Patent for the same and such protection from the consequences of use and publication shall constitute the provisional protection provided for in this Act.

Date of Letters Patent and limitation of proceedings for interim infringements.

8. Letters Patent shall (unless the Minister of Justice shall in any case otherwise advise) be dated and sealed as of the day of the deposit of the petition for provisional protection or if there has been no petition for provisional protection then as of the day of the deposit of the petition for the said Letters Patent. Provided that no action shall be maintainable in respect of any infringement of an invention or improvement committed before the deposit of the complete specification thereof nor shall any person be entitled to institute any proceedings at law or in equity for infringement until after the actual registration of the Letters Patent granted to him for the invention or improvement alleged to be infringed.

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9. A certificate of provisional protection shall be no bar to the granting of a like certificate for the same invention to other petitioners but it shall be at the discretion of the Minister of Justice to approve or refuse the issue of Letters Patent upon a second or other certificate during the continuance of a certificate of prior date for the same invention.

Certificates for the same invention.

10. Every lawful holder of a certificate of provisional protection and every grantee of Letters Patent (whether granted under this or the Principal Act) shall be at liberty to assign the same together with all the benefits and advantages derivable therefrom to any person or persons by an instrument in writing under his hand and seal.

Assignment of certificates and Letters Patent.

11. Every such grantee of Letters Patent shall also be at liberty by an instrument in manner aforesaid to grant to any person or persons a license (either exclusive or otherwise and for any portion or portions of the Colony) to manufacture adopt utilize or exercise proprietary or co-proprietary rights over the whole or any portion of the invention or improvement which may be specifically protected by the said Letters Patent.

Issue of licenses by patentee.

12. Every assignment made under the authority of section ten and every license issued under the authority of section eleven shall be null and void if not registered in the prescribed time and manner.

Nullity of assignments and licenses if unregistered.

13. All Letters Patent and assignments thereof or licenses thereunder and all certificates of provisional protection and assignments thereof shall be registered in the office of the Examiner of Patents by that officer and it shall be lawful for the Minister of Justice after the passing of this Act to authorize and effect the removal from the office of the Supreme Court mentioned in the said Act to the office of the Examiner of Patents of all records and registers of grants and assignments of grants made under the Principal Act.

Registration of grants licenses and certificates and of assignments thereof.

14. All sums paid by such persons as aforesaid shall be carried by the Colonial Treasurer to the credit of the Consolidated Revenue Fund for the public purposes of the Colony.

All future payments by applicants for Letters Patent &c. carried to Revenue.

15. The Governor may appoint some fit and proper person to be an Examiner of Patents who under the direction of the Minister of Justice shall examine and report to that Minister upon all petitions for Letters Patent presented after the passing of this Act. The person so appointed shall be paid such annual salary as Parliament shall provide and shall perform such duties and give such security for the faithful performance thereof as the Governor may require.

Examiner of Patents.

16. The Governor may make and proclaim regulations for carrying into full effect the provisions of this Act and the Principal Act and for regulating the collection and disposal of fees for registering assignments and licenses and making searches of the records in the Examiner's office. And all such regulations shall upon publication in the *Government Gazette* be valid in law. Provided that a copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the issue thereof if Parliament be then in Session or otherwise within fourteen days after the commencement of the then next ensuing Session.

Governor may make regulations.

17. The following terms in inverted commas shall for the purposes of this Act bear the meanings set against them respectively :—

Interpretation of terms.

“Governor”—The Governor with the advice of the Executive Council.

“Prescribed”—Prescribed by regulations made under the authority of this Act.

“Letters Patent”—The Letters of Registration mentioned in the Act sixteenth Victoria number twenty-four.

“Principal Act”—The Act sixteenth Victoria number twenty-four.

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*Hay Court-house (Site Acquisition).*

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Repeal of secs. 2 3  
and 4 of 16 Vic.  
No. 24.

18. The second third and fourth sections of the Act sixteenth Victoria number twenty-four are hereby repealed but without prejudice to the past operation thereof or to any Letters Patent lawfully granted or assigned thereunder.

Short title and com-  
mencement of Act.

19. This Act may be styled and cited as the "Patents Law Amendment Act of 1887" and shall come into operation on the first day of August one thousand eight hundred and eighty-seven.

Not to prejudice the  
prerogative of the  
Crown.

20. Nothing in this Act contained shall be construed to the prejudice of the prerogative of the Crown.

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