

Chairman

NEW ZEALAND.



ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

No. .

ANALYSIS:

<p>Title. Preamble.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Mode of application for letters patent. 3. Notice of application to be published in <i>Gazette</i>. 4. Governor may refer objections to persons appointed who shall report. 5. Costs of inquiry to be given. 6. If no objections letters patent may be issued. 7. Amount to be paid for letters patent. 8. Colonial Secretary to issue letters patent. 9. Letters patent and specifications &c. to be enrolled. 10. Holder of letters patent issued under this Act entitled to same privileges in New 	<p>Z-land as patents under Great Seal entitled to in England.</p> <ol style="list-style-type: none"> 11. More than twelve persons may be interested in letters patent. 12. Assignment of a patent and record thereof. 13. Injunction may be granted. 14. Letters patent may be repealed by <i>scire facias</i>. 15. Specification may be corrected. 16. Disclaimer may be entered. 17. Punishment for false entries or false affirmation. 18. Holder or assignee of patent obtained in other countries may obtain letters of registration. 19. Interpretation clause. 20. Royal prerogative saved.
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~~An Act to regulate Grants of Patents~~ Title.
for Inventions.

WHEREAS it is expedient to make provision for granting Preamble.
Patents for Inventions in the Colony

BE IT ENACTED by the General Assembly of New Zealand in parliament assembled and by authority thereof as follows:—

I. The Short Title of this Act shall be the "Patents Act Short Title.
1860."

II. Any person being the originator or discoverer of any new invention or improvement for which no patent or instrument in the nature of letters patent has been issued or granted in New Zealand or any other country and being desirous of obtaining letters patent under this Act shall deposit with the Colonial Treasurer the sum of ~~fifty~~ pounds and shall leave at the office or in the custody of such person as the Governor may from time to time or for any particular case appoint a petition addressed to the Governor stating clearly and succinctly the object to be attained by his invention or discovery setting forth that he has deposited the said sum of fifty pounds as

Mode of application for letters patent.
See Art. 7.
Art. 7.

Stat.

*P/S -
or
or*

aforsaid and praying that letters patent may be granted to him for the exclusive use thereof in the Colony / ~~and~~ every such person shall also send with his ~~said~~ petition a written specification signed by him of his invention or discovery and of the manner and process of making constructing using ~~and~~ compounding the same in such terms avoiding unnecessary prolixity as to enable any person skilled in the art or scheme to which it appertains or with which it is most nearly connected to make construct compound ~~and~~ use the same, and in case of any machine a statement of the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall in the said specification particularly specify and point out the improvement or combination which he claims as his own invention or discovery. He shall also send a drawing and written references where the nature of the case admits of drawings, or specimens of ingredients and of the composition of matter sufficient in quantity for the purpose of experiment where the invention or discovery is of a composition of matter, and he shall moreover if required by such person so appointed furnish with the said petition a model of his invention in all cases which admit of a representation by model of a convenient size to exhibit advantageously its several parts and ~~he~~ shall also send a solemn affirmation or declaration made before some Justice of the Peace (and which affirmation or declaration any such Justice is hereby authorised to take) that the petitioner is as he believes the first and true originator or discoverer of such new invention or improvement and shall affirm or declare the object intended to be attained thereby. } *to be added to sub. 1.*

the

*Canadian Act.
Sect 7 & Subsection
except 4.*

Notice of application to be published in Gazette.

III. The Governor in his discretion may thereupon cause notice of the said application to be inserted in the Government Gazette and thereby require any person who ~~may conceive that~~ *shall* he would be prejudiced by the granting of such letters patent to send within ~~two~~ *my* months of the said publication to the office or address of such person so appointed as aforesaid a statement in writing setting forth the grounds of such objection subscribed with his proper name and address. *4*

*in
L of one newspaper published
in the principal towns
of the each province of
the Colony.*

Governor may refer objections to persons appointed who shall report.

IV. It shall be lawful for the Governor upon receipt within the time aforesaid of such objection to refer the consideration thereof to one or more competent person or persons to be appointed by the Governor and also to direct the applicant for such letters patent and the opponent ~~of the grant or~~ *issue* thereof to attend before such person or persons so appointed who shall investigate the said matter and shall be at liberty to call to his or their aid such scientific or other witnesses as he or they may think fit and to cause to be paid to such witnesses by the applicant such remuneration as he or they may direct and such person or persons so appointed shall report to the Governor whether in his or their opinion such letters patent should be issued and if any ~~such~~ objection shall be sustained the ~~said~~ specification drawings and models shall be returned to the ~~said~~ applicant and the said sum of ~~five~~ *returned to the party who is appointed* pounds shall be paid to the Colonial Treasurer.

*to be deposited by
the opponent of the
sum of £10*

or opponent

a who may wish to prepare any objection by the applicant of

*the balance of £10 ~~shall be deposited~~
after payment of such
costs & expenses as may be
incurred by the said
inventor or his or more legal*

works by the or more together

V. It shall be lawful for such ~~person or persons so appointed to whom the consideration of any such objection~~ ~~as aforesaid is referred~~ if he or they see fit by certificate under his or their hand to determine the amount of the costs of any hearing or inquiry upon such objection and to order by and to whom such costs shall be paid and if any such costs so ordered to be paid be not paid within ~~seven days~~ after the date of such order every such order may be made a rule of the Supreme Court.

Costs of inquiry to be given.

Stat

one month *Service*

either personally or upon his agent in by the Secretary the same at his last usual place of abode
If no objection letters patent may be issued.

VI. In case no objection shall be made to the ~~issuing~~ ^{*within the time aforesaid*} of the said letters patent ~~within the time aforesaid~~ or in case such person or persons so appointed shall report that such letters patent should be ~~issued~~, the Governor may ~~direct by writing under his hand that such letters patent shall be issued by the Colonial Secretary or other proper officer and shall thereupon cause such specification drawings and other things so sent as aforesaid~~ ~~to be deposited with the Colonial Secretary, or other officer appointed in that behalf.~~

granted

granted

shall
in that behalf.

VII. The person applying for such letters patent shall within one month after the issuing of such direction pay into the office of the Colonial Treasurer and obtain a receipt for the sum of fifty pounds sterling which sum and the said sum of fifty pounds and all other monies received by the Colonial Treasurer under this Act shall be applied as ordinary revenue.

Amount to be paid for letters patent.

del *W.F.*

VIII. The Colonial Secretary or other proper officer upon such directions as aforesaid and production to him of the receipts of the Colonial Treasurer shall forthwith cause letters patent to be prepared in the form in the schedule hereunto annexed and the Governor shall sign his name and cause the seal of the Colony to be affixed thereto and such letters patent shall be operative from the date thereof.

Colonial Secretary to issue letters patent.

del *W.F.*

IX. The Colonial Secretary shall cause the said letters patent and the said specification and other things to be kept in his office and shall also cause a book to be kept in his office containing an index to all such letters patent which may be issued or assigned as hereinafter mentioned the object to be attained by the invention to be protected thereby the date thereof the name of the person to whom the same is issued or assigned and such description of the enrolment thereof as may be necessary to facilitate reference. And all persons whosoever may have access to the said book letters patent and other things and may inspect the same and may have copies thereof or of such parts thereof as they may require certified by the Colonial Secretary upon payment of reasonable expenses of making the same and copies ~~of or extracts from the said letters patent specification and other things certified by the Colonial Secretary to be true copies or extracts shall be received as evidence of the contents of the said letters patent specification and other things respectively in all proceedings whatsoever.~~

Letters patent and specifications &c to be enrolled

A

Such certified

in

in all courts of law or proceedings what^{er}

X. Any person to whom the Governor shall according to the provisions herein contained grant letters patent shall have within the Colony for a term of fourteen years next after the granting of such letters patent the exclusive enjoyment and ad-

Holder of letters patent issued under this Act entitled to same privileges in New Zealand as patentee under Great Seal entitled to in England.

vantage in the Colony of such invention or improvement and such and the same protection and such and the same remedies at law and in equity against any person in the Colony infringing the said letters patent and generally such and the same rights powers and privileges throughout the Colony with respect to the invention for which such letters patent shall be granted as any person to whom letters patent for a new invention have been granted under the Great Seal of England has by the law of England in and throughout the realm of England save so far as such protection remedies rights powers and privileges may be inconsistent with the provisions of this Act. Provided that so much of the provisions contained in an Act of the United Parliament of Great Britain and Ireland passed in the session of the fifth and sixth years of the reign of His late Majesty King William the Fourth intituled "An Act to amend the Law touching Letters Patent for Inventions" as relate to the confirming of letters patent or granting new letters patent to a patentee acting under an erroneous belief that he was the first and original inventor and for the prolongation of letters patent and the several provisions contained in an Act of the United Parliament of Great Britain and Ireland passed in the session of the fifteenth and sixteenth years of the reign of Her present Majesty intituled "An Act for amending the Law for granting Patents for Inventions" shall not be deemed applicable to the Colony of New Zealand; Provided further that any of the penalties recoverable by any persons holding letters patent under the Great Seal of England in any Court in Great Britain under the said first-mentioned Act for any unauthorised person using or imitating the name of any such patentee or using the word "Patent" or the like words or counterfeiting the mark of any such patentee may be recoverable and recovered in the Supreme Court by any person to whom letters patent shall be granted under the provisions hereof or by his assignee for similar injuries to such last-mentioned patentee or his assignee in the Colony

Not found for attention

More than twelve persons may be interested in letters patent.

XI. It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in any letters patent issued under the provisions of this Act:

Assignment of a patent and record thereof.

XII. Every patent granted under this Act shall be assignable in law either as to the whole interest or any undivided part thereof by any instrument in writing which assignment and also every grant ~~and~~ conveyance of the exclusive right under any patent to make and use and to grant to others to make and use the thing patented within the Colony shall be recorded in the office of the Colonial Secretary within six months from the execution thereof, upon payment by the assignee or grantee to the Colonial Treasurer of the sum of ~~ten pounds~~ *10/-*

Injunction may be granted.

XIII. In any action in the Supreme Court for the infringement of any letters patent issued under the provisions of this Act it shall be lawful for the Court as well in its Common Law as its equity jurisdiction or if the Court be not sitting then for a Judge of such Court on the application of the plaintiff or defendant respectively to make such order for an injunction inspection or account and to give such direction respecting such action injunction inspection and account and the proceedings therein respectively as to such Court or Judge shall seem fit.

a duplicate memorial of

granted

XIV. Any letters patent granted by virtue of this Act shall be liable to be repealed by writ of *scire facias* for the same causes and in the same manner as any grants of the Crown are liable to be repealed.

Letters patent may be repealed by *scire facias*.

✓

XV. Whenever any patent granted under the authority of this Act shall be inoperative or invalid by reason of a defective or insufficient description or specification or by reason of the patentee claiming as his own invention more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency accident or mistake and without any fraudulent or deceptive intention, it shall be lawful for the Governor upon the surrender of such patent and the payment to the Colonial Treasurer of the sum of ten pounds to cause a new patent to be issued to the said inventor for the same invention for the residue of the period then unexpired for which the original patent was granted in accordance with the patentee's corrected description and specification, And in case of his death or any assignment by him made of the original patent a similar right shall vest in his executors administrators or assigns. And the patent so reissued together with the corrected description and specification shall have the same effect and operation in law on the trial of all actions commenced for causes subsequently accruing as though the same had been originally filed in such corrected form before the issuing out of the original patent. And whenever the original patentee or his assignee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery which shall have been originated or discovered by him subsequent to the date of his patent he may like proceedings being had, in all respects as in the case of original applications, and on the further payment of ~~ten~~ pounds in manner hereinbefore provided have the same annexed to the original description and specification and the Colonial Secretary shall certify on the margin of such annexed description and specification the time of its being annexed and recorded and the same shall thereafter have the same effect in law to all intents and purposes as though it had been embraced in the original description and specification.

Specification may be corrected.

*deposited / ten / to be
annexed for*

XVI. Any person who shall obtain such letters patent or his assignee may if he think fit enter with the Colonial Secretary a disclaimer of any part of either the title of the invention or of the specification stating the reason for such disclaimer or may enter a memorandum of any alteration in the said title or specification not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent and such disclaimer or memorandum of alteration being deposited with the Colonial Secretary shall be deemed and taken as part of such letters patent or such specification and subject to the several incidents thereof. Provided that no such disclaimer or alteration shall be receivable as evidence in any action (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration

Disclaimer may be entered.

was enrolled but in every such action the original title and specification alone shall be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted.

Punishment for false entries or false affirmation.

XVII. If any person shall wilfully make or cause to be made any false entry or alteration in any register or assignment of patents as aforesaid or in any specification or shall wilfully make or forge or cause to be made or forged any false writing purporting to be a copy of any entry in the said book or of any such patent or specification or shall produce or tender or cause to be produced or tendered in evidence any such writing knowing the same to be false or forged or shall wilfully make any false affirmation before any Justice of the Peace respecting any of the matters concerning which an affirmation is hereby required to be made as aforesaid he shall be guilty of a misdemeanor and on conviction thereof shall be punished by fine and imprisonment at the discretion of the Court.

Holder or assignee of patent obtained in other countries may obtain letters of registration.

XVIII. No person shall receive a patent under this Act for an invention or discovery which has been previously patented in Great Britain or any other country but it shall be lawful for the Governor in his discretion on the application of any person being the holder or assignee of any patent granted ~~issued~~ in Great Britain or any other country for any new discovery or invention and upon such proof as the Governor may deem sufficient that such person is the *bona fide* holder or assignee of the said patent and that the same is in full force ~~and upon payment~~ *stet* to the Colonial Treasurer of the sum of ~~five~~ pounds to grant letters of registration under the seal of the Colony to the holder of such patent as aforesaid or his assignee and such letters of registration shall be deposited in the office of the Colonial Secretary ~~in the manner herein provided~~ and shall be deemed to be letters patent ~~issued~~ *granted* under this Act for such invention or improvement and shall have the same force and effect as letters patent ~~issued~~ *granted* thereunder and shall unless repealed by writ of *scire facias* or otherwise enure to the benefit of the holder during the continuance of the original patent in the country in which it was ~~issued or~~ granted and no longer and all the provisions of this Act shall apply to such letters of registration in the same way *mutatis mutandis* and as fully as to letters patent ~~issued~~ *granted* under this Act.

Interpretation clause.

XIX. In the construction of this Act the word "person" shall include bodies corporate and companies as well as individuals unless the context be repugnant thereto.

Royal prerogative saved.

XX. Nothing in this Act contained shall be deemed to interfere with Her Majesty's Royal Prerogative in granting or issuing or withholding the grant or issue of any letters patent.

By

In any action brought for infringing
 the right granted by any letters
 patent - in fixing taxing the costs
 thereof regard shall be had to the
 amount of work done which has
 been proved at the trial which
 shall be certified by the judge
 before whom the same shall be
 tried and the costs of each
 party of the case shall be
 given according as ^{either} party
 has succeeded or failed
 thereon - regard being had to
 the nature of objections so well
 as to the statements or counts in
 the declaration and as respects
 as to the general result
 of the trial

vi. 7th

7th line from bottom -
 after action - must to some inducement in
 4th line from bottom and substitute
 in the inducement part - ~~and any~~
~~plaintiff a local court having~~
~~jurisdiction in such cases~~
~~for that purpose~~ by
 any person to whom letters patent shall
 be granted under the provisions of the
 act. a by his exec

Handwritten initials and scribbles in the top left corner.

Handwritten text at the top center, possibly a name or title, including the word "Cases".

In any action against any person
 for infringing any letters patent the
 defendant on pleading thereof shall
 give to the plaintiff and on any writ
 process or writ such letters patent
 the plaintiff shall file with his declaration
 a notice of any objections on which he
 means to rely at the trial of such action
 and no objection shall be allowed to
 be made on behalf of such defendant
 or plaintiff respectively at such trial unless
 he prove the objections stated in such
 notice. Provided always that it shall
 be lawful for any judge or chamber or
 summons ~~to be served~~ by such
 by such defendant or plaintiff or
 such plaintiff or defendant respectively
 to show cause why he should
 not be allowed to offer other
 objections where notice shall not
 have been given as aforesaid to
 give leave to offer such objections
 in such terms as to such
 judge shall seem fit

THE SCHEDULE REFERRED TO IN THE FOREGOING ACT.

FORM OF LETTERS PATENT.

His Excellency the Governor of the Colony of New Zealand to all to whom these Presents shall come greeting—

WHEREAS *hath* by his petition humbly represented unto me that he is in possession of an invention for which the petitioner conceives will be of great public utility that he is the true and first inventor thereof and that the same is not in use by any other person or persons to the best of his knowledge and belief and the petitioner therefore humbly prayed that I would be pleased to grant unto him his executors administrators and assigns letters patent for the sole use benefit and advantage of his said invention within the Colony of New Zealand for the term of fourteen years pursuant to the Act of the General Assembly in that case made and provided intituled the "Patents Act 1860" And Whereas the said *hath* particularly described and ascertained the nature of the said invention and in what manner the same is to be performed by an instrument in writing And I have acceded to the petitioner's request Know ye therefore that I in pursuance of the powers conferred on me by the said Act by these presents do give and grant unto the said *his* executors administrators and assigns the sole privilege and especial license full power and authority that he the said *his* executors administrators and assigns and every of them by himself and themselves or by his and their deputy or deputies servants or agents or such others as he the said *his* executors administrators or assigns shall at any time agree with and no others from time to time and at all times hereafter during the term of years herein expressed lawfully may make use exercise and vend the said invention within the said Colony of in such manner as to him the said *his* executors administrators and assigns or any of them shall in his or their discretion seem meet and that he the said *his* executors administrators and assigns shall and may lawfully have and enjoy the whole profit benefit commodity and advantage from time to time growing accruing and arising by reason of the said invention for and during the term of years herein mentioned To have hold exercise and enjoy the said license powers privileges and advantages hereinbefore granted or mentioned to be granted unto the said *his* executors administrators and assigns for or during and until the full end and term of fourteen years from the date of these presents next and immediately ensuing according to the said Act And to the end that the said *his* executors administrators and assigns and every of them may have and enjoy the full benefit by the sole use and exercise of the said invention as hereinbefore declared I do and these Presents advise all and every person and persons bodies politic and corporate in the said Colony of what estate quality degree name and condition soever they be within the said Colony that neither they or any of them at any time during the continuance of the said term of fourteen years hereby granted either directly or indirectly do make use or put in practice the said invention or any part of the same so attained unto by the said *as* aforesaid nor in anywise counterfeit imitate or resemble the same nor shall make or cause to be made any addition thereto or subtraction from the same whereby to pretend himself or themselves the inventor or inventors devise or devisers thereof without the consent license or agreement of the said *his* executors administrators or assigns in writing under his or their hands and seals first had and obtained in that behalf lest by so doing they may make themselves answerable to the said *his* executors administrators and assigns according to law for his and their damages thereby occasioned Provided always and these letters patent are shall be upon this condition that if at any time during the said term hereby granted it shall be made appear to Her Majesty Queen Victoria Her Heirs or Successors or to the Governor of the said Colony that this grant is contrary to law or prejudicial or inconvenient to her 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 *is* not the true and first inventor these letters patent shall forthwith cease determine and be utterly void to all intents and purposes Provided also that these letters patent or anything herein contained

shall not extend or be construed to extend to give privilege unto the said
 his executors administrators
 or assigns or any of them to use or imitate any invention or work whatsoever
 which hath heretofore been found out or invented by any other person and
 publicly used or exercised unto whom letters patent or privileges have been already
 granted for the sole use exercise and benefit thereof Provided likewise and these
 letters patent are upon this express condition that if the said

has not particularly described and ascertained the nature of the said invention and in what
 manner the same is to be performed by an instrument in writing under his hand
 deposited with the Colonial Secretary of the said Colony that then these letters
 patent and all liberties and advantages whatsoever hereby granted shall utterly
 cease determine and become void And lastly I do by these presents grant unto the
 said

his executors administrators and assigns that these letters
 patent shall be in and by all things good firm valid sufficient and
 effectual in the law according to the true intent and meaning thereof notwith-
 standing the not full and certain describing herein of the nature or quality of the
 said invention or of the materials thereunto conducing and belonging

In witness whereof I have hereunto subscribed my name and have caused
 these letters patent to be sealed with the seal of the Colony of New Zealand this
 day of A.D.