

PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

IN 1925 a Conference was held at the Hague of representatives of countries belonging to the International Union for the Protection of Industrial Property (Patents and Designs), when certain amendments of the International Convention on the subject were decided upon. The amendments made involve slight changes in the existing law if New Zealand, which is a member of the Union, is to make them effective here, and so become entitled to reciprocal treatment from other countries. The Imperial Parliament last year passed the Patents and Designs (Convention) Act, 1928 (18 Geo. V, Chapter 3), in order to meet her obligations under the amended Convention. It is desirable to pass a similar measure here from the point of view both of keeping our law uniform with that of Great Britain and of giving effect to the decisions arrived at by the Conference.

Clause 2 of the Bill has no relation to the International Convention referred to above, but merely substitutes the title of "Commissioner" for "Registrar."

Clause 3 of the Bill amends section 13 of the principal Act, relating to opposition to the grant of a patent. A patent usually bears the same date as the date of the application for it. Where, however, a patent has been applied for in another Union country and application is then made in New Zealand within the prescribed period for a similar patent, the date of the patent, if granted, will be the date of the application in the other country (section 144 of principal Act). The date a patent would bear, if granted, is therefore substituted for the date of the application for the patent in considering various points arising out of opposition proceedings.

Clause 4 amends section 29 of the principal Act, relating to the abuse of monopoly rights. A period of three years after the date of the grant of a patent is fixed before proceedings can be commenced under the section. Where non-working is alleged the time is to be reckoned from the grant of the patent instead of the date of the patent.

Clause 5 replaces section 51 of the principal Act, relating to inventions on visiting ships, the use of which in New Zealand waters would constitute a technical breach of a New Zealand patent. The new section is extended to apply to aircraft and land vehicles temporarily or accidentally in New Zealand.

Hon. Mr. Wilford.

PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT.

ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Offices of Commissioner and Deputy Commissioner substituted for offices of Registrar and Deputy Registrar of Patents, &c.</p> | <p>3. Section 13 of principal Act amended to conform to corresponding provisions of Imperial Act.</p> <p>4. Section 29 of principal Act amended to conform to corresponding provisions of Imperial Act.</p> <p>5. Repeal. Special provisions as to vessels, aircraft, and land vehicles.</p> |
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A BILL INTITULED

AN ACT to amend the Patents, Designs, and Trade-marks Act, 1921-22. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

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| <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> | <p>1. This Act may be cited as the Patents, Designs, and Trade-marks Amendment Act, 1929, and shall be read together with and deemed part of the Patents, Designs, and Trade-marks Act, 1921-22 (hereinafter referred to as the principal Act).</p> <p>2. (1) The offices of Registrar of Patents, Designs, and Trade-marks and of Deputy Registrar of Patents, Designs, and Trade-marks are hereby abolished, and the offices of Commissioner of Patents, Designs, and Trade-marks and of Deputy Commissioner of Patents, Designs, and Trade-marks are respectively substituted therefor.</p> <p>(2) The persons holding office as Registrar of Patents, Designs, and Trade-marks and as Deputy Registrar of Patents, Designs, and Trade-marks at the commencement of this Act shall without further appointment be deemed respectively to be appointed Commissioner of Patents, Designs, and Trade-marks and Deputy Commissioner of Patents, Designs, and Trade-marks under this section.</p> <p>(3) All references in the principal Act or elsewhere to the Registrar of Patents, Designs, and Trade-marks and to the Deputy Registrar of Patents, Designs, and Trade-marks shall hereafter be deemed to be references to the Commissioner of Patents, Designs, and Trade-marks and the Deputy Commissioner of Patents, Designs, and Trade-marks respectively.</p> | <p>Short Title.</p> <p>Offices of Commissioner and Deputy Commissioner substituted for offices of Registrar and Deputy Registrar of Patents, &c.</p> |
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Section 13 of principal Act amended to conform to corresponding provisions of Imperial Act.

Cf. 18 Geo. V, c. 3, s. 1 (3)

Ibid., s. 1 (4)

Ibid., s. 1 (5)

Section 29 of principal Act amended to conform to corresponding provisions of Imperial Act.

Cf. 18 Geo. V, c. 3, s. 2

Repeal.

Special provisions as to vessels, aircraft, and land vehicles.

Cf. 18 Geo. V, c. 3, s. 3

3. Subsection one of section thirteen of the principal Act is hereby amended as follows:—

- (a) By inserting in paragraph (b), after the words "That the invention has," the words "prior to the date which the patent applied for would bear if granted"; by omitting from the same paragraph the words "the date of the application for the patent the grant of which is being opposed," and substituting the words "such date"; and by omitting from the same paragraph the words "prior to the application," and substituting the words "before such date":
- (b) By omitting from paragraph (c) the words "of the application for a patent the grant of which is opposed," and substituting the words "which the patent applied for would bear if granted":
- (c) By inserting in paragraph (f) and also in paragraph (g), after the word "opponent" in each case, the words "for a patent which if granted would bear a date."

4. Section twenty-nine of the principal Act, as set out in section three of the Patents, Designs, and Trade-marks Amendment Act, 1924, is hereby amended as follows:—

- (a) By inserting in subsection one, after the words "at any time," the words "after the expiration of three years from the date of the grant of a patent"; and by omitting from the same subsection the words "any patent," and substituting the the words "that patent":
- (b) By omitting from paragraph (a) of subsection two the words "at any time after the expiration of four years from the date of the patent"; and by omitting from the proviso to the same paragraph the words "the date of the patent," and substituting the words "the grant of the patent."

5. Section fifty-one of the principal Act is hereby repealed, and the following section substituted therefor:—

"51. (1) Subject to the provisions of this section, the rights of a patentee shall not be deemed to be infringed—

- (a) By the use on board a ship of a country to which this section applies of the patented invention in the body of the ship or in the machinery, tackle, apparatus, or other accessories thereof, if the ship comes into the territorial jurisdiction waters of New Zealand temporarily or accidentally only, and the invention is used exclusively for the actual needs of the ship:
- (b) By the use of the patented invention in the construction or working of an aircraft or land vehicle of a country to which this section applies, or of the accessories thereof, if the aircraft or vehicle comes into New Zealand temporarily or accidentally only.

"(2) This section applies to the following countries only—

(a) The United Kingdom:

(b) Any country (whether a foreign state or British possession) to which it is declared to be applicable by the Governor-General by Order in Council, and with respect to which the Governor-General by such Order in Council declares

that the laws thereof confer corresponding rights with respect to the use of inventions in ships, aircraft, and land vehicles of New Zealand when coming into that country or the territorial waters thereof.

- 5 “(3) For the purposes of this section, ships and aircraft shall be deemed to be ships and aircraft of the country in which they are registered, and land vehicles shall be deemed to be vehicles of the country within which the owners are ordinarily resident.”