

Serial Number 1949/139

THE PATENTS AMENDING REGULATIONS 1949

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 7th day of
September, 1949

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

PURSUANT to the Patents, Designs, and Trade-marks Act, 1921-22, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

1. These regulations may be cited as the Patents Amending Regulations 1949, and shall be read together with and deemed part of the regulations relating to patents made on the 26th day of June, 1922* (hereinafter referred to as the principal regulations).

2. The principal regulations, as heretofore amended, are hereby further amended by adding after Regulation 114, the following additional heading and regulation :—

“ MENTION OF INVENTOR AS SUCH

“ 115. (1) A request by the sole applicant or all the applicants for a patent and by the actual deviser of an invention or of a substantial part thereof under subsection (2) of section 58 of the Patents, Designs, and Trade-marks Amendment Act, 1939 (hereafter in this regulation referred to as the section), for the deviser to be mentioned as inventor as provided by subsection (8) of the section shall be made in the Patents Form No. 36. It shall be accompanied by a statement setting out fully the circumstances relied upon to justify the request.

“ (2) A claim under subsection (3) of the section for the claimant to be mentioned as inventor as aforesaid shall be made in the Patents Form No. 37. It shall be accompanied by a statement setting out fully the circumstances relied upon to justify the claim and by such number of copies of the claim and of the statement as the Commissioner

* *Gazette*, 1922, Vol. II, page 1669.

Amendments in force :—

Gazette, 1923, Vol. II, page 1634.

Gazette, 1924, Vol. III, page 2972.

Gazette, 1925, Vol. I, page 1041.

Statutory Regulations 1945, Serial number 1945/121, page 295.

Statutory Regulations 1946, Serial number 1946/143, page 405.

Statutory Regulations 1947, Serial number 1947/2, page 3.

Statutory Regulations 1947, Serial number 1947/136, page 495.

Statutory Regulations 1948, Serial number 1948/39, page 124.

may require. A copy of the claim and of the statement shall be sent by the Commissioner to every applicant for the patent (not being the claimant) and to any other person whom the Commissioner considers to be interested ; and the Commissioner may give such directions (if any) as he thinks fit with regard to the subsequent procedure upon the claim.

“(3) An application under subsection (5) of the section for an extension of the period for making a request or claim shall be made in the Patents Form No. 38.

“(4) An application under subsection (9) of the section for a certificate in respect of any patent shall be made in the Patents Form No. 39. It shall be accompanied by a statement setting out fully the circumstances relied upon to justify the application and by such number of copies of the application and statement as the Commissioner may require. A copy of the application and of the statement shall be sent by the Commissioner to each patentee (not being the applicant), to the person mentioned in the patent as the actual deviser, and to any other person whom the Commissioner may consider to be interested ; and the Commissioner may give such directions (if any) as he thinks fit with regard to the subsequent procedure upon the application.

“(5) The Commissioner, before deciding upon any request, claim, or application under the section, may call for any further documents, information, or evidence, and may require any statement made under this regulation to be verified by a statutory declaration made by a person approved by him.

“(6) Any mention of an actual deviser as inventor under subsection (8) of the section may be made in the patent after the signature of the Commissioner, and on the complete specification at the head of Patents Form No. 3. It may be in the form ‘The inventor of this invention in the sense of being the actual deviser thereof within the meaning of section 58 of the Patents, Designs, and Trade-marks Amendment Act, 1939, is of’, or in the form ‘The inventor of a substantial part of this invention in the sense of being the actual deviser thereof within the meaning of section 58 of the Patents, Designs, and Trade-marks Amendment Act, 1939, is of’, as the case may require.”

3. Regulation 25 of the principal regulations is hereby amended by adding the following subclauses :—

“(3) The time within which an applicant may leave an amended specification under section 10 of the Patents, Designs, and Trade-marks Act, 1921–22, shall be four months from the date on which he receives notice informing him that the invention claimed appears to the Commissioner to be not new or for any other reason not a proper subject-matter for a patent within the meaning of that section :

“Provided that, subject to the next succeeding subclause, the Commissioner may grant such extension of time as he thinks fit for leaving an amended specification as aforesaid.

“(4) Application for an extension of time for leaving an amended specification as aforesaid shall be made in the Patents Form No. 4 and may be made after the expiration of the aforesaid period of four months, but no such extension shall be granted which would extend the time for leaving an amended specification as aforesaid beyond the time prescribed by the Act for putting the application in order ; and

any fees payable under these regulations for an extension of the period for putting an application in order shall be paid in addition to the fees for an extension of time under this subclause."

4. The principal regulations are amended by revoking Regulation 49 and the heading immediately preceding that regulation, and substituting the following new heading and regulation:—

" AMENDMENT OF ACCEPTED SPECIFICATION

" 49. Except where the amendment is made as the result of a reference to a prior specification under section 10 (2) (b) of the Patents, Designs, and Trade-marks Act, 1921–22, a request to the Commissioner for leave to amend an accepted complete specification shall be in the Patents Form No. 11. The request shall be accompanied by a certified copy of the original specification and drawings, showing in red ink the proposed amendment in such manner as to indicate clearly the alteration desired, and shall be advertised by publication of the request and the nature of the proposed amendment in the *Journal*, and in such other manner as the Commissioner may in each case direct."

5. The principal regulations are amended by inserting, after Regulation 53, the following new heading and regulations:—

" AMENDMENT OF UNACCEPTED SPECIFICATION OR APPLICATION

" 53A. A request for leave to amend a specification that has not been accepted, other than an amendment under section 10 of the Patents, Designs, and Trade-marks Act, 1921–22, shall be made in the Patents Form No. 43.

" 53B. A request for leave to amend an application for a patent shall be made in the Patents Form No. 44."

6. The principal regulations are hereby amended by revoking Regulation 37, and substituting the following regulation:—

" 37. (1) If the applicant for a patent desires to have a patent sealed on his application, he shall within the period allowed by section 59 of the Patents, Designs, and Trade-marks Amendment Act, 1939 (hereafter in this regulation referred to as the section), give notice of such desire in the Patents Form No. 7.

" (2) Where for any reason a patent cannot otherwise be sealed within the period allowed by the section, the applicant may apply to the Commissioner in the Patents Form No. 4 to extend the said period under paragraph (4) (e) of the section; and on any such application the Commissioner may extend the said period for such further period, not exceeding three months, as he thinks fit.

" (3) Where an applicant under a joint application has died and it is desired to have the patent granted under paragraph (1) (a) of the section to the survivor or survivors of the joint applicants, the application therefor shall be made by the said survivor or survivors in the Patent Form No. 40, and shall be accompanied by the consent in writing of the personal representative of the joint applicant who has died. Probate or letters of administration, as the case may be, in the estate of the joint applicant who has died, or an official copy thereof, shall be produced for the inspection of the Commissioner.

" (4) An application under paragraph (1) (b) of the section for the grant of a patent to an assignee or to a joint applicant and assignee shall be made in the Patents Form No. 41, and shall be accompanied

by a certified copy of the agreement to assign. The original agreement shall be produced for the inspection of the Commissioner, who may also call for such other proof of title or written consent as he may require."

7. The principal regulations are hereby amended by revoking Regulation 28, and substituting the following regulation:—

"28. (1) An application under section 57 (1) of the Patents, Designs, and Trade-marks Amendment Act, 1939, for an extension of the period within which a notice of opposition may be filed shall be made in the Patents Form No. 42, and shall state the ground or grounds on which the application for an extension of the said period is based.

"(2) A notice of opposition to the grant of a patent shall be given in the Patents Form No. 5, and shall state the ground or grounds on which the person giving such notice (herein called the opponent) intends to oppose the grant. The notice shall be accompanied by a copy thereof, and a statement in duplicate setting out fully the opponent's interest, the facts upon which he bases his case, and the relief which he seeks. A copy of the notice and of the statement shall be transmitted by the Commissioner to the applicant."

8. The First Schedule to the principal regulations is hereby amended by adding the following items:—

| | |
|--|---------|
| " On a request under section 58 (2) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | £ s. d. |
| | 0 10 0 |
| " On a claim under section 58 (3) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | 0 10 0 |
| " On an application for extension of time under section 58 (5) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | 0 10 0 |
| " On an application for a certificate under section 58 (9) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | 1 0 0 |
| " On application to amend specification not yet accepted | 1 0 0 |
| " On application to amend application for a patent | 1 0 0 |
| " On application under section 59 (1) (a) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | 0 10 0 |
| " On an application under section 59 (1) (b) of the Patents, Designs, and Trade-marks Amendment Act, 1939 | 0 10 0 |
| " On application for extension of time for filing notice of opposition to grant of patent | 1 0 0 |
| " On any application, notice, claim, request, or action under the Patents, Designs, and Trade-marks Act, 1921-22, or regulations made thereunder, not otherwise provided for | 0 10 0" |

9. The Second Schedule to the principal regulations is hereby amended by adding thereto the forms numbered 36 to 44 in the Schedule to these regulations.

SCHEDULE

[Patents Form No. 36

The Patents, Designs, and Trade-marks Act, 1921-22

REQUEST UNDER SECTION 58 (2) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

(To be accompanied by a statement setting out fully the circumstances relied upon)

I [or We], [*Here insert (in full) name, address, and nationality and citizenship of applicant or applicants for the patent*], who make the accompanying application [or who made application No. on the] for the grant of a patent for an invention the title of which is [*Here insert title of invention*] and I [or we] [*Here insert the name, address, and nationality and citizenship of the deviser or devisers*], hereby declare that the said [*Here insert name of deviser or devisers*] is [or are] the inventor(s) in the sense of being the actual deviser(s) of [a substantial, part of] the invention, and that the application for the patent is a direct consequence of his [or their] being such inventor(s) as aforesaid, and we hereby request that the said be mentioned as such inventor(s) in accordance with section 58 (2) of the Patents, Designs, and Trade-marks Amendment Act, 1939.

A statement setting out the circumstances upon which we rely to justify this request is attached.

My [or Our] address for service in New Zealand is

Dated at, the day of, 19....

[*To be signed by the persons making the request.*]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 37

The Patents, Designs, and Trade-marks Act, 1921-22

CLAIM UNDER SECTION 58 (3) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

(To be accompanied by a copy or copies and by a statement or statements, as the case may require)

I [*Here insert (in full) name, address, and nationality and citizenship of the claimant*], hereby declare that I am the inventor in the sense of being the actual deviser of [a substantial part of] the invention entitled [*Here insert title of invention*] in respect of which application No. for a patent was made by [*Here insert name and address of applicant or applicants for the patent*] on the, and that the application for the patent is a direct consequence of my being such inventor, and I hereby claim to be mentioned as such inventor in accordance with section 58 (3) of the Patents, Designs, and Trade-marks Amendment Act, 1939.

A statement setting out the circumstances upon which I rely to justify this claim is attached.

My address for service in New Zealand is

Dated at, the day of, 19....

[*To be signed by the claimant.*]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 38]

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION UNDER SECTION 58 (5) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

I [or We], [*Here insert (in full) name, address, and nationality and citizenship of the person or persons making the application*], hereby apply for an extension (not exceeding one month) of the period for making a request under section 58 (2) of the Patents, Designs, and Trade-marks Amendment Act, 1939 [or a claim under section 58 (3) of the Patents, Designs, and Trade-marks Amendment Act, 1939], in respect of application No. for a patent made by [*Here insert name, address, and nationality and citizenship of applicant or applicants for the patent*] on the in respect of an invention the title of which is [*Here insert title of the invention*].

My address for service in New Zealand is

Dated at, the day of, 19....

[*To be signed by the person or all the persons making the application or by his or their duly authorized agent.*]

To the Commissioner of Patents,
Patent Office, Wellington, N. Z.

[Patents Form No. 39]

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION UNDER SECTION 58 (9) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

(To be accompanied by a copy or copies and by a statement or statements, as the case may require)

I [or We], [*Here insert (in full) name, address, and nationality and citizenship of the person or persons making this application*], hereby allege that [*Here insert the name of the person mentioned as the actual deviser*] ought not to have been mentioned under section 58 of the Patents, Designs, and Trade-marks Amendment Act, 1939, as the inventor in the sense of being the actual deviser of [a substantial part of] the invention covered by patent No. and entitled [*Here insert title of invention*], and I [or we] hereby apply for a certificate to that effect.

A statement setting out the circumstances upon which I [or we] rely to justify this application is attached.

My [or Our] address for service in New Zealand is

Dated at, this day of, 19....

[*To be signed by all the persons making the application.*]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 40

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION UNDER SECTION 59 (1) (a) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

(To be accompanied by consent in writing of the personal representative of deceased applicant for patent)

I [or We], [*Here insert (in full) name, address, and nationality and citizenship of the surviving applicant or applicants for the patent*], hereby request that the letters patent in pursuance of application No. [*Here insert the number and date of the application for the patent*] made by the applicant [or applicants] in this application and [*Here insert name and former address and nationality and citizenship of deceased applicant for the patent*] be granted to me [or us].

In support whereof I [or we] forward probate [or letters of administration] in the estate of the deceased applicant, with certified copy thereof, and the consent in writing of the personal representative of the deceased applicant.

My [or Our] address for service in New Zealand is

Dated at, the day of, 19

[*To be signed by the surviving applicants for the patent.*]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 41

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION UNDER SECTION 59 (1) (b) OF THE PATENTS, DESIGNS, AND TRADE-MARKS AMENDMENT ACT, 1939

(To be accompanied by agreement to assign and a certified copy thereof)

I [or We], [*Here insert name of applicant or applicants*], hereby request that the letters patent in pursuance of application No. [*Here insert the number and date of the application for the patent*] made by [*Here insert name of the applicant or applicants for the patent*] be granted to [*Here insert (in full) name, address, and nationality and citizenship of the person or persons to whom it is desired the patent should be granted*].

I [or We] claim to be entitled to the grant of the patent by virtue of [*Here specify the particulars of the document, giving its date and the parties thereto, and showing how the claim here made is substantiated*].

And in support whereof I [or We] forward the accompanying [*Here insert the nature of the document. The certified copy should be written, typewritten, or printed on foolscap paper on one side only*], with a certified copy thereof.

My [or Our] address for service in New Zealand is

Dated at, the day of, 19

[*To be signed by the applicant or applicants, and in case of a firm by each partner.*]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 42]

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION FOR EXTENSION OF TIME FOR FILING A NOTICE OF OPPOSITION TO GRANT OF PATENT

I [or We] hereby request that the period within which I [or We] may file a notice of opposition to the grant of a patent on application No. [Here insert number and date of the application for the patent], the acceptance of the complete specification of which was advertised in the *Patent Office Journal* on the day of, 19.., be extended by one month.

The ground.. upon which this request is made is as follows:.....

My [or Our] address for service in New Zealand is

Dated at, the day of, 19..

[To be signed by the person or persons by whom the Notice of Opposition will be entered or by their agent.]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 43]

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION FOR AMENDMENT OF SPECIFICATION NOT YET ACCEPTED

I [or We], [Here insert (in full) name and address of applicant or applicants], seek leave to amend the specification of application No. of as shown in red ink in the copy of the original specification hereunto annexed.

My [or Our] reasons for making this amendment are as follows: [Here state reasons for seeking amendment].

Dated at, the day of, 19..

[To be signed by applicant or applicants, and in case of a firm by each partner.]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

[Patents Form No. 44]

The Patents, Designs, and Trade-marks Act, 1921-22

APPLICATION FOR AMENDMENT OF APPLICATION FOR A PATENT

I [or We], [Here insert (in full) name and address of applicant or applicants], seek leave to amend my [or our] application No. of as shown in red ink in the copy of the original application hereunto annexed.

My [or Our] reasons for making this amendment are as follows: [Here state reasons for seeking amendment].

Dated at, the day of, 19..

[To be signed by applicant or applicants, and in case of a firm by each partner.]

To the Commissioner of Patents,
Patent Office, Wellington, N.Z.

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 8th day of September, 1949.

These regulations are administered in the Department of Justice.