

GOVERNMENT OF ZAMBIA

ACT

No. 18 of 1980

Date of Assent: 21st December, 1980

An Act to amend the Patents Act

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ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Patents (Amendment) Act, 1980, and shall be read as one with the Patents Act, hereinafter referred to as the principal Act.

Short title
and
commence-
ment.
Cap. 692

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. Section *two* of the principal Act is amended in subsection (1) by the deletion of the definitions of " Court " and " Patents Tribunal ".

Amendment
of section 2

3. Section *twenty* of the principal Act is amended in subsection (2) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " High Court ".

Amendment
of section 20

4. Section *twenty-two* of the principal Act is amended—

Amendment
of section 22

(a) in subsections (7) and (9) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ";

(b) in subsection (8) by the deletion of the words " Patents Tribunal " and " that Tribunal " wherever they occur and the substitution therefor of " High Court " and " that Court ", respectively.

*This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

- Amendment of section 23 5. Section *twenty-three* of the principal Act is amended in subsection (3) by the deletion in paragraph (c) of " Patents Tribunal " and the substitution therefor of " High Court ".
- Amendment of section 24 6. Section *twenty-four* of the principal Act is amended in subsection (5) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ".
- Amendment of section 25 7. Section *twenty-five* of the principal Act is amended in proviso (i) to subsection (2) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ".
- Amendment of section 30 8. Section *thirty* of the principal Act is amended—
- (a) in subsection (1) by the deletion of " Patents Tribunal " and the substitution therefor of " Registrar ";
 - (b) in paragraph (a) of subsection (2) by the deletion of " Patents Tribunal " and the substitution therefor of " Registrar ";
 - (c) in subsection (3)—
 - (i) by the deletion of " registrar of the Patents Tribunal " and the substitution therefor of " Registrar ";
 - (ii) by the deletion of " by that Tribunal ";
 - (d) in subsection (4) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " Registrar ";
 - (e) in subsection (7) by the deletion of " Patents Tribunal " and the substitution therefor of " Registrar ";
 - (f) by the addition after subsection (7) of the following new subsection:
 - (8) An appeal shall lie from any decision of the Registrar under this section.
- Amendment of section 31 9. Section *thirty-one* of the principal Act is amended in the proviso to subsection (5) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ".
- Amendment of section 37 10. Section *thirty-seven* of the principal Act is amended—
- (a) by the deletion of subsection (5) and the substitution therefor of the following subsection:
 - (5) When, in relation to an application or an opposition thereto, the foregoing provisions of this section have been complied with to the extent therein required, the Registrar shall send all relevant papers to the High Court, and that court shall arrange for the matter to be heard in the manner proscribed and, subject to the provisions of this section, the High Court may make such order therein as it deems just.;

(b) in the proviso to paragraph (a) of subsection (6) and in subsections (7), (8), (9), (10), (11) and (12) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " High Court ".

11. Section *thirty-eight* of the principal Act is amended—

Amendment
of section 38

(a) in subsection (1) by the deletion of " Patents Tribunal " and " such Tribunal " and the substitution therefor of " High Court " and " that Court ", respectively;

(b) in subsection (2) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ".

12. Section *forty* of the principal Act is amended in subsection (3) by the deletion of " Patents Tribunal " and the substitution therefor of " High Court ".

Amendment
of section 40

13. Section *forty-two* of the principal Act is amended in subsections (1) and (4) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " High Court ".

Amendment
of section 42

14. The principal Act is amended by the repeal of section *forty-four* and the substitution therefor of the following section:

Repeal and
replacement
of section 44

44. In any action for infringement of a patent or any proceedings before the High Court for the revocation of a patent, that court may, subject to the provisions of subsection (3) of section *forty-three*, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise as that court may think fit, and, if in any such proceedings for revocation the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

Amendment
of
specification
with leave of
High Court

15. Section *forty-five* of the principal Act is amended by the deletion of " Court or the Patents Tribunal " and the substitution therefor of " High Court ".

Amendment
of section 45

16. Section *forty-eight* of the principal Act is amended in subsections (2) and (3) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " High Court ".

Amendment
of section 48

17. Section *fifty* of the principal Act is amended in subsections (1), (2), (4), (5), (6) and (8) by the deletion of the words " Patents Tribunal " wherever they occur and the substitution therefor of " High Court ".

Amendment
of section 50

- Amendment of section 51 18. Section *fifty-one* of the principal Act is amended in subsections (1) and (2) by the deletion of the words "Patents Tribunal" wherever they occur and the substitution thereof of "High Court".
- Amendment of Part VII 19. Part VII of the principal Act is amended by the addition after section *fifty-seven* of the following new section:
- Interpretation 57A. In this Part, unless the context otherwise requires, "Court" means the High Court.
- Amendment of section 58 20. Section *fifty-eight* of the principal Act is amended in subsection (3) by the deletion of "Patents Tribunal or Court" and the substitution thereof of "High Court or Supreme Court".
- Amendment of section 60 21. Section *sixty* of the principal Act is amended by the deletion of the words "Patents Tribunal" wherever they occur and the substitution thereof of "High Court".
- Amendment of section 67 22. Section *sixty-seven* of the principal Act is amended in subsection (2) by the deletion of "or the Patents Tribunal" and the substitution thereof of ", the High Court or the Supreme Court".
- Amendment of section 69 23. Section *sixty-nine* of the principal Act is amended—
- (a) by the deletion in subsection (2) of "Patents Tribunal" and the substitution thereof of "High Court";
 - (b) by the deletion of subsection (3);
 - (c) in subsections (4) and (5) by the deletion of "Patents Tribunal" and the substitution thereof of "High Court".
- Amendment of Part XI 24. Part XI of the principal Act is amended by the deletion of the heading "PATENTS TRIBUNAL AND APPEALS" and the substitution thereof of "APPEALS".
- Amendment of section 73 25. Section *seventy-three* of the principal Act is amended by the deletion of "Patents Tribunal" and the substitution thereof of "High Court".
- Repeal of sections 74, 75, 76 and 77 26. The principal Act is amended by the repeal of sections *seventy-four*, *seventy-five*, *seventy-six* and *seventy-seven*.
- Amendment of section 78 27. Section *seventy-eight* of the principal Act is amended—
- (a) by the deletion of the marginal note and the substitution thereof of the following marginal note:

Appeals to
Supreme Court;

(b) by the deletion of subsection (1) and the substitution therefor of the following subsection:

(1) Any party to proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of that court to the Supreme Court;

(c) in subsection (2) by the deletion of the words " Court " and " Patents Tribunal " wherever they occur and the substitution therefor of " Supreme Court " and " High Court ", respectively.

28. The principal Act is amended by the repeal of section *seventy-nine*. Repeal of section 79

29. Section *eighty* of the principal Act is amended in subsection (1) by the deletion of the words " Patents Tribunal " and " Court " wherever they occur and the substitution therefor of " High Court " and " Supreme Court ", respectively. Amendment of section 80

30. The principal Act is amended by the repeal of section *eighty-one* and the substitution therefor of the following section: Repeal and replacement of section 81

81. The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to— Rules of court

- (a) the time within which any requirement of the rules is to be complied with;
- (b) the costs and expenses of and incidental to any proceedings;
- (c) the fees to be charged in respect of such proceedings; and
- (d) the summary determination of any appeal which appears to the High Court or Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

31. The principal Act is amended by the repeal of section *eighty-two* and the substitution therefor of the following section: Repeal and replacement of section 82

82. Where any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall, thereafter, in relation to such matter, act in accordance with the decision of that court or any decision substituted therefor on appeal to the Supreme Court. References to High Court by Registrar

Amendment
of section 85

32. Section *eighty-five* of the principal Act is amended by the deletion of " or the Patents Tribunal ".

Amendment
of section 90

33. Section *ninety* of the principal Act is amended in subsection (2) by the deletion of " or the Patents Tribunal ".

Repeal
of sections
98, 99 and
100

34. The principal Act is amended by the repeal of sections *ninety-eight, ninety-nine* and *one hundred*.
