

PATENTS (PUBLIC OFFICERS) REGULATIONS

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PATENTS (PUBLIC OFFICERS) REGULATIONS

(S.R.O. (L.I.) 15/1933)

Commencement

[12 July 1933]

Short title

1. These Regulations may be cited as the Patents (Public Officers) Regulations.

Application for Provisional Protection

2. Any officer in the employment of the Government who has made an invention—

(a) may, at his or her own expense; and

(b) shall, at the expense of the Government if so required by the Governor,

lodge an application for provisional protection with the Registrar of Patents, and shall at the same time send a copy of the application to the Governor through the head of his or her department. The Governor shall decide as expeditiously as possible whether the invention shall be regarded as secret, and the decision shall be forthwith communicated to the head of the officer's department for the information of the officer.

Control of Patent

3. (1) As soon as practical the Governor shall decide whether the officer shall or shall not be allowed controlling rights in the patent and his or her decision shall be communicated to the head of the officer's department for the information of the officer.

(2) Pending the decision of the Governor as to such controlling rights, all rights in the invention shall be deemed to belong to and to be held in trust for the Government.

Control by Officer

4. If the Governor decides that the officer shall be allowed controlling rights in the patent, the following provisions shall apply—

(a) the officer shall, subject to the provisions of regulation 2, be responsible for all expenditure in taking out the patent;

(b) the Governor may attach to his or her decision such conditions as he or she may think fit and, in particular, may reserve to the Government a right of user of the invention free of royalty, or a right to a share of any commercial proceeds, or both such rights;

(c) the officer may, whether any rights are reserved under paragraph (b) or not, apply to the Awards Committee as constituted under regulation 8 (hereinafter referred to as "the Committee") through the head of his or her department for an award in respect of his or her invention;

(d) the question whether an award shall be made, the amount thereof, and, if a share of commercial proceeds is reserved to the Government, the amount of such share shall be determined by the Governor after investigation by the Committee;

- (e) a reservation to the Government of user of the invention free of royalty under paragraph (b) may include a like reservation to Her Majesty's Government in the United Kingdom, or the Government of and British Colony or Protectorate of any territory in respect of which her Majesty's Government in the United Kingdom exercises a mandate.

Control by Government

5. If the Governor decides that the officer shall not be allowed controlling rights in the patent, the following provisions shall apply—

- (a) the officer shall assign all his or her rights in the invention to the Government;
- (b) the Government shall be responsible for all expenditure in taking out the patent;
- (c) the Governor shall decide whether the officer shall or shall not be allowed a share of any commercial proceeds;
- (d) the officer may, whether he or she is allowed a share in the commercial proceeds or not, apply to the Committee through the head of his or her department for an award in respect of his or her invention;
- (e) the question whether an award shall be made, the amount thereof, and, if the Governor decides that the officer shall be allowed a share in the commercial proceeds, the amount of such share, shall be determined by the Governor after investigation by the Committee.

Power to revise decision

6. In the event of a material change taking place in the circumstances which existed at the time when an award or allocation of commercial proceeds was made, the original decision may be modified by the Governor after further investigation by the Committee; provided that, in any such modification of the original decision, the amount of an award which has been paid shall not be reduced.

Grant of full rights in certain cases

7. Where an invention is in all respects alien to the employment of the officer, he or she shall normally be granted the full rights in such invention.

Power to appoint committee

8. There shall be constituted for the purposes of these regulations, an Awards Committee which shall consist of a judicial or legal officer appointed by the Governor as Chairman and such other persons as the Governor may from time to time by notice in the *Gazette* appoint.

Officer's right of audience

9. An officer shall be entitled at his or her own expense to appear personally before the Committee or to be represented in such manner as the Committee may approve.

Committee's recommendations

10. (1) All conclusions of the Committee shall be embodied in recommendations which shall be forwarded to the Governor.

(2) The reservation of a right of user free of royalty to Her Majesty's Government in the United Kingdom or the Government of any other territory mentioned in regulation 4(e) shall not be taken into account, but if and when such right shall be exercised by any such Government, a material change shall, for the purpose of regulation 6, be deemed to have taken place.

Power to make rules

11. The Committee may make rules for regulating its proceedings, but no such rules shall come into force until they shall have been approved by the Governor.

Allowance for Expenses

12. In fixing the amount of any award or of the share of any commercial proceeds reserved to the Government under regulation 4(d) or allowed to the officer under regulation 5(e) (as the case may be), any reasonable expenses to which an officer may have been put in connection with his or her invention shall be taken into account.

Right of Appeal

13. Nothing in these regulations shall restrict any officer's rights of appeal to the Secretary of State under Colonial Regulations.