

## LAWS OF FIJI

Ed. 1978]

### CHAPTER 239

#### PATENTS

##### ARRANGEMENT OF SECTIONS

##### SECTION

1. Short title.
2. Interpretation.
3. Exclusive right to invention.
4. Form of letters patent and privileges conferred.
5. Letters patent not to be granted in certain cases.
6. Application for letters patent.
7. Declaration.
8. Petition, specification, etc., to be recorded.
9. Records may be inspected.
10. Certified copies to be received as evidence.
11. Specifications may be amended.
12. Provisional certificate.
13. Appeal from Attorney-General.
14. Procedure where no opposition is made to application.
15. Where application is opposed.
16. Where letters patent have been granted for inventions already patented outside Fiji.
17. Letters patent to be registered.
18. Attorney-General may annul letters patent.
19. Letters patent to be for one invention only.
20. Notice of proceeding under section 5 to be published.
21. Copy of order of Supreme Court forwarded to Administrator-General.
22. Supreme Court may order amendments.
23. Patent granted in United Kingdom may be registered in Fiji.
24. Copy of specifications to be submitted with a certificate.
25. Opposition.
26. Effect of certificate of registration.
27. Commencement and duration of privileges and rights.

28. Court may annul.
29. Amendment of specification.
30. Where rights have been assigned, transmitted, etc.
31. Regulations.

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## PATENTS

*Ordinances Nos. 3 of 1879, 7 of 1882, 12 of 1924, 13 of 1933, 4 of 1956, 30 of 1959, 37 of 1966, 26 of 1967.*

### AN ACT TO MAKE PROVISION FOR THE ISSUE OF LETTERS PATENT FOR INVENTIONS

[25th January, 1879.]

#### *Short title*

1. This Act may be cited as the Patents Act.

#### *Interpretation*

2. In this Act, unless the context otherwise requires-

"invention" means any manner of new manufacture and every new process of manufacture and every new method of application of known processes and improvements in any known process;

"inventor" includes the heirs, executors, administrators or assigns of an inventor.

#### *Exclusive right to invention*

3. Every inventor shall be entitled under the conditions and restrictions hereinafter enacted to the sole exclusive

right of and in his invention.

*Form of letters patent and privileges conferred*

4. The right and privilege granted to inventors shall be conferred by letters patent under the seal of Fiji in the prescribed form whereby the inventor shall be entitled to the sole and exclusive privilege of using, selling or making his said invention in Fiji and of authorising others so to do for the term of fourteen years from the date of the letters patent.

*(Amended by 26 of 1967 s.2.)*

*Letters patent not to be granted in certain cases*

5. No person shall be entitled to letters patent-

- (a) if the invention is of no utility;
- (b) if the invention at the time of presenting the petition was not a new invention;
- (c) if the petitioner is not the true and first inventor thereof; or
- (d) if the petition or any specification contains a wilfully false statement,

and any person interested may make a an application to the Supreme Court on any such grounds for the cancellation of revocation of any letters patent.

*(Amended by 30 of 1959, s. 2.)*

*Application for letters patent*

6. Every person desirous of obtaining letters patent under this Act shall file in the office of the Administrator-General a petition in the prescribed form signed by him or his agent or attorney setting forth the residence of the inventor and the title of the invention. To the petition shall be annexed a specification (or instrument in writing) particularly describing and ascertaining the nature of the said invention and the manner in which the same is to be produced or performed, and with such specification or instrument in

writing shall be filed the drawings necessary to elucidate the same, and such petition and all documents and drawings accompanying the same shall be in duplicate.

*(Amended by 30 of 1959, s. 3 and 26 of 1972, s. 3.)*

*Declaration*

7. Every petition and specification particularly describing the nature of an invention shall be accompanied by a declaration in writing signed by the petitioner or his agent or attorney for him in the prescribed form.

*(Amended by 26 of 1972, s. 4.)*

*Petition, specification, etc., to be recorded*

8. The Administrator-General shall cause to be filed every petition and specification with accompanying drawings, if any, explaining the nature of any invention and also any certificate granted by the Attorney-General and every letters patent issued and a memorandum of any order relating thereto.

*(Amended by 30 of 1959, s. 4.)*

*Records may be inspected*

9. Such records shall be open to the inspection of all persons at any reasonable hour upon the payment of a fee of one dollar, and any person may have a copy of any document recorded on payment for the same at the rate of ten cents for every folio of seventy-two words.

*(Amended by 30 of 1959, s. 5.)*

*Certified copies to be received as evidence*

10. Copies of any documents so recorded certified as correct by the Administrator-General shall be received in evidence in any court of law in Fiji.

*(Amended by 30 of 1959, s. 6.)*

*Specifications may be amended*

11. A specification may be amended on application to the Administrator-General or, if the Administrator-General refuses to allow such amendment, the same may be amended by leave of the Attorney -General, and

an amended specification shall, except as to suits and proceedings pending at the date of amendment, have the same effect as though it had been the specification originally filed:

Provided that no extension or enlargement of any exclusive privilege before acquired shall be affected by such amendment.

*(Substituted by 7 of 1882, s. 1, and amended by 30 of 1959, s. T)*

#### *Provisional certificate*

12. When any applicant has filed his petition for letters patent the Administrator-General shall refer the same to the Attorney-General\* with one of the duplicates of such petition and the specification and all other accompanying documents and drawings and a certificate of the filing of the petition, and the Attorney-General\* shall, if he deems the invention as prima facie entitled to protection, issue a certificate to that effect as in the prescribed form, and the inventor shall, subject to the provisions of this Act be protected for a period of six months in like manner as by letters patent:

Provided nevertheless that it shall be competent to the Attorney-General\* to extend the period of such protection pending the decision as to any opposition made to the granting of any letters patent as to him shall seem necessary.

(\*Delegated to Administrator-General by Notification 29th April, 1971.)

*(Amended by 30 of 1959, s. 8 and 26 of 1967, s. 5.)*

#### *Appeal from Attorney-General*

13. If in any case the Attorney-General refuses to issue such certificate as hereinbefore provided an appeal shall lie from the decision of the Attorney-General so refusing such certificate to the Supreme Court who may direct the same to be issued by the Administrator-General in such manner and subject to such conditions and restrictions as shall seem fit:

Provided that-

(a) such application shall

be made to the Supreme Court within one month from the time of the decision of the Attorney-General refusing a certificate being made known to the applicant for letters patent or to his agent or attorney;

(b) any certificate to be issued by direction of the Supreme Court shall be issued within three months from the date of such appeal and upon the issue of such certificate like proceedings shall be had and taken as if such certificate had been issued by the Attorney- General.  
*(Amended by Order 7th October, 1970.)*

*Procedure where no opposition is made to application*

14. Within two months of the issue of the certificate of the Attorney-General or, where the Attorney- General has refused to issue such certificate, from the date of issue of the same by the Administrator-General as provided in section 13, the applicant for letters patent shall give notice in the prescribed form twice in the Gazette and twice in one other newspaper published in Fiji and, if no notice of opposition to the application for letters patent be sent to the Administrator-General within three months of the date of publication of the last of such notices, the Administrator -General shall report such fact to the Attorney-General and Attorney- General shall, within three months from the date of such report, cause letters patent to be issued with such reservations, provisos and conditions as may be deemed fit.

*(Amended by 30 of 1959, s. 9 and 26 of 1967, s. 6 and Order 7th October, 1970.)*

*Where application is opposed. Holder of certificate may appeal*

15. Any person desiring to oppose such application shall within three months of the date of the first notice of the application for letters patent provided for in section 14 give notice in writing of his opposition to such application and of the grounds thereof to the Administrator -General who shall, after hearing the parties to and against such application and such witnesses as he may deem necessary, decide the same and intimate his decision to the Attorney-General who shall within three months from the date of such intimation, if the same be favourable to the person holding a provisional certificate, direct the issue of letters patent to such person with such reservations, provisos and conditions as may be meet. In case the decision be adverse to the party holding the provisional certificate he may appeal against such decision to the Supreme Court which shall within three months from the date of such appeal either direct the issue of letters patent to the appellat subject to such reservations, provisos and conditions as it may deem fit or make such other order as may be meet.

*(Substituted by 7 of 1882, s. 3, and amended by 30 of 1959, s. 10 and Order 7th October, 1970.)*

*Where letters patent have been granted for inventions already patented outside Fiji*

16. Where upon application made under this Act letters patent are granted in Fiji in respect of any invention first invented in any other country or place and a patent or like privilege for the exclusive use of such invention has been granted in any such other country or place before the grant of letters patent in Fiji, all rights and privileges under such letters patent last mentioned shall (notwithstanding any term therein limited) cease and be void immediately upon the expiration or other determination of such patent or like privilege granted in such other country or place or, where more than one such patent or like privilege is obtained, then upon the expiration or other determination of the term which shall first expire or be determined of such several patents or like privileges:

Provided always that no letters patent shall be of any validity if issued for on in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained in any such other country or place and which shall be granted in Fiji after the

expiration of the term for which such patent or privilege was granted or was in force.  
(*Substituted by 7 of 1882, s. 4.*)

*Letters patent to be registered*

17. All letters patent and assignments of letters patent shall be registered in the office of the Administrator-General on payment to him of the prescribed fees.  
(*Substituted by 37 of 1966, s. 62.*)

*Attorney-General may annul letters patent*

18. Letters patent may be annulled by the Attorney-General if the same be proved to be prejudicial to the public interests or if the special conditions on which the same have been granted are not observed. Notice of any letters patent being annulled and the cause thereof shall be inserted in the Gazette.  
(*Amended by 30 of 1959, s. 12.*)

*Letters patent to be for one invention only*

19. No letters patent shall include several distinct and separate inventions but where one invention is applicable to the improvement of several manufactures or where several inventions are applicable to the improvement of one and the same manufacture the whole may be included in the same letters patent.

*Notice of proceeding under section 5 to be published*

20. Any person intending to apply to the Supreme Court under the provisions of section 5 for cancellation or revocation of letters patent shall give at least one month's notice of his intention to proceed under section 5 by notice in the Gazette and such notice shall be published in not less than three issues of the Gazette and the period of one month before mentioned shall commence from the date of the publication of the last of such notices and such publication shall be in lieu of service of any writ or process required by the rules of the Supreme Court.  
(*Amended by 30 of 1959, s. 13.*)



*Copy of order of Supreme Court forwarded to  
Administrator-General*

21. If upon any of the grounds set out in section 5, the Supreme Court shall order any letters patent to be cancelled or revoked, a copy of such order shall be forthwith forwarded by the Chief Registrar of the Court to the Administrator-General who shall record the same, and all right under any letters patent so cancelled or revoked shall cease.

*Supreme Court may order amendments*

22. The Court may order any specification or petition to be amended and may reserve its decision for a time sufficient to allow of such amendment to be effected and thereafter give judgment on such terms as to costs and otherwise as may seem fit.

**UNITED KINGDOM PATENTS**

*Patent granted in United Kingdom may be registered in  
Fiji*

\*23. Any person being the grantee of a patent in the United Kingdom or any person deriving his right from such grantee by assignment, transmission or other operation of law may apply to the Administrator-General within three years from the date of issue of the patent to have such patent registered in Fiji.

Where any partial assignment or transmission has been made all proper parties shall be joined in the application for registration.

(\* Inserted by 12 of 1924.)

(Amended by 30 of 1959. s. 14.)

*Copy of specifications to be submitted with a certificate*

\*24. Every application under the provisions of section 23 shall be accompanied by a certified copy of the specification or specifications, including drawings, if any, of the United Kingdom patent and a certificate of the Comptroller-General of the United Kingdom Patent Office giving full particulars of the issue of the patent

on such specification or specifications.  
(\* Inserted by 12 of 1924.)

### *Opposition*

\*25.-(1) Upon such application being received together with the documents mentioned in section 24 the Administrator-General shall advertise the application in such manner as may be prescribed and any person may at any time within two months from the date of such advertisement give notice to the Administrator-General of opposition to the issue of a certificate of registration as though such notice were a notice under section 15 for opposition to the grant of letters patent.  
(\* Inserted by 12 of 1924.)

(2) Where notice of opposition is given within the prescribed time the Administrator-General shall transmit a copy of the notice to the applicant and, after hearing both parties if desirous of being heard, shall decide on the case.

(3) If there is no opposition or, in the case of opposition, if the decision of the Administrator-General is in favour of the issue of the certificate of registration, the Administrator-General shall issue a certificate of registration.  
(*Section amended by 30 of 1959, s. 15.*)

### *Effect of certificate of registration*

\*26. Such certificate of registration shall confer on the applicant privileges and rights subject to all conditions established by the law of Fiji as though the patent had been issued in the United Kingdom with an extension to Fiji.  
(\* Inserted by 12 of 1924.)

### *Commencement and duration of privileges and rights*

\*27. Privileges and rights so granted shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom:

Provided that no action for infringement shall be entertained in respect of any manufacture, use or sale of the invention prior to the date of the issue of the

certificate of registration in Fiji.  
(\* Inserted by 12 of 1924.)

*Court may annul*

\*28. The court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by such certificate of registration have not be acquired on any of the grounds upon which the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom. Such grounds shall be deemed to include the manufacture, use or sale of the invention in Fiji before the priority date applicable to the patent in the United Kingdom, but not to include the manufacture. use or sale of the invention in Fiji by some person or persons after the priority date applicable to the patent in the United Kingdom and before the date of the issue of the certificate of registration under section 25.

(\* Inserted by 12 of 1924.)

*(Amended by 13 of 1933, s. 2, and 4 of 1956. s. 21.)*

*Amendment of specification*

\*29. Whenever the specifications or drawings of a United Kingdom patent registered in Fiji have been amended by way of disclaimer, correction or explanation according to the law of the United Kingdom, a request accompanied by. a copy of the specifications and drawings, if any, as amended duly certified by the Comptroller-General of the United

Kingdom Patent Office may be made to the Administrator- General to substitute a copy of the specifications and drawings as amended for the specifications and drawings originally filed.

(\* Inserted by 12 of 1924.)

*Where rights have been assigned, transmitted, etc.*

\*30. Where a person becomes entitled by assignment, transmission or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein he may make application in the prescribed manner to the Administrator-General for the

entry on the register of such assignment, transmission or other instrument affecting the title or giving an interest therein.

(\* Inserted by 12 of 1924.)

*Regulations*

\*31. The Attorney-General may make such general regulations and do such things as he may think expedient subject to the provisions of this Act for regulating procedure under this Act, and for prescribing the forms to be used and the fees to be paid in respect of proceedings under this Act.

(\* Inserted by 12 of 1924.)

(Amended by 26 of 1967 s. 9.)

*Controlled by Ministry of the Attorney-General*

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Subsidiary Legislation

**CHAPTER 239**

**PATENTS**

**SECTION 31-PATENTS REGULATIONS**

*Regulations 8th Oct., 1965*

*[in force 15th Oct., 1965]*

*Made by the Governor in Council*

*Short title*

1. These Regulations may be cited as the Patents Regulations.

*Advertisement of application for registration*

2. Applications made under the provisions of section 23 of the Act or registration in Fiji of patents granted in the United Kingdom shall be advertised once in the Gazette and once in a newspaper published and circulating in Fiji in Form 1 contained in the Schedule.

*Application for entry in register*

3. Applications for entry in the register under the provisions of section 30 of the Act shall be made in Form 2 contained in the Schedule:

Provided that the Administrator- General may in any particular case permit an application in any other form.

*Production of documents of title*

4. Every document giving effect to or being evidence of the assignment, transmission or devolution of the privileges and rights or interest specified in section 30 of the Act or affecting the proprietorship thereof, or any interest therein as claimed by an application under the said section, except such documents as are matters of record in, Fiji, shall, unless the Administrator-General otherwise directs, be produced to him together with the application and he may call for such other proof of title as he may think fit.

**SCHEDULE**

**Form 1**

**PATENTS ACT**

**(CHAPTER 239)**

**PATENTS REGULATIONS**

***(Regulation 3)***

**NOTICE OF APPLICATION**

In the matter of the application of  
.....

for a certificate of registration of Letters Patent for  
.....

Notice is hereby given that an application has been made for the issue of a certificate of registration of Letters Patent herein under the provisions of section 23 of the Patents Act. Any person desirous of opposing such application is required to give notice of such

opposition and of the ground thereof to the Administrator-General within two months from the date of the publication hereof.

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

Signed .....

*Applicant(s)*

**Form 2**

**PATENTS ACT**

**(CHAPTER 239)**

**PATENTS REGULATIONS**

*(Regulation 4)*

**APPLICATION FOR ENTRY OF NAME OF  
SUBSEQUENT PROPRIETOR OF GRANT  
IN THE REGISTER**

To: The Administrator-General, Government Buildings.  
Suva Fiji.

grantee.	..... .....
(e) Particulars of document under which applicant claims to be entitled.	I/We claim to be so entitled by virtue of (e) ..... ..... ..... in proof whereof I/We transmit the accompanying doc ..... ..... ..... ..... together with (an) attested copy (Copies) thereof (respe

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

Signed

.....

Applicant(  
s)

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**SECTION 31-PATENTS (FEES)  
REGULATIONS**

*Regulations 25th Nov., 1974, 30th June,  
1976.*

*Made by the Attorney-General*

***Short title***

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

***Fees***

2. The fees specified  
in the Schedule shall  
be paid to the  
Administrator-  
General for the  
several matters  
referred to therein.

**SCHEDULE**

(

*Sections 17  
and  
31)  
(Amended by  
Regulations  
30th  
June*

1976)

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.  
.  
c

1. On depositing petition and specification ..... 25.00
2. Attorney-General's fee for provisional certificate of protection ..... 25.00
3. On obtaining Letters Patent ..... 45.00
4. On lodging particulars of objections ..... 10.00
5. Every search and inspection ..... 2.00
6. Registration of Letters Patent ..... 5.00
7. Filing memorandum of alteration or amendment of specification ..... 5.00
8. Registration and assignment of Letters Patent ..... 5.00
9. Copy of extract of any writing per folio of seventy-two words ..... 1.00
10. For certificate of registration issued under section 25 of the Act ..... 5.00
11. For registration of an assignment under section 30 of the a Act ..... 5.00
12. For making substitution of or amended specifications ..... 5.00
13. On lodgement of application and specification under



section 23 of the Act ..... 25.00

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**SECTION 31-PATENTS (FORMS)  
REGULATIONS**

*Regulations 12th February, 1971*

*Made by the Attorney-General*

**Short title** 1. These Regulations may be cited as the Patents (Forms) Regulations.

***Forms***

2. The forms contained in the Schedule shall be the forms to be used in respect of the matters therein respectively set out.

**Form 1**

**SCHEDULE**

**LETTERS PATENT  
(Section 4)**

No.

**FIJI**

**LETTERS PATENT**

ELIZABETH THE SECOND, by the Grace of God,  
Queen of Fiji and of Her other Realms and Territories,  
Head of the Commonwealth:

To all to whom these presents shall come. Greeting:

Attorney-General.

I Do, by these Letters Patent, give and  
grant to the person whose name is  
specified hereunder Special Licence and  
the exclusive right. subject to the laws in  
force from time to time in Fiji by  
..... agents and

licensees, at all times during the term of these Letters Patent, to make, use, exercise and vend throughout Fiji the invention the title of which is specified hereunder and being the invention that is fully defined in the claim or claims of the complete specification accepted in accordance with the provisions of the Patents Act in such manner as

..... think fit, so that

..... shall have and enjoy the whole profit and advantage accruing by reason of the invention during that term. Name of Patentee: Address of Patentee: Name of Actual Inventor: Title of Invention: Number of Complete Specification: Term of Letters Patent:

Fourteen years

commencing on

IN WITNESS whereof I have caused these Letters to be made Patent.

WITNESS .....  
Attorney-General of Fiji at Suva this ..... day of ....., one thousand nine hundred and .....

**Form 2**

**PETITION**  
(Section 6)

I, ..... of ..... do hereby humbly petition The Attorney-General for Letters Patent in respect of an invention (state title of invention). I have furnished with this petition the necessary specifications or instruments particularly describing the nature of the said invention and a solemn declaration that I am the

true and first inventor thereof in accordance with law.

(Signed)

Petitioner (or, Agent or Attorney for Petitioner).

**Form 3**

**DECLARATION**

*(Section 7)*

I, ..... of  
..... do solemnly and  
sincerely declare that I am in possession of an invention  
for. etc .....

(the title as in petition)

which invention I believe will be of great public utility.  
that I am the true and first inventor thereof and that the  
same is not in use by any other person or persons to the  
best of my knowledge and belief and that the instrument  
in writing under my hand hereunto annexed particularly  
describes and ascertains the nature of the said invention  
and the manner in which the same is to be performed.

**Form 4**

**CERTIFICATE**

*(Section 12)*

With reference to the petition of  
..... of  
..... which has been  
referred to me by the Administrator- General to  
consider what may be properly done therein I do certify  
as follows:

That the said petition sets forth that the petitioner

(state briefly the allegations of the petition).

That in support of the allegations contained in the said  
petition the declaration of the petitioner has been laid  
before me wherein he solemnly declares that

(state briefly the allegations of declaration).

That there has also been laid before me a specification or instrument in writing particularly describing the nature of the said invention and a certificate of the filing of the said petition, declaration and specification.

Having duly and carefully considered the same I hereby certify that the petitioner is entitled prima facie to protection on account of his said invention provided the said application for Letters Patent be duly advertised according to the Patents Act and that the petitioner do otherwise comply with the provisions of the said Act.

Given under my hand this ..... day of  
....., 19.....

Attorney-General.

**Form 5**

**NOTICE**

*(Section 14)*

In the matter of the application of  
..... of  
.....  
. for Letters Patent for  
.....

Notice is hereby given that an application has been made for the issue of Letters Patent herein under the provisions of the Patents Act. And any person desirous of opposing such application is required to give notice of such opposition and of the grounds thereof to the Administrator-General within three months from the date of the publication hereof.

Applicant.

*Controlled by Ministry of the Attorney-General*

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