

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

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No. 10218

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 814.

30 April 1986

No. 814.

30 April 1986

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 44 van 1986: Wysingswet op Patente, 1986.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 44 of 1986: Patents Amendment Act, 1986.

PATENTS AMENDMENT ACT, 1986

Act No. 44, 1986

GENERAL EXPLANATORY NOTE:

- [** **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Patents Act, 1978, so as to further provide which applications, received from convention countries, shall for the purposes of section 31 be regarded as applications which have been made in convention countries; to provide for an additional manner of identifying micro-organisms in the case of claims to certain inventions; to further regulate the amendment of specifications; and to make new provision in relation to an appeal from the commissioner of patents to the Supreme Court; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 22 April 1986.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

1. Section 31 of the Patents Act, 1978 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph:
- 5 “(a) in accordance with the terms of a treaty subsisting between any two or more convention countries, is equivalent to an application duly made in any one of those convention countries; or”.
- Amendment of section 31 of Act 57 of 1978, as amended by section 2 of Act 14 of 1979 and section 1 of Act 67 of 1983.
- 10 2. (1) Section 32 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:
- Amendment of section 32 of Act 57 of 1978.
- 15 “(6) If a complete specification claims as an invention a micro-biological process or a product thereof **[, samples of any micro-organism in question]** and requires for the performance of the invention the use of a micro-organism which is not available to the public [shall before the acceptance of the application] on the date of lodging of the application and which cannot be made or obtained on the basis of the description in the specification, the micro-organism shall be dealt with in the prescribed manner.”.
- 20 (2) This section shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
- 25 3. Section 51 of the principal Act is hereby amended—
- (a) by the substitution for subsection (8) of the following subsection:
- 30 “(8) Where an amendment may not be allowed by reason of the prohibition imposed by subsection (6) (a), but it describes matter which may fairly be associated with the matter described in the specification as framed **[and which cannot form the subject-matter of a**
- Amendment of section 51 of Act 57 of 1978, as amended by section 7 of Act 67 of 1983.

PATENTS AMENDMENT ACT, 1986

Act No. 44, 1986

5 patent of addition] and the [application for the patent is not yet open to public inspection,] acceptance of the specification concerned has not been published in terms of section 42, the new matter may be introduced by way of a supplementary disclosure attached to the specification and dated with the date on which the application for amendment is made: Provided that in determining the validity of the patent under this Act, regard shall be had to the date of the supplementary disclosure.”;

10 (b) by the substitution for subsection (9) of the following subsection:

15 “(9) Where any proceedings relating to ~~the~~ an application for a patent or a patent are pending in any court, an application for the amendment of ~~a~~ the relevant specification shall be made to that court, which may deal with such application for amendment as it thinks fit but subject to the provisions of subsections (5), (6) and (7), or may stay such pending proceedings and remit such application for amendment to the registrar to be dealt with in accordance with subsections (2), ~~to (8)]~~ (3) and (4).”

25 4. Section 76 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph: Amendment of section 76 of Act 57 of 1978.

30 “(a) Every appeal to a provincial division of the Supreme Court shall be noted and prosecuted in the manner prescribed by law for appeals to the provincial division against a civil order or decision of a single judge of such division, save that special leave to appeal to such division shall not be necessary and that the period within which such appeal shall be noted shall be three months after the date of the order or decision appealed against: Provided that the provincial division concerned may, on application and on good cause shown, allow such extension of time for noting the appeal as may be necessary.”

35 5. This Act shall be called the Patents Amendment Act, 1986. Short title.