

South Africa

Patents Act, 1978

Patent Regulations, 1978

Government Notice R2470 of 1978

Legislation as at 30 March 1979

FRBR URI: /akn/za/act/gn/1978/r2470/eng@1979-03-30

There may have been updates since this file was created.

PDF created on 9 March 2024 at 10:55.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.lawlibrary.org.za | info@lawlibrary.org.za

www.laws.africa | info@laws.africa

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Patent Regulations, 1978

Contents

Definitions	1
Section 1.	1
Chapter I – Procedure in the patent office	1
Fees	1
Section 2.	1
Forms	2
Section 3.	2
The register and indices	2
Section 4.	2
Section 5.	2
Section 6.	2
Office hours	2
Section 7.	2
Power of attorney	2
Section 8.	2
Address for service	3
Section 9.	3
Section 10.	3
Corrections or alterations	3
Section 11.	3
Documents	3
Section 12.	3
Section 13.	3
Section 14.	3
Section 15.	3
Section 16.	4
Section 17.	4
Section 18.	4
Section 19.	4
Drawings	4
Section 20.	4
Section 21.	4
Application for the grant of patents	4
Section 22.	4

Section 23.	5
Section 24.	5
Section 25.	5
Section 26.	5
Provisional specification	5
Section 27.	5
Complete specification	5
Section 28.	5
Title	6
Section 29.	6
Claims	6
Section 30.	6
Abstract	6
Section 31.	6
Drawings in a provisional specification	6
Section 32.	6
Declaration	6
Section 33.	6
Application for a patent of addition	6
Section 34.	6
Section 35.	6
Section 36.	7
Application to amend, or to lodge a fresh application	7
Section 37.	7
Late lodging of documents	7
Section 38.	7
Requests and applications to the registrar	7
Section 39.	7
Examination	7
Section 40.	7
Section 41.	7
Section 42.	7
Section 43.	8
Acceptance	8
Section 44.	8

Section 45.	8
Publication of acceptance	8
Section 46.	8
Sealing of a patent	8
Section 47.	8
Renewals	8
Section 48.	8
Restoration	9
Section 49.	9
Section 50.	9
Section 51.	9
Amendment of specifications	9
Section 52.	9
Section 53.	9
Opposition proceedings before the registrar	9
Section 54.	9
Section 55.	9
Section 56.	9
Section 57.	10
Title to and interest in inventions, patent applications and patents	10
Section 58.	10
Section 59.	10
Section 60.	10
Section 61.	10
Section 62.	10
Section 63.	10
Section 64.	10
Section 65.	11
Endorsement or cancellation of endorsement on patent	11
Section 66.	11
Voluntary surrender of patent	11
Section 67.	11
Chapter II – Patent agents and patent attorneys	11
Section 68.	11
Section 69.	11

Section 70.	11
Section 71.	11
Section 72.	11
Section 73.	12
Section 74.	12
Attorneys entitled to practice as patent agents	12
Section 75.	12
Chapter III – The Court of the Commissioner of Patents	13
Section 76.	13
Section 77.	13
Reasons of registrar	13
Section 78.	13
Appeals to the commissioner	13
Section 79.	13
Section 80.	13
Section 81.	13
Procedure on opposition	14
Section 82.	14
Section 83.	14
Section 84.	14
Section 85.	14
Section 86.	14
Section 87.	14
Section 88.	14
Application for revocation	14
Section 89.	14
Section 90.	14
Section 91.	15
Section 92.	15
Section 93.	15
Section 94.	15
Notice of future proceedings	15
Section 95.	15
96. Application for compulsory licence	15
97. Notice of motion	15

Proceedings for infringement	15
98. Proceedings for infringement	15
Time limits	16
Section 99.	16
Tariff of fees for proceedings before commissioner and registrar	16
Section 100.	16
Bibliography Data	16
Section 101.	16
Section 102.	16
Section 103.	16
Section 104.	16
Section 105.	16
Schedule 5	35
Schedule 3	22
Schedule 4	26

South Africa

Patents Act, 1978

Patent Regulations, 1978

Government Notice R2470 of 1978

Published in Government Gazette 6247 on 15 December 1978

Commenced on 1 January 1979

[This is the version of this document as it was from 30 March 1979 to 29 May 1984.]

[Amended by Patent Regulations, 1978: Amendment (Government Notice R697 of 1979) on 30 March 1979]

The Minister of Economic Affairs has, by virtue of the powers vested in him in terms of section [91](#) of the Patents Act, 1978 ([Act 57 of 1978](#)), made the following regulations and with the concurrence of the Minister of Finance prescribed the matters in respect of which fees shall be payable and the tariff of such fees set forth in Schedule 1 hereto:

Definitions

1.

In these regulations the expression “**the Act**” means the Patents Act, 1978, and, unless the context otherwise indicates, an expression used in these regulations to which a meaning has been assigned in the Act shall bear the meaning so assigned and—

“**office**” means the patent office established under section 5(1) of the Act;

“**priority document**” means a copy of the application and all relevant documents lodged with such application in a convention country certified by the authority with whom the application in the convention country was filed.

Chapter I

Procedure in the patent office

Fees

2.

The fees to be paid in terms of the Act shall be the fees specified in Schedule 1 to these regulations and shall be payable as follows:

- (a) By affixing revenue stamps to any relevant document, which stamps may be cancelled by a receiver of revenue or the registrar; or
- (b) by impressing a stamp on any relevant document by means of a die approved by the Secretary for Inland Revenue; or
- (c) in such other manner as the registrar may direct.

Forms

3.

The forms referred to in these regulations are the forms contained in Schedule 2 hereto and such forms shall be used substantially in the manner prescribed for those cases to which they apply, but may be modified or amended with the approval of the registrar provided that such modifications or amendments shall not substantially affect their identity.

The register and indices

4.

The registrar shall cause to be entered in the register the particulars called for in form P 2.

5.

The registrar shall maintain an alphabetical index of the names of all applicants for patents, inventors and patentees on the register and may also maintain an alphabetical index of the names of all assignees of patents or patent applications, registered licensees and hypothec holders on the register.

6.

The registrar shall maintain an index of all granted patents according to their classification.

Office hours

7.

- (1) The office will be open to the public from Mondays to Fridays from 08h30 to 12h00 and from 13h30 to 15h30 except on the following days:
 - (a) All days proclaimed public holidays in terms of any law; and
 - (b) days which may from time to time be notified by placard posted in a conspicuous place at the office.
- (2) Whenever the last day fixed by the Act or by these regulations for doing anything falls on a day when the office is not open to the public it shall be lawful to do any such thing on the day next following such excluded day, or days, if two or more of them occur consecutively.

Power of attorney

8.

- (1) Any agent appointed to act on behalf of any person shall file a power of attorney on form P 3.
- (2) On termination of the authority of an agent referred to in subregulation (1) the person concerned may act on his own behalf or appoint any other agent to act for him. Such other agent shall file a power of attorney.
- (3) The registration of an assignment shall not revoke a power of attorney previously given, unless the assignee files a power of attorney in terms of subregulation (2).
- (4) An agent who withdraws from proceedings under the Act may do so on notice to the registrar.

- (5) Upon withdrawal of an agent the provisions of subregulation (2) shall apply.
- (6) Where any change is made in the authorisation of an agent referred to in subregulation (1) the principal shall, within one month of the date of such change or such further period as the registrar may allow, change his address for service in terms of section 87 of the Act by lodging form P 4.

Address for service

9.

On all documents lodged in terms of the Act there shall be stated the address for service of the person by or on behalf of whom the document has been lodged.

10.

Any change of address for service shall be made by lodging form P 4.

Corrections or alterations

11.

Except where specific provision is made for the use of special forms, any application or request to the registrar for the correction of an error in any document or for the alteration of any entry on a document or on the register shall be made on form P 4.

Documents

12.

Subject to the provisions of section 30(6)(c) of the Act, all documents other than drawings, priority documents or a specification lodged in terms of [section 30\(6\)\(a\)\(iii\)](#) shall be in one of the official languages of the Republic.

13.

All documents shall be so presented as to permit of direct reproduction by photography or reprography in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of a sheet shall be used, except where otherwise specified.

14.

All documents which are not photocopies of other documents shall be on A4 paper which shall be strong, pliable, smooth, matt and durable. Each sheet shall be used with its short sides at the top and bottom (except where inappropriate in the case of drawings).

15.

Except for drawings, the minimum margins (which shall be kept completely blank) shall be as follows:

Top: 20 mm.

Left side: 25 mm.

Right side: 15 mm.

Bottom: 10 mm.

16.

In all original typed documents the typing shall be 1½ line spacing or double spacing. The capital letters used shall be not less than 2,1 mm high. All documents except drawings shall be in typescript or printed and shall be in dark, durable colour.

[regulation 16 amended by section (b)(i) of [Government Notice R697 of 1979](#)]

17.

In all documents units of measure shall be expressed in terms of the SI system. If a different system is used, units of measure shall also be expressed in terms of the SI System. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

18.

If a formula or symbol is used in the specification a copy of such formula or symbol, prepared in the same manner as drawings, shall be filed if the registrar so directs.

19.

All documents, including drawings, shall be reasonably free from erasures and from alterations, overwritings and interlineations and shall, in any event, be legible.

Drawings

20.

Drawings accompanying an application shall be on sheets of A4 size and the minimum margins shall be the same as those set out in regulation 15, except that below the top margin there shall be a space clear of any drawing matter to leave space for the name of the applicant, the application number and the numbering of the sheets and that at the bottom righthand corner there shall be a space within the margin and not occupied by drawing matter for the signature of the applicant or his agent. All reference signs appearing on the drawings shall be simple and clear.

21.

Drawings shall be on strong, pliable, white, smooth, matt and durable drawing paper or on strong, pliable and durable tracing cloth and shall be executed without colouring in durable, black, sufficiently dense and dark, uniformly thick and well-defined lines and strokes to permit of satisfactory reproduction.

Application for the grant of patents

22.

- (1) An application for a patent shall be made on form P 1 and shall be accompanied by the following documents:
 - (a) Form P 1, in duplicate, one copy of which shall be returned to the applicant as proof of lodging;
 - (b) form P 2 in duplicate;
 - (c) a declaration and power of attorney on form P 3;

- (d) where the applicant has acquired a right to apply from the inventor, an assignment or other proof, to the satisfaction of the registrar, of the right of the applicant to apply;
 - (e) a single copy of a provisional specification on form P 6 or two copies of a complete specification on form P 7;
 - (f) drawings, in the prescribed manner, if drawings are necessary to exemplify the invention; and
 - (g) an abstract on form P 8, in duplicate, if the application is accompanied by a complete specification.
- (2) If no classification is furnished on form P 8 referred to in subregulation (1) (g), or if the registrar so directs, the applicant shall apply on form P 9 for a classification to be furnished.

23.

A convention application, if not made by the applicant in the convention country, shall also contain an assignment or other proof, to the satisfaction of the registrar, of the applicant's right to claim priority.

24.

An application claiming priority under the Act from any prior application to the patent office shall contain a copy, in duplicate, on form P 2 of such prior application as well as the specification lodged in support of such prior application.

25.

In addition to the documents required under regulations 22 and 23, a convention application shall also contain a copy, certified to the satisfaction of the registrar, of the priority document. If any such document is in a language other than an official language of the Republic the certified copy shall be accompanied by a translations thereof into one of the official languages which translation shall be verified to the satisfaction of the registrar. Priority documents shall be lodged within three months of the lodging of the application or within such further period as the registrar may on request allow.

26.

After grant of a patent an updated copy of form P 2 shall accompany the letters patent.

Provisional specification

27.

A provisional specification shall commence on form P 6 and be continued on a new page with a description of the invention and shall be signed at the end of the description by the applicant or his agent.

Complete specification

28.

A complete specification shall commence on form P 7 and shall be signed at the end thereof by an agent.

Title

29.

The title of an invention shall be as short and specific as possible and shall be descriptive of the nature of the invention claimed. Words such as “improved”, “relating to” and the like shall not appear in the title.

Claims

30.

Each category of claims (product, process, apparatus, use and the like) shall as far as practicable, be arranged in order of decreasing scope.

Abstract

31.

The abstract on form P 8 shall be that of the technical disclosure contained in the complete specification, but shall not be used to interpret the scope of the claims. It shall be in narrative form and generally limited to a single paragraph of not more than 150 words. The form and phraseology of patent claims shall be avoided. Features mentioned in the abstract and illustrated in the drawing chosen therefor may be followed by the reference sign used in that drawing.

Drawings in a provisional specification

32.

Drawings accompanying a provisional specification shall be capable of reproduction by photocopy or reprography.

Declaration

33.

Form P 3 shall be lodged within six months of the lodging of any application or within such further time as the registrar may on request allow.

Application for a patent of addition

34.

An application in terms of [section 39\(1\)](#) for a patent of addition shall be made on form P 1 and shall be accompanied by a complete specification.

35.

A request for the revocation of an independent patent and the grant of a patent of addition in terms of [section 39\(3\)](#) shall be made on form P 4 and shall be accompanied by form P 1 and the letters patent of the independent patent.

36.

The complete specification of an application for a patent of addition shall set out the relationship between the invention described or claimed in it and that described or claimed in the complete specification of the main invention.

Application to amend, or to lodge a fresh application

37.

- (1) A fresh application under [section 37](#) shall be made on form P 1 accompanied by a complete specification and a request for ante-dating on form P 4.
- (2) An application under [section 38\(1\)](#) to change a complete specification to a provisional specification shall be made on form P 4.
- (3) An application for the post-dating of an application referred to in [section 38\(2\)](#) shall be made on form P4.

Late lodging of documents

38.

A document which did not accompany an application in terms of regulation [22 \(1\)](#) shall be lodged on form P 5.

Requests and applications to the registrar

39.

Unless otherwise provided, any request or application to the registrar shall be made on form P 4 in duplicate quoting the section of the Act or the regulation or both under which relief is sought and shall set out the relief claimed. The duplicate of the form shall be returned to the applicant or his agent.

Examination

40.

Any application accompanied by a provisional specification shall be examined to ensure that the documents lodged are legible and capable of reproduction.

41.

The registrar shall examine the application accompanied by a complete specification in order to ensure that it complies with the prescribed formalities.

42.

The applicant shall remedy any defect or comply with any direction under regulation [18](#), [22 \(2\)](#), [40](#) or [41](#) within a period of three months or, subject to the provisions of section 40 of the Act, within such further period as the registrar may on request allow.

43.

If an applicant fails to comply with a direction under regulation 42 within the prescribed time or any extension thereof, the application may be treated as being abandoned and the applicant may request the return of the documents on form P 4, provided that such documents do not relate to documents which are open to public inspection in terms of section 43 (3) of the Act.

Acceptance

44.

As soon as the registrar is satisfied that an application accompanied by a complete specification complies with the requirements of the Act, and unless there has been a request to delay acceptance, he may accept the application and give written notice thereof which shall be accompanied by form P 8.

45.

Subject to the provisions of section 40 of the Act, an applicant may request the registrar to delay acceptance of the application to a date not later than 18 months from the date of application. If he desires that the acceptance be withdrawn he shall apply on form P 4.

Publication of acceptance

46.

When notice of acceptance of an application has been given by the registrar, the applicant shall advertise the acceptance in the journal within three months of such acceptance or within such further time as the registrar may allow on request on form P 4.

Sealing of a patent

47.

A patent shall be sealed on the date of publication in the journal, in the form set out in Schedule 5 to these regulations or in such modified form as the registrar may direct.

Renewals

48.

- (1) If it is desired at the expiration of the third year from the date referred to in section 46 (1) of the Act or of any succeeding year during the term of the patent to keep the patent in force, the renewal fees set out in item 8 of Schedule 1 shall be paid by lodging form P 10 before the expiration of that year.
- (2) All or any of the renewal fees may be paid in advance.
- (3) A request for an extension of time to pay a renewal fee shall be made on form P 10, which should indicate the reason for the late payment of such fee.

Restoration

49.

An application under section 47 of the Act for the restoration of a patent which has lapsed through non-payment of renewal fees shall be made by way of an *ex parte* application to the registrar in a form as near as possible to the form used for notice of motion proceedings.

50.

If the registrar is satisfied that a *prima facie* case has been made out, he shall advertise the application once in the journal.

51.

At any time within two months of date of the advertisement of the application any person may oppose the restoration of the patent in terms of Chapter III of these regulation.

Amendment of specifications

52.

- (1) An application to amend a provisional specification shall be made on form P 11.
- (2) An application to amend a complete specification shall be made on form P 12 or P 13, as the case may be, and a supplementary disclosure, if any, shall be made on form P 14.

53.

If the registrar is satisfied that an application on form P 13 is in compliance with the Act, he may direct the patentee to advertise the amendment once in the journal. An application so advertised may be opposed within two months of the date of such advertisement in terms of Chapter III of these regulations.

Opposition proceedings before the registrar

54.

Any person who has been notified of a proposed action by the registrar and who opposes such action or who opposes any such action advertised in the journal in regard to a matter to be determined by the registrar shall do so within two months of dispatch of such notification to him or within two months from the date of the relevant advertisement in the journal.

55.

Such opposition shall be lodged on form P 15, which shall, if necessary, be accompanied by any documents to be relied upon and, if any other party is involved in the matter, copies of form P 15 and the documents shall be served upon him and proof of service furnished to the satisfaction of the registrar.

56.

Any person who may wish to become a party to the proceedings may within two months of the date of the notification or date of advertisement in the journal or within any such extended period as may be allowed by the registrar, file a reply on form P 15, accompanied by the relevant documents. Form P 15 and the

relevant documents shall be served on the other party in the matter and proof of service furnished to the satisfaction of the registrar.

57.

When a reply has been filed or the period for filing thereof has expired and a reply has not been filed, the registrar may appoint a time and date for himself to determine the matter and notify the parties of the time and date thus appointed.

Title to and interest in inventions, patent applications and patents

58.

An application for the recording of an assignment shall be made in duplicate on form P 16 accompanied by proof of title of such assignment.

59.

Any such application shall be made within six months of the event entitling the applicant to request a recording: Provided that the registrar may extend this time limit if so requested on form P 4, and on payment of the fee prescribed in item 4 (r) of Schedule 1.

60.

A warrant or writ of execution or an attachment order in respect of a patent application or a patent shall be served at the address for service of the applicant or the patentee and a copy shall be lodged with the registrar on form P 16 for recording in the register.

61.

An entry of any attachment may be removed from the register on a request made to the registrar on form P 4.

62.

An application to record a licence against a patent shall be made on form P 16 within six months of the event entitling the recording of such licence, or within six months of the grant of the patent, if the licence agreement was before such grant: Provided that the registrar may extend this time limit on application on form P 4 and on payment of the fee prescribed in item 4 (r) of Schedule 1.

63.

The recording of a licence may be cancelled on request to the registrar on form P 4 accompanied by proof, to the satisfaction of the registrar, that the licence has been cancelled or otherwise terminated.

64.

- (1) The hypothecation of a patent application shall be recorded in the register on application on form P 16 accompanied by the deed of hypothecation.
- (2) The application shall also be served on the applicant or the patentee, as the case may be, and any other person recorded in the register as having an interest in the patent, and proof of service shall be furnished to the satisfaction of the registrar.

65.

The recording of the hypothecation may be removed from the register on application to the registrar on form P 4, accompanied by such proof of the termination of the hypothecation as the registrar may require.

Endorsement or cancellation of endorsement on patent

66.

An application for the endorsement or the cancellation of an endorsement of the words “licences of right”, in terms of section 53 and 54 of the Act, shall be made on form P 4 within two months after the date giving rise to such endorsement or cancellation thereof.

Voluntary surrender of patent

67.

An application for the surrender of a patent shall be made on form P 21

Chapter II

Patent agents and patent attorneys

68.

There shall be kept at the office a register wherein shall be entered the full names, business addresses and dates of registration of all patent agents and patent attorneys.

69.

The register kept in terms of regulation 63 of the Patent Regulations, 1962, shall be deemed to form part of the register kept in terms of regulation 68.

70.

An application to be registered as a patent agent or a patent attorney shall be made on form P 17 and shall be accompanied by evidence, to the satisfaction of the registrar, that the applicant is entitled to be so registered.

71.

If the registrar is satisfied that the applicant is entitled to be registered, he shall enter his name on the register of patent agents and patent attorneys and issue a certificate to this effect.

72.

- (1) A request for the removal from the register of the name of a patent agent or a patent attorney in terms of section 23 (1) (a) of the Act shall be made on form P 18 and the applicant for removal shall provide proof to the satisfaction of the registrar that a copy of that form has been served on the South African Institute of Patent Agents and on the law society concerned. If no objection is received from the Institute or the law society concerned within two weeks of the date of service of the copies on them, the registrar shall remove the name of the applicant from the register.

- (2) If the South African Institute of Patent Agents or the law society concerned, as the case may be, gives notice of its intention to be heard, it shall serve notice, together with any documents on which it intends to rely at the hearing, on the person concerned and on the registrar.
- (3) The registrar shall appoint a time and date for the hearing and advise all parties concerned accordingly.

73.

- (1) An application by the registrar for the suspension from practice or the removal of the name of a person from the register of patent agents and patent attorneys in terms of sections 23(1)(b)(i) and 23(4)(a) of the Act shall be commenced by way of motion proceedings and copies of all relevant documents shall be served on the person concerned, the South African Institute of Patent Agents and the law society concerned.
- (2) An application by the South African Institute of Patent Agents for the suspension from practice or the removal of the name of a person from the register of patent agents and patent attorneys in terms of sections 23 (1) (b) (ii) and 23 (4) (b) of the Act shall be made by way of motion proceedings and copies of all relevant documents shall be served on the registrar and the law society concerned.
- (3) Thereafter, the procedure applicable shall be governed by the Uniform Rules of Court of the Supreme Court of South Africa, 1965.

74.

- (1) A patent agent or patent attorney whose name has been removed from the register or suspended from practice in terms of section 23 of the Act and who wishes to be employed, in terms of section 24 (4) of the Act, in any capacity connected with the profession of a patent agent or patent attorney shall lodge an application on form P 4, which application shall be accompanied by the prescribed fee and by evidence on affidavit of the circumstances of the case and of the present character and behaviour of the person seeking to be employed. Such application shall be served on the South African Institute of Patent Agents and the proof of such service shall be lodged with the registrar. If no objection is received from the Institute within one month of the service upon it of the application, the registrar may decide the matter in the absence of the Institute.
- (2) An agent who wishes to employ, in terms of section 24 (5) of the Act, a patent agent or patent attorney whose name has been removed from the register or suspended from practice in terms of section 23 of the Act shall lodge an application on form P 4, which application shall be accompanied by the prescribed fee and by evidence on affidavit of the circumstances of the case and of the present character and behaviour of the person he wishes to employ. Such application shall be served on the South African Institute of Patent Agents and the proof of such service shall be lodged with the registrar. If no objection is received from the Institute within one month of the service upon it of the application, the registrar may decide the matter in the absence of the Institute.

Attorneys entitled to practice as patent agents

75.

An attorney who wishes to continue, after 1 January 1984, to have rights of representation, in terms of section 22 (1) of the Act, without having been registered as a patent attorney may apply to the registrar for an extension of such rights on form P 4. The application shall be accompanied by evidence on affidavit of his activities in the past five years in representing parties in matters or proceedings under the Act, and of his activities and preparation to become registered as a patent attorney, together with any other reasons for the extension of such rights. Proof of service of his application on the South African Institute of Patent Agents and on the law society concerned shall be furnished to the satisfaction of the registrar.

Chapter III

The Court of the Commissioner of Patents

76.

Proceedings before the commissioner of patents may be initiated by way of—

- (a) a notice of appeal;
- (b) a notice of opposition;
- (c) an application for revocation;
- (d) an application for extension of term;
- (e) a notice of motion;
- (f) summons.

77.

When any proceeding referred to in regulation [76](#) is initiated the registrar shall open a separate file for that proceeding.

Reasons of registrar

78.

When any person objects to any order or decision of the registrar he may, within one month of the date of the registrar's order or decision or such further time as the registrar may allow, on form P 4 request the registrar to state in writing the grounds for his decision and the data used by him in arriving thereat. The date of such statement shall be deemed to be the date of the registrar's order or decision for the purpose of appeal.

Appeals to the commissioner

79.

A notice of appeal shall be lodged with the registrar of the Court of the Commissioner of Patents and shall be served on the registrar and on any other party to the proceedings before the registrar, within two months of the statement referred to in regulation [78](#).

80.

Any notice of appeal shall be accompanied by a copy of the reasons of the registrar under regulation [78](#) and shall be in accordance with Rule 49 (4) of the Uniform Rules of Court of the Supreme Court of South Africa, 1965.

81.

The procedure on appeal shall, as far as practicable, be in accordance with the provisions governing appeals to the full Court of a Provincial Division of the Supreme Court from a single judge thereof: Provided that the record on appeal shall include the registrar's statement, documents (if any) containing data used by him and any other document which the appellant considers to be relevant. If the respondent considers any further document to be relevant, he may request the appellant to include such document in the record, and the appellant shall comply with such request.

Procedure on opposition

82.

A notice of opposition in any matter in which opposition is allowed under the Act shall be made on form P 19 and shall be accompanied by a statement of particulars of the grounds on which the opposition is based and shall be duly filed and served.

83.

Within two months of the filing and service of the notice of opposition the applicant shall file and serve a counterstatement in the form of a plea. If such counterstatement is not lodged within the said period or within such further period as the registrar may allow the application shall be deemed to be abandoned and the opponent may apply to the commissioner for an order as to costs.

84.

Within two months of the lodging and service of the counterstatement the opponent shall file and serve his evidence in the form of an affidavit.

85.

Within two months of the filing and service of the opponent's evidence the applicant may file and serve answering evidence in the form of an affidavit.

86.

Within two months of the filing and service of the applicant's answering evidence the opponent may file and serve replying evidence, in the form of an affidavit, confined to matters strictly in reply.

87.

- (a) No further evidence shall be filed by either party except by leave or direction of the commissioner.
- (b) All evidence shall be by affidavit unless otherwise directed by the commissioner.

88.

Upon completion of the evidence the opponent or if he fails to do so within six weeks of such completion, the applicant may request a date for the hearing.

Application for revocation

89.

An application for revocation shall be made on form P 20 and shall be accompanied by a statement of particulars of the grounds on which the application is based and shall be duly lodged and served.

90.

- (1) Within two months of the lodging and service of the application for revocation the patentee shall lodge and serve his counterstatement in the form of a plea.
- (2) Within two months of the lodging and service of the counterstatement the applicant shall file and serve his evidence in the form of an affidavit.

- (3) Within two months of the filing and service of the applicant's evidence, the patentee may file and serve his answering evidence in the form of an affidavit.

91.

Within two months of the filing and service of the patentee's answering evidence the applicant may file and serve replying evidence, in the form of an affidavit, confined to matters strictly in reply.

92.

No further evidence shall be filed by either party except by leave or direction of the commissioner.

93.

All evidence shall be by affidavit unless otherwise directed by the commissioner.

94.

Upon completion of the evidence the applicant, or if he fails to do so within six weeks of such completion, the opponent may request a date for the hearing.

Notice of future proceedings

95.

Any person may apply by lodging form P 22 in duplicate with the registrar for notice to be given to him of the taking of any action or proceedings in connection with a patent or patent application. As soon as possible after such action or proceeding is taken and, in the case of an application to make an entry, before such entry is made, the registrar shall give notice of such action or proceeding or entry to such person.

96. Application for compulsory licence

An application for a compulsory licence under section 55 or 56 (1) of the Act shall be brought by way of notice of motion and shall be served on the patentee and any other person who appears from the register to have an interest in the patent.

97. Notice of motion

In the case of proceedings initiated by way of notice of motion a party resident or incorporated outside the Republic shall have one month from the date of service of such notice on him within which to lodge and serve his notice of intention to oppose

Proceedings for infringement

98. Proceedings for infringement

- (1) In any proceedings for infringement in which the plaintiff claims relief by way of damages, it shall be permissible for him to claim an enquiry as to the damages suffered by him as a result of the infringement and payment of the amount of damages found to have been so suffered.
- (2) A plaintiff claiming an enquiry in terms of subregulation (1) hereof need not when so claiming specify in his pleadings the amount of the damages allegedly suffered by him or the manner in which such damages are computed.
- (3) In the event of an enquiry in terms of subregulation (1) being ordered and the parties being unable to reach agreement as to the further pleadings to be filed, discovery, inspection or other matters of

procedure relating to the enquiry either or any party may make application to the Commissioner for directions in regard thereto.

Time limits

99.

Time limits specified may be extended by consent of the parties or, failing such consent, by the registrar on a request made to him.

Tariff of fees for proceedings before commissioner and registrar

100.

The tariff of fees applicable to proceedings before the commissioner and the registrar shall be those applicable for the time being in a Provincial Division of the Supreme Court in terms of the Uniform Rules of Court of the Supreme Court of South Africa, 1965: Provided that—

- (a) fees allowed to a patent agent or patent attorney may be allowed on the same scale as that allowed to junior counsel for work connected with appearances without counsel:
- (b) in allowing a fee in respect of perusal and drafting of complex technical documents, the registrar shall be entitled to increase the fees, at his discretion, by a percentage related to the technical complexities of any matter.

Bibliography Data

101.

The numerical references used in patent documentation are set out in Schedule 3.

102.

The international abbreviation used to designate convention countries are set out in Schedule 4.

103.

On grant of a patent, letters patent will be issued in the form set out in Schedule 5.

104.

The regulations promulgated under Government Notices 2650 of 17 November 1952, R. 632 of 1963, R. 1594 of 1964, R. 849 of 1964, R. 2122 of 1967 and R. 1698 of 1977 are hereby repealed.

105.

These regulations shall be called the Patent Regulations, 1978, and shall come into operation on 1 January 1979,

Schedule 1

Fees

The following fees shall be paid in connection with applications and other matters under the Act. Such fees must in all cases be paid before or at the time of attendance to the matter in respect of which they are to be paid:

Item No.	Description		Corresponding form No.	Fees
				R
1	Application for a patent—accompanied by a provisional specification in terms of section 30(1) [reg. 22(1)(a) and (e)]		1 and 6	6,00
2	Application for a patent—accompanied by a complete specification in terms of section 30 [reg. 22 (1) (a) and (e)]		1, 7 and 8	30,00
3	Late claiming of priority in terms of proviso (i) of section 31 (1), per month or part thereof (regs. 23-25)		1	5,00
4	Requests to the registrar:			
	(a)	To furnish copies of documents in terms of section 13 (reg. 39)	4	0,50
		plus per page	—	0,10
	(b)	Application to extend privileges of attorneys in terms of section 22 (reg. 75)	4	20,00
	(c)	Application by a patent attorney who has been suspended or whose name has been removed from the register in terms of section 24(4) and (5) (reg. 74)	4	20,00
	(d)	Application to claim priority in terms of section 30(7) (reg. 39)	4	5,00
	(e)	Application to amend or to lodge a fresh application in terms of section 37 (reg. 37)	4	5,00
	(f)	Change of complete specification into a provisional specification in terms of section 38 (1) [reg. 37 (2)]	4	5,00
	(g)	Post-dating of application in terms of section 38 (2) [reg. 37 (3)]	4	5,00

(h)	Application for revocation of independent patent and grant of patent of addition as independent patent in terms of section 39 (3) [reg. 35]	4	10,00
(i)	Application for extension of time of acceptance of complete specification in terms of proviso to section 40 [regs. 42 and 45]:		
	(i) Up to end of 18 months	4	5,00
	(ii) Thereafter per month or part thereof (not exceeding three months)	4	5,00
	(iii) After 21 months (per month or part thereof)	4	15,00
(j)	Application for the return of lapsed application in terms of section 41 (reg. 43)	4	5,00
(k)	Application to extend period for publication of acceptance in terms of section 42(3) (reg. 46)	4	10,00
	Thereafter, per month or part thereof (not exceeding two months)	4	5,00
(l)	Application for correction of clerical errors and amendment of documents in terms of section 50 (reg. 39)	4	10,00
(m)	Application to rectify register in terms of section 52 (reg. 39)	4	10,00
(n)	Endorsement or cancellation of endorsement in terms of sections	4	10,00

		53 and 54 (1) and (3) (<i>regs. 63 and 66</i>)		
	(o)	Change of address for service in terms of section 87 (2) (<i>reg. 10</i>)	4	2,00
	(p)	Cancellation of notice of hypothecation in terms of section 60(3)	4	5,00
	(q)	Reasons of registrar (<i>reg. 78</i>)	4	25,00
	(r)	Any other request not provided for	4	2,00
5	Late lodging of documents, in terms of section 30(6) and 32 (<i>regs. 22, 31 and 38</i>)		5 and 8	5,00
6	Request for classification [<i>reg. 22 (2)</i>]		9	20,00
7	Application for the extension of the period for payment of renewal fees in terms of section 46(2) [<i>reg. 48 (3)</i>]		10	15,00
	(a)	Thereafter for each one month or part thereof (not exceeding five months)	10	5,00
	(b)	On application to restore lapsed patent in terms of section 47 (1) (<i>reg. 49</i>)	10	25,00
	(c)	After restoration, payment of unpaid renewal fees in terms of section 47 (5)	10	Fees as under item 8
8	Renewal fees in terms of section 46 (1) [<i>reg. 48 (1)</i>]:			
	(a)	Before expiration of the third year and before expiration of each succeeding year up to the nineteenth year (per annum or part thereof)	10	10, 00
	(b)	On patents endorsed "licences of right" in terms of section 53(2)	10	5,00

		(d) on the same basis as in(a) (per annum or part thereof)		
9	Application to amend a provisional specification in terms of section 51 (1) [reg. 52 (1)]		11	5,00
10	Application to amend a complete specification before open to public inspection in terms of section 51(1) [reg. 52 (2)]		12	5,00
11	Application to amend a complete specification after open to public inspection in terms of section 51(1) [regs. 52 (2) and (3)]		13	20,00
12	Application to make a supplementary disclosure in a patent specification in terms of section 51(8) [reg. 52(2)]		14	5,00
13	Opposition in proceedings before the registrar (regs. 54, 55 and 56)		15	10,00
14	Application to record a transaction affecting the rights in a patent application or patent: (Licences, assignments, hypothecation) in terms of sections 55, 56 and 60 [regs. 58-60, 62 and 64(1)]		16	7,50
15	Application to be registered as a patent agent or a patent attorney in terms of section 20		17	25,00
16	Request for removal from the register of the name of a patent agent or patent attorney in terms of section 23 (reg. 72)		18	10,00
17	(a)	Notice of opposition in terms of reg. 82	19	20,00
	(b)	Application for revocation in terms of section 61 (reg. 89)	20	20,00
18	Application for the Voluntary surrender of a patent in terms of section 64 (1) (reg. 67)		21	5,00
19	For notice of future proceedings (reg. 95)		22	10,00
20	To inspect any file, document or register		—	0,50

21	Reprographic copies of documents, per page	—	0,10
22	Certification of reprographic extracts from register or documents	—	2,50

Schedule 2

Forms

[Form P10 amended by section (b)(ii) of [Government Notice R697 of 1979](#)]

[Form P13 amended by section (b)(ii) of [Government Notice R697 of 1979](#)]

[Form P21 amended by section (b)(ii) of [Government Notice R697 of 1979](#)]

[Editorial note: The forms have not been reproduced.]

Schedule 3

Numerical references used on patent documentation

(10)	Document identification	
	(11)	Number of the document.
	* (19)	ICIREPAT country code, or other identification, of the country publishing the document.
(20)	Domestic filing data	
	(21)	Number(s) assigned to the application(s).
	(22)	Date(s) of lodging application(s).
	(23)	Other date(s) of lodging including exhibition lodging date and date of lodging complete specification following provisional specification.
(30)	Convention priority data	
	(31)	Number(s) assigned to priority application(s).
	(32)	Date(s) of lodging of priority application(s).
	(33)	Country (countries) in which priority application(s) was (were) lodged.
(40)	Date(s) of making available to the public	

*

Minimum data element for documents only.

	[*] (41)	Date of making available to the public for inspection, or copying on request, an unexamined document on which no grant of patent has taken place on or before the said date.
	[*] (42)	Date of making available to the public for inspection, or copying on request, an examined document on which no granted of patent has taken place on or before the said date.
	[*] (43)	Date of publication by printing or similar process of an unexamined document on which no grant of patent has taken place on or before the said date.
	[*] (44)	Date of publication by printing or similar process of an examined document on which no grant of patent has taken place on or before the said date.
	[*] (45)	Date of publication by printing or similar process of a document on which grant of patent has taken place on or before the said date.

•

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

•

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

•

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

•

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

•

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

	(46)	Date of publication by printing or similar process of the claim(s) only of a document.
	[*] (47)	Date of making available to the public by viewing or copying on request, a document on which grant of patent has taken place on or before the said date.
(50)	Technical information	
	(51)	International patent classification.
	(52)	Domestic or national classification.
	(53)	Universal decimal classification.
	(54)	Title of the invention.
	(55)	Keywords.
	(56)	List of prior art documents, if separate from descriptive text.
	(57)	Abstract or claim.
	(58)	Field of search.
(60)	Reference(s) to other legally related domestic document(s)	
	(61)	Related by addition(s).
	(62)	Related by division(s).
	(63)	Related by continuation(s).
	(64)	Related by reissue(s).

^{*}

Minimum data element for documents only, the minimum date requirement being met by indicating the date of making available to the public the document concerned.

(70)	Identification of parties concerned with the document	
	* (71)	Name(s) of applicant(s).
	(72)	Name(s) of inventor(s) if known to be such.
	* (73)	Name(s) of grantee(s).
	(74)	Name(s) of attorney(s) or agent(s).
	* (75)	Name(s) of attorney(s) or agent(s).
	* (76)	Name(s) of inventor(s) who is/are also applicant(s) and grantee(s).

*

For documents on which grant has taken place on or before the date of making available to the public, and journal entries relating thereto, the minimum data requirement is met by indicating the grantee, and for other documents by indicating the applicant(s).

*

For documents on which grant has taken place on or before the date of making available to the public, and journal entries relating thereto, the minimum data requirement is met by indicating the grantee, and for other documents by indicating the applicant(s).

*

For documents on which grant has taken place on or before the date of making available to the public, and journal entries relating thereto, the minimum data requirement is met by indicating the grantee, and for other documents by indicating the applicant(s).

*

For documents on which grant has taken place on or before the date of making available to the public, and journal entries relating thereto, the minimum data requirement is met by indicating the grantee, and for other documents by indicating the applicant(s).

Schedule 4

Part I – International abbreviations of convention countries

Algeria	DZ
Argentina	AR
Australia	AU
Austria	AT
Bahamas	BS
Belgium	BE
Benin	BJ
Brazil	BR
Bulgaria	BG
Burundi	BI
Cameroon	CM
Canada	CA
Central African Empire	CF
Chad	TD
Congo	CG
Cuba	CU
Cyprus	CY
Czechoslovakia	CS

Denmark	DK
Dominican Republic	DO
Egypt	EG
Finland	FI
France	FR
Gabon	GA
German Democratic Republic	DD
Germany, Federal Republic of	DE
Ghana	GH
Greece	GR
Haiti	HT
Holy See	VA
Hungary	HU
Iceland	IS
Indonesia	ID
Iran	IR
Iraq	IQ
Ireland	IE
Israel	IL
Italy	IT
Ivory Coast	CI

Japan	JP
Jordan	JO
Kenya	KE
Lebanon	LB
Libyan Arab Republic	LY
Liechtenstein	LI
Luxembourg	LU
Madagascar	MG
Malawi	MW
Malta	MT
Mauritania	MR
Mauritius	MU
Mexico	MX
Monaco	MC
Morocco	MA
Netherlands	NL
New Zealand	NZ
Niger	NE
Nigeria	NG
Norway	NO
Pakistan	PK

Philippines	PH
Poland	PL
Portugal	PT
Romania	RO
San Marino	SM
Senegal	SN
Socialist Republic of Viet Nam	VN
South Africa	ZA
Southern Rhodesia	RH
Soviet Union	SU
Spain	RH
Sri Lanka	LK
Surinam	SR
Sweden	SE
Switzerland	CH
Syrian Arab Republic	SY
Togo	TG
Trinidad and Tobago	TT
Tunisia	TN
Turkey	TR
Uganda	UG

United Kingdom	GB
United Republic of Tanzani	TZ
United States of America	US
Upper Volt	HV
Uruguay	UY
Yugoslavia	YU
Zaire	ZR
Zambia	ZM

Part II – International abbreviations of convention countries

AR	Argentina.
AT	Austria.
A U	Australia.
BE	Belgium.
BG	Bulgaria.
BI	Burundi.
BJ	Benin.
BR	Brazil.
BS	Bahamas.
CA	Canada.
CF	Central African Empire.
CG	Congo.
CH	Switzerland.
CI	Ivory Coast.
CM	Cameroon.
CS	Czechoslovakia.
CU	Cuba.
CY	Cyprus.
DD	German Democratic Republic.

DE	Germany, Federal Republic of.
DK	Denmark.
DO	Dominican Republic.
DZ	Algeria.
EG	Egypt.
ES	Spain.
FI	Finland.
FR	France.
G A	Gabon.
GB	United Kingdom.
GH	Ghana.
GR	Greece.
HT	Haiti.
HU	Hungary.
HV	Upper Volta.
ID	Indonesia.
IE	Ireland.
IL	Israel.
IQ	Iraq.
IR	Iran.
IS	Iceland.

IT	Italy.
JO	Jordan.
JP	Japan.
KE	Kenya.
LB	Lebanon.
LI	Liechtenstei.
LK	Sri Lanka.
LU	Luxembourg.
LY	Libyan Arab Republic.
MA	Morocco.
MC	Monaco.
MG	Madagascar.
MR	Mauritania.
MT	Malta.
MU	Mauritius.
MW	Malawi.
MX	Mexico.
NE	Niger.
NG	Nigeria.
NL	Netherlands.
NO	Norway.

NZ	New Zealand.
PH	Philippines.
PK	Pakistan.
PL	Poland.
PT	Portugal.
RH	Southern Rhodesia.
RO	Romania.
SE	Sweden.
SM	San Marino.
SN	Senegal.
SR	Surinam.
SU	Soviet Union.
SY	Syrian Arab Republic.
TD	Chad.
TG	Togo.
TN	Tunisia.
TR	Turkey.
TT	Trinidad and Tobago.
TZ	United Republic of Tanzania.
UG	Uganda.
US	United States of America.

UY	Uruguay.
VA	Holy See.
VN	Socialist Republic of Viet Nam.
YU	Yugoslavia.
ZA	South Africa.
ZM	Zambia.
ZR	Zaire.

Schedule 5

Forms

[Editorial note: The forms have not been reproduced.]