



LAWS OF MALAYSIA

Act A1137

PATENTS (AMENDMENT) ACT 2002

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LAWS OF MALAYSIA**Act A1137****PATENTS (AMENDMENT) ACT 2002**

An Act to amend the Patents Act 1983.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Patents (Amendment) Act 2002.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 3

2. The Patents Act 1983 [*Act 291*], which in this Act is referred to as the “principal Act”, is amended in section 3—

(a) by deleting the definition of “Board”;

(b) by inserting after the definition of “filing date” the following definition:

‘ “Minister” means the Minister for the time being charged with the responsibility for intellectual property;’;

(c) by substituting for the definition of “Examiner” the following definition:

‘ “Examiner” means any person, government department, unit or organization, or any foreign or international patent office or organization, appointed by the Corporation under section 9A;’;

(d) in the definition of “Registrar”, by inserting after the words “Registrar of Patents” the words “as designated in subsection (1) of section 8”;

(e) by inserting after the definition of “appointed date” the following definition:

“Assistant Registrar” means the person appointed or deemed to have been appointed to be an Assistant Registrar under subsection (2) or (3) of section 8;’;

(f) by inserting after the definition of “authorized officer” the following definition:

“Corporation” means the Intellectual Property Corporation of Malaysia established under the Intellectual Property Corporation of Malaysia Act 2002;’;

(g) in the national language text, by substituting for the full stop at the end of the definition of “tarikh prioriti” a semicolon;

(h) by inserting before the definition of “authorized officer” the following definition:

“appointed date” has the same meaning as is assigned to that expression in the Intellectual Property Corporation of Malaysia Act 2002;’;
Act 617. and

(i) by inserting after the definition of “Court” the following definition:

“Deputy Registrar” means the person appointed or deemed to have been appointed to be a Deputy Registrar under subsection (2) or (3) of section 8;’.

Deletion of Part II

3. (1) The principal Act is amended by deleting Part II.

(2) The Patents Board established under Part II is dissolved.

(3) Any person who, immediately before the appointed date, was appointed as an Examiner by the dissolved Board shall continue in that office and be deemed for the purposes of this Act to have been appointed under section 9A.

Amendment of section 8

4. The principal Act is amended by substituting for section 8 the following section:

“Registrar,
Deputy
Registrars
and
Assistant
Registrars. 8. (1) The Director General of the Corporation shall be the Registrar of Patents.

(2) The Corporation may appoint, on such terms and conditions as it may determine, from amongst persons in the employment of the Corporation, such number of Deputy Registrars of Patents, Assistant Registrars of Patents and other officers as may be necessary for the proper administration of this Act, and may revoke the appointment of any person so appointed or deemed to have been so appointed under subsection (3).

(3) The persons holding office as Deputy Registrars, Assistant Registrars and other officers under this Act before the appointed date who were given an option by the Government of Malaysia to serve as employees of the Corporation and have so opted shall on the appointed date be deemed to have been appointed as Deputy Registrars, Assistant Registrars and such other officers under subsection (2).

(4) Subject to the general direction and control of the Registrar and to such conditions or restrictions as may be imposed by the Registrar, a Deputy Registrar or an Assistant Registrar may exercise any function of the Registrar under this Act, and anything by this Act appointed or authorized or required to be done or signed by the Registrar may be done or signed by any Deputy Registrar or Assistant Registrar and the act or signature of a Deputy Registrar or an Assistant Registrar shall be as valid and effectual as if done or signed by the Registrar.

(5) The Registrar shall have a seal of such device as may be approved by the Corporation and the impressions of such seal shall be judicially noticed and admitted in evidence.”.

Amendment of section 9

5. Section 9 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) A Patent Registration Office and such number of branch offices of the Patent Registration Office as may be necessary for the purposes of this Act shall be established.”; and

(b) by deleting subsections (2), (3) and (4).

New section 9A

6. The principal Act is amended by inserting after section 9 the following section:

“^{Examiners.} 9A. The Corporation may appoint any person, government department, unit or organization, or any foreign or international patent office or organization to be an Examiner for the purposes of this Act.”.

Amendment of section 49A

7. Section 49A of the principal Act is amended by substituting for the word “Board” wherever it appears the word “Corporation”.

Amendment of section 50

8. Subsection 50(2) of the principal Act is amended by substituting for the word “Board” the word “Corporation”.

Amendment of section 51

9. Section 51 of the principal Act is amended in the marginal note and in subsections (1) and (2) by substituting for the word “Board” wherever it appears the word “Corporation”.

Amendment of section 52

10. Section 52 of the principal Act is amended by substituting for the word “Board” the word “Corporation”.

Amendment of section 53

11. Subsection 53(1) of the principal Act is amended by substituting for the word “Board” the word “Corporation”.

Amendment of section 54

12. Section 54 of the principal Act is amended by substituting for the word “Board” wherever it appears the word “Corporation”.

Substitution of section 77

13. The principal Act is amended by substituting for section 77 the following section:

“^{Institution of prosecution.} 77. No prosecution for any offence under this Act shall be instituted except by or with the consent in writing of the Public Prosecutor.”.

Amendment of section 88

14. Subsection 88(1) of the principal Act is amended by substituting for the word “Board” the word “Corporation”.

Deletion of First Schedule

15. The principal Act is amended by deleting the First Schedule.

Amendment of Second Schedule

16. The Second Schedule to the principal Act is amended in the modifications in column (2) in respect of section 31 by deleting subparagraphs 1(a) and (b) and paragraph 2.

Saving provision

17. The amendments to the principal Act shall not affect any preliminary examination, any request for substantive examination or modified substantive examination, any application for the grant of a patent or application for a certificate for utility innovation or any patent or utility innovation certificate granted, as the case may be, made under the principal Act before the appointed date and the amended provisions shall apply to the examination, request, application or grant, as the case may be, as if the provisions had not been so amended.

