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PROKLAMASIES

BELE PETRUS IMKER HOOGENHOUT,
ADMINISTRATEUR VAN SUIDWES-AFRIKA.

[1944]

dit wenslik is om die spesiale voorsiening op te tree in omstandighede wat as gevolg van die verband met patente, modelle, handelsmerke te wysig;

DIT dat ek kragtens die bevoegdheid aan my verproklameer, verklaar en bekend maak dat die reëvat in die bylae tot hierdie Proklamasie, hierby in werking gestel word.

PROCLAMATIONS

BY HIS HONOUR PETRUS IMKER HOOGENHOUT,
ADMINISTRATOR OF SOUTH WEST AFRICA.

No. 30 of 1944.]

WHEREAS it is desirable to amend the special provision made in the law for dealing with circumstances which have arisen, as a result of the war, in relation to patents, designs, trade marks and copyright;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby proclaim, declare and make known that the regulations set forth in the Annexure to this Proclamation are hereby brought into operation in the Territory.

BYLAE.

Wysiging van die regulasies in sake patente, modelle, handelsmerke en outeursreg, gepubliseer in die bylae tot Proklamasie 33 van 1940.

1. Regulasie 1 word hierby gewysig deur die vervanging van die woorde „sowel Duitsland as Italië en alle gebiede wat onder beheer van die regering van Duitsland of die regering van Italië is” deur die woorde „alle gebiede onder die beheer van die regering van Duitsland en alle gebiede wat beset word deur enige staat waarmee die Unie van Suid-Afrika in oorlog verkeer”.

2. Regulasie 2 word hierby gewysig deur die invoeging na die woorde „gemaak is” van „tensy die Bewaarder van Vyandsciendom van die Unie van Suid-Afrika skriftelik sy toestemming daartoe verleen”.

3. Sub-regulasie (1) van regulasie 4 word hierby gewysig deur die intrekking van die hele sub-regulasie (1) en die vervanging daarvan deur: „Behalwe in die geval waar sodanige patent of belang daarby kragtens regulasie 2, soos gewysig, met die toestemming van die Bewaarder van Vyandsciendom, behandel of aangewys word in die Unie van Suid-Afrika, mag die Registrateur, wanneer hy daarvan oortuig is dat dit in die openbare belang is dat die regte, verleen deur enige patent waarvan 'n persoon in vyandsland die eienaar is, of te enigertyd op of sedert die sesde dag van September 1939 die eienaar was, ditsy alleen of gesamentlik met 'n ander persoon, of, waarin 'n persoon in vyandsland belange het of te enigertyd sedert gemelde datum belange gehad het, beoefen word, na goeddunke 'n bevel uitvaardig waarvolgens hy 'n lisensie (met inbegrip van 'n uitsluitende lisensie) ingevolge sodanige patent aan daardie aanvrager uitreik volgens sodanige bepalinge en voorwaardes as wat hy mag goedvind. Sodanige verleenende bevoegdheid mag uitgeoefen word ondanks die bestaan van een of ander lisensie ingevolge die patent”.

4. Die volgende nuwe regulasies word hierby na regulasie 5 ingevoeg:

5bis. Ongeag die wetsbepalinge betreffende handelsbetrekkings met die vyand, kan 'n bedrag verskuldig by die hernuwing van 'n patent, model of handelsmerk wat geheel of ten dele die eiendom van 'n persoon in 'n vyandsland is, by die Registrateur inbetaal word, mits sodanige betaling gemaak word deur of namens 'n persoon wat (i) nie 'n persoon in vyandsland is nie, en (ii) 'n lisensie ingevolge die patent of vir die toepassing van die model hou, of mede-eienaar van die patent, model of handelsmerk is. Die betaling wat hierby gemaagtig word, behels die betaling aan enigeen wat nie 'n persoon in 'n vyandsland is nie, van sy koste en uitgawes in verband met die maak van so 'n betaling.

5ter. (1) Niemand in die Gebied mag sonder die skriftelike toestemming van die Registrateur om die toekenning van 'n patent of die registrasie van 'n model in 'n vreemde land aansoek doen nie.

(2) Niemand in die Gebied mag betrekkinge ten opsigte van patente, modelle, handelsmerke of kopiereg by wyse van briefwisseling of andersins met enigiemand buite die grense van die Gebied of die Unie van Suid-Afrika aanknoop nie. Met dien verstande dat hierdie verbod nie van toepassing is wanneer die voorgestelde briefwisseling of transaksie aan die Registrateur voorgelê is en hierdie amptenaar skriftelik toestemming tot die versending van die briefwisseling of tot die transaksie verleen het nie”.

5. Regulasie 6 word hierby gewysig deur die toevoeging van die volgende sub-regulasie. Die bestaande regulasie 6 word hierna genoem subregulasie (1):

„(2) By ontvangs van 'n versoek ingevolge sub-regulasie (1) moet die Registrateur die betrokke aansoek in sy kantoor inlees. Tot tyd en wyl sodanige versoek deur die Sekretaris van Verdediging van die Unie van Suid-Afrika teruggetrek word, moet geen sodanige aansoek deur die Registrateur ingevolge die bepalinge van die „Proklamasie op Patente, Modellen, Handelsmerke en Auteursrechten, 1923” (No. 17 van 1923), aanvaar of verseël word nie.

(3) Alle aansoeke om patente in die geval waarvan 'n versoek ingevolge sub-regulasie (1) gedoen is, moet in weerwil van aanvaarding en verseëling deur die Registrateur kragtens die „Proklamasie op Patente, Modellen, Handelsmerke en Auteursrechten, 1923” (No. 17 van 1923) beskou word as nie so aanvaar en verseël nie, en die Registrateur mag, indien sodanige aansoek deur hom aanvaar en verseël is, sodanige stappe doen as wat hy nodig vind om sy register te wysig of andersins uitvoering te gee aan die bepalinge van sub-regulasie (2)”.

ANNEXURE.

Amendment of the Regulations regarding Patents, Designs, Trade Marks and Copyright, published in the Annexure to Proclamation No. 33 of 1940.

1. Regulation 1 is hereby amended by the deletion of the words “as well as Germany and Italy, any territory under the control of the Government of Germany or the Government of Italy” and the substitution therefor of the words “any territory under the control of the Government of Germany and any territory occupied by any State with which the Union of South Africa is at war”.

2. Regulation 2 is hereby amended by the insertion, after the word “shall” of the words “unless the Custodian of Enemy Property of the Union of South Africa consents thereto in writing”.

3. Sub-regulation (1) of Regulation 4 is hereby amended by the deletion of the words “Whenever the Registrar is satisfied” and the substitution therefor of the words “Except in the case of such patent or an interest therein as is dealt with or assigned with the consent of the Custodian of Enemy Property of the Union of South Africa in terms of Regulation 2, as amended, the Registrar whenever he is satisfied”.

4. The following new regulations are hereby inserted after Regulation 5:—

5bis. Notwithstanding the provisions of the law regarding trading with the enemy, payment of any fee payable on the renewal of a patent, design or trade mark owned by a person in an enemy country, may be made to the Registrar, provided such payment is made by or on behalf of a person who (i) is not a person in an enemy country, and (ii) holds a licence under the patent or for the application of the design, or is part owner of the patent, design or trade mark. The payment hereby authorised shall include the payment to any person, not being a person in an enemy country, of his charges and expenses for making such payment.

5ter. (1) No person in the Territory shall make any application for the grant of a patent or the registration of any designs in a foreign country without the written authority of the Registrar.

(2) No person in the Territory shall have any dealings regarding patents, designs, trade marks or copyright by way of correspondence or otherwise with any person beyond the borders of the Territory or the Union of South Africa: Provided that this prohibition shall not apply where the proposed correspondence or dealing has been submitted to the Registrar and that officer has consented in writing to the despatch of the proposed correspondence or the proposed dealing”.

5. Regulation 6 is hereby amended by the addition of the following sub-regulation, the existing Regulation 6 being designated sub-regulation (1):—

“(2) Upon receipt of a request in terms of sub-regulation (1) the Registrar shall file the application concerned in his office, and until such time as the request is withdrawn by the Secretary for Defence of the Union of South Africa no such application shall be accepted or sealed by the Registrar under the provisions of the Patents, Designs, Trade Marks and Copyright Proclamation, 1923 (No. 17 of 1923).

(3) Any applications for patents in respect of which a request has been made in terms of sub-regulation (1) shall, notwithstanding acceptance and sealing by the Registrar under the provisions of the Patent, Designs, Trade Marks and Copyright Proclamation, 1923 (No. 17 of 1923), be deemed not to have been so accepted and sealed and the Registrar may, in the event of such applications having been so accepted and sealed by him, take such steps as are by him deemed necessary to effect an adjustment in his registers or otherwise in order to give effect to the provisions of sub-regulation (2)”.

6. Die volgende nuwe regulasie word hierby na regulasie ingevoeg:

7bis. Nieteenstaande die bepalinge van die „Proklamasie op Patente, Modellen, Handelsmerke en Auteursrechten, 1923” (No. 17 van 1923) en die onderskeie reëls en bedrae wat daarvolgens voorgeskryf word, mag die Registrateur, wanneer hy daarvan oortuig is dat 'n dokument as gevolg van vyandshandeling verlore gegaan het, 'n duplikaat-oorspronklike of 'n gesertifiseerde afskrif van sodanige dokument sonder die betaling van die voorgeskrewe gelde uitreik”.

GOD BEHOEDE DIE KONING.

Ogee onder my hand en seël te Windhoek op hierdie dag van Augustus 1944.

P. I. HOOGENHOUT,
Administrateur.

6. The following new regulation is hereby inserted after Regulation 7:—

“Copy of document lost by enemy action may be supplied without fee.

7bis. Notwithstanding the provisions of the Patents, Designs, Trade Marks and Copyright Proclamation, 1923 (No. 17 of 1923) and the several rules and fees prescribed thereunder, where the Registrar is satisfied that any document has been lost by reason of enemy action, he may issue a duplicate original or certified copy of such document without payment of any prescribed fee.”

GOD SAVE THE KING.

Given under my hand and seal at Windhoek this 1st day of August, 1944.

P. I. HOOGENHOUT,
Administrator.

No. 31 van 1944.]

NADEMAAL dit wenslik is om die wet betreffende maatskappy en ander verenigings in die Gebied te wysig;

SO IS DIT dat ek, kragtens die bevoegdheid my verleen, hierby soos volg proklameer, verklaar en bekendmaak:—

1. Die Maatskappy-Ordonnansie 1928 (No. 19 van 1928), soos by verskeie geleenthede gewysig, word hierby gewysig deur die volgende nuwe artikel na artikel tweehonderdentwintien in te voeg:—

219bis. (1) Sonder dat daardeur aan die strafbepalinge van hierdie Ordonnansie afgedoen word, kan 'n maatskappy wat versuim het om binne die in die toepaslike bepaling voorgeskrewe tydperk 'n dokument te verstrek of 'n kennisgewing te stuur wat ingevolge subartikel (6) van artikel ses-en-twintig, subartikel (2) van artikel seven-en-veertig, subartikel (5) van artikel sesstig, subartikel (1) van artikel vyf-en-sestig, subartikel (4) van artikel sewentig, subartikel (2) van artikel vyf-en-tagtig of subartikel (1) of (2) van artikel honderd-en-vyf vereis word, daarna daardie dokument verstrek of daardie kennisgewing stuur, onderworpe aan betaling van 'n boete, gebaseer op die voorgeskrewe gelde aan die Registrateur ten opsigte van die optekening van daardie dokument of kennisgewing betaalbaar, volgens onderstaande skaal:

Indien die dokument of kennisgewing ingedien word binne onderstaande tydperke na die laaste datum waarop dit ingedien moes gewees het.	Betaalbare boete.
(a) Drie maande	Die helfte van die voorgeskrewe geld.
(b) Ses maande	Die voorgeskrewe geld.
(c) Twaalf maande	Dubbel die voorgeskrewe geld.
(d) Meer as twaalf maande	Drie maal die voorgeskrewe geld.

(2) By die toepassing van subartikel (1) is die beslissing van die Registrateur afdoeende aangaande die tydperk waarbinne 'n in daardie subartikel gemelde dokument verstrek of kennisgewing gestuur moes word het.

(3) Enige boete wat volgens hierdie artikel betaalbaar is, is 'n skuld aan die Administrasie verksuldig en kan deur die Administrateur deur regeding in 'n bevoegde hof verhaal word.

(4) Hierdie artikel tree in werking op die eerste dag van September 1944, en is van toepassing op alle dokumente en kennisgewings wat op of na daardie datum verstrek of gestuur moet word.”

Hierdie Proklamasie heet die Wysigingsproklamasie Maatskappy-ordonnansie, 1944.

GOD BEHOEDE DIE KONING.

Onder my hand en seël te Windhoek, op hede die dag van Augustus 1944.

P. I. HOOGENHOUT,
Administrateur.

No. 31 of 1944.]

WHEREAS it is desirable to amend the law relating to companies and other associations in the Territory;

NOW THEREFORE, under any by virtue of the powers in me vested, I do hereby proclaim, declare and make known as follows:—

1. The Companies Ordinance, 1928 (No. 19 of 1928), as amended from time to time, is hereby amended by the insertion after section two hundred and nineteen of the following new Section:—

„Additional fees in respect of late submission of documents or notices.

219bis. (1) Without derogation from the penal provisions of this Ordinance, a company which has failed within the time prescribed in the appropriate provisions to furnish a document or give the notice required under sub-section (6) of section twenty-six, sub-section (2) of section fifty-seven, sub-section (5) of section sixty, sub-section (1) of section sixty-five, sub-section (4) of section seventy, sub-section (2) of section eighty-five or sub-section (1) or (2) of section one hundred and five, may thereafter furnish such document or give such notice subject to the payment of a penalty, based on the prescribed fee payable to the Registrar in respect of the recording of that document or notice, according to the following scales:

If the document or notice be lodged within the under-mentioned periods after the last date on which it was due.	Penalty to be paid.
(a) Three months	Half the prescribed fee.
(b) Six months	The prescribed fee.
(c) Twelve months	Twice the prescribed fee.
(d) Exceeding twelve months	Three times the prescribed fee.

(2) For the purpose of sub-section (1) the decision of the Registrar as to the time within which a document or notice referred to in that sub-section was required to be furnished or given, shall be final.

(3) Any penalty payable under this section shall be a debt due to the Administration and may be recovered by the Administrator by action in any competent court.

(4) This section shall come into operation on the first day of September, 1944, and shall apply to all documents and notices required to be lodged or given on or after that date.”

2. This Proclamation shall be called the Companies Ordinance Amendment Proclamation, 1944.

GOD SAVE THE KING.

Given under my hand and seal at Windhoek this 1st day of August, 1944.

P. I. HOOGENHOUT,
Administrator.