



Republic of Namibia
Annotated Statutes

Patents and Designs Proclamation 17 of 1923

(OG 112)

came into force on date of publication: 2 July 1923; extended to Rehoboth Gebiet by the Rehoboth Gebiet (Extension of Laws) Proclamation 12/1930 (OG 365), with effect from that Proclamation's date of publication: 1 May 1930

as amended by

**Patents, Designs, Trade Marks and Copyright
Amendment Ordinance 10 of 1951 (OG 1601)**

came into force on date of publication: 7 June 1951;
only inserts section 18*bis*, which is now repealed

**Patents, Designs, Trade Marks and Copyright Proclamation
Amendment Ordinance 26 of 1956 (OG 2018)**

came into force on date of publication: 20 July 1956;
only amends sections now repealed

**Patents, Designs, Trade Marks and Copyright
Amendment Ordinance 35 of 1960 (OG 2254)**

came into force on date of publication: 30 July 1960;
only inserts section 17*bis*, which is now repealed

Copyright Act 63 of 1965 (RSA GG 1128)

brought into force in South Africa and South West Africa on 11 September 1965
by RSA Proclamation 224/1965 (GG 1223)

Trade Marks in South West Africa Act 48 of 1973 (RSA GG 3913)
brought into force in South West Africa on 1 January 1974 (section 84)

Namibia Library and Information Services Act 4 of 2000 (GG 2290)
brought into force on 30 April 2001 by GN 69/2001 (GG 2519)

Only sections 1-9 and 18-24 as they relate to patents and designs remain in force.

The *Copyright Act 63 of 1965 (RSA)*, which was made expressly applicable to South West Africa, repealed sections 14-17*bis* of the Proclamation, and the remainder of the Proclamation insofar as it relates to copyrights, *except for section 18bis*.

The *Trade Marks in South West Africa Act 48 of 1973 (RSA)* repealed sections 10-13 of the Proclamation, and the remainder of the Proclamation insofar as it relates to trade marks.

The Namibia Library and Information Services Act 4 of 2000 (GG 2290) repealed section 18*bis*, which was inserted by Ord. 10 of 1951.

The remaining portions of the Proclamation will be repealed by the Industrial Property Act 1 of 2012 (GG 4907), which been passed by Parliament, but not yet brought into force.

PROCLAMATION

BY HIS HONOUR GIJSBERT REITZ HOFMEYR, A COMPANION OF THE MOST
DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE,
ADMINISTRATOR OF SOUTH WEST AFRICA

[This Proclamation has no long title.
The date of signature appears at the bottom of the Proclamation.]

ARRANGEMENT OF SECTIONS

[The provisions in this Proclamation have no headings.]

WHEREAS it is expedient to make provision for the granting of Letters-Patent for Inventions and for the Registration of Designs in the Territory of South West Africa;

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

[Preamble amended by Act 63 of 1965 and by Act 48 of 1973]

PATENTS

1. (1) Any person, not being an importer, who is legally in possession of an invention, may either alone or jointly with one or more other persons apply for a patent for such invention.

(2) "Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement thereof, capable of being used or applied in trade or industry, and not known or used by others in the Territory and not on sale for more than two years in any country outside the Territory, prior to the application for a patent under this Proclamation.

2. (1) The application must be accompanied by a Provisional or Complete Specification.

(2) The Provisional Specification must fairly describe the nature of the invention.

(3) The Complete Specification must fully describe and ascertain the invention and the manner in which it is to be performed, and must end with a distinct statement of the invention claimed.

(4) Every Specification must commence with a title sufficiently indicating the subject-matter of the invention.

(5) If a Complete Specification does not accompany the application it may be lodged within nine months after the date of the application; and if it is not so lodged the application shall lapse and not become open to public inspection.

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3. The Registrar may, if it appears to him that the application and Complete Specification are substantially in order, grant a patent in the prescribed form, and such patent shall be dated and sealed as of the date of application.

4. There shall be kept by the Registrar a register of patents wherein shall be entered:

- (a) the names and addresses of grantees of patents;
- (b) notifications of assignments and transmissions of patents, of licences under patents, and of amendments, extensions and relocations of patents; and
- (c) particulars of such other matters affecting the validity or proprietorship of patents as the Registrar may deem necessary.

5. The provisions of the Union Act with regard to the effect and duration of a patent, the renewal, extension, surrender and revocation of patents, the grant of compulsory licences, the amendment of Specifications, actions for infringement, and the rectification of the register shall, in so far as such provisions are applicable, apply, *mutatis mutandis*, to patents granted under this Proclamation.

[The Union Act is defined in section 18.]

DESIGNS

6. (1) Any person claiming to be the proprietor of any new or original design not previously used or described in any printed publication in the Territory may apply for the registration of his design.

(2) The same design may be registered in more than one class.

7. The Registrar shall grant a certificate of registration of the design when registered.

8. There shall be kept by the Registrar a register of designs wherein shall be entered:

- (a) the names and addresses of proprietors of registered designs;
- (b) notifications of assignments and transmissions of registered designs; and
- (c) such other particulars as the Registrar may deem necessary.

9. The provisions of the Union Act with regard to the definition of design, the effect of registration, the duration and renewal of Copyright in a design, the assignment and transmission of designs, the cancellation of the registration of a design, the marking of articles, and the rectification of the register shall, in so far as such provisions are applicable, apply, *mutatis mutandis*, to designs registered under this Proclamation.

[The Union Act is defined in section 18.]

TRADE MARKS

[Sections 10-13 were repealed by Act 48 of 1973.]

COPYRIGHT

[Section 17bis was inserted by Ord. 35 of 1960.
Sections 14-17bis were repealed by Act 62 of 1963.]

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GENERAL PROVISIONS

18. For the purposes of this Proclamation -

“Territory” shall mean the Territory of South West Africa;

“Court” shall mean the High Court of South West Africa;

“Union Act” shall mean the Union Patents, Designs, Trade Marks and Copyright Act, 1916 (Act No. 9 of 1916) and any amendment thereof;

[Only certain sections on patents and designs in Act 9 of 1916 (SA GG 727) remain in force. The relevant provisions were amended by the Patents, Designs and Trade Marks Amendment Act 19 of 1947 (SA) (SA GG 3809). The remaining provisions of Act 9 of 1916 will be repealed by the Industrial Property Act 1 of 2012 (GG 4907) when it is brought into force.]

“Patent” shall mean letters-patent for an invention in the Territory;

“Registrar” shall mean the Registrar of Deeds at Windhoek.

18bis.

[inserted by Ord. 10 of 1951 and repealed by Act 4 of 2000]

19. The Administrator may prescribe a tariff not inconsistent with this Proclamation, of the fees which shall be payable to the Registrar in respect of any application, registration matter, document or work, and may also prescribe forms and regulations not inconsistent with this Proclamation which are necessary or convenient for giving effect to any of the provisions of this Proclamation: Provided that until such tariff, forms and regulations are in force, the fees, forms and regulations prescribed in the Union Act and Rules framed thereunder, shall, in so far as such fees, forms and regulations are applicable, be the prescribed fees, forms and regulations for the purposes of this Proclamation.

[The Union Act is defined in section 18.]

20. Any person who is entitled to practise as a patent agent under the Union Act shall be entitled to practise as such under this Proclamation, and to exercise all the functions described in Section 71 of the Union Act.

[The Union Act is defined in section 18.]

21. Any person whose rights are prejudicially affected by the registration of a patent, design, trade mark or the copyright in a work under this Proclamation may apply to the Court for the cancellation of such registration, and the Court may refuse the application or cancel the registration of the patent, design, trade mark or copyright, as the case may be, or make such order as it thinks just.

22. Any person who is entitled to any rights of the nature contemplated by Article 311 of the Treaty of Peace, signed at Versailles on the 28th June 1919, may, upon proof of his title and without payment of any fees, obtain registration of his patent, design, trade mark or copyright, as the case may be, under this Proclamation.

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23. So much of any law now in force within the Territory as may be repugnant to or inconsistent with the provisions of this Proclamation shall be and is hereby repealed.

24. This Proclamation may be cited for all purposes as the “Patents and Designs Proclamation, 1923”, and shall come into force and effect on the 1st day of January, 1924.

[Section 24 is amended by Act 63 of 1965 and by Act 48 of 1973, making the current short title the “Patents and Designs Proclamation”; superfluous commas technically remaining in the short title as a result of these amendments have been removed.]

GOD SAVE THE KING.

Given under my hand and seal at Windhoek this 17th day of May, 1923.

GIJS. R. HOFMEYR,
Administrator.