



LAWS OF MALAYSIA

Act 215

REGISTRATION OF UNITED KINGDOM PATENTS ACT, 1951

(Revised—1978)

Revised up to 31st March, 1978

JAWA MALAYSIA

Date appointed for coming into force 15th November, 1978

Act 218

Date of publication in the *Gazette* 26th October, 1978

REGISTRATION OF COMPANIES ACT 1951

ACT 218

Enacted in 1951 as Ordinance No. 9 of 1951.

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Act 215

REGISTRATION OF UNITED KINGDOM PATENTS
ACT, 1951

(Revised—1978)

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LAWS OF MALAYSIA

Act 215

REGISTRATION OF UNITED KINGDOM PATENTS
ACT, 1951

(Revised—1978)

An Act to provide for the registration in West Malaysia of letters patent granted in the United Kingdom.

[1st April, 1953.]

Fed. L.N.
107/53.

1. (1) This Act may be cited as the Registration of United Kingdom Patents Act, 1951.

Short title
and appli-
cation.

(2) This Act shall apply to West Malaysia only.

2. In this Act unless the context otherwise requires—

Interpreta-
tion.

“patent” means letters patent for an invention;

“Registrar of Patents” means the person appointed as such by name or office by the Yang di-Pertuan Agong for the purposes of this Act;

“Registrar of Patents, Singapore” means the person for the time being appointed to such office under any written law of Singapore corresponding to this Act;

“West Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Act, 1967, and includes the Federal Territory. 23167.

3. Any person being a grantee of a patent in the United Kingdom or any person deriving his right from such grantee by assignment, transmission or other operation of law, may apply to the Registrar of Patents within three years from the date of issue of the patent to have such patent registered in West Malaysia. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration:

Application
for registra-
tion in
West
Malaysia of
patents
granted
in the
United
Kingdom.

Provided that the Registrar of Patents may, in his discretion, accept the application where it is shown to his satisfaction that for any reason the application could not be made within three years from the date of issue of the patent in the United Kingdom.

Documents which must accompany application.

4. Every application under section 3 shall be accompanied by a certified copy of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller-General of Patents Designs and Trade Marks of the United Kingdom giving full particulars of the issue of the patent on such specification or specifications:

Provided that, when any such United Kingdom patent is already registered in Singapore under the provisions of any written law corresponding to this Act relating to the registration of United Kingdom patents, the Registrar of Patents may, in his discretion, waive all or any of the requirements of this section absolutely, or subject to such conditions as he may think fit to impose.

Issue of certificate of registration.

5. Upon such application being received together with the documents mentioned in section 4, where required, and the application fee, the Registrar of Patents shall issue a certificate of registration.

Rights conferred by certificate.

6. Such certificate of registration shall confer on the applicant privileges and rights similar in all respects to those conferred by the issue of the patent in the United Kingdom, but subject, nevertheless, to any privileges or rights acquired under any of the written laws specified in the Schedule or under any Ordinance or Enactment repealed by any of the said written laws.

Commencement and duration of rights.

7. (1) Privileges and rights so granted shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom:

Provided that no action for infringement shall be entertained in respect of any manufacture, use or sale of the invention prior to the date of issue of the certificate of registration in West Malaysia.

(2) Any extension, lapse, revocation and restoration after lapse in the United Kingdom of any patent registered under this Act may be notified by the grantee of such patent or any person deriving title under him to the Registrar of Patents, who shall, on production of a certified copy of the order issued by the United Kingdom Patent Office within one year from the date thereof, enter the same in the Register of Patents and shall issue a certificate in the prescribed form in respect of such entry. Any extension of the

term, or restoration after lapse, of a patent in the United Kingdom shall, on such registration, have effect in West Malaysia to extend the term of the patent for the period such patent remains in force in the United Kingdom.

(3) Notwithstanding subsection (2), the Registrar of Patents may, in his discretion, accept a notification under the provisions of the said subsection, where it is shown to his satisfaction that for any reason such notification could not be made within the period or before the date specified therein.

8. (1) Subject to subsections (2) and (3), the following shall not be deemed to constitute infringement—

Special provisions as to vessels, aircraft and land vehicles.

(a) the use on board a foreign vessel of the patented invention in the body of the vessel or in the machinery, tackle apparatus or other accessories thereof, if the vessel comes into the territorial waters of Malaysia temporarily or accidentally only, and the invention is used exclusively for the actual needs of the vessel;

(b) the use of the patented invention in the construction or working of a foreign aircraft or foreign land vehicle or of the accessories thereof if the aircraft or vehicle comes into Malaysia temporarily or accidentally only.

(2) The provisions of this section shall apply only to—

(a) vessels, aircraft and land vehicles of the United Kingdom;

(b) vessels, aircraft and land vehicles of those other foreign countries with respect to which the Yang di-Pertuan Agong may by notification published in the *Gazette* declare them to be applicable, and so long only, in the case of the vessels, aircraft and land vehicles of each of such foreign countries, as the notification continues in force with respect to the vessels, aircraft and land vehicles of that country.

(3) For the purposes of this section—

(a) vessels and aircraft shall be deemed to be vessels and aircraft of the country in which they are registered, and land vehicles shall be deemed to be vehicles of the country within which the owners are ordinarily resident; and

(b) "foreign country" means any country outside Malaysia, and shall be deemed to include any colony, protectorate or territory subject to the authority or under the suzerainty of a foreign country, and any territory which is administered by a foreign country under the trusteeship system of the United Nations, and "foreign" shall be construed accordingly.

Powers of
High Court.
[Sub. F.M.
Ord. 38/56.]

9. (1) The High Court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare that the exclusive privileges and rights conferred by such certificate of registration have not been acquired on any of the grounds *mutatis mutandis* upon which the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom.

(2) Such grounds shall be deemed to include the manufacture, publication, use or sale of the invention in West Malaysia before the priority date applicable to the patent in the United Kingdom, but not to include the manufacture, publication, use or sale of the invention in West Malaysia after the priority date applicable to the patent in the United Kingdom and before the date of the issue of the certificate of registration under section 5.

(3) For the purposes of this section, the expression "priority date" in its application to a patent in the United Kingdom has the meaning assigned to it in section 5 of the Patents Act, 1949 of the United Kingdom.

U.K. 1949
c. 62.

Amendment
of speci-
fication and
drawings.

10. Whenever the specification or drawings of a United Kingdom patent registered in West Malaysia has or have been amended by way of disclaimer, correction or explanation, according to the law of the United Kingdom, a request, accompanied by a copy of the specification and drawings (if any) as amended, duly certified by the Comptroller-General of Patents Designs and Trade Marks of the United Kingdom, may be made to the Registrar of Patents to substitute a copy of the specification and drawings as amended for the specification and drawings originally filed:

Provided that, in any case in which the requirements of section 4 have been waived under the proviso to that section, any such substitution lawfully effected in Singapore by the Registrar of Patents, Singapore, shall have effect in West Malaysia as if it had been effected by the Registrar of Patents under this Act.

11. (1) When any person becomes entitled by assignment, transmission or operation of law to the privileges and rights conferred by a certificate of registration or to a share therein or becomes entitled as mortgagee, licensee or otherwise to any other interest therein, he or the assignor, mortgagor, licensor or other party to the instrument creating such interest may make application in the prescribed manner to the Registrar for the entry on the Register of particulars of such assignment, transmission, mortgage, licence or other instrument or of any event affecting the title or giving an interest therein.

Registration
of assign-
ment or
trans-
mission.
[Sub. F.M.
Ord. 67/57.]

(2) A document in respect of which no entry has been made in the Register under this section shall not be admitted in any court as evidence of the title of any person to the privileges and rights conferred by a certificate of registration or to a share thereof or interest therein unless the court otherwise directs.

12. Where a certificate has been issued by the Comptroller-General of Patents Designs and Trade Marks of the United Kingdom, or by any other officer authorized so to do, under the provisions of section 16 (8) of the Patents Act, 1949 of the United Kingdom, and where an entry in the United Kingdom Register of Patents has been rectified under the provisions of that subsection, an application may be made to the Registrar of Patents accompanied by a certificate of such rectification under the seal of the United Kingdom Patent Office or a duly certified copy of the certificate issued by such Comptroller-General that such entry may be made in the Register, and upon receipt of such application the Registrar shall make the necessary entries in the Register.

Registration
of certain
entries.

U.K. 1949
c. 62.

13. (1) There shall be kept at the office of the Registrar of Patents a book called the Register of Patents in which shall be entered the names and addresses of all persons to whom certificates of registration of patents have been issued under this Act and particulars of all such certificates and of assignments, transmissions, licences and other instruments affecting the title to or giving a share of or an interest in the rights and privileges conferred by any such certificate of registration and of all notices or entries of documents or other matters which are directed or authorized by this Act or by any regulations made under section 17 to be recorded therein.

Register of
Patents.
[Sub. F.M.
Ord. 67/57.]

(2) The Register of Patents shall be prima facie evidence of all matters directed or authorized by this Act to be inserted therein.

Inspection
of Register
and speci-
fications.

14. (1) The Register of Patents and the certified copies of specifications (and drawings, if any) filed with the Registrar of Patents shall at convenient times be open to the inspection of the public, and certified copies under the hand of the Registrar of Patents of any entry in such register shall be given to any person requiring the same upon payment of the prescribed fees.

(2) Nothing in this section shall impose upon the Registrar of Patents any duty to make available to the inspection of the public copies of specifications or drawings, in respect of any case in which the requirements of section 4 have been waived under the proviso to that section.

Certificate
of Registrar
of Patents
or Registrar
of Patents,
Singapore,
to be
prima facie
evidence.

15. A certificate purporting to be under the hand of the Registrar of Patents or under the hand of the Registrar of Patents, Singapore, as the case may be, as to any entry, matter or thing, which such Registrar of Patents or such Registrar of Patents, Singapore, is authorized by this Act or by any rules made thereunder or by any written law in Singapore corresponding to this Act, as the case may be, to make or do, shall be prima facie evidence of the entry having been made and of the contents thereof and of the matter or thing having been done or left undone.

Certified
copies to be
evidence.

16. In any proceedings in any court, a printed, written or photographic copy or extract of or from any certified copy of any specification, drawing or other document filed with the Registrar of Patents or with the Registrar of Patents, Singapore, or of or from registers or other books in the custody of the Registrar of Patents or of the Registrar of Patents, Singapore, shall be admissible in evidence without further proof or production of the originals, if—

(a) in the case of certified copies of specifications, drawings or other documents filed with the Registrar of Patents or of registers or books in his custody, such printed, written or photographic copy or extract purports to be certified as a true copy under the hand of the Registrar of Patents; or

(b) in the case of certified copies of specifications, drawings or other documents filed with the Registrar of Patents, Singapore, or of registers or books in

his custody, such printed, written or photographic copy or extract purports to be certified as a true copy under the hand of the Registrar of Patents, Singapore.

17. The Minister may make such regulations as he may think expedient for regulating procedure under this Act and for prescribing the forms to be used and the fees to be paid in respect of proceedings under this Act.

Power to make regulations.

18. The written laws specified in the Schedule to this Act are hereby repealed:

Repeal and savings.

Provided that—

(a) in relation to any grant lodged or made under the provisions of the Inventions Enactment of the Federated Malay States or the Inventions Enactment of the State of Johore or the Inventions Ordinance of the Straits Settlements or of any Enactment or Ordinance repealed by any such Enactment or Ordinance or in relation to any application or petition lodged or made thereunder for the extension of the period of the duration of any grant, right or privilege conferred thereunder, the provisions of the Enactment or Ordinance under which such application, petition or grant was lodged or made shall continue in force as if this Act had not been passed but subject in every case to the following modifications—

F.M.S.
Cap. 72.
Johore
En. No. 3.
S.S. Cap.
158.

- (i) in computing any period of time limited for the duration of any grant or right or privilege conferred by the said Enactments or Ordinance the period between 15th February, 1942 and 5th September, 1945, shall be excluded;
- (ii) when, under any of the said Enactments or Ordinance, any time is limited for an application or for the presentation of a petition for the extension of the period of the duration of any grant, right or privilege conferred thereunder, it shall be lawful for the applicant or petitioner to apply or present such petition at any time within a period of one year from the commencement of this Act. Every such application or petition shall be addressed to the Registrar of Patents who shall, notwithstanding anything in any such Enactment or

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Ordinance to the contrary, have sole power to grant such extension under such Enactments or Ordinance. Every such extension shall have effect from the date of the grant of such extension unless the Registrar shall otherwise direct;

- (b) the provisions of the Registration of United Kingdom Patents Ordinance, 1937, of the Straits Settlements, the Registration of United Kingdom Patents Enactment, 1937, of the State of Johore, Enactment (No. 54) Inventions of the State of Kedah and the Inventions Enactment, 1928, of the State of Kelantan shall continue in force, in the States concerned, as if this Act had not been passed, in relation to any grant made or registration effected under any such Ordinance or Enactment, whereby any right or exclusive privilege in respect of any invention or patent was conferred.

SCHEDULE

(Sections 6 and 18)

<i>S.S. No. 2 of 1937.</i>	The Registration of United Kingdom Patents Ordinance, 1937.
<i>F.M.S. Cap. 72.</i>	The Inventions Enactment.
<i>Johore En. No. 7 of 1937.</i>	The Registration of United Kingdom Patents Enactment, 1937.
<i>Kedah En. No. 54.</i>	Enactment (No. 54) Inventions.
<i>Kelantan En. No. 11 of 1928.</i>	The Inventions Enactment, 1928.

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ACT, 1951

(Revised—1978)

*Particulars under section 7 (ii) and (iii) of the Revision of
Laws Act, 1968 (Act 1)*

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 38/56 ...	Registration of United Kingdom Patents (Amendment) Ordinance, 1956	25-10-1956
Ord. 67/57 ...	Registration of United Kingdom Patents (Amendment) Ordinance, 1957	19-12-1957
L.N. 332/58 ...	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order, 1958	13-11-1958

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

No.	Title
9 of 1951 ...	Registration of United Kingdom Patents Ordinance, 1951.