

PATENTS.

No. 3 of 1955.

An Act to amend the *Patents Act* 1952-1954.

[Assented to 23rd May, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- 1.—(1.) This Act may be cited as the *Patents Act* 1955. Short title and citation.
- (2.) The *Patents Act* 1952-1954* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Patents Act* 1952-1955.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section five of the Principal Act is amended by omitting from sub-section (3.) the word "The" (first occurring) and inserting in its stead the words "Subject to sections fifty and fifty A of this Act, the". Application of Act.
4. Section forty-one of the Principal Act is amended by omitting from sub-section (1.) the word "If" and inserting in its stead the words "Subject to section fifty A of this Act, if". Time for leaving complete specification.
5. Section forty-five of the Principal Act is amended— Priority dates.
 - (a) by omitting from sub-section (4.) the words "had been included in" and inserting in their stead the words "were a claim of"; and
 - (b) by adding at the end thereof the following sub-section :—

"(5.) Where, in respect of an application for a patent lodged under the repealed Acts, the Commissioner has required or allowed the applicant to amend the application and specification and drawings or any of them so as to apply to one invention only and the applicant has made an application under this Act for an invention excluded by the amendment, the priority date of a claim of the complete specification lodged under this Act, being a claim fairly based on matter disclosed in the provisional specification or complete specification lodged under the repealed Acts, is the date which would have been the priority date of that claim if that claim were a claim of the complete specification lodged in respect of the application under the repealed Acts."

* Act No. 42, 1952, as amended by No. 14, 1954.

Single patent
for cognate
inventions.

6. Section fifty of the Principal Act is amended—

- (a) by inserting in sub-section (3.), after the word “specifications”, the words “, in so far as those inventions are included in the claims of the complete specification,”; and
- (b) by inserting after sub-section (5.) the following sub-sections :—

“(5A.) This section extends to the case where one of the applications was, or more than one of the applications were, made under this Act and the other application was, or the other applications were, made under the repealed Acts.

“(5B.) If, in such a case, the Commissioner accepts one complete specification lodged in respect of all those applications, the application or applications made under the repealed Acts shall proceed as if it or they had been lodged under this Act.”.

7. After section fifty of the Principal Act the following section is inserted :—

Procedure
where single
patent not
granted.

“50A.—(1.) If the Commissioner is not of the opinion referred to in sub-section (3.) of the last preceding section—

- (a) the complete specification shall be cancelled ;
- (b) each application shall proceed, under the repealed Acts or under this Act, as the case may be, as though the cancelled complete specification had not been lodged ;
- (c) the Commissioner may determine the time within which a complete specification in respect of each application may be lodged and, in the case of an application which proceeds under the repealed Acts, may also determine the time within which the application may be accepted ; and
- (d) the patent granted on any of the applications shall be dated as of the day on which the cancelled complete specification was lodged.

“(2.) Unless a complete specification is lodged in respect of an application within the time determined under paragraph (c) of the last preceding sub-section, the application shall lapse.”.

Multiple
priorities.

8. Section one hundred and forty-two of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “the specifications which accompanied” ; and
- (b) by inserting in sub-section (4.), after the word “first”, the word “so”.

9. After section one hundred and forty-two of the Principal Act the following section is inserted :—

Partial
priorities.

“142A. Where a claim of the complete specification accompanying an application under either of the last two preceding sections is fairly

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based on matter which was first disclosed in the Convention country in a specification lodged in connexion with the basic application or with one of the basic applications on a date after the making of that basic application, the priority date of that claim is the date on which that matter was so disclosed.”.
