

*Exclusive Privileges to Inventors.***No. 16 of 1892.****An Ordinance to consolidate and amend the Law relating to the granting of Exclusive Privileges to Inventors.****Preamble.**

WHEREAS it is expedient to amend the law relating to the granting of exclusive privileges to inventors: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Title and commencement.

1 This Ordinance may be cited as "The Inventions Ordinance, 1892," and shall come into force on the first day of July, 1893.

Repeal.

2 (1) The Ordinances described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of Ordinances shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any privilege, or any right or liability accrued or incurred under any of those Ordinances before the commencement of this Ordinance, or any relief in respect of any such privilege, right, or liability.

(3) Any Ordinance or document referring to any Ordinance hereby repealed shall be construed to refer to this Ordinance or the corresponding portion thereof.

Definitions.

3 In this Ordinance, unless there is something repugnant in the subject or context,—

- (1) "Invention" includes an improvement;
- (2) "Inventor" does not include the importer into Ceylon of a new invention unless he is the actual inventor;
- (3) "Petitioner" means a person who has petitioned under this Ordinance for leave to file a specification of an invention, whether he has filed the specification or not;
- (4) "Assign" includes a grantee of the exclusive privilege of making, selling, or using an invention, or of authorizing others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term;
- (5) "Inventor," "actual inventor," and "petitioner" include the executors, administrators, or assigns of an inventor, actual inventor, and petitioner, as the case may be;
- (6) "Manufacture" includes any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture;

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- (7) "Write" includes print, lithograph, photograph, engrave and every other mode in which words or figures can be expressed on paper or on any substance ;
- (8) "Colonial Secretary" means any person acting as and for the Colonial Secretary, and includes any assistant to the Colonial Secretary to the extent to which he may be authorized by general or special order of the Governor to discharge the functions of the Colonial Secretary under this Ordinance.

4 (1) The inventor of a new manufacture or two or more persons, some or one of whom only are or is the true and first inventors or inventor of a new manufacture, may petition the Governor for leave to file a specification thereof.

Petition for leave to file specification.

(2) Any person, whether a British subject or not, may petition for such leave.

(3) The petition must be in writing signed by the petitioner or petitioners, or, in case the petitioner or petitioners shall be absent from Ceylon, by an agent authorized thereto on his or their behalf, and in the form A in the second schedule, or in such other form as may be from time to time prescribed, if the inventor or inventors has or have not obtained a patent in the United Kingdom, and in the form B in the said schedule, or in such other form as may be from time to time prescribed, if he or they has or have obtained a patent in the United Kingdom.

(4) The petition must contain a declaration to the effect that the petitioner is in possession of an invention, whereof he, or in the case of a joint petition one or more of the petitioners, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain leave to file a specification ; and it must state the name, occupation, and address of the petitioner or petitioners, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor in Executive Council may see fit to require from the petitioner or petitioners.

(5) If in any case it appears to the Governor in Executive Council that a petition ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the petitioner or petitioners to furnish such a model neatly and substantially made of durable material, and of dimensions not exceeding those, if any, specified in the requisition therefor.

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Order to file
specification.

5 (1) Upon a petition under the last foregoing section the Governor in Executive Council may, after such inquiry as he thinks fit, make an order authorizing the petitioner or petitioners to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor in Executive Council shall direct that the petition be referred for inquiry and report to any person whom he thinks fit.

(3) Before such petition is so referred, the petitioner or petitioners shall deposit with the Colonial Secretary, within such time as the Governor in Executive Council may by rule or otherwise prescribe, such sum to defray the fee to be paid to the referee as the Governor in Executive Council may determine.

(4) If the sum is not deposited within the time prescribed, the petition may be rejected.

(5) If the person to whom the petition is referred reports that the nature of the invention and of the particular novelty whereof it consists is not sufficiently described, or that it has not been supplemented by such particulars relating to the invention, or by such drawings or photographs as the Governor in Executive Council may have required, the Governor in Executive Council may require that the petition may be amended or further supplemented before the petition is proceeded with.

Application in
respect of con-
temporaneous
inventions.

6 (1) If two or more petitions are made on the same day for leave to file specifications of inventions which appear to the Governor in Executive Council to be identical, or so similar as to be practically identical, the Governor in Executive Council may in his discretion authorize both or all the petitioners, subject to the other provisions of this Ordinance, to file specifications of their respective inventions.

(2) If they petition on different days for leave to file specifications of such inventions as aforesaid, the petitioner or petitioners who applied on the first of the different days shall be deemed to have a preferential claim to an order authorizing the filing of his or their specifications.

Acquisition and
continuance of
exclusive
privilege.

7 (1) If within six months from the date of an order under section 5, sub-section (1), or within such further time, not exceeding three months, as the Governor in Executive Council in his discretion may, on cause shown to his satisfaction, and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the petitioner or petitioners causes or cause a specification of his or their invention to be filed in manner by this Ordinance required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the petitioner or petitioners shall, subject to the other provisions of this Ordinance, be entitled to a grant, to be issued by the Governor under the public seal of the colony, in the form set forth in the third schedule, or in such other form as may be from

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time to time prescribed, of the exclusive privilege of making, selling, and using the invention in Ceylon, and of authorizing others so to do, for a term of fourteen years from the date of delivery to, or receipt by, the Colonial Secretary of the petition.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor or inventors fails or fail to pay within the time limited in that behalf by the fourth schedule any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake, or inadvertence, the inventor or inventors fails or fail to pay any such fee within the time so limited, he or they may apply to the Governor in Executive Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor in Executive Council may enlarge the time accordingly on payment of the fee prescribed in that behalf in the fourth schedule, and subject to the following conditions, namely :

- (a) The time for making a payment shall not in any case be enlarged for more than three months ; and
- (b) If any action is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof, and before the enlargement of that time, the court disposing of the action may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

8 (1) A specification filed under this Ordinance must be in writing signed by the petitioner or petitioners, must commence with the title, and must set forth the precise invention in respect of which the petitioner or petitioners claims or claim to become entitled to an exclusive privilege.

Form and contents of specification.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein, and the best and latest mode in which the petitioner or petitioners has or have contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise, and exact terms as to enable any person of ordinary skill in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

(4) Every specification must end with a distinct statement of the invention claimed.

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Mode of filing
petition and
specification.

9 Every petition for leave to file a specification, and every specification filed under this Ordinance, must be left with, or sent by post to, the Colonial Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

Register of
inventions.

10 (1) A book, to be called "The Register of Inventions," shall be kept in the office of the Colonial Secretary, wherein shall be entered and recorded every petition for leave to file a specification, every order made on such petition, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein, except the report of the referee.

(2) Petitions for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each petition, to every order on or in respect of the petition, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the petition.

Address book.

11 (1) Another book, to be called "The Address Book," shall be kept in the office of the Colonial Secretary, wherein any person or persons filing a specification under this Ordinance, or any person or persons in whom an exclusive privilege acquired under this Ordinance, or any share or interest therein, may become vested, may from time to time cause to be stated some place in the colony where notice of any rule or proceeding relative to the exclusive privilege may be served on him or them.

(2) A reference to each entry in the address book shall be made in the register of inventions in the margin of the entry in that register of the petition for leave to file the specification.

Provisions with
respect to the
register and
book.

12 (1) Every entry in the register of inventions or address book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and shall be open to the inspection of any person at all reasonable times in the office of the Colonial Secretary. Provided that the report of the referee shall not in any case be published or open to public inspection, and shall not be liable to production or inspection in any legal proceeding, unless the court having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice and ought to be allowed.

(2) The books kept under section 13 and section 32 of "The Inventions Ordinance, 1859," shall be deemed to be parts of the register of inventions and address book respectively.

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13 (1) The petitioner or petitioners to whom an exclusive privilege has been granted under section 7 of this Ordinance may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege under the said section, petition the Governor in Executive Council for an extension of the privilege for a further term.

Extension of
exclusive
privilege.

(2) When a petition is made under sub-section (1), the Governor in Executive Council may, if he thinks fit, refer it to the district court of Colombo for report.

(3) Such court shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made thereby, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the court thinks fit, and may include the issuing of citations calling upon persons claiming to have any interest in the reference to appear before the court on the day in which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representations which they may see fit in relation to any of the matters to which the court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor in Executive Council is of opinion, or, where a reference under sub-section (2), if the court reports that the petitioner or petitioners has or have been inadequately remunerated by his or their exclusive privilege, the Governor in Executive Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven, or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the petitioner or petitioners fails or fail to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

14 An order under section 5, sub-section (1), authorizing the filing of a specification, or under section 13, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor in Executive Council thinks expedient.

Imposition of
conditions with
respect to
exclusive
privileges.

15 (1) An exclusive privilege under this Ordinance shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

Exclusive
privilege to
bind Crown.

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(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors, or others, at any time after the delivery of the receipt of the petition for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor in Executive Council, between those officers or authorities and the inventor or inventors, or, in default of such agreement, on such terms as may be settled by the Governor in Executive Council.

Petition for leave to file memorandum or amended specification.

16 (1) If after the filing of the specification the petitioner or petitioners has or have reason to believe that through mistake or inadvertence he or they has or have erroneously made any mis-statement in his or their petition or specification, or included therein something which at the date of the delivery or receipt of the petition was not new, or whereof he or some or one of them was not the inventor, or that the specification is in any particular defective or insufficient, he or they may petition the Governor in Executive Council for leave to file a memorandum pointing out the mis-statement, or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The petition must be in writing signed by the petitioner or petitioners, and must state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended.

(3) Upon the petition the Governor in Executive Council may make an order allowing the memorandum or amended specification to be filed.

(4) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(5) The provisions of section 5 with respect to petitions, and of section 8 with respect to specifications, shall apply, so far as they can be made applicable, to petitions and to amended specifications, respectively, made and filed under this section.

Effect of amended specification.

17 An amended specification filed under the last foregoing section shall, except as to any action or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed: Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

Bar to exclusive privilege in certain cases.

18 A person shall not be entitled to an exclusive privilege under this Ordinance—

(a) If the invention is of no utility ; or

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- (b) If the invention at the date of the delivery, or receipt of the petition for leave to file the specification thereof, was not a new invention within the meaning of this Ordinance; or
- (c) If the petitioner or some one or more of the petitioners is or are not the inventor or inventors thereof; or
- (d) If the original or any amended specification does not fulfil the requirements of this Ordinance; or
- (e) If the original or any subsequent petition relating to the invention or the original or any amended specification contains a wilful or fraudulent misstatement; or
- (f) If the petition for leave to file the specification of the invention was made under this Ordinance after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of the colony and the United Kingdom.

19 An invention shall be deemed a new invention within the meaning of this Ordinance if it has not before the date of the delivery or receipt of the petition for leave to file the specification thereof been publicly used in any part of the colony or of the United Kingdom, or been made publicly known in any part of the colony or of the United Kingdom by means of a written publication.

Novelty of invention dependent on public use or knowledge thereof before petition to file specification.

20 The public use or knowledge of an invention before the date of the delivery or receipt of the petition for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Ordinance if the knowledge has been obtained surreptitiously or in fraud of the inventor or inventors, or has been communicated to the public in fraud of the inventor or inventors or in breach of confidence: Provided that the inventor or inventors has or have not acquiesced in the public use of his or their invention, and that, within six months of that use, he or they petitions or petition for leave to file a specification.

Effect of public use or knowledge of invention in fraud of inventor.

21 Use of an invention in public by the inventor or inventors thereof, or by his or their servant or agent, or by any other person by his or their license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his or their petition for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Ordinance.

Effect of temporary use of invention in public by inventor or inventors or by his or their leave.

22 If the inventor or inventors who has or have obtained a patent for his or their invention in the United Kingdom causes or cause a petition for leave to file a specification of the invention under this Ordinance to be delivered or received by the Colonial Secretary within twelve months from the date of actual sealing of the patent, the invention

Effect of public use or knowledge of patented invention between application for the patent and

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petition to file
specification.

shall be deemed a new invention within the meaning of this Ordinance, if it was not publicly used or known in the colony at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in the colony or in some part of the United Kingdom before the date of the delivery or receipt of the petition under this Ordinance for leave to file the specification.

Effect of like
public use or
knowledge of
unpatented
invention.

23 If the inventor or inventors petitions or petition for leave to file a specification under this Ordinance while his or their application for a patent is pending in the United Kingdom, and the interval between the date of his or their application for the patent and the date of the delivery or receipt of his or their petition under this Ordinance does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Ordinance, by reason only of the invention having been used, or a description thereof having been published, in the colony or in any part of the United Kingdom during the interval.

Effect of public
use or
knowledge of
invention after
admission to an
exhibition.

24 If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor, causes a petition for leave to file a specification of the invention to be delivered to or received by the Colonial Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Ordinance, by reason only of the invention having at any time after its admission into the exhibition been publicly used or made publicly known.

Cessation of
exclusive
privilege by
order of the
Governor.

25 (1) An exclusive privilege acquired under this Ordinance shall cease if the Governor in Council declares the privilege, or the mode in which it is executed, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the petitioner or petitioners was or were authorized to file a specification, or on which the term of the exclusive privilege was extended, is, on an application under this Ordinance to the district court of Colombo proved to the satisfaction of that court, and if the Governor in Executive Council thereupon declares the privilege to have ceased.

Cessation of
exclusive
privilege on
revocation or
expiration of
patent.

26 (1) An exclusive privilege acquired under this Ordinance in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

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27 (1) Any person or persons may institute an action in the district court of Colombo against any person who, during the continuance of an exclusive privilege acquired by him or them under the Ordinance in respect of an invention, makes, sells, or uses the invention without his or their license, or counterfeits or imitates it.

Action for infringement of exclusive privilege.

(2) The action shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility.

(3) Nor shall it be defended upon the ground that the plaintiff or plaintiffs was or were not the inventor or inventors, unless the defendant or defendants shows or show that he or they is or are the actual inventor or inventors or has or have obtained from the actual inventor or inventors a right to make, sell, or use the invention, or to counterfeit or imitate it, as the case may be.

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant or defendants or some person through whom he or they claims or claim has or have, before the date of the delivery of the petition for leave to file the specification, publicly or actually used in the colony or any part of the United Kingdom the invention, or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

28 Any person or persons may apply to the district court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under the Ordinance by reason of all or any of the objections following (to be specified in the rule), that is to say:

Application to declare exclusive privilege in respect of an invention not to have been acquired.

- (a) That the invention is of no utility ; or
- (b) That the invention was not at the date of the delivery or receipt of the petition for leave to file the specification a new invention within the meaning of this Ordinance ; or
- (c) That the petitioner was not or none of the petitioners was the true inventor thereof ; or
- (d) That the original or any amended specification does not fulfil the requirements of this Ordinance ; or
- (e) That the petitioner or petitioners has or have knowingly or fraudulently included in the petition for leave to file the specification or in the original or any amended specification, as part of his or their invention, something which was not new, or whereof he or they or some one or more of them was or were not the inventor or inventors ; or

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- (f) That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent misstatement; or
- (g) That some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

Like application as to part of invention.

29 Any person or persons may apply to the district court of Colombo for a rule to show cause why the court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Ordinance, by reason of all or any of the objections following (to be specified in the rule), that is to say :

- (a) That that part of the invention is wholly distinct from the other parts thereof, and is of no utility; or
- (b) That that part of the invention was not, at date of the delivery or receipt of the petition for leave to file specification, a new invention within the meaning of this Ordinance; or
- (c) That the petitioner was not, or none of the petitioners was, the true inventor or inventors of that part of the invention; or
- (d) That that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

Security for cost of application under either of the two last foregoing sections.

30 The said district court may in this behalf require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person or persons appearing to show cause against the rule.

Application on breach of condition.

31 (1) Any person authorized by the Governor in Executive Council in this behalf may apply to the district court of Colombo for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 25 may, in the judgment of the Governor in Executive Council, depend, should not be tried in the form of an issue directed by the court.

(2) If the rule is made absolute, the court, unless the breach or other matter of fact is admitted, may direct the issue to be tried, and certify the result of the trial to the Governor in Executive Council.

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32 (1) Notice of any rule obtained or proceeding taken under section 28, section 29, or section 31, shall be served on all persons appearing from the address book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

Notice of proceedings to persons interested.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address book, by delivering the copy to any person resident at or in charge of the place, or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

33 (1) If it appears to the district court of Colombo at the hearing of an application under section 28 or section 29, that by reason of any of the objections specified in the rule the exclusive privilege in the invention or in any part thereof has not been acquired, the court shall make an order accordingly, and thereupon the petitioner or petitioners shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

Order on application.

(2) If it appears to the district court of Colombo, at the hearing of any such application as last aforesaid, that the petitioner or petitioners has or have in the description of his or their invention in the petition for leave to file a specification thereof, or in the original or any amended specification erroneously included something which at the date of the delivery or receipt of the petition for leave to file the specification was not new, or whereof he or they was or were not the inventor or inventors, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect, or insufficiency; or

(3) If it appears to the district court of Colombo that the error, defect, or insufficiency can be amended without injury to the public, the court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective, or insufficient; and thereupon the petitioner or petitioners shall, within a time to be limited by the court for the purpose, file in the office of the Colonial Secretary a specification amended according to the order.

(4) The provisions of section 17 with respect to the effect of such specifications shall apply, so far as they can be made applicable, to an amended specification filed under this section.

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(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the petition for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

Delivery of particulars.

34 (1) In an action for the infringement of an exclusive privilege acquired under this Ordinance the plaintiff shall deliver with his plaint particulars of the breaches complained of in the action, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to the district court of Colombo under section 28, section 29, or section 31, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such action or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matters as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the petition for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the court in which the action or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

Title of actual inventor to exclusive privilege in case of fraud.

35 If in an action instituted in the district court at any time within fourteen years from the date of the filing of a specification of an invention under this Ordinance the actual inventor proves to the satisfaction of the court that the petitioner or petitioners was or were not the actual inventor or inventors, and that at the time of the petition for leave to file the specification the petitioner or petitioners knew or had reason to believe that the knowledge of the invention was obtained by himself or themselves or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or them or to any person through whom he or they derived the knowledge, the court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Ordinance, in the actual inventor for a term of fourteen years from the date on which the petition was delivered to.

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or received by, the Colonial Secretary, and requiring the petitioner or petitioners to account for and pay over to the actual inventor the profits derived by him or them from the invention, or so much of those profits as the court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the petitioner or petitioners to pay.

36 A court making a decree in an action under section 27 or section 35, or an order on an application under section 28, section 29, or section 31, shall send a copy of the decree or order, as the case may be, to the Colonial Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address book affected thereby.

Transmission of copies of decrees and orders to Colonial Secretary.

37 In the following cases, namely :

- (a) When an exclusive privilege acquired under this Ordinance has ceased under section 7 or section 13 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) When an exclusive privilege acquired under this Ordinance has been declared by the Governor in Executive Council under section 25 to have ceased ;
- (c) When an exclusive privilege acquired under this Ordinance has ceased under section 26 by reason of the revocation or expiration of a patent or exclusive privilege ;
- (d) When the whole or any part of an exclusive privilege acquired under this Ordinance has ceased under section 33 in consequence of an order under that section ;
- (e) When an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 35 ;
- (f) When an exclusive privilege acquired under this Ordinance has ceased by reason of the expiration of the term for which it was acquired ;

Registration of cessation of exclusive privilege.

the Colonial Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the petition for leave to file the specification of the invention.

38 (1) If any person is aggrieved by an entry in the register of inventions or address book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Ordinance whereby the

Rectification of register of inventions or address book.

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register or book may be rectified, he may apply to the district court of Colombo for an order for the rectification of the register or book, and the court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the court to the Colonial Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address book affected thereby.

(3) When the Colonial Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Colonial Secretary.

Power for Governor in Executive Council to require grant of licenses.

39 If on the petition of any person interested it is proved to the Governor in Executive Council that, by reason of an inventor who has acquired an exclusive privilege under this Ordinance failing to grant licenses on reasonable terms—

- (a) The exclusive privilege is not being worked in Ceylon ; or
- (b) The reasonable requirements of the public with respect to the invention cannot be supplied ; or
- (c) Any person is prevented from working or using to the best advantage an invention of which he is possessed ;

the Governor in Executive Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise as the Governor in Executive Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

Subscription of specifications and petitions.

40 If the petitioner or petitioners or any of them is or are absent from Ceylon, a petition for leave to file a specification, or a petition for leave to file a memorandum or amended specification, may, instead of being signed by the petitioner or petitioners under section 4, section 8, or section 16, as the case may be, be signed on behalf of the petitioner or petitioners by an agent in Ceylon authorized by him or them in writing in that behalf.

Verification of petitions.

41 (1) A petition under this Ordinance for leave to file a specification, memorandum, or amended specification must be verified by the person or persons making the petition.

(2) If the person or persons is or are absent from Ceylon, the petition may be verified by the agent who signs the petition on his or their behalf.

(3) The verification must be signed by the person or persons making it, and must be to the effect that the facts stated in the petition are true to his or their knowledge, except as to matters stated on information and belief, and that as to those matters they are believed by him or them to be true.

Agents.

42 Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorized by this

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Ordinance to be done by any person may be done on his behalf by an agent in Ceylon having authority in writing from that person so to do the act.

43 All decisions and orders of the district court of Colombo made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought on and prosecuted in manner provided in "The Civil Procedure Code, 1889," and shall be subject to the provisions of the said Code; and subject to the provisions and limitations contained in the said Code, any party or parties to any action or proceeding under this Ordinance may appeal to Her Majesty in Council from any formal judgment, decree, or sentence of the Supreme Court, or against any rule or order made by such court, and having the effect of a final or definitive sentence.

Right of appeal saved.

44 (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

Fees.

(2) The Governor in Executive Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise, as the Governor in Executive Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

45 (1) The Governor in Executive Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Ordinance, and may alter or amend either of the forms in the second and third schedules.

Rules and forms.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda, and amended specifications, and for the distribution or sale of printed copies thereof.

SCHEDULE I.

Ordinances repealed.

(See Section 2.)

Number and Year.	Subject or Title.	Extent of Repeal.
6 of 1859	"Inventions Ordinance, 1859"	The whole
3 of 1890	"The Stamp Ordinance, 1890"	So much of Part V., schedule B, as refers to duties payable in respect of petitions and grants under "The Inventions Ordinance, 1859"

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SCHEDULE II.

A.—Petition where Patent has not been obtained.

(See Sections 4 and 45.)

To the Governor in Executive Council.

The petition of (a) _____ of (a) _____, and of (a) _____ of (a) _____, for leave to file a Specification under "The Inventions Ordinance, 1892."

(a) Insert names, addresses, and occupations of petitioners or petitioner, as the case may be.

(b) or "petitioners"

(c) "is" or "are"

(d) state the title of the invention.

(e) "he" or "they"

(f) "believes" or "believe"

(g) "He is" or "They are"

(h) or "inventors"

(i) "his" or "their"

(k) describe the invention.

(l) or "petitioners"

(m) or "pray"

1. The petitioner (b) (c) _____ in possession of an Invention for (d) _____, which Invention (e)(f) _____ will be of public utility. _____ (g) the Inventor (h) thereof (or, as the case may be, the executors, administrators, or assigns of the inventor), and the invention is not publicly used or known in any part of Ceylon or of the United Kingdom to the best of (i) _____ knowledge and belief.

In the case of more than one petitioner, state whether all, or if not, who is or are the inventor or inventors.

2. The following is a description of the Invention (k) _____.

3. The petitioner (l) therefore prays (m) for leave to file a Specification of the Invention pursuant to "The Inventions Ordinance, 1892."

(Signature or Signatures.)

B.—Petition where Patent has been obtained.

(See Sections 4 and 45.)

To the Governor in Executive Council.

The petition of (a) _____ of (a) _____, and of (a) _____ of (a) _____, for leave to file a Specification under "The Inventions Ordinance, 1892."

(a) Insert names, addresses, and occupations of petitioners or petitioner, as the case may be.

(b) or "petitioners"

(c) "has" or "have"

(d) state the title of the invention.

(e) or "petitioners"

(f) or "believe"

(g) here describe it.

(h) or "petitioners"

(i) "applies" or "apply"

1. The petitioner (b) (or, as the case may be, A. B., of whom the petitioner is the executor, administrator, or assign) (c) _____ obtained a patent in the United Kingdom, dated and sealed on the _____ day of _____, for (d) _____.

2. The petitioner (e) believes (f) that the Invention was not publicly known in any part of Ceylon at or before the date of the application for the patent.

3. The following is a description of the invention (g) _____.

4. The petitioner (h) therefore (i) _____ for leave to file a Specification of the Invention pursuant to "The Inventions Ordinance, 1892."

(Signature or Signatures.)

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SCHEDULE III.

VICTORIA, by the Grace of GOD of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c.

To all to whom these Presents shall come,

Greeting.

Whereas _____ of _____ (a) (having previously obtained Her Majesty's Letters Patent for the exclusive use of a certain Invention intituled *(here insert title of the Invention)*, in the United Kingdom, but not extending to this Island) has presented to Us _____, Governor of Ceylon, a petition (numbered _____ in the Register of Inventions in the Office of the Colonial Secretary) praying for leave to file a Specification of (a) (the said Invention) a certain Invention, intituled _____, and We in Executive Council have made an order, dated the _____ day of _____, 18—, authorizing the said _____ to file a Specification of the said Invention; and whereas the said _____ did, on the _____ day of _____, 18—, file a Specification in accordance with the said order, and the same is entered in the Register of Inventions in the Office of the Colonial Secretary; and whereas the said _____ hath done all things to entitle him to exclusive privilege in the Invention in the said Petition and Specification mentioned and described, for the term of _____ years:

(a) Use the words within the brackets when a patent has been obtained in the United Kingdom.

Now know Ye that We do grant to the said _____, his heirs, executors, administrators, and assigns, the exclusive privilege of making, selling, and using the said Invention, and of authorizing others so to do, in Ceylon, for the term of _____ years, in terms of and subject to the provisions of "The Inventions Ordinance, 1892."

Conditions.

Given at _____, under the Public Seal of the Island of Ceylon, this _____ day of _____, 18—.

By His Excellency the Governor's command,

Colonial Secretary.

SCHEDULE IV.

Fees (Inventions).

(See Sections 7, 13, and 44.)

	Rs.	c.
(1) In respect of petitions for leave to file a specification (section 4)	10	0
(2) In respect of the filing of a specification (section 7) ...	30	0
(3) In respect of an extension of the time for filing a specification (section 7)	20	0
(4) In respect of the continuance of an exclusive privilege (section 7)—		
(a) After the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50	0
(b) After the expiration of the fourth year and before the expiration of the fifth year from that date ...	50	0
(c) After the expiration of the fifth year and before the expiration of the sixth year from that date ...	50	0

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	Rs.	c.
(d) After the expiration of the sixth year and before the expiration of the seventh year from that date ...	50	0
(e) After the expiration of the seventh year and before the expiration of the eighth year from that date...	50	0
(f) After the expiration of the eighth year and before the expiration of the ninth year from that date ...	100	0
(g) After the expiration of the ninth year and before the expiration of the tenth year from that date ...	100	0
(h) After the expiration of the tenth year and before the expiration of the eleventh year from that date ...	100	0
(i) After the expiration of the eleventh year and before the expiration of the twelfth year from that date...	100	0
(j) After the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100	0
<p>Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.</p>		
(5) In respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 7)—		
(i.) If the enlargement does not exceed one month ...	10	0
(ii.) If the enlargement exceed one month, but does not exceed two months ...	25	0
(iii.) If the enlargement exceed two months ...	50	0
(6) In respect of petition for an extension of an exclusive privilege for a further term (section 13) ...	50	0
(7) In respect of an order extending the term of an exclusive privilege (section 13)... ..	100	0
(8) In respect of the continuance of an exclusive privilege of which the term has been extended (section 13) ...	100	0
<p>to be paid before the expiration of each year of the extended term :</p>		
<p>Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.</p>		
(9) In respect of a petition for leave to file a memorandum or amended specification (section 16) ...	20	0
(10) In respect of a petition to the Governor in Executive Council for a compulsory license (section 39) ...	50	0
(11) For the inspection of any book or other document which is open to inspection under this Ordinance ...	1	0
(12) For copies :—		
(a) When the number of words copied does not exceed four hundred	1	0
(b) For every hundred words in excess of four hundred	0	25
(c) Of drawings or photographs—cost according to agreement.		
(13) For certifying copies :—		
For every hundred words	0	12½

21st November, 1892.