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1998B00052

for Legislative Counsel, Director,
Office of Legislative Drafting, Attorney-General's
Department.



Statutory Rules 1998 No. ¹

56/

Patents Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Patents Act 1990*.

Dated ¹ 1998.

1 April/

¹ WILLIAM DEANE/
Governor-General

By His Excellency's Command,

¹
Minister for Industry, Science and Tourism

J. MOORE/

**PART 1—AMENDMENTS OF THE PATENTS
REGULATIONS**

1. Commencement

1.1 These Regulations commence on gazettal.

2. Amendment

2.1 The Patents Regulations are amended as set out in these Regulations.

3. Regulation 20.1 (Definitions)

3.1 Definition of “AIPO”:

Omit the definition.

3.2 Definition of “Board”:

Omit the definition, substitute:

“**Board** means the Professional Standards Board for Patent and Trade Marks Attorneys established by subregulation 20.32 (1);”.

3.3 Definition of “member”:

Omit the definition.

4. Regulation 20.2 (How to make an application)

4.1 Omit the regulation, substitute:

How to apply under Chapter 20

“**20.2** A person may apply under this Chapter by sending the application to the Board at the following address:

Professional Standards Board for
Patent and Trade Marks Attorneys
PO Box 200
WODEN ACT 2606.”.

5. Chapter 20, Part 5 (Administration)

5.1 Division 1:

Omit the Division heading, substitute:

“Division 1— The Professional Standards Board for Patent and Trade Marks Attorneys”.

6. Regulation 20.32 (Establishment of Board)

6.1 Omit the regulation, substitute:

Establishment of Board

“20.32 (1) The Professional Standards Board for Patent and Trade Marks Attorneys is established.

“(2) The Board is constituted by:

(a) the Chairperson, appointed by the Minister; and

(b) either:

(i) the person holding, or carrying out the duties of, the office of the Director-General of the division of the Department known as IP Australia; or

(ii) the nominee of that person; and

(c) at least 2 other members, appointed by the Minister.”.

7. Regulation 20.33 (Election of Board members)

7.1 Omit the regulation.

8. Regulation 20.34 (Term of office of Board members)

8.1 Omit the regulation, substitute:

Term of office of Board members

“20.34 (1) The Minister may appoint a member of the Board for a period of up to 3 years.

“(2) The Minister must not appoint a person who has turned 65 as a member of the Board.

“(3) The Minister must not appoint a member of the Board for a period that extends beyond the day when the person turns 65.”.

9. Regulation 20.35 (Resignation and removal from office of Board member)

9.1 Omit the regulation, substitute:

Resignation and removal of members from Board

“**20.35 (1)** A member of the Board may resign by giving the Minister his or her resignation in writing.

“(2) The Minister may remove a member of the Board if the member:

- (a) is not the Chairperson and has been absent from 3 consecutive meetings of the Board without leave given by the Chairperson; or
- (b) is the Chairperson and has been absent from 3 consecutive meetings of the Board without leave given by the Board under regulation 20.40; or
- (c) is convicted in Australia of an offence punishable by imprisonment for at least 12 months; or
- (d) is a member to whom subregulation (3) or (4) applies.

“(3) This subregulation applies to a member if the member:

- (a) cannot perform his or her duties as a member of the Board; or
- (b) has behaved in an offensive or disorderly way, or in a way that is likely to adversely affect the Board’s reputation; or
- (c) has carried out his or her duties as a member of the Board inefficiently.

“(4) This subregulation applies to a person who:

- (a) becomes bankrupt; or
- (b) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
- (c) compounds with his or her creditors or assigns his or her salary and allowances for their benefit.”.

10. Regulation 20.36 (Replacement of elected Board members failing to serve their full term)

10.1 Omit the regulation.

11. Regulation 20.39 (Quorum for meetings of Board)

11.1 Omit the regulation, substitute:

Quorum for Board meetings

“**20.39** At a meeting of the Board, a quorum is formed by the majority of the members of the Board.”.

12. Regulation 20.40 (Secretary to Board)

12.1 Omit the regulation, substitute:

Absence of Chairperson from meeting—leave from Board

“**20.40** If the Chairperson is absent from a meeting of the Board, the members present must decide whether to give leave to the Chairperson.”.

PART 2—TRANSITIONAL PROVISIONS

13. Definitions

13.1 In this Part:

new Board means the Professional Standards Board for Patent and Trade Marks Attorneys established under Chapter 20 of the Patents Regulations as amended by these Regulations;

old Board means the Patent Attorneys Professional Standards Board:

- (a) established under Chapter 20 of the Patents Regulations before the commencement of these Regulations; and
- (b) as constituted at any time before the commencement of these Regulations.

14. Continuing effect of certain applications

14.1 This Regulation applies to an application (including anything accompanying the application) made in accordance with regulation 20.2 of the Patents Regulations if:

- (a) the application was made before the commencement of these Regulations; and
- (b) anything that could have been done by the old Board under Chapter 20 of the Patents Regulations in relation to the application (*unfinished business*) was not done before the commencement of these Regulations.

14.2 The application is taken to have been made in accordance with regulation 20.2 of the Patents Regulations as amended by these Regulations.

14.3 The unfinished business may be finished by the new Board in accordance with Chapter 20 of the Patents Regulations as amended by these Regulations.

15. Continuing effect of decisions of old Board

15.1 This Regulation applies to any act done, or decision made, by the old Board under Chapter 20 of the Patents Regulations as amended and in force at any time before the commencement of these Regulations.

15.2 The act or decision has effect as if the act had been done, or decision had been made, by the new Board.

16. Continuing effect of certificates

16.1 This regulation applies to each certificate given by the old Board under Chapter 20 of the Patent Regulations as amended and in force at any time before the commencement of these Regulations.

16.2 The certificate is as valid as it would be if it had been given by the new Board.

17. Continuing effect of certain complaints

17.1 This regulation applies to a complaint in writing to the old Board made under Part 4 of Chapter 20 of the Patents Regulations as amended and in force at any time, if:

- (a) the complaint was made before the commencement of these Regulations; and
- (b) anything that could have been done by the old Board in relation to the complaint under the Part (*unfinished business*) was not done before the commencement of these Regulations.

17.2 The unfinished business may be finished by the new Board in accordance with Part 4 of Chapter 20 of the Patents Regulations.

17.3 Any reply or further information sought by the old Board under regulation 20.20 of the Patents Regulations, but not given to the old Board before the commencement of these Regulations must be given to the new Board in accordance with regulation 20.20 as if the reply or further information had been sought by the new Board.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 1998. 8 April/
2. Statutory Rules 1991 No. 71 as amended by 1991 No. 456; 1992 No. 148; 1993 Nos. 113, 227, 340 and 341; 1994 Nos. 182, 317 and 387; 1995 Nos. 16, 20, 82 and 427; 1996 No. 271; 1997 Nos. 192 and 345/

1998. 8 April/
; 1998 No. 45/