

Act No. 35, 1897.

INTERNATIONAL  
PATENTS AND  
TRADE-MARKS  
ARRANGEMENTS.

An Act to bring New South Wales within the provisions of the International Patents Convention of 1883. [10th December, 1897.]

Preamble.  
46 & 47 Vic., c. 57.  
48 & 49 Vic., c. 63.

WHEREAS by section one hundred and three of the Act of the Imperial Parliament of the United Kingdom of Great Britain and Ireland, called the Patents, Designs, and Trade-marks Act, 1883, as amended by another Act of the said Parliament, called the Patents, Designs, and Trade-marks (Amendment) Act, 1885, it is enacted as follows, that is to say :—

Comp. Queensland  
Act No. 13 of 1881,  
Part V.

- (I) If Her Majesty is pleased to make any arrangement with the government or governments of any foreign state or states for mutual protection of inventions, designs, and trade-marks, or any of them, then any person who has applied for protection for any invention, design, or trade-mark in any such state shall be entitled to a patent for his invention or to registration of his design or trade-mark (as the case may be) under this Act in priority to other applicants; and such patent or registration shall have the same date as the date of the application in such foreign state: Provided that his application is made in the case of a patent within seven months, and in the case of a design or trade-mark within four months from his applying for protection in the foreign state with which the arrangement is in force: Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade-mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade-mark in this country, as the case may be.
- (II) The publication in the United Kingdom or the Isle of Man, during the respective periods aforesaid, of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of

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of the design or publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade-mark shall not invalidate the patent which may be granted for the invention or the registration of the design or trade-mark.

- (III) The application for the grant of a patent or the registration of a design or the registration of a trade-mark under this section must be made in the same manner as an ordinary application under this Act: Provided that in the case of trade-marks, any trade-mark, the registration of which has been duly applied for in the country of origin, may be registered under this Act.
- (IV) The provisions of this section shall apply only in the case of those foreign states with respect to which Her Majesty shall from time to time by Order-in-Council declare them to be applicable, and so long only in the case of each state as the Order-in-Council shall continue in force with respect to that state:

And whereas by section one hundred and four of the said first recited Act it is further enacted as follows, that is to say:—

- (I) Where it is made to appear to Her Majesty that the Legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade-marks patented or registered in this country, it shall be lawful for Her Majesty from time to time by Order-in-Council to apply the provisions of the last preceding section with such variations or additions (if any) as to Her Majesty in Council may seem fit to such British possession.
- (II) An Order-in-Council under this Act shall from a date to be mentioned for the purpose in the order take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order-in-Council made under this Act:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows, that is to say:—

1. This Act may be cited as the "International Patents and Trade-marks Arrangements Act, 1897." Short title.

2. (1) If Her Majesty be pleased, by Order-in-Council, to apply the provisions in the said section one hundred and three of the Imperial Act, called the Patents, Designs, and Trade-marks Act, 1883, to this Colony, then any person who has applied for protection for any invention, design, or trade-mark in England or in any foreign state with the Government of which Her Majesty has made an arrangement under

International arrangements for protection of inventions, designs, and trade-marks.

Comp. Queensland Act, No. 13, of 1884, s. 80; New Zealand Act, No. 12, of 1889, s. 106; Tasmania Act, No. 2, of 1884, s. 2-3.

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under the said section for mutual protection of inventions, designs, or trade-marks, or any of them, shall be entitled to a patent for his invention or to registration of his design or trade-mark, as the case may be, under this Act in priority to other applicants; and such patent or registration shall take effect from the same date as the date of the application in England or such foreign state, as the case may be.

Such application shall be made in the case of a patent within seven months and in the case of a design or trade-mark within four months from such person applying for protection in England or the foreign state with which the arrangement is in force.

Nothing in this section contained shall entitle the patentee or proprietor of the design or trade-mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification or the actual registration of his design or trade-mark, as the case may be, in this Colony.

(II) The publication in this Colony during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade-mark shall not invalidate the patent which may be granted for the invention or the registration of the design or trade-mark.

(III) The application for the grant of a patent or the registration of a design or the registration of a trade-mark under this section must be made in the same manner as an ordinary application under the Act sixteenth Victoria number twenty-four, and any Acts amending the same, or the Copyright Act, 1879, and any Act amending the same, or the Trade-marks Act, 1865, and any Acts amending the same, as the case may be. In the case of trade-marks, any trade-mark, the registration of which has been duly applied for in the country of origin, may be registered under the Trade-marks Act, 1865, and any Act amending the same.

(IV) The provisions of this section shall, in the case of foreign states, apply only in the case of those foreign states with respect to which Her Majesty shall from time to time, by Order-in-Council, declare the provisions of the aforesaid section one hundred and three of the said first recited Imperial Act to be applicable, and so long only in the case of each state as the order shall continue in force with respect to that state.

3. (1) Where it is made to appear to the Governor that the Legislature of any British possession has made satisfactory provision for the protection in such possession of inventions, designs, and trade-marks, or any of them, patented or registered in this Colony, the Governor may, by order, apply all or any of the provisions of the last preceding

Provision for inter-colonial, &c., arrangements.

Comp. Queensland Act, 48 Vic., No. 13 s. 81; New Zealand Act, No. 12, of 1889 s. 107.

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*Sydney Water Supply Conduit Additional Works.*

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preceding section relating to the protection of inventions, designs, and trade-marks patented or registered in England, with such variations or additions (if any) as to the Governor may seem fit to inventions, designs, and trade-marks, or any of them, patented or registered in such British possession.

(11) An order under this section shall, from a date to be mentioned for the purpose in the order, take effect as if its provisions had been contained in this Act; but it shall be lawful for the Governor to revoke any such order.

4. In this Act—

- “British possession” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom or of the Channel Islands or of the Isle of Man; and all territories and places under one Legislature as hereinafter defined are deemed to be one British possession for the purposes of this Act; and
- “Governor” means Governor, with the advice of the Executive Council;
- “Legislature” includes any person or persons who exercise legislative authority in the British possession; and where there are local Legislatures as well as a central Legislature means the central Legislature only.

Interpretation.

(46 & 47 Vic., c. 57,  
s. 117.)