

INTELLECTUAL PROPERTY LAWS

PATENTS ACT, 1970

[ACT NO. 39 OF 1970]

TRADE MARKS ACT 1999

[ACT NO. 47 OF 1999]

COPYRIGHT ACT, 1957

[ACT NO. 14 OF 1957]

DESIGNS ACT 2000

[ACT NO. 16 OF 2000]

GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION & PROTECTION) ACT, 1999

[ACT NO. 48 OF 1999]

ENGLISH EDITION



Linking Publication

Jodhpur, Rajasthan

Preface

Hello & नमस्कार,

LINKING BARE ACTS are not merely Bare Act of the Text approved by Legislature rather it envisage my personal Experience as Judiciary Exam Educator of more than a decade wherein I found the style of Inter Section Linking, Inter Chapter Linking and Inter Acts Linking so effective that the reader can gain comprehensive command over any particular topic or concept with help of it. Further, such things also help in easy mediation while making revision.

"जो याद (memorize) नहीं होता उसे, उससे याद करो जो याद हो चुका है" - this technique is output of Linking style.

Presently, Law Exam specially concentrate to check command of student over Legislative Text (i.e. Bare Act), accordingly they asked questions which directly or indirectly Linked with Bare Act only. While teaching various laws, I found that Linking techniques is easy for student to learn multiple sections together, so I have included such technique in LINKING BARE ACTS.

This Linking Bare Act of **INTELLECTUAL PROPERTY LAWS** (*Patents Act, 1970, Trade Marks Act, 1999 Copyright Act 1957, Designs Act 2000 & Geographical Indications of Goods (Registration & Protection) Act, 1999*) also includes the comprehension of the various amendments so far made by parliament will certainly a big challenge for readers to comprehend and also smart table as to various form used in civil procedure in addition to the other regular features of any Linking Bare Acts, so I have provided various comparative table also which will help to understand the changes easily in new laws. it's my firm belief, these LINKING BARE ACT will certainly change the way of reading Bare Act. Further, spacious margin, Bracket Method of Proviso and Explanation etc will make the study more convenient.

- **Tansukh Paliwal**
Founder of Linking Laws

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Intellectual Property Rules

- Patents Rule, 2003
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Scan QR Code for PDF of the above Rules



**THE
PATENTS ACT, 1970**

[ACT NO. 39 OF 1970]

पेटेंट अधिनियम 1970

English Edition

Sample Preview

THE PATENTS ACT, 1970

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THE PATENTS ACT, 1970
ACT NO. 39 OF 1970

[19th September, 1970.]

An Act to amend and consolidate the law relating to patents.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.

- (1) This Act may be called the Patents Act, 1970.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions and interpretation.

- (1) In this Act, unless the context otherwise requires,—
 - ²[(a) omitted]
 - (ab) “**assignee**” includes an assignee of the assignee and the legal representative of a deceased assignee and references to the assignee of any person include references to the assignee of the legal representative or assignee of that person;
 - ³[(aba) “**Budapest Treaty**” means the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the purposes of Patent Procedure done at Budapest on 28th day of April, 1977, as amended and modified from time to time;]
 - (ac) “**capable of industrial application**”, in relation to an invention, means that the invention is capable of being made or used in an industry;
 - (b) “**Controller**” means the Controller General of Patents, Designs and Trade Marks referred to in section 73;
 - (c) “**convention application**” means an application for a patent made by virtue of section 135;
 - ⁴[(d) “**convention country**” means a country or a country which is member of a group of countries or a union of countries or an Inter-governmental organisation referred to as a convention country in section 133;]

1 1-4-1978, vide notification No. S.O. 799, dated 10-3-1978, in respect of the provisions of sub-section (2) of s. 12 and sub-section (2) of s. 13, s. 28, s. 68, and ss. 125 to 132 see Gazette of India, Part II, sec. 3 (ii).

20-4-1972 vide notification No. S.O. 300 dated 20-4-1972, in respect of the provisions [except sub-section (2) of s. 12 and sub-section (2) of s. 13, s. 28, s. 68 and ss. 125 to 132] see Gazette of India, Part II, sec. 3 (ii).

2 Clause (a) omitted by Act 33 of 2021, s. 13 (w.e.f. 4-4-2021).

3 Ins. by Act 15 of 2005, s. 2 (w.e.f. 1-1-2005).

4 Subs. by Act 38 of 2002, s. 3, for clause (d) (w.e.f. 20-5-2003).

- (e) “**district court**” has the meaning assigned to that expression by the Code of Civil Procedure, 1908;
- (f) “**exclusive licence**” means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and “**exclusive licensee**” shall be construed accordingly;
- ¹[(g) omitted]
- (h) “**Government undertaking**” means any industrial undertaking carried on—
- (i) by a department of the Government, or
 - (ii) by a corporation established by a Central, Provincial or State Act, which is owned or controlled by the Government, or
 - (iii) by a Government company as defined in section 617 of the Companies Act, 1956, or
- ²[(iv) by an institution wholly or substantially financed by the Government;]
- ³***
- ⁴[(i) “**High Court**”, in relation to a State or Union territory, means the High Court having territorial jurisdiction in that State or Union territory, as the case may be;]
- ⁵[(ia) “international application” means an application for patent made in accordance with the Patent Cooperation Treaty;]
- ⁶[(j) “**invention**” means a new product or process involving an inventive step and capable of industrial application;]
- ⁷[(ja) “**inventive step**” means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art;]
- (k) “legal representative” means a person who in law represents the estate of a deceased person;
- ⁸[(l) “**new invention**” means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art;
- (la) “**Opposition Board**” means an Opposition Board constituted under sub-section (3) of section 25;

1 Clause (g) omitted by Act 15 of 2005 s. 2. (w.e.f. 1-1-2005).

2 Ins. by Act 15 of 2005, s. 2 (w.e.f. 1-1-2005).

3 Certain words omitted by s. 2, *ibid.* (w.e.f. 1-1-2005)

4 Subs. by s. 2, *ibid.*, for clause (i) (w.e.f. 1-1-2005).

5 Ins. by Act 38 of 2002, s. 3 (w.e.f. 20-5-2003).

6 Subs. by s. 3, *ibid.*, for clause (j) (w.e.f. 20-5-2003).

7 Subs. by Act 15 of 2005, s. 2, for clause (ja) (w.e.f. 1-1-2005).

8 Subs. by s. 2, *ibid.*, for clauses (l) and (m) (w.e.f. 1-1-2005).

- (m) “**patent**” means a patent for any invention granted under this Act;]
 - (n) “**patent agent**” means a person for the time being registered under this Act as a patent agent;
 - (o) “**patented article**” and “**patented process**” mean respectively an article or process in respect of which a patent is in force;
 - ¹[(oa) “**Patent Cooperation Treaty**” means the Patent Cooperation Treaty done at Washington on the 19th day of June, 1970 as amended and modified from time to time;]
 - (p) “**patentee**” means the person for the time being entered on the register as the grantee or proprietor of the patent;
 - (q) “**patent of addition**” means a patent granted in accordance with section 54;
 - (r) “**patent office**” means the patent office referred to in section 74;
 - (s) “**person**” includes the Government;
 - (t) “**person interested**” includes a person engaged in, or in promoting, research in the same field as that to which the invention relates;
 - ²[(ta) “**pharmaceutical substance**” means any new entity involving one or more inventive steps;
 - ³[(u) “prescribed” means, —
 - (A) in relation to proceedings before a High Court, prescribed by rules made by the High Court,
 - ⁴[(B) omitted]
 - (C) in other cases, prescribed by rules made under this Act;]
 - (v) “**prescribed manner**” includes the payment of the prescribed fee;
 - (w) “**priority date**” has the meaning assigned to it by section 11;
 - (x) “**register**” means the register of patents referred to in section 67;
 - (y) “**true and first inventor**” does not include either the first importer of an invention into India, or a person to whom an invention is first communicated from outside India.
- (2) In this Act, unless the context otherwise requires, any reference—
- (a) to the Controller shall be construed as including a reference to any officer discharging the functions of the Controller in pursuance of section 73;
 - (b) to the patent office shall be construed as including a reference to any branch office of the patent office.

1 Ins. by Act 38 of 2002, s. 3 (w.e.f. 20-5-2003).

2 Ins. by Act 15 of 2005, s. 2 (w.e.f. 1-1-2005).

3 Subs. by Act 38 of 2002, s. 3, for cl. (u) (w.e.f. 20-5-2003).

4 Sub-clause (B) omitted by Act 33 of 2021, s. 13 (w.e.f. 4-4-2021).

CHAPTER II
INVENTIONS NOT PATENTABLE

3. What are not inventions.

The following are not inventions within the meaning of this Act, —

- (a) an invention which is frivolous or which claims anything obviously contrary to well established natural laws;
- ¹[(b) an invention the primary or intended use or commercial exploitation of which would be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment;]
- (c) the mere discovery of a scientific principle or the formulation of an abstract theory or discovery of any living thing ²[or non-living substance occurring in nature];
- ³[(d) the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.
Explanation. — For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;]
- (e) a substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance;
- (f) the mere arrangement or re-arrangement or duplication of known devices each functioning independently of one another in a known way;
- ⁴[(g) omitted]
- (h) a method of agriculture or horticulture;
- (i) any process for the medicinal, surgical, curative, prophylactic diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products.
- ⁵[(j) plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals;]
- (k) a mathematical or business method or a computer programme per se or algorithms;
- (l) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions;

1 Subs. by Act 38 of 2002, s. 4, for cl. (b) (w.e.f. 20-5-2003).

2 Ins. by s. 4, *ibid.* (w.e.f. 20-5-2003).

3 Subs. by Act 15 of 2005, s. 3, for clause (d) (w.e.f. 1-1-2005).

4 Clause (g) omitted by Act 38 of 2002, s. 4 (w.e.f. 20-5-2003).

5 Ins. by s. 4, *ibid.* (w.e.f. 20-5-2003).

Sec. 4

Patents Act, 1970

- (m) a mere scheme or rule or method of performing mental act or method of playing game;
- (n) a presentation of information;
- (o) topography of integrated circuits;
- (p) an invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components.

4. Inventions relating to atomic energy not patentable.

No patent shall be granted in respect of an invention relating to atomic energy falling within sub-section (1) of section 20 of the Atomic Energy Act, 1962.

¹[5. Omitted]

Sample Preview

¹ Omitted by the Patents (Amendment) Act, 2005 (15 of 2005), s. 4 (w.e.f. 1-1-2005).

CHAPTER XI
APPELLATE BOARD

83. Establishment of Appellate Board.

The Central Government shall, by notification in the Official Gazette, establish an Appellate Board to be known as the Intellectual Property Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act¹[and under the Copyright Act, 1957.]

84. Composition of Appellate Board.

- (1) The Appellate Board shall consist of a Chairperson, Vice-Chairperson and such number of other Members, as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Appellate Board may be exercised by Benches thereof.
- (2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member and shall sit at such place as the Central Government may, by notification in the Official Gazette, specify.
- (3) Notwithstanding anything contained in sub-section (2), the Chairperson—
 - (a) may, in addition to discharging the functions of the Judicial Member or Technical Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;
 - (b) may transfer a Member from one Bench to another Bench;
 - (c) may authorise the Vice-Chairperson, the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Judicial Member or the Technical Member, as the case may be, of another Bench.
- (4) Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Board amongst the Benches and specify the matters which may be dealt with by each Bench.
- (5) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench, the decision of the Chairperson shall be final.
Explanation.—For the removal of doubts, it is hereby declared that the expression “matter” includes an appeal under section 91.
- (6) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

85. Qualifications for appointment as Chairperson, Vice-Chairperson, or other Members.

- (1) A person shall not be qualified for appointment as the 2[Chairperson] unless he —

¹ Ins. by Act 7 of 2017, s. 161 (w.e.f. 26-5-2017).

- (a) is, or has been, a Judge of a High Court; or
 - (b) has, for at least two years, held the office of a Vice-Chairperson.
- (2) A person shall not be qualified for appointment as the Vice-Chairperson, unless he —
- (a) has, for at least two years, held the office of a Judicial Member or a Technical Member; or
 - (b) has been a Member of the Indian Legal Service and has held a post in Grade I of that Service or any higher post for at least five years.
- (3) A person shall not be qualified for appointment as a Judicial Member, unless he —
- (a) has been a member of the Indian Legal Service and has held the post in Grade I of that Service for at least three years; or
 - (b) has, for at least ten years, held a civil judicial office.
- (4) A person shall not be qualified for appointment as a Technical Member, unless he —
- (a) has, for at least ten years, exercised functions of a tribunal under this Act or under the Trade and Merchandise Marks Act, 1958, or both, and has held a post not lower than the post of a Joint Registrar for at least five years; or
 - (b) has, for at least ten years, been an advocate of a proven specialised experience in trade mark law.
- (5) Subject to the provisions of sub-section (6), the Chairperson, Vice-Chairperson and every other Member shall be appointed by the President of India.
- (6) No appointment of a person as the Chairperson shall be made except after consultation with the Chief Justice of India.

86. Term of office of Chairperson, Vice-Chairperson and other Members.

The Chairperson, Vice-Chairperson or other Members shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains, —

- (a) in the case of Chairperson and Vice-Chairperson, the age of sixty-five years; and
- (b) in the case of a Member, the age of sixty-two years, whichever is earlier.

87. Vice-Chairperson or senior-most Member to act as Chairperson or discharge his functions in certain circumstances.

- (1) In the event of or any vacancy in the office of the Chairperson by reasons of his death, resignation or otherwise, the Vice-Chairperson and in his absence the senior-most Member shall act as Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.
- (2) When the Chairperson is unable to discharge his functions owing to his absence, illness or any other cause, the Vice-Chairperson and in his absence the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duty.

- ¹[(oa) the manner of holding inquiry and imposing penalty under section 37A;
 - (ob) the form and manner of preferring appeal under sub-section (2) of section 37B;]
 - (p) the manner of making an application for review under clause (c) of section 60;
 - (q) the time within which an application is to be made to the Registrar for exercising his discretionary power under section 61;
 - (r) the manner of making an application and the fee payable therefore under sub-section (1) of section 64;
 - (s) the manner of authorising any person to act and the manner of registration of a geographical indications agent under section 76;
 - (t) the fee and surcharge payable for applications and registrations and other matters under sub-section (1) of section 80;
 - (u) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1 Ins. by Act 18 of 2023, s. 2 and Schedule (w.e.f. 1-8-2024).

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(Set of 5 Charts)
Constitution of India
Civil Procedure Code, 1908
Bharatiya Nyaya Sanhita, 2023
Bharatiya Sakshya Adhiniyam, 2023
Bharatiya Nagarik Suraksha Sanhita, 2023



New Criminal Major Laws
(Set of 2 Charts)
Bharatiya Nyaya Sanhita, 2023
Bharatiya Sakshya Adhiniyam, 2023
Bharatiya Nagarik Suraksha Sanhita, 2023

Linking Bare Act

- + Criminal Major Laws 2023 (BNS, BNSS, BSA)
- + Constitution of India
- + Criminal Minor Laws
- + Civil Minor Laws
- + CPC, 1908
- + Local Laws
- + Family Laws
- + IT Act, 2000
- + A&C Act, 1996
- + Environmental Laws
- + Advocate Act, 1961
- + Land Acquisition, 2013
- + AIBE Additional Bare Acts
- + Consumer Protection Act, 2019
- + Transfer of Property Act, 1882
- + Specific Relief Act, 1963
- + NDPS Act, 1985
- + PCPNDT Act, 1994
- + Food Safety & Standards Act, 2006
- + Motor Vehicles Act, 1988
- + Indian Contract Act, 1872
- + Labour & Industrial Law
- + NI Act, 1881
- + and many more

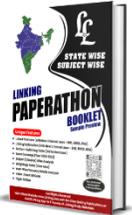
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