

Licence contracts involving payments abroad.

97. (1) Where the Director-General has reasonable cause to believe that any licence contract or any amendment or renewal thereof—

- (a) which involves the payment of royalties abroad ; or
- (b) which by reason of other circumstances relating to such licence contract,

is detrimental to the economic development of Sri Lanka, he shall in writing communicate such fact to the Governor of the Central Bank and transmit all papers in his custody relevant to a decision on such matter to the Governor of the Central Bank.

(2) Where on receipt of any communication under subsection (1) the Governor of the Central Bank informs the Director-General in writing that the said licence contract or any amendment or renewal thereof is detrimental to the economic development of Sri Lanka, the Director-General shall cancel and invalidate the record of such contract in the register.

(3) The provisions of this section shall apply, *mutatis mutandis*, to assignments and transmissions.

(4) The provisions of this Chapter shall apply, *mutatis mutandis*, to sub-licence.

(5) The provisions of this Chapter shall have no application to a licence referred to in subsection (2) of section 86.

CHAPTER XVIII

SURRENDER AND NULLITY OF PATENT

Surrender of patent.

98. (1) The registered owner of a patent may surrender the patent by a declaration in writing signed by him or by any person authorized by him on his behalf and shall submit it to the Director-General.

(2) The surrender may be limited to one or more claims of the patent.

(3) The Director-General shall, on receipt of the said declaration record it in the register or cause it to be registered and shall cause such record to be published in the Gazette.

(4) The surrender shall take effect from the date of receipt of such declaration by the Director-General.

(5) Where a licence contract in respect of a patent is recorded in the register, the Director-General shall not, in the absence of provision to the contrary in such licence contract, accept or record the said surrender except upon receipt of a signed declaration by which every licensee or sub-licensee on record consents to the said surrender, unless the requirement of his consent is expressly waived in the licence contract.

99. (1) The Court may on the application of any person showing a legitimate interest, or of any Competent Authority including the Director-General, to which the owner of the patent and every assignee, licensee or sub-licensee on record shall be made party, declare the patent null and void on any one or more of the following grounds :—

Nullity of patent.

- (a) that what is claimed as an invention in the patent is not an invention within the meaning of subsection (1) of section 62, or is excluded from protection under subsection (3) of section 62, or subsection (1) of section 79, or is not patentable due to the failure to satisfy the requirements of sections 63, 64, 65 and 66 ; or
- (b) that the description or the claims, fails to satisfy the requirements of subsections (3) and (4) of section 71 ; or
- (c) that any drawings required for the understanding of the claimed invention have not been furnished ; or

- (d) that the right to the patent belongs to a person other than the person to whom the patent was granted :

Provided that the patent has not been assigned to the person to whom the right to the patent belongs.

(2) (a) Where the provisions of subsection (1) apply only to some of the claims or some parts of a claim, such claims or parts of a claim may be declared null and void by the court.

(b) The nullity of part of a claim shall be declared in the form of a corresponding limitation of the claim in question.

(3) (a) An assignee, licensee or sub-licensee, as the case may be, who has been made party to the application under subsection (1), shall be entitled to join in the proceedings in the absence of any provision to the contrary in any contract or agreement with the owner of the patent.

(b) Where the application to Court is on the ground referred to in paragraph (d) of subsection (1), the applicant shall give notice of the application to the person to whom the right to the patent is alleged to belong.

Date and effect of nullity.

100. (1) Upon a final decision of the Court declaring total or partial nullity of a patent, the patent shall be deemed to have been null and void, totally or partially, as the case may be, as from the date of the grant of such patent.

(2) When a declaration of nullity becomes final the Registrar of the Court shall notify the Director-General who shall record the said declaration in the register and cause it to be published in the Gazette.