



PUBLISHED BY AUTHORITY

No. 2

CUTTACK, FRIDAY, MARCH 16, 1945

SEPARATE PAGING IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

PART VI

Bills introduced into the Council of the Governor General of India and
Bills published before introduction in that Council

GOVERNMENT OF INDIA
LEGISLATIVE ASSEMBLY DEPARTMENT
New Delhi, 24th January 1945

L. A. BILL No. 1 OF 1945

A Bill further to amend the Indian Tea Control Act, 1938

WHEREAS it is expedient further to amend the Indian Tea Control Act, 1938 (VIII of 1938), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title**—This Act may be called the Indian Tea Control (Amendment) Act, 1945.

2. **Amendment of Schedule, Act VIII of 1938**—In the Schedule to the Indian Tea Control Act, 1938, in paragraph 1—

(a) for the proviso to clause (a), the following proviso shall be substituted, namely:—

“Provided that any allowance made in respect of young areas which has already been included in determining the cardinal crop basis of the estate shall be deducted.”;

(b) for the proviso to clause (b) the following proviso shall be substituted, namely:—

“Provided that any allowance made in respect of low producing areas which has already been included in determining the cardinal crop basis of the estate shall be deducted.”

STATEMENT OF OBJECTS AND REASONS

The provisos to clauses (a) and (b) of paragraph 1 of the Schedule to the Indian Tea Control Act, 1938, as they are worded at present provide that any ‘young area’ or ‘low producing area’ in respect of which an allowance has been included in the cardinal crop basis (i.e., the highest crop basis assigned in any one of the years 1940-41 to 1942-43), of the estate shall be excluded in computing allowances to be added to it. These provisions are defective inasmuch as they exclude ‘young area’ or ‘low producing area’ in respect of which allowances have been made in determining the cardinal crop basis from receiving any further benefit even if ordinarily admissible and render ineffective the benefits contemplated by rule 4(b) of the Indian Tea Control Rules, 1930, the proviso to which has been amended recently to have the effect of increasing the allowances of some young areas planted between 1st April 1938 and 31st March 1941. It is, therefore, proposed to amend suitably the provisos to clauses (a) and (b) of paragraph 1 of the Schedule to the Indian Tea Control Act, 1938.

NEW DELHI

The 18th January 1945

M. AZIZ-UL-HUQUE

MD. RAFI

Secy. to the Govt. of India

New Delhi, 26th January, 1945

L. A. BILL No. 2 OF 1945

A Bill further to amend the Indian Companies Act, 1913

Whereas it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title**—This Act may be called the Indian Companies (Amendment) Act, 1945.

2. **Amendment of section 282-B, Act VII of 1913**—To section 282-B of the Indian Companies Act, 1913, the following sub-section shall be added, namely:—

“(c) Nothing in sub-section (2) shall affect any rights of an employee under the rules of a provident fund to withdraw money standing to his credit in the fund.”

STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 282-B of the Indian Companies Act, 1913, provides that where a provident fund has been constituted by a company for its employees, all moneys contributed to such fund shall be either deposited in a Post Office Savings Bank account or invested in trust securities. The sub-section was not designed to preclude the withdrawal by an employee, in accordance with the rules of the fund, of money standing to his credit therein; but certain Registrars of Joint Stock Companies have held that the sub-section has the effect of prohibiting such withdrawals. This view is not only contrary to the intention but is destructive of the normal operation of all provident funds maintained by companies. It is proposed to amend the section so as to displace this view.

NEW DELHI

The 22nd January 1945

M. AZIZ-UL HUQUE

MD. RAFI

Secy. to the Govt. of India

New Delhi, 1st February 1945

L. A. BILL No. 3 OF 1945

A Bill further to amend the Indian Patents and Designs Act, 1911

WHEREAS it is expedient further to amend the Indian Patents and Designs Act, 1911 (II of 1911), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title**—This Act may be called the Indian Patents and Designs (Amendment) Act, 1945.

2. **Amendment of section 3, Act II of 1911**—In section 3 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act), in sub-section (3), for the words “a specification”, the words “either a provisional or complete specification” shall be substituted.

3. **Substitution of new section 4 for section 4, Act II of 1911**—For section 4 of the said Act, the following section shall be substituted, namely,—

“4. *Specifications*—(1) A provisional specification must describe the nature of the invention.

(2) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(3) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement, of the invention claimed.

(4) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied at any time before the acceptance of the application, and such drawings shall be deemed to form part of the complete specification.

(5) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

(6) The Controller may, where the application was accompanied by a specification purporting to be a complete specification, if the applicant so requests, treat the specification as a provisional specification and proceed with the application accordingly.”

4. Insertion of new sections 4-A and 4-B, Act II of 1911— After section 4 of the said Act, the following sections shall be inserted, namely,—

4-A. Time for leaving complete specification—(1) If the applicant does not leave a complete specification with his application he may leave it at any subsequent time within nine months from the date of the application:

Provided that the said nine months shall be extended to such period, not exceeding ten months from the date of the application, as may be specified in a request made by the applicant to the Controller, if the request is made and the prescribed fee is paid within the period so specified.

(2) If the complete specification is not left within the period allowable under sub-section (1) the application shall be deemed to be abandoned at the expiration of ten months from the date thereof.

4-B. Provisional protection—(1) An invention may, during the period between the date of an application for a patent therefor and the date of sealing a patent on that application, be used and published without prejudice to that patent, and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

(2) In this section, the expression "date of an application for a patent" means, as respects an application which is post-dated or ante-dated under this Act, the date to which the application is so post-dated or ante-dated, and means, as respects any other application, the date on which it is actually made."

5. Amendment of section 5, Act II of 1911—In section 5 of the said Act—

(a) in sub-section (1),
(i) for the words "The Controller shall refer every application to an Examiner", the words "The Controller shall refer to an Examiner every application in respect of which a complete specification has been filed" shall be substituted;

(ii) for clause (a) the following clause shall be substituted, namely,—

"(a) the nature of the invention or the manner in which it is to be performed is not particularly described and ascertained in the complete specification, or";

(iii) after clause (d) the following clause shall be inserted, namely,—

"(dd) where a complete specification has been left after a provisional specification, the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification, or";

(iv) after the existing proviso the following proviso shall be inserted, namely,—

"Provided further that where a complete specification is left after a provisional specification, the Controller may, if the applicant so requests, cancel the provisional specification and direct that the application shall be deemed to have been made on the date on which the complete specification was left, and proceed with the application accordingly";

(b) in sub-section (4) and the proviso thereto, for the words "twelve months" wherever they occur, the words "eighteen months" shall be substituted.

6. Amendment of section 6, Act II of 1911—In section 6 of the said Act, for the word "specification" the word "specifications" shall be substituted.

7. Substitution of new section for section 7, Act II of 1911—For section 7 of the said Act the following section shall be substituted, namely,—

7. Effect of acceptance of application—After the acceptance of an application and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the application:

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been sealed."

8. Amendment of section 9, Act II of 1911—In sub-section (1) of section 9 of the said Act,—

(a) in clause (c) for the word "specification" the word "specifications" shall be substituted;

(b) to clause (d) the "or" shall be added and after that clause the following clause shall be added, namely,—

"(e) that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention either forms the subject of an application made by the opponent for a patent which if granted would bear a date in the interval between the date of the application and the leaving of the complete specification, or has been made

available to the public by publication in any document published in British India in that interval."

9. Amendment of section 10, Act II of 1911—In sub-section 21 of section 10 of the said Act,—

(a) for the words "eighteen months" wherever they occur in the section including the proviso the words "twenty-four months" shall be substituted;

(b) to clause (c) of the proviso the words "or at such later time as the Controller may think fit" shall be added.

10. Insertion of new section 13-A, Act II of 1911—After section 13 of the said Act, the following section shall be inserted, namely,—

13-A.—Single patent for cognate invention—(1) Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the Controller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may allow one complete specification in respect of the whole of such applications and grant a single patent thereon.

(2) Such patent shall bear the date of the earliest of such applications, but in considering the validity of the same and in determining other questions under this Act, the Court or the Controller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed in the complete specification."

11. Amendment of section 26, Act II of 1941—In sub-section (1) section 26 of the said Act,—

(a) in clause (g) and clause (h) for the word "specification" the words "complete specification" shall be substituted;

(b) in clause (i) for the word "specification" where it occurs for the first time the words "complete specification" shall be substituted;

(c) after clause (m) the following clause shall be inserted, namely,—

"(n) that the invention claimed in the complete specification is not the same as that contained in the provisional specification, and that the invention claimed, so far as it is not contained in the provisional specification, was not new at the date when the complete specification was filed."

(d) in the proviso to the sub-section in clause (ii) for the words, brackets and figures "sub-section (2) of section 21" the words, brackets and figures and letter "sub-section (12) of section 21A" shall be substituted.

12. Insertion of new section 38-A, Act II of 1911—After section 38 of the said Act, the following section shall be inserted, namely,—

38-A. Disconformity—A patent shall not be held to be invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant for the patent was the true and first inventor thereof, or the legal representative or assign of such inventor."

13. Amendment of section 61, Act II of 1911—In sub-section (1) of section 61 of the said Act, for the words "become void" the words "deemed to have been refused" shall be substituted.

14. Amendment of section 78-A, Act II of 1911—In sub-section (3) of section 78-A of the said Act, for the existing proviso the following proviso shall be substituted, namely,—

"Provided that, in the case of a patent,—

(a) the application shall be accompanied by a complete specification; and

(b) if the application is not accepted within eighteen months from the date of the application for protection in the United Kingdom, the specification shall, with the drawings (if any) supplied therewith, be open to public inspection at the expiration of that period."

15. Amendment of Schedule to Act II of 1911—In the Schedule to the said Act,—

(a) for the entry	
"On application for a patent	10"
the following entries shall be substituted, namely,—	
"On application for a patent accompanied by provisional specification.	10
On filing complete specification after provisional specification.	20
On application for a patent accompanied by complete specification.	30"
(b) for the entry,—	
"Before sealing a patent	30"
the following entry shall be substituted, namely,—	
"For sealing a patent	30"

STATEMENT OF OBJECTS AND REASONS

The existing provisions of the Indian Patents and Designs Act, 1911 do not permit an inventor to apply for a patent before he has worked out the practical details of his invention, and thereby expose him to the risks arising from the disclosure of his invention to others at its unprotected stage. The relevant provisions under the U.K. Act, on the other hand, enable the inventor to apply for a patent as soon as the inventive idea occurs to him, and allow him a period of 13 months from the date of his application for developing its practical side, this period being part of the period during which the invention is 'provisionally protected.' It has been found necessary, therefore, to amend the Indian Act on the lines of the U.K. Patents and Designs Act, 1907 so as to confer on the applicant an option to file with his application a 'provisional' specification merely describing 'the nature of the invention' and later, within a specific period, to follow it up with the 'complete' specification describing both 'the nature of the invention' and 'the manner of performing the same'.

NEW DELHI

M. AZIZ-UL-HUQUE.

*The 25th January 1945**New Delhi, 1st February 1945*

L. A. BILL No. 4 OF 1945

A Bill to amend the Indian Merchandise Marks (Amendment) Act, 1941

WHEREAS it is expedient to amend the Indian Merchandise Marks (Amendment) Act, 1941, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Indian Merchandise Marks (Amendment) Supplementary Act, 1945.

2. Amendment of section 7, Act II of 1941.—In section 7 of the Indian Merchandise Marks (Amendment) Act, 1941

(hereinafter referred to as the said Act), in the new section substituted by the said section for section 12 of the Indian Merchandise Marks Act, 1889 (IV of 1889),—

(a) in sub-section (2),

(i) for the words "cotton sewing or darning thread" the words "cotton sewing, darning, crochet or handicraft thread" shall be substituted;

(ii) for the words and figures "in premises which are a factory, as defined in the Factories Act, 1934," the words and figures "in any premises not exempted by rules made under section 20 of this Act" shall be substituted;

(iii) for the words and figures "any rules made under section 20 of this Act" the words "the said rules" shall be substituted;

(iv) for the words "the grist number" the words "in such other manner as may be required by the said rules" shall be substituted;

(v) for the words "from the factory" the words "from the premises" shall be substituted;

(b) in sub-section (3), for the words "or any cotton sewing or darning thread" the words "or any such thread" shall be substituted.

3. Substitution of new section for section 9, Act II of 1941.—For section 9 of the said Act, the following section shall be substituted, namely :—

"9. *Amendment of section 20, Act IV of 1889.*—In section 20 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely :—

'(1A) The Central Government may make rules providing for the manner in which for the purpose of section 12 cotton yarn and cotton thread shall be marked with the particulars required by that section, and for the exemption of certain premises used for the manufacture, bleaching, dyeing or finishing of cotton yarn or cotton thread from the provisions of that section.'

STATEMENT OF OBJECTS AND REASONS

Section 12 (2) of the Indian Merchandise Marks Act, 1889, as amended by the Indian Merchandise Marks (Amendment) Act, 1941, requires cotton sewing and darning thread manufactured or finished in premises which are a factory under the Factories Act, 1934, to be marked with the weight of the thread in the unit, the grist number and certain other particulars. When the rules for marking of cotton sewing and darning thread, etc., under section 20, read with section 12, of the Indian Merchandise Marks Act were published for criticism, the opinions received favoured the marking of cotton crochet and handicraft thread with the same particulars as are required in the case of cotton sewing and darning thread and also recommended that the section should be made to apply to thread manufactured in certain premises other than a factory as defined in the Factories Act, 1934. The criticisms further revealed that the term 'grist number' used in the section in respect of marking of thread was not commonly employed by manufacturers or traders in India. Provincial Governments and commercial bodies were thereupon consulted. Having

regard to the opinions expressed by them it is proposed that cotton crochet and handicraft thread should be included within the scope of section 12 of the Indian Merchandise Marks Act. Further, as it will handicap smaller establishments, should they be required to mark their thread with the various particulars and will hamper the growth of cottage industries, it is proposed to amend the Act so as to provide generally for the marking of cotton thread with the required particulars but to take powers to exclude cotton thread manufactured in premises deserving to be exempted. It is also proposed to amend the Act to delete the expression 'grist number' and instead require cotton thread to be marked with such descriptions as may be specified in the rules to denote its basic count or thickness.

NEW DELHI

The 26th January 1945

M. AZIZ-UL-HUQUE

MD. RAFI

Secy. to the Govt. of India