

Public Servants Inventions Act (R.S., 1985, c. P-32)

Act current to February 9th, 2011

Attention: See coming into force provision and notes, where applicable.

Public Servants Inventions Act

P-32

An Act respecting inventions by public servants

SHORT TITLE

Short title

1. This Act may be cited as the *Public Servants Inventions Act*.

R.S., c. P-31, s. 1.

INTERPRETATION

Definitions

2. In this Act,

"appropriate minister"

« *ministre compétent* »

"appropriate minister", in relation to a public servant, means the minister who under the *Financial Administration Act* is the appropriate minister with respect to the department in which the public servant is employed;

"department"

« *ministère* »

"department" means a department as defined in the *Financial Administration Act*, and includes an agent corporation, as defined in section 83 of that Act, that is named in Part I of Schedule III to that Act;

"invention"

« *invention* »

"invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter;

"public servant"

« *fonctionnaire* »

"public servant" means any person employed in a department, and includes a member of the Canadian Forces or the Royal Canadian Mounted Police.

R.S., c. P-31, s. 2; 1984, c. 31, s. 14.

INVENTIONS VESTED IN HER MAJESTY

Inventions vested in Her Majesty

3. The following inventions, and all rights with respect thereto in Canada or elsewhere, are vested in Her Majesty in right of Canada, namely,
(a) an invention made by a public servant while acting within the scope of his duties or employment, or made by a public servant with facilities, equipment or financial aid provided by or on behalf of Her Majesty; and
(b) an invention made by a public servant that resulted from or is connected with his duties or employment.

R.S., c. P-31, s. 3.

Duties of inventor

4. (1) Every public servant who makes an invention
(a) shall inform the appropriate minister of the invention and shall provide the minister with such information and documents with respect thereto as the minister requires;
(b) shall not file outside Canada an application for a patent in respect of the invention without the written consent of the appropriate minister; and
(c) shall, in any application in Canada for a patent in respect of the invention, disclose in his application that he is a public servant.

Duties of Commissioner of Patents

(2) If it appears to the Commissioner of Patents that an application for a patent relates to an invention made by a public servant, the Commissioner shall inform the appropriate minister of the application and give to the minister such information with respect thereto as the minister requires.

R.S., c. P-31, s. 4.

Determination of questions

5. (1) Whenever any question arises as to whether an invention is vested in Her Majesty by this Act, the appropriate minister shall determine the question within three months after the question is referred to the minister.

Notice

(2) The appropriate minister, on determining a question under subsection (1) in respect of an invention, shall forthwith in writing notify the inventor of the determination.

Appeal to Federal Court

(3) If the appropriate minister determines under subsection (1) that an invention is vested in Her Majesty by this Act, the inventor or any other person claiming an interest in the invention may appeal to the Federal Court within thirty days after the date the inventor or other person is notified of the determination or within such longer period as the appropriate minister may allow.

Determination by Federal Court

(4) If no determination is made by the appropriate minister within the time specified in subsection (1), the inventor or any other person claiming an interest in the invention may apply to the Federal Court, within thirty days after the expiration of the time specified, to have the question determined.

R.S., c. P-31, s. 5; R.S., c. 10(2nd Supp.), s. 64.

Application for patent

6. (1) Notwithstanding anything in the *Patent Act*, the appropriate minister may file an application, naming the inventor, for a patent for an invention vested in Her Majesty by this Act.

Patent issued in the name of Her Majesty or as otherwise directed

(2) Any patent issued on an application under subsection (1) shall be issued in the name of Her Majesty or as otherwise directed by the appropriate minister.

R.S., c. P-31, s. 6.

Inventor to execute documents

7. A public servant who has made an invention vested in Her Majesty by this Act shall execute all documents required by the appropriate minister in connection with the filing of an application for a patent for the invention in Canada or elsewhere.

R.S., c. P-31, s. 7.

Waiver of rights

8. (1) The appropriate minister may on behalf of Her Majesty waive, abandon or transfer all or any of the rights in respect of any invention vested in Her Majesty by this Act or in respect of any invention made or to be made by any public servant, and may execute any instrument to give effect thereto.

Restrictions

(2) No interest in an invention coming within section 20 or 21 of the *Patent Act* shall be waived, abandoned or transferred under this section without the approval of the Minister of National Defence, and no interest in an invention coming within section 22 of that Act shall be waived, abandoned or transferred under this section without the approval of the Canadian Nuclear Safety Commission.

R.S., 1985, c. P-32, s. 8; 1997, c. 9, s. 116.

Administration and control of inventions

9. (1) The administration and control of any invention vested in Her Majesty by this Act and any patent issued with respect to the invention are vested in the appropriate minister, and the appropriate minister may transfer such administration and control to any other minister or to any corporate agency of Her Majesty.

Development and exploitation

(2) The appropriate minister or other minister or agency referred to in subsection (1) may develop and exploit any invention under the administration and control of such minister or agency, as the case may be, and may on behalf of Her Majesty enter into any agreement with any person for such purpose.

Authority of Crown agencies

(3) Notwithstanding anything in its charter or Act of incorporation, an agency to which the administration and control of any invention or patent is transferred under this section has the capacity and power to receive, hold, administer, control, develop and exploit the invention or patent and generally to carry out the provisions of this Act with respect thereto.

Administration of moneys

(4) Where pursuant to this section the administration and control of any invention or patent has been transferred to a corporate agency of Her Majesty, any money received by the corporate agency in the course of the administration and control of the invention or patent may be retained by that corporate agency, and shall be used for the purposes of this Act and the objects and purposes for which the agency was established.

R.S., c. P-31, s. 9.

AWARDS

Awards

10. Subject to the regulations, the appropriate minister may authorize the payment of an award to a public servant who makes an invention that is vested in Her Majesty by this Act, in such amount as the appropriate minister and the public servant may agree on or as the appropriate minister determines.

R.S., c. P-31, s. 10.

OFFENCE AND PUNISHMENT

Offence and punishment

11. Every person who contravenes subsection 4(1) or section 7 is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both.

R.S., c. P-31, s. 11.

REGULATIONS

Regulations

12. The Governor in Council may make regulations for carrying out the purposes and provisions of this Act and, without restricting the generality of the foregoing, may make regulations

(a) prescribing rules of practice and procedure respecting

- (i) applications for patents pursuant to this Act,
 - (ii) the determination of questions as to whether an invention is vested in Her Majesty by this Act, and
 - (iii) any appeal or application under this Act to the Federal Court;
- (b) prescribing the information to be furnished in any application for a patent in respect of an invention made by a public servant; and
- (c) prescribing the amount of and the method of calculating and determining the awards to be paid under this Act and the manner and time of payment.

R.S., c. P-31, s. 12; R.S., c. 10(2nd Supp.), s. 64.

GENERAL

Where two ministers concerned

13. (1) Where there are two or more appropriate ministers with respect to any invention, any one of such appropriate ministers may in relation to that invention act as the appropriate minister under this Act.

Joint inventions

(2) Where an invention is made jointly by a public servant and another person who is not a public servant, this Act applies to the interest of the public servant in the invention.

R.S., c. P-31, s. 13.