

**Regulations Respecting Public Servants Inventions Made Pursuant to the Public Servants Inventions Act (C.R.C., c. 1332)**

Enabling Statute: Public Servants Inventions Act

Regulation current to February 3rd, 2011

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

**Public Servants Inventions Regulations**

C.R.C., c. 1332

**PUBLIC SERVANTS INVENTIONS ACT**

**Public Servants Inventions Regulations**

REGULATIONS RESPECTING PUBLIC SERVANTS INVENTIONS MADE PURSUANT TO  
THE PUBLIC SERVANTS INVENTIONS ACT

**SHORT TITLE**

1. These Regulations may be cited as the *Public Servants Inventions Regulations*.

**REPORT OF INVENTION TO MINISTER**

2. Every public servant who invents an invention shall furnish to the appropriate Minister, in addition to any information required by the appropriate Minister under paragraph 4(1)(a) of the *Public Servants Inventions Act*, hereinafter referred to as the Act, a statement, in Form 1 of the schedule,

(a) giving information in respect of the matters set out in that form; and  
(b) setting out such information as may be useful in determining whether the invention is vested in Her Majesty by the Act.

SOR/78-822, s. 1.

3. A question as to whether an invention is vested in Her Majesty by the Act is, for the purposes of subsection 5(1) of the Act, deemed to have arisen and to have been referred to the appropriate Minister on the date that the public servant who invented the invention furnishes to that Minister, or an officer designated by him, a statement in Form 1 of the schedule completed as required by section 2.

**DETERMINATION BY MINISTER**

4. (1) A determination by the appropriate Minister under section 5 of the Act in respect of an invention is, for the purposes of that section, deemed to be made on the day on which a certificate in Form 2 of the schedule is

(a) delivered personally to the inventor; or  
(b) received by the inventor by registered mail.

(2) A certificate described in subsection (1) that is sent by registered mail to an inventor at his latest known address is deemed to have been received by him,

(a) if the latest known address of the inventor is in Canada, three days after the day on which the certificate was so sent to him; and

(b) if the latest known address of the inventor is not in Canada, seven days after the day on which the certificate was so sent to him.

5. (1) Where an application for a patent for an invention has been filed with the Patent Office and any question arises as to whether or not the invention is vested in Her Majesty by the Act, the appropriate Minister shall, on being informed by the Patent Office of the filing of the application, file with the Patent Office a certificate in Form 2 of the schedule of any determination made by him under section 5 of the Act in respect of the invention.

- (2) A certificate in Form 2 of the schedule that is filed with the Patent Office forms part of the application for a patent for the invention to which the certificate relates.
6. A certificate in Form 2 of the schedule purporting to be signed by the appropriate Minister or person authorized by him is admissible in evidence without any proof that the person so signing is the appropriate Minister or person or of the signature of the Minister or person.

#### **APPEALS AND APPLICATIONS TO FEDERAL COURT**

7. (1) Subject to subsection (2),
- (a) an appeal under subsection 5(2) of the Act or an application under subsection 5(3) of the Act shall be instituted in the manner provided by section 48 of the *Federal Court Act* for instituting a proceeding against the Crown; and
- (b) section 48 of the *Federal Court Act* and the *Federal Court Rules* are applicable to such an appeal or application as though it were a proceeding instituted under section 48 of the *Federal Court Act*.
- (2) In a proceeding instituted under this section, the words "NOTICE OF APPEAL" or "APPLICATION", as the case may be, shall be substituted for the words "STATEMENT OF CLAIM" or "DECLARATION" where they appear in Schedule A of the *Federal Court Act*.
8. Where a public servant files an application for a patent and
- (a) the appropriate Minister or the Federal Court of Canada has determined that the invention is vested in Her Majesty, or
- (b) it is stated in the application that the invention is vested in Her Majesty, the patent issued pursuant to the application shall be issued in the name of Her Majesty unless the appropriate Minister, pursuant to section 8 of the Act, waives, abandons or transfers the Canadian or all rights in respect of the invention vested in Her Majesty.

#### **WAIVER, ABANDONMENT OR TRANSFER OF RIGHTS**

9. (1) Where an application for a patent has been filed in Canada for an invention vested in Her Majesty by the Act and the appropriate Minister, pursuant to section 8 of the Act, waives, abandons or transfers any of the Canadian ownership rights in respect of the invention, the appropriate Minister shall execute an instrument accordingly and register a copy thereof with the Patent Office.
- (2) An instrument referred to in subsection (1) shall, where applicable, be in Form 3 of the schedule.
10. Every instrument executed pursuant to section 8 of the Act that affects the rights of an inventor shall be delivered personally to the inventor or sent to him by registered mail at his latest known address.

#### **FORMS**

11. An application for a patent for an invention made by a public servant alone or in conjunction with any other person shall be in Form 4, 5, 6 or 7 of the schedule wherever and to the extent that such form is applicable.

#### **NOTIFICATION OF SIGNING AUTHORITY**

12. The appropriate Minister shall keep the Patent Office informed at all times of the name and position of every person who, for the purposes of these Regulations, may sign documents on his behalf.
13. [Revoked, SOR/93-296, s. 1]

#### **PUBLIC SERVANTS INVENTIONS COMMITTEE**

14. (1) There shall be a committee called the Public Servants Inventions Committee consisting of a representative from each of the following:
- (a) Department of Consumer and Corporate Affairs;

- (b) Department of Energy, Mines and Resources;
  - (c) Department of Justice;
  - (d) National Research Council of Canada;
  - (e) Canadian Patents and Development Limited;
  - (f) Atomic Energy Control Board;
  - (g) Atomic Energy of Canada Limited;
  - (h) Treasury Board;
  - (i) Department of National Defence;
  - (j) Department of Communications;
  - (k) Department of the Environment;
  - (l) Department of Supply and Services; and
  - (m) Department of Industry, Trade and Commerce.
- (2) The Public Servants Inventions Committee shall
- (a) act in an advisory capacity in respect of the administration of the Act and these Regulations;
  - (b) on request, assist any Minister in determining an amount of an award; and
  - (c) on request, act in an advisory capacity to departments on matters pertaining to general patent policy.
- (3) The representative of the Department of Consumer and Corporate Affairs shall act as the chairman of the Public Servants Inventions Committee and the representative of the Treasury Board shall act as the secretary of the Committee.

#### SCHEDULE

*(ss. 2, 3, 4, 5, 6, 9 and 11)*

#### FORM 1

### **REPORT OF AN INVENTION PURSUANT TO SECTION 4 OF THE PUBLIC SERVANTS INVENTIONS ACT AND SECTION 2 OF THE PUBLIC SERVANTS INVENTIONS REGULATIONS**

#### Part 1

Information to be furnished by public servant inventor.

1. Name(s) of inventor(s) :
2. Address(es) : residence :  
business :
3. Nationality of inventor(s) :
4. Department or Government Agency in which you are employed :
5. Position(s) and type of work :
6. Your proposed name or title for the invention :
7. Brief description, and drawings where necessary, of your invention under the following headings: (may be in the form of an appendix) :
  - (a) What is the problem?
  - (b) How may it be accomplished according to present knowledge?
  - (c) Limitations or drawbacks of present apparatus, product or process.
  - (d) What is your proposal?
  - (e) What is thought to be novel in your proposal?
8. Has any publication or disclosure to others been made? If so to whom, when and where and by what mode?

9. Can you provide references in published literature or patents relating to the problem or subject? If yes, do so.
10. Describe the circumstances surrounding the making of the invention. Did the invention result from or was it connected with your duties or employment? Was it made with facilities, equipment or financial aid provided by or on behalf of the Crown?

Place Date .....

Signature

Note: Where spaces are inadequate, attach separate pages.

## Part 2

This part of the form may be varied at the discretion of each department. Information to be furnished by immediate supervisor or other appropriate departmental officer.

1. Did the invention arise from a general program of research or from work in relation to a particular piece of equipment, process or problem? If yes, give details.
2. Does a development contract exist in relation to the invention or is one projected?
3. Have other persons or organizations participated in the development? If yes, indicate assistance provided and by whom.
4. Has the apparatus, product or process been made or tested?
5. In your opinion what are the possible commercial applications of the invention and their extent?
6. What are the actual or potential uses of the inventions by the armed forces or other government agencies?
7. Comments, if any, on inventor's answers.
8. Other remarks.

Place Date .....

Signature and position

Note: Where spaces are inadequate, attach separate pages.

## FORM 2

### **CERTIFICATE OF DETERMINATION BY APPROPRIATE MINISTER PURSUANT TO SECTION 5 AND CONSENT PURSUANT TO SECTION 4 OF THE PUBLIC SERVANTS INVENTIONS ACT**

Omit words in brackets that are not applicable.

This is to certify that, pursuant to section 5 of the *Public Servants Inventions Act*, the Minister of \_\_\_\_\_ has determined that the following invention (here identify invention by inserting the Title of the Invention and Patent No. or Patent Application Serial No. if any) which was reported to the Minister by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ is (not) (jointly) vested in Her Majesty in right of Canada (and \_\_\_\_\_).

(Pursuant to paragraph 4(b) of the said Act, the Minister hereby consents to the filing of an application for a patent in respect of the invention in (all) (the following) countries: ).

Dated this .....  
day of 19.....

Minister of

FORM 3

**WAIVER, ABANDONMENT OR TRANSFER OF RIGHTS PURSUANT TO SECTION 8 AND CONSENT PURSUANT TO SECTION 4 OF THE PUBLIC SERVANTS INVENTIONS ACT**

Omit words in brackets that are not applicable

Pursuant to section 8 of the *Public Servants Inventions Act*, the Minister of (waives) (abandons) (transfers) to (all rights) (the following Canadian rights) (the following rights in the following countries) in the following invention (here identify the invention by inserting the Title of the Invention and Patent No. or Patent Application Serial No. if any) which was reported to the Minister on the day of 19 (Pursuant to paragraph 4(b) of the said Act, the Minister hereby consents to the filing of an application for a patent in respect of the invention in (all) (the following) countries ).  
Dated this day of 19

Minister of

FORM 4

**PETITION FOR A PATENT BY PUBLIC SERVANT INVENTOR(S) (MAY ALSO BE USED WHERE ANY INVENTOR IS NOT A PUBLIC SERVANT)**

Omit words in brackets that are not applicable.

The petition of .....  
name(s) of public servant inventor(s)  
whose full post office address(es) (is) (are)  
.....  
Sheweth:  
(1) That your petitioner(s) (and .....  
.....  
name(s) of inventor(s) who (is) (are) not (a) public servant(s)  
made the invention entitled .....  
which is described and claimed in the specification submitted herewith.  
(2) That the said invention was made while your petitioner(s) (was) (were)  
employed as (a) public servant(s) as defined in the *Public Servants*

*Inventions Act* in (the Department of) and, pursuant to section 5 of that Act, the said invention has been determined to be (not) (jointly) vested in Her Majesty in right of Canada as represented by the Minister of (and the person(s) named in paragraph (1)).

OR

(2) That the said invention was made while your petitioner(s) (was) (were) employed as (a) public servant(s) as defined in the *Public Servants Inventions Act* in (the Department of) (and) (but) in accordance with section 3 of that Act your petitioner(s) verily believe(s) that the said invention is (not) vested in Her Majesty in right of Canada as represented by the Minister of (and in the person(s) named in paragraph (1)).

(3) That your petitioner(s) verily believe(s) that Her Majesty in right of Canada as represented by the Minister of .....

(and .....

name(s) of inventor(s)

.....) (is) (are) entitled

who (is) (are) not (a) public servant(s)

to a patent for the said invention having regard to the provisions of the *Patent Act*.

OR

(3) That your petitioner(s) verily believe(s) that (he)

(they) (and .....

name(s) of inventor(s) who (is) (are)

.....) (is) (are) entitled to a

not (a) public servant(s)

patent for the said invention having regard to the provisions of the *Patent Act*.

Omit this paragraph if there is no request for priority.

(4) That your petitioner(s) request(s) that this application be treated as entitled to the rights accorded by section 29 of the *Patent Act* having regard to the application(s) of which particulars are set out below, and represent(s) that the said application(s) (is) (are) the first application(s) for patent for the said invention filed by the inventor(s) or any one claiming under (him) (any of them) in any country that, by treaty, convention or law, affords similar rights to citizens of Canada. (Give particulars here ONLY of the application or applications upon which the claim for priority is based.)

Omit this paragraph if all petitioners reside in Canada.

(5) That your petitioner(s) hereby nominate(s) ..... who resides

name in full

or carries on business in Canada at the following address

.....

post office address

to be (his) (their) representative for all purposes of the *Patent Act*, including the service of any proceedings taken thereunder.

(6) That your petitioner(s) hereby appoint(s)

..... whose

name of patent agent

full post office address is to be (his) (their) agent, with full power of revocation and substitution, to sign the petition and drawings, to amend the specification and drawings, to prosecute the application, and to receive the patent granted on the said application, and (ratify) (ratifies) any act

done by the said appointee in respect of the said application.

(7) That your petitioner(s) therefore pray(s) that a patent for the said invention may be granted (jointly) to the person(s) entitled thereto as set out in paragraph (3).

Signed at .....

City or town Country

this day of 19 .....

Public Servant Inventor(s)

## FORM 5

### PETITION FOR A PATENT BY INVENTOR(S) WHO (IS) (ARE) NOT (A) PUBLIC SERVANT(S) WHERE AT LEAST ONE INVENTOR IS A PUBLIC SERVANT

Omit words in brackets that are not applicable.

The petition of .....

name(s) of petitioner(s)

whose full post office address(es) (is) (are)

.....

Sheweth:

(1) That your petitioner(s) and .....

name(s) of public

..... made the invention entitled servant inventor(s)

..... which is described and claimed in the specification submitted herewith.

(2) That the said invention was made while the inventor(s) named in paragraph (1) (was) (were) employed as (a) public servant(s) as defined in the *Public Servants Inventions Act* in (the Department of)

.....

(3) That your petitioner(s) verily believe(s) that (he) (they) and (either) (the above named public servant inventor(s)) (or) (Her Majesty in right of Canada as represented by the Minister of ) (as determined pursuant to the *Public Servants Inventions Act*) are entitled to a patent for the invention having regard to the provisions of the *Patent Act*.

Omit this paragraph if there is no request for priority.

(4) That your petitioner(s) request(s) that this application be treated as entitled to the rights accorded by section 29 of the *Patent Act* having regard to the application(s) of which particulars are set out below, and represent(s) that the said application(s) (is) (are) the first application(s) for patent for the said invention filed by the inventor(s) or any one claiming under (him) (any of them) in any country that, by treaty, convention or law, affords similar rights to citizens of Canada. (Give particulars here ONLY of the application or applications upon which the claim for priority is based.)

Omit this paragraph if all petitioners reside in ..... Canada.

(5) That your petitioner(s) hereby nominate(s)

..... who resides

Canada.

name in full  
or carries on business in Canada at the following address  
..... to be (his) (their)  
representative for all purposes of the *Patent Act*, including the service  
of any proceedings taken thereunder.

(6) That your petitioner(s) hereby appoint(s)  
..... whose full post  
name of patent agent  
office address is .....  
to be (his) (their) agent, with full power of revocation and substitution,  
to sign the petition and drawings, to amend the specification and  
drawings, to prosecute the application, and to receive the patent  
granted on the said application and (ratify) (ratifies) any act done by  
the said appointee in respect of the said application.

Omit words in  
brackets that are  
not applicable.

(7) That your petitioner(s) therefore pray(s) that a patent for the  
invention may be granted jointly to (him) (them) and (either) (the  
above named public servant inventor(s) (or) (Her Majesty in right of  
Canada as represented by the Minister of ) (as determined pursuant  
to the *Public Servants Inventions Act*).

Signed at .....

City or town Country

this day of 19 .....

Inventor(s) who (is) (are) not (a) public servant(s)

## FORM 6

### JOINT PETITION FOR A PATENT BY PUBLIC SERVANT INVENTOR(S) AND PERSON(S) WHO (IS) (ARE) NOT PUBLIC SERVANT(S)

Omit words in  
brackets that are  
not applicable.

Petition of .....

names of inventors

whose full post office addresses are .....

.....

Sheweth:

(1) That your petitioners made the invention entitled .....  
which is described and claimed in the specification submitted herewith.

(2) That the said invention was made while

.....

name(s) of public servant inventor(s)

(was) (were) employed as (a) public servant(s) as defined in the *Public  
Servants Inventions Act* in (the Department of) .....

and, pursuant to section 5 of that Act, the said invention has been  
determined to be (not) (jointly) vested in Her Majesty in right of  
Canada as represented by the Minister of .....

..... (and in .....

.....).

name(s) of inventor(s) who (is) (are) not (a) public servant(s)



OR

(2) That the said invention was made while  
..... (was) (were)

name(s) of public servant inventor(s)  
employed as (a) public servant(s) as defined in the *Public Servants Inventions Act* in (the Department of) (and) (but) in accordance with section 3 of that Act your petitioner(s) verily believe(s) that the said invention is (not) vested in Her Majesty in right of Canada as represented by the Minister of ..... (and  
.....)

name(s) of inventor(s) who (is) (are) not (a) public servant(s)  
(3) That your petitioners verily believe that Her Majesty in right of Canada as represented by the Minister  
of ..... and

..... are entitled to a  
name(s) of inventor(s) who (is) (are) not (a) public servant(s)  
patent for the invention having regard to the provisions of the *Patent Act*.

OR

(3) That your petitioners verily believe that they are entitled to a patent for the invention having regard to the provisions of the *Patent Act*

Omit this paragraph if there is not request for priority.

(4) That your petitioners request that this application be treated as entitled to the rights accorded by section 29 of the *Patent Act* having regard to the application(s) of which particulars are set out below, and represents that the said application(s) (is) (are) the first application(s) for patent for the said invention filed by the inventors or any one claiming under any of them in any country that, by treaty, convention or law, affords similar rights to citizens of Canada. (Give particulars here ONLY of the application or applications upon which the claim for priority is based.)

Omit this paragraph if all petitioners reside in Canada.

(5) That your petitioners hereby nominate

.....

name in full  
..... who resides or carries on business  
in Canada at the following address .....

full post office address

to be their representative for all purposes of the *Patent Act*, including the service of any proceedings taken thereunder.

(6) That your petitioners hereby appoint

..... whose full post office

name of patent agent

address is ..... to be their agent,

with full power of revocation and substitution, to sign the petition and drawings, to amend the specification and drawings, to prosecute the application, and to receive the patent granted on the said application, and ratify any act done by the said appointee in respect of the said application.

(7) That your petitioners therefore pray that a patent may be granted jointly to the persons entitled thereto as set out in paragraph (3).

Signed at .....

City or town Country  
this day of 19 .....

Public Servant Inventor(s)

Inventor(s) who (is) (are) not (a) public servant(s)

FORM 7

**PETITION FOR A PATENT BY APPROPRIATE MINISTER OR BY APPROPRIATE  
MINISTER AND INVENTOR(S) WHO (IS) (ARE) NOT (A) PUBLIC SERVANT(S)  
WHERE AT LEAST ONE INVENTOR IS A PUBLIC SERVANT**

Omit words in  
brackets that are  
not applicable.

The petition of the Minister of .....

..... whose full post office address is  
..... (and .....

name(s) of inventor(s) who (is) (are) not (a) public servant(s)

Sheweth:

(1) That ..... whose

name(s) of inventor(s)

full post office address(es) (is) (are) .....

..... made the invention

entitled ..... which is described and

claimed in the specification submitted herewith.

(2) That the said invention was made while .....

.....

name(s) of public servant(s)

(was) (were) employed as (a) public servant(s) as defined in the *Public Servants Inventions Act* in (the Department of) .....

and, pursuant to section 5 of that Act, the said invention has been determined to be vested in Her Majesty in right of Canada as represented by the Minister of ..... (and .....

name(s) of inventor(s) who (is) (are) not (a) public servant(s)

(And that your petitioner is the assignee of the entire right of .....

name(s) of inventor(s) who (is) (are) not (a) public servant(s)

to obtain a patent for the said invention.)

(3) That your petitioner(s) verily believe(s) that Her Majesty in right of Canada as represented by the Minister of.....

..... (and .....

name(s) of inventor(s) who (is) (are) not (a) public servant(s)

(is) (are) entitled to a patent for the invention having regard to the provisions of the *Patent Act*

Omit this  
paragraph if there  
is not request for  
priority.

(4) That your petitioner(s) request(s) that this application be treated as entitled to the rights accorded by section 29 of the *Patent Act* having regard to the application(s) of which particulars are set out below, and represents that the said application(s) (is) (are) the first application(s) for patent for the said invention filed by the inventor(s) or any one claiming under (him) (any of them) in any country that, by treaty, convention or law, affords similar rights to citizens of Canada. (Give

particulars here ONLY of the application or applications upon which the claim for priority is based.)

Omit this paragraph if all petitioners reside in Canada.

(5) That your petitioner(s) hereby nominate(s)

..... who

name in full

resides or carries on business in Canada at the following address.....

to be (his) (their) representative for all purposes of the *Patent Act* including the service of any proceedings taken thereunder.

(6) That your petitioner(s) hereby appoint(s)

..... whose

name of patent agent

full post office address is .....

to be (his) (their) agent, with full power of revocation and substitution, to sign the petition and drawings, to amend the specification and drawings, to prosecute the application, and to receive the patent granted on the said application, and (ratify) (ratifies) any act done by the said appointee in respect of the said application.

(7) That your petitioner(s) therefore pray(s) that a patent for the invention be granted (jointly) to Her Majesty in right of Canada as represented by the Minister of ..... (and .....).

name(s) of inventor(s) who (is) (are) not (a) public servant(s)

Signed at .....

City or town Country

this day of 19 .....

.....

Minister of

Inventor(s) who (is) (are) not (a) public servant(s)

SOR/78-822, s. 2.

Last updated: 2011-02-24