

INTELLECTUAL PROPERTY OFFICE OF SINGAPORE ACT

(CHAPTER 140)

History	Act 3 of 2001	->	2002 REVISED EDITION
----------------	----------------------	--------------	-------------------------------------

An Act to establish and incorporate the Intellectual Property Office of Singapore, to provide for its functions and powers, and for matters connected therewith.

[1st April 2001]

Arrangement of Provisions

PART I

PRELIMINARY

[1 Short title](#)

[2 Interpretation](#)

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF OFFICE

[3 Establishment and incorporation of Intellectual Property Office of Singapore](#)

[4 Common seal](#)

[5 Constitution of Office](#)

PART III

FUNCTIONS, DUTIES AND POWERS OF OFFICE

[6 Functions and duties of Office](#)

[7 Powers of Office](#)

[8 Directions by Minister](#)

[9 Appointment of committees and delegation of powers](#)

PART IV

PROVISIONS RELATING TO STAFF

[10 Appointment of Chief Executive and employees](#)

[11 Protection from liability](#)

[12 Public servants](#)

PART V

FINANCIAL PROVISIONS

[13 Funds and property of Office](#)

[14 Application of moneys](#)

[15 Bank accounts and application of revenue](#)

[16 Annual estimates](#)

[17 Power of investment](#)

[18 Grants](#)

[19 Power to borrow](#)

[19A Issue of shares, etc.](#)

[20 Other financial provisions](#)

PART VI

TRANSFER OF PROPERTY, ASSETS, LIABILITIES AND EMPLOYEES

[21 Transfer to Office of property, assets and liabilities](#)

[22 Transfer of employees](#)

[23 Service rights, etc., of transferred employees to be preserved](#)

[24 Existing contracts](#)

[25 Pending proceedings](#)

[26 Continuation and completion of disciplinary proceedings](#)

[27 Misconduct or neglect of duty by employee before transfer](#)

PART VII

MISCELLANEOUS

[28 Annual report](#)

[29 Symbol or representation of Office](#)

[30 Powers of enforcement](#)

[31 Offences committed by bodies corporate, etc.](#)

[32 Jurisdiction of court](#)

[33 Composition of offences](#)

[34 Proceedings conducted by officers of Office](#)

[35 Power of Minister to amend Third Schedule](#)

[36 Preservation of secrecy](#)

[37 Rules](#)

[38 Consequential amendments to other written laws](#)

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

LEGISLATION HISTORY

INTELLECTUAL PROPERTY OFFICE OF SINGAPORE ACT

(CHAPTER 140)

An Act to establish and incorporate the Intellectual Property Office of Singapore, to provide for its functions and powers, and for matters connected therewith.

[1st April 2001]

PART I

PRELIMINARY

Short title

1.—This Act may be cited as the Intellectual Property Office of Singapore Act.

Interpretation

2.—In this Act, unless the context otherwise requires —

"Chairman" means the Chairman of the Office and includes any temporary Chairman of the Office;

"Chief Executive" means the Chief Executive of the Office appointed under section 10 and includes any person acting in that capacity;

"Copyright Tribunal" means the Copyright Tribunal established under Part VII of the Copyright Act (Cap. 63);

"debenture" includes debenture stock;

"Deputy Chairman" means the Deputy Chairman of the Office and includes any temporary Deputy Chairman of the Office;

"intellectual property adviser" means any person who in the course of his profession or business provides legal or other advice relating to any intellectual property, including advice given in relation to an application for protection of an intellectual property whether in Singapore or elsewhere;

"intellectual property agent" means a person acting on behalf of another —

(a) in connection with the application for or obtaining of a patent or any procedure relating to a patent under the Patents Act (Cap. 221);

(b) in connection with the registration of a trade mark or any procedure relating to a registered trade mark under the Trade Marks Act (Cap. 332); or

(c) in connection with the registration of a design or any procedure relating to a registered design under the Registered Designs Act (Cap. 266);

"member" means a member of the Office;

"Office" means the Intellectual Property Office of Singapore established under section 3;

"securities" , in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

"shares" includes stocks.

PART II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF OFFICE

Establishment and incorporation of Intellectual Property Office of Singapore

3.—There is hereby established a body to be known as the Intellectual Property Office of Singapore which shall be a body corporate with perpetual succession and a common seal and shall, by that name, be capable of —

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing or disposing of property, both movable and immovable; and
- (c) doing and suffering such other acts or things as a body corporate may lawfully do and suffer.

Common seal

4.—(1) The Office shall have a common seal and such seal may from time to time be broken, changed, altered or made anew as the Office thinks fit.

(2) All deeds and other documents requiring the seal of the Office shall be sealed with the common seal of the Office.

(3) All instruments to which the common seal is affixed shall be signed by the Chief Executive and one officer of the Office or by any 2 officers of the Office generally or specially authorised by the Chief Executive for that purpose.

(4) All courts, judges and persons acting judicially shall take notice of the common seal of the Office affixed to any document and shall presume that it was duly affixed.

Constitution of Office

5.—(1) The Office shall consist of —

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) not less than 8 and not more than 20 other members as the Minister may from time to time determine.

(2) The First Schedule shall have effect with respect to the Office, its members and its proceedings.

PART III

FUNCTIONS, DUTIES AND POWERS OF OFFICE

Functions and duties of Office

6.—(1) Subject to the provisions of this Act, it shall be the function and duty of the Office —

- (a) to administer the systems in Singapore for the protection of intellectual property;
- (b) to provide administrative support services to the Copyright Tribunal in the performance of the Tribunal's functions under the Copyright Act (Cap. 63);
- (c) to maintain and provide access by the public to documents and information relating to any intellectual property kept or maintained by the Office;
- (d) to promote public awareness and effective use of intellectual property rights;
- (e) to represent the Government internationally on matters related to intellectual property;
- (f) to advise and make recommendations to the Government on matters related to intellectual property;
- (g) to advise and make recommendations to the Government on the recognition, accreditation and conduct of persons acting as intellectual property agents or intellectual property advisers, and exercise any regulatory functions over them;
- (h) to promote or assist in the development of the profession of intellectual property agents and intellectual property advisers in Singapore;
- (i) to promote and facilitate the training of persons desiring to be intellectual property agents in Singapore;
- (j) to manage technical co-operation and exchange in the area of intellectual property with other persons and organisations, including foreign intellectual property offices and international inter-governmental organisations, on its own behalf or on behalf of the Government;
- (k) to provide advice, training and assistance in relation to intellectual property to any Government department or statutory board, or to authorities of other countries and territories which administer intellectual property laws; and
- (l) to exercise any other functions and duties conferred on the Office by or under this Act or any other written law.

(2) The Office may undertake such other functions as the Minister may assign to the Office and in so doing, the Office shall be deemed to be fulfilling the purposes of this Act, and the provisions of this Act shall apply to the Office in respect of such functions.

(3) Nothing in this section shall be construed as imposing on the Office, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

Powers of Office

7.—(1) The Office shall have the power to do anything for the purpose of discharging its functions under this Act or any other written law, or which it may consider advantageous, necessary or convenient to the discharge of those functions and, in particular, may —

- (a) administer systems for the protection of patents, trade marks and designs;
- (b) prescribe, regulate or implement measures and standards on any matter related to or connected with intellectual property;
- (c) accredit or certify, and regulate any person as an intellectual property agent or intellectual property adviser;
- (d) levy such charges or fees as may be reasonable for services and facilities provided by the Office;
- (e) subscribe for or acquire any securities and shares of an incorporated company or other body corporate, procure its admission to membership of an incorporated company limited by guarantee and not having a share capital, promote the formation of an incorporated company or participate in the promotion of such company or acquire an undertaking or part of an undertaking;
- (f) form or participate in the formation of any company or in any joint venture as a shareholder or partner or in any other capacity, with any firm, body corporate, society or institution for the purposes of this Act or any other written law;
- (g) carry out such other works or activities as may appear to the Office to be requisite, advantageous or convenient, with a view to making the best use of any of the assets of the Office;
- (h) engage, in conjunction with other authorities, international agencies or organisations, in any study or co-operation project related to intellectual property or in the promotion of intellectual property;
- (i) enter into contracts for the supply of goods or materials or for the execution of works as may be necessary for the discharge of any of its duties and functions;
- (j) provide financial loans, advances, grants, aid or assistance to any person for all or any of the purposes of this Act;
- (k) use the services, records, facilities or personnel of any local, foreign or international agency, organisation or other body in the discharge by the Office of any of its duties and functions;
- (l) operate such agency services as the Office may think fit and employ such number of agents to do anything that the Office may do;
- (m) provide bursaries, scholarships and training grants in the fields of intellectual property;
- (n) receive donations, grants, gifts, subsidies and contributions from any source and raise funds by all lawful means;
- (o) make provision for gratuities, pensions, allowances or other benefits for employees or former employees of the Office;

(p) grant or guarantee loans to officers or employees of the Office for any purpose specifically approved by the Office;

(q) provide recreational facilities and promote recreational activities for, and activities conducive to, the welfare of officers and employees of the Office and members of their families; and

(r) do such other acts as are incidental to any of its functions and powers.

(2) This section shall not be construed as limiting any power of the Office conferred by or under any other written law.

Directions by Minister

8.—(1) The Minister may give to the Office such directions, not inconsistent with the provisions of this Act, as he thinks fit as to the performance of its functions and the exercise of its powers, and the Office shall give effect to such directions.

(2) The Office shall furnish the Minister with such information in respect of its property and activities in such manner and at such times as the Minister may require.

Appointment of committees and delegation of powers

9.—(1) The Office may appoint from amongst its own members or other persons who are not members such number of committees as it thinks fit consisting of members or other persons, or members and other persons for purposes which, in the opinion of the Office, would be better regulated and managed by means of such committees.

(2) The Office may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee or to the Chairman or Chief Executive or to any other member, officer or employee of the Office, any of the functions or powers of the Office under this Act or any other written law, except the power of delegation conferred by this section.

(3) No delegation under this section shall prevent the performance or exercise of any function or power by the Office.

PART IV

PROVISIONS RELATING TO STAFF

Appointment of Chief Executive and employees

10.—(1) The Office shall, with the approval of the Minister, appoint a Chief Executive of the Office on such terms and conditions as the Office may determine.

(2) The Chief Executive shall —

(a) be known by such designation as the Office may determine;

(b) be responsible to the Office for the proper administration and management of the functions and affairs of the Office in accordance with the policy laid down by the Office; and

(c) not be removed without the consent of the Minister.

(3) If the Chief Executive is unable to perform his duties for any period by reason of absence from Singapore, illness or for any other reason, another person may be appointed by the Office to act in the place of the Chief Executive during such period.

(4) The Office may from time to time appoint or employ, on such terms and conditions as the Office may determine, such other employees, consultants and agents as may be necessary for the effective performance of its functions.

Protection from liability

11.—(1) No suit or other legal proceedings shall lie personally against any member, officer or employee of the Office or any other person acting under the direction of the Office for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

(2) Where the Office provides a service to the public whereby information is supplied to the public pursuant to any written law, neither the Office nor any of its officers or employees involved in the supply of such information shall be liable for any loss or damage suffered by any member of the public by reason of any error or omission of whatever nature appearing therein or however caused if made in good faith and in the ordinary course of the discharge of the duties of such officer or employee.

Public servants

12.—All members, officers and employees of the Office shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

PART V

FINANCIAL PROVISIONS

Funds and property of Office

13.—The funds and property of the Office shall consist of —

- (a) grants made under section 18;
- (b) all fees, fines and composition fines paid into the funds of the Office under any written law;
- (c) all moneys paid to the Office for the purposes of the Office;
- (d) all moneys paid to the Office by way of grants, subsidies, donations, gifts and contributions;
- (e) all moneys received by the Office by way of charges and fees for services rendered by the Office to any person;
- (f) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Office under this Act or any other written law;
- (g) all moneys borrowed by the Office under this Act;
- (h) all other moneys and property lawfully received by the Office for the purposes of the Office; and
- (i) all accumulations of income derived from any such property or money.

Application of moneys

14.—The moneys of the Office shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Office and in making any payment that the Office is authorised or required to make.

Bank accounts and application of revenue

15.—(1) The Office shall open and maintain an account or accounts with such bank or banks as the Office thinks fit.

(2) Every such account shall be operated by such person or persons as may from time to time be authorised in that behalf by the Office.

Annual estimates

16.—(1) The Office shall in every financial year prepare or cause to be prepared, and adopt annual estimates of income and expenditure of the Office for the ensuing financial year.

(2) Supplementary estimates may be adopted by the Office at any of its meetings.

(3) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Office, be sent forthwith to the Minister.

(4) The Minister may approve or disallow any item or portion of any item shown in the estimates, and shall return the estimates as amended by him to the Office, and the Office shall be bound thereby.

Power of investment

17.—The Office may invest its moneys in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Grants

18.—For the purpose of enabling the Office to carry out its functions under this Act, the Minister may from time to time make grants to the Office of such sums of money as the Minister may determine out of moneys to be provided by Parliament.

Power to borrow

19.—For the discharge of its functions or duties under this Act or any other written law, the Office may from time to time raise loans from the Government or, with the approval of the Minister for Finance, raise loans from banks or other financial institutions (whether in Singapore or elsewhere) by —

(a) mortgage, overdraft or otherwise;

(b) a charge, whether legal or equitable, on any property vested in the Office or on any other revenue receivable by the Office under this Act or any other written law; or

(c) the creation and issue of debentures or bonds.

Issue of shares, etc.

19A.—As a consequence of the vesting of any property, rights or liabilities of the Government in the Office under this Act, or of any capital injection or other investment by the Government in the Office in accordance with any written law, the Office shall issue such shares or other securities to the Minister for Finance as that Minister may from time to time direct.

[5/2002]

Other financial provisions

20.—The financial provisions set out in the Second Schedule shall have effect with respect to the Office.

PART VI

TRANSFER OF PROPERTY, ASSETS, LIABILITIES AND EMPLOYEES

Transfer to Office of property, assets and liabilities

21.—(1) As from 1st April 2001, such movable and immovable property vested in the Government as may be determined by the Minister for Finance and used or managed by the Government department known as the Intellectual Property Office of Singapore or the Copyright Tribunal, and all assets, interests, rights, privileges, liabilities and obligations of the Government relating to that department and the Copyright Tribunal shall be transferred to and shall vest in the Office without further assurance, act or deed.

(2) If any question arises as to whether any particular property, asset, interest, right, privilege, liability or obligation has been transferred to or vested in the Office under subsection (1), a certificate under the hand of the Minister for Finance shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

(3) Any immovable property to be transferred to and vested in the Office under subsection (1) shall be held by the Office upon such tenure and subject to such terms and conditions as the President may determine.

Transfer of employees

22.—(1) As from 1st April 2001, such persons or categories of persons as the Minister may determine who, immediately before that date, were employed by the Government in the Government department known as the Intellectual Property Office of Singapore or the Copyright Tribunal shall be transferred to the service of the Office on terms no less favourable than those enjoyed by them immediately prior to their transfer.

(2) If any question arises as to whether any person or any category of persons has been transferred to the service of the Office under subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the person or category of persons was or was not so transferred.

(3) Until such time as terms and conditions of service are drawn up by the Office, the scheme and terms and conditions of service in the Government shall continue to apply to every person transferred to the service of the Office under subsection (1) as if he were still in the service of the Government.

(4) Notwithstanding the provisions of the Pensions Act (Cap. 225), no person who is transferred to the service of the Office under this section shall be entitled to claim any benefit under that Act on the ground that he has been retired from the public service on account of abolition or reorganisation of office in consequence of the incorporation of the Office.

Service rights, etc., of transferred employees to be preserved

23.—(1) The terms and conditions to be drawn up by the Office shall take into account the salaries and terms and conditions of service, including any accrued rights to leave, enjoyed by the persons transferred to the service of the Office under section 22 while in the employment of the Government.

(2) Any term or condition relating to the length of service with the Office shall provide for the recognition of service under the Government by the persons transferred under section 22 to be service by them under the Office.

(3) Nothing in the terms and conditions of service to be drawn up by the Office shall adversely affect the conditions that would have been applicable to persons transferred to the service of the Office as regards any pension, gratuity or allowance payable under the Pensions Act.

(4) Where a person has been transferred to the service of the Office under section 22, the Government shall be liable to pay to the Office such portion of any pension, gratuity or allowance payable to the person on his retirement as the same shall bear to the proportion which the aggregate amount of his pensionable emoluments during his service with the Government bears to the aggregate amount of his pensionable emoluments during his service under both the Government and the Office.

(5) Where any person in the service of the Office, whose case does not fall within the scope of any pension or other scheme established under this section, retires or dies in the service of the Office or is discharged from such service, the Office may grant to him or to such other person or persons wholly or partly dependent on him, as the Office thinks fit, such allowance or gratuity as the Office may determine.

Existing contracts

24.—All deeds, bonds, agreements, instruments and arrangements subsisting immediately before 1st April 2001 to which the Government is a party and relating to the Government department known as the Intellectual Property Office of Singapore or to the Copyright Tribunal or to any person transferred to the service of the Office under section 22 shall continue in force on or after that date and shall be enforceable by or against the Office as if the Office had been named therein or had been a party thereto instead of the Government.

Pending proceedings

25.—Any proceedings or cause of action relating to the portion of the property, assets, interests, rights, privileges, liabilities and obligations transferred to the Office under section 21 or to any person transferred to the service of the Office under section 22 pending or existing immediately before 1st April 2001 by or against the Government, or any person acting on its behalf, may be continued and shall be enforced by or against the Office.

Continuation and completion of disciplinary proceedings

26.—(1) Where on 1st April 2001 any disciplinary proceedings were pending against any person transferred to the service of the Office under section 22, the proceedings shall be carried on and completed by the Office.

(2) Where on 1st April 2001 any matter was in the course of being heard or investigated or had been heard or investigated by a committee acting under due authority but no order, ruling or decision had been made thereon, the committee shall complete the hearing or investigation and shall make such order, ruling or direction as it could have made under the authority vested in it before that date.

(3) Any order, ruling or direction made by a committee pursuant to this section shall be treated as an order, a ruling or a direction of the Office and have the same force or effect as if it had been made by the Office pursuant to the authority vested in the Office under this Act.

Misconduct or neglect of duty by employee before transfer

27.—The Office may reprimand, reduce in rank, retire, dismiss or punish in some other manner a person transferred to the service of the Office under section 22 for any misconduct or neglect of duty, committed prior to 1st April 2001 whilst he was in the employment of the Government which would have rendered him liable to be reprimanded, reduced in rank, retired, dismissed or punished in some other manner if he had continued to be in the employment of the Government and if this Act had not been enacted.

PART VII

MISCELLANEOUS

Annual report

28.—(1) The Office shall, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Office during the preceding financial year and containing such information relating to the proceedings and policy of the Office as the Minister may from time to time direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Symbol or representation of Office

29.—(1) The Office shall have the exclusive right to the use of such symbol or representation as it may select or devise and thereafter display or exhibit such symbol or representation in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Office or which so resembles the Office's symbol or representation as to deceive or cause confusion, or to be likely to deceive or cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

Powers of enforcement

30.—(1) In addition to the powers conferred on him by this Act or any other written law, an officer or employee of the Office may, in relation to any offence under this Act or any written law set out in the Third Schedule, on declaration of his office and production to the person against whom he is acting such identification card as the Chief Executive may direct to be carried by officers or employees of the Office —

(a) require any person whom he reasonably believes to have committed that offence to furnish evidence of the person's identity;

(b) require any person to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, copy or make extracts from such book or document; or

(c) require, by order in writing, the attendance before the officer or employee of any person within the limits of Singapore who, from any information given or otherwise obtained by the officer or employee, appears to be acquainted with the circumstances of the case.

(2) Any person who —

(a) refuses to give access to, or assaults, obstructs, hinders or delays, an officer or employee of the Office in the discharge of the duties by such officer or employee of the Office under this Act or that written law;

(b) wilfully mis-states or without lawful excuse refuses to give any information or produce any book, document or copy thereof required of him by an officer or employee of the Office under subsection (1); or

(c) fails to comply with a lawful demand of an officer or employee of the Office in the discharge by such officer or employee of his duties under this Act or that written law,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

Offences committed by bodies corporate, etc.

31.—(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or any similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Proceedings for an offence under this Act alleged to have been committed by a partnership shall be brought in the name of the partnership and not in that of the partners; but without prejudice to any liability of the partners under subsection (5).

(4) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(5) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall also be also guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction of court

32.—Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court and a Magistrate's Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.

Composition of offences

33.—(1) The Chief Executive or any officer authorised by him may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding \$1,000.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

Proceedings conducted by officers of Office

34.—(1) Proceedings in respect of an offence under this Act or under any written law set out in the Third Schedule may be conducted by an officer of the Office who is authorised in writing in that behalf by the Chief Executive.

(2) Notwithstanding the provisions of any written law, a legal officer of the Office who has been admitted as an advocate and solicitor under the Legal Profession Act (Cap. 161) may —

(a) appear in any civil proceedings involving the Office or any Registrar in the performance of his functions or duties under any written law; and

(b) make and do all acts and applications in respect of such proceedings on behalf of the Office or any Registrar.

(3) For the purposes of this section, “Registrar” means the Registrar of Designs referred to in section 49 of the Registered Designs Act (Cap. 266), the Registrar of Patents referred to in section 4 of the Patents Act (Cap. 221), the Registrar of Trade Marks referred to in section 62 of the Trade Marks Act (Cap. 332), or the principal officer administering the system for the protection of any other intellectual property under any other written law.

Power of Minister to amend Third Schedule

35.—The Minister may, by order published in the *Gazette*, amend the Third Schedule.

Preservation of secrecy

36.—(1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a member, officer, agent, employee or former employee of the Office or a member of a committee of the Office shall disclose any information or matter relating to the affairs of the Office or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Rules

37.—(1) The Office may, with the approval of the Minister, make rules for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Office may, with the approval of the Minister, make rules for or with respect to all or any of the following matters:

- (a) the manner of appointment, conduct and discipline and the terms and conditions of service of the officers and employees of the Office;
- (b) the establishment of funds for the payment of gratuities and other benefits to employees of the Office;
- (c) the fees to be charged in respect of anything done or any services rendered by the Office under or by virtue of this Act or any other written law;
- (d) the regulation, accreditation and certification of intellectual property advisers.

Consequential amendments to other written laws

38.—The Minister may, by order published in the *Gazette*, repeal or amend any written law which appears to him unnecessary having regard to the provisions of this Act or to be inconsistent with any provision of this Act.

FIRST SCHEDULE

Section 5(2)

CONSTITUTION AND PROCEEDINGS OF OFFICE

Appointment of Chairman and members

1.—(1) The Chairman and other members shall be appointed by the Minister.

(2) The Minister may appoint the Chief Executive to be a member.

Appointment of Deputy Chairman

2.—(1) The Minister may, in his discretion, appoint any member to be the Deputy Chairman of the Office.

(2) The Deputy Chairman so appointed may, subject to such direction as may be given by the Chairman, exercise all or any of the powers exercisable by the Chairman under this Act.

Tenure of office of members of Office

3.—A member shall hold office on such terms and conditions and for such period as the Minister may determine, and shall be eligible for reappointment.

Temporary member

4.—The Minister may appoint any person to be a temporary member if any member is unable to perform his duties for any period by reason of absence from Singapore, illness or for any other reason.

Temporary Chairman or Deputy Chairman

5.—The Minister may appoint any member to be a temporary Chairman or temporary Deputy Chairman during the temporary incapacity from illness or otherwise, or during the temporary absence from Singapore, of the Chairman or Deputy Chairman, as the case may be.

Revocation of appointment

6.—If at any time it appears to the Minister that the removal from office of all or any of the members is necessary in the interests of the effective and economical performance of the functions of the Office under this Act, or in the public interest, the Minister may remove from office all or so many of those members as he considers necessary in such interests.

Resignation

7.—A member may resign from his office at anytime by giving not less than one month's notice in writing to the Minister.

Chairman may delegate functions

8.—The Chairman may, in writing, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

9.—The office of a member shall become vacant —

- (a) if he becomes in any manner disqualified from membership of the Office;
- (b) if he fails to attend 3 consecutive meetings of the Office without sufficient cause (the sufficiency thereof to be decided by the Office);
- (c) if he resigns from his office; or
- (d) on his death.

Filling of vacancies

10.—If a vacancy occurs in the membership of the Office, the Minister may appoint any person to fill the vacancy and the person so appointed shall hold office for so long as the member in whose place the person is appointed would have held office.

Disqualification from membership

11.—No person shall be appointed or shall continue to hold office as a member if he —

- (a) is incapacitated by physical or mental illness;
- (b) is an undischarged bankrupt or has made any arrangement or composition with his creditors;
- (c) is convicted of an offence involving dishonesty, fraud or moral turpitude and has not received a free pardon;
- (d) has been sentenced to imprisonment for a term of 6 months or more and has not received a free pardon; or
- (e) is otherwise unable or unfit to discharge the functions of a member.

Disclosure of interest by members

12.—(1) Subject to sub-paragraph (2), if a member has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is before any meeting of the Office, he shall at that meeting declare the nature of his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, that contract or other matter, and if the Chairman or the person presiding at that meeting so directs, he shall withdraw from the meeting during the consideration or discussion.

(2) For the purposes of sub-paragraph (1), a general notice given to the members by a member to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made if it specifies the nature and extent of his interest in the specified corporation or firm and his interest is not different in nature or greater in extent than the nature or extent so specified in the general notice at the time any contract is so made.

(3) No notice under sub-paragraph (2) shall be of effect unless either it is given at a meeting of the Office or the member takes reasonable steps to ensure that it is brought up and read at the next meeting of the Office after it is given.

(4) For the purpose of this paragraph, a pecuniary interest of any spouse, parent, son or adopted son, or daughter or adopted daughter, of a member shall be presumed to be a pecuniary interest of the member.

(5) For the purpose of determining whether there is a quorum, a member shall be treated as being present notwithstanding that, under this paragraph, he cannot vote or has withdrawn from the meeting.

Salaries, fees and allowances payable to Chairman and members

13.—There shall be paid to the members out of the funds of the Office such salaries, fees and allowances as the Minister may from time to time determine.

Meetings and proceedings of Office

14.—(1) The Office shall meet for the despatch of business at such times and places as the Chairman may from time to time appoint.

(2) At every meeting of the Office, one half of the number of members shall constitute a quorum.

(3) The Chairman shall preside at all meetings of the Office; and where the Chairman is absent from a meeting, such member as the members present may elect shall preside at that meeting.

(4) Decisions at meetings of the Office shall be adopted by a simple majority of the members present and voting and in the case of an equality of votes, the Chairman or in his absence the member presiding shall have a casting vote.

(5) Where not less than 4 members request the Chairman by notice in writing signed by them to convene a meeting of the Office for any purpose specified in the notice, the Chairman shall, within 7 days from the receipt of the notice, convene a meeting for that purpose.

(6) The validity of any proceedings of the Office shall not be affected by any vacancy amongst its members or by any defect in the appointment of any member.

(7) Subject to the provisions of this Act, the Office may regulate its own proceedings generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of such minutes, and the opening, keeping, closing and auditing of accounts.

SECOND SCHEDULE

Section 20

FINANCIAL PROVISIONS

Financial year

1.—The financial year of the Office shall begin on 1st April of each year and end on 31st March of the succeeding year.

Accounts of Board

2.—The Office shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Office and over the expenditure incurred by the Office.

Auditor

3.—The accounts of the Office shall be audited by the Auditor-General or by an auditor appointed annually by the Minister in consultation with the Auditor-General.

Appointment of auditor

4.—A person shall not be qualified for appointment as an auditor under paragraph 3 unless he is an approved company auditor under the Companies Act (Cap. 50).

Remuneration of auditor

5.—The remuneration of the auditor shall be paid out of the funds of the Office.

Annual financial statements

6.—The Office shall, as soon as practicable after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

Duties of auditor

7.—The auditor shall in his report state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Office;
- (b) whether proper accounting and other records have been kept including records of all assets of the Office whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Office during the year have been in accordance with this Act; and
- (d) such other matters arising from the audit as he considers should be reported.

Auditor's report

8.—The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Office, and shall also submit such periodical and special reports to the Office as may appear necessary or as the Minister or the Office may require.

Powers of auditor

9.—(1) The auditor or any person authorised by him is entitled at any reasonable time to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Office.

(2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

(3) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

Penalty for obstructing auditor

10.—Any person who fails, without reasonable cause, to comply with any requirement of the auditor or any person authorised by him under paragraph 9 or who otherwise hinders, obstructs or delays the auditor or person authorised by him in the performance of his functions under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Presentation of audited financial statements and auditor's report

11.—As soon as the accounts of the Office and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

Copy of auditor's report for Auditor-General

12.—Where the Auditor-General is not appointed as the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Office.

Presentation to Parliament

13.—The Minister shall as soon as practicable cause a copy of the audited financial statements and any report made by the auditor to be presented to Parliament.

THIRD SCHEDULE

Sections 30 (1), 34 (1) and 35

OFFENCES UNDER WRITTEN LAW

1. Sections 9, 10, 33, 34, 99, 100 and 101 of the Patents Act (Cap. 221); and rules made under section 104 of that Act.
2. Sections 51, 72 and 73 of the Trade Marks Act (Cap. 332).
3. Sections 29, 59, 60 and 66 of the Registered Designs Act (Cap. 266).

[26/2001]

LEGISLATION HISTORY

1. Act 3 of 2001 — Intellectual Property Office of Singapore Act 2001

Date of First Reading : 12.1.2001 (Bill No. 1/2001 published on 13.1.2001)
Date of Second and Third Readings : 22.2.2001
Date of commencement : 1.4.2002

2. Act 26 of 2001 — Statutes (Miscellaneous Amendments and Repeal) Act 2001

Date of First Reading : 11.7.2001 (Bill No. 24/2001 published on 12.7.2001)
Date of Second and Third Readings : 25.7.2001
Date of commencement : 1.9.2001 (except sections 3 and 17)
1.3.2002 (section 3)
22.8.2001 (section 17)

3. Act 5 of 2002 — Statutory Corporations (Capital Contribution) Act 2002

(Consequential amendments made by)

Date of First Reading : 3.5.2002 (Bill No. 7/2002 published on 4.5.2002)
Date of Second and Third Readings : 24.5.2002
Date of commencement : 15.7.2002
