

¹JOB-RELATED INVENTIONS ACT
of 25 July 1995
as last amended on 18 December 2006

(as in force from 13 January 2007)

I. GENERAL PROVISIONS

Article 1

This Act governs the rights and obligations of employers and employees resulting from inventions made in the course of employment.

Article 2

For the purposes of this Act, “invention” shall mean any invention which by virtue of regulations governing industrial property satisfy the requirements for patent protection or for protection by a short-term patent.

Article 3

(1) The inventions made by employees may be either job-related inventions or independent inventions.

(2) A job-related invention is an invention made in the course of employment. A job-related invention may be:

(a) a direct job-related invention made in the course of implementation of the employment contract, at the employer's explicit request, or on the basis of a special contract concluded between the employer and the employee;

(b) an indirect job-related invention made in the course of exercise of an occupation if the invention is mainly the result of the experience gained by the employee at his workplace, or of the assets made available to him by the employer.

(3) Other inventions made in the course of employment shall be independent inventions.

Article 4

Termination of employment shall have no effect whatsoever on the rights and obligations arising therefrom.

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II. MUTUAL RIGHTS AND OBLIGATIONS OF EMPLOYEES AND EMPLOYERS

Article 5

(1) The employee who has made an invention shall with no delay and in writing notify the employer thereof, stating clearly that the notification of an invention is involved. If the invention was made by several employees, they can submit the notification thereof jointly.

(2) The employer shall confirm to the employee the receipt of the notification of an invention in writing.

(3) The notification from paragraph 1 shall contain:

(a) a detailed description of the invention, i.e. its technical functions and its solution, as well as the drawings necessary to make the invention understandable;

(b) the data on how the invention was made, and the statement that a direct or an indirect job-related invention is involved;

(c) data on the persons participating with the employee in the creation of the invention, with the description of their contributions.

(4) The notification of an invention not stating all the data from the preceding paragraph shall be deemed as correct unless within a period of one month from the receipt thereof the employer requests that it be supplemented.

Article 6

(1) With the receipt of notification of a job-related invention, the employer can assert either unlimited or limited claim to such invention.

(2) Not later than within three months from receipt of the notification relating to an invention, the employer shall notify the employee which claim the employer will assert and whether he agrees with the classification of the invention.

(3) If the employer was not notified in writing of the job-related invention, the period from the preceding paragraph shall run from the date when the invention came to his knowledge.

Article 7

(1) The employer shall preserve in secrecy the invention notified to him by the employee as long as necessary for the employee's interests.

(2) The employee shall preserve in secrecy the job-related invention until the disposition thereof has become free according to Article 9.

(3) Persons who have gained knowledge of an invention relating to the activity performed by them according to this Act shall neither exploit nor publish such knowledge.

Article 8

(1) By submittal of a written statement to the employee by which the employer asserts an unlimited claim to a job-related invention, all rights to the invention shall be transferred to the employer.

(2) By submittal of a written statement to the employee by which the employer asserts a limited claim to a job-related invention, the employer shall acquire the non-exclusive right on the use of the job-related invention.

(3) If the limited claim to a job-related invention clearly hinders the exploitation thereof, the employee may request from the employer to either assert the unlimited claim to the invention or to place the same at his free disposition within two months from the date of asserting the claim thereto.

(4) If the employee makes use of a job-related invention before the employer has expressed his view within the periods set forth herein, the disposition shall have no legal effects in relation to the employer as far as his rights are affected thereby.

Article 9

(1) A job-related invention shall be placed at the free disposition of the employee:

- (a) if the employer has waived his claim to the invention in writing;
- (b) if the employer asserted the claim to a job-related invention on a limited basis;
- (c) if the employer has failed to declare within three months from receipt of the correct notification referred to in Article 5, or within two months in case of the claim referred to in Article 8(3), that he will assert an unlimited claim thereto.

(2) Job-related inventions which have become independent according to the preceding paragraph shall be placed at the employee's disposition without any limitations referred to in Article 19.

Article 10

(1) In the case of an unlimited claim to a job-related invention, the employer shall immediately file an application in the Republic of Slovenia for a patent or a short-term patent therefore. The application for a patent or for another appropriate industrial property right filed abroad shall also be considered appropriate.

(2) If the employer fails to proceed according to the preceding paragraph and is invited by the employee to file an application, but fails to do so within the time limit set in the employee's invitation, the employee may himself file an application in the Republic of Slovenia for a patent or a short-term patent for a job-related invention claimed on an unlimited basis on behalf of and at the expense of the employer.

(3) If, in the case of an unlimited claim to a job-related invention, the employer does not file an application for a patent or another appropriate industrial property right in a foreign country, he shall place the invention at the employee's free disposition for that country and enable him to apply therein, at his own expense, for protection of the

invention. The statement placing the invention at the employee's disposition in all or in certain countries shall be given by the employer not later than within six months from filing of the application according to paragraph 1 or 2, so as to enable the employee to make use of priority right time limits.

(4) In the case of an unlimited claim to a job-related invention, the employer need not file the application if:

(a) he obtains the opinion of the Office responsible for granting patents that the invention is not patentable;

(b) the employee agrees that the employer does not apply for protection of the invention;

(c) the provisions of Article 13 are fulfilled.

Article 11

(1) Simultaneously with the filing of the application for a patent or a short-term patent for a job-related invention the employer shall submit to the employee a copy of the application and the attachments thereto. The employer shall inform the employee of the course of the proceedings for the grant of a patent with the Office.

(2) In the proceedings for the grant of a patent, the employee shall render assistance to the employer by giving explanations concerning the invention and by providing the necessary statements.

Article 12

If before the payment of the entire compensation referred to in Article 16, the employer abandons the application for a patent or a short-term patent for a job-related invention claimed on an unlimited basis, or if he abandons the granted patent for such an invention, he shall inform the employee thereof at least three months before the expiry of the regular time limit for the payment of the maintenance fee and shall, at the request and at the expense of the latter, transfer to him the right and submit the documentation necessary for the protection of such right.

Article 13

(1) If the employer is interested in keeping secret a job-related invention for which a claim has been asserted and if no secret invention according to provisions of the Industrial Property Act is involved, he shall not be liable to patent the same. In such case, the employer shall ascertain and pay to the employee the compensation in full amount as provided by this Act.

(2) When ascertaining the compensation for the invention from the preceding paragraph, account will also be taken of the damage which was suffered by the employee because the invention is not protected by a patent or by a short-term patent.

Article 14

(1) In case of the employer's bankruptcy or liquidation, the employee shall have the pre-emptive right to the invention made by him and claimed by the employer on unlimited basis.

(2) In the bankruptcy proceedings, the employees' claims for compensation referred to in Articles 15, 16 and 20 shall be settled as the costs of the bankruptcy proceedings.

Article 15

(1) The employee's right to a reasonable compensation shall arise when receiving the employer's statement that he will make an unlimited claim to the job-related invention.

(2) The decisive factors for the assessment of compensation shall be, in particular, the industrial applicability of a job-related invention, the employee's assignments with the employer, and the employee's share in creation of the invention.

Article 16

(1) In case of a limited claim to the job-related invention, the employee's right to a reasonable compensation shall arise when the employer begins to exploit the invention.

(2) The assessment of compensation shall be in accordance with the provision of Article 15(2).

Article 17

(1) The minister competent for the field of industrial property shall, in agreement with the minister competent for labour, adopt the rules on compensation.

(2) The rules from the preceding paragraph shall apply only provided that they are more favourable for the employee than the provisions contained in collective agreements or employment contracts.

Article 18

(1) The amount and the type of compensation shall be defined by the employer and the employee in a contract concluded within three months from the date of the asserted claim to the job-related invention.

(2) If several employees participated in the creation of the invention, the compensation shall be calculated for each of them. The employer shall notify all the employees of the total amount of compensation and of individual shares thereof.

(3) If the employer and the employee fail to conclude the contract from paragraph 1 within the prescribed time limit, the employer shall, in a written reasoned decision, ascertain and pay the compensation not later than within three months from the grant of the patent or a short-term patent for a job-related invention claimed on an unlimited

base, or from the beginning of exploitation of a job-related invention claimed on a limited base.

(4) The employee may file a written objection to the decision from the foregoing paragraph with the conciliation board within one month from receipt of that decision. If he does not object within that time limit, the compensation shall be deemed ascertained by mutual agreement.

(5) If several employees participated in the creation of the invention, each employee shall be entitled to object as provided in the preceding paragraph.

(6) The employee as well as the employer may at any time propose alteration of the amount of the compensation if circumstances on the basis of which the latter was assessed or fixed essentially changed. The employer may not request recover of the compensation already paid.

Article 19

(1) An employee who has made an independent invention shall notify the employer thereof in writing. The notification shall contain sufficient data on the invention to enable the employer to judge whether an independent invention is involved.

(2) The employer shall confirm in writing to the employee the receipt of notification of the independent invention.

(3) Within two months from receipt of the notification of an independent invention, the employer may either give recognition to the employee that an independent invention is involved or else object to the independent invention with the conciliation board. If the employer fails to recognize the invention as independent in the prescribed time limit or does not institute the proceedings before the conciliation board, his entitlement to claim the invention as a job-related invention shall be lost.

(4) Prior to exploitation of an independent invention, the employee shall first offer the invention in writing to his employer for use under the licence. If the employer fails to accept the offer within two months from the receipt thereof, his pre-emptive right shall expire. If the employer accepts the offer but fails to agree with the offered conditions, he may institute the proceedings before the conciliation board within two months from receipt of the offer.

(5) The employee shall have no obligations laid down in paragraphs 1 and 4 if the independent invention evidently does not relate to the field of employer's activity.

Article 20 (deleted)

Article 21

(1) The inventions made by university teachers, scientists and university staff in public university institutes, as well as by researchers in public research institutes shall be

subject to the provisions of this Act, except for the provisions of Article 15 through Article 19, provided that the public university institute or a public research institute employing such persons:

(a) provides from the budget funds the organizational infrastructure as specified in the Statutes and needed for dealing with the inventions according to the provisions of this Act and for efficient exploitation thereof;

(b) governs in the rules of procedure the procedure of claiming job-related inventions in the manner as suited to the needs of the scientific research work and publication of scientific achievements;

(c) determines in the rules of procedure the shares which in case of exploitation of the invention are apportioned to the institute, to the unit of the institute employing the inventor, and to the inventor, whereby the inventor's share, and in case of several inventors the share of all inventors, shall not be less than 20 % of the gross royalty acquired by the institute from the exploitation of the invention.

(2) The funds for the organizational infrastructure referred to in item (a) shall be provided by the State on a separate basis if the requirements referred to in items (b) and (c) of the preceding paragraph are fulfilled. The ministry competent for science, in agreement with the ministries competent for higher education and for technology, shall determine, whether the requirements are fulfilled.

(3) If the requirements from paragraph 1(a) and (b) fail to be fulfilled, the inventions of persons from the same paragraph shall be deemed as independent inventions without limitations referred to in Article 19.

(4) If the invention deemed as an independent invention according to the preceding paragraph was made by natural persons from paragraph 1 within the scope of the research work funded by the institute, these persons shall notify the institute of the invention and at its request report on the exploitation thereof and the income gained therefrom. The institute shall be entitled to demand an appropriate share of the income from the invention within three months after receipt of the written notification. Such share shall not exceed the amount of funds made available by the institute.

(5) A public university institute and a public scientific institute with a research and pedagogic policy and individual employment contracts shall ensure that university teachers, scientists and university staff are assigned with the transfer of knowledge into practice.

Article 22

(1) The contracts concluded by public university institutes and public scientific institutes with third persons on the funding or co-funding of research work shall specify to whom the inventions made within the scope of such research work belong, and shall regulate the issues relating to the right of use of such inventions, the amount and conditions of an eventual special compensation, thereby appropriately taking into account the contractual obligations of all participants.

(2) The contracts on the funding of research work concluded by the State with public university institutes and public research institutes shall specify that the State will abandon the rights on innovations made in the course of such research work.

(3) The institutes from the preceding paragraph satisfying the requirements referred to in Article 21(1)(a) and (c) shall guarantee to the contracting parties their rights to inventions according to the statutes and rules of procedure. The amounts owed to the institute under the contract on research work shall not be deemed as royalty according to Article 21(1)(c).

(4) If the requirements referred to in Article 21(1)(a) and (c) are not fulfilled, its paragraph 2 applies, unless otherwise provided by a special contract concluded by the institute with university teachers, scientific and university staff and researchers employed at the institute, or unless otherwise directly agreed by these persons in the research work contract.

III. SPECIAL PROVISIONS FOR NEW SHAPES OF PRODUCTS, PICTURES AND DRAWINGS (deleted)

Article 23 (deleted)

IV. CONCILIATION PROCEEDINGS

Article 24

(1) All disputes between the employee and the employer concerning rights and obligations arising from this Act shall be subject to the proceedings before the conciliation board.

(2) The conciliation board shall strive to settle the dispute by mutual agreement.

(3) The conciliation board shall adopt resolutions with a majority of votes.

Article 25

(1) The conciliation board shall be established at the Office.

(2) The Office performs administrative technical tasks for the conciliation board.

Article 26

(1) The conciliation board shall be composed of a chairman, a deputy chairman and four members. The deputy chairman shall replace the chairman in the event of his being prevented from attending to his duties.

(2) The chairman and the deputy chairman shall be appointed by the minister competent for the field of industrial property for a period of three years and may be re-appointed. Only persons who have passed the lawyer's state examination may be appointed chairman or deputy chairman.

(3) Two members shall be appointed by the Director of the Office from among the persons entered into the Office's register of representatives, for each dispute separately. At least one member shall have professional experience in the technical field underlying the invention.

(4) One member shall be appointed by each party in dispute.

(5) The chairman, deputy chairman and members of the conciliation board shall be entitled to remuneration and reimbursement of travel expenses in the amount of the cheapest public transport. The amount of remuneration shall be assessed by the Director of the Office.

Article 27

The parties in dispute may be represented before the conciliation board also by natural or legal persons entered into the Office's register of representatives.

Article 28

(1) The proceedings before the conciliation board shall be instituted on a written application filed with the conciliation board in four copies.

(2) The application from the preceding paragraph shall contain a short description of the issue in dispute and the subject-matter thereof. The application shall also state the name and the address of the opposite party.

(3) If the chairman of the conciliation board establishes that the application does not fulfil the requirements of the preceding paragraph, he shall invite the applicant to supplement the application within a set time limit.

(4) The chairman of the conciliation board shall service the application to the opposite party and shall invite him to give a statement thereon.

(5) If the chairman of the conciliation board establishes that the application does not concern rights and obligations of employers and employees under this Act, he shall notify the applicant that the conciliation board is not competent to consider the matter concerned.

Article 29

(1) The proceedings before the conciliation board shall be conducted in accordance with the rules set by the conciliation board, each party to the proceedings being given the opportunity to provide an oral statement on the matter in dispute.

(2) After completion of the implementing procedure the conciliation board shall service on each party a substantiated proposal, signed by the chairman of the conciliation board, for mutual settlement of the dispute. The proposal should specify the time limit of objection and legal caution for the case where the parties do not object within the prescribed time limit.

(3) Each party may object to the proposal for mutual settlement of the dispute in writing within one month from the service of the proposal therefore.

(4) The proposal for mutual settlement of the dispute shall be adopted when the parties adopt the proposed settlement in writing.

(5) The agreement from the preceding paragraph shall be enforceable.

Article 30

(1) The proceedings before the conciliation board shall be deemed unsuccessful:

(a) if the opposite party has given no statement in the time limit specified in Article 28(4);

(b) if three months have lapsed from the date of institution of the conciliation proceedings;

(c) if the opposite party has declared his refusal to cooperate in the conciliation proceedings;

(d) if the parties fail to accept the proposal for mutual settlement in due time.

(2) The chairman of the conciliation board shall notify the parties of unsuccessful outcome of the conciliation proceedings.

Article 31

(1) The proceedings before the conciliation board shall be free of charge.

(2) Each party shall bear its own costs of the proceedings, unless otherwise agreed upon.

V. JUDICIAL PROTECTION

Article 32

(1) Judicial protection of rights shall only be permitted on condition that conciliation proceedings were instituted beforehand but failed.

(2) Without prior institution of conciliation proceedings, the judicial protection is permitted solely in cases:

(a) when the employee's labour relationship was terminated;

(b) if the claim was lodged for an interlocutory order or for the issue of a payment order.

Article 33

Disputes between the employee and the employer concerning rights and obligations arising from this Act shall be subject to the labour court.

VI. PENALTY PROVISIONS

Article 34

A fine of no less than 1,000,000 tolar shall be imposed on an employer for committing the offence of failing to preserve in secrecy the invention notified to him by the employee as long as necessary for the employee's interest (Article 7(1)).

Article 35

A fine of no less than 50,000 tolar shall be imposed on a person for committing the offence of exploiting or publishing the invention that has come to his knowledge (Article 7(3)).

Article 36

A fine of no less than 50,000 tolar shall be imposed on an employee for committing the offence of failing to render assistance to the employer by giving explanations concerning the invention and necessary statements in the course of the proceedings at the Office (Article 11(2)).

Article 37

A fine of no less than 200,000 tolar shall be imposed on an employer for committing the offence of failing to inform the employee of the right and to transfer to him the same at his request and at his expense, and failing to submit the documentation necessary for the protection of such right (Article 12(1)).

VII. TRANSITIONAL AND FINAL PROVISIONS

of the Employment Related Industrial Property Rights Act of 25 July 1995

Article 38

The provisions of Articles 24 to 33 shall also apply to inventions and technical improvements made prior to the coming into effect of this Act unless judicial proceedings related thereto have been instituted.

Article 39

The minister competent for science and technology shall adopt the rules of procedure on compensations referred to in Article 17 within six months from the coming into effect of this Act.

Article 40

On the effective day of this Act, the provisions of Articles 146 to 172 of the Act on Protection of Inventions, Technical Improvements and Distinctive Marks (Official Gazette SFRY, Nos. 34/81, 3/90 and 20/90) shall cease to be effective.

Article 41

The present Act shall come into effect fifteen days following its publication in the Official Gazette of the Republic of Slovenia.

VII. TRANSITIONAL AND FINAL PROVISIONS

of the Act of 24 October 2002 Amending the Employment Related Industrial Property Rights Act

Article 11

Proceedings before the conciliation board instituted prior to the coming into effect of this Act shall be terminated according to the provisions of this Act.

Article 12

The present Act shall come into effect fifteen days following its publication in the Official Gazette of the Republic of Slovenia.

VII. TRANSITIONAL AND FINAL PROVISIONS

of the Act of 18 December 2006 Amending the Employment Related Industrial Property Rights Act

Article 25

Proceedings before the conciliation board instituted prior to the coming into effect of this Act shall be terminated according to the provisions of this Act applicable hitherto.

Article 26

The minister competent for the field of industrial property shall bring the Rules on compensations for innovations created during employment (Official Gazette RS, Nos. 31/98 and 14/99) into line with the provisions of this Act.

Article 27

The present Act shall come into effect fifteen days following its publication in the Official Gazette of the Republic of Slovenia.