

A BILL

FOR

AN ACT TO REPEAL THE PATENTS AND DESIGNS ACT CAP P2 LFN 2004 AND ENACT THE PATENTS AND DESIGNS ACT 2019 TO PROVIDE FOR THE PROTECTION OF INVENTIONS AND FOR RELATED MATTERS

Sponsored by Hon. Oluga Taiwo

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

PART 1 - PATENT

1 1.-(1) Patent means the title granted to protect an Invention under
2 this Bill. Definition of Patents and Inventions

3 (2) Invention means an idea of an Inventor which permits in
4 practice the solution to a specific problem in the field of technology.

5 (3) An Invention maybe, or may not relate to, a product or a
6 process.

7 2.-(1) the following inventions, even if they are inventions within Matter excluded from Patent Inventions
8 the meaning of section 1, are excluded from patent protection:

9 (a) discoveries, scientific theories and mathematical methods;

10 (b) schemes, rules or methods for doing business, performing
11 purely mental acts or playing games;

12 (c) methods for treatment of the human or animal body by surgery
13 or therapy, as well as diagnostic methods practised on the human or animal
14 body, this provision shall not apply to products for use in any of those
15 methods;

16 (d) inventions, the prevention within the country of the commercial
17 exploitation of which is necessary to protect public order or morality, which
18 includes:

19 (i) the protection of human, animal or plant life or health; or

1 (ii) the avoidance of serious prejudice to the environment; if the
2 exclusion is not made because the exploitation is 'prohibited,

3 (e) Plants and animals and other than micro-organism;

4 (f) biological processes for the protection of plants or animals other
5 than non-biological and micro-biological processes; and

6 (g) plant varieties.

Patentable
Inventions

7 **3.**-(1) An invention is patentable if it is new, involves an inventive
8 step and is industrially applicable.

9 (2) An invention is new if it is not anticipated by a prior art.

10 (3) Prior Art shall consist of everything disclosed to the public,
11 anywhere the world, by publication in tangible form or by oral disclosure, by
12 use or in any other way, prior to filing or, where appropriate, the priority date, of
13 the application claiming the invention.

14 (4) for the purposes of subsection (3), disclosure to the public of the
15 invention shall not be taken into consideration if it occurred within twelve
16 months preceding the filing date or, where applicable, the priority date of the
17 application or the applicant's predecessor in title or of an abuse committed by a
18 third party with regard to or the applicant or the applicant's predecessor in title.

19 (5) An invention shall be considered as involving an inventive step if,
20 having regard to the prior art relevant to the application claiming the invention
21 and as defined in subsection (3), it would not have been obvious to a person
22 having ordinary skill in the art.

23 (6) An Invention shall be considered industrially applicable if it can
24 be made or used in any kind of industry.

Right to Patents
and naming of
inventor

25 **4.**-(1) the right to patent belongs to the inventor.

26 (2) where two or more persons have jointly made an invention, the
27 right to the patent belongs to them jointly.

28 (3) where two or more persons have made the same invention
29 independently of each other, the person whose application has the earliest
30 filing date or, if priority is claimed, the earliest validly claimed priority date

1 shall have the right to the patent, as long as the application is not withdrawn,
2 abandoned or rejected.

3 (4) the right to a patent may be assigned, transferred or devolve by
4 succession.

5 (5) where an invention is made in execution of an employment
6 contract, and the employer intended the task or activity of the employee in
7 the course of the employment to resort into the invention or to result to an
8 invention, the right to the patent belongs in the absence of any contractual
9 provisions to the contrary, to the employer.

10 (6) where however, the employee makes an invention where the
11 contract of employment does not require him to perform any inventive
12 activity, and in so doing he makes use of any data or material belonging to
13 the employer, the right to that invention shall automatically vest in the
14 employee, and the employer shall have a right to declare his interest in the
15 invention within six (6) months from the invention and shall be given a right
16 to first option to acquire the patent and shall adequately remunerate the
17 employee for his invention:

18 Provided that where the invention has an economic value greater
19 than the parties can reasonably foresee at the time of conclusion of the
20 contract, the inventor shall be entitled to a special remuneration, which shall
21 be fixed by the Court in the absence of an agreement between the Parties and
22 adequate remuneration shall take into account the economic value of the
23 invention, future benefit to be derived by the employer, such as royalties to
24 be paid on subsequent gains accruing from such invention.

25 (7) the inventor shall be named as the inventor in the patent, unless
26 in a special written declaration signed by the inventor and addressed to the
27 Registrar that the inventor indicates a desire not to be named.

28 (8) Any promise or undertaking by the Inventor made to any person
29 to the effect that the inventor will make the declaration shall be without legal
30 effect.

Application for
registration of
Patents

1 5.-(1) An Application for the registration of a Patent shall be filled
2 with the Registrar and shall contain a request, a description, one or more
3 claims, one or more drawings where required, and an abstract.

4 (2) the application shall be subject to payment of the prescribed
5 application fee;

6 (3) the request shall contain a Petition to the effect that a patent be
7 granted, the name of and other prescribed data concerning the applicant, the
8 inventor and the agent, if any, and the title of the invention.

9 (4) where the applicant is not the inventor, the request shall be
10 submitted with a statement justifying the applicant's right to the patent.

11 (5) the description shall disclose the invention in a manner
12 sufficiently clear and complete for the invention to be carried out by a person
13 having ordinary skill in the art and shall in particular, indicate, at least, one
14 mode known to the applicant for carrying out the invention.

15 (6) the claim or claims shall define the matter for which the protection
16 is sought.

17 (7) claims shall be clear and concise and shall be fully supported by
18 the description;

19 (8) drawings shall be required when they are necessary for the
20 understanding of the invention.

21 (9) the abstract shall merely serve the purpose of technical
22 information; in particular, it shall not be taken into account for the purpose of
23 interpreting the scope of the protection.

24 (10) the application may, up to the time when the application is in
25 order for grant, withdraw the application at any time during its pendency.

Unity of invention
amendment and
division application

26 6.-(1) the application shall relate to one invention only or a group of
27 invention so linked as to form a single general inventive concept.

28 (2) the applicant may, up to the time when the application is in order
29 for grant, amend the application, but the amendment shall not go beyond the
30 disclosure in the initial application;

1 (3) the applicant may, up to the time when the application is in
2 order for grant, divide the application into two or more applications namely
3 divisional applications, but each divisional application shall not go beyond
4 the disclosure in the initial application.

5 (4) each divisional application is entitled to the filing date, and
6 where applicable, the priority date if the initial application.

7 (5) the fact that a patent has been granted on an application that
8 does not comply with the requirement of unity of invention under the
9 subsection (1) is not a ground for the invalidation of the patent.

10 7.-(1) An Application may contain a declaration claiming the Right of priority
11 priority, as provided for in the Schedule of one or more earlier national,
12 regional or international applications filed by an applicant or the applicant's
13 predecessor in title-

14 (a) in or for any State Party to the Convention; or

15 (b) in or for any member of the World Trade Organisation.

16 (2) Where the application contains a declaration under subsection
17 (1), the Registrar may request the applicant to furnish, within the prescribed
18 time limit, a copy of earlier application certified as correct by the Patent
19 Office with which it was filed.

20 (3) the effect of the declaration shall be as provided in the schedule.

21 (4) where the Registrar finds that the requirements under this
22 section have not been fulfilled, the declaration shall be considered to have
23 been made.

24 8.-(1) the Applicant, shall at the request of the Registrar, furnish the Registrar with the date and number of any foreign application. Information concerning corresponding foreign applications and patents

25 (2) the applicant shall, at the request of the Registrar, furnish the
26 Registrar with the following documents relating to any foreign applications
27 referred to in subsection (1):

28 (a) a copy of any communication received by the applicant
29 concerning the results of any search or examination carried out in respect of
30

1 the foreign application;

2 (b) a copy of the patent granted on the basis of the foreign application;

3 (c) a copy of final decision rejecting the foreign application or
4 refusing the grant requested in the foreign application.

5 (3) the Application shall, at the request of the registrar, furnish the
6 Registrar with a copy of any final decision invalidating the patent granted on
7 the basis of the foreign application referred to in subsection(2).

8 (4) for the purposes of this Section, "Foreign Application" means any
9 application filed by the applicant abroad which relates to the same or
10 essentially the same invention as that claimed in the application filed with the
11 Patent Office.

Filing date and
examination

12 9.-(1) The Registrar shall accord as the filing date, the date of receipt
13 of the application, if at the time of receipt, the documents filed contain:

14 (a) an express or implicit indication that the granting of the patent is
15 sought;

16 (b) Indications allowing the identity of the applicant to be established;

17 (c) a part which, on the face of it, appears to be a description of an
18 invention;

19 (2) Where the Registrar finds that the application did not at the time of
20 receipt, fulfil the requirements referred to in subsection (1) of this section, the
21 Registrar shall invite the Applicant to file the required correction and shall
22 accord as the filing date, the date of receipt of the required correction.

23 (3) where no correction is made, the application shall be treated as if it
24 has not been filed.

25 (4) where the application refers to drawings, which are not included in
26 the application, the Registrar shall invite the Applicant to furnish the missing
27 drawings.

28 (5) where the applicant:

29 (a) complies with the invitation, the Registrar shall accord as the
30 filing date the date of receipt of the missing drawings; or

1 (b) does not comply with the invitation of the Registrar, shall
2 accord the filing date, the date of receipt of the application and any reference
3 to the missing drawings shall be treated as non-existent.

4 (6) the Registrar after according the filing date, shall examine
5 whether the application complies with the requirements of section 5
6 subsection (1) (2) (3) and (4) and other requirements designated as formal
7 requirements and whether information requested under section 8, if any, has
8 been provided.

9 (7) where the Registrar is of the opinion that the application
10 complies with the requirements indicated in subsection (6) Registrar shall
11 cause the application to be examined as to whether the requirements of
12 section 1 (2) and (3), 2,3,5(5)(6)(7)(8), and 6 have been complied with.

13 (8) for the purpose of subsection (7), the Registrar shall take into
14 account:

15 (a) the results of any international search report and any
16 international preliminary examination report established under the Treaty in
17 relation to the application;

18 (b) a search and an examination report submitted under section
19 8(2) (a) which relates to corresponding foreign application;

20 (c) a final decision submitted under section 8(2)(c) on refusal to
21 grant a patent on a corresponding foreign application; or

22 (d) a search and an examination report which was carried out upon
23 the request of the Registrar by an external search and an examination
24 authority.

25 **10.**-(1) Where the Registrar Finds that:

26 (a) the application complies with the requirements of section 9(6)
27 and (7), the Registrar shall grant the Patent;

28 (b) the application does not comply with the requirements of
29 section 9(6) and (7), the Registrar shall refuse the application and notify the
30 applicant of the refusal.

Grant of Patents
and changes in
patent

- 1 (2) where the Registrar grants the Patent, the Registrar shall:
- 2 (a) Publish a reference of the grant of the patent in the prescribed
- 3 manner;
- 4 (b) issue to the applicant a certificate of the grant of patent and a copy
- 5 of the patent;
- 6 (c) record the patent;
- 7 (d) make available copies of the patent to the public, on payment of
- 8 the prescribed fees.
- 9 (3) the Registrar shall, whenever possible, give a final decision on the
- 10 application not later than two(2) years after the commencement of the
- 11 examination referred to in section 9(7).
- 12 (4) the Registrar shall upon request of the owner of the Patent, make
- 13 changes in the text or drawings of the patent in order to limit the extent of the
- 14 protection.
- 15 (5) the Registrar shall make any change where the change would
- 16 result in the disclosure contained in the patent going beyond the disclosure
- 17 contained in the initial application on the basis of which the patent is granted.
- 18 **11.**-(1) The exploitation of the patented invention in the country by a
- 19 person other than the owner of the patent shall require the owner's consent.
- 20 (2) for the purposes of this section, " exploitation " of a patented
- 21 invention means any of the following acts:
- 22 (a) where the patent has been granted in respect of a product,
- 23 "exploitation" means:
- 24 (i) making, importing, offering for sale, selling and using the product;
- 25 (ii) stocking the product for the purposes of offering for sale, selling
- 26 or using.
- 27 (b) where the patent has been granted in respect of a process,
- 28 "exploitation" means:
- 29 (i) using the process; or
- 30 (ii) doing any of the acts referred to in paragraph (a) in respect of

Rights conferred
by patent

1 product obtained directly by means of the process.

2 (3) the owner of the patent shall, in addition to any other rights,
3 remedies or actions available to the owner, have right, subject to subsection
4 (4) and section 13, to institute court proceedings against any person who
5 infringes the patent by performing, without the consent of the owner; any of
6 the acts referred to subsection (2) or who performs acts which may lead to
7 infringement.

8 (4) the rights under the patent shall extend to:

9 (a) acts in respect of articles which have been put on the market in
10 any country by the owner of the patent or with the owner's consent;

11 (b) the use of the articles on aircraft, vehicles or vessels of other
12 countries which temporarily or accidentally enter the airspace, territory or
13 waters of Nigeria;

14 (c) acts done only for experimental purposes relating to patent
15 invention; or

16 (d) acts performed by a person who in good faith, before filing, or
17 where priority is claimed, the priority date of the application on which the
18 patent is granted in the country, was using the invention or was making
19 effective and serious preparations for the use.

20 (5) the right of prior use referred to in paragraph (d) may be
21 transferred or devolve only together with the enterprise or business, or with
22 that part of the enterprise or business, in which the use or preparation for use
23 has been made.

24 (6) at the request of the owner of the patent or of a licensee if the
25 licensee has requested the owner to institute court proceedings for a specific
26 relief and the owner has refused or failed to do so, the court may grant an
27 injunction to prevent infringement or an imminent infringement, award
28 damages and grant any other relief provided for in the general law.

29 (7) for the purpose of civil proceedings in respect of the
30 infringement of rights of the owner, if the subject matter of a patent is a

1 process for obtaining a product, the court may order the defendant to prove that
2 the process was used to obtain an identical product is different from the
3 patented process.

4 (8) any identical product when produced without the consent of the
5 patent owner shall, in the absence of proof to the contrary, be deemed to have
6 been obtained by the patented process if the product obtained by the patented
7 process is new.

Duration,
annual fees

8 **12.**-(1) subject to subsection (2) , a Patent Application shall expire
9 twenty years after the filing date of the application for patent;

10 (2) in order to maintain the patent or patent application, an annual fee
11 shall be paid in advance to the Registrar for each year, starting one year after the
12 filing date of the application for grant of the patent.

13 (3) a period of grace of six months shall be allowed for non-payment
14 of annual fee on of the prescribed fee.

15 (4) where the annual fees is not paid in accordance with this section,
16 the patent application shall be deemed to have been withdrawn or the patent
17 shall lapse.

Exploitation by
Government or
authorized persons

18 **13.**-(1) Where:

19 (a) a public interest, in particular, national security, nutrition, health
20 or the development of other vital sectors of the national economy so requires;

21 (b) a judicial or administrative body has determined that the matter of
22 exploitation by the owner of the patent or the owner's licensee, is anti-
23 competitive, and the Minister is satisfied that the exploitation of the invention
24 in accordance with this subsection would remedy that practice.

25 The Minister may decide that, even without the consent of the owner of the
26 patent, a Government Agency or a third party designated by the Minister may
27 exploit the invention.

28 (2) the exploitation of the invention shall be limited to the purpose for
29 which it was authorized and shall be subject to the payment to the owner of an
30 adequate remuneration taking into account the economic value of the

1 Minister's decision as determined in the decision, and where a decision has
2 been taken under subsection (1) (b), the need to correct anti-competitive
3 practices.

4 (3) the Minister shall take a decision after hearing the owner of the
5 Patent and any other interested person if that person wishes to be heard.

6 (4) upon a request of the owner of the patent, of the Government
7 Agency or the third person authorized to exploit the patented invention, the
8 Minister of Industry Trade and Investment may, after hearing the parties, if
9 either or both wishes to be heard, vary the terms of the decision authorizing
10 the exploitation of the patented invention to the extent that changed the
11 circumstances justify the variation.

12 (5) upon request of the owner of the Patent, the Minister may
13 terminate the authorization if the Minister is satisfied, after hearing the
14 parties, if either or both wish to be heard, that the circumstances which led to
15 the Minister's decision have ceased to exist and are unlikely to re-occur or the
16 Government agency or third person designated by the Minister has failed to
17 comply with the terms of the decision.

18 (6) Notwithstanding subsection (5), the Minister shall not
19 terminate the authorization if the Minister is satisfied that the need for
20 adequate protection of the legitimate interest of the Government Agency
21 and third Person designated by the Minister justifies the maintenance of the
22 decision.

23 (7) Where a third person has been designated by the Minister, the
24 authorization may only be transferred with the enterprise or business of that
25 person or with the part of the enterprise or business within which the
26 patented invention is being exploited.

27 (8) the authorization shall not exclude:

28 (a) the conclusion of license contracts by the owner of the patent; or

29 (b) the continued exercise of license contracts by the owner of the
30 patent, of the owner's right under section 11 (2).

1 (9) A request for the Minister's Authorization shall be accompanied
2 by evidence that the owner of the patent has received, from the person seeking
3 the authorization, a request for a contractual license, but that, that person has
4 been unable to obtain the license on reasonable commercial terms and
5 conditions within a reasonable time.

6 (10) Subsection(9) does not apply in cases of national emergency or
7 other circumstances of extreme urgency but in such cases, the Registrar shall
8 notify the owner of the Patent of the Minister's decision as soon as reasonably
9 practicable.

10 (11) the exploitation of the invention by the Government agency or
11 third person designated by the Minister shall be predominately for the supply
12 of the market in the country.

13 (12) the exploitation of an invention in the field of semi-conductor
14 technology shall only be authorized for public non-commercial use or where a
15 judicial or administrative body has determined the manner of exploitation of
16 the patented invention, by the owner of the patent or the owner's licensee, is
17 anti-competitive and if the Minister is satisfied that the issuance of the non-
18 voluntary license would remedy the practice.

19 (13) A person aggrieved by the Minister's decision under this section
20 shall appeal to the Federal High Court.

Non-Voluntary
licenses

21 **14.**-(1) On request, made to the Court after the expiration of a period
22 of four years from the date of filing of the patent application or three years from
23 the date of grant of the patent, whichever period expires last, the court may
24 issue a non-voluntary license if the court is satisfied that the patented invention
25 is not exploited or is insufficiently exploited by working the invention locally
26 or by importation in the country.

27 (2) Notwithstanding subsection (1), a non-voluntary license shall not
28 be issued if the owner of the patent satisfies the court that circumstances exist
29 which justify the non-exploitation or insufficient exploitation of the patented
30 invention in the country.

- 1 (3) the decision for issuing the non-voluntary license shall specify-
- 2 (a) the scope and function of the license;
- 3 (b) the time limit within which the licensee shall begin to exploit
- 4 the patented invention, and
- 5 (c) the adequate remuneration to be paid to the owner of the patent
- 6 and the condition of payment.
- 7 (4) the beneficiary of the non-voluntary license may:
- 8 (a) exploit the patented invention in the country according to the
- 9 terms specified in the decision issuing the licensee, or
- 10 (b) commence the exploitation of the patented invention within the
- 11 time limits specified in the decision, and
- 12 (c) exploit the patented invention sufficiently.
- 13 (5) where:
- 14 (a) the invention claimed in a patent cannot be exploited in the
- 15 country without infringing a patent granted on the basis of an application
- 16 benefiting from an earlier filing or where appropriate, priority date, and
- 17 (b) where the invention claimed in the later patent involves an
- 18 important technical advance of considerable economic importance in
- 19 relation to the invention claimed in the earlier patent,
- 20 The Court, upon the request of the owner of the later patent, may issue a non-
- 21 voluntary license to the extent necessary to avoid infringement of the earlier
- 22 patent.
- 23 (6) where an non-voluntary license is issued under subsection (5),
- 24 the court upon the request of the owner of the earlier patent, shall issue a
- 25 non-voluntary license in respect of the later patent.
- 26 (7) in the case of a request for issuance of a non-voluntary license
- 27 under subsection (5) and (6), subsection (3) shall apply with such
- 28 modifications as are necessary with the proviso that no time limit needs to be
- 29 specified.
- 30 (8) in the case of a non-voluntary license issued under subsection

1 (5), the transfer may be made only with the later patent, or in the case of a non-
2 voluntary license issued under the subsection(6), only with the earlier patent.

3 (9) Subsection 13(4) to (13) shall apply with such modifications as are
4 necessary.

Revocation of
Patents

5 **15.** The Registrar of the Patent Registry in Nigeria shall on either of
6 the following grounds revoke a Patent Granted under this Act:

7 (1) Where it can be ascertained that the Applicant was not the person
8 entitled to apply for the Patent;

9 (2) The patent, as claimed, was obtained in contravention of the rights
10 of the petitioner;

11 (3) The specification does not fully describe the invention and the
12 claims are not fairly based on the matter described in the specification;

13 (4) The claimed invention is not an invention within the meaning of
14 the Act;

15 (5) The claimed invention was obvious and did not an inventive step
16 on or before the priority date of the claim;

17 (6) The claimed invention is the subject of a valid claim of earlier
18 priority of date contained in another patent.

Invalidation or
Nullity of Patents

19 **16.**-(1) an interested person may request may request the court to
20 invalidate a patent.

21 (2) the court shall invalidate a Patent if:

22 (a) if the person requesting the invalidation proves that a person not
23 complied with any of the requirements of sections 1 (2) and (3),
24 2,3,5(5),(6),(7)or (8); or

25 (b) the owner of the Patent is not the inventor or the inventor's
26 successor-in-title.

27 (3) an invalidated patent, or claim or part of a claim shall be regarded
28 as null and void from the date of the grant of the patent.

29 (4) the registrar of the court shall notify the Registrar of the final
30 decision of the Court.

1 (5) the Registrar shall record the decision and publish a reference to
2 it in the prescribed manner.

3 PART II - UTILITY PATENT CERTIFICATES

4 17.-(1) Subject to the provisions of section 17 of this Bill, the Applicability of
5 provisions of this Part shall apply, with such modifications as are necessary, provisions relating
6 to utility model certificates or applications for utility model certificates. to patents

7 (2) where the right to a Patent conflicts with the right to a utility
8 Model Certificate in the case referred to in section 4(3), the provisions shall
9 apply as if the word "patent" were replaced with "patent and utility model
10 certificate"

11 18.-(1) An invention qualifies for utility Model Certificate if it is Special provision
12 new and industrially applicable. relating to utility
model certificates

13 (2) Section 3 (1) and (5) does not apply to the case of an invention
14 for which utility model certificate is requested.

15 (3) Section 9(7) does not apply in the case of applications for utility
16 model certificates.

17 (4) A utility Model Certificate shall expire, without the possibility
18 of renewal at the end of the seventh year after the date of filing of the
19 application.

20 (5) with the exception of subsection (3), section 12(1) does not
21 apply in the case of utility model certificates.

22 (6) in proceedings under section 15, the court shall invalidate the
23 utility model certificate on the following grounds:

24 (a) that the claimed invention did not qualify for a utility model
25 certificate, having regard to subsection (1), section 3(2), (3), (6);

26 (b) that the description and the claims do not comply with the
27 requirements prescribed by sections 5(5), (6) or (7);

28 (c) that any drawing which is necessary for the understanding of the
29 invention has not been furnished; or

30 (d) that the owner of the utility Model Certificate is not the inventor

1 or the inventor's successor in title.

2 (7) Section 15(2) does not apply to utility Model Certificates.

Conversion of
patent application
or applications
for utility model
certificates

3 **19.-(1)** Prior to the grant or refusal of a patent, an applicant for a
4 patent may, upon payment of the prescribed fee, convert the applicant's
5 application into an application for utility Model Certificate, which shall be
6 accorded the filing date of the initial application.

7 (2) prior to the grant and refusal of a utility Model Certificate, an
8 applicant for a utility Model Certificate may, upon payment of the prescribed
9 fee, convert the applicant's application into a Patent application, which shall be
10 accorded the filing date of the application.

11 (3) An application may not be converted under subsection (1) more
12 than once.

13 PART III - INTERNATIONAL APPLICATIONS UNDER THE TREATY

Filing date and
effects of
International
Application
designating
Nigeria

14 **20.** An International Application designating Nigeria shall subject to
15 this Part, be treated as an Application for a Patent or a utility Model Certificate
16 filed under this Act having as its filing date the international filing date
17 accorded under the Treaty.

Patent Office
as receiving
office

18 **21.** The Patent Office shall act as receiving office in respect of an
19 international application filed with it by a resident or national of Nigeria.

Filing International
Applications

20 **22.** An International Application shall be filed in a prescribed
21 language with the Patent office in Nigeria as the receiving office and the
22 prescribed transmittal fees shall be paid in the Patent office.

Patent Office
as designated
office

23 **23.** The Patent office shall act as a designated office in respect of
24 international application in which Nigeria is designated for the purposes of
25 obtaining a national patent or utility model certificate under this Act.

Patent office
as elected office

26 **24.** The Patent Office shall act as the elected office in respect of
27 international applications in which Nigeria is designated as referred to in
28 section 22, if the applicant elects Nigeria for the purposes of international
29 preliminary examination under Chapter II of the Treaty.

| | | |
|----|---|---------------------|
| 1 | 25. The Patent Office as a designated office or elected office shall | National Processing |
| 2 | not commence the processing of an international application designating | |
| 3 | Nigeria before the expiration of the time limit referred to in section 25 | |
| 4 | except if the applicant complies with the requirements of that section and | |
| 5 | files with the Patent Office an express request for early commencement of | |
| 6 | the processing. | |
| 7 | 26. The Applicant in respect of an international application | Entering National |
| 8 | designating Nigeria shall before the expiration of the time limit applicable | Phase |
| 9 | under the Article 22 or 39 of the Treaty or of a later time limit as may be | |
| 10 | prescribed in the Regulations: | |
| 11 | (a) pay the prescribed fee to the Patent Office, and | |
| 12 | (b) where the international application was not filed or published in | |
| 13 | the prescribed language, the applicant shall submit an appropriate | |
| 14 | translation of the international application containing the prescribed | |
| 15 | contents. | |
| 16 | 27. Where the applicant does not comply with the requirements of | Failure to enter |
| 17 | section 25 within the time limit referred to in that section, the international | National Phase |
| 18 | application shall be considered withdrawn for the purposes of this Act. | |
| 19 | 28. An international application may designate Nigeria for Patent | Harare Protocol |
| 20 | under the Harare Protocol. | |
| 21 | 29. -(1) The Patent Office shall process an International | Processing |
| 22 | Application in accordance with: | International |
| 23 | (a) the Treaty and regulations made under the Treaty; and | Applications in |
| 24 | (b) the administrative instructions made under the regulations | accordance with |
| 25 | referred to in paragraph (a). | treaty |
| 26 | (2) where the provisions of the Treaty, the regulations made under | |
| 27 | the Treaty and the administrative instructions made under the Regulations | |
| 28 | conflict with this Act, the Treaty or the regulations or the administrative | |
| 29 | instructions shall apply. | |

| | 1 | PART IV - INDUSTRIAL DESIGNS |
|------------------------------|----|---|
| Nature of Industrial Designs | 2 | 30. Any combination of lines or colours or both, and any three- |
| | 3 | dimension form, whether or not associated with colours, is an industrial design, |
| | 4 | if it is intended by the Creator to be used as a model or pattern to be multiplied |
| | 5 | by industrial process and is not intended solely to obtain a technical result. |
| Registratable Designs | 6 | 31. -(1) Subject to the Provisions of this Section, an Industrial Design |
| | 7 | is registratable if: |
| | 8 | (a) it is new; and |
| | 9 | (b) it is not contrary to public order or morality. |
| | 10 | (2) where application is made for the registration of an industrial |
| | 11 | design the design shall be presumed to be new at the time of the application, |
| | 12 | except in so far as the following provisions of this section provide otherwise. |
| | 13 | (3) An Industrial Design is not new if, before the date of the |
| | 14 | application for registration, it has been made available to the public anywhere |
| | 15 | and at any time by means of description, use or in any other way, unless it is |
| | 16 | shown to the satisfaction of the register that the creator of the design could not |
| | 17 | have known that it had been made so available. |
| | 18 | (4) An industrial Design shall not be deemed to have been made |
| | 19 | available to the public solely by reason of the fact that within the period of six |
| | 20 | months preceding the time of filing the application for registration the creator |
| | 21 | has exhibited it in an official or officially |
| | 22 | recognised exhibition. |
| | 23 | (5) An industrial Design is not new merely because it differs in minor |
| | 24 | or inessential ways from an earlier design or concerns a type of product other |
| | 25 | than the type with which an earlier design is concerned. |
| Right to Registration | 26 | 32. -(1) Subject to this Section, the right to registration of an industrial |
| | 27 | design shall be vested in the Statutory Creator, that is to say, the person who, |
| | 28 | whether or not he is the true creator, is the first to file, or validly to claim a |
| | 29 | foreign priority for, an application for registration of the design. |
| | 30 | (2) The true creator shall be entitled to be named as such in the |

1 register, and the entitlement in question shall not be modifiable by contract.

2 (3) if the essential elements of an application for the registration of
3 an industrial design have been obtained by the purported applicant from the
4 creation of another person without the consent of that other person both to
5 the obtaining of those essential elements and to the filing of the application,
6 all rights in the application and in any consequent registration shall be
7 deemed to be transferred to that other person.

8 (4) where an industrial design is created in the course of
9 employment or in the execution of contract for the performance of specified
10 work, the ownership of the design shall be vested in the employer or, as the
11 case may be, in the person who commissioned the work:

12 Provided that, where the creator is an employee, then, if his
13 contract of employment does not require him to exercise any creative
14 activity but he has in creating the design used data or means that his
15 employment has put at his disposal-

16 (a) he shall be entitled to fair remuneration taking into account his
17 salary and the importance of the design which he has created; and

18 (b) the entitlement in question is not modifiable by contract and
19 may be enforced by civil proceedings.

20 **33.-(1)** An application for the registration of an industrial design
21 shall be made to the registrar and:

Application for
Registration

22 (a) shall contain the following:

23 (i) a request for registration of the design;

24 (ii) the applicants full name and address and, if that address is
25 outside Nigeria, an address of service within Nigeria;

26 (iii) a specimen of the design or a photographic or graphic
27 representation of the design with any printing block or other means of
28 reproduction from which the representation is derived;

29 (iv) an indication of the kind of product(or, where a classification

1 has been prescribed, the class of the product) for which the design will be used;

2 and

3 (v) such other matter as may be prescribed; and

4 (b) shall be accompanied by:

5 (i) the prescribed fee

6 (ii) where appropriate, a declaration signed by the true creator
7 requesting that he be named as such in the register and giving his name and
8 address; and

9 (iii) if the application is made by an agent, a signed Power of Attorney
10 (so however that, notwithstanding any rule of law, legislation or certification of
11 the signature of the Power of Attorney shall be unnecessary).

12 (2) A single Application may relate to any number of industrial
13 designs not exceeding fifty, if the products to which the designs relate are of the
14 same kind or, where a classification has been prescribed, of the same class.

15 (3) where an applicant for the registration of an industrial design
16 seeks to avail himself of a foreign priority in respect of an earlier application
17 made in a country outside Nigeria-

18 (a) he shall append to his application under subsection(l) of this
19 section a written declaration showing

20 (i) the date and number of the earlier application;

21 (ii) the country in which the earlier application was made; and

22 (iii) the name of the person who made the earlier application; and

23 (b) not more than three months after making the application under
24 subsection (1) of this section, he shall furnish the registrar with a copy of the
25 earlier application certified correct by the Industrial Property Office(or its
26 equivalent) in the country where the application was made.

Examination of
applications for
Registration

27 **34.**-(1) The Registrar shall examine every application for registration
28 of an industrial design as to its conformity with relating to Sections 30(1)(b)
29 and 32 of this Bill which concerns Registrable Designs and Applications for
30 Registration, and:

1 (a) if the application fails in any respect to comply with the
2 provisions of section 30 (1) (b) or 32(1) or (2) of this Bill, the Registrar shall
3 reject the Application; and

4 (b) if the application fails in any respect to conform with sections
5 30(3) of this Bill, the Registrar shall disregard any claim for foreign priority.

6 (2) where the examination mentioned in subsection (1) of this
7 Section shows that an application for the registration of an industrial design
8 satisfies the requirements of section 30(1) (b) and 32 of this Bill, the design
9 registered in accordance with the application without further examination
10 and, in particular, without examination of the question whether the
11 registration might be contrary to section 30(1)(a) of this Bill, and, where the
12 said examination shows that section 32(3) of this Bill has been complied
13 with as respect a claim for foreign priority, the foreign priority claimed shall
14 be recorded in the Register of Designs.

15 **35.**-(1) Any interested person may within the prescribed period and
16 in the manner prescribed give notice to the Registrar of any opposition to the
17 registration of an industrial design on the ground that one or more
18 requirement of section 31 (1) (a) and (b) and 33 of this Bill have not been
19 fulfilled or that the applicant does not have a right to the registration of the
20 industrial design.

Opposition to
Registration

21 (2) the Registrar shall send a copy of the Notice to the Applicant
22 within the prescribed period.

23 (3) the Applicant shall within the prescribed period and in the
24 prescribed manner send to the Registrar a counter-statement of the ground
25 on which the applicant relies for the application

26 (4) if the applicant sends a counter-statement, the Registrar shall on
27 receipt of the counter-statement send a copy of the counter-statement to the
28 person giving the notice of opposition.

29 (5) the Registrar shall hear the Parties if either or both wish to be
30 heard and after considering the merits of the case decides whether the

1 industrial design is registrable.

Registration and
Publication

2 **36.**-(1) An industrial Design shall be registered by the issue of the
3 Applicant of a registration Certificate containing:

4 (a) the number of the Design in order of registration;

5 (b) the name and address of the registered owner and, if that address is
6 outside Nigeria, an address for Service in Nigeria;

7 (c) the date of the application and of the issue of registration
8 certificate;

9 (d) if foreign priority is claimed:

10 (i) an indication of the fact; and

11 (ii) the number and the date of the application on which the claim is
12 based and the name of the country where the application was made;

13 (e) a reproduction or representation of the design and an indication of
14 the kind (or, or where a classification has been prescribed, the class) of
15 products for which it will be used; and

16 (f) where appropriate, the name and address of the true creator.

17 (2) the Registrar shall maintain a register of industrial designs which
18 shall consist of duplicates of the registration certificates issued under
19 subsection (1) of this section, together with such other matter as may be
20 required by this Act to be registered.

21 (3) as soon as may be after a design has been registered under
22 subsection (1) of this section, the registrar shall cause to be published:

23 (a) a notification of the registration containing the details mentioned
24 in paragraph (a) to (f) of that subsection; or

25 (b) if a summary form of notification is prescribed, a notification in
26 that form.

Applications
under sealed
cover

27 **37.**-(1) An applicant for recognition of an industrial design may ask
28 for the design to be kept secret for a specified period not exceeding twelve
29 months from the date of the application, and where he does so, notwithstanding
30 any other provisions of this Act:

1 (a) the specimen and other matters mentioned in section 33(1)(a)
2 (iii) and (iv) of this Act shall be enclosed in a sealed package, which shall be
3 opened by the Registrar:

4 (i) when the specified period has elapsed;

5 (ii) if, before the specified period has elapsed, the applicant asks for
6 the application to be converted to an open application; or

7 (iii) if the package is still sealed, at the expiration of twelve months
8 after the date of the application;

9 (b) a provisional registration certificate shall be issued and a
10 provisional notification published under section 36 of this Bill, each of
11 which shall exclude the reproduction and other names mentioned in Section
12 36(1)(e) of this Bill;

13 (c) the said provisional registration certificate and provisional
14 notification shall not confer any right or protection against infringement of a
15 Design Owner as provided under this Bill;

16 (d) when the sealed package has been opened pursuant to
17 paragraph (a) of this subsection, the Registrar shall proceed in accordance
18 with section 34 and 36 of this Bill in so far as he has not already done so and,
19 if authorized by those sections, shall issue a revised registration certificate
20 and publish a revised notification which shall have the same effect as any
21 other certificate issued or notification published under section 35 of this
22 Bill.

23 (2) Notwithstanding the provisions of subsection (1) of this
24 Section, a sealed Package shall be opened by the Registrar at any time on the
25 direction of the Court and shall be resealed when the Court no longer
26 requires it:

27 Provided that, If the time at which the package may be opened
28 under subsection (1) (a) of this Section arrives before the court has ceased to
29 require it, the package shall be deemed to have been duly opened at that time
30 and shall not be resealed.

| | | |
|--|----|---|
| Rights conferred by registration | 1 | 38. -(1) Registration of Industrial Designs confers upon the registered |
| | 2 | owner the right to preclude any other person from doing any of the following |
| | 3 | acts: |
| | 4 | (a) reproducing the design in the manufacture of a product; |
| | 5 | (b) Importing, selling or utilizing for commercial purposes a product |
| | 6 | reproducing the design; and |
| | 7 | (c) holding such a product for the purpose of selling it or of utilising it |
| | 8 | for commercial purposes. |
| | 9 | (2) the reproduction of a registered design is not lawful for the |
| | 10 | purposes of subsection (1) of this section merely because it differs in minor or |
| | 11 | inessential ways from the design or because it concerns type of products other |
| | 12 | than the type with which the design is concerned. |
| | 13 | (3) the right conferred by this section: |
| | 14 | (a) shall extend to acts done for commercial or industrial purposes; |
| | 15 | and |
| | 16 | (b) shall not extend to acts done in respect of a product incorporating a |
| | 17 | registered industrial design after the product has been lawfully sold in Nigeria. |
| Duration and renewal of registration | 18 | 39. -(1) Subject to this Act, registration of an Industrial Design: |
| | 19 | (a) shall be effective in the first instance for ten years from the date of |
| | 20 | the application for the registration; and |
| | 21 | (b) on payment of the prescribed fee may be renewed for two further |
| | 22 | consecutive period of five years each. |
| | 23 | (2) the fee mentioned in subsection (1) (b) of this section shall be paid |
| | 24 | within the twelve months immediately preceding the renewal period to which it |
| | 25 | relates: |
| | 26 | Provided that: |
| | 27 | (a) a period of grace of six months after the beginning of the renewal |
| | 28 | period shall be allowed for the payment of the fee; and |
| | 29 | (b) if the fee and any prescribed surcharge are paid within that period, |
| | 30 | this subsection shall be deemed to have been complied with. |

1 (3) the fact that the registration of an industrial design has ceased to
2 be effective or has been renewed shall be registered and notified.

3 **40.**-(1) Subject to subsection (2) of this Section, the registered
4 owner of an industrial design may renounce the registration by a written
5 declaration to the registrar.

Renunciation of
registration

6 (2) A renunciation under subsection (1) of this section-

7 (a) may be limited-

8 (i) to any particular kind or kinds of products;

9 (ii) if classification of products has been prescribed, to any
10 particular class or classes of products; or

11 (iii) if the application for registration comprised several designs, to
12 anyone or more of those designs;

13 (b) subject to paragraph(d) of this subsection, shall be registered
14 and notified;

15 (c) shall not be effective until it has been registered; and

16 (d) if it relates to a design as to which a contractual license is
17 registered, shall be registered only if:

18 (i) it is accompanied by a licensee's written consent to registration;

19 (ii) the licensee has in the licence contract agreed that this
20 paragraph shall not apply.

21 **41.**-(1) Subject to this Section, on the application of any person
22 (including a public officer acting in exercise of his functions) the court shall
23 declare the registration of an industrial design to be null and void:

Nullity of
registration

24 (a) if the design, because of its failure to conform with section 31
25 (1)(b) of this Act, ought not to have been registered; or

26 (b) if the design fails to comply with section 31 (1)(a) or 32 of this
27 Bill.

28 (2) Where:

29 (a) a declaration under subsection (1) of this section relates to an
30 application comprising several designs; and

1 (b) the grounds for making the declaration affects only some of the
2 designs, the declaration shall apply only to the designs affected.

3 (3) where a declaration is made under subsection (1) of this section-

4 (a) the registration in question shall be deemed, to the extent specified
5 in the declaration, to have been null and void and initio, so however that it shall
6 not be necessary to repay royalties paid by any licensee unless the court so
7 orders; and

8 (b) the proper officer of the Court shall inform the Registrar, who shall
9 register and notify the declaration.

10 (4) the Court-

11 (a) shall make a declaration under subsection (1) of this section
12 without first giving the design owner an opportunity to be heard;

13 (b) in applying subsection (1) (a) of this section, shall have regard
14 only to the state of affairs existing when the proceedings were instituted; and

15 (c) shall dismiss an application under subsection (1) of this section if
16 the applicant(not being a public officer) fails to satisfy the court that he has
17 material interest in making the application.

18 PART V - GENERAL PROVISIONS

Changes in
ownership license
and control

19 **42.**-(1) a Change of ownership of a Patent, or the registration of a
20 utility Model Certificate or an application for Patent or utility Model
21 Certificate shall be in writing.

22 (2) At the request of an interested Party, the Registrar shall record the
23 fact of the change and, except in the case of an application, the Registrar shall
24 publish the change in the prescribed manner.

25 (3) the change shall have no effect against third parties until it has
26 been recorded.

27 (4) the License Contract concerning a Patent or a registered utility
28 Model Certificate or an application shall be submitted to the Registrar who
29 shall keep the contents confidential but shall record it and publish a reference to
30 it in the prescribe manner.

1 Republic of Nigeria.

Appeals 2 **49.** An aggrieved party may appeal to the Federal High Court against
3 the decision taken by the Registrar under this Bill.

Offences 4 **50.** Subject to section 11 (4), 13 and 14, a person who knowingly
5 performs any of the acts referred to in Section 11 (2) in the Country without the
6 consent of the owner, commits an offence and is liable to a fine not exceeding
7 two thousand penalty units or imprisonment of a term not exceeding two(2)
8 years.

Regulations 9 **51.**-(1) The Minister may make regulations for the effective
10 implementation of this Act and such Regulations shall be subject to the
11 approval of the National Assembly vide the approval of the relevant Joint
12 Relevant Committees of both Houses of the National Assembly.
13 (2) the Regulations referred to in subsection (1) of this Section shall
14 relate to:
15 (a) the fees for any act for which payment is required under this Bill;
16 (b) the details relating to the inspection of registers;
17 (c) time limit for the submission of specific things under the Act;
18 (d) additional details concerning the processing of International
19 Applications;
20 (e) measures to enable the Minister to stimulate, encourage, support
21 inventive and innovative activities and to promote, patenting of inventions and
22 utility model by citizens;
23 (f) any matter required or authorized to be prescribed by the
24 Regulations.

Interpretation 25 **52.** In this Act, unless the context so otherwise requires:
26 "court" means Federal High Court;
27 "Designate" means "designated office", having the same meaning as that
28 which is contained in the Patent Cooperation Treaty;
29 "Harare Protocol" means the Protocol on Patents and Industrial Designs
30 adopted in Harare, Zimbabwe in 1982 and ratified by the Federal Government

1 of Nigeria in 30th September 1983;
2 "industry" includes handcraft, agriculture, fishery and services;
3 "International Application" means "international filing state" "international
4 preliminary examination" have the same meaning as the Patent Cooperation
5 Treaty;
6 "Minister" means Minister of Industry Trade and Investment;
7 "Paris Convention" means Paris Convention for the Protection of Industrial
8 Property of March 20, 1883 as revised;
9 "priority date" means the date of the earlier application that serves as the
10 basis for the right of priority provided for in the Paris Convention;
11 "receiving office" has the same meaning as in the Treaty;
12 "Register" means the register referred to in section 32 of this Bill;
13 "Registrar" means the Registrar General.

14 **53.** -(1) The Patent and Designs Act Cap P2 LFN 2004 is hereby Repeals and
15 repealed by this Bill. Savings

16 (2) Subsidiary legislation made under the Patent and Designs Act
17 Cap P2 LFN 2004 shall remain in force until revoked.

18 (3) Notwithstanding the repealed Patent Act, Patent granted under
19 the repealed Act shall remain in force but shall be deemed to have been
20 granted by this Bill.

21 (4) Patent granted shall remain in force for the unexpired period of
22 the term of protection provided for under this Bill, subject to the payment of
23 annual maintenance fees provide for under this Bill.

24 (5) the Minister may make any further transitional or savings
25 provisions which appear to the Minster to be necessary or desirable.

26 **54.** This Bill may be cited as the Patent and Designs Act Cap P2 Citation
27 LFN (Repeal and Re-enactment) Bill, 2020.

1 SCHEDULE

2 ARTICLE 4

3 (a) (i) Patents, Utility Model Certificates, Designs, Marks and
4 Investors Certificates: Right of Priority, G. Patents: Division of the
5 Application);

6 (ii) Any Person that has filed an application for Patents, or registration
7 of a Utility Model, or of an Industrial Design, or of a trademark, in one of the
8 Countries of the Union, or his successor in title, shall enjoy for the purpose of
9 filing in the other countries, a right of priority during the periods hereinafter
10 fixed.

11 (2) Any filing that is equivalent to a regular National Filing under the
12 domestic legislation of any country of the Union or under Bilateral or
13 Multilateral treaties concluded between Countries of the Union shall be
14 recognized as giving rise to the right of priority.

15 (3) By a regular national filing is meant any filing that is adequate to
16 establish the date on which the application was filed in the country concerned,
17 whatever may be subsequent of the application.

18 (b) Consequently, any subsequent filing in any of the other countries
19 of the Union before the expiration of the periods referred to above shall not be
20 invalidated by reason of any acts accomplished in the interval, the particular,
21 another filing, the publication or exploitation of the invention, the putting on
22 sale of copies of the design, or to use the mark, and such acts cannot give rise to
23 any third party right or any right of personal possession. Rights acquired by
24 third parties before the date of the first application that serves as the basis of
25 priority are reserved in accordance with the domestic legislation of each
26 country of the Union;

27 (c) (1) The periods of priority referred to above shall be twelve
28 months for patents and utility models, and six months for industrial designs.

29 (2) these periods shall start from the date the date of filing of the first
30 application; the day of filing shall not be included in the period.

1 (3) if the day of the period is an official holiday, or a day when the
2 office is not open for the filing of applications in the country where
3 protection is claimed, the period shall be extended until the following
4 working day.

5 (4) A subsequent application concerning the same objects as a
6 previous first application within the meaning of paragraph (2) above, filed in
7 the same country of the Union, shall be considered as the first application, of
8 which the filing date shall be the starting point of the period of the priority, if
9 at the time of filing the subsequent application, the said previous application
10 has been withdrawn, abandoned, or refused, without having been laid open
11 to public inspection and without leaving any rights outstanding, and if it has
12 not yet served as a basis for claiming a right of priority.

13 (d) (1) Any person desiring to take advantage of the priority of
14 previous filing shall be required to make a declaration indicating the date of
15 such filing and the country in which it was made. Each country shall
16 determine the latest date on which such declaration must be made.

17 (2) these particulars shall be mentioned in the publications issues
18 by the competent authority, and in particular in the patents and the
19 specifications relating thereto;

20 (3) the countries of the Union may require any person making a
21 declaration of priority to produce a copy of the application (description,
22 drawings, etc) previously filed. The copy, certified as correct by authority
23 which by the authority which received such application, shall not require
24 any authentication and may in any case be filed, without fee, at any time
25 within three months of the filing of the subsequent application. They may
26 require it to be accompanied by a certificate from the same authority
27 showing the date of filing, and by a translation.

28 (4) No other formalities may be required for the declaration of
29 priority at the time of filing the application. Each country of the Union shall
30 determine the consequences of failure to comply with the formalities

1 prescribed by this Article, but such consequences shall in no case go beyond the
2 loss of the right of priority.

3 (5) Subsequently, further proof may be required. Any person who
4 avails himself of the priority of a previous application shall be required to
5 specify the number of that application; this number shall be published as
6 provided for by paragraph (2) above.

7 (e) (1) Where an industrial design is filed in a country by virtue of a
8 right of priority based on the filing of utility model, the period of priority shall
9 be the same as that fixed for industrial designs.

10 (2) furthermore, it is permissible to file a utility model in a country by
11 virtue of a right of priority based on the filing of patent application, and vice
12 versa.

13 (f) (2) No country of the Union may refuse a priority or a patent
14 application on the ground that the applicant claims multiple priorities, even if
15 they originate in different countries, or on the ground that an application
16 claiming one or more priorities contains one or more elements that were not
17 included in the application or applications whose priority is claimed, provided
18 that, in both cases, there is unity of invention within the meaning of the law of
19 the country.

20 With respect to the elements not included in the application or applications
21 whose priority is claimed, the filing of the subsequent application shall give
22 rise to a right of priority under ordinary conditions.

23 (g)(1) if the examination reveals that an application for a patent
24 contains more than one invention, the applicant may divide the application into
25 a certain number of divisional applications and preserve as the date of each the
26 date of the initial application and the benefit of the right of priority, if any.

27 (2) The applicant may also, on his own initiative, divide a Patent
28 application and preserve as the date of each divisional application the date of
29 the initial application and the benefit of the right of priority, if any. Each
30 country of the Union shall have the right to determine the conditions under

1 which such division shall be authorized.

2 (h) Priority may not be refused on the ground that certain elements
3 of the invention for which priority is claimed do not appear among the
4 claims formulated in the application in the country of origin, provided that
5 the application documents as a whole specifically disclose such elements.

6 (i)(1) Applications for inventors' certificates filed in a country in
7 which applicants have the right to apply at their own option either for a
8 patent or for an inventor's certificate shall give rise to the right of priority
9 provided for in this Article, under the same conditions and with the same
10 effects as applications for patents.

11 (2) in a country in which applicants have the right to apply at their
12 own option either for a patent or for an inventors' certificate, an applicant for
13 an inventors certificate shall, in accordance with the provisions of this
14 Article relating to patent applications, enjoy a right of priority based upon an
15 application for a patent, a utility model, or an inventor's certificate.

16 ARTICLE 4BIS

17 [PATENTS: INDEPENDENCE OF PATENTS OBTAINED FOR THE SAME
18 INVENTION IN DIFFERENT COUNTRIES]

19 (1) Patents applied for in various countries of the Union by
20 nationals of countries of the Union shall be independent of patents obtained-
21 for the same invention in other countries, whether members of the Union or
22 not.

23 (2) The foregoing provision is to be understood in an unrestricted
24 sense, in particular, in the sense of patents applied for during the period of
25 priority are independent, both as regards the grounds of the nullity and
26 forfeitures, and as regards their nominal duration.

27 (3) The provision shall apply to all patents existing at the time
28 when it comes to effect.

29 (4) Similarly, it shall apply, in the case of the accession of new
30 countries, to patents in existence on either side at the time of accession.

1 (5) Patents obtained with the benefit of priority shall, in the various
2 countries of the Union, have duration equal to that which they would have, had
3 they been applied for or granted without benefit of priority.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Patents and Designs Act CAP P2 LFN 2004 and Enact the Patents and Designs Act 2019 to strengthen the legal protection of inventions such as Patents, Utility Models and Designs.