

## EXPLANATORY STATEMENT

### Administrative Appeals Tribunal (Patent Attorneys) Regulations

Statutory Rules 1987 No. 49

Issued by the Authority of the Attorney-General

These regulations, made under section 70 of the Administrative Appeals Tribunal Act 1975 (the Act), amend the Act by omitting Part XXIV of Schedule 1 to the Act.

Section 70 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 26(3)(c) of the Act provides that regulations may amend Schedule 1 to the Act by omitting any provision of the Schedule that has ceased to have effect by virtue of the operation of any other enactment. Sub-section 3(1) of the Act defines 'enactment' to include, inter alia, regulations.

The effect of sections 25 and 26 of the Act is that a person may apply to the Administrative Appeals Tribunal (AAT) for review of decisions provided for in Schedule 1 to the Act. Part XXIV of Schedule 1 provides that applications may be made to the AAT for review of an order by the Commissioner of Patents under regulation 27 of the Patent Attorneys Regulations (prior to their amendment) directing that the name of a patent attorney be removed from the Register of Patent Attorneys.

The Patent Attorneys Regulations have been amended by Statutory Rules No. 12 of 1987 to provide for the establishment of a Patent Attorneys Disciplinary Tribunal which has power, inter alia, to reprimand a patent attorney, or to suspend (for a period not exceeding 12 months) or cancel the registration of a patent attorney. The Patent Attorneys Regulations as amended contain separate provision for review by the AAT of decisions to reprimand a patent attorney, or to suspend or cancel the registration of a patent attorney. Therefore, Part XXIV of Schedule 1 to the Act no longer has any effect.

The Administrative Appeals Tribunal (Patent Attorneys) Regulations make amendments to the Act consequential upon the amendments to the Patent Attorneys Regulations by omitting Part XXIV of Schedule 1.

Details of the Administrative Appeals Tribunal (Patent Attorneys) Regulations are as follows -

Regulation 1 provides for the citation of the Regulations;

Sub-regulation 2(1) amends the Administrative Appeals Tribunal Act 1975 by omitting Part XXIV of Schedule 1 to the Act. Sub-regulation 2(2) a savings provision in respect of any applications to the AAT already commenced under Part XXIV of Schedule 1. Sub-regulation 2(2) provides that the omitting of Part XXIV of Schedule 1 does not affect any application made to the AAT under that Part before the commencement of the regulations, or any matter or thing arising out of, or any proceeding incidental to or connected with, any such application.