



## New Zealand

### IP OFFICES

Intellectual Property (Patents, Trade marks and Industrial Designs and Copyright)	
Competent Authorities	<p><b>Patents, trade marks and industrial designs</b> Intellectual Property Office of New Zealand (IPONZ) Ministry of Business, Innovation and Employment</p> <p><b>Copyright</b> Corporate Governance and Intellectual Property Policy Team Ministry of Business, Innovation and Employment</p>
Web site addresses	<p><a href="http://www.iponz.govt.nz">http://www.iponz.govt.nz</a> <a href="https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/">https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/</a></p>
Address	15 Stout Street, Wellington 6011, New Zealand
Telephone	(64 3) 962 2607
E-mail	<p><b>Patents, trade marks and industrial designs</b> <a href="mailto:info@iponz.govt.nz">info@iponz.govt.nz</a></p> <p><b>Copyright</b> <a href="mailto:ip.policy@mbie.govt.nz">ip.policy@mbie.govt.nz</a></p>

### MAIN IP INTERNATIONAL CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Signature	In Force Since
1	Marrakesh VIP Treaty	January 4, 2020
2	Berne Convention (Paris Act)	March 17, 2019
3	Budapest Treaty	March 17, 2019
4	Madrid Agreement (Indications of Source) (London Act)	May 17, 1947
5	Madrid Protocol	December 10, 2012
6	Nairobi Treaty	N/A
7	Nice Agreement	October 16, 2013
8	Paris Convention (Stockholm Act)	June 20, 1984
9	Patent Cooperation Treaty	December 1, 1992
10	Phonograms Convention	August 13, 1976
11	Singapore Treaty	December 10, 2012
12	UPOV Convention (1978)	November 8, 1981
13	WIPO Convention	June 20, 1984
14	WIPO Copyright Treaty	March 17, 2019
15	WIPO Performances and Phonograms Treaty	March 17, 2019

For more information please refer to: [https://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=134](https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=134)

IP Rights	Legal Requirements	Duration	Responsible Authority
<b>Copyright</b>	- Originality	Life of author + 50 years	Corporate Governance and Intellectual Property Policy Team, Ministry of Business, Innovation and Employment
<b>Trade marks</b>	- Distinctiveness - Not in conflict with prior trade marks - Not descriptive - Not contrary to law/offensive	10 years renewable	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand
<b>Patents</b>	- Manner of manufacture - Novelty - Inventive step - Useful (i.e. has a specific, credible and substantial utility)	20 Years	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand
<b>Industrial Designs</b>	- New or original	5 Years (Further Renewable for 10 years)	Intellectual Property Office of New Zealand, Ministry of Business, Innovation and Employment, New Zealand

PATENT SYSTEM	
National Law	The Patents Act 2013  <a href="https://wipolex.wipo.int/en/legislation/details/17836">https://wipolex.wipo.int/en/legislation/details/17836</a>
Requirement of Agent by receiving office for foreigner	No, but an Australian or New Zealand address for service must be provided
Language	English
Non-Patentable Subjects	- Invention is contrary to the public order or morality - Human being and biological processes for their generation - Methods of treatment of human being by surgery or therapy - Methods of diagnosis practiced on human beings - Plant varieties - Computer programs as such are not patentable. (Sect. 11, 15 & 16)
Substantive Examination	Yes (Sect. 65)
PCT international application through the national office of the country as a receiving office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_nz.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_nz.pdf</a>
PCT international application to the national office of the country as a designated office under the PCT	<a href="https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/nz.pdf">https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/nz.pdf</a>

### INDUSTRIAL DESIGN SYSTEM

National Law	The Design Act 1953  <a href="https://wipolex.wipo.int/en/legislation/details/16142">https://wipolex.wipo.int/en/legislation/details/16142</a>
Language	English
Non-Registrable Subjects	A Design will only protect appearance of an article manufactured by an industrial process (Sect. 2). Solely functional designs cannot be protected.
Substantive Examination	Yes
International application through and to the national office of the country under the Hague System: See WIPO member list as of 4 March 2019 <a href="https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/hague.pdf">https://www.wipo.int/export/sites/www/treaties/en/documents/pdf/hague.pdf</a>	No

### TRADE MARK SYSTEM

National Law	The Trade Marks Act 2002  <a href="https://wipolex.wipo.int/en/legislation/details/17349">https://wipolex.wipo.int/en/legislation/details/17349</a>
Subjects of Protection	<ul style="list-style-type: none"> <li>- Trade Marks</li> <li>- Certification Marks</li> <li>- Collective Marks</li> </ul>
Language	English
Term of Trade mark Protection	10 years, renewable for further periods of 10 years indefinitely
Non-Registrable Subjects	<ul style="list-style-type: none"> <li>- Marks that are deceptive or confusing (sect. 17)</li> <li>- Marks that are contrary to law (sect 17)</li> <li>- Marks that are likely to offend a significant section of the community (sect 17)</li> <li>- Applications made in bad faith (sect 17)</li> <li>- Non-distinctive marks (Sect. 18)</li> <li>- Mark that consists only of signs or indications that may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of the goods or services. (Sect. 18)</li> <li>- Mark that consists of signs or indications that are customarily used in trade (Sect. 18)</li> <li>- Mark containing a name or visual representation clearly depicting a real person (sect 20)</li> <li>- Geographical indications, subject to conditions. (Sect. 20)</li> <li>- Marks that contains representations of the Royal Family (Sect. 24)</li> <li>- Any identical or similar marks (Sect. 25)</li> <li>- Marks that contains a flag or insignia of any entity (sect 27)</li> </ul>

	<ul style="list-style-type: none"> <li>- Marks that contains flag, State emblems, armorial bearings, official sign or hallmarks of convention country (Sect. 28)</li> <li>- Marks that contains armorial bearings of certain international organizations (Sect. 29)</li> </ul>
Substantive Examination	Yes
Opposition System	Yes. Both pre-registration and post-registration regimes. Pre-registration oppositions must be filed within three months from the publication of acceptance date (Sect. 47).
International application through the national office of the country as an office of origin under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9583,9584,9582">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9583,9584,9582</a>
International application to the national office of the country as a designated office of designated country under the Madrid System	<a href="https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9579,9580,9577,9578,9581,9583,9582,9584,9628,9638,9639,9640,9604,9597,9603,9599,9598,9600,9602,9596,9601,9605,9623,9624,9622,9627,9625,9626,9635,9636,9637,9634,9633,9595,9585,9588,9593,9594,9587,9591,9592,9586,9589,9590,9607,9619,9620,9611,9621,9608,9617,9613,9615,9606,9616,9614,9612,9609,9610,9618,9629,9631,9630">https://www.wipo.int/madrid/memberprofiles/#/result?countries=9179&amp;datafields=9579,9580,9577,9578,9581,9583,9582,9584,9628,9638,9639,9640,9604,9597,9603,9599,9598,9600,9602,9596,9601,9605,9623,9624,9622,9627,9625,9626,9635,9636,9637,9634,9633,9595,9585,9588,9593,9594,9587,9591,9592,9586,9589,9590,9607,9619,9620,9611,9621,9608,9617,9613,9615,9606,9616,9614,9612,9609,9610,9618,9629,9631,9630</a>

COPYRIGHT SYSTEM	
National Law	<p>The Copyright Act 1994</p> <p><a href="https://wipolex.wipo.int/en/legislation/details/17350">https://wipolex.wipo.int/en/legislation/details/17350</a></p>
Subjects of Protection	<ul style="list-style-type: none"> <li>- Literary works, including tables, compilations and computer programs</li> <li>- Dramatic works</li> <li>- Musical works</li> <li>- Artistic works</li> <li>- Films</li> <li>- Sound Recordings</li> <li>- Communication works such as broadcasts and cable programmes</li> <li>- Typographical arrangements of published editions</li> </ul>
Foreign Copyright Holders	New Zealand is a Party to Berne Convention (1971) and the WTO TRIPS Agreement; hence works of foreign copyright holders are automatically protected.
Moral Rights	<p>Moral rights are available for authors, directors and performers and include:</p> <ul style="list-style-type: none"> <li>- a right of attribution</li> <li>- a right to object to derogatory treatment of a work</li> <li>- a right not to have authorship falsely attributed.</li> </ul> <p>A right to privacy is also provided to persons commissioning certain photographs and films.</p>
Economic Rights	The copyright conferred by the Copyright Act is a bundle of exclusive rights in relation to the work or material in question.

	<p>They include the right to:</p> <ul style="list-style-type: none"> <li>- copy the work</li> <li>- issue copies to the public</li> <li>- perform the work in public</li> <li>- show the work in public</li> <li>- communicate the work to the public</li> <li>- make adaptations of the work</li> <li>- authorize another person to do any of the above acts.</li> </ul> <p>Copyright may be transferred or assigned to another person.</p> <p>A performer's consent required for the recording of their performances as well as for the live communication of their performances to the public.</p> <p>Performer's consent also required in relation to sound recordings of their performances for:</p> <ul style="list-style-type: none"> <li>- communicating sound recordings available to the public</li> <li>- copying of the sound recordings</li> <li>- issuing copies of the sound recording to the public.</li> </ul>
Limitation to Author's Rights	The Copyright Act provides for a range of exceptions and limitations to copyright protection (Part 3)

#### TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

Although there is no national technology transfer office, most research organisations and universities have established dedicated units to facilitate technology transfer.

#### ATTORNEYS IN THE COUNTRY

Information in this regard is available at: <https://www.ttipattorney.gov.au>

### FILING PROCEDURES

#### Patents

##### **Procedures for obtaining a Patent in New Zealand under the National Law**

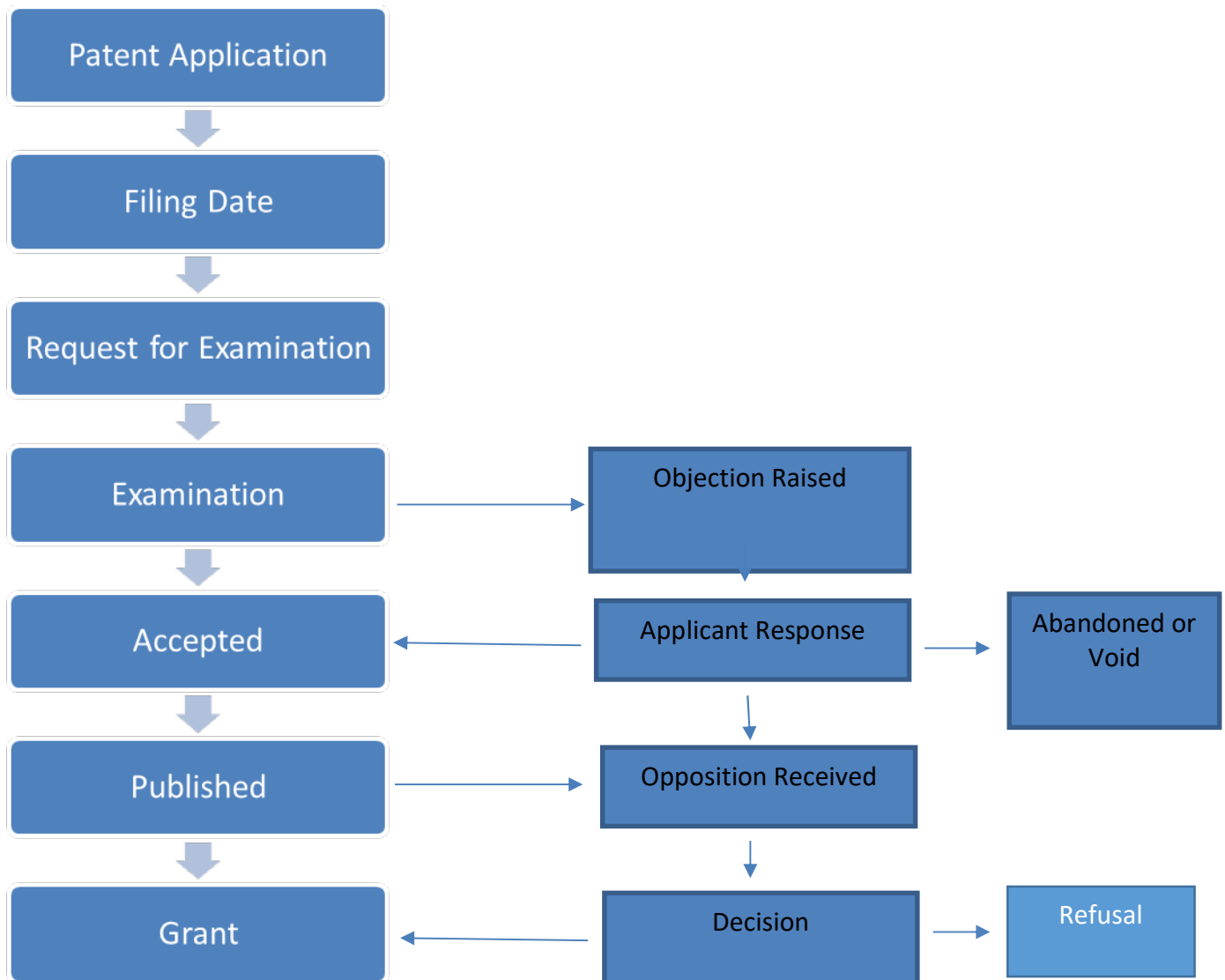
1. An application for the grant of a Patent can be filed by any person alone or jointly (Sect. 31) in a manner prescribed under the Patent Act (Sect. 32) along with the fees prescribed in this regard. The application can be filed with provisional or complete specifications (Sect. 36). The latter option includes PCT requests to enter national phase in New Zealand, convention applications, and complete specification in first instance types of applications. Most NZ patent applications are PCT requests.

2. If a patent application is filed with provisional specifications, a complete application must be filed within 12 months. This period may be extended in certain cases (Sect 37).
3. When a complete specification is received by IPONZ it is given a filing date. The applicant may file priority data and dates for one or more corresponding earlier overseas applications. Priority is determined as per the procedure laid down under the Sub-part 5 of the Act.
4. After filing a complete application, an applicant may request for the examination of the application within the prescribed period, or, the Commissioner may, on some prescribed grounds, direct the applicant to request for examination, or, in case the patent request and specification relating to a complete application for a standard patent are open to public inspection, a person may ask the Commissioner to direct the applicant to request for examination (Sect. 64). If examination is not timely requested the application is deemed abandoned.
5. Following the request for examination, the application undergoes a detailed examination. During the examination stage, the Commissioner may raise any lawful objection, and the applicant may amend the application or specification, or argue that an objection is incorrect. There may be several exchanges between Commissioner and applicant. The application is deemed abandoned or void if the applicant fails to overcome objections or fails to file a Notice of Entitlement within time prescribed (Sects. 65-73). This is subject to the applicant timely requesting a hearing on outstanding matters (Sect. 208).
6. After the examination, the Commissioner must accept the patent application if satisfied it complies with all legal requirements. (Sect.74).
7. If the Commissioner accepts the patent application, he/she publishes a notice of acceptance in the official journal (Sect. 76).
8. Any person may object to the grant of a patent application based on the grounds mentioned under Sect. 92. The person may request a hearing and the Commissioner accordingly decides on the matter (Sect. 93).
9. The Commissioner grants the patent to the applicant after 3 months after the publication of the complete specifications, if there is no opposition to the grant, or despite opposition, the Commissioner decides in favour of the applicant (Sect. 101).
10. Where an application becomes abandoned or void as noted above (or for failure to timely request entry into national phase, or to pay prescribed annual maintenance fees) it may be restored subject to prescribed conditions (Sects. 125-128).

### **Procedures for obtaining a Patent in New Zealand through PCT**

- The time limit for entering the New Zealand national phase of a PCT application is 31 months from the earliest priority date.
  - Special Requirements for entry into National Phase:
    - Name of the inventor if it has not been furnished in the “Request” part of the international application
    - An electronic communication address by all persons communicating with the Office is not mandatory for requesting entry per se but is strongly recommended as it is mandatory for subsequent communications via the Office online case management facility (Sect. 229 and Regs. 13-17)
    - Address for service in New Zealand
    - Verification of translation, if any.
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### Flow Chart for obtaining a Patent in New Zealand



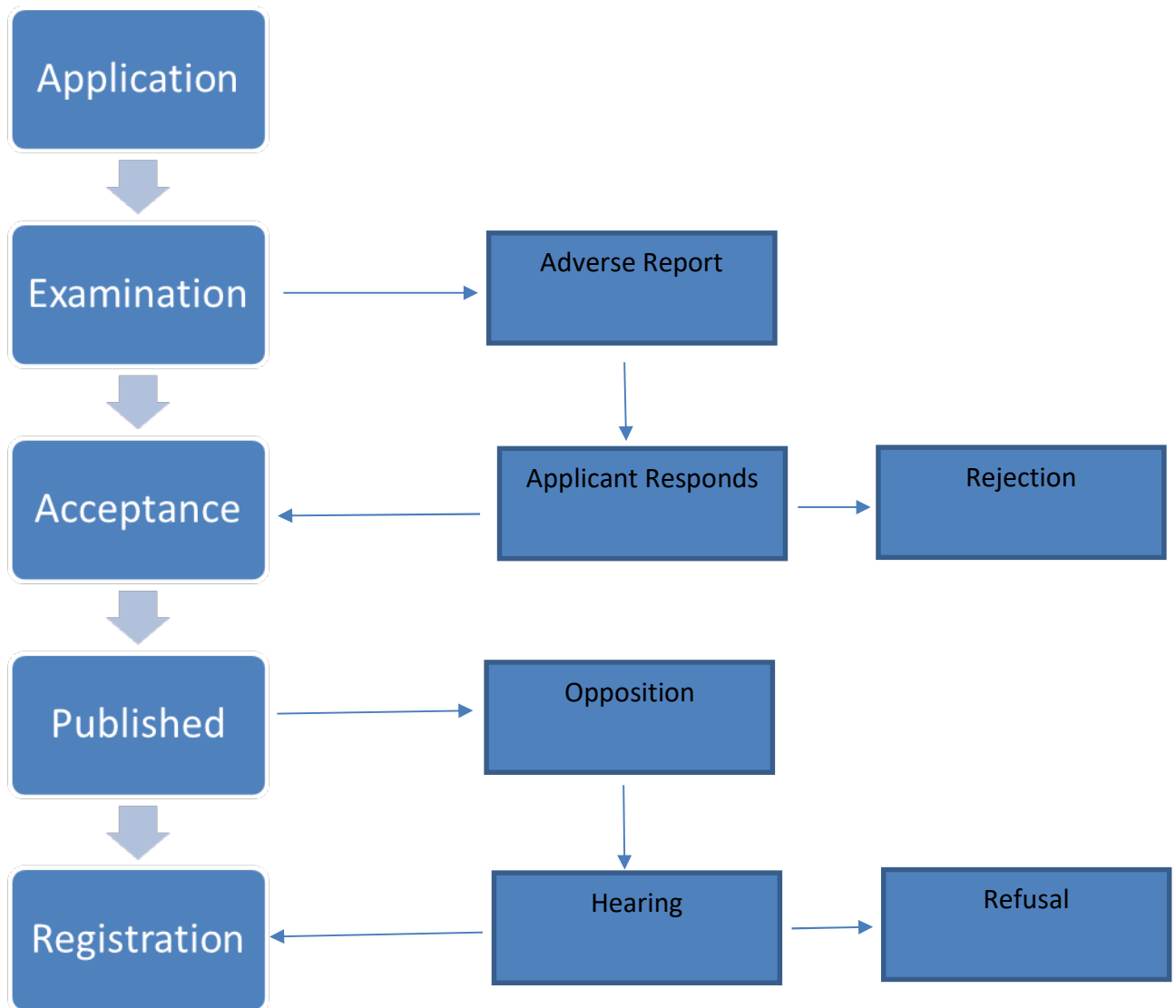
### **Trade marks**

#### Procedure for obtaining a Trade mark in New Zealand under the National Law

1. An application for the registration of a trade mark can be made by a person or a company in accordance with the procedure described in Sect. 32.
2. The Commissioner conducts a detailed examination of the application to assess if the application complies with the requirements of Section 39 of this Act. If the Commissioner finds the application to be satisfactory, he/she accepts the application. In case an adverse report is issued by the Commissioner, the applicant is given an opportunity to respond to it (Sect. 40 & 41).
3. Once the application is accepted, a notice of acceptance is sent to the applicant and the acceptance is advertised in the official journal of Trade marks (Sect. 46).
4. In case an application is objected by any third party, the applicant is provided with an opportunity to defend his/her application by providing additional documents and justifications (Sect. 47 & 48).

- In case of opposition, a hearing is conducted by the Commissioner. Subsequently, the Commissioner may register the mark or refuse its registration. In case no opposition is received, the Commissioner may register the trade mark (Sect. 49).

**Flow Chart of Procedures in case of Trade marks**



**Industrial Design**

**Procedures for obtaining an Industrial Design in New Zealand**

- An application for the registration of a design is made in the prescribed form and is filed with the Commissioner in the prescribed manner (Sect. 7).
- After filing of the application, the Commissioner decides whether the design is new or original (Sect. 7).
- The Commissioner may register the application with or without requesting modifications, within the prescribed time, or refuse it (Sect. 7).
- In case the Commissioner requests the applicant to modify the application and the applicant fails to provide the requested modifications, the application is deemed to be abandoned (Sect.7).
- The abandoned application may be restored subject to prescribed conditions (Sect. 41A-J).



**Flow Chart of Procedures in case of Designs**

