



# Patents Act 1977

## CHAPTER 37

### PATENTS ACT 1977

#### PART I

##### NEW DOMESTIC LAW

###### *Patentability*

- 1 Patentable inventions.
- 2 Novelty.
- 3 Inventive step.
- 4 Industrial application.
- 4A Methods of treatment or diagnosis
- 5 Priority date.
- 6 Disclosure of matter, etc., between earlier and later applications.

###### *Right to apply for and obtain a patent and be mentioned as inventor*

- 7 Right to apply for and obtain a patent.
- 8 Determination before grant of questions about entitlement to patents, etc.
- 9 Determination after grant of questions referred before grant.
- 10 Handling of application by joint applicants.
- 11 Effect of transfer of application under s. 8 or 10.
- 12 Determination of questions about entitlement to foreign and convention patents, etc.
- 13 Mention of inventor.

###### *Applications*

- 14 Making of application.
- 15 Date of filing application.

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- 15A Preliminary examination
- 16 Publication of application.

*Examination and search*

- 17 Search.
- 18 Substantive examination and grant or refusal of patent.
- 19 General power to amend application before grant.
- 20 Failure of application.
- 20A Reinstatement of applications
- 20B Effect of reinstatement under section 20A
- 21 Observations by third party on patentability.

*Security and safety*

- 22 Information prejudicial to national security or safety of public.
- 23 Restrictions on applications abroad by United Kingdom residents.

*Provisions as to patents after grant*

- 24 Publication and certificate of grant.
- 25 Term of patent.
- 26 Patent not to be impugned for lack of unity.
- 27 General power to amend specification after grant.
- 28 Restoration of lapsed patents.
- 28A Effect of order for restoration of patent.
- 29 Surrender of patents.

*Property in patents and applications, and registration*

- 30 Nature of, and transactions in, patents and applications for patents.
- 31 Nature of, and transactions in, patents and applications for patents in Scotland.
- 32 Register of patents etc.
- 33 Effect of registration, etc., on rights in patents.
- 34 Rectification of register.
- 35 New Domestic Law
- 36 Co-ownership of patents and applications for patents.
- 37 Determination of right to patent after grant.
- 38 Effect of transfer of patent under s. 37.

*Employees' inventions*

- 39 Right to employees' inventions.
- 40 Compensation of employees for certain inventions.
- 41 Amount of compensation.
- 42 Enforceability of contracts relating to employees' inventions.
- 43 Supplementary.

*Contracts as to patented products, etc.*

- 44 New Domestic Law
- 45 Determination of parts of certain contracts.

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### *Licences of right and compulsory licences*

- 46 Patentee's application for entry in register that licences are available as of right.
- 47 Cancellation of entry made under s. 46.
- 48 Compulsory licences: general.
- 48A Compulsory licences: WTO proprietors.
- 48B Compulsory licences: other cases.
- 49 Provisions about licences under s. 48.
- 50 Exercise of powers on applications under s. 48.
- 50A Powers exercisable following merger and market investigations
- 51 Powers exercisable in consequence of report of Competition and Markets Authority.
- 52 Opposition, appeal and arbitration.
- 53 Compulsory licences; supplementary provisions.
- 54 Special provisions where patented invention is being worked abroad.

### *Use of patented inventions for services of the Crown*

- 55 Use of patented inventions for services of the Crown.
- 56 Interpretation, etc., of provisions about Crown use.
- 57 Rights of third parties in respect of Crown use.
- 57A Compensation for loss of profit.
- 58 References of disputes as to Crown use.
- 59 Special provisions as to Crown use during emergency.

### *Infringement*

- 60 Meaning of infringement.
- 61 Proceedings for infringement of patent.
- 62 Restrictions on recovery of damages for infringement.
- 63 Relief for infringement of partially valid patent.
- 64 Right to continue use begun before priority date.
- 65 Certificate of contested validity of patent.
- 66 Proceedings for infringement by a co-owner.
- 67 Proceedings for infringement by exclusive licensee.
- 68 Effect of non-registration on infringement proceedings.
- 69 Infringement of rights conferred by publication of application.
- 70 Threats of infringement proceedings
- 70A Actionable threats
- 70B Permitted communications
- 70C Remedies and defences
- 70D Professional advisers
- 70E Supplementary: pending registration
- 70F Supplementary: proceedings for delivery up etc.

### *Declaration or declarator as to non-infringement*

- 71 Declaration or declarator as to non-infringement

### *Revocation of patents*

- 72 Power to revoke patents on application.
- 73 Comptroller's power to revoke patents on his own initiative.

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*Putting validity in issue*

- 74 Proceedings in which validity of patent may be put in issue.

*Opinions by Patent Office*

- 74A Opinions on matters prescribed in the rules  
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- 75 Amendment of patent in infringement or revocation proceedings.  
76 Amendments of applications and patents not to include added matter.  
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- 77 Effect of European patent (UK).  
78 Effect of filing an application for a European patent (UK).  
79 Operation of s. 78 in relation to certain European patent applications.  
80 Authentic text of European patents and patent applications.  
81 Conversion of European patent applications.  
82 Jurisdiction to determine questions as to right to a patent.  
83 Effect of patent decisions of competent authorities of other states.  
83A European patent with unitary effect and Unified Patent Court  
84 Provisions about International Conventions  
85 Provisions about International Conventions

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- 86 Implementation of Community Patent Convention.  
87 Decisions on Community Patent Convention.  
88 Provisions about International Conventions

*Unified Patent Court*

- 88A Implementation of Agreement on a Unified Patent Court  
88B Designation as international organisation of which UK is member

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- 89 Effect of international application for patent.  
89A International and national phases of application.  
89B Adaptation of provisions in relation to international application.

*Convention countries*

- 90 Orders in Council as to convention countries.

*Miscellaneous*

- 91 Evidence of conventions and instruments under conventions.  
92 Obtaining evidence for proceedings under the European Patent Convention.

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- 93 Enforcement of orders for costs.
- 94 Communication of information to the European Patent Office, etc.
- 95 Financial provisions.

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Legal Proceedings*

- 96 The Patents Court.
- 97 Appeals from the comptroller.
- 98 Proceedings in Scotland.
- 99 General powers of the court.
- 99A Power of Patents Court to order report.
- 99B Power of Court of Session to order report.
- 100 Burden of proof in certain cases.
- 101 Exercise of comptroller's discretionary powers.
- 102 Right of audience, &c. in proceedings before comptroller.
- 102A Right of audience, &c. in proceedings on appeal from the comptroller.
- 103 Extension of privilege for communications with solicitors relating to patent proceedings.
- 104 Privilege for communications with patent agents relating to patent proceedings.
- 105 Extension of privilege in Scotland for communications relating to patent proceedings.
- 106 Costs and expenses in proceedings before the Court ....
- 107 Costs and expenses in proceedings before the comptroller.
- 108 Licences granted by order of comptroller.

##### *Offences*

- 109 Falsification of register etc.
- 110 Unauthorised claim of patent rights.
- 111 Unauthorised claim that patent has been applied for.
- 112 Misuse of title "Patent Office".
- 113 Offences by corporations.
- 114 Miscellaneous and General
- 115 Miscellaneous and General

##### *Immunity of department*

- 116 Immunity of department as regards official acts.

##### *Administrative provisions*

- 117 Correction of errors in patents and applications.
- 117A Effect of resuscitating a withdrawn application under section 117
- 117B Extension of time limits specified by comptroller
- 118 Information about patent applications and patents, and inspection of documents.
- 118A Copyright in documents made available electronically for inspection under section 118(1)
- 119 Service by post.
- 120 Hours of business and excluded days.
- 121 Comptroller's annual report.

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### *Supplemental*

- 122 Crown's right to sell forfeited articles.
- 123 Rules.
- 124 Rules, regulations and orders; supplementary.
- 124A Use of electronic communications
- 125 Extent of invention.
- 125A Disclosure of invention by specification: availability of samples of biological material.
- 126 Supplemental
- 127 Existing patents and applications.
- 128 Priorities between patents and applications under 1949 Act and this Act.
- 128A Compulsory pharmaceutical licences
- 128B Supplementary protection certificates
- 129 Application of Act to Crown.
- 130 Interpretation.
- 131 Northern Ireland.
- 131A Scotland
- 132 Short title, extent, commencement, consequential amendments and repeals.

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### SCHEDULES

#### SCHEDULE A1 — DEROGATION FROM PATENT PROTECTION IN RESPECT OF BIOTECHNOLOGICAL INVENTIONS

- 1 Interpretation
- 2 Specified species
- 3 Liability to pay equitable remuneration
- 4 Exemption for small farmers
- 5 Information to be supplied by farmer
- 6 Information to be supplied by seed processor
- 7 Information to be supplied by relevant rights holder
- 8 Period in respect of which inquiry may be made
- 9 Restriction on movement for processing from the holding
- 10 Confidentiality
- 11 Formalities
- 12 Remedies

#### SCHEDULE A2 — BIOTECHNOLOGICAL INVENTIONS

- 1 An invention shall not be considered unpatentable solely on the...
- 2 Biological material which is isolated from its natural environment or...
- 3 The following are not patentable inventions— (a) the human body,...
- 4 Inventions which concern plants or animals may be patentable if...
- 5 An element isolated from the human body or otherwise produced...
- 6 The industrial application of a sequence or partial sequence of...
- 7 The protection conferred by a patent on a biological material...
- 8 The protection conferred by a patent on a process that...
- 9 The protection conferred by a patent on a product containing...
- 10 The protection referred to in paragraphs 7, 8 and 9...
- 11 In this Schedule: “essentially biological process” means a process for...

#### SCHEDULE A3 — EUROPEAN PATENT WITH UNITARY EFFECT

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*Meaning of “relevant statutory provisions”*

1 In this Schedule “relevant statutory provisions” means—

*Provisions applied by this Schedule to the European patent with unitary effect*

2 The following provisions of this Act apply in relation to...

*Manner of application of relevant statutory provisions*

3 The relevant statutory provisions apply in relation to a European...

*Modifications of relevant statutory provisions*

4 (1) In their application in relation to the European patent...

*Interpretation*

5 In this Schedule— (a) “Contracting Member State” has the same...

SCHEDULE A4 — THE UNIFIED PATENT COURT

*Jurisdiction*

1 The Unified Patent Court has exclusive jurisdiction in respect of...

*Transitional provisions*

2 (1) The transitional provisions in Article 83 apply in relation...

*Modifications of law applicable where UPC has jurisdiction*

3 (1) In the case of an Article 32(1) action relating...

*Enforcement*

4 (1) For the purposes of enforcement of a decision or...

*Interpretation*

5 In this Schedule— (a) “Article 32(1) action” means an action...

SCHEDULE 1 — Application of 1949 Act to existing patents and applications

1 (1) The provisions of the 1949 Act referred to in...

2 (1) In section 6 of the 1949 Act, at the...

3 (1) This paragraph and paragraph 4 below shall have effect...

4 (1) The term of every new existing patent under section...

4A (1) If the proprietor of a patent for an invention...

4B (1) An application under section 46(3)(a) or (b) above for...

5 In section 26(3) of the 1949 Act (no patent of...

6 Notwithstanding anything in section 32(1)(j) of the 1949 Act (ground...

7 (1) In section 33 of the 1949 Act (revocation of...

8 In section 101(1) of the 1949 Act (interpretation) there shall...

SCHEDULE 2 — Application of this Act to Existing Patents and Applications

1 (1) Without prejudice to those provisions of Schedule 4 below...

2 In those provisions as they apply by virtue of this...

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### SCHEDULE 3 — REPEALS OF PROVISIONS OF 1949 ACT

- 1 Subject to the provisions of Schedule 4 below, the provisions...
- 2 The provisions are:— (a) section 14 (opposition to grant of...

### SCHEDULE 4 — Transitional Provisions

#### *General*

- 1 In so far as any instrument made or other thing...

#### *Use of patented invention for services of the Crown*

- 2 (1) Any question whether— (a) an act done before the...

#### *Infringement*

- 3 (1) Any question whether an act done before the appointed...

#### *Notice of opposition*

- 4 (1) Where notice of opposition to the grant of a...

#### *Secrecy*

- 5 (1) Where directions given under section 18 of the 1949...

#### *Revocation*

- 6 (1) Where before the appointed day an application has been...
- 7 (1) This paragraph applies where an application has been made...

#### *Licences of right and compulsory licences*

- 8 (1) Sections 35 to 41 and 43 to 45 of...

#### *Convention countries*

- 9 (1) Without prejudice to paragraph 1 above, an Order in...

#### *Appeals from court on certain petitions for revocation*

- 10 Where the court has given judgment on a petition under...

#### *Appeals from comptroller under continuing provisions of 1949 Act*

- 11 (1) In this paragraph “the continuing 1949 Act provisions” means...

#### *Appeals from comptroller under repealed provisions of 1949 Act*

- 12 (1) This paragraph applies where an appeal to the Appeal...

#### *Appeals from Appeal Tribunal to Court of Appeal*

- 13 Section 87(1) of the 1949 Act shall continue to apply...

#### *Rules*

- 14 The power to make rules under section 123 of this...



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### *Supplementary*

- 15 Section 97(2) of this Act applies to—
- 16 In this Schedule “the old law” means the 1949 Act,...
- 17 For the purposes of this Schedule— (a) issue is joined...
- 18 (1) Nothing in the repeals made by this Act in...

#### SCHEDULE 4A — SUPPLEMENTARY PROTECTION CERTIFICATES

- 1 ***References to patents etc***
- 2 (1) In the case of the provisions of this Act...
- 3 ***References to this Act etc***
- 4 ***Other references***
- 5 ***Fees***
- 6 ***Interpretation***
- 7 In this Act— (a) “the Medicinal Products Regulation” means Regulation...
- 8 ***Transitional provision***

#### SCHEDULE 5 — CONSEQUENTIAL AMENDMENTS

- 1, 2 CONSEQUENTIAL AMENDMENTS
- 3 In sections 42 and 44(1) of the Registered Designs Act...

##### *Defence Contracts Act 1958 (c. 38)*

- 4 In subsection (4) of section 4 of the Defence Contracts...

##### *Administration of Justice Act 1970 (c. 31)*

- 5 (1) In subsections (2) and (3) of section 10 of...

##### *Atomic Energy Authority (Weapons Group) Act 1973 (c. 4)*

- 6 In section 5(2) of the Atomic Energy Authority (Weapons Group)...
- 7, 8 CONSEQUENTIAL AMENDMENTS

#### SCHEDULE 6 — ENACTMENTS REPEALED

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**Changes and effects yet to be applied to :**

- s. 50A heading words inserted by S.I. 2019/93, Sch. 1 para. B1(5) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 128A heading words substituted by [S.I. 2019/801 reg. 3\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(a)(b) substituted immediately before IP completion day by S.I. 2020/1050, regs. 1(2), 27)
- s. 50A(1) word inserted by S.I. 2019/93, Sch. 1 para. B1(2)(a) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(1) words inserted by S.I. 2019/93, Sch. 1 para. B1(2)(b) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(5)(a) words inserted by S.I. 2019/93, Sch. 1 para. B1(3) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(7) word inserted by S.I. 2019/93, Sch. 1 para. B1(4) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 56(4)(a)(i) words omitted by [S.I. 2006/1056 Sch. para. 2\(a\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 62(3)(a) words in s. 62(3) renumbered as s. 62(3)(a) by [2004 c. 16 s. 2\(3\)](#) (Amendment not applied to legislation.gov.uk. S. 2(3) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 62(3)(b) and word inserted by [2004 c. 16 s. 2\(3\)](#) (Amendment not applied to legislation.gov.uk. S. 2(3) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 128A(1) words substituted by [S.I. 2019/801 reg. 3\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(a)(b) substituted immediately before IP completion day by S.I. 2020/1050, regs. 1(2), 27)
- Sch. A1 para. 1 words inserted by [S.I. 2019/801 reg. 4](#) (This amendment not applied to legislation.gov.uk. Reg. 4 omitted immediately before IP completion day by virtue S.I. 2020/1050, regs. 1(2), 28)

- Sch. 5 para. 7 repealed by [2002 c. 40 Sch. 26](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 7 already repealed by by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), Sch. 8; S.I. 1990/2168, art. 2 (with art. 3))
- Sch. 5 para. 5 repealed by [2007 c. 15 Sch. 23 Pt. 6](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**  
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to [legislation.gov.uk](#). S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to [legislation.gov.uk](#). S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)