



Patents Act 1977

1977 CHAPTER 37

PART III

MISCELLANEOUS AND GENERAL

Supplemental

122 Crown's right to sell forfeited articles.

Nothing in this Act affects the right of the Crown or any person deriving title directly or indirectly from the Crown to dispose of or use articles forfeited under the laws relating to customs or excise.

123 Rules.

- (1) The Secretary of State may make such rules as he thinks expedient for regulating the business of the Patent Office in relation to patents and applications for patents (including European patents, applications for European patents and international applications for patents) and for regulating all matters placed by this Act under the direction or control of the comptroller; and in this Act, except so far as the context otherwise requires, “prescribed” means prescribed by rules and “rules” means rules made under this section.
- (2) Without prejudice to the generality of subsection (1) above, rules may make provision—
 - (a) prescribing the form and contents of applications for patents and other documents which may be filed at the Patent Office and requiring copies to be furnished of any such documents;
 - (b) regulating the procedure to be followed in connection with any proceeding or other matter before the comptroller or the Patent Office and authorising the rectification of irregularities of procedure;

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- (c) requiring fees to be paid in connection with any such proceeding or matter or in connection with the provision of any service by the Patent Office and providing for the remission of fees in the prescribed circumstances;
- (d) regulating the mode of giving evidence in any such proceeding and empowering the comptroller to compel the attendance of witnesses and the discovery of and production of documents;
- (e) requiring the comptroller to advertise any proposed amendments of patents and any other prescribed matters, including any prescribed steps in any such proceeding;
- (f) requiring the comptroller to hold proceedings in Scotland in such circumstances as may be specified in the rules where there is more than one party to proceedings under section 8, 12, 37, 40(1) or (2), 41(8), 61(3), 71 or 72 above;
- (g) providing for the appointment of advisers to assist the comptroller in any proceeding before him;
- (h) prescribing time limits for doing anything required to be done in connection with any such proceeding by this Act or the rules and providing for the alteration of any period of time specified in this Act or the rules;
- [^{F1}(i) giving effect to an inventor’s rights to be mentioned conferred by section 13, and providing for an inventor’s waiver of any such right to be subject to acceptance by the comptroller;]
- (j) without prejudice to any other provision of this Act, requiring and regulating the translation of documents in connection with an application for a patent or a European patent or an international application for a patent and the filing and authentication of any such translations;
- (k)^{F2}
- (l) providing for the publication and sale of documents in the Patent Office and of information about such documents.

[^{F3}(2A) The comptroller may set out in directions any forms the use of which is required by rules; and any such directions shall be published in the prescribed manner.]

(3) Rules may make different provision for different cases.

[^{F4}(3A) It is hereby declared that rules—

- (a) authorising the rectification of irregularities of procedure, or
- (b) providing for the alteration of any period of time,

may authorise the comptroller to extend or further extend any period notwithstanding that the period has already expired.]

^{F5}(4)

^{F6}(5)

(6) Rules shall provide for the publication by the comptroller of a journal (in this Act referred to as “the journal”) containing particulars of applications for and grants of patents, and of other proceedings under this Act.

(7) Rules shall require or authorise the comptroller to make arrangements for the publication of reports of cases relating to patents, trade marks [^{F7}registered designs or design right] decided by him and of cases relating to patents (whether under this Act or otherwise) trade marks, registered designs [^{F8}, copyright and design right] decided by any court or body (whether in the United Kingdom or elsewhere).

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Textual Amendments

- F1** S. 123(2)(i) substituted (1.10.2005) by Patents Act 2004 (c. 16), s. 17(1), **Sch. 2 para. 26(2)**; S.I. 2005/2471, art. 2(g)
- F2** S. 123(2)(k) repealed by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(2), **Sch. 8**
- F3** S. 123(2A) inserted (22.9.2004) by Patents Act 2004 (c. 16), s. 17(1), **Sch. 2 para. 26(3)**; S.I. 2004/2177, art. 2 (with arts. 7, 8)
- F4** Words substituted by virtue of S.I. 1981/1670 arts. 2, 3(5)
- F5** S. 123(4) repealed (22.9.2004) by Patents Act 2004 (c. 16), s. 17(1), Sch. 2 para. 26(4), **Sch. 3**; S.I. 2004/2177, art. 2 (with arts. 7, 8)
- F6** S. 123(5) repealed (22.9.2004) by Patents Act 2004 (c. 16), s. 17(1), Sch. 2 para. 26(4), **Sch. 3**; S.I. 2004/2177, art. 2 (with arts. 7, 8)
- F7** Words substituted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(1), **Sch. 7 para. 22(a)**
- F8** Words substituted by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), s. 303(1), **Sch. 7 para. 22(b)**

Modifications etc. (not altering text)

- C1** S. 123 extended (10.12.1992) by S.I. 1992/3091, **reg. 4(2)**
S. 123 extended (1.3.2002) by The Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002 (S.I. 2002/247), **reg. 20**
- C2** S. 123(1) amended (2.1.1993) by S.I. 1992/3091, **reg. 4(1)**
- C3** S. 123(2)-(7) applied (10.12.1992) by S.I. 1992/3091, reg. 4(2)
- C4** S. 123(7) extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2(3), **Sch. 2 Pt. I para. 1(2)(e)(iii)**
S. 123(7) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art. 2**

124 Rules, regulations and orders; supplementary.

- (1) Any power conferred on the Secretary of State by this Act to make rules, regulations or orders shall be exercisable by statutory instrument.
- (2) Any Order in Council and any statutory instrument containing an order, rules or regulations under this Act, other than an order or rule required to be laid before Parliament in draft or an order under section 132(5) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any Order in Council or order under any provision of this Act may be varied or revoked by a subsequent order.

Modifications etc. (not altering text)

- C5** S. 124 applied (10.12.1992) by S.I. 1992/3091, **reg. 4(2)**
- C6** S. 124 applied (1.3.2002) by The Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002 (S.I. 2002/247), **reg. 20**

[^{F9}124A. Use of electronic communications

- (1) The comptroller may [^{F10}give] directions as to the form and manner in which documents to be delivered to the comptroller—
 - (a) in electronic form; or

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- (b) using electronic communications,
are to be delivered to him.
- (2) A direction under subsection (1) may provide that in order for a document to be delivered in compliance with the direction it shall be accompanied by one or more additional documents specified in the direction.
- (3) [^{F11}Subject to subsections (14) and (15), if a document to which a direction under subsection (1) or (2)] applies is delivered to the comptroller in a form or manner which does not comply with the direction the comptroller may treat the document as not having been delivered.
- (4) Subsection (5) applies in relation to a case where—
 - (a) a document is delivered using electronic communications, and
 - (b) there is a requirement for a fee to accompany the document.
- (5) The comptroller may [^{F12}give] directions specifying—
 - (a) how the fee shall be paid; [^{F13}and]
 - (b) when the fee shall be deemed to have been paid.
- (6) The comptroller may [^{F14}give] directions specifying that a person who delivers a document to the comptroller in electronic form or using electronic communications cannot treat the document as having been delivered unless its delivery has been acknowledged.
- (7) The comptroller may [^{F15}give] directions specifying how a time of delivery is to be accorded to a document delivered to him in electronic form or using electronic communications.
- (8) A direction under this section may be given—
 - (a) generally;
 - (b) in relation to a description of cases specified in the direction;
 - (c) in relation to a particular person or persons.

^{F16}(9)

^{F16}(10)

- (11) A direction under this section may be varied or revoked by a subsequent direction under this section.

^{F17}(12)

^{F18}(13) The delivery using electronic communications to any person by the comptroller of any document is deemed to be effected, unless the comptroller has otherwise specified, by transmitting an electronic communication containing the document to an address provided or made available to the comptroller by that person as an address of his for the receipt of electronic communications; and unless the contrary is proved such delivery is deemed to be effected immediately upon the transmission of the communication.

- (14) A requirement of this Act that something must be done in the prescribed manner is satisfied in the case of something that is done—
 - (a) using a document in electronic form, or
 - (b) using electronic communications,

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only if the directions under this section that apply to the manner in which it is done are complied with.

- (15) In the case of an application made as mentioned in subsection (14)(a) or (b) above, a reference in this Act to the application not having been made in compliance with rules or requirements of this Act includes a reference to its not having been made in compliance with any applicable directions under this section.
- (16) This section applies—
- (a) to delivery at, in, with or to the Patent Office as it applies to delivery to the comptroller; and
 - (b) to delivery by the Patent Office as it applies to delivery by the comptroller.]]

Textual Amendments

- F9** S. 124A inserted (1.4.2003) by Patents Act 1977 (Electronic Communications) Order 2003 (S.I. 2003/512), arts. 1, 2
- F10** Word in s. 124A(1) substituted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(2)
- F11** Words in s. 124A(3) substituted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(3)
- F12** Word in s. 124A(5) substituted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(4)(a)
- F13** Word in s. 124A(5) inserted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(4)(b)
- F14** Word in s. 124A(6) substituted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(5)
- F15** Word in s. 124A(7) substituted (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(6)
- F16** S. 124A(9)(10) omitted (1.10.2006) by virtue of Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(7)
- F17** S. 124A(12) omitted (1.10.2006) by virtue of Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(7)
- F18** S. 124A(13)-(16) substituted for s. 124A(13)-(15) (1.10.2006) by Registered Designs Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (S.I. 2006/1229), arts. 1, 4(8)

125 Extent of invention.

- (1) For the purposes of this Act an invention for a patent for which an application has been made or for which a patent has been granted shall, unless the context otherwise requires, be taken to be that specified in a claim of the specification of the application or patent, as the case may be, as interpreted by the description and any drawings contained in that specification, and the extent of the protection conferred by a patent or application for a patent shall be determined accordingly.
- (2) It is hereby declared for the avoidance of doubt that where more than one invention is specified in any such claim, each invention may have a different priority date under section 5 above.
- (3) The Protocol on the Interpretation of Article 69 of the European Patent Convention (which Article contains a provision corresponding to subsection (1) above) shall, as for the time being in force, apply for the purposes of subsection (1) above as it applies for the purposes of that Article.

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[^{F19}125A Disclosure of invention by specification: availability of samples of [^{F20}biological material].

- (1) Provision may be made by rules prescribing the circumstances in which the specification of an application for a patent, or of a patent, for an invention which [^{F21}involves the use of or concerns biological material] is to be treated as disclosing the invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the art.
- (2) The rules may in particular require the applicant or patentee—
 - (a) to take such steps as may be prescribed for the purposes of making available to the public samples of the [^{F21}biological material], and
 - (b) not to impose or maintain restrictions on the uses to which such samples may be put, except as may be prescribed.
- (3) The rules may provide that, in such cases as may be prescribed, samples need only be made available to such persons or descriptions of persons as may be prescribed; and the rules may identify a description of persons by reference to whether the comptroller has given his certificate as to any matter.
- (4) An application for revocation of the patent under section 72(1)(c) above may be made if any of the requirements of the rules cease to be complied with.]

Textual Amendments

F19 S. 125A inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 30**

F20 Words in sidenote to s. 125A substituted (28.7.2000) by [S.I. 2000/2037, reg. 6\(2\)](#)

F21 Words in s. 125A(1)(2)(a) substituted (28.7.2000) by [S.I. 2000/2037, reg. 6\(3\)\(4\)](#)

^{F22}126

Textual Amendments

F22 S. 126 repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. III Note 1 of the amending Act) by [2000 c. 17, s. 156, Sch. 40 Pt. III](#)

127 Existing patents and applications.

- (1) No application for a patent may be made under the 1949 Act on or after the appointed day.
- (2) Schedule 1 to this Act shall have effect for securing that certain provisions of the 1949 Act shall continue to apply on and after the appointed day to—
 - (a) a patent granted before that day;
 - (b) an application for a patent which is filed before that day, and which is accompanied by a complete specification or in respect of which a complete specification is filed before that day;
 - (c) a patent granted in pursuance of such an application.
- (3) Schedule 2 to this Act shall have effect for securing that (subject to the provisions of that Schedule) certain provisions of this Act shall apply on and after the appointed

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day to any patent and application to which subsection (2) above relates, but, except as provided by the following provisions of this Act, this Act shall not apply to any such patent or application.

- (4) An application for a patent which is made before the appointed day, but which does not comply with subsection (2)(b) above, shall be taken to have been abandoned immediately before that day, but, notwithstanding anything in section 5(3) above, the application may nevertheless serve to establish a priority date in relation to a later application for a patent under this Act if the date of filing the abandoned application falls within the period of fifteen months immediately preceding the filing of the later application.
- (5) Schedule 3 to this Act shall have effect for repealing certain provisions of the 1949 Act.
- (6) The transitional provisions and savings in Schedule 4 to this Act shall have effect.
- (7) In Schedules 1 to 4 to this Act “existing patent” means a patent mentioned in subsection (2)(a) and (c) above, “existing application” means an application mentioned in subsection (2)(b) above, and expressions used in the 1949 Act and those Schedules have the same meanings in those Schedules as in that Act.

Modifications etc. (not altering text)

- C7** The text of ss. 127(5), 132(6),(7); Sch. 1 para. 2(1),(2), 5, 7(1)(2), 8; Sch. 3; Sch. 5 paras 4, 5(1), (2), (3), 6; Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

128 Priorities between patents and applications under 1949 Act and this Act.

- (1) The following provisions of this section shall have effect for the purpose of resolving questions of priority arising between patents and applications for patents under the 1949 Act and patents and applications for patents under this Act.
- (2) A complete specification under the 1949 Act shall be treated for the purposes of sections 2(3) and 5(2) above—
 - (a) if published under that Act, as a published application for a patent under this Act;
 - (b) if it has a date of filing under that Act, as an application for a patent under this Act which has a date of filing under this Act;and in the said section 2(3), as it applies by virtue of this subsection in relation to any such specification, the words “both as filed and” shall be omitted.
- (3) In section 8(1), (2) and (4) of the 1949 Act (search for anticipation by prior claim) the references to any claim of a complete specification, other than the applicant’s, published and filed as mentioned in section 8(1) shall include references to any claim contained in an application made and published under this Act or in the specification of a patent granted under this Act, being a claim in respect of an invention having a priority date earlier than the date of filing the complete specification under the 1949 Act.
- (4) In section 32(1)(a) of the 1949 Act (which specifies, as one of the grounds of revoking a patent, that the invention was claimed in a valid claim of earlier priority date contained in the complete specification of another patent), the reference to such a claim

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shall include a reference to a claim contained in the specification of a patent granted under this Act (a new claim) which satisfies the following conditions:—

- (a) the new claim must be in respect of an invention having an earlier priority date than that of the relevant claim of the complete specification of the patent sought to be revoked; and
 - (b) the patent containing the new claim must be wholly valid or be valid in those respects which have a bearing on that relevant claim.
- (5) For the purposes of this section and the provisions of the 1949 Act mentioned in this section the date of filing an application for a patent under that Act and the priority date of a claim of a complete specification under that Act shall be determined in accordance with the provisions of that Act, and the priority date of an invention which is the subject of a patent or application for a patent under this Act shall be determined in accordance with the provisions of this Act.

^{F24}128A^{F23}C **Compulsory pharmaceutical] licences**

- (1) In this Act ^{F25}a “compulsory pharmaceutical] licence” means a compulsory licence granted under Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems (referred to in this Act as “the Compulsory Licensing Regulation”).
- (2) In the application to ^{F26}compulsory pharmaceutical] licences of the provisions of this Act listed in subsection (3)—
 - (a) references to a licence under a patent,
 - (b) references to a right under a patent, and
 - (c) references to a proprietary interest under a patent,
 include ^{F27}a compulsory pharmaceutical] licence.
- (3) The provisions referred to in subsection (2) are—
 - sections 32 and 33 (registration of patents etc);
 - section 37 (determination of right to patent after grant);
 - section 38 (effect of transfer etc of patent under section 37), apart from subsection (2) and subsections (3) to (5) so far as relating to subsection (2);
 - section 41 (amount of compensation);
 - section 46(2) (notice of application for entry that licences are available as of right);
 - section 57(1) and (2) (rights of third parties in respect of Crown use).
- (4) In the following provisions references to this Act include the Compulsory Licensing Regulation—
 - sections 97 to 99B, 101 to 103, 105 and 107 (legal proceedings);
 - section 119 (service by post);
 - section 120 (hours of business and excluded days);
 - section 121 (comptroller’s annual report);
 - section 123 (rules);
 - section 124A (use of electronic communications);
 - section 130(8) (disapplication of Part 1 of Arbitration Act 1996).

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- (5) In section 108 (licences granted by order of comptroller) the reference to a licence under section 11, 38, 48 or 49 includes [^{F28}a compulsory pharmaceutical] licence.
- (6) References in this Act to the Compulsory Licensing Regulation are to that Regulation as amended from time to time.

Textual Amendments

- F23** Words in s. 128A heading substituted (31.12.2020) by S.I. 2019/801, reg. 3(a) (as substituted by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **27**)
- F24** Ss. 128A, 128B inserted (17.12.2007) by [The Patents \(Compulsory Licensing and Supplementary Protection Certificates\) Regulations 2007 \(S.I. 2007/3293\)](#), regs. 1(2), **2(2)**
- F25** Words in s. 128A(1) substituted (31.12.2020) by S.I. 2019/801, reg. 3(b) (as substituted by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **27**)
- F26** Words in s. 128A(2) substituted (31.12.2020) by [The Patents \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/801\)](#), regs. 1, **3(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in s. 128A(2) substituted (31.12.2020) by [The Patents \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/801\)](#), regs. 1, **3(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in s. 128A(5) substituted (31.12.2020) by [The Patents \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/801\)](#), regs. 1, **3(d)**; 2020 c. 1, Sch. 5 para. 1(1)

128B. Supplementary protection certificates

- (1) Schedule 4A contains provision about the application of this Act in relation to supplementary protection certificates and other provision about such certificates.
- (2) In this Act a “supplementary protection certificate” means a certificate issued under—
- [^{F29}Regulation [\(EC\) No 469/2009](#) of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products], or
 - Regulation [\(EC\) No 1610/96](#) of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products.]

Textual Amendments

- F24** Ss. 128A, 128B inserted (17.12.2007) by [The Patents \(Compulsory Licensing and Supplementary Protection Certificates\) Regulations 2007 \(S.I. 2007/3293\)](#), regs. 1(2), **2(2)**
- F29** Words in s. 128B(2)(a) substituted (1.10.2014) by [The Patents \(Supplementary Protection Certificates\) Regulations 2014 \(S.I. 2014/2411\)](#), regs. 1(2), **2(2)**

129 Application of Act to Crown.

—This Act does not affect Her Majesty in her private capacity but, subject to that, it binds the Crown.

130 Interpretation.

- (1) In this Act, except so far as the context otherwise requires—

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[^{F30}“Agreement on a Unified Patent Court” means the Agreement on a Unified Patent Court signed at Brussels on 19th February 2013;]

[^{F31}“application fee” means the fee prescribed for the purposes of section 14(1A) above;]

“application for a European patent (UK)” and [^{F32}(subject to subsection (4A) below)] “international application for a patent (UK)” each mean an application of the relevant description which, on its date of filing, designates the United Kingdom;

“appointed day”, in any provision of this Act, means the day appointed under section 132 below for the coming into operation of that provision;

[^{F33}“biological material” means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system;

^{F33}“biotechnological invention” means an invention which concerns a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used;

^{F34}
...

“comptroller” means the Comptroller-General of Patents, Designs and Trade Marks;

“Convention on International Exhibitions” means the Convention relating to International Exhibitions signed in Paris on 22nd November 1928, as amended or supplemented by any protocol to that convention which is for the time being in force;

“court” means

- (a) [^{F35}as respects England and Wales, the High [^{F36}Court;]]
- (b) as respects Scotland, the Court of Session;
- (c) as respects Northern Ireland, the High Court in Northern Ireland;

[^{F37}or the Unified Patent Court, as respects the jurisdiction which it has by virtue of Schedule A4;]

“date of filing” means—

- (a) in relation to an application for a patent made under this Act, the date which is the date of filing that application by virtue of section 15 above; and
- (b) in relation to any other application, the date which, under the law of the country where the application was made or in accordance with the terms of a treaty or convention to which that country is a party, is to be treated as the date of filing that application or is equivalent to the date of filing an application in that country (whatever the outcome of the application);

“designate” in relation to an application or a patent, means designate the country or countries (in pursuance of the European Patent Convention or the Patent Co-operation Treaty) in which protection is sought for the invention which is the subject of the application or patent [^{F38}and includes a reference to a country being treated as designated in pursuance of the convention or treaty];

[^{F39}“electronic communication” has the same meaning as in the Electronic Communications Act 2000;]

“employee” means a person who works or (where the employment has ceased) worked under a contract of employment or in employment under or for the purposes of a government department [^{F40}or a person who serves (or served) in the naval, military or air forces of the Crown];

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“employer”, in relation to an employee, means the person by whom the employee is or was employed;

“European Patent Convention” means the Convention on the Grant of European Patents, “European patent” means a patent granted under that convention, “European patent (UK)” means a European patent designating the United Kingdom, “European Patent Bulletin” means the bulletin of that name published under that convention, and “European Patent Office” means the office of that name established by that convention;

[^{F30}“European patent with unitary effect” has the same meaning as in Article 2 of the Unitary Patent Regulation;]

“exclusive licence” means a licence from the proprietor of or applicant for a patent conferring on the licensee, or on him and persons authorised by him, to the exclusion of all other persons (including the proprietor or applicant), any right in respect of the invention to which the patent or application relates, and “exclusive licensee” and “non-exclusive licence” shall be construed accordingly;

^{F31}
...

“formal requirements” means those requirements designated as such by rules made for the purposes of [^{F41}section 15A] above;

“international application for a patent” means an application made under the Patent Co-operation Treaty;

“International Bureau” means the secretariat of the World Intellectual Property Organization established by a convention signed at Stockholm on 14th July 1967;

“international exhibition” means an official or officially recognised international exhibition falling within the terms of the Convention on International Exhibitions or falling within the terms of any subsequent treaty or convention replacing that convention;

“inventor” has the meaning assigned to it by section 7 above;

“journal” has the meaning assigned to it by section 123(6) above;

“mortgage”, when used as a noun, includes a charge for securing money or money’s worth and, when used as a verb, shall be construed accordingly;

^{M1}“1949 Act” means the Patents Act 1949;

“patent” means a patent under this Act;

^{F42}
.....;

“Patent Co-operation Treaty” means the treaty of that name signed at Washington on 19th June 1970;

“patented invention” means an invention for which a patent is granted and “patented process” shall be construed accordingly;

“patented product” means a product which is a patented invention or, in relation to a patented process, a product obtained directly by means of the process or to which the process has been applied;

“prescribed” and “rules” have the meanings assigned to them by section 123 above;

“priority date” means the date determined as such under section 5 above;

“published” means made available to the public (whether in the United Kingdom or elsewhere) and a document shall be taken to be published under any provision of this Act if it can be inspected as of right at any place in the

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United Kingdom by members of the public, whether on payment of a fee or not; and “republished” shall be construed accordingly;

“register” and cognate expressions have the meanings assigned to them by section 32 above;

^{F43}“relevant convention court”, in relation to any proceedings under the European Patent Convention, ... or the Patent Co-operation Treaty, means that court or other body which under that convention or treaty has jurisdiction over those proceedings, including (where it has such jurisdiction) any department of the European Patent Office;

“right”, in relation to any patent or application, includes an interest in the patent or application and, without prejudice to the foregoing, any reference to a right in a patent includes a reference to a share in the patent;

“search fee” means the fee prescribed for the purposes of [^{F44}section 17(1) above];

“services of the Crown” and “use for the services of the Crown” have the meanings assigned to them by section 56(2) above, including, as respects any period of emergency within the meaning of section 59 above, the meanings assigned to them by the said section 59.

[^{F30}“Unified Patent Court” means the court established under the Agreement on a Unified Patent Court;]

[^{F30}“Unitary Patent Regulation” means Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection.]

- (2) Rules may provide for stating in the journal that an exhibition falls within the definition of international exhibition in subsection (1) above and any such statement shall be conclusive evidence that the exhibition falls within that definition.
 - (3) For the purposes of this Act matter shall be taken to have been disclosed in any relevant application within the meaning of section 5 above or in the specification of a patent if it was either claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or specification.
 - (4) References in this Act to an application for a patent, as filed, are references to such an application in the state it was on the date of filing.
- [An international application for a patent is not, by reason of being treated by virtue of
- ^{F45}(4A) the European Patent Convention as an application for a European patent (UK), to be treated also as an international application for a patent (UK).]
- (5) References in this Act to an application for a patent being published are references to its being published under section 16 above.
- [References in this Act to the amendment of a patent or its specification (whether under
- ^{F46}(5A) this Act or by the European Patent Office) include, in particular, limitation of the claims (as interpreted by the description and any drawings referred to in the description or claims).]
- (6) References in this Act to any of the following conventions, that is to say—
 - (a) The European Patent Convention;
 - (b) The Community Patent Convention;
 - (c) The Patent Co-operation Treaty;

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[The Agreement on a Unified Patent Court;]
^{F47}(d)

are references to that convention or any other international convention or agreement replacing it, as amended or supplemented by any convention or international agreement (including in either case any protocol or annex), or in accordance with the terms of any such convention or agreement, and include references to any instrument made under any such convention or agreement.

- (7) Whereas by a resolution made on the signature of the Community Patent Convention the governments of the member states of the European Economic Community resolved to adjust their laws relating to patents so as (among other things) to bring those laws into conformity with the corresponding provisions of the European Patent Convention, the Community Patent Convention and the Patent Co-operation Treaty, it is hereby declared that the following provisions of this Act, that is to say, sections 1(1) to (4), 2 to 6, 14(3), (5) and (6), 37(5), 54, 60, 69, 72(1) and (2), 74(4), 82, 83, . . . ^{F48} 100 and 125, are so framed as to have, as nearly as practicable, the same effects in the United Kingdom as the corresponding provisions of the European Patent Convention, the Community Patent Convention and the Patent Co-operation Treaty have in the territories to which those Conventions apply.
- (8) [^{F49}Nothing in any of sections 1 to 15 of and schedule 1 to the Arbitration (Scotland) Act 2010 or][^{F50}Part I of the Arbitration Act 1996][^{F51}shall not apply][^{F51}applies] to any proceedings before the comptroller under this Act.
- (9) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.]

Textual Amendments

- F30** Words in s. 130(1) inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), arts. 1(2), **2(9)(a)** (with art. 3)
- F31** Words in s. 130(1) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **19** (with arts. 20-23)
- F32** Words in s. 130(1) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(2)(a)**; S.I. 2004/3205, art. 2(i) (with art. 9)
- F33** S. 130: definitions of “biological material” and “biotechnological invention” inserted (28.7.2000) by [S.I. 2000/2037](#), **reg. 7**
- F34** Words in s. 130(1) repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), Sch. 2 para. 27(a), **Sch. 3**; S.I. 2004/3205, art. 2(g)(k) (with art. 9)
- F35** Definition substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1), **Sch. 7 para. 23**
- F36** Word in s. 130(1) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 27**; S.I. 2013/1725, art. 3(c)
- F37** Words in s. 130(1) inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), arts. 1(2), **2(9)(b)** (with art. 3)
- F38** Words in s. 130(1) inserted (1.1.2005 for specified purposes, 13.12.2007 for specified purposes) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(2)(b)**; S.I. 2004/3205, art. 2(j) (with art. 9); S.I. 2007/3396, art. 2(k) (with art. 3)
- F39** Words in s. 130(1) inserted (1.4.2003) by [Patents Act 1977 \(Electronic Communications\) Order 2003 \(S.I. 2003/512\)](#), arts. 1, **3**

Changes to legislation: Patents Act 1977, Cross Heading: Supplemental is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F40** Words added (retrospectively) by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **s. 22(1)(3)**
- F41** Words in s. 130(1) substituted (29.4.2006) by [Intellectual Property \(Enforcement, etc\) Regulations 2006 \(S.I. 2006/1028\)](#), **art. 1, Sch. 2 para. 5(1)** (with reg. 5(2))
- F42** Definition of “patent agent” repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F43** Words in s. 130(1) repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 2 para. 27(b), Sch. 3; S.I. 2004/3205, art. 2(g)(k)** (with art. 9)
- F44** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 5**
- F45** S. 130(4A) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(3); S.I. 2004/3205, art. 2(i)** (with art. 9)
- F46** S. 130(5A) inserted (13.12.2007) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(4); S.I. 2007/3396, art. 2(j)**
- F47** S. 130(6)(d) inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), **arts. 1(2), 2(9)(c)** (with art. 3)
- F48** Words repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F49** Words in s. 130(8) inserted (S.) (5.6.2010) by [The Arbitration \(Scotland\) Act 2010 \(Consequential Amendments\) Order 2010 \(S.S.I. 2010/220\)](#), **art. 1, sch. para. 5(a)**
- F50** Words in s. 130(8) substituted (31.1.1997) by [1996 c. 23, s. 107\(1\)](#), **Sch. 3 para. 33** (with Pt. I); [S.I. 1996/3146, art. 3](#)
- F51** Word in s. 130(8) substituted (S.) (5.6.2010) by [The Arbitration \(Scotland\) Act 2010 \(Consequential Amendments\) Order 2010 \(S.S.I. 2010/220\)](#), **art. 1, sch. para. 5(b)**

Marginal Citations

- M1** 1949 c. 87.

131 Northern Ireland.

In the application of this Act to Northern Ireland—

- (a) “enactment” includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;
- (b) any reference to a government department includes a reference to a Department of the Government of Northern Ireland;
- (c) any reference to the Crown includes a reference to the Crown in right of Her Majesty’s Government in Northern Ireland;
- (d) any reference to the [^{F52}Companies Act 1985] includes a reference to the corresponding enactments in force in Northern Ireland; and
- ^{F53}(e)
- [^{F54}(f) any reference to a claimant includes a reference to a plaintiff.]

Textual Amendments

- F52** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, **Sch. 2**
- F53** S. 131(e) repealed (31.1.1997) by [1996 c. 23, s. 107\(2\)](#), **Sch. 4** (with Pt. I); [S.I. 1996/3146, art. 3](#)
- F54** S. 131(f) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 2 para. 28; S.I. 2004/3205, art. 2(k)** (with art. 9)

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[131A ^{F55}Scotland

In the application of this Act to Scotland—

- (a) “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;
- (b) any reference to a government department includes a reference to any part of the Scottish Administration; and
- (c) any reference to the Crown includes a reference to the Crown in right of the Scottish Administration.]

Textual Amendments

F55 S. 131A inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2)(3), 4, Sch. 2 Pt. I para. 58 (with saving in art. 5)

132 Short title, extent, commencement, consequential amendments and repeals.

- (1) This Act may be cited as the Patents Act 1977.
- (2) This Act shall extend to the Isle of Man, subject to any modifications contained in an Order made by Her Majesty in Council, and accordingly, subject to any such order, references in this Act to the United Kingdom shall be construed as including references to the Isle of Man.
- (3) For the purposes of this Act the territorial waters of the United Kingdom shall be treated as part of the United Kingdom.
- (4) This Act applies to acts done in an area designated by order under section 1(7) of the ^{M2}Continental Shelf Act 1964, [^{F56}or specified by Order under [^{F57}section 10(8) of the Petroleum Act 1998] in connection with any activity falling within section 23(2) of that Act], as it applies to acts done in the United Kingdom.
- (5) This Act (except sections 77(6), (7) and (9), 78(7) and (8), this subsection and the repeal of section 41 of the 1949 Act) shall come into operation on such day as may be appointed by the Secretary of State by order, and different days may be appointed under this subsection for different purposes.
- (6) The consequential amendments in Schedule 5 shall have effect.
- (7) Subject to the provisions of Schedule 4 to this Act, the enactments specified in Schedule 6 to this Act (which include certain enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in column 3 of that Schedule.

Textual Amendments

F56 Words substituted by Oil and Gas (Enterprise) Act 1982 (c. 23, SIF 86), Sch. 3 para. 39

F57 Words in s. 132(4) substituted (15.2.1999) by 1998 c. 17, s. 50, Sch. 4 para. 14 (with Sch. 3 para. 5(1)): S.I. 1999/161, art. 2

Modifications etc. (not altering text)

C8 Power of appointment conferred by s. 132(5) partly exercised by S.I. 1977/2090, 1978/586

Changes to legislation: Patents Act 1977, Cross Heading: Supplemental is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

C9 The text of ss. 127(5), 132(6),(7); Sch. 1 para. 2(1),(2), 5, 7(1)(2), 8; Sch. 3; Sch. 5 paras 4, 5(1), (2), (3), 6; Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M2 [1964 c. 29](#).

Changes to legislation:

Patents Act 1977, Cross Heading: Supplemental is up to date with all changes known to be in force on or before 16 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- 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)

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)