
Changes to legislation: Patents Act 1977, SCHEDULE A3 is up to date with all changes known to be in force on or before 23 January 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

SCHEDULES

[^{F1}SCHEDULE A3

EUROPEAN PATENT WITH UNITARY EFFECT

Textual Amendments

- F1** Schs. A3, A4 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(10)** (with art. 3)

Meaning of “relevant statutory provisions”

1. In this Schedule “relevant statutory provisions” means—
 - (a) the provisions of this Act which, by virtue of paragraph 2, apply in relation to the European patent with unitary effect, and
 - (b) the other provisions of this Act which, by virtue of the Unitary Patent Regulation, are to be treated as applying in relation to the European patent with unitary effect (see, in particular, Article 7 of that Regulation).

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

2. The following provisions of this Act apply in relation to a European patent with unitary effect, subject to paragraphs 3 and 4—
 - section 48 (compulsory licences: general);
 - section 48A (compulsory licences: WTO proprietors);
 - section 48B (compulsory licences: other cases);
 - section 49 (provisions about licences under section 48);
 - section 50 (exercise of powers on applications under section 48);
 - section 50A (powers exercisable following merger and market investigations);
 - section 51 (powers exercisable in consequence of report of Competition and Markets Authority);
 - section 52 (opposition, appeal and arbitration);
 - section 53 (compulsory licences; supplementary provisions);
 - section 54 (special provisions where patented invention is being worked abroad);
 - section 55 (use of patented inventions for services of the Crown);
 - section 56 (interpretation, etc., of provisions about Crown use);
 - section 57 (rights of third parties in respect of Crown use);
 - section 57A (compensation for loss of profit);
 - section 58(1) to (6) and (9A) to (13) (references of disputes as to Crown use);
 - section 59 (special provisions as to Crown use during emergency);
 - section 60 (meaning of infringement);

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section 64 (right to continue use begun before priority date);
 [F²sections 70 to 70F (unjustified threats);]
 section 73(2) to (4) (Comptroller’s power to revoke patents on his own initiative);
 section 74A (opinions on matters prescribed in the rules);
 section 74B (reviews of opinions under section 74A);
 section 76A (biotechnological inventions);
 section 77(4) to (5A) (effect of European patent (UK));
 section 80(1) (authentic text of European patents and patent applications);
 sections 97 to 100 (legal proceedings) so far as they relate to proceedings which do not fall within the exclusive jurisdiction of the Unified Patent Court as set out in paragraph 1 of Schedule A4;
 section 101 (exercise of comptroller’s discretionary powers);
 section 102 (right of audience, &c in proceedings before comptroller);
 sections 103 (extension of privilege for communications with solicitors relating to patent proceedings) and 105 (extension of privilege in Scotland for communications relating to patent proceedings) so far as they relate to proceedings before the comptroller;
 section 107 (costs and expenses in proceedings before the comptroller);
 section 108 (licences granted by order of comptroller);
 section 110 (unauthorised claim of patent rights);
 section 116 (immunity of department as regards official acts);
 section 118 (information about patent applications and patents, and inspection of documents);
 section 123 (rules);
 section 124 (rules, regulations and orders; supplementary);
 section 125 (extent of invention);
 section 128A (EU compulsory licences);
 section 128B (supplementary protection certificates).

Textual Amendments

F2 Words in Sch. A3 para. 2 inserted (1.10.2017) by [Intellectual Property \(Unjustified Threats\) Act 2017](#) (c. 14), **ss. 1(8)**, 8; S.I. 2017/771, reg. 2(2) (with reg. 3)

Manner of application of relevant statutory provisions

3. The relevant statutory provisions apply in relation to a European patent with unitary effect in the same way as they apply in relation to a European patent (UK).

Modifications of relevant statutory provisions

4. (1) In their application in relation to the European patent with unitary effect, the relevant statutory provisions which are referred to in this paragraph have effect subject to the modifications set out in this paragraph.
- (2) In section 7(2)(b), the reference to the United Kingdom is a reference to any of the Participating Member States.

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- (3) In sections 30(7) and 31(7), references to proceedings by virtue of section 61 or 69 are references to equivalent proceedings in the Unified Patent Court.
- (4) In sections 33(1)(a), 33(4), 37(2), 37(7), 38(2) and 38(3), the reference to registration is a reference to registration in the Register for unitary patent protection.
- (5) In sections 48(1)(b), 48B(4), 50A(4), 51(3), 53(3), and 53(4), the reference to the register is a reference to the Register for unitary patent protection.
- (6) In sections 48(2)(b), 50A(4), 51(3), 53(3), 53(4) and 53(5), the reference to making an entry is a reference to directing the making of an entry.
- (7) In sections 48B(2)(b) and 50(2)(a), the reference to the journal is a reference to the European Patent Bulletin.
- (8) In section 55(5)(b), the reference to the Patent Office is a reference to the European Patent Office.
- (9) In section 59(2), the reference to section 69 includes a reference to Article 67 of the European Patent Convention.
- (10) In section 60—
 - (a) in subsections (1), (2), and (5)(d), (e) and (f), the references to the United Kingdom are references to the territory of a Contracting Member State in which the European patent with unitary effect has effect;
 - (b) in subsection (7)—
 - (i) in the definition of “relevant ship” and “relevant aircraft, hovercraft or vehicle”, the reference to the United Kingdom is a reference to a Contracting Member State in which the European patent with unitary effect has effect; and
 - (ii) in the definition of “exempted aircraft”, the reference to an aircraft to which section 89 of the Civil Aviation Act 1982 applies is a reference to an aircraft other than an aircraft of a Contracting Member State in which the European patent with unitary effect has effect.

Interpretation

5. In this Schedule—
 - (a) “Contracting Member State” has the same meaning as in Article 2(c) of the Agreement on a Unified Patent Court; and
 - (b) the following expressions have the same meanings as in Article 2 of the Unitary Patent Regulation—

Participating Member State;

Register for unitary patent protection.]

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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)