



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART VI

#### PATENTS

##### *Patents county courts*

#### **<sup>F1</sup>287 Patents county courts: special jurisdiction.**

.....

##### **Textual Amendments**

**F1** Ss. 287-289 omitted (1.10.2013) by virtue of [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 9 para. 30\(3\)](#); S.I. 2013/1725, art. 3(c)

#### **<sup>F1</sup>288 Financial limits in relation to proceedings within special jurisdiction of patents county court.**

.....

##### **Textual Amendments**

**F1** Ss. 287-289 omitted (1.10.2013) by virtue of [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 9 para. 30\(3\)](#); S.I. 2013/1725, art. 3(c)

#### **<sup>F1</sup>289 Transfer of proceedings between High Court and patents county court.**

.....

*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part VI. (See end of Document for details)*

#### Textual Amendments

- F1** Ss. 287-289 omitted (1.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 30\(3\)](#); S.I. 2013/1725, art. 3(c)

### [<sup>F2</sup>290 **Limitation of costs where pecuniary claim could have been brought in patents county court.**

- (1) Where an action is commenced in the High Court which could have been commenced in a patents county court and in which a claim for a pecuniary remedy is made, then, subject to the provisions of this section, if the plaintiff recovers less than the prescribed amount, he is not entitled to recover any more costs than those to which he would have been entitled if the action had been brought in the county court.
- (2) For this purpose a plaintiff shall be treated as recovering the full amount recoverable in respect of his claim without regard to any deduction made in respect of matters not falling to be taken into account in determining whether the action could have been commenced in a patents county court.
- (3) This section does not affect any question as to costs if it appears to the High Court that there was reasonable ground for supposing the amount recoverable in respect of the plaintiff's claim to be in excess of the prescribed amount.
- (4) The High Court, if satisfied that there was sufficient reason for bringing the action in the High Court, may make an order allowing the costs or any part of the costs on the High Court scale or on such one of the county court scales as it may direct.
- (5) This section does not apply to proceedings brought by the Crown.
- (6) In this section “the prescribed amount” means such amount as may be prescribed by Her Majesty for the purposes of this section by Order in Council.
- (7) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament.]

#### Textual Amendments

- F2** S. 290 repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), ss. 124(3), 125(7), [Sch. 20](#)

### [<sup>F3</sup>291 **Proceedings in patents county court.**

.....

#### Textual Amendments

- F3** S. 291 omitted (1.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 30\(3\)](#); S.I. 2013/1725, art. 3(c)

*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part VI. (See end of Document for details)*

## 292 Rights and duties of registered patent agents in relation to proceedings in patents county court.

F4 .....

### Textual Amendments

**F4** S. 292 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 210, 211, Sch. 21 para. 80, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)(i)(vi) (with art. 9)

### *Licences of right in respect of certain patents*

## 293 Restriction of acts authorised by certain licences.

In paragraph 4(2)(c) of Schedule 1 to the <sup>M1</sup>Patents Act 1977 (licences to be available as of right where term of existing patent extended), at the end insert “, but subject to paragraph 4A below”, and after that paragraph insert—

- “4A (1) If the proprietor of a patent for an invention which is a product files a declaration with the Patent Office in accordance with this paragraph, the licences to which persons are entitled by virtue of paragraph 4(2)(c) above shall not extend to a use of the product which is excepted by or under this paragraph.
- (2) Pharmaceutical use is excepted, that is—
- (a) use as a medicinal product within the meaning of the Medicines Act 1968, and
  - (b) the doing of any other act mentioned in section 60(1)(a) above with a view to such use.
- (3) The Secretary of State may by order except such other uses as he thinks fit; and an order may—
- (a) specify as an excepted use any act mentioned in section 60(1)(a) above, and
  - (b) make different provision with respect to acts done in different circumstances or for different purposes.
- (4) For the purposes of this paragraph the question what uses are excepted, so far as that depends on—
- (a) orders under section 130 of the Medicines Act 1968 (meaning of “medicinal product”), or
  - (b) orders under sub-paragraph (3) above,
- shall be determined in relation to a patent at the beginning of the sixteenth year of the patent.
- (5) A declaration under this paragraph shall be in the prescribed form and shall be filed in the prescribed manner and within the prescribed time limits.
- (6) A declaration may not be filed—

---

**Changes to legislation:** There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part VI. (See end of Document for details)

---

- (a) in respect of a patent which has at the commencement of section 293 of the Copyright, Designs and Patents Act 1988 passed the end of its fifteenth year; or
- (b) if at the date of filing there is—
  - (i) an existing licence for any description of excepted use of the product, or
  - (ii) an outstanding application under section 46(3)(a) or (b) above for the settlement by the comptroller of the terms of a licence for any description of excepted use of the product,
 and, in either case, the licence took or is to take effect at or after the end of the sixteenth year of the patent.
- (7) Where a declaration has been filed under this paragraph in respect of a patent—
  - (a) section 46(3)(c) above (restriction of remedies for infringement where licences available as of right) does not apply to an infringement of the patent in so far as it consists of the excepted use of the product after the filing of the declaration; and
  - (b) section 46(3)(d) above (abatement of renewal fee if licences available as of right) does not apply to the patent.”.

---

**Marginal Citations**

**M1** 1977 c. 37.

**294 When application may be made for settlement of terms of licence.**

In Schedule 1 to the <sup>M2</sup>Patents Act 1977, after the paragraph inserted by section 293 above, insert—

- “4B
- (1) An application under section 46(3)(a) or (b) above for the settlement by the comptroller of the terms on which a person is entitled to a licence by virtue of paragraph 4(2)(c) above is ineffective if made before the beginning of the sixteenth year of the patent.
  - (2) This paragraph applies to applications made after the commencement of section 294 of the Copyright, Designs and Patents Act 1988 and to any application made before the commencement of that section in respect of a patent which has not at the commencement of that section passed the end of its fifteenth year.”.

---

**Marginal Citations**

**M2** 1977 c. 37.

Patents: miscellaneous amendments

**295 Patents: miscellaneous amendments.**

The <sup>M3</sup>Patents Act 1949 and the <sup>M4</sup>Patents Act 1977 are amended in accordance with Schedule 5.

Marginal Citations

- M3 1949 c. 87.
- M4 1977 c. 37.

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Part VI.