

SCHEDULES

SCHEDULE 5

PATENTS: MISCELLANEOUS AMENDMENTS

Revocation where two patents granted for same invention

19 In section 73 of the Patents Act 1977 (revocation on initiative of comptroller), for subsections (2) and (3) (revocation of patent where European patent (UK) granted in respect of same invention) substitute—

“(2) If it appears to the comptroller that a patent under this Act and a European patent (UK) have been granted for the same invention having the same priority date, and that the applications for the patents were filed by the same applicant or his successor in title, he shall give the proprietor of the patent under this Act an opportunity of making observations and of amending the specification of the patent, and if the proprietor fails to satisfy the comptroller that there are not two patents in respect of the same invention, or to amend the specification so as to prevent there being two patents in respect of the same invention, the comptroller shall revoke the patent.

- (3) The comptroller shall not take action under subsection (2) above before—
- (a) the end of the period for filing an opposition to the European patent (UK) under the European Patent Convention, or
 - (b) if later, the date on which opposition proceedings are finally disposed of;

and he shall not then take any action if the decision is not to maintain the European patent or if it is amended so that there are not two patents in respect of the same invention.

- (4) The comptroller shall not take action under subsection (2) above if the European patent (UK) has been surrendered under section 29(1) above before the date on which by virtue of section 25(1) above the patent under this Act is to be treated as having been granted or, if proceedings for the surrender of the European patent (UK) have been begun before that date, until those proceedings are finally disposed of; and he shall not then take any action if the decision is to accept the surrender of the European patent.”.