

*Changes to legislation: There are currently no known outstanding effects for the Patents Act 2004, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 16

#### MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 (1) The 1977 Act is amended as follows.
- (2) In this Schedule, “the Regulatory Reform Order” means the Regulatory Reform (Patents) Order 2004.

#### Commencement Information

**I1** Sch. 2 para. 1 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 2 In section 1 (patentable inventions), in subsection (1)(d), after “subsections (2) and (3)” there is inserted “ or section 4A ”.

#### Commencement Information

**I2** Sch. 2 para. 2 in force at 13.12.2007 by S.I. 2007/3396, art. 2(l)

- 3 In section 2 (novelty), subsection (6) is omitted.

#### Commencement Information

**I3** Sch. 2 para. 3 in force at 13.12.2007 by S.I. 2007/3396, art. 2(l)

- 4 In section 4 (industrial application)—
  - (a) in subsection (1), “Subject to subsection (2) below”, and
  - (b) subsections (2) and (3),are omitted.

#### Commencement Information

**I4** Sch. 2 para. 4 in force at 13.12.2007 by S.I. 2007/3396, art. 2(l)

- 5 In section 12 (reference before grant of foreign or convention patent of questions about entitlement etc), in subsection (6)—
  - (a) in paragraph (a), after “application is withdrawn” there is inserted “ whether before or ”;
  - (b) in paragraph (c), for “but after” there is substituted “ or the ”.

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**Commencement Information**

**I5** Sch. 2 para. 5 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 6 In section 16(1) (publication of application), after “section 22 below” there is inserted “ and to any prescribed restrictions ”.

**Commencement Information**

**I6** Sch. 2 para. 6 in force at 1.10.2005 by S.I. 2005/2471, art. 2(g)

- 7 In section 20B (inserted by the Regulatory Reform Order) (effect of reinstatement of applications), after subsection (6) there is inserted—

“(6A) The above provisions apply in relation to the use of a patented invention for the services of the Crown as they apply in relation to infringement of the rights conferred by publication of the application for a patent (or, as the case may be, infringement of the patent).

“Patented invention” has the same meaning as in section 55 below.”

- 8 (1) Section 22 (information prejudicial to defence of realm or safety of public) is amended as follows.
- (2) In the heading, for “defence of realm” there is substituted “ national security ”.
- (3) In subsections (1) and (5)(a), (c) and (d), for “the defence of the realm” there is substituted “ national security ”.
- (4) In subsection (6)—
- (a) in paragraph (a), for the words from “inspect and authorise” to “in connection with it” there is substituted—
- “(i) inspect the application and any documents sent to the comptroller in connection with it;
- (ii) authorise a government body with responsibility for the production of atomic energy or for research into matters connected with its production or use, or a person appointed by such a government body, to inspect the application and any documents sent to the comptroller in connection with it;”;
- (b) for the words from “that Authority” to the end there is substituted “ a government body or a person appointed by a government body carries out an inspection which the body or person is authorised to carry out under paragraph (a) above, the body or (as the case may be) the person shall report on the inspection to the Secretary of State as soon as practicable. ”

**Commencement Information**

**I7** Sch. 2 para. 8 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 9 In section 24 (publication and certificate of grant), after subsection (3) there is inserted—

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“(4) Subsection (3) above shall not require the comptroller to identify as inventor a person who has waived his right to be mentioned as inventor in any patent granted for the invention.”

**Commencement Information**

**I18** Sch. 2 para. 9 in force at 1.10.2005 by S.I. 2005/2471, art. 2(g)

- 10 (1) Section 38 (effect of transfer of patent under section 37) is amended as follows.
- (2) In subsection (3), after “new proprietor or proprietors” there is inserted “ or, as the case may be, the new applicant ”.
- (3) In subsection (5), after “proprietors of the patent” there is inserted “ or, as the case may be, the new applicant ”.

**Commencement Information**

**I19** Sch. 2 para. 10 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 11 In section 41(10) (method of enforcing in Scotland certain orders made by comptroller), for “a recorded decree arbitral” there is substituted “ an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland. ”

**Commencement Information**

**I10** Sch. 2 para. 11 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 12 Section 53(1) (compulsory licences: Community Patent Convention) is omitted.

**Commencement Information**

**I11** Sch. 2 para. 12 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 13 Section 60(4) (meaning of infringement: Community Patent Convention) is omitted.

**Commencement Information**

**I12** Sch. 2 para. 13 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 14 In section 61 (proceedings for infringement of patent), in subsection (4)(b), for “plaintiff” there is substituted “ claimant ”.

**Commencement Information**

**I13** Sch. 2 para. 14 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

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- 15 In section 62(2) (discretion to refuse damages etc for infringement committed while fees unpaid), for “any further period specified under” there is substituted “ the further period specified in ”.

**Commencement Information**

**I14** Sch. 2 para. 15 in force at 1.10.2005 by S.I. 2005/2471, art. 2(g)

- 16 In section 63 (relief for infringement of partially valid patent), in subsection (2), for “plaintiff” there is substituted “ claimant ”.

**Commencement Information**

**I15** Sch. 2 para. 16 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 17 In section 70 (remedy for groundless threats of infringement proceedings), in subsection (3)(c), for “plaintiff” there is substituted “ claimant ”.

**Commencement Information**

**I16** Sch. 2 para. 17 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 18 In section 72(1) (power to revoke patents on application), “on the application of any person” is omitted and after the first mention of “invention” there is inserted “ on the application of any person (including the proprietor of the patent) ”.

**Commencement Information**

**I17** Sch. 2 para. 18 in force at 1.10.2005 by S.I. 2005/2471, art. 2(g)

- 19 In section 75 (amendment of patent in infringement or revocation proceedings), in subsection (1), for “is” there is substituted “ may be ”.

**Commencement Information**

**I18** Sch. 2 para. 19 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 20 In section 91(1) (evidence relating to the conventions: judicial notice), for “or Community patents kept under it” there is substituted “ patents kept under the European Patent Convention ”.

**Commencement Information**

**I19** Sch. 2 para. 20 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 21 In section 95 (financial provision)—
- (a) in subsection (1), “the Community Patent Convention” is omitted;
  - (b) in subsection (2), for “either of those conventions” there is substituted “ that convention ”.

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**I20** Sch. 2 para. 21 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 22 In sections 103 and 105 (legal privilege), in the definition of “the relevant conventions” in subsection (2), “the Community Patent Convention” is omitted.

**Commencement Information**

**I21** Sch. 2 para. 22 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 23 In section 117A (inserted by the Regulatory Reform Order) (effect of resuscitating applications), after subsection (6) there is inserted—

“(7) The above provisions apply in relation to the use of a patented invention for the services of the Crown as they apply in relation to infringement of the rights conferred by publication of the application for a patent (or, as the case may be, infringement of the patent).

“Patented invention” has the same meaning as in section 55 above.”

- 24 (1) Section 120 (hours of business and excluded days) is amended as follows.
- (2) In subsection (1)—
- (a) for “Rules may specify” there is substituted “ The comptroller may give directions specifying ”;
- (b) for “and may specify” there is substituted “ and the directions may specify ”.
- (3) After subsection (2) there is inserted—
- “(3) Directions under this section shall be published in the prescribed manner.”

**Commencement Information**

**I22** Sch. 2 para. 24 in force at 22.9.2004 by S.I. 2004/2177, art. 2 (with arts. 6, 8)

- 25 In section 121 (comptroller’s annual report)—
- (a) for “1st June” there is substituted “ 1st December ”;
- (b) for “year”, in both places, there is substituted “ financial year ”;
- (c) “the Community Patent Convention” is omitted;
- (d) for “those conventions” there is substituted “ that convention ”.

**Commencement Information**

**I23** Sch. 2 para. 25 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

- 26 (1) Section 123 (rules) is amended as follows.
- (2) In subsection (2), for paragraph (i) there is substituted—
- “(i) giving effect to an inventor’s rights to be mentioned conferred by section 13, and providing for an inventor’s

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waiver of any such right to be subject to acceptance by the  
comptroller;”.

(3 After that subsection there is inserted—

“(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.”

(4 Subsections (4) and (5) are omitted.

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**Commencement Information**

**I24** Sch. 2 para. 26(1)(3)(4) in force at 22.9.2004 by S.I. 2004/2177, art. 2 (with arts. 7, 8)

**I25** Sch. 2 para. 26(2) in force at 1.10.2005 by S.I. 2005/2471, art. 2(g)

27 In section 130(1) (interpretation)—

- (a) the definition of “Community patent” and the “and” preceding it are omitted;
- (b) in the definition of “relevant convention court”, “the Community Patent Convention” is omitted.

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**Commencement Information**

**I26** Sch. 2 para. 27 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

28 In section 131 (Northern Ireland), at the end there is inserted—

“(f) any reference to a claimant includes a reference to a plaintiff.”

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**Commencement Information**

**I27** Sch. 2 para. 28 in force at 1.1.2005 by S.I. 2004/3205, art. 2(k) (with art. 9)

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