



# Patents Act 1949

1949 CHAPTER 87 12 13 and 14 Geo 6

## *Supplemental*

### **Modifications etc. (not altering text)**

**C1** Ss. 101, 102(1), 103—107 restricted by [Patents Act 1977 \(c. 37\)](#), s. 127, [Sch. 1 para. 1](#)

97— ..... <sup>F1</sup>  
100.

### **Textual Amendments**

**F1** Ss. 97—100, 102(2) repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

## **101 Interpretation.**

(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say

[<sup>F2</sup>“Appeal Tribunal” means the Appeal Tribunal constituted and acting in accordance with section 85 of this Act as amended by the <sup>M1</sup>Administration of Justice Act 1969];

“applicant” includes a person in whose favour a direction has been given under section seventeen of this Act, and the personal representative of a deceased applicant;

[<sup>F3</sup>“appointed day” means the day appointed under section 132 of the <sup>M2</sup>Patents Act 1977 for the coming into operation of Schedule 1 to that Act];

“article” includes any substance or material, and any plant, machinery or apparatus, whether affixed to land or not;

“assignee” includes the personal representative of a deceased assignee, and references to the assignee of any person include references to the assignee of the personal representative or assignee of that person;

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

“convention application” has the meaning assigned to it by subsection (4) of section one of this Act;

“court” means the High Court;

“date of filing”, in relation to any document filed under this Act, means the date on which the document is filed or, where it is deemed by virtue of any provision of this Act or of rules made thereunder to have been filed on any different date, means the date on which it is deemed to be filed;

“exclusive licence” means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and “exclusive licensee” shall be construed accordingly;

“invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the <sup>M3</sup>Statute of Monopolies of Monopolies and any new method or process of testing applicable to the improvement or control of manufacture, and includes an alleged invention;

“Journal” has the meaning assigned to it by subsection (2) of section ninety-four of this Act;

“patent” means Letters Patent for an invention;

“patent agent” means a person carrying on for gain in the United Kingdom the business of acting as agent for other persons for the purpose of applying for or obtaining patents in the United Kingdom or elsewhere;

“patent of addition” means a patent granted in accordance with section twenty-six of this Act;

“patentee” means the person or persons for the time being entered on the register of patents as grantee or proprietor of the patent;

“prescribed” means prescribed by rules made by the Board of Trade under this Act;

“priority date” has the meaning assigned to it by section five of this Act;

“published”, except in relation to a complete specification, means made available to the public; and without prejudice to the generality of the foregoing provision a document shall be deemed for the purposes of this Act to be published if it can be inspected as of right at any place in the United Kingdom by members of the public, whether upon payment of a fee or otherwise;

“the Statute of Monopolies” means the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof”.

- (2) For the purposes of subsection (3) of section one, so far as it relates to a convention application, and for the purposes of section seventy-two of this Act, the expression “personal representative”, in relation to a deceased person, includes the legal representative of the deceased appointed in any country outside the United Kingdom.

#### Textual Amendments

- F2** Definition substituted by [Administration of Justice Act 1969 \(c. 58\)](#), [Sch. 1](#)  
**F3** Definition inserted by [Patents Act 1977 \(c. 37\)](#), [Sch. 1 para. 8](#)

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**Marginal Citations**

- M1** 1969 c. 58.
- M2** 1977 c. 37.
- M3** 1623 c. 3.

**102 Saving for Royal prerogative, etc.**

- (1) Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of letters patent or to the withholding of a grant thereof.
- (2) ..... <sup>F4</sup>

**Textual Amendments**

- F4** Ss. 97–100, 102(2) repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

**103 Application to Scotland.**

In the application of this Act to Scotland—

- (1) In any action for infringement of a patent in Scotland the action shall be tried without a jury unless the court otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts:
- <sup>F5</sup>(2) .....
- (3) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to patents; and with reference to any such proceedings, the term “the Court” shall mean the Court of Session:
- (4) Notwithstanding anything in this Act, the expression “the Court” shall in reference to proceedings in Scotland for the extension of the term of a patent mean the Court of Session:
- (5) If any rectification of a register under this Act is required in pursuance of any proceedings in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly:
- (6) The expression “injunction” means “interdict”; the expression “chase in action” means a right of action or an incorporeal moveable; the expression “an account of profits” means “an accounting and payment of profits”; the expression “arbitrator” means “arbiter”; the expression “plaintiff” means “pursuer”; the expression “defendant” means “defender”.

**Textual Amendments**

- F5** [S. 103\(2\)](#) repealed (S.)(1.8.1991) by [S.I. 1991/1621](#), [art. 3](#)

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#### 104 Application to Northern Ireland.

In the application of this Act to Northern Ireland—

- (1) All parties shall, notwithstanding anything in this Act, have in Northern Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Northern Ireland only:
- (2) The provisions of this Act conferring a special jurisdiction on the court, as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Northern Ireland in any proceedings relating to patents; and with reference to any such proceedings the term “the Court” means the High Court in Northern Ireland:
- (3) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly:
- (4) References to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland:
- (5) References to a Government department shall be construed as including references to a department of the Government of Northern Ireland:
- (6) . . . <sup>F6</sup>

#### Textual Amendments

**F6** S. 104(6) repealed by [Northern Ireland Act 1962 \(c. 30\)](#), [Sch. 4 Pt. IV](#)

#### 105 Isle of Man.

This Act shall extend to the Isle of Man, subject to the following modifications:—

- (1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement, or in any action or proceeding respecting a patent competent to those courts;
- (2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the court:
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

#### 106 Repeals, transitional provisions and amendment.

- (1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) Without prejudice to the provisions of the [<sup>F7M4</sup>Interpretation Act 1978], with respect to repeals, the transitional provisions set out in the Third Schedule to this Act shall

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have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of the <sup>M5</sup>Patents and Designs Act 1949.

- (3) For subsection (8) of section twelve of the Atomic Energy Act, 1946, there shall be substituted the following subsection :—

“(8) The power of the Minister of Supply and persons authorised by the Minister of Supply under sections forty-six of the Patents Act, 1949, shall include power to make, use, exercise or vend an invention for such purposes relating to the production or use of atomic energy or research into matters connected therewith as the Minister thinks necessary or expedient, and any reference in that section or in sections forty-seven or forty-eight of that Act to the services of the Crown shall be construed as including a reference to those purposes.”

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**Textual Amendments**

**F7** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

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**Modifications etc. (not altering text)**

**C2** The text of Ss. 106(1), (3), Sch. 2 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.

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**Marginal Citations**

**M4** [1978 c. 30.](#)

**M5** [1949 c. 62.](#)

**107 Short title and commencement.**

- (1) This Act may be cited as the Patents Act 1949.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and fifty, immediately after the coming into operation of the Patents and Designs Act 1949.

**Changes to legislation:**

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Supplemental .