



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Security and safety

22 Information prejudicial to [^{F1}national security] or safety of public.

- (1) Where an application for a patent is filed in the Patent Office (whether under this Act or any treaty or international convention to which the United Kingdom is a party and whether before or after the appointed day) and it appears to the comptroller that the application contains information of a description notified to him by the Secretary of State as being information the publication of which might be prejudicial to [^{F2}national security] , the comptroller may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons.
- (2) If it appears to the comptroller that any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons until the end of a period not exceeding three months from the end of the period prescribed for the purposes of section 16 above.
- (3) While directions are in force under this section with respect to an application—
 - (a) if the application is made under this Act, it may proceed to the stage where it is in order for the grant of a patent, but it shall not be published and that information shall not be so communicated and no patent shall be granted in pursuance of the application;
 - (b) if it is an application for a European patent, it shall not be sent to the European Patent Office; and

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- (c) if it is an international application for a patent, a copy of it shall not be sent to the International Bureau or any international searching authority appointed under the Patent Co-operation Treaty.
- (4) Subsection (3)(b) above shall not prevent the comptroller from sending the European Patent Office any information which it is his duty to send that office under the European Patent Convention.
- (5) Where the comptroller gives directions under this section with respect to any application, he shall give notice of the application and of the directions to the Secretary of State, and the following provisions shall then have effect:—
- (a) the Secretary of State shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to [^{F3}national security] or the safety of the public;
 - (b) if the Secretary of State determines under paragraph (a) above that the publication of the application or the publication or communication of that information would be prejudicial to the safety of the public, he shall notify the comptroller who shall continue his directions under subsection (2) above until they are revoked under paragraph (e) below;
 - (c) if the Secretary of State determines under paragraph (a) above that the publication of the application or the publication or communication of that information would be prejudicial to [^{F4}national security] or the safety of the public, he shall (unless a notice under paragraph (d) below has previously been given by the Secretary of State to the comptroller) reconsider that question during the period of nine months from the date of filing the application and at least once in every subsequent period of twelve months;
 - (d) if on consideration of an application at any time it appears to the Secretary of State that the publication of the application or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to [^{F5}national security] or the safety of the public, he shall give notice to the comptroller to that effect; and
 - (e) on receipt of such a notice the comptroller shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.
- (6) The Secretary of State may do the following for the purpose of enabling him to decide the question referred to in subsection (5)(c) above—
- (a) where the application contains information relating to the production or use of atomic energy or research into matters connected with such production or use, he may at any time do one or both of the following, that is to say,
 - [^{F6}(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]; and
 - (b) in any other case, he may at any time after (or, with the applicant's consent, before) the end of the period prescribed for the purposes of section 16 above inspect the application and any such documents;

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and where [^{F7} 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.]

- (7) Where directions have been given under this section in respect of an application for a patent for an invention and, before the directions are revoked, that prescribed period expires and the application is brought in order for the grant of a patent, then—
- (a) if while the directions are in force the invention is worked by (or with the written authorisation of or to the order of) a government department, the provisions of sections 55 to 59 below shall apply as if—
 - (i) the working were use made by section 55;
 - (ii) the application had been published at the end of that period; and
 - (iii) a patent had been granted for the invention at the time the application is brought in order for the grant of a patent (taking the terms of the patent to be those of the application as it stood at the time it was so brought in order); and
 - (b) if it appears to the Secretary of State that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, the Secretary of State may, with the consent of the Treasury, make such payment (if any) by way of compensation to the applicant as appears to the Secretary of State and the Treasury to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.
- (8) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.
- (9) A person who fails to comply with any direction under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £1,000; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

Textual Amendments

- F1** Words in s. 22 heading substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 8\(2\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F2** Words in s. 22(1) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 8\(3\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F3** Words in s. 22(5)(a) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 8\(3\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F4** Words in s. 22(5)(c) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 8\(3\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F5** Words in s. 22(5)(d) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 8\(3\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F6** Words in s. 22(6)(a) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), [Sch. 8 para. 4\(a\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F7** Words in s. 22(6) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), [Sch. 8 para. 4\(b\)](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)

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23 Restrictions on applications abroad by United Kingdom residents.

(1) Subject to the following provisions of this section, no person resident in the United Kingdom shall, without written authority granted by the comptroller, file or cause to be filed outside the United Kingdom an application for a patent for an invention [^{F8}if subsection (1A) below applies to that application,] unless—

- (a) an application for a patent for the same invention has been filed in the Patent Office (whether before, on or after the appointed day) not less than six weeks before the application outside the United Kingdom; and
- (b) either no directions have been given under section 22 above in relation to the application in the United Kingdom or all such directions have been revoked.

[^{F9}(1A) This subsection applies to an application if—

- (a) the application contains information which relates to military technology or for any other reason publication of the information might be prejudicial to national security; or
- (b) the application contains information the publication of which might be prejudicial to the safety of the public.]

(2) Subsection (1) above does not apply to an application for a patent for an invention for which an application for a patent has first been filed (whether before or after the appointed day) in a country outside the United Kingdom by a person resident outside the United Kingdom.

(3) A person who files or causes to be filed an application for the grant of a patent in contravention of this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

[^{F10}(3A) A person is liable under subsection (3) above only if—

- (a) he knows that filing the application, or causing it to be filed, would contravene this section; or
- (b) he is reckless as to whether filing the application, or causing it to be filed, would contravene this section.]

(4) In this section—

- (a) any reference to an application for a patent includes a reference to an application for other protection for an invention;
- (b) any reference to either kind of application is a reference to an application under this Act, under the law of any country other than the United Kingdom or under any treaty or international convention to which the United Kingdom is a party.

Textual Amendments

- F8** Words in s. 23(1) inserted (1.1.2005) by Patents Act 2004 (c. 16), ss. 7(1), 17(1); S.I. 2004/3205, art. 2(c) (with art. 9)
- F9** S. 23(1A) inserted (1.1.2005) by Patents Act 2004 (c. 16), ss. 7(2), 17(1); S.I. 2004/3205, art. 2(c) (with art. 9)
- F10** S. 23(3A) inserted (1.1.2005) by Patents Act 2004 (c. 16), ss. 7(3), 17(1); S.I. 2004/3205, art. 2(c) (with art. 9)

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