



Patents Act 1977

1977 CHAPTER 37

PART III

MISCELLANEOUS AND GENERAL

Supplemental

130 Interpretation.

(1) In this Act, except so far as the context otherwise requires—

[^{F1}“application fee” means the fee prescribed for the purposes of section 14(1A) above;]

“application for a European patent (UK)” and [^{F2}(subject to subsection (4A) below)] “international application for a patent (UK)” each mean an application of the relevant description which, on its date of filing, designates the United Kingdom;

“appointed day”, in any provision of this Act, means the day appointed under section 132 below for the coming into operation of that provision;

[^{F3}“biological material” means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system;

^{F3}“biotechnological invention” means an invention which concerns a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used;”.]

^{F4}
...

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

“Convention on International Exhibitions” means the Convention relating to International Exhibitions signed in Paris on 22nd November 1928, as amended or supplemented by any protocol to that convention which is for the time being in force;

“court” means

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- (a) [^{F5}as respects England and Wales, the High Court or any patents county court having jurisdiction by virtue of an order under section 287 of the Copyright, Designs and Patents Act 1988;]
- (b) as respects Scotland, the Court of Session;
- (c) as respects Northern Ireland, the High Court in Northern Ireland;

“date of filing” means—

- (a) in relation to an application for a patent made under this Act, the date which is the date of filing that application by virtue of section 15 above; and
- (b) in relation to any other application, the date which, under the law of the country where the application was made or in accordance with the terms of a treaty or convention to which that country is a party, is to be treated as the date of filing that application or is equivalent to the date of filing an application in that country (whatever the outcome of the application);

“designate” in relation to an application or a patent, means designate the country or countries (in pursuance of the European Patent Convention or the Patent Co-operation Treaty) in which protection is sought for the invention which is the subject of the application or patent; [^{F6}and includes a reference to a country being treated as designated in pursuance of the convention or treaty]

[^{F7}“electronic communication” has the same meaning as in the Electronic Communications Act 2000;]

“employee” means a person who works or (where the employment has ceased) worked under a contract of employment or in employment under or for the purposes of a government department [^{F8}or a person who serves (or served) in the naval, military or air forces of the Crown];

“employer”, in relation to an employee, means the person by whom the employee is or was employed;

“European Patent Convention” means the Convention on the Grant of European Patents, “European patent” means a patent granted under that convention, “European patent (UK)” means a European patent designating the United Kingdom, “European Patent Bulletin” means the bulletin of that name published under that convention, and “European Patent Office” means the office of that name established by that convention;

“exclusive licence” means a licence from the proprietor of or applicant for a patent conferring on the licensee, or on him and persons authorised by him, to the exclusion of all other persons (including the proprietor or applicant), any right in respect of the invention to which the patent or application relates, and “exclusive licensee” and “non-exclusive licence” shall be construed accordingly;

^{F1} ...

“formal requirements” means those requirements designated as such by rules made for the purposes of [^{F9}section 15A] above;

“international application for a patent” means an application made under the Patent Co-operation Treaty;

“International Bureau” means the secretariat of the World Intellectual Property Organization established by a convention signed at Stockholm on 14th July 1967;

“international exhibition” means an official or officially recognised international exhibition falling within the terms of the Convention on International Exhibitions or falling within the terms of any subsequent treaty or convention replacing that convention;

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“inventor” has the meaning assigned to it by section 7 above;

“journal” has the meaning assigned to it by section 123(6) above;

“mortgage”, when used as a noun, includes a charge for securing money or money’s worth and, when used as a verb, shall be construed accordingly;

“1949 Act” means the ^{M1}Patents Act 1949;

“patent” means a patent under this Act;

..... ^{F10};

“Patent Co-operation Treaty” means the treaty of that name signed at Washington on 19th June 1970;

“patented invention” means an invention for which a patent is granted and “patented process” shall be construed accordingly;

“patented product” means a product which is a patented invention or, in relation to a patented process, a product obtained directly by means of the process or to which the process has been applied;

“prescribed” and “rules” have the meanings assigned to them by section 123 above;

“priority date” means the date determined as such under section 5 above;

“published” means made available to the public (whether in the United Kingdom or elsewhere) and a document shall be taken to be published under any provision of this Act if it can be inspected as of right at any place in the United Kingdom by members of the public, whether on payment of a fee or not; and “republished” shall be construed accordingly;

“register” and cognate expressions have the meanings assigned to them by section 32 above;

“relevant convention court”, in relation to any proceedings under the European Patent Convention, ^{F11}... or the Patent Co-operation Treaty, means that court or other body which under that convention or treaty has jurisdiction over those proceedings, including (where it has such jurisdiction) any department of the European Patent Office;

“right”, in relation to any patent or application, includes an interest in the patent or application and, without prejudice to the foregoing, any reference to a right in a patent includes a reference to a share in the patent;

“search fee” means the fee prescribed for the purposes of [^{F12}section 17(1) above];

“services of the Crown” and “use for the services of the Crown” have the meanings assigned to them by section 56(2) above, including, as respects any period of emergency within the meaning of section 59 above, the meanings assigned to them by the said section 59.

- (2) Rules may provide for stating in the journal that an exhibition falls within the definition of international exhibition in subsection (1) above and any such statement shall be conclusive evidence that the exhibition falls within that definition.
- (3) For the purposes of this Act matter shall be taken to have been disclosed in any relevant application within the meaning of section 5 above or in the specification of a patent if it was either claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or specification.
- (4) References in this Act to an application for a patent, as filed, are references to such an application in the state it was on the date of filing.

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- [^{F13}(4A) An international application for a patent is not, by reason of being treated by virtue of the European Patent Convention as an application for a European patent (UK), to be treated also as an international application for a patent (UK).]
- (5) References in this Act to an application for a patent being published are references to its being published under section 16 above.
- (6) References in this Act to any of the following conventions, that is to say—
- (a) The European Patent Convention;
 - (b) The Community Patent Convention;
 - (c) The Patent Co-operation Treaty;
- are references to that convention or any other international convention or agreement replacing it, as amended or supplemented by any convention or international agreement (including in either case any protocol or annex), or in accordance with the terms of any such convention or agreement, and include references to any instrument made under any such convention or agreement.
- (7) Whereas by a resolution made on the signature of the Community Patent Convention the governments of the member states of the European Economic Community resolved to adjust their laws relating to patents so as (among other things) to bring those laws into conformity with the corresponding provisions of the European Patent Convention, the Community Patent Convention and the Patent Co-operation Treaty, it is hereby declared that the following provisions of this Act, that is to say, sections 1(1) to (4), 2 to 6, 14(3), (5) and (6), 37(5), 54, 60, 69, 72(1) and (2), 74(4), 82, 83, . . . ^{F14} 100 and 125, are so framed as to have, as nearly as practicable, the same effects in the United Kingdom as the corresponding provisions of the European Patent Convention, the Community Patent Convention and the Patent Co-operation Treaty have in the territories to which those Conventions apply.
- (8) [^{F15}Part I of the Arbitration Act 1996] shall not apply to any proceedings before the comptroller under this Act.
- (9) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

Textual Amendments

- F1** Words in s. 130(1) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **19** (with arts. 20-23)
- F2** Words in s. 130(1) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(2)(a)**; [S.I. 2004/3205](#), art. 2(i) (with art. 9)
- F3** S. 130: definitions of “biological material” and “biotechnological invention” inserted (28.7.2000) by [S.I. 2000/2037](#), **reg. 7**
- F4** Words in s. 130(1) repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 2 para. 27(a)**, **Sch. 3**; [S.I. 2004/3205](#), art. 2(g)(k) (with art. 9)
- F5** Definition substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1), **Sch. 7 para. 23**
- F6** Words in s. 130(1) inserted (1.1.2005 for specified purposes, 13.12.2007 for specified purposes) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(2)(b)**; [S.I. 2004/3205](#), art. 2(j) (with art. 9); [S.I. 2007/3396](#), art. 2(k) (with art. 3)
- F7** Words in s. 130(1) inserted (1.4.2003) by [Patents Act 1977 \(Electronic Communications\) Order 2003 \(S.I. 2003/512\)](#), arts. 1, **3**

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- F8** Words added (retrospectively) by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **s. 22(1)(3)**
- F9** Words in s. 130(1) substituted (29.4.2006) by [Intellectual Property \(Enforcement, etc\) Regulations 2006 \(S.I. 2006/1028\)](#), art. 1, **Sch. 2 para. 5(1)** (with reg. 5(2))
- F10** Definition of “patent agent” repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F11** Words in s. 130(1) repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), Sch. 2 para. 27(b), **Sch. 3**; [S.I. 2004/3205](#), art. 2(g)(k) (with art. 9)
- F12** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 5**
- F13** S. 130(4A) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 9(3)**; [S.I. 2004/3205](#), art. 2(i) (with art. 9)
- F14** Words repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F15** Words in s. 130(8) substituted (31.1.1997) by [1996 c. 23](#), s. 107(1), **Sch. 3 para. 33** (with Pt. 1); [S.I. 1996/3146](#), **art. 3**

Marginal Citations

- M1** [1949 c. 87](#).

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