



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Licences of right and compulsory licences

[48] ^{F1}Compulsory licences: general.

- (1) At any time after the expiration of three years, or of such other period as may be prescribed, from the date of the grant of a patent, any person may apply to the comptroller on one or more of the relevant grounds—
 - (a) for a licence under the patent;
 - (b) for an entry to be made in the register to the effect that licences under the patent are to be available as of right; or
 - (c) where the applicant is a government department, for the grant to any person specified in the application of a licence under the patent.
- (2) Subject to sections 48A and 48B below, if he is satisfied that any of the relevant grounds are established, the comptroller may—
 - (a) where the application is under subsection (1)(a) above, order the grant of a licence to the applicant on such terms as the comptroller thinks fit;
 - (b) where the application is under subsection (1)(b) above, make such an entry as is there mentioned;
 - (c) where the application is under subsection (1)(c) above, order the grant of a licence to the person specified in the application on such terms as the comptroller thinks fit.
- (3) An application may be made under this section in respect of a patent even though the applicant is already the holder of a licence under the patent; and no person shall be estopped or barred from alleging any of the matters specified in the relevant grounds by reason of any admission made by him, whether in such a licence or otherwise, or by reason of his having accepted a licence.

Status: Point in time view as at 01/04/2003.

Changes to legislation: Patents Act 1977, Section 48 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In this section “the relevant grounds” means—
- (a) in the case of an application made in respect of a patent whose proprietor is a WTO proprietor, the grounds set out in section 48A(1) below;
 - (b) in any other case, the grounds set out in section 48B(1) below.
- (5) A proprietor is a WTO proprietor for the purposes of this section and sections 48A, 48B, 50 and 52 below if—
- (a) he is a national of, or is domiciled in, a country which is a member of the World Trade Organisation; or
 - (b) he has a real and effective industrial or commercial establishment in such a country.
- (6) A rule prescribing any such other period under subsection (1) above shall not be made unless a draft of the rule has been laid before, and approved by resolution of, each House of Parliament.]

Textual Amendments

F1 S. 48 substituted (29.7.1999) by [S.I. 1999/1899](#), [reg. 3](#)

Status:

Point in time view as at 01/04/2003.

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