



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Infringement

60 Meaning of infringement.

- (1) Subject to the provisions of this section, a person infringes a patent for an invention if, but only if, while the patent is in force, he does any of the following things in the United Kingdom in relation to the invention without the consent of the proprietor of the patent, that is to say—
 - (a) where the invention is a product, he makes, disposes of, offers to dispose of, uses or imports the product or keeps it whether for disposal or otherwise;
 - (b) where the invention is a process, he uses the process or he offers it for use in the United Kingdom when he knows, or it is obvious to a reasonable person in the circumstances, that its use there without the consent of the proprietor would be an infringement of the patent;
 - (c) where the invention is a process, he disposes of, offers to dispose of, uses or imports any product obtained directly by means of that process or keeps any such product whether for disposal or otherwise.
- (2) Subject to the following provisions of this section, a person (other than the proprietor of the patent) also infringes a patent for an invention if, while the patent is in force and without the consent of the proprietor, he supplies or offers to supply in the United Kingdom a person other than a licensee or other person entitled to work the invention with any of the means, relating to an essential element of the invention, for putting the invention into effect when he knows, or it is obvious to a reasonable person in the circumstances, that those means are suitable for putting, and are intended to put, the invention into effect in the United Kingdom.
- (3) Subsection (2) above shall not apply to the supply or offer of a staple commercial product unless the supply or the offer is made for the purpose of inducing the person

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supplied or, as the case may be, the person to whom the offer is made to do an act which constitutes an infringement of the patent by virtue of subsection (1) above.

[^{F1}(3A) Subsections (1) and (2) shall not apply to an act done in relation to a product that is subject to a patent where the product has been put on the market in the United Kingdom or the European Economic Area by or with the consent of the proprietor of the patent unless—

- (a) there exist legitimate reasons for the proprietor of the patent to oppose the act for the purpose of protecting the proprietor's property, and
- (b) the opposition to the act interferes with the rights of any other person no more than is necessary to achieve that purpose.]

[^{F2}(4)

(5) An act which, apart from this subsection, would constitute an infringement of a patent for an invention shall not do so if—

- (a) it is done privately and for purposes which are not commercial;
- (b) it is done for experimental purposes relating to the subject-matter of the invention;
- (c) it consists of the extemporaneous preparation in a pharmacy of a medicine for an individual in accordance with a prescription given by a registered medical or dental practitioner or consists of dealing with a medicine so prepared;
- (d) it consists of the use, exclusively for the needs of a relevant ship, of a product or process in the body of such a ship or in its machinery, tackle, apparatus or other accessories, in a case where the ship has temporarily or accidentally entered the internal or territorial waters of the United Kingdom;
- (e) it consists of the use of a product or process in the body or operation of a relevant aircraft, hovercraft or vehicle which has temporarily or accidentally entered or is crossing the United Kingdom (including the air space above it and its territorial waters) or the use of accessories for such a relevant aircraft, hovercraft or vehicle;
- (f) it consists of the use of an exempted aircraft which has lawfully entered or is lawfully crossing the United Kingdom as aforesaid or of the importation into the United Kingdom, or the use or storage there, of any part or accessory for such an aircraft.

[^{F3}(g) it consists of the use by a farmer of the product of his harvest for propagation or multiplication by him on his own holding, where there has been a sale of plant propagating material to the farmer by the proprietor of the patent or with his consent for agricultural use;

(h) it consists of the use of an animal or animal reproductive material by a farmer for an agricultural purpose following a sale to the farmer, by the proprietor of the patent or with his consent, of breeding stock or other animal reproductive material which constitutes or contains the patented invention.]

[^{F4}(i) it consists of—

- (i) an act done in conducting a study, test or trial which is necessary for and is conducted with a view to the application of paragraphs 1 to 5 of article 13 of Directive [2001/82/EC](#) or paragraphs 1 to 4 of article 10 of Directive [2001/83/EC](#), or
- (ii) any other act which is required for the purpose of the application of those paragraphs.]

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- [^{F5}(j) it consists of a use referred to in Article 27(c) of the Agreement on a Unified Patent Court;
 - (k) subject to subsection (6H), it consists of an act or use referred to in Article 27(k) of the Agreement on a Unified Patent Court.]
- (6) For the purposes of subsection (2) above a person who does an act in relation to an invention which is prevented only by virtue of paragraph (a), (b) or (c) of subsection (5) above from constituting an infringement of a patent for the invention shall not be treated as a person entitled to work the invention, but—
 - (a) the reference in that subsection to a person entitled to work an invention includes a reference to a person so entitled by virtue of section 55 above, and
 - (b) a person who by virtue of [^{F6}section 20B(4) or (5) above or][^{F7}section 28A(4) or (5)] above or section 64 below [^{F8}or section 117A(4) or (5) below] is entitled to do an act in relation to the invention without it constituting such an infringement shall, so far as concerns that act, be treated as a person entitled to work the invention.
- [^{F9}(6A) Schedule A1 contains—
 - (a) provisions restricting the circumstances in which subsection (5)(g) applies; and
 - (b) provisions which apply where an act would constitute an infringement of a patent but for subsection (5)(g).
- (6B) For the purposes of subsection (5)(h), use for an agricultural purpose—
 - (a) includes making an animal or animal reproductive material available for the purposes of pursuing the farmer’s agricultural activity; but
 - (b) does not include sale within the framework, or for the purposes, of a commercial reproduction activity.
- (6C) In paragraphs (g) and (h) of subsection (5) “sale” includes any other form of commercialisation.]
- [^{F10}(6D) For the purposes of subsection (5)(b), anything done in or for the purposes of a medicinal product assessment which would otherwise constitute an infringement of a patent for an invention is to be regarded as done for experimental purposes relating to the subject-matter of the invention.
- (6E) In subsection (6D), “medicinal product assessment” means any testing, course of testing or other activity undertaken with a view to providing data for any of the following purposes—
 - (a) obtaining or varying an authorisation to sell or supply, or offer to sell or supply, a medicinal product (whether in the United Kingdom or elsewhere);
 - (b) complying with any regulatory requirement imposed (whether in the United Kingdom or elsewhere) in relation to such an authorisation;
 - (c) enabling a government or public authority (whether in the United Kingdom or elsewhere), or a person (whether in the United Kingdom or elsewhere) with functions of—
 - (i) providing health care on behalf of such a government or public authority, or
 - (ii) providing advice to, or on behalf of, such a government or public authority about the provision of health care,

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to carry out an assessment of suitability of a medicinal product for human use for the purpose of determining whether to use it, or recommend its use, in the provision of health care.

(6F) In subsection (6E) and this subsection—

“medicinal product” means a medicinal product for human use or a veterinary medicinal product;

“medicinal product for human use” has the meaning given by article 1 of Directive 2001/83/EC;

“veterinary medicinal product” has the meaning given by article 1 of Directive 2001/82/EC.

(6G) Nothing in subsections (6D) to (6F) is to be read as affecting the application of subsection (5)(b) in relation to any act of a kind not falling within subsection (6D).]

[^{F11}(6H) Subsection 5(k) applies to an act or use in relation to a European patent (UK) or a European patent with unitary effect, but does not apply to an act or use in relation to a patent granted by the comptroller.]

(7) In this section—

“relevant ship” and “relevant aircraft, hovercraft or vehicle” mean respectively a ship and an aircraft, hovercraft or vehicle registered in, or belonging to, any country, other than the United Kingdom, which is a party to the Convention for the Protection of Industrial Property signed at Paris on 20th March 1883 [^{F12}or which is a member of the World Trade Organisation]; and

“exempted aircraft” means an aircraft to which [^{F13}section 89 of the Civil Aviation Act 1982] section 53 of the ^{M1}Civil Aviation Act 1949 (aircraft exempted from seizure in respect of patent claims) applies.

[^{F14}“Directive 2001/82/EC” means Directive 2001/82/EC of the European Parliament and of the Council on the Community code relating to veterinary medicinal products as amended by [^{F15}Directive 2004/28/EC] of the European Parliament and of the Council;

“Directive 2001/83/EC” means Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use, as amended by Directive 2002/98/EC of the European Parliament and of the Council, by Commission Directive 2003/63/EC and by Directives 2004/24/EC and 2004/27/EC of the European Parliament and of the Council]

Textual Amendments

- F1** S. 60(3A) inserted (31.12.2023 immediately before the end of 2023) by [The Intellectual Property \(Exhaustion of Rights\) \(Amendment\) Regulations 2023 \(S.I. 2023/1287\)](#), regs. 1(b), **3**
- F2** S. 60(4) repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), Sch. 2 para. 13, **Sch. 3**; S.I. 2004/3205, art. 2(g)(k) (with art. 9)
- F3** S. 60(5)(g)(h) inserted (28.7.2000) by [S.I. 2000/2037](#), **reg. 4(a)**
- F4** S. 60(5)(i) inserted (30.10.2005) by [Medicines \(Marketing Authorisations Etc.\) Amendment Regulations 2005 \(S.I. 2005/2759\)](#), regs. 1(a), **3(a)**
- F5** S. 60(5)(j)(k) inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), arts. 1(2), **2(3)** (with art. 3)

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- F6** Words in s. 60(6)(b) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **11(a)** (with arts. 20-23)
- F7** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 8(a)**
- F8** Words in s. 60(6)(b) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **11(b)** (with arts. 20-23)
- F9** S. 60(6A)(6B)(6C) inserted (28.7.2000) by [S.I. 2000/2037](#), **reg. 4(b)**
- F10** S. 60(6D)-(6G) inserted (1.10.2014) by [The Legislative Reform \(Patents\) Order 2014 \(S.I. 2014/1997\)](#), arts. 1(2), 2
- F11** S. 60(6H) inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), arts. 1(2), **2(4)** (with art. 3)
- F12** Words in s. 60(7) in the definition of “relevant ship” and “relevant aircraft, hovercraft or vehicle” inserted (29.7.1999) by virtue of [S.I. 1999/1899](#), **reg. 7**
- F13** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), s. 109, **Sch. 15 para. 19**
- F14** Words in s. 60(7) inserted (30.10.2005) by [Medicines \(Marketing Authorisations Etc.\) Amendment Regulations 2005 \(S.I. 2005/2759\)](#), regs. 1(a), **3(b)**
- F15** Words in s. 60(7) substituted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\)](#), s. 24(1), **Sch. para. 5**; [S.I. 2014/2330](#), art. 3, Sch.

Marginal Citations

- M1** 1949 c. 67.

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[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)