

# **PATENTS ACT 2004**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### ***The European Patent Convention***

4. The 1977 Act reformed the law of patents in the UK. One of its main purposes was to bring into effect in the UK the European Patent Convention (“EPC”), which was a new European-wide patents treaty agreed in 1973. The EPC is not a European Community treaty, but is a treaty agreed between its contracting states – of which there are currently 29.
5. The EPC allows for a single patent application to be made to the European Patent Office (“EPO”). If the European patent is granted, this results in what is, in effect, a bundle of national patents which apply in those countries of the EPC in which the applicant wishes to have patent protection. The EPC also ensures harmonisation of patent law within its contracting states as regards European patents and applications. In implementing the EPC in UK law, the intention has always been for the substantive law in respect of national patents and applications (that is, patents granted by, and applications to, the UK Patent Office) to follow as closely as possible that in the EPC. There are two main reasons for this. Firstly, it is important to avoid unnecessarily differing standards applying to patents which have come into force in the UK via different routes. Secondly, it is of considerable assistance to the public if they can adopt much the same approach when seeking a UK or a European patent. A function of the 1977 Act was, therefore, to bring domestic patent law into line with the provisions of the EPC, and to recognise the existence of European patents and applications and provide for their effect in the UK.
6. The EPC underwent a revision in 2000. It follows that it is necessary – if the UK is to remain part of the European patents system – for the 1977 Act to be amended to reflect the changes that have been made as part of the revised EPC. This is one of the things that the Act seeks to do. The revised EPC is referred to throughout these notes as “EPC 2000”.