

*These notes refer to the Patents Act 2004 (c.16)
which received Royal Assent on 22nd July 2004*

PATENTS ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 4 – Revocation

29. Where the court or comptroller finds that a European patent (UK) is partially invalid, this section provides that they may order revocation of the patent unless the proprietor limits his patent at the EPO under Article 105a EPC 2000. This is an alternative to the existing possibility of the proprietor amending the patent under the 1977 Act. The former option would affect the European patent in all its designated states, whereas the latter would only affect the European patent (UK). Even during revocation proceedings in the UK, the proprietor of a European patent (UK) could independently request limitation before the EPO. In practice, the court or comptroller could, if appropriate, stay the UK revocation proceedings while limitation went ahead.
30. It should be noted that both the new and existing provisions require the amendment or limitation to be done within a specified time and to the satisfaction of the court or comptroller, if revocation is not to take place. This allows the court or comptroller to retake control of proceedings in case of delay as a result of seeking limitation at the EPO. It also allows the court or comptroller to proceed with revocation of the patent if they are not satisfied with the amendment or limitation that has taken place.