



Patents Act 1949

1949 CHAPTER 87 12 13 and 14 Geo 6

Use of patented inventions for services of the Crown

46 Use of patented inventions for services of the Crown.

- (1) Notwithstanding anything in this Act, any Government department, and any person authorised in writing by a Government department, may make, use and exercise any patented invention for the services of the Crown in accordance with the following provisions of this section.
- (2) If and so far as the invention has before the priority date of the relevant claim of the complete specification been duly recorded by or tried by or on behalf of a Government department [^{F1}or the United Kingdom Atomic Energy Authority] otherwise than in consequence of the communication thereof directly or indirectly by the patentee or any person from whom he derives title, any use of the invention by virtue of this section may be made free of any royalty or other payment to the patentee.
- (3) If and so far as the invention has not been so recorded or tried as aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Government department and the patentee with the approval of the Treasury, or as may in default of agreement be determined by the court on a reference under section forty-eight of this Act.
- (4) The authority of a Government department in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.
- (5) Where any use of an invention is made by or with the authority of a Government department under this section, then, unless it appears to the department that it would be contrary to the public interest so to do, the department shall notify the patentee as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

Changes to legislation: There are currently no known outstanding effects for the Patents Act 1949, Section 46. (See end of Document for details)

[^{F2}(6) For the purposes of this and the next following section “the services of the Crown” shall be deemed to include—

- (a) the supply to the government of any country outside the United Kingdom, in pursuance of an agreement or arrangement between Her Majesty’s Government in the United Kingdom and the government of that country, of articles required—
 - (i) for the defence of that country; or
 - (ii) for the defence of any other country whose government is party to any agreement or arrangement with Her Majesty’s said Government in respect of defence matters;
- (b) the supply to the United Nations, or to the government of any country belonging to that organisation, in pursuance of an agreement or arrangement between Her Majesty’s Government and that organisation or government, of articles required for any armed forces operating in pursuance of a resolution of that organisation or any organ of that organisation;

and the power of a Government department or a person authorised by a Government department under this section to make, use and exercise an invention shall include power to sell to any such government or to the said organisation any articles the supply of which is authorised by this subsection, and to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.]

(7) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of His Majesty.

Textual Amendments

- F1** Words inserted by [Atomic Energy Authority Act 1954 \(c. 32\)](#), **Sch. 3**
- F2** [S. 46\(6\)](#) substituted by [Defence Contracts Act 1958 \(c. 38\)](#), **s. 1(1)**

Modifications etc. (not altering text)

- C1** [S. 46](#) extended by [S.I. 1965/1536](#), **Sch. 3** and [Health Services and Public Health Act 1968 \(c. 46\)](#), **s. 59(1)**
- C2** [S. 46\(3\)](#) modified by [Atomic Energy Authority \(Weapons Group\) Act 1973 \(c. 4\)](#), **s. 5(2)**
- C3** [S. 46\(6\)](#) modified by [Defence Contracts Act 1958 \(c. 38\)](#), **s. 1(4)(b)**

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