



# Atomic Energy Act 1946

## 1946 CHAPTER 80

### *Special provisions as to inventions*

#### **12 Special provisions as to inventions**

- (1) Where an application has been made to the Comptroller General of Patents, Designs and Trade Marks (hereafter in this section referred to as the " Comptroller General ") for the grant of a patent, and it appears to the Comptroller General that the invention which is the subject matter of the application relates to the production or use of atomic energy or research into matters connected therewith, he shall serve a notice in writing on the Minister to that effect, and may, notwithstanding anything in any Act, omit or delay the doing of anything which he would otherwise be required to do in relation to the application, and give directions for prohibiting or restricting the publication of information with respect to the subject matter of the application or the communication of such information to particular persons or classes of persons ; and any person who contravenes any such direction shall be guilty of an offence under this Act.
- (2) Where the Minister is notified as aforesaid, he shall forthwith consider whether the invention which is the subject matter of the application in question is of importance for purposes of defence and may inspect all documents and information furnished to the Comptroller General in connection with the application and if he is satisfied either then or subsequently that the invention is not of importance for purposes of defence, he shall serve a notice in writing on the Comptroller General to that effect, and thereupon the Comptroller General shall cease to exercise his powers under the last foregoing subsection in relation to that application and shall forthwith revoke any directions given under those powers in relation thereto.
- (3) Where any notice is given by or to the Comptroller General under the foregoing provisions of this section in relation to any application, he shall serve a copy of the notice on the applicant.
- (4) Where on an application to the Comptroller General for the grant of a patent a notice has been served under subsection (1) of this section and six months have elapsed from the date of the service of that notice without the service of a notice under subsection (2) of this section in relation to that application, any person who has, before the date of the application, incurred expense or done work in connection with the

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discovery or development of the invention concerned, shall be entitled to be paid such compensation in respect of that expense or work as the Minister may with the approval of the Treasury determine, and the compensation shall not in any case be less than the amount of the expense reasonably so incurred, such amount (in case of dispute) to be settled by arbitration :

Provided that, if a notice is subsequently served by the Minister under subsection (2) of this section in relation to the said application, there shall be recoverable by the Minister as a debt due to the Crown such part of the compensation paid to any person under this subsection in connection with the invention concerned as may be reasonable, having regard to the length of the period during which powers were exercised under subsection (1) of this section in relation to the said application and all the other circumstances of the case ; and the amount to be so recovered shall, in default of agreement between the Minister and the said person, be settled by arbitration.

- (5) No person resident in the United Kingdom shall, except under the authority of a written permit granted by, or on behalf of, the Comptroller General, make or cause to be made any application outside the United Kingdom for the grant of a patent for an invention which relates to the production or use of atomic energy or research into matters connected therewith ; and if any person makes any such application except under the authority of such a permit or contravenes or fails to comply with any condition subject to which such a permit was granted, he shall be guilty of an offence under this Act;

Provided that this subsection shall not apply in any case where—

- (a) an application for a patent for the same invention has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom ; and
  - (b) either no directions have been given under subsection (1) of this section in relation to the application in the United Kingdom, or all such directions have been revoked.
- (6) Where the Comptroller General in the exercise of powers under subsection (1) of this section, omits or delays the doing of anything or gives directions for prohibiting or restricting the publication or communication of information, he may, subject to such conditions, if any, as he thinks fit to impose, extend the time limited by or under the Patents and Designs Acts, 1907 to 1946, for doing any act, where he is satisfied that such extension ought to be granted by reason of the exercise of the powers aforesaid.
- (7) The right of a person to apply for, or obtain, a patent in respect of an invention shall not be prejudiced by reason only of the fact that the invention has previously been communicated to the Minister under this section or under section four of this Act, and a patent in respect of an invention shall not be held to be invalid by reason only that the invention has been communicated as aforesaid.
- (8) The power of the Minister of Supply under subsection (1) of section twenty-nine of the Patents and Designs Act, 1907 (which confers rights on Government departments to make, use or exercise inventions for the services of the Crown), as amended by any subsequent enactment, shall include power to make, use, exercise or vend an invention, upon such terms as are mentioned in the said subsection (1), for such purposes relating to the production or use of atomic energy or research into matters connected therewith as the Minister thinks necessary or expedient, and subsections (2) to (4) of the said section shall apply accordingly subject to the modification that in subsection (3A) the reference to the subsections therein mentioned shall include a reference to this subsection ; and in connection with such making, use, exercise or vending as aforesaid

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the Minister may authorise the use of any drawing, model, plan or other document or information in such manner as he thinks necessary or expedient, notwithstanding anything to the contrary contained in any licence or agreement ; and the terms of any licence or agreement concluded between the inventor or patentee of an invention and any person other than the Minister shall be inoperative so far as concerns the making, use, exercise or vending of that invention by the Minister under this subsection.