

2003 No. 512

PATENTS

**The Patents Act 1977 (Electronic Communications) Order
2003**

<i>Made - - - -</i>	<i>6th March 2003</i>
<i>Laid before Parliament</i>	<i>7th March 2003</i>
<i>Coming into force</i>	<i>1st April 2003</i>

The Secretary of State, in exercise of the powers conferred on her by sections 8 and 9 of the Electronic Communications Act 2000(a), and after consultation with the Council on Tribunals pursuant to section 8(1) of the Tribunals and Inquiries Act 1992(b), hereby makes the following Order—

Citation and commencement

1. This Order may be cited as the Patents Act 1977 (Electronic Communications) Order 2003 and shall come into force on 1st April 2003.

Insertion of new Section 124A

2. The following section shall be inserted after section 124 of the Patents Act 1977(c)—

“Use of electronic communications

124A.—(1) The comptroller may make directions as to the form and manner in which documents to be delivered to the comptroller—

- (a) in electronic form; or
- (b) using electronic communications,

are to be delivered to him.

(2) A direction under subsection (1) may provide that in order for a document to be delivered in compliance with the direction it shall be accompanied by one or more additional documents specified in the direction.

(3) If a document to which a direction under subsection (1) applies is delivered to the comptroller in a form or manner which does not comply with the direction the comptroller may treat the document as not having been delivered.

(4) Subsection (5) applies in relation to a case where—

- (a) a document is delivered using electronic communications, and
- (b) there is a requirement for a fee to accompany the document.

(a) 2000 c.7.
(b) 1992 c.53.
(c) 1977 c.37.

(5) The comptroller may make directions specifying—

- (a) how the fee shall be paid;
- (b) when the fee shall be deemed to have been paid.

(6) The comptroller may make directions specifying that a person who delivers a document to the comptroller in electronic form or using electronic communications cannot treat the document as having been delivered unless its delivery has been acknowledged.

(7) The comptroller may make directions specifying how a time of delivery is to be accorded to a document delivered to him in electronic form or using electronic communications.

(8) A direction under this section may be given—

- (a) generally;
- (b) in relation to a description of cases specified in the direction;
- (c) in relation to a particular person or persons.

(9) In a case falling within subsection (8)(a) or (b), the direction must be published in such manner as the comptroller considers appropriate for the purpose of bringing it to the attention of the persons affected by it.

(10) In a case falling within subsection (8)(c), the direction must be notified to that person or those persons in such manner as may be agreed between that person or those persons and the comptroller.

(11) A direction under this section may be varied or revoked by a subsequent direction under this section.

(12) A direction under this section may include incidental, supplementary, saving and transitional provisions.

(13) Where the comptroller delivers a document using electronic communications then, unless the contrary intention has been specified by the comptroller, the delivery is deemed to be effected by the comptroller properly addressing and transmitting the electronic communication.

(14) Where the comptroller makes a direction under this section which applies in addition to or in place of rules, to the extent that the direction applies—

- (a) “prescribed” in this Act includes prescribed by the direction;
- (b) references in this Act to compliance with rules or requirements of rules include compliance with the direction or requirements of the direction.

(15) In this section—

- (a) references to a document include anything that is or may be embodied in paper form;
- (b) references to delivery to the comptroller include delivery at, in, with or to the Patent Office;
- (c) references to delivery by the comptroller include delivery by the Patent Office; and cognate expressions must be construed accordingly.”.

Insertion of new definition

3. In section 130(1) of the Patents Act 1977 (interpretation) at the appropriate place there shall be inserted—

““electronic communication” has the same meaning as in the Electronic Communications Act 2000;”.

6th March 2003

Melanie Johnson
Parliamentary Under-Secretary of State
for Competition, Consumers and Markets,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Patents Act 1977 (the “Patents Act”) to facilitate the use of electronic communications with the Patent Office.

Article 2 inserts a new section 124A into the Patents Act. The Comptroller-General of Patents, Designs and Trade Marks (“the comptroller”) is given the power to:

- direct the form and manner in which a document is delivered to the comptroller where the document is to be delivered in electronic form or using electronic communications;
- require a document which is to be delivered in electronic form or using electronic communications to be accompanied by one or more additional documents;
- treat a document as not having been delivered if the form and manner of its delivery does not comply with directions;
- make directions as to how a fee shall be paid and when the fee shall be deemed to have been paid where a document is delivered using electronic communications and there is a requirement for a fee to accompany the document;
- direct that a person delivering a document to the comptroller in electronic form or using electronic communications cannot treat it as having been delivered unless its delivery has been acknowledged;
- direct how the time of delivery is to be accorded to a document which is sent to the comptroller in electronic form or using electronic communications.

Directions made by the comptroller may apply generally or to a description of cases or in relation to particular persons, and provision is made for how the directions will be brought to the attention of the persons affected by them. The comptroller may vary or revoke a direction by a subsequent direction. A direction may include incidental, supplementary, saving or transitional provisions.

There is provision for a document to be deemed to be delivered where the comptroller delivers a document using electronic communications.

Article 3 provides that “electronic communication” in the Patents Act is to have the same meaning as in the Electronic Communications Act 2000.

A regulatory impact assessment is available from the Intellectual Property Policy Directorate of the Patent Office, Room 3B38, Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ. Copies have also been placed in the libraries of both Houses of Parliament.

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£1.75

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E0389 3/03 ON (MFK)