Patents Act 2004

2004 CHAPTER 16

Amendments of the 1977 Act relating to international obligations

1 Methods of treatment or diagnosis

After section 4 of the Patents Act 1977 (c. 37) ("the 1977 Act") there is inserted—

"**4A Methods of treatment or diagnosis**

(1) A patent shall not be granted for the invention of—

(a) a method of treatment of the human or animal body by surgery or therapy, or

(b) a method of diagnosis practised on the human or animal body.

(2) Subsection (1) above does not apply to an invention consisting of a substance or composition for use in any such method.

(3) In the case of an invention consisting of a substance or composition for use in any such method, the fact that the substance or composition forms part of the state of the art shall not prevent the invention from being taken to be new if the use of the substance or composition in any such method does not form part of the state of the art.

(4) In the case of an invention consisting of a substance or composition for a specific use in any such method, the fact that the substance or composition forms part of the state of the art shall not prevent the invention from being taken to be new if that specific use does not form part of the state of the art."

Commencement Information

I1 S. 1 in force at 13.12.2007 by S.I. 2007/3396, **art. 2(a)**

Changes to legislation: *There are currently no known outstanding effects for the Patents Act 2004, Cross Heading: Amendments of the 1977 Act relating to international obligations. (See end of Document for details)*

2 Amendment of patents after grant

(1) In section 27 of the 1977 Act (general power to amend after grant), after subsection (5) there is inserted—

"(6) In considering whether or not to allow an application under this section, the comptroller shall have regard to any relevant principles applicable under the European Patent Convention."

(2) In section 58 of that Act (references of disputes as to Crown use)—

(a) in subsection (6), after "satisfied that" there is inserted " (a) " and at the end there is inserted "and

(b) the relief is sought in good faith";

(b) in subsection (8), after "proves that" there is inserted " (a) " and after "knowledge, and" there is inserted—

"(b) the relief is sought in good faith,

and ".

[F1](3) . . . . . .

[F1](4) . . . . . .

(5) In section 75 of that Act (amendment in infringement or revocation proceedings), after subsection (4) there is inserted—

"(5) In considering whether or not to allow an amendment proposed under this section, the court or the comptroller shall have regard to any relevant principles applicable under the European Patent Convention."

Textual Amendments

F1 S. 2(3)(4) repealed (29.4.2006) by Intellectual Property (Enforcement, etc) Regulations 2006 (S.I. 2006/1028), art. 1, **Sch. 4**

Commencement Information

I2 S. 2(1) in force at 13.12.2007 by S.I. 2007/3396, **art. 2(b)**

I3 S. 2(2) in force at 13.12.2007 by S.I. 2007/3396, **art. 2(c)**

I4 S. 2(5) in force at 13.12.2007 by S.I. 2007/3396, **art. 2(d)**

3 Relief for partially valid patent

(1) In section 63 of the 1977 Act (relief for infringement of partially valid patent), after subsection (3) there is inserted—

"(4) The court or the comptroller may also grant relief under this section in the case of a European patent (UK) on condition that the claims of the patent are limited to its or his satisfaction by the European Patent Office at the request of the proprietor."

(2) In section 58 of that Act (references of disputes as to Crown use), after subsection (9) there is inserted—

"(9A) The court may also grant such relief in the case of a European patent (UK) on condition that the claims of the patent are limited to its satisfaction by the European Patent Office at the request of the proprietor."

Commencement Information

I5 S. 3 in force at 13.12.2007 by S.I. 2007/3396, **art. 2(e)**

4 Revocation

In section 72 of the 1977 Act (power to revoke patents on application), in subsection (4), "under section 75 below" is omitted and after that subsection there is inserted—

"(4A) The reference in subsection (4) above to the specification being amended is to its being amended under section 75 below and also, in the case of a European patent (UK), to its being amended under any provision of the European Patent Convention under which the claims of the patent may be limited by amendment at the request of the proprietor."

Commencement Information

I6 S. 4 in force at 13.12.2007 by S.I. 2007/3396, **art. 2(f)**

5 Further amendments relating to international obligations

Schedule 1 (further amendments of the 1977 Act relating to international obligations) has effect.

Commencement Information

I7 S. 5 in force at 1.1.2005 for specified purposes by S.I. 2004/3205, **art. 2(a)**

I8 S. 5 in force at 13.12.2007 for specified purposes by S.I. 2007/3396, **art. 2(g)**

Changes to legislation:
There are currently no known outstanding effects for the Patents Act 2004, Cross Heading: Amendments of the 1977 Act relating to international obligations.