

Supersedes draft published on 4th November 2002 and is being issued free of charge to all known recipients Draft Order laid before Parliament under section 77(2) of the Deregulation and Contracting Out Act 1994 for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2002 No.

CONTRACTING OUT

**The Contracting Out (Functions in Relation
to Applications for Patents) Order 2002**

Made - - - - 2002
Coming into force - - 2002

Whereas the Secretary of State pursuant to section 69(3) of the Deregulation and Contracting Out Act 1994(1) has consulted the Comptroller-General of Patents, Designs and Trade Marks,
And whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 77(2) of that Act,
Now, therefore, the Secretary of State in exercise of the powers conferred on her by sections 69(2), 77(1)(b) and 79(5) of that Act hereby makes the following Order:

Citation, commencement and extent

- 1.—(1) This Order may be cited as the Contracting Out (Functions in Relation to Applications for Patents) Order 2002.
- (2) This Order shall come into force on the day after the day on which it is made.
- (3) This Order extends to England, Wales, Scotland, Northern Ireland and the Isle of Man.

Interpretation

2. In this Order—
- (a) “the comptroller” means the Comptroller-General of Patents, Designs and Trade Marks;
- (b) “the Patents Act” means the Patents Act 1977(3); and
- (c) “the Patents Rules” means the Patents Rules 1995(4).

(1) 1994 c. 40.
(2) See section 79(1) for the definitions of “Minister” and “office-holder”.
(3) 1977 c. 37.
(4) S.I. 1995/2093, to which there are amendments not relevant to this Order.

Contracting out of functions of the comptroller in relation to applications for patents

3. Any function of the comptroller which relates to or is connected with applications for patents and which is listed in Schedule 1 to this Order may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the comptroller—

- (a) either wholly or to such extent as may be specified in the authorisation;
- (b) either generally or in such cases or areas as may be so specified; and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

Contracting out of functions of examiners in relation to patent examinations and searches

4. Any function of an examiner of the Patent Office which relates to or is connected with patent examinations and searches and which is listed in Schedule 2 to this Order may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the comptroller—

- (a) either wholly or to such extent as may be specified in the authorisation;
- (b) either generally or in such cases or areas as may be so specified; and
- (c) either unconditionally or subject to the fulfilment of such conditions as may be so specified.

Supplementary

5. Anything which is authorised or required by or under any provision or rule listed in Schedule 2 to this Order to be referred to an examiner of the Patent Office may be referred, wholly or partly, to such person (if any) as may be authorised by virtue of article 4 above.

2002

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

SCHEDULE 1

Article 3

FUNCTIONS OF THE COMPTROLLER ENABLED TO BE CONTRACTED OUT

1. Functions conferred by or under any of the following provisions of the Patents Act:
 - (a) section 14(7) (consideration and reframing of abstract);
 - (b) section 19(2) (amendment of an application for a patent before grant);
 - (c) section 21(1) (consideration of observations by third parties on patentability); and
 - (d) section 117 (correction of errors) except insofar as it relates to correction of errors in any specification of a patent or any document filed in connection with a patent.
2. Functions conferred by or under any of the following provisions of the Patents Rules:
 - (a) rule 19(4) (publication of figures characterising the invention);
 - (b) rule 36(2) and (6) (amendment of application before grant); and
 - (c) rule 37 (observations on patentability).

SCHEDULE 2

Article 4

FUNCTIONS OF EXAMINERS OF THE PATENT OFFICE ENABLED TO BE CONTRACTED OUT

1. Functions conferred by or under any of the following provisions of the Patents Act:
 - (a) section 17(5) (other than subsection (2)) (preliminary examination and search); and
 - (b) section 18(6) (substantive examination).
2. Functions conferred by or under rule 37(3) of the Patents Rules (observations on patentability).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables specified functions of the Comptroller-General of Patents, Designs and Trade Marks (“the comptroller”) relating to applications for patents and specified functions of examiners of the Patent Office relating to examinations and searches to be exercised by any person (or his employees) whom the comptroller may authorise to do so (articles 3 and 4).

(5) Words in subsection (7) of section 17 were substituted by section 295 of, and paragraph 3(2) of Schedule 5 to, the Copyright, Designs and Patents Act 1988 (c. 48) (“the 1988 Act”). Subsection (8) of section 17 was added by section 295 of, and paragraph 3(3) of Schedule 5 to, the 1988 Act.

(6) Subsection (1A) of section 18 was inserted by section 295 of, and paragraph 4 of Schedule 5 to, the 1988 Act.