



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

##### *Provisions as to patents after grant*

#### **24 Publication and certificate of grant.**

- (1) As soon as practicable after a patent has been granted under this Act the comptroller shall publish in the journal a notice that it has been granted.
- (2) The comptroller shall, as soon as practicable after he publishes a notice under subsection (1) above, send the proprietor of the patent a certificate in the prescribed form that the patent has been granted to the proprietor.
- (3) The comptroller shall, at the same time as he publishes a notice under subsection (1) above in relation to a patent publish the specification of the patent, the names of the proprietor and (if different) the inventor and any other matters constituting or relating to the patent which in the comptroller's opinion it is desirable to publish.

#### **25 Term of patent.**

- (1) A patent granted under this Act shall be treated for the purposes of the following provisions of this Act as having been granted, and shall take effect, on the date on which notice of its grant is published in the journal and, subject to subsection (3) below, shall continue in force until the end of the period of 20 years beginning with the date of filing the application for the patent or with such other date as may be prescribed.
- (2) A rule prescribing any such other date under this section shall not be made unless a draft of the rule has been laid before, and approved by resolution of, each House of Parliament.
- (3) A patent shall cease to have effect at the end of the period prescribed for the payment of any renewal fee if it is not paid within that period.

*Status: Point in time view as at 29/12/2004.*

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- (4) If during the period of six months immediately following the end of the prescribed period the renewal fee and any prescribed additional fee are paid, the patent shall be treated for the purposes of this Act as if it had never expired, and accordingly—
- (a) anything done under or in relation to it during that further period shall be valid;
  - (b) an act which would constitute an infringement of it if it had not expired shall constitute such an infringement; and
  - (c) an act which would constitute the use of the patented invention for the services of the Crown if the patent had not expired shall constitute that use.
- (5) Rules shall include provision requiring the comptroller to notify the registered proprietor of a patent that a renewal fee has not been received from him in the Patent Office before the end of the prescribed period and before the framing of the notification.

## 26 Patent not to be impugned for lack of unity.

No person may in any proceeding object to a patent or to an amendment of a specification of a patent on the ground that the claims contained in the specification of the patent, as they stand or, as the case may be, as proposed to be amended, relate—

- (a) to more than one invention, or
- (b) to a group of inventions which are not so linked as to form a single inventive concept.

## 27 General power to amend specification after grant.

- (1) Subject to the following provisions of this section and to section 76 below, the comptroller may, on an application made by the proprietor of a patent, allow the specification of the patent to be amended subject to such conditions, if any, as he thinks fit.
- (2) No such amendment shall be allowed under this section where there are pending before the court or the comptroller proceedings in which the validity of the patent may be put in issue.
- (3) An amendment of a specification of a patent under this section shall have effect and be deemed always to have had effect from the grant of the patent.
- (4) The comptroller may, without an application being made to him for the purpose, amend the specification of a patent so as to acknowledge a registered trade-mark.
- (5) A person may give notice to the comptroller of his opposition to an application under this section by the proprietor of a patent, and if he does so the comptroller shall notify the proprietor and consider the opposition in deciding whether to grant the application.

### Modifications etc. (not altering text)

- C1** S. 27(4) extended by [Patents, Designs and Marks Act 1986 \(c. 39, SIF 67A\)](#), s. 2(3), [Sch. 2 Pt. I para. 1\(2\)\(e\)\(ii\)](#)  
 S. 27(4) amended (31.10.1994) by [1994 c. 26, s. 106\(1\)](#), [Sch. 4 para. 1\(2\)](#); [S.I. 1994/2550](#) art. 2

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## 28 Restoration of lapsed patents.

[<sup>F1</sup>(1) Where a patent has ceased to have effect by reason of a failure to pay any renewal fee, an application for the restoration of the patent may be made to the comptroller within the prescribed period.

(1A) Rules prescribing that period may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient.]

(2) An application under this section may be made by the person who was the proprietor of the patent or by any other person who would have been entitled to the patent if it had not ceased to have effect; and where the patent was held by two or more persons jointly, the application may, with the leave of the comptroller, be made by one or more of them without joining the others.

[<sup>F2</sup>(2A) Notice of the application shall be published by the comptroller in the prescribed manner.]

(3) If the comptroller is satisfied that—

(a) the proprietor of the patent took reasonable care to see that any renewal fee was paid within the prescribed period or that that fee and any prescribed additional fee were paid within the six months immediately following the end of that period, . . . <sup>F3</sup>

the comptroller shall by order restore the patent on payment of any unpaid renewal fee and any prescribed additional fee.

(4) An order under this section may be made subject to such conditions as the comptroller thinks fit (including a condition requiring compliance with any provisions of the rules relating to registration which have not been complied with), and if the proprietor of the patent does not comply with any condition of such an order the comptroller may revoke the order and give such directions consequential on the revocation as he thinks fit.

(5) . . . . . <sup>F4</sup>

### Textual Amendments

**F1** S. 28(1)(1A) substituted and inserted respectively by [Copyright, Designs and Patents Act 1988 \(c.48, SIF 67A\)](#), s. 295, **Sch. 5 para. 6(2)**

**F2** S. 28(2A) inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 6(3)**

**F3** Words repealed (with savings) by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), ss. 295, 303(2), **Sch. 5 para. 6(4)**, **Sch. 8**

**F4** S. 28(5)–(9) repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), ss. 295, 303(2), **Sch. 5 para. 6(5)**, **Sch. 8**

## [<sup>F5</sup>28A Effect of order for restoration of patent.

(1) The effect of an order for the restoration of a patent is as follows.

(2) Anything done under or in relation to the patent during the period between expiry and restoration shall be treated as valid.

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- (3) Anything done during that period which would have constituted an infringement if the patent had not expired shall be treated as an infringement—
  - (a) if done at a time when it was possible for the patent to be renewed under section 25(4), or
  - (b) if it was a continuation or repetition of an earlier infringing act.
- (4) If after it was no longer possible for the patent to be so renewed, and before publication of notice of the application for restoration, a person—
  - (a) began in good faith to do an act which would have constituted an infringement of the patent if it had not expired, or
  - (b) made in good faith effective and serious preparations to do such an act, he has the right to continue to do the act or, as the case may be, to do the act, notwithstanding the restoration of the patent; but this right does not extend to granting a licence to another person to do the act.
- (5) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (4) may—
  - (a) authorise the doing of that act by any partners of his for the time being in that business, and
  - (b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or the preparations were made.
- (6) Where a product is disposed of to another in exercise of the rights conferred by subsection (4) or (5), that other and any person claiming through him may deal with the product in the same way as if it had been disposed of by the registered proprietor of the patent.
- (7) The above provisions apply in relation to the use of a patent for the services of the Crown as they apply in relation to infringement of the patent.]

#### **Textual Amendments**

**F5** S. 28A inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, [Sch. 5 para. 7](#)

## **29 Surrender of patents.**

- (1) The proprietor of a patent may at any time by notice given to the comptroller offer to surrender his patent.
- (2) A person may give notice to the comptroller of his opposition to the surrender of a patent under this section, and if he does so the comptroller shall notify the proprietor of the patent and determine the question.
- (3) If the comptroller is satisfied that the patent may properly be surrendered, he may accept the offer and, as from the date when notice of his acceptance is published in the journal, the patent shall cease to have effect, but no action for infringement shall lie in respect of any act done before that date and no right to compensation shall accrue for any use of the patented invention before that date for the services of the Crown.

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