



# Patents Act 1977

## 1977 CHAPTER 37

### PART II

#### PROVISIONS ABOUT INTERNATIONAL CONVENTIONS

##### *Community patents*

#### **86 Implementation of Community Patent Convention**

- (1) All rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Community Patent Convention and all remedies and procedures from time to time provided for by or under that convention shall by virtue of this section have legal effect in the United Kingdom and shall be used there, be recognised and available in law and be enforced, allowed and followed accordingly.
- (2) The Secretary of State may by regulations make provision—
  - (a) for implementing any obligation imposed by that convention on a domestic institution or enabling any such obligation to be implemented or enabling any rights or powers conferred on any such institution to be exercised; and
  - (b) otherwise for giving effect to subsection (1) above and dealing with matters arising out of its commencement or operation.
- (3) Regulations under this section may include any incidental, consequential, transitional or supplementary provision appearing to the Secretary of State to be necessary or expedient, including provision amending any enactment, whenever passed, other than an enactment contained in this Part of this Act, and provision for the application of any provision of the regulations outside the United Kingdom.
- (4) Sections 12, 73(2), 77 to 80, 82 and 83 above shall not apply to any application for a European patent which under the Community Patent Convention is treated as an application for a Community patent, or to a Community patent (since any such application or patent falls within the foregoing provisions of this section).
- (5) In this section " domestic institution " means the court, the comptroller or the Patent Office, as the case may require.

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*Status: This is the original version (as it was originally enacted).*

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## **87 Decisions on Community Patent Convention**

- (1) For the purposes of all legal proceedings, including proceedings before the comptroller, any question as to the meaning or effect of the Community Patent Convention, or as to the validity, meaning and effect of any instrument made under or in implementation of that convention by any relevant convention institution shall be treated as a question of law (and if not referred to the relevant convention court, be for determination as such in accordance with the principles laid down by and any relevant decision of that court).
- (2) In this section—
  - " relevant convention institution " means any institution established by or having functions under the Community Patent Convention, not being an institution of the United Kingdom or any other member state, and
  - " relevant convention court " does not include—
    - (a) the European Patent Office or any of its departments ; or
    - (b) a court of the United Kingdom or of any other member state.

## **88 Jurisdiction in legal proceedings in connection with Community Patent Convention**

- (1) For the purposes of the application in the United Kingdom of Article 69 of the Community Patent Convention (residence of a party as founding jurisdiction in actions for infringement, etc.) the residence of a party shall be determined in accordance with the following provisions of this section until such date as the Secretary of State may by order appoint for the repeal of those provisions.
- (2) For the purpose of determining whether a person is resident in any part of the United Kingdom the court shall apply the law of that part of the United Kingdom.
- (3) A company within the meaning of the Companies Act 1948 shall be treated for the purposes of subsection (2) above as resident in that part of the United Kingdom where its registered office is situated or where it has a principal place of business.
- (4) Any other body corporate or any unincorporated body of persons shall be so treated as resident in that part of the United Kingdom where it has a principal place of business.
- (5) Where any body has a principal place of business in two or more parts of the United Kingdom it shall be so treated as resident in all those parts.
- (6) If the court determines that a person is not resident in the United Kingdom, then, in order to determine whether he is resident in a country which is a party to the Community Patent Convention the court shall, except in a case falling within subsection (7) below, apply the law which would be applied by the courts of that country in order to found jurisdiction under that convention.
- (7) The question whether a person is to be taken for the purposes of this section as resident in the United Kingdom or any other country shall be determined in accordance with the law of that country of which he is a citizen if by that law his residence depends on that of another person or on the location of an authority.