
Changes to legislation: Patents Act 1977, Paragraph 4 is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

APPLICATION OF 1949 ACT TO EXISTING PATENTS AND APPLICATIONS

- 4 (1) The term of every new existing patent under section 22(3) of the 1949 Act shall be twenty instead of sixteen years from the date of the patent, but—
- (a) the foregoing provision shall have effect subject to section 25(3) to (5) above; and
 - (b) on and after the end of the sixteenth year from that date a patent shall not be renewed under section 25(3) to (5) above except by or with the consent of the proprietor of the patent.
- (2) Where the term of a new existing patent is extended by this paragraph,—
- (a) any licence in force under the patent from immediately before the appointed day until the end of the sixteenth year from the date of the patent shall, together with any contract relating to the licence, continue in force so long as the patent remains in force (unless determined otherwise than in accordance with this sub-paragraph), but, if it is an exclusive licence, it shall after the end of that year be treated as a non-exclusive licence;
 - (b) notwithstanding the terms of the licence, the licensee shall not be required to make any payment to the proprietor for working the invention in question after the end of that year;
 - (c) every such patent shall after the end of that year be treated as endorsed under section 35 of the 1949 Act (licences of right) ^{F1}, but subject to paragraph 4A below].
- (3) Where the term of a new existing patent is extended by this paragraph and any government department or any person authorised by a government department—
- (a) has before the appointed day, used the invention in question for the services of the Crown; and
 - (b) continues to so use it until the end of the sixteenth year from the date of the patent,
- any such use of the invention by any government department or person so authorised, after the end of that year, may be made free of any payment to the proprietor of the patent.
- (4) Without prejudice to any rule of law about the frustration of contracts, where any person suffers loss or is subjected to liability by reason of the extension of the term of a patent by this paragraph, the court may on the application of that person determine how and by whom the loss or liability is to be borne and make such order as it thinks fit to give effect to the determination.

Textual Amendments

F1 Words inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\), s. 293](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)