



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Examination and search

17 [F¹Search.]

[F²(1) The comptroller shall refer an application for a patent to an examiner for a search if, and only if—

- (a) the comptroller has referred the application to an examiner for a preliminary examination under section 15A(1) above;
- (b) the application has not been withdrawn or treated as withdrawn;
- (c) before the end of the prescribed period—
 - (i) the applicant makes a request to the Patent Office in the prescribed form for a search; and
 - (ii) the fee prescribed for the search (“the search fee”) is paid;
- (d) the application includes—
 - (i) a description of the invention for which a patent is sought; and
 - (ii) one or more claims; and
- (e) the description and each of the claims comply with the requirements of rules as to language.]

(2) [F³On a preliminary examination of an application the examiner shall determine whether the application complies with those requirements of this Act and the rules which are designated by the rules as formal requirements for the purposes of this Act and shall report his determination to the comptroller.]

(3) [F³If it is reported to the comptroller under subsection (2) above that not all the formal requirements are complied with, he shall give the applicant an opportunity to make observations on the report and to amend the application within a specified period (subject to section 15(5) above) so as to comply with those requirements (subject,

Changes to legislation: Patents Act 1977, Section 17 is up to date with all changes known to be in force on or before 17 March 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

however, to section 76 below), and if the applicant fails to do so the comptroller may refuse the application.]

(4) Subject to subsections (5) and (6) below, on a search requested under this section, the examiner shall make such investigation as in his opinion is reasonably practicable and necessary for him to identify the documents which he thinks will be needed to decide, on a substantive examination under section 18 below, whether the invention for which a patent is sought is new and involves an inventive step.

(5) On any such search the examiner shall determine whether or not the search would serve any useful purpose on the application as for the time being constituted and—

(a) if he determines that it would serve such a purpose in relation to the whole or part of the application, he shall proceed to conduct the search so far as it would serve such a purpose and shall report on the results of the search to the comptroller; and

(b) if he determines that the search would not serve such a purpose in relation to the whole or part of the application, he shall report accordingly to the comptroller;

and in either event the applicant shall be informed of the examiner's report.

(6) If it appears to the examiner, either before or on conducting a search under this section, that an application relates to two or more inventions, but that they are not so linked as to form a single inventive concept, he shall initially only conduct a search in relation to the first invention specified in the claims of the application, but may proceed to conduct a search in relation to another invention so specified if the applicant pays the search fee in respect of the application so far as it relates to that other invention.

(7) After a search has been requested under this section for an application the comptroller may at any time refer the application to an examiner for a supplementary search, and [^{F4}subsections (4) and (5) above] shall apply in relation to a supplementary search as [^{F4}they apply] in relation to any other search under this section.

[^{F5}(8) A reference for a supplementary search in consequence of—

(a) an amendment of the application made by the applicant under section 18(3) or 19(1) below, or

(b) a correction of the application, or of a document filed in connection with the application, under section 117 below,

shall be made only on payment of the prescribed fee, unless the comptroller directs otherwise.]

Textual Amendments

F1 S. 17 heading substituted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **6(2)** (with arts. 20-23)

F2 S. 17(1) substituted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **6(3)** (with arts. 20-23)

F3 S. 17(2)(3) ceased to have effect (1.1.2005) by virtue of [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **6(4)** (with arts. 20-23)

F4 Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 3(2)**

F5 S. 17(8) added by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 3(3)**

Changes to legislation:

Patents Act 1977, Section 17 is up to date with all changes known to be in force on or before 17 March 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.

[View outstanding changes](#)

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)