



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Licences of right and compulsory licences

[^{F1}50A Powers exercisable following merger and market investigations

- (1) Subsection (2) below applies where—
 - (a) section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) [^{F2}, 147A(2)] or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following merger or market investigations) applies;
 - (b) the [^{F3}Competition and Markets Authority] or (as the case may be) the Secretary of State considers that it would be appropriate to make an application under this section for the purpose of remedying, mitigating or preventing a matter which cannot be dealt with under the enactment concerned; and
 - (c) the matter concerned involves—
 - (i) conditions in licences granted under a patent by its proprietor restricting the use of the invention by the licensee or the right of the proprietor to grant other licences; or
 - (ii) a refusal by the proprietor of a patent to grant licences on reasonable terms.
- (2) The [^{F4}Competition and Markets Authority] or (as the case may be) the Secretary of State may apply to the comptroller to take action under this section.
- (3) Before making an application the [^{F4}Competition and Markets Authority] or (as the case may be) the Secretary of State shall publish, in such manner as it or he thinks appropriate, a notice describing the nature of the proposed application and shall

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consider any representations which may be made within 30 days of such publication by persons whose interests appear to it or him to be affected.

- (4) The comptroller may, if it appears to him on an application under this section that the application is made in accordance with this section, by order cancel or modify any condition concerned of the kind mentioned in subsection (1)(c)(i) above or may, instead or in addition, make an entry in the register to the effect that licences under the patent are to be available as of right.
- [^{F5}(5) References in this section to the Competition and Markets Authority are references to a CMA group except where—
- (a) section 75(2) of the Enterprise Act 2002 applies; or
 - (b) any other enactment mentioned in subsection (1)(a) above applies and the functions of the Competition and Markets Authority under that enactment are being performed by the CMA Board by virtue of section 34C(3) or 133A(2) of the Enterprise Act 2002.]
- (6) References in section 35, 36, 47, 63, 134 [^{F6}, 141 or 141A] of the Enterprise Act 2002 (questions to be decided by the [^{F7}Competition and Markets Authority] in its reports) to taking action under section 41(2), 55, 66, 138 [^{F8}, 147 or 147A] shall include references to taking action under subsection (2) above.
- (7) Action taken by virtue of subsection (4) above in consequence of an application under subsection (2) above where an enactment mentioned in subsection (1)(a) above applies shall be treated, for the purposes of sections 91(3), 92(1)(a), 162(1) and 166(3) of the Enterprise Act 2002 (duties to register and keep under review enforcement orders etc.), as if it were the making of an enforcement order (within the meaning of the Part concerned) under the relevant power in Part 3 or (as the case may be) 4 of that Act.
- [In subsection (5) “CMA Board” and “CMA group” have the same meaning as in ^{F9}(8) Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]]

Textual Amendments

- F1** S. 50A inserted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 8(2)**; S.I. 2003/1397, art. 2(1), Sch. (with arts. 8, 12)
- F2** Word in s. 50A(1)(a) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(2)** (with art. 3)
- F3** Words in s. 50A(1)(b) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(3)** (with art. 3)
- F4** Words in s. 50A(2)(3) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(3)** (with art. 3)
- F5** S. 50A(5) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(4)** (with art. 3)
- F6** Words in s. 50A(6) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(5)(a)** (with art. 3)
- F7** Words in s. 50A(6) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(5)(b)** (with art. 3)

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- F8** Words in s. 50A(6) substituted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(5)(c)** (with art. 3)
- F9** S. 50A(8) inserted (1.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 1(1), **Sch. 1 para. 32(6)** (with art. 3)

Modifications etc. (not altering text)

- C1** S. 50A(1)(a) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 3(1)(a)**
- C2** S. 50A(1)(a) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 3(1)(b)**
- C3** S. 50A(6) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 3(1)(c)**
- C4** S. 50A(6) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 3(1)(d)**
- C5** S. 50A(7) amended (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 3(1)(e)**

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Changes and effects yet to be applied to :

- s. 50A(1) word inserted by S.I. 2019/93, Sch. 1 para. B1(2)(a) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(1) words inserted by S.I. 2019/93, Sch. 1 para. B1(2)(b) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(5)(a) words inserted by S.I. 2019/93, Sch. 1 para. B1(3) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 50A(7) word inserted by S.I. 2019/93, Sch. 1 para. B1(4) (as inserted) by [S.I. 2019/1245 reg. 16](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)

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)