



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Infringement

61 Proceedings for infringement of patent.

- (1) Subject to the following provisions of this Part of this Act, civil proceedings may be brought in the court by the proprietor of a patent in respect of any act alleged to infringe the patent and (without prejudice to any other jurisdiction of the court) in those proceedings a claim may be made—
 - (a) for an injunction or interdict restraining the defendant or defender from any apprehended act of infringement;
 - (b) for an order for him to deliver up or destroy any patented product in relation to which the patent is infringed or any article in which that product is inextricably comprised;
 - (c) for damages in respect of the infringement;
 - (d) for an account of the profits derived by him from the infringement;
 - (e) for a declaration or declarator that the patent is valid and has been infringed by him.
- (2) The court shall not, in respect of the same infringement, both award the proprietor of a patent damages and order that he shall be given an account of the profits.
- (3) The proprietor of a patent and any other person may by agreement with each other refer to the comptroller the question whether that other person has infringed the patent and on the reference the proprietor of the patent may make any claim mentioned in subsection (1)(c) or (e) above.
- (4) Except so far as the context requires, in the following provisions of this Act—

Changes to legislation: Patents Act 1977, Section 61 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

- (a) any reference to proceedings for infringement and the bringing of such proceedings includes a reference to a reference under subsection (3) above and the making of such a reference;
 - (b) any reference to a [^{F1}claimant] or pursuer includes a reference to the proprietor of the patent; and
 - (c) any reference to a defendant or defender includes a reference to any other party to the reference.
- (5) If it appears to the comptroller on a reference under subsection (3) above that the question referred to him would more properly be determined by the court, he may decline to deal with it and the court shall have jurisdiction to determine the question as if the reference were proceedings brought in the court.
- (6) Subject to the following provisions of this Part of this Act, in determining whether or not to grant any kind of relief claimed under this section and the extent of the relief granted the court or the comptroller shall apply the principles applied by the court in relation to that kind of relief immediately before the appointed day.
- [^{F2}(7) If the comptroller awards any sum by way of damages on a reference under subsection (3) above, then—
- (a) in England and Wales, the sum shall be recoverable, if [^{F3}the county court] so orders, [^{F4}under section 85 of the County Courts Act 1984] or otherwise as if it were payable under an order of that court;
 - (b) in Scotland, payment of the sum may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
 - (c) in Northern Ireland, payment of the sum may be enforced as if it were a money judgment.]

Textual Amendments

- F1** Word in s. 61(4)(b) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 14](#); [S.I. 2004/3205](#), art. 2(k) (with art. 9)
- F2** S. 61(7) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), [ss. 11](#), 17(1); [S.I. 2004/3205](#), art. 2(d) (with art. 9)
- F3** Words in s. 61(7)(a) substituted (E.W.S.) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F4** Words in s. 61(7)(a) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 41](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)

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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)