



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART V

PATENT AGENTS AND TRADE MARK AGENTS

Patent agents

274 Persons permitted to carry on business of a patent agent.

- (1) Any individual, partnership or body corporate may, subject to the following provisions of this Part [^{F1}and to the Legal Services Act 2007], carry on the business of acting as agent for others for the purpose of—
 - (a) applying for or obtaining patents, in the United Kingdom or elsewhere, or
 - (b) conducting proceedings before the comptroller relating to applications for, or otherwise in connection with, patents.
- (2) This does not affect any restriction under the European Patent Convention as to who may act on behalf of another for any purpose relating to European patents.

Textual Amendments

- F1** Words in s. 274(1) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), **ss. 185(2), 211** (with **ss. 29, 192, 193**); [S.I. 2009/3250](#), **art. 2(f)(i)** (with **art. 9**)

[^{F2}275 The register of patent attorneys

- (1) There is to continue to be a register of persons who act as agent for others for the purpose of applying for or obtaining patents.
- (2) In this Part a registered patent attorney means an individual whose name is entered on the register kept under this section.
- (3) The register is to be kept by the Chartered Institute of Patent Attorneys.

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents. (See end of Document for details)

- (4) The Secretary of State may, by order, amend subsection (3) so as to require the register to be kept by the person specified in the order.
- (5) Before making an order under subsection (4), the Secretary of State must consult the Legal Services Board.
- (6) An order under this section must be made by statutory instrument.
- (7) An order under this section may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

F2 Ss. 275, 275A substituted (1.1.2010) for s. 275 by Legal Services Act 2007 (c. 29), {ss. 185(3)}, 211 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(i) (with art. 9)

[^{F3}275A Regulation of patent attorneys

- (1) The person who keeps the register under section 275 may make regulations which regulate—
 - (a) the keeping of the register and the registration of persons;
 - (b) the carrying on of patent attorney work by registered persons.
- (2) Those regulations may, amongst other things, make—
 - (a) provision as to the educational and training qualifications, and other requirements, which must be satisfied before an individual may be registered or for an individual to remain registered;
 - (b) provision as to the requirements which must be met by a body (corporate or unincorporate) before it may be registered, or for it to remain registered, including provision as to the management and control of the body;
 - (c) provision as to the educational, training and other requirements to be met by regulated persons;
 - (d) provision regulating the practice, conduct and discipline of registered persons or regulated persons;
 - (e) provision authorising in such cases as may be specified in the regulations the erasure from the register of the name of any person registered in it, or the suspension of a person's registration;
 - (f) provision requiring the payment of such fees as may be specified in or determined in accordance with the regulations;
 - (g) provision about the provision to be made by registered persons in respect of complaints made against them;
 - (h) provision about the keeping by registered persons or regulated persons of records and accounts;
 - (i) provision for reviews of or appeals against decisions made under the regulations;
 - (j) provision as to the indemnification of registered persons or regulated persons against losses arising from claims in respect of civil liability incurred by them.
- (3) Regulations under this section may make different provision for different purposes.

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents. (See end of Document for details)

- (4) Regulations under this section which are not regulatory arrangements within the meaning of the Legal Services Act 2007 are to be treated as such arrangements for the purposes of that Act.
- (5) Before the appointed day, regulations under this section may be made only with the approval of the Secretary of State.
- (6) The powers conferred to make regulations under this section are not to be taken to prejudice—
 - (a) any other power which the person who keeps the register may have to make rules or regulations (however they may be described and whether they are made under an enactment or otherwise);
 - (b) any rules or regulations made by that person under any such power.
- (7) In this section—

“appointed day” means the day appointed for the coming into force of paragraph 1 of Schedule 4 to the Legal Services Act 2007;

“manager”, in relation to a body, has the same meaning as in the Legal Services Act 2007 (see section 207);

“patent attorney work” means work done in the course of carrying on the business of acting as agent for others for the purpose of—

- (a) applying for or obtaining patents, in the United Kingdom or elsewhere, or
- (b) conducting proceedings before the comptroller relating to applications for, or otherwise in connection with, patents;

“registered person” means—

- (a) a registered patent attorney, or
- (b) a body (corporate or unincorporate) registered in the register kept under section 275;

“regulated person” means a person who is not a registered person but is a manager or employee of a body which is a registered person.]

Textual Amendments

F3 Ss. 275, 275A substituted (1.1.2010) for s. 275 by Legal Services Act 2007 (c. 29), {ss. 185(3)}, 211 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(f)(i) (with art. 9)

276 Persons entitled to describe themselves as patent agents.

- (1) An individual who is not a [^{F4}registered patent attorney] shall not—
 - (a) carry on a business (otherwise than in partnership) under any name or other description which contains the words “patent agent” or “patent attorney”; or
 - (b) in the course of a business otherwise describe himself, or permit himself to be described, as a “patent agent” or “patent attorney”.
- (2) A partnership [^{F5}or other unincorporated body] shall not—
 - (a) carry on a business under any name or other description which contains the words “patent agent” or “patent attorney”; or
 - (b) in the course of a business otherwise describe itself, or permit itself to be described as, a firm of “patent agents” or “patent attorneys”,

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unless [^{F6}the partnership or other body is registered in the register kept under section 275].

- (3) A body corporate shall not—
- (a) carry on a business (otherwise than in partnership) under any name or other description which contains the words “patent agent” or “patent attorney”; or
 - (b) in the course of a business otherwise describe itself, or permit itself to be described as, a “patent agent” or “patent attorney”,
- unless [^{F7}the body corporate is registered in the register kept under section 275.]
- (4) Subsection (3) does not apply to a company which began to carry on business as a patent agent before 17th November 1917 if the name of a director or the manager of the company who is a registered patent [^{F8}attorney] is mentioned as being so registered in all professional advertisements, circulars or letters issued by or with the company’s consent on which its name appears.
- (5) Where this section would be contravened by the use of the words “patent agent” or “patent attorney” in reference to an individual, partnership or body corporate, it is equally contravened by the use of other expressions in reference to that person, or his business or place of business, which are likely to be understood as indicating that he is entitled to be described as a “patent agent” or “patent attorney”.
- (6) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale; and proceedings for such an offence may be begun at any time within a year from the date of the offence.
- (7) This section has effect subject to—
- (a) section 277 (persons entitled to describe themselves as European patent attorneys, &c.), and
 - (b) section 278(1) (use of term “patent attorney” in reference to solicitors).

Textual Amendments

- F4** Words in s. 276(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211, {Sch. 21 para. 76(a)} (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F5** Words in s. 276(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 185(4)(a)(i)**, 211 (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(i)** (with art. 9)
- F6** Words in s. 276(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 185(4)(a)(ii)**, 211 (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(i)** (with art. 9)
- F7** Words in s. 276(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 185(4)(b)**, 211 (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(i)** (with art. 9)
- F8** Words in s. 276(4) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211, {Sch. 21 para. 76(b)} (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)

Modifications etc. (not altering text)

- C1** S. 276(7)(b) amended (E.W.) (1.1.1992) by S.I. 1991/2684 arts. 2, 4, Sch. 1
- C2** S. 276(7)(b) applied (with modifications) (23.12.2011) by The Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 (S.I. 2011/2866), arts. 1(2), 8(1)(2), **Sch. 2**

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents. (See end of Document for details)

277 Persons entitled to describe themselves as European patent attorneys, &c.

- (1) The term “European patent attorney” or “European patent agent” may be used in the following cases without any contravention of section 276.
- (2) An individual who is on the European list may—
 - (a) carry on business under a name or other description which contains the words “European patent attorney” or “European patent agent”, or
 - (b) otherwise describe himself, or permit himself to be described, as a “European patent attorney” or “European patent agent”.
- (3) A partnership of which not less than the prescribed number or proportion of partners is on the European list may—
 - (a) carry on a business under a name or other description which contains the words “European patent attorneys” or “European patent agents”, or
 - (b) otherwise describe itself, or permit itself to be described, as a firm which carries on the business of a “European patent attorney” or “European patent agent”.
- (4) A body corporate of which not less than the prescribed number or proportion of directors is on the European list may—
 - (a) carry on a business under a name or other description which contains the words “European patent attorney” or “European patent agent”, or
 - (b) otherwise describe itself, or permit itself to be described as, a company which carries on the business of a “European patent attorney” or “European patent agent”.
- (5) Where the term “European patent attorney” or “European patent agent” may, in accordance with this section, be used in reference to an individual, partnership or body corporate, it is equally permissible to use other expressions in reference to that person, or to his business or place of business, which are likely to be understood as indicating that he is entitled to be described as a “European patent attorney” or “European patent agent.”

278 Use of the term “patent attorney”: supplementary provisions.

- (1) The term “patent attorney” may be used in reference to a solicitor, and a firm of solicitors may be described as a firm of “patent attorneys”, without any contravention of section 276.
- (2) No offence is committed under the enactments restricting the use of certain expressions in reference to persons not qualified to act as solicitors—
 - (a) by the use of the term “patent attorney” in reference to a registered patent agent, or
 - (b) by the use of the term “European patent attorney” in reference to a person on the European list.
- (3) The enactments referred to in subsection (2) are section 21 of the ^{M1}Solicitors Act 1974, section 31 of the ^{M2}Solicitors (Scotland) Act 1980 and Article 22 of the ^{M3}Solicitors (Northern Ireland) Order 1976.

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents. (See end of Document for details)

Modifications etc. (not altering text)

C3 S. 278(1) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), arts. 1(2), 8(2)(3), **Sch. 3**

Marginal Citations

- M1** 1974 c. 37.
- M2** 1980 c. 46.
- M3** S.I. 1976/582 (N.I.12).

279 Power to prescribe conditions, &c. for mixed partnerships and bodies corporate.

^{F9}

Textual Amendments

F9 S. 279 omitted (1.1.2010) and repealed (1.10.2011) by virtue of [Legal Services Act 2007 \(c. 29\)](#), ss. 185(5), 210, 211, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(i)**; S.I. 2011/2196, **art. 2(1)(h)(iii)**

280 Privilege for communications with patent agents.

- (1) This section applies to ^{F10}—
 - (a) communications as to any matter relating to the protection of any invention, design, technical information, ^{F11}or trade mark], or as to any matter involving passing off ^{F12}, and
 - (b) documents, material or information relating to any matter mentioned in paragraph (a).]

^{F13}(2) Where a patent attorney acts for a client in relation to a matter mentioned in subsection (1), any communication, document, material or information to which this section applies is privileged from disclosure in like manner as if the patent attorney had at all material times been acting as the client's solicitor.]

- (3) In subsection (2) “patent ^{F14}attorney]” means—
 - (a) a registered patent ^{F14}attorney] or a person who is on the European list,
 - (b) a partnership entitled to describe itself as a firm of patent ^{F15}attorneys] or as a firm carrying on the business of a European patent attorney, ^{F16} . . .
 - ^{F17}(ba) an unincorporated body (other than a partnership) entitled to describe itself as a patent attorney, or]
 - (c) a body corporate entitled to describe itself as a patent ^{F14}attorney] or as a company carrying on the business of a European patent attorney.

(4) ^{F18}

Textual Amendments

F10 Words in s. 280(1) renumbered as s. 280(1)(a) (1.1.2010) by virtue of [Legal Services Act 2007 \(c. 29\)](#), ss. 208(1), 211, **Sch. 21 para. 77(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)

Status: Point in time view as at 01/10/2011.

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- F11** Words in s. 280(1) substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 8(3)**; S.I. 1994/2550, **art. 2**
- F12** S. 280(1)(b) and preceding word inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211, **Sch. 21 para. 77(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F13** S. 280(2) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211, **Sch. 21 para. 77(c)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F14** Words in s. 280(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 280(1), 211, **Sch. 21 para. 77(d)(i)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F15** Word in s. 280(3) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211, **Sch. 21 para. 77(d)(ii)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F16** Word in s. 280(3)(b) repealed (1.10.2011) by Legal Services Act 2007 (c. 29), ss. 210, 211, **Sch. 23** (with ss. 29, 192, 193); S.I. 2011/2196, **art. 2(1)(h)(iii)**
- F17** S. 280(3)(ba) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 185(6)**, 211 (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(f)(i)** (with art. 9)
- F18** S. 280(4) omitted (1.1.2010) and repealed (1.10.2011) by virtue of Legal Services Act 2007 (c. 29), ss. 208(1), 210, 211, **Sch. 21 para 77(e)**, **Sch. 23** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9); S.I. 2011/2196, **art. 2(1)(h)(iii)**

281 Power of comptroller to refuse to deal with certain agents.

- (1) This section applies to business under the ^{M4}Patents Act 1949, the ^{M5}Registered Designs Act 1949 or the ^{M6}Patents Act 1977.
- (2) The Secretary of State may make rules authorising the comptroller to refuse to recognise as agent in respect of any business to which this section applies—
 - (a) a person who has been convicted of an offence under section 88 of the Patents Act 1949, section 114 of the Patents Act 1977 or section 276 of this Act;
 - (b) [^{F19}a person] whose name has been erased from and not restored to, or who is suspended from, the register of patent [^{F20}attorneys] on the ground of misconduct;
 - (c) a person who is found by the Secretary of State to have been guilty of such conduct as would, in the case of [^{F21}a person] registered in the register of patent [^{F20}attorneys], render [^{F22}the person] liable to have [^{F23}the person's] name erased from the register on the ground of misconduct;
 - (d) a partnership or body corporate of which one of the partners or directors is a person whom the comptroller could refuse to recognise under paragraph (a), (b) or (c) above.
- (3) The rules may contain such incidental and supplementary provisions as appear to the Secretary of State to be appropriate and may, in particular, prescribe circumstances in which a person is or is not to be taken to have been guilty of misconduct.
- (4) Rules made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The comptroller shall refuse to recognise as agent in respect of any business to which this section applies a person who neither resides nor has a place of business in the United Kingdom, the Isle of Man or another member State of the [^{F24}European Union].

Status: Point in time view as at 01/10/2011.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents. (See end of Document for details)

Textual Amendments

- F19** Words in s. 281(2)(b) substituted (1.1.2010) by [The Legal Services Act 2007 \(Consequential Amendments\) Order 2009 \(S.I. 2009/3348\)](#), arts. 2(1), **3(2)**; S.I. 2009/3250, art. 2(b)(i)
- F20** Words in s. 281(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208(1), 211, **Sch. 21 para. 78** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F21** Words in s. 281(2)(c) substituted (1.1.2010) by [The Legal Services Act 2007 \(Consequential Amendments\) Order 2009 \(S.I. 2009/3348\)](#), arts. 2(1), **3(3)(a)**; S.I. 2009/3250, art. 2(b)(i)
- F22** Words in s. 281(2)(c) substituted (1.1.2010) by [The Legal Services Act 2007 \(Consequential Amendments\) Order 2009 \(S.I. 2009/3348\)](#), arts. 2(1), **3(3)(b)**; S.I. 2009/3250, art. 2(b)(i)
- F23** Words in s. 281(2)(c) substituted (1.1.2010) by [The Legal Services Act 2007 \(Consequential Amendments\) Order 2009 \(S.I. 2009/3348\)](#), arts. 2(1), **3(3)(c)**; S.I. 2009/3250, art. 2(b)(i)
- F24** Words substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 4

Marginal Citations

- M4** 1949 c. 88.
- M5** 1949 c. 87.
- M6** 1977 c. 37.

Status:

Point in time view as at 01/10/2011.

Changes to legislation:

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: Patent agents.