

SCHEDULES

SCHEDULE 5

PATENTS: MISCELLANEOUS AMENDMENTS

Proceedings before the court or the comptroller

26 In the Patents Act 1977, after section 99 (general powers of the court) insert—

“99A Power of Patents Court to order report

- (1) Rules of court shall make provision empowering the Patents Court in any proceedings before it under this Act, on or without the application of any party, to order the Patent Office to inquire into and report on any question of fact or opinion.
- (2) Where the court makes such an order on the application of a party, the fee payable to the Patent Office shall be at such rate as may be determined in accordance with rules of court and shall be costs of the proceedings unless otherwise ordered by the court.
- (3) Where the court makes such an order of its own motion, the fee payable to the Patent Office shall be at such rate as may be determined by the Lord Chancellor with the approval of the Treasury and shall be paid out of money provided by Parliament.

99B Power of Court of Session to order report

- (1) In any proceedings before the Court of Session under this Act the court may, either of its own volition or on the application of any party, order the Patent Office to inquire into and report on any question of fact or opinion.
- (2) Where the court makes an order under subsection (1) above of its own volition the fee payable to the Patent Office shall be at such rate as may be determined by the Lord President of the Court of Session with the consent of the Treasury and shall be defrayed out of moneys provided by Parliament.
- (3) Where the court makes an order under subsection (1) above on the application of a party, the fee payable to the Patent Office shall be at such rate as may be provided for in rules of court and shall be treated as expenses in the cause.”.

27 For section 102 of the Patents Act 1977 (right of audience in patent proceedings) substitute—

“102 Right of audience, &c. in proceedings before comptroller

- (1) A party to proceedings before the comptroller under this Act, or under any treaty or international convention to which the United Kingdom is a party,

Status: This is the original version (as it was originally enacted).

may appear before the comptroller in person or be represented by any person whom he desires to represent him.

- (2) No offence is committed under the enactments relating to the preparation of documents by persons not legally qualified by reason only of the preparation by any person of a document, other than a deed, for use in such proceedings.
- (3) Subsection (1) has effect subject to rules made under section 281 of the Copyright, Designs and Patents Act 1988 (power of comptroller to refuse to recognise certain agents).
- (4) In its application to proceedings in relation to applications for, or otherwise in connection with, European patents, this section has effect subject to any restrictions imposed by or under the European Patent Convention.

102A Right of audience, &c. in proceedings on appeal from the comptroller

- (1) A solicitor of the Supreme Court may appear and be heard on behalf of any party to an appeal under this Act from the comptroller to the Patents Court.
- (2) A registered patent agent or a member of the Bar not in actual practice may do, in or in connection with proceedings on an appeal under this Act from the comptroller to the Patents Court, anything which a solicitor of the Supreme Court might do, other than prepare a deed.
- (3) The Lord Chancellor may by regulations—
 - (a) provide that the right conferred by subsection (2) shall be subject to such conditions and restrictions as appear to the Lord Chancellor to be necessary or expedient, and
 - (b) apply to persons exercising that right such statutory provisions, rules of court and other rules of law and practice applying to solicitors as may be specified in the regulations;and different provision may be made for different descriptions of proceedings.
- (4) Regulations 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) This section is without prejudice to the right of counsel to appear before the High Court.”.