



Patents Act 1949

1949 CHAPTER 87 12 13 and 14 Geo 6

Revocation and surrender of patents

Modifications etc. (not altering text)

C1 Ss. 32, 33 restricted by [Patents Act 1977 \(c. 37\)](#), s. 127, [Sch. 1 para. 1](#)

32 Revocation of patent by court.

- (1) Subject to the provisions of this Act, a patent may, on the petition of any person interested, be revoked by the court on any of the following grounds, that is to say,—
- (a) that the invention, so far as claimed in any claim of the complete specification, was claimed in a valid claim of earlier priority date contained in the complete specification of another patent granted in the United Kingdom;
 - (b) that the patent was granted on the application of a person not entitled under the provisions of this Act to apply therefor;
 - (c) that the patent was obtained in contravention of the rights of the petitioner or any person under or through whom he claims;
 - (d) that the subject of any claim of the complete specification is not an invention within the meaning of this Act;
 - (e) that the invention, so far as claimed in any claim of the complete specification, is not new having regard to what was known or used, before the priority date of the claim, in the United Kingdom;
 - (f) that the invention, so far as claimed in any claim of the complete specification, is obvious and does not involve any inventive step having regard to what was known or used, before the priority date of the claim, in the United Kingdom;
 - (g) that the invention, so far as claimed in any claim of the complete specification, is not useful;
 - (h) that the complete specification does not sufficiently and fairly describe the invention and the method by which it is to be performed, or does not disclose the best method of performing it which was known to the applicant for the patent and for which he was entitled to claim protection;

Changes to legislation: There are currently no known outstanding effects for the Patents Act 1949, Cross Heading: Revocation and surrender of patents . (See end of Document for details)

- (i) that the scope of any claim of the complete specification is not sufficiently and clearly defined or that any claim of the complete specification is not fairly based on the matter disclosed in the specification;
 - (j) that the patent was obtained on a false suggestion or representation;
 - (k) that the primary or intended use or exercise of the invention is contrary to law;
 - (l) that the invention, so far as claimed in any claim of the complete specification, was secretly used in the United Kingdom, otherwise than as mentioned in subsection (2) of this section, before the priority date of that claim.
- (2) For the purposes of paragraph (l) of subsection (1) of this section, no account shall be taken of any use of the invention—
- (a) for the purpose of reasonable trial or experiment only; or
 - (b) by a Government department or any person authorised by a Government department, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention directly or indirectly to a Government department or person authorised as aforesaid; or
 - (c) by any other person, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention, and without the consent or acquiescence of the applicant or of any person from whom he derives title;
- and for the purposes of paragraph (e) or paragraph (f) of the said subsection (1) no account shall be taken of any secret use.
- (3) ^{F1}
- (4) Every ground on which a patent may be revoked shall be available as a ground of defence in any proceeding for the infringement of the patent.

Textual Amendments

F1 S. 32(3) repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 3 para. 2\(b\)](#)

Modifications etc. (not altering text)

C2 S. 32(1)(a) amended by [Patents Act 1977 \(c. 37\)](#), [s. 128\(4\)\(5\)](#)

C3 S. 32(1)(j) excluded by [Patents Act 1977 \(c. 37\)](#), [Sch. 1 para. 6](#)

33 Revocation of patent by comptroller.

[^{F2}(1) Subject to the provisions of this Act, a patent may, on the application of any person interested, be revoked by the comptroller on any of the grounds set out in section 32(1) of this Act:]

Provided that when an action for infringement, or proceedings for the revocation, of a patent are pending in any court, an application to the comptroller under this section shall not be made except with the leave of the court.

- (2) Where an application is made under this section, the comptroller shall notify the patentee and shall give to the applicant and the patentee an opportunity to be heard before deciding the case.
- (3) If on an application under this section the comptroller is satisfied that any of the grounds aforesaid are established, he may by order direct that the patent shall be

Changes to legislation: There are currently no known outstanding effects for the Patents Act 1949, Cross Heading: Revocation and surrender of patents . (See end of Document for details)

revoked either unconditionally or unless within such time as may be specified in the order the complete specification is amended to his satisfaction:

... F3

(4) An appeal shall lie from any decision of the comptroller under this section.

[^{F4}(5) A decision of the comptroller or on appeal from the comptroller shall not estop any party to civil proceedings in which infringement of a patent is in issue from alleging that any claim of the specification is invalid on any of the grounds set out in section 32(1) of this Act, whether or not any of the issues involved were decided in that decision.]

Textual Amendments

F2 Words substituted by [Patents Act 1977 \(c. 37\)](#), s. 127, [Sch. 1 para. 7\(1\)](#)

F3 [S. 33\(3\)](#) proviso repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

F4 [S. 33\(5\)](#) added by [Patents Act 1977 \(c. 37\)](#), s. 127, [Sch. 1 para. 7\(2\)](#)

Modifications etc. (not altering text)

C4 [S. 33](#) amended by [Patents Act 1977 \(c. 37\)](#), [Sch. 4 para. 6](#)

34 F5

Textual Amendments

F5 [S. 34](#) repealed by [Patents Act 1977 \(c. 37\)](#), [Sch. 6](#)

Changes to legislation:

There are currently no known outstanding effects for the Patents Act 1949, Cross Heading: Revocation and surrender of patents .