



Patents Act 1949

1949 CHAPTER 87

The Court and the Appeal Tribunal

84 The Court

- (1) Subject to the provisions of this Act relating to Scotland, Northern Ireland and the Isle of Man, any petition under section twenty-three or section twenty-four of this Act and any reference or application to the court under this Act shall, subject to rules of court, be dealt with by such judge of the High Court as the Lord Chancellor may select for the purpose.
- (2) Rules of court shall make provision for the appointment of scientific advisers to assist the court in proceedings for infringement of patents and in proceedings under this Act, and for regulating the functions of such advisers.
- (3) The remuneration of any adviser appointed in pursuance of rules made in accordance with this section shall be defrayed out of moneys provided by Parliament.
- (4) Any action for infringement of a patent shall be tried without a jury unless the court otherwise directs.

85 The Appeal Tribunal

- (1) Subject to the provisions of this Act with respect to Scottish appeals, any appeal from the comptroller under this Act shall lie to the Appeal Tribunal.
- (2) The Appeal Tribunal shall be a judge of the High Court nominated for the purpose by the Lord Chancellor.
- (3) The expenses of the Appeal Tribunal shall be defrayed and the fees to be taken therein may be fixed as if the Tribunal were a court of the High Court.
- (4) The Appeal Tribunal may examine witnesses on oath and administer oaths for that purpose.

Status: This is the original version (as it was originally enacted).

- (5) Upon any appeal under this Act the Appeal Tribunal may by order award to any party such costs as the Tribunal may consider reasonable and direct how and by what parties the costs are to be paid; and any such order may be made a rule of court.
- (6) The Appeal Tribunal shall, with regard to the right of audience, observe the same practice as before the first day of November, nineteen hundred and thirty-two, was observed in the hearing of appeals by the law officer.
- (7) Upon any appeal under this Act the Appeal Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.
- (8) Subject to the foregoing provisions of this section, the Appeal Tribunal may make rules for regulating all matters relating to proceedings before it under this Act.
- (9) Rules made under this section shall provide for the appointment of scientific advisers to assist the Appeal Tribunal upon appeals under this Act and for regulating the functions of such advisers; and the remuneration of a scientific adviser; appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.
- (10) An appeal to the Appeal Tribunal under this Act shall not be deemed to be a proceeding in the High Court.

86 Appeals from decisions of the comptroller in Scottish cases

- (1) Where, in accordance with rules made by the Board of Trade under this Act, the comptroller has directed that any hearing for the purpose of proceedings under section fifty-five or section fifty-six of this Act shall be held in Scotland, any appeal from the comptroller in those proceedings shall lie to the Scottish Appeal Tribunal constituted in accordance with the provisions of this section.
- (2) The Scottish Appeal Tribunal shall consist of a judge of the Court of Session nominated for the purpose by the Lord President of that Court.
- (3) The Courts of Law Fees (Scotland) Act, 1895 (which confers power on the Court of Session to regulate fees), shall apply to the Scottish Appeal Tribunal as if the Tribunal were a court the fees payable in which would be regulated by the Lords of Council and Session under section two of that Act.
- (4) The Scottish Appeal Tribunal may examine witnesses on oath and administer oaths for that purpose.
- (5) Upon any appeal under this section, the Scottish Appeal Tribunal may by order award to any party such expenses as the Tribunal may consider reasonable and direct how and by what party the expenses are to be paid; and any such order may be recorded for execution in the books of council and session and shall be enforceable accordingly.
- (6) Upon any appeal under this section, the Scottish Appeal Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.
- (7) Subject to the foregoing provisions of this section, rules may be made by Act of Sederunt for regulating all matters relating to proceedings before the Scottish Appeal Tribunal under this section.

- (8) Rules made under this section shall provide for the appointment of scientific advisers to assist the Scottish Appeal Tribunal upon appeals under this Act and for regulating the functions of such advisers; and the remuneration of a scientific adviser appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.
- (9) An Appeal to the Scottish Appeal Tribunal under this section shall not be deemed to be a proceeding in the Court of Session.

87 Appeals to Court of Appeal and Court of Session

- (1) An appeal shall lie to the Court of Appeal—
 - (a) from any decision of the Appeal Tribunal on an appeal under section thirty-three or section forty-two of this Act where the effect of the decision is the revocation of a patent;
 - (b) from any decision of the Appeal Tribunal under section fifty-five of this Act;
 - (c) with the leave of the Tribunal, from any decision of the Tribunal under section fourteen of this Act, where the effect of the decision is the refusal of the grant of a patent on the ground specified in paragraph (d) or paragraph (e) of subsection (1) of that section.
- (2) No appeal shall lie from any decision of the court under section twenty-three or section twenty-four of this Act.
- (3) An appeal shall lie to the Court of Session from any decision of the Scottish Appeal Tribunal under section fifty-five of this Act.