



Patents, Designs, Copyright and Trade Marks (Emergency) Act

1939 CHAPTER 107 2 and 3 Geo 6

2 Power of comptroller to grant licences under patents, designs or copyright of enemies and enemy subjects.

(1) Where—

- (a) an enemy or an enemy subject is, ^{F1} . . . whether alone or jointly with any other person, the proprietor of a patent or registered design or the owner of a copyright [^{F2}or design right], or entitled to any other interest in a patent, registered design [^{F3}, copyright or design right] (not being merely the interest of a licensee), and
- (b) the comptroller is satisfied that it is in the interest of all or any of His Majesty's subjects that the rights conferred by the patent should be exercised, or that the design should be applied or the copyright [^{F2}or design right] exercised, as the case may be, and that a person who is not an enemy or an enemy subject desires to exercise the said rights or apply the said design or exercise the said copyright [^{F2}or design right] and is in a position so to do.

the comptroller may, on the application of that person, make an order granting to him a licence under the patent or for the application of the design or granting an interest in the copyright [^{F2}or design right], as the case may be, either for the whole of the residue of the term of the patent, registration [^{F3}, copyright or design right], or for such less period as the comptroller thinks fit.

(2) The power of the comptroller under this section to make an order granting a licence shall include the power—

- (a) to make an order granting an exclusive licence;
- (b) to make an order granting a licence in relation to a patent, registered design [^{F4}, copyright or design right], notwithstanding that a licence, whether exclusive or otherwise (not being an exclusive licence granted by virtue of the powers conferred by this section), is in force in relation thereto; and
- (c) to make an order granting a licence on any terms that the comptroller may think expedient.

Changes to legislation: There are currently no known outstanding effects for the Patents, Designs, Copyright and Trade Marks (Emergency) Act, Section 2. (See end of Document for details)

- (3) Where, under the power conferred by this section, the comptroller makes an order granting a licence in relation to a patent, registered design [^{F4}, copyright or design right] in relation to which any other licence has been granted otherwise than by an order made under this section, the comptroller may, in relation to that other licence, make any order which the comptroller would have had power to make on an application under subsection (2) of the last foregoing section, and which appears to him to be expedient having regard to the order made under this section.
- (4) An order granting a licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the licence which the patentee, the proprietor of the registered design, or the owner of the copyright [^{F5} or design right], as the case may be, and all other parties having any interest therein, had executed with full capacity so to do, and the order shall accordingly operate to take away from any such party any right in relation thereto the exercise whereof would be inconsistent with the exercise of the licence in accordance with and subject to the terms on which it is granted.
- (5) A licensee under a licence granted under this section may institute proceedings for infringement in his own name as though he were the patentee, the proprietor of the registered design or the owner of the copyright [^{F5} or design right], as the case may be, so, however, that any person other than an enemy who, whether alone or jointly with any other person, is the patentee, the registered proprietor of the registered design, or the owner of the copyright [^{F5} or design right], as the case may be, shall, unless the court in which the proceedings are taken thinks fit to direct otherwise, be made a party to the proceedings, either—
- (a) if he consents in writing thereto, as a plaintiff, or
 - (b) if he does not so consent, as a defendant.
- Where any person is made defendant to any proceedings by virtue of this subsection, he shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.
- (6) An order granting a licence under this section shall give directions as to the person to whom or the manner in which the licensee is to pay or deal with any royalties or other payments to be paid in respect of the licence. In framing any such directions, the comptroller shall have regard to the purposes of any relevant order for the time being in force under the Trading with the ^{M1}Enemy Act 1939; but any directions given by him under this subsection shall, in so far as they may be inconsistent with the provisions of any such order, have effect to the exclusion of those provisions.
- (7) An order under this section and a licence granted by such an order may be varied by a subsequent order made by the comptroller either:—
- (a) where the licensee makes application to the comptroller for the variation thereof, or
 - (b) where the comptroller is of opinion that circumstances have arisen which makes it just and equitable, or that the public interest requires, that it should be varied.
- (8) An order under this section and a licence granted by such an order may be revoked by a subsequent order made by the comptroller in any of the following cases, that is to say:—
- (a) where the licensee makes application to the comptroller for the revocation thereof;

Changes to legislation: There are currently no known outstanding effects for the Patents, Designs, Copyright and Trade Marks (Emergency) Act, Section 2. (See end of Document for details)

- (b) where it appears to the comptroller that it was obtained by any misrepresentation, whether intentional or not, or was made or granted without the comptroller's having full knowledge of the material facts;
- (c) where the licensee has failed to comply with any term on which the licence was granted or with a direction given under subsection (6) of this section, or has failed to exercise the licence in such a manner as to satisfy the reasonable requirements of the public in relation to the invention, registered design [^{F6}work in which copyright subsists or design in which design right subsists], as the case may be, or has charged unreasonable or excessive prices in respect of anything made or done in the exercise of the licence; or
- (d) where the comptroller is of opinion that circumstances have arisen which make it just and equitable, or that the public interest requires, that it should be revoked.

Textual Amendments

- F1** Words in [s. 2\(1\)\(a\)](#) repealed (8.11.1995) by 1995 c. 44, s. 1, [Sch. 1 Pt. VI](#) Group 1
- F2** Words inserted by [Copyright, Designs and Patents Act 1988](#) (c. 48, SIF 67A), s. 303(1), [Sch. 7 para. 3\(3\)\(a\)](#)
- F3** Words substituted by [Copyright, Designs and Patents Act 1988](#) (c. 48, SIF 67A), s. 303(1), [Sch. 7 para. 3\(3\)\(a\)](#)
- F4** Words substituted by [Copyright, Designs and Patents Act 1988](#) (c. 48, SIF 67A), s. 303(1), [Sch. 7 para. 3\(3\)\(b\)](#)
- F5** Words inserted by [Copyright, Designs and Patents Act 1988](#) (c. 48, SIF 67A), s. 303(1), [Sch. 7 para. 3\(3\)\(c\)](#)
- F6** Words substituted by [Copyright, Designs and Patents Act 1988](#) (c. 48, SIF 67A), s. 303(1), [Sch. 7 para. 3\(3\)\(d\)](#)

Modifications etc. (not altering text)

- C1** [S. 2](#) extended by [S.I. 1948/114](#) (Rev. XVII, p. 365: 1948 I, p. 3187), art. 4(2), 1948/116 (Rev. XVII, p. 392: 1948 I, 3211), art. 4(2), 1948/117 (Rev. XVII, p. 410: 1948 I, p. 3228), art. 4(2) and 1948/118 (Rev. XVII, p. 429: 1948 I, p. 3245), art. 4(2)

Marginal Citations

- M1** [1939 c. 89](#).

Changes to legislation:

There are currently no known outstanding effects for the Patents, Designs, Copyright and Trade Marks (Emergency) Act, Section 2.