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STATUTORY INSTRUMENTS

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**1996 No. 3120**

**PATENTS**

**The Patents (Supplementary Protection Certificate  
for Plant Protection Products) Regulations 1996**

<i>Made</i>	- - - -	<i>11th December 1996</i>
<i>Laid before Parliament</i>		<i>12th December 1996</i>
<i>Coming into force</i>		
<i>For the purposes of regulations 1, 2 and 4(2)</i>		<i>2nd January 1997</i>
<i>For all other purposes</i>		<i>8th February 1997</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures concerning the creation of a supplementary protection certificate for plant protection products, in exercise of powers conferred by section 2(2) of the said Act of 1972 and of all others powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Patents (Supplementary Protection Certificate for Plant Protection Products) Regulations 1996 and shall come into force for the purposes of regulations 1, 2 and 4(2) on 2nd January 1997 and for all other purposes on 8th February 1997.

(2) These Regulations extend to Great Britain and Northern Ireland.

**Definitions**

2. In these Regulations—

“the 1977 Act” means the Patents Act 1977<sup>(3)</sup>;

“certificate” has the meaning assigned to it by Article 1(10) of the EC Regulation;

“the court” has the same meaning as it has in the 1977 Act; and

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(1) S.I.1996/266.

(2) 1972 c. 68; by virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(3) 1977 c. 37.

“the EC Regulation” means Regulation (EC) No. 1610/96 of the European Parliament and the Council of 23rd July 1996 concerning the creation of a supplementary protection certificate for plant protection products<sup>(4)</sup> and any reference in these Regulations to an article followed by a number is a reference to the article so numbered in the EC Regulation.

### **Competent industrial property office (Article 9(1))**

3. The competent industrial property office for the purpose of lodging an application for a certificate in the United Kingdom shall be the Patent Office.

### **Extension of powers under the Patents Act 1977**

4.—(1) For the purposes of section 123(1) of the Patents Act 1977 matters relating to certificates and applications for certificates shall be the business of the Patent Office and, accordingly, shall be under the direction and control of the Comptroller-General of Patents, Designs and Trade Marks.

(2) The power of the Secretary of State to make rules under section 123 of the 1977 Act shall include power to make rules regulating the business of the Patent Office and matters relating to certificates and applications for certificates and subsections (2) to (7) of section 123 and section 124 shall apply accordingly.

### **Extension of existing provisions of the Patents Act 1977 and the Patents Act 1949 to certificates (Articles 5, 17 and 18)**

5. Subject to any rules made by the Secretary of State under section 123 of the 1977 Act relating to certificates, applications for certificates or matters relating to the same, the provisions of that Act and, where they continue to apply, the provisions of the Patents Act 1949<sup>(5)</sup>, and any rules made thereunder in respect of patents, applications for patents, existing patents or existing applications<sup>(6)</sup> shall, in accordance with the provisions of Articles 5, 17 and 18 of the EC Regulation, extend and apply to, and be taken to make, as appropriate and with the necessary changes, corresponding provision, including corresponding provision relating to fees, forms and to the jurisdiction of and proceedings before the comptroller and the court, for certificates, applications for certificates and matters relating thereto, as they apply to, and make provision for, patents and applications for patents and matters relating thereto.

Department of Trade and Industry  
11th December 1996

*Ian Taylor,*  
Parliamentary Under-Secretary of State for  
Science and Technology,

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(4) O.J. No. L198, 8.8.96, page 30.

(5) 1949 c. 87.

(6) S.I. 1995/2093 and S.I. 1968/1389 as revoked with savings by S.I. 1978/216.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

In accordance with section 2(2) of the European Communities Act 1972 (c. 68) and in order to give effect to certain provisions of Regulation (EC) No. 1610/96 of the European Parliament and the Council concerning the creation of a supplementary protection certificate for plant protection products, these Regulations—

- (a) extend the power of the Secretary of State to make rules under section 123 of the Patents Act 1977 (c. 37) in respect of patents and applications for patents so as to enable him to make rules relating to the procedure to be applied to, and the fees in respect of, supplementary protection certificates for plant protection products and applications therefor, and
- (b) extend and apply in the appropriate cases existing provisions of the Patents Act 1977 and the Patents Act 1949 (c. 87) and rules made thereunder, relating to patents and applications for patents, to certificates and applications for certificates.