



# Patents Act 1977

## 1977 CHAPTER 37

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Legal Proceedings*

#### **106 Costs and expenses in proceedings before the Court <sup>F1</sup>....**

(1) In [<sup>F2</sup>proceedings to which this section applies] under section 40 above (whether on an application or on appeal to the court), the court, in determining whether to award costs or expenses to any party and what costs or expenses to award, shall have regard to all the relevant circumstances, including the financial position of the parties.

[<sup>F3</sup>(1A) This section applies to proceedings before the court (including proceedings on an appeal to the court) which are—

- (a) proceedings under section 40;
- (b) proceedings for infringement;
- (c) proceedings [<sup>F4</sup>in respect of an actionable threat under section 70A] ; or
- (d) proceedings on an application for a declaration or declarator under section 71.]

(2) If in any such proceedings the Patents Court directs that any costs of one party shall be paid by another party, the court may settle the amount of the costs by fixing a lump sum or may direct that the costs shall be taxed on a scale specified by the court, being a scale of costs prescribed by [<sup>F5</sup>rules of court] .

#### **Textual Amendments**

**F1** Words in s. 106 heading repealed (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 3](#); S.I. 2004/3205, art. 2(g) (with art. 9)

**F2** Words in s. 106(1) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 14(2)(4), 17(1); S.I. 2004/3205, art. 2(e) (with art. 9)

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*Changes to legislation: Patents Act 1977, Section 106 is up to date with all changes known to be in force on or before 02 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- F3** S. 106(1A) inserted (1.1.2005) by Patents Act 2004 (c. 16), s. 14(3)(4), 17(1); S.I. 2004/3205, art. 2(e) (with art. 9)
- F4** Words in s. 106(1A)(c) substituted (1.10.2017) by Intellectual Property (Unjustified Threats) Act 2017 (c. 14), ss. 1(7), 8; S.I. 2017/771, reg. 2(1)(a) (with reg. 3)
- F5** Words in s. 106(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 11 para. 23(4); S.I. 2009/1604, art. 2(d)

**Changes to legislation:**

Patents Act 1977, Section 106 is up to date with all changes known to be in force on or before 02 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)