



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Employees' inventions

40 Compensation of employees for certain inventions

- (1) Where it appears to the court or the comptroller on an application made by an employee within the prescribed period that the employee has made an invention belonging to the employer for which a patent has been granted, that the patent is (having regard among other things to the size and nature of the employer's undertaking) of outstanding benefit to the employer and that by reason of those facts it is just that the employee should be awarded compensation to be paid by the employer, the court or the comptroller may award him such compensation of an amount determined under section 41 below.
- (2) Where it appears to the court or the comptroller on an application made by an employee within the prescribed period that—
 - (a) a patent has been granted for an invention made by and belonging to the employee;
 - (b) his rights in the invention, or in any patent or application for a patent for the invention, have since the appointed day been assigned to the employer or an exclusive licence under the patent or application has since the appointed day been granted to the employer;
 - (c) the benefit derived by the employee from the contract of assignment, assignation or grant or any ancillary contract ("the relevant contract") is inadequate in relation to the benefit derived by the employer from the patent; and
 - (d) by reason of those facts it is just that the employee should be awarded compensation to be paid by the employer in addition to the benefit derived from the relevant contract;

Status: This is the original version (as it was originally enacted).

the court or the comptroller may award him such compensation of an amount determined under section 41 below.

- (3) Subsections (1) and (2) above shall not apply to the invention of an employee where a relevant collective agreement provides for the payment of compensation in respect of inventions of the same description as that invention to employees of the same description as that employee.
- (4) Subsection (2) above shall have effect notwithstanding anything in the relevant contract or any agreement applicable to the invention (other than any such collective agreement).
- (5) If it appears to the comptroller on an application under this section that the application involves matters which would more properly be determined by the court, he may decline to deal with it.
- (6) In this section—
 - " the prescribed period ", in relation to proceedings before the court, means the period prescribed by rules of court, and
 - " relevant collective agreement " means a collective agreement within the meaning of the Trade Union and Labour Relations Act 1974, made by or on behalf of a trade union to which the employee belongs, and by the employer or an employers' association to which the employer belongs which is in force at the time of the making of the invention.
- (7) References in this section to an invention belonging to an employer or employee are references to it so belonging as between the employer and the employee.