



Patents Act 1977

1977 CHAPTER 37

PART II

PROVISIONS ABOUT INTERNATIONAL CONVENTIONS

European patents and patent applications

82 Jurisdiction to determine questions as to right to a patent.

- (1) The court shall not have jurisdiction to determine a question to which this section applies except in accordance with the following provisions of this section.
- (2) Section 12 above shall not confer jurisdiction on the comptroller to determine a question to which this section applies except in accordance with the following provisions of this section.
- (3) This section applies to a question arising before the grant of a European patent whether a person has a right to be granted a European patent, or a share in any such patent, and in this section “employer-employee question” means any such question between an employer and an employee, or their successors in title, arising out of an application for a European patent for an invention made by the employee.
- (4) The court and the comptroller shall have jurisdiction to determine any question to which this section applies, other than an employer-employee question, if either of the following conditions is satisfied, that is to say—
 - (a) the applicant has his residence or principal place of business in the United Kingdom; or
 - (b) the other party claims that the patent should be granted to him and he has his residence or principal place of business in the United Kingdom and the applicant does not have his residence or principal place of business in any of the relevant contracting states;

and also if in either of those cases there is no written evidence that the parties have agreed to submit to the jurisdiction of the competent authority of a relevant contracting state other than the United Kingdom.

Changes to legislation: Patents Act 1977, Section 82 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

- (5) The court and the comptroller shall have jurisdiction to determine an employer-employee question if either of the following conditions is satisfied, that is to say—
- (a) the employee is mainly employed in the United Kingdom; or
 - (b) the employee is not mainly employed anywhere or his place of main employment cannot be determined, but the employer has a place of business in the United Kingdom to which the employee is attached (whether or not he is also attached elsewhere);
- and also if in either of those cases there is no written evidence that the parties have agreed to submit to the jurisdiction of the competent authority of a relevant contracting state other than the United Kingdom or, where there is such evidence of such an agreement, if the [F1law applicable to] the contract of employment does not recognise the validity of the agreement.
- (6) Without prejudice to subsections (2) to (5) above, the court and the comptroller shall have jurisdiction to determine any question to which this section applies if there is written evidence that the parties have agreed to submit to the jurisdiction of the court or the comptroller, as the case may be, and, in the case of an employer-employee question, the [F1law applicable to] the contract of employment recognises the validity of the agreement.
- (7) If, after proceedings to determine a question to which this section applies have been brought before the competent authority of a relevant contracting state other than the United Kingdom, proceedings are begun before the court or a reference is made to the comptroller under section 12 above to determine that question, the court or the comptroller, as the case may be, shall stay or sist the proceedings before the court or the comptroller unless or until the competent authority of that other state either—
- (a) determines to decline jurisdiction and no appeal lies from the determination or the time for appealing expires, or
 - (b) makes a determination which the court or the comptroller refuses to recognise under section 83 below.
- (8) References in this section to the determination of a question include respectively references to—
- (a) the making of a declaration or the grant of a declarator with respect to that question (in the case of the court); and
 - (b) the making of an order under section 12 above in relation to that question (in the case of the court or the comptroller).
- (9) In this section and section 83 below “relevant contracting state” means a country which is a party to the European Patent Convention and has not exercised its right under the convention to exclude the application of the protocol to the convention known as the Protocol on Recognition.

Textual Amendments

F1 Words in s. 82(5)(6) substituted (1.4.1991) by [Contracts \(Applicable Law\) Act 1990 \(c. 36, SIF 30\)](#), s. 5, [Sch. 4 para. 3](#); [S.I. 1991/707](#), [art. 2](#)

Changes to legislation:

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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)