



# Patents Act 1977

## 1977 CHAPTER 37

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Legal Proceedings*

#### **97 Appeals from the comptroller.**

- (1) Except as provided by subsection (4) below, an appeal shall lie to the Patents Court from any decision of the comptroller under this Act or rules except any of the following decisions, that is to say—
- (a) a decision falling within section 14(7) above;
  - (b) a decision under section 16(2) above to omit matter from a specification;
  - (c) a decision to give directions under subsection (1) or (2) of section 22 above;
  - (d) a decision under rules which is excepted by rules from the right of appeal conferred by this section.
- (2) For the purpose of hearing appeals under this section the Patents Court may consist of one or more judges of that court in accordance with directions given by [<sup>F1</sup>the Lord Chief Justice of England and Wales after consulting the Lord Chancellor] ; [<sup>F2</sup>and the Patents Court shall not be treated as a divisional court for the purposes of section 31(1) (f) of the <sup>M1</sup>Supreme Court of Judicature (Consolidation) Act 1925 (appeals from divisional courts).]
- (3) An appeal shall not lie to the Court of Appeal from a decision of the Patents Court on appeal from a decision of the comptroller under this Act or rules—
- (a) except where the comptroller's decision was given under section 8, 12, 18, 20, 27, 37, 40, 61, 72, 73 or 75 above; or
  - (b) except where the ground of appeal is that the decision of the Patents Court is wrong in law;
- but an appeal shall only lie to the Court of Appeal under this section if leave to appeal is given by the Patents Court or the Court of Appeal.

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*Changes to legislation: Patents Act 1977, Section 97 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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- [<sup>F3</sup>(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2).]
- (4) An appeal shall lie to the Court of Session from any decision of the comptroller in proceedings which under rules are held in Scotland, except any decision mentioned in paragraphs (a) to (d) of subsection (1) above.
- (5) An appeal shall not lie to the Inner House of the Court of Session from a decision of an Outer House judge on appeal from a decision of the comptroller under this Act or rules—
- (a) except where the comptroller’s decision was given under section 8, 12, 18, 20, 27, 37, 40, 61, 72, 73 or 75 above; or
  - (b) except where the ground of appeal is that the decision of the Outer House judge is wrong in law.

#### Textual Amendments

- F1** Words in s. 97(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 91(2)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F2** S. 97(2): from “and” onwards repealed (E.W.) by Supreme Court Act 1981 (c. 54, SIF 37), **Sch. 7**
- F3** S. 97(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 91(3)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

#### Marginal Citations

- M1** 1925 c. 49.

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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)