



# Patents Act 1977

## 1977 CHAPTER 37

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Administrative provisions*

#### **117 Correction of errors in patents and applications.**

- (1) The comptroller may, subject to any provision of rules, correct any error of translation or transcription, clerical error or mistake in any specification of a patent or application for a patent or any document filed in connection with a patent or such an application.
- (2) Where the comptroller is requested to correct such an error or mistake, any person may in accordance with rules give the comptroller notice of opposition to the request and the comptroller shall determine the matter.
- [<sup>F1</sup>(3) Where the comptroller is requested to correct an error or mistake in a withdrawal of an application for a patent, and—
  - (a) the application was published under section 16 above; and
  - (b) details of the withdrawal were published by the comptroller;the comptroller shall publish notice of such a request in the prescribed manner.
- (4) Where the comptroller publishes a notice under subsection (3) above, the comptroller may only correct an error or mistake under subsection (1) above by order.]

#### **Textual Amendments**

- F1** S. 117(3)(4) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), 17 (with arts. 20-23)

*Status: Point in time view as at 01/01/2005.*

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<sup>F2</sup> **Effect of resuscitating a withdrawn application under section 117**

**117A**

- (1) Where—
- (a) the comptroller is requested to correct an error or mistake in a withdrawal of an application for a patent; and
  - (b) an application has been resuscitated in accordance with that request, the effect of that resuscitation is as follows.
- (2) Anything done under or in relation to the application during the period between the application being withdrawn and its resuscitation shall be treated as valid.
- (3) If the comptroller has published notice of the request as mentioned in section 117(3) above, anything done during that period which would have constituted an infringement of the rights conferred by publication of the application if the application had not been withdrawn shall be treated as an infringement of those rights if it was a continuation or repetition of an earlier act infringing those rights.
- (4) If the comptroller has published notice of the request as mentioned in section 117(3) above and, after the withdrawal of the application and before publication of the notice, a person—
- (a) began in good faith to do an act which would have constituted an infringement of the rights conferred by publication of the application if the withdrawal had not taken place, or
  - (b) made in good faith effective and serious preparations to do such an act, he has the right to continue to do the act or, as the case may be, to do the act, notwithstanding the resuscitation of the application and the grant of the patent; but this right does not extend to granting a licence to another person to do the act.
- (5) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (4) above may—
- (a) authorise the doing of that act by any partners of his for the time being in that business, and
  - (b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or the preparations were made.
- (6) Where a product is disposed of to another in exercise of a right conferred by subsection (4) or (5) above, that other and any person claiming through him may deal with the product in the same way as if it had been disposed of by the applicant.]
- <sup>F3</sup>(7) The above provisions apply in relation to the use of a patented invention for the services of the Crown as they apply in relation to infringement of the rights conferred by publication of the application for a patent (or, as the case may be, infringement of the patent).

“Patented invention” has the same meaning as in section 55 above.]

**Textual Amendments**

**F2** Ss. 117A, 117B inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **18** (with arts. 20-23)

**F3** [S. 117A\(7\)](#) inserted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(2), **Sch. 2 para. 23** (see S.I. 2004/2357, art. 1(2))

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## [<sup>F2</sup>117B Extension of time limits specified by comptroller

- (1) Subsection (2) below applies in relation to a period if it is specified by the comptroller in connection with an application for a patent, or a patent.
- (2) Subject to subsections (4) and (5) below, the comptroller shall extend a period to which this subsection applies if—
  - (a) the applicant or the proprietor of the patent requests him to do so; and
  - (b) the request complies with the relevant requirements of rules.
- (3) An extension of a period under subsection (2) above expires—
  - (a) at the end of the period prescribed for the purposes of this subsection, or
  - (b) if sooner, at the end of the period prescribed for the purposes of section 20 above.
- (4) If a period has already been extended under subsection (2) above—
  - (a) that subsection does not apply in relation to it again;
  - (b) the comptroller may further extend the period subject to such conditions as he thinks fit.
- (5) Subsection (2) above does not apply to a period specified in relation to proceedings before the comptroller.]

### Textual Amendments

- F2** Ss. 117A, 117B inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **18** (with arts. 20-23)

## 118 Information about patent applications and patents, and inspection of documents.

- (1) After publication of an application for a patent in accordance with section 16 above the comptroller shall on a request being made to him in the prescribed manner and on payment of the prescribed fee (if any) give the person making the request such information, and permit him to inspect such documents, relating to the application or to any patent granted in pursuance of the application as may be specified in the request, subject, however, to any prescribed restrictions.
- (2) Subject to the following provisions of this section, until an application for a patent is so published documents or information constituting or relating to the application shall not, without the consent of the applicant, be published or communicated to any person by the comptroller.
- (3) Subsection (2) above shall not prevent the comptroller from—
  - (a) sending the European Patent Office information which it is his duty to send that office in accordance with any provision of the European Patent Convention; or
  - (b) publishing or communicating to others any prescribed bibliographic information about an unpublished application for a patent;nor shall that subsection prevent the Secretary of State from inspecting or authorising the inspection of an application for a patent or any connected documents under [<sup>F4</sup>section 22(6) above].

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- (4) Where a person is notified that an application for a patent has been made, but not published in accordance with section 16 above, and that the applicant will, if the patent is granted, bring proceedings against that person in the event of his doing an act specified in the notification after the application is so published, that person may make a request under subsection (1) above, notwithstanding that the application has not been published, and that subsection shall apply accordingly.
- (5) Where an application for a patent is filed, but not published, and a new application is filed in respect of any part of the subject-matter of the earlier application (either in accordance with rules or in pursuance of an order under section 8 above) and is published, any person may make a request under subsection (1) above relating to the earlier application and on payment of the prescribed fee the comptroller shall give him such information and permit him to inspect such documents as could have been given or inspected if the earlier application had been published.

#### Textual Amendments

- F4** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, [Sch. 5 para. 28](#)

### 119 Service by post.

Any notice required or authorised to be given by this Act or rules, and any application or other document so authorised or required to be made or filed, may be given, made or filed by post.

### 120 Hours of business and excluded days.

- (1) [<sup>F5</sup> The comptroller may give directions specifying ] the hour at which the Patent Office shall be taken to be closed on any day for purposes of the transaction by the public of business under this Act or of any class of such business, [<sup>F6</sup> and the directions may specify ] days as excluded days for any such purposes.
- (2) Any business done under this Act on any day after the hour so specified in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be taken to have been done on the next following day not being an excluded day; and where the time for doing anything under this Act expires on an excluded day that time shall be extended to the next following day not being an excluded day.

[<sup>F7</sup>(3) Directions under this section shall be published in the prescribed manner.]

#### Textual Amendments

- F5** Words in s. 120(1) substituted (22.9.2004) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 24\(2\)\(a\)](#); [S.I. 2004/2177](#), art. 2 (with arts. 6, 8)
- F6** Words in s. 120(1) substituted (22.9.2004) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 24\(2\)\(b\)](#); [S.I. 2004/2177](#), art. 2 (with arts. 6, 8)
- F7** S. 120(3) inserted (22.9.2004) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 24\(3\)](#); [S.I. 2004/2177](#), art. 2 (with arts. 6, 8)

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## 121 Comptroller's annual report.

Before [<sup>F8</sup>1st December] in every [<sup>F9</sup>financial year ] the comptroller shall cause to be laid before both Houses of Parliament a report with respect to the execution of this Act and the discharge of his functions under the European Patent Convention, <sup>F10</sup>... and the Patent Co-operation Treaty, and every such report shall include an account of all fees, salaries and allowances, and other money received and paid by him under this Act, [<sup>F11</sup>that convention] and that treaty during the previous [<sup>F9</sup>financial year] .

### Textual Amendments

- F8** Words in s. 121 substituted (1.1.2005) by Patents Act 2004 (c. 16), s. 17(1), **Sch. 2 para. 25(a)**; S.I. 2004/3205, art. 2(k) (with art. 9)
- F9** Words in s. 121 substituted (1.1.2005) by Patents Act 2004 (c. 16), s. 17(1), **Sch. 2 para. 25(b)**; S.I. 2004/3205, art. 2(k) (with art. 9)
- F10** Words in s. 121 repealed (1.1.2005) by Patents Act 2004 (c. 16), s. 17(1), Sch. 2 para. 25(c), **Sch. 3**; S.I. 2004/3205, art. 2(g)(k) (with art. 9)
- F11** Words in s. 121 substituted (1.1.2005) by Patents Act 2004 (c. 16), s. 17(1), **Sch. 2 para. 25(d)**; S.I. 2004/3205, art. 2(k) (with art. 9)

### Modifications etc. (not altering text)

- C1** S. 121 amended (31.10.1994) by 1994 c. 26, **s. 71(1)**; S.I. 1994/2550, **art. 2**

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