

Status: Point in time view as at 01/02/1991.

Changes to legislation: Patents Act 1977, Paragraph 4A is up to date with all changes known to be in force on or before 04 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)

SCHEDULES

SCHEDULE 1

APPLICATION OF 1949 ACT TO EXISTING PATENTS AND APPLICATIONS

- [^{F1}4A (1) If the proprietor of a patent for an invention which is a product files a declaration with the Patent Office in accordance with this paragraph, the licences to which persons are entitled by virtue of paragraph 4(2)(c) above shall not extend to a use of the product which is excepted by or under this paragraph.
- (2) Pharmaceutical use is excepted, that is—
- (a) use as a medicinal product within the meaning of the Medicines Act 1968, and
 - (b) the doing of any other act mentioned in section 60(1)(a) above with a view to such use.
- (3) The Secretary of State may by order except such other uses as he thinks fit; and an order may—
- (a) specify as an excepted use any act mentioned in section 60(1)(a) above, and
 - (b) make different provision with respect to acts done in different circumstances or for different purposes.
- (4) For the purposes of this paragraph the question what uses are excepted, so far as that depends on—
- (a) orders under section 130 of the Medicines Act 1968 (meaning of “medicinal product”), or
 - (b) orders under sub-paragraph (3) above,
- shall be determined in relation to a patent at the beginning of the sixteenth year of the patent.
- (5) A declaration under this paragraph shall be in the prescribed form and shall be filed in the prescribed manner and within the prescribed time limits.
- (6) A declaration may not be filed—
- (a) in respect of a patent which has at the commencement of section 293 of the Copyright, Designs and Patents Act 1988 passed the end of its fifteenth year; or
 - (b) if at the date of filing there is—
 - (i) an existing licence for any description of excepted use of the product, or
 - (ii) an outstanding application under section 46(3)(a) or (b) above for the settlement by the comptroller of the terms of a licence for any description of excepted use of the product,and, in either case, the licence took or is to take effect at or after the end of the sixteenth year of the patent.
- (7) Where a declaration has been filed under this paragraph in respect of a patent—

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- (a) section 46(3)(c) above (restriction of remedies for infringement where licences available as of right) does not apply to an infringement of the patent in so far as it consists of the excepted use of the product after the filing of the declaration; and
- (b) section 46(3)(d) above (abatement of renewal fee if licences available as of right) does not apply to the patent.]

Textual Amendments

F1 Sch. 1 para. 4A inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 293

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