

*Status: Point in time view as at 29/07/1999. This version of this schedule contains provisions that are not valid for this point in time.*

*Changes to legislation: Patents Act 1977, SCHEDULE A2 is up to date with all changes known to be in force on or before 21 May 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

VALID FROM 28/07/2000

### [<sup>F1</sup>SCHEDULE A2

Section 76A

### BIOTECHNOLOGICAL INVENTIONS

#### Textual Amendments

**F1** Sch. A2 inserted (28.7.2000) by 2000/2037, reg. 8(2), Sch. 2

- 1 An invention shall not be considered unpatentable solely on the ground that it concerns—
  - (a) a product consisting of or containing biological material; or
  - (b) a process by which biological material is produced, processed or used.
- 2 Biological material which is isolated from its natural environment or produced by means of a technical process may be the subject of an invention even if it previously occurred in nature.
- 3 The following are not patentable inventions—
  - (a) the human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene;
  - (b) processes for cloning human beings;
  - (c) processes for modifying the germ line genetic identity of human beings;
  - (d) uses of human embryos for industrial or commercial purposes;
  - (e) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes;
  - (f) any variety of animal or plant or any essentially biological process for the production of animals or plants, not being a micro-biological or other technical process or the product of such a process.
- 4 Inventions which concern plants or animals may be patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety.
- 5 An element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element.
- 6 The industrial application of a sequence or partial sequence of a gene must be disclosed in the patent application as filed.
- 7 The protection conferred by a patent on a biological material possessing specific characteristics as a result of the invention shall extend to any biological material

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	<p>derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.</p>
8	<p>The protection conferred by a patent on a process that enables a biological material to be produced possessing specific characteristics as a result of the invention shall extend to biological material directly obtained through that process and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.</p>
9	<p>The protection conferred by a patent on a product containing or consisting of genetic information shall extend to all material, save as provided for in paragraph 3(a) above, in which the product is incorporated and in which the genetic information is contained and performs its function.</p>
10	<p>The protection referred to in paragraphs 7, 8 and 9 above shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market by the proprietor of the patent or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.</p>
11	<p>In this Schedule:</p> <p>“essentially biological process” means a process for the production of animals and plants which consists entirely of natural phenomena such as crossing and selection;</p> <p>“microbiological process” means any process involving or performed upon or resulting in microbiological material;</p> <p>“plant variety” means a plant grouping within a single botanical taxon of the lowest known rank, which grouping can be:</p> <ol style="list-style-type: none"> <li>(a) defined by the expression of the characteristics that results from a given genotype or combination of genotypes; and</li> <li>(b) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and</li> <li>(c) considered as a unit with regard to its suitability for being propagated unchanged.]</li> </ol>

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