

*Status: Point in time view as at 12/03/2016.*

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## SCHEDULES

### [<sup>F1</sup>SCHEDULE A4

#### THE UNIFIED PATENT COURT

##### Textual Amendments

- F1** Schs. A3, A4 inserted (coming into force in accordance with art. 1(2)) by [The Patents \(European Patent with Unitary Effect and Unified Patent Court\) Order 2016 \(S.I. 2016/388\)](#), arts. 1(2), **2(10)** (with art. 3)

##### *Jurisdiction*

1. The Unified Patent Court has exclusive jurisdiction in respect of an Article 32(1) action which relates to—
  - (a) a European patent with unitary effect, or
  - (b) a supplementary protection certificate for which the basic patent is a European patent with unitary effect,
  - (c) subject to paragraph 2—
    - (i) a European patent (UK), or
    - (ii) a supplementary protection certificate for which the basic patent is a European patent (UK).

##### *Transitional provisions*

2.
  - (1) The transitional provisions in Article 83 apply in relation to an action referred to in Article 83(1).
  - (2) An opt out referred to in Article 83(3) may be exercised in accordance with that provision and any relevant Rules of Procedure.
  - (3) Such opt out may be withdrawn in accordance with Article 83(4) and any relevant Rules of Procedure.
  - (4) For the purposes of this paragraph, a reference to Article 83 is a reference to Article 83 of the Agreement on a Unified Patent Court.

##### *Modifications of law applicable where UPC has jurisdiction*

3.
  - (1) In the case of an Article 32(1) action relating to—
    - (a) a European patent with unitary effect, or
    - (b) a European patent (UK),the provisions of this Act listed in sub-paragraph (2) do not apply in relation to the action where the Unified Patent Court has jurisdiction in accordance with paragraph 1.
  - (2) The provisions referred to in sub-paragraph (1) are—

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section 58(7) to (9) (references of disputes as to Crown use);  
 section 61 (proceedings for infringement of patent);  
 section 62 (restrictions on recovery of damages for infringement);  
 section 63 (relief for infringement of partially valid patent);  
 section 65 (certificate of contested validity of patent);  
 section 66 (proceedings for infringement by a co-owner);  
 section 67 (proceedings for infringement by exclusive licensee);  
 section 68 (effect of non-registration on infringement proceedings);  
 section 69 (infringement of rights conferred by publication of application);  
 section 71 (declaration or declarator as to non-infringement);  
 section 72 (power to revoke patents on application);  
 section 73(1) to (1C) (comptroller's power to revoke patents on his own initiative);  
 section 74 (proceedings in which validity of patent may be put in issue);  
 section 75 (amendment of patent in infringement or revocation proceedings);  
 section 77(3) (effect of European patent (UK)).

(3) In the case of an Article 32(1) action relating to a supplementary protection certificate for which the basic patent is—

- (a) a European patent with unitary effect, or
- (b) a European patent (UK),

the provisions of this Act listed in sub-paragraph (4) do not apply in relation to the action where the Unified Patent Court has jurisdiction in accordance with paragraph 1.

(4) The provisions referred to in sub-paragraph (3) are—

section 58(7) to (9) (references of disputes as to Crown use);  
 section 61 (proceedings for infringement of patent);  
 section 62 (restrictions on recovery of damages for infringement);  
 section 63 (relief for infringement of partially valid patent);  
 section 65 (certificate of contested validity of patent);  
 section 66 (proceedings for infringement by a co-owner);  
 section 67 (proceedings for infringement by exclusive licensee);  
 section 68 (effect of non-registration on infringement proceedings);  
 section 69 (infringement of rights conferred by publication of application);  
 section 71 (declaration or declarator as to non-infringement);  
 section 74 (proceedings in which validity of patent may be put in issue);  
 section 75 (amendment of a patent in infringement or revocation proceedings).

#### *Enforcement*

4. (1) For the purposes of enforcement of a decision or order of the Unified Patent Court—
- (a) the decision or order has the same force and effect,
  - (b) proceedings for or with respect to enforcement of the decision or order may be taken, and

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- (c) the enforcing court, or in a relevant Northern Ireland case the Enforcement of Judgments Office, has the same powers in relation to the enforcement of the decision or order,  
as if the decision or order had originally been made by the enforcing court.
- (2) The enforcing court, or in a relevant Northern Ireland case the Enforcement of Judgments Office, may enforce a mediation settlement in the same manner as a judgment or order of the enforcing court.
- (3) In this paragraph—  
“enforcing court” means—  
(a) as respects England and Wales, the High Court,  
(b) as respects Scotland, the Court of Session, and  
(c) as respects Northern Ireland, the High Court in Northern Ireland;  
“mediation settlement” means a settlement reached through mediation using the facilities of the patent mediation and arbitration centre established under Article 35 of the Agreement on a Unified Patent Court;  
“relevant Northern Ireland case” means a case where—  
(a) the decision or order of the Unified Patent Court would, if it had been given by the High Court in Northern Ireland, or  
(b) the mediation settlement would, if enforced in the same manner as a judgment or order of the High Court in Northern Ireland,  
be enforced by the Enforcement of Judgments Office under the Judgments Enforcement (Northern Ireland) Order 1981.

#### *Interpretation*

5. In this Schedule—  
(a) “Article 32(1) action” means an action listed in Article 32(1) of the Agreement on a Unified Patent Court;  
(b) “basic patent” has the same meaning as in Article 1(c) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products; and  
(c) “Rules of Procedure” has the same meaning as in the Agreement on a Unified Patent Court.]

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