



Patents Act 1977

1977 CHAPTER 37

PART I

NEW DOMESTIC LAW

Licences of right and compulsory licences

46 Patentee's application for entry in register that licences are available as of right

- (1) At any time after the grant of a patent its proprietor may apply to the comptroller for an entry to be made in the register to the effect that licences under the patent are to be available as of right.
- (2) Where such an application is made, the comptroller shall give notice of the application to any person registered as having a right in or under the patent and, if satisfied that the proprietor of the patent is not precluded by contract from granting licences under the patent, shall make that entry.
- (3) Where such an entry is made in respect of a patent—
 - (a) any person shall, at any time after the entry is made, be entitled as of right to a licence under the patent on such terms as may be settled by agreement or, in default of agreement, by the comptroller on the application of the proprietor of the patent or the person requiring the licence;
 - (b) the comptroller may, on the application of the holder of any licence granted under the patent before the entry was made, order the licence to be exchanged for a licence of right on terms so settled ;
 - (c) if in proceedings for infringement of the patent (otherwise than by the importation of any article) the defendant or defender undertakes to take a licence on such terms, no injunction or interdict shall be granted against him and the amount (if any) recoverable against him by way of damages shall not exceed double the amount which would have been payable by him as licensee if such a licence on those terms had been granted before the earliest infringement;

Status: This is the original version (as it was originally enacted).

- (d) the renewal fee payable in respect of the patent after the date of the entry shall be half the fee which would be payable if the entry had not been made.
- (4) The licensee under a licence of right may (unless, in the case of a licence the terms of which are settled by agreement, the licence otherwise expressly provides) request the proprietor of the patent to take proceedings to prevent any infringement of the patent; and if the proprietor refuses or neglects to do so within two months after being so requested, the licensee may institute proceedings for the infringement in his own name as if he were proprietor, making the proprietor a defendant or defender.
- (5) A proprietor so added as defendant or defender shall not be liable for any costs or expenses unless he enters an appearance and takes part in the proceedings.