



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

##### *Infringement*

#### **61 Proceedings for infringement of patent.**

- (1) Subject to the following provisions of this Part of this Act, civil proceedings may be brought in the court by the proprietor of a patent in respect of any act alleged to infringe the patent and (without prejudice to any other jurisdiction of the court) in those proceedings a claim may be made—
  - (a) for an injunction or interdict restraining the defendant or defender from any apprehended act of infringement;
  - (b) for an order for him to deliver up or destroy any patented product in relation to which the patent is infringed or any article in which that product is inextricably comprised;
  - (c) for damages in respect of the infringement;
  - (d) for an account of the profits derived by him from the infringement;
  - (e) for a declaration or declarator that the patent is valid and has been infringed by him.
- (2) The court shall not, in respect of the same infringement, both award the proprietor of a patent damages and order that he shall be given an account of the profits.
- (3) The proprietor of a patent and any other person may by agreement with each other refer to the comptroller the question whether that other person has infringed the patent and on the reference the proprietor of the patent may make any claim mentioned in subsection (1)(c) or (e) above.
- (4) Except so far as the context requires, in the following provisions of this Act—

---

*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

*Changes to legislation: Patents Act 1977, Section 61 is up to date with all changes known to be in force on or before 22 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)*

---

- (a) any reference to proceedings for infringement and the bringing of such proceedings includes a reference to a reference under subsection (3) above and the making of such a reference;
  - (b) any reference to a plaintiff or pursuer includes a reference to the proprietor of the patent; and
  - (c) any reference to a defendant or defender includes a reference to any other party to the reference.
- (5) If it appears to the comptroller on a reference under subsection (3) above that the question referred to him would more properly be determined by the court, he may decline to deal with it and the court shall have jurisdiction to determine the question as if the reference were proceedings brought in the court.
- (6) Subject to the following provisions of this Part of this Act, in determining whether or not to grant any kind of relief claimed under this section and the extent of the relief granted the court or the comptroller shall apply the principles applied by the court in relation to that kind of relief immediately before the appointed day.

**Status:**

Point in time view as at 01/02/1991. This version of this provision has been superseded.

**Changes to legislation:**

Patents Act 1977, Section 61 is up to date with all changes known to be in force on or before 22 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.