



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

#### *Revocation of patents*

#### **72 Power to revoke patents on application.**

- (1) Subject to the following provisions of this Act, the court or the comptroller may <sup>F1</sup>... by order revoke a patent for an invention [<sup>F2</sup>on the application of any person (including the proprietor of the patent)] on (but only on) any of the following grounds, that is to say—
- (a) the invention is not a patentable invention;
  - [<sup>F3</sup>(b) that the patent was granted to a person who was not entitled to be granted that patent;]
  - (c) the specification of the patent does not disclose the invention clearly enough and completely enough for it to be performed by a person skilled in the art;
  - (d) the matter disclosed in the specification of the patent extends beyond that disclosed in the application for the patent, as filed, or, if the patent was granted on a new application filed under section 8(3), 12 or 37(4) above or as mentioned in [<sup>F4</sup>section 15(9)] above, in the earlier application, as filed;
  - (e) the protection conferred by the patent has been extended by an amendment which should not have been allowed.
- (2) An application for the revocation of a patent on the ground mentioned in subsection (1) (b) above—
- (a) may only be made by a person found by the court in an action for a declaration or declarator, or found by the court or the comptroller on a reference under section 37 above, to be entitled to be granted that patent or to be granted a patent for part of the matter comprised in the specification of the patent sought to be revoked; and

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- (b) may not be made if that action was commenced or that reference was made after <sup>F5</sup>the second anniversary of] the date of the grant of the patent sought to be revoked, unless it is shown that any person registered as a proprietor of the patent knew at the time of the grant or of the transfer of the patent to him that he was not entitled to the patent.
- (3) ..... <sup>F6</sup>
- (4) An order under this section may be an order for the unconditional revocation of the patent or, where the court or the comptroller determines that one of the grounds mentioned in subsection (1) above has been established, but only so as to invalidate the patent to a limited extent, an order that the patent should be revoked unless within a specified time the specification is amended <sup>F7</sup>... to the satisfaction of the court or the comptroller, as the case may be.
- <sup>F8</sup>(4A) The reference in subsection (4) above to the specification being amended is to its being amended under section 75 below and also, in the case of a European patent (UK), to its being amended under any provision of the European Patent Convention under which the claims of the patent may be limited by amendment at the request of the proprietor.]
- (5) A decision of the comptroller or on appeal from the comptroller shall not estop any party to civil proceedings in which infringement of a patent is in issue from alleging invalidity of the patent on any of the grounds referred to in subsection (1) above, whether or not any of the issues involved were decided in the said decision.
- (6) Where the comptroller refuses to grant an application made to him by any person under this section, no application (otherwise than by way of appeal or by way of putting validity in issue in proceedings for infringement) may be made to the court by that person under this section in relation to the patent concerned, without the leave of the court.
- (7) Where the comptroller has not disposed of an application made to him under this section, the applicant may not apply to the court under this section in respect of the patent concerned unless either—
- (a) the proprietor of the patent agrees that the applicant may so apply, or
  - (b) the comptroller certifies in writing that it appears to him that the question whether the patent should be revoked is one which would more properly be determined by the court.

#### Textual Amendments

- F1** Words in s. 72(1) repealed (1.10.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), Sch. 2 para. 18, **Sch. 3**; [S.I. 2005/2471](#), art. 2(f)(g)
- F2** Words in s. 72(1) inserted (1.10.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), **Sch. 2 para. 18**; [S.I. 2005/2471](#), art. 2(g)
- F3** S. 72(1)(b) substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, **Sch. 5 para. 18**
- F4** Words in s. 72(1)(d) substituted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), arts. 1(2), **12** (with arts. 20-23)
- F5** Words in s. 72(2)(b) substituted (1.10.2014) by [Intellectual Property Act 2014 \(c. 18\)](#), s. 24(1), **Sch. para. 3(1)(b)**; [S.I. 2014/2330](#), art. 3, Sch.
- F6** S. 72(3) repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(2), **Sch. 8**
- F7** Words in s. 72(4) repealed (13.12.2007) by [Patents Act 2004 \(c. 16\)](#), ss. 4, 17(1), **Sch. 3**; [S.I. 2007/3396](#), art. 2(f)(i)

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**F8** S. 72(4A) inserted (13.12.2007) by Patents Act 2004 (c. 16), **ss. 4**, 17(1); S.I. 2007/3396, art. 2(f)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)