

Status: Point in time view as at 01/04/2003. This version of this provision is not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2002 (repealed), Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 25

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 20/06/2003

Patents Act 1977 (c. 37)

- 8 (1) The Patents Act 1977 is amended as follows.
- (2) After section 50 there is inserted—

“50A Powers exercisable following merger and market investigations

- (1) Subsection (2) below applies where—
- (a) section 41(2), 55(2), 66(6), 75(2), 83(2), 138(2), 147(2) or 160(2) of, or paragraph 5(2) or 10(2) of Schedule 7 to, the Enterprise Act 2002 (powers to take remedial action following merger or market investigations) applies;
 - (b) the Competition Commission or (as the case may be) the Secretary of State considers that it would be appropriate to make an application under this section for the purpose of remedying, mitigating or preventing a matter which cannot be dealt with under the enactment concerned; and
 - (c) the matter concerned involves—
 - (i) conditions in licences granted under a patent by its proprietor restricting the use of the invention by the licensee or the right of the proprietor to grant other licences; or
 - (ii) a refusal by the proprietor of a patent to grant licences on reasonable terms.
- (2) The Competition Commission or (as the case may be) the Secretary of State may apply to the comptroller to take action under this section.
- (3) Before making an application the Competition Commission or (as the case may be) the Secretary of State shall publish, in such manner as it or he thinks appropriate, a notice describing the nature of the proposed application and shall consider any representations which may be made within 30 days of such publication by persons whose interests appear to it or him to be affected.
- (4) The comptroller may, if it appears to him on an application under this section that the application is made in accordance with this section, by order cancel or modify any condition concerned of the kind mentioned in

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subsection (1)(c)(i) above or may, instead or in addition, make an entry in the register to the effect that licences under the patent are to be available as of right.

- (5) References in this section to the Competition Commission shall, in cases where section 75(2) of the Enterprise Act 2002 applies, be read as references to the Office of Fair Trading.
- (6) References in section 35, 36, 47, 63, 134 or 141 of the Enterprise Act 2002 (questions to be decided by the Competition Commission in its reports) to taking action under section 41(2), 55, 66, 138 or 147 shall include references to taking action under subsection (2) above.
- (7) Action taken by virtue of subsection (4) above in consequence of an application under subsection (2) above where an enactment mentioned in subsection (1)(a) above applies shall be treated, for the purposes of sections 91(3), 92(1)(a), 162(1) and 166(3) of the Enterprise Act 2002 (duties to register and keep under review enforcement orders etc.), as if it were the making of an enforcement order (within the meaning of the Part concerned) under the relevant power in Part 3 or (as the case may be) 4 of that Act.”
- (3) In section 51(1) (powers exercisable in consequence of report of Competition Commission), paragraphs (a) and (b) shall cease to have effect.
- (4) In section 53(2) (statements in certain reports of the Competition Commission to be prima facie evidence of the matters stated) after “1980” there is inserted “ or published under Part 3 or 4 of the Enterprise Act 2002 ”.

Textual Amendments applied to the whole legislation

- F1** Act: for the words "solicitor of the Supreme Court of Northern Ireland" wherever they occur there is substituted (prosp.) the words "solicitor of the Court of Judicature of Northern Ireland" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 5](#) [Editorial Note: this amendment will be carried through into the text of the Act at the same time as any other effects on the Act for the year in which the relevant commencement order (or first such order) is made]

Commencement Information

- I1** [Sch. 25 para. 8](#) partly in force; [Sch. 25 para. 8](#) not in force at Royal Assent see [s. 279](#); [Sch. 25 para. 8\(1\)](#) in force for certain purposes and [Sch. 25 para. 8\(2\)\(4\)](#) in force at 20.6.2003 by [S.I. 2003/1397, art. 2\(1\), Sch.](#), [Sch. 25 para. 8\(1\)\(3\)](#) in force for certain further purposes at 29.12.2004 by [S.I. 2004/3233, art. 2, Sch.](#)

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