

INTELLECTUAL PROPERTY ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 3: Miscellaneous

Section 20: Freedom of Information: exemption for research

89. **Section 20** inserts a new section 22A into the Freedom of Information Act 2000 (FOIA). New subsection (1) of section 22A exempts, for the purposes of the FOIA, information obtained in the course of, or derived from, a continuing programme of research, a report of which research is intended for future publication, if the disclosure of the information before the publication date would, or would be likely to, prejudice a matter listed in subsection (1)(b).
90. By virtue of section 22A not being included in the list of absolute exemptions in section 2(3) of FOIA, it is also subject to the requirement that in all the circumstances of the case, the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.
91. *Subsection (2)* of section 22A provides that the public authorities are not required under section 1(1)(a) of the FOIA to confirm or deny that information which is exempt information under section 22A is held if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1)(b) of section 22A.

Section 21: Reporting Duty

92. This section requires the Secretary of State to present to Parliament by the end of September each year a report that sets out how, in his opinion, the activities of the IPO (that is, the statutory body “the Patent Office”) have supported innovation and growth in the United Kingdom. This section follows recommendations of the 2011 Hargreaves Review of Intellectual Property and Growth¹. The purpose of the report is to sharpen the focus of the IPO on innovation and growth, and increase transparency.
93. The report will present an assessment of the effect of the IPO’s activities on growth and innovation arising from the creation and exploitation of intellectual property, and also the use of IP by third parties. It will also indicate where other policy priorities – such as public health, international development or freedom of speech – have been taken into consideration.
94. The assessment will cover the financial year which ended most recently before publication. It is not intended that the report will contain the IPO’s future work programme, as this is already set out in the IPO’s Corporate Plans, which are published annually.

¹ <http://www.ipo.gov.uk/ipreview-finalreport.pdf>

95. The section does not describe the detailed content of the report, as the policy activities of the IPO change from year to year. If the section were to list the specific items to be considered, there is a risk that the report will in future years be decreasingly relevant and any change would require primary legislation.
96. The broad outline of the report will be as follows:
- a) Information on legislative changes and pre-legislative work such as consultations;
 - b) Information on the IPO's activities in international negotiations and cross-border co-operation;
 - c) Policy development work undertaken to address the challenges facing the intellectual property system;
 - d) The main outputs of the IPO's economic research programme and how they relate to innovation and growth;
 - e) An assessment of the IPO's activities that support businesses and raise awareness of the importance of protecting intellectual property.

The report will also contain data supporting the assessment made in the report.

Section 22: Recognition of Foreign Copyright Works and Performances

97. This section provides for the automatic extension of certain copyright provisions of the CDPA to nationals of, and works first published in, other countries without the need to include an extensive list of countries and territories in an order. The section inserts references to a large number of those countries and territories into the body of the CDPA wherever relevant. In many cases protection will automatically extend to new signatory states without the need for a new order to implement the UK's obligations under the relevant treaty.
98. The specific countries and territories references to which are incorporated by this section into the body of the CDPA are the members of the EEA (European Economic Area); the Channel Islands; the Isle of Man; Gibraltar; and countries that are signatories to specific international conventions namely, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the Berne Convention for the Protection of Literary and Artistic Works and the World Intellectual Property Organisation Performances and Phonograms Treaty.