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STATUTORY INSTRUMENTS

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**2000 No. 2037**

**The Patents Regulations 2000**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Patents Regulations 2000 and shall come into force on the day after the date on which they are made (“the commencement date”).

(2) In these Regulations “the Act” means the Patents Act 1977<sup>(1)</sup>.

**Amendment of the Patents Act 1977**

2. The Act is amended as set out in regulations 3 to 8 subject to the transitional provisions set out in regulation 9.

3. In section 1 (patentable inventions), for subsections (3) and (4) substitute—

“(3) A patent shall not be granted for an invention the commercial exploitation of which would be contrary to public policy or morality.

(4) For the purposes of subsection (3) above exploitation shall not be regarded as contrary to public policy or morality only because it is prohibited by any law in force in the United Kingdom or any part of it.”.

4. In section 60 (meaning of infringement)—

(a) in subsection (5), after paragraph (f) insert—

“(g) it consists of the use by a farmer of the product of his harvest for propagation or multiplication by him on his own holding, where there has been a sale of plant propagating material to the farmer by the proprietor of the patent or with his consent for agricultural use;

(h) it consists of the use of an animal or animal reproductive material by a farmer for an agricultural purpose following a sale to the farmer, by the proprietor of the patent or with his consent, of breeding stock or other animal reproductive material which constitutes or contains the patented invention.”;

(b) after subsection (6) insert—

“(6A) Schedule A1 contains—

- (a) provisions restricting the circumstances in which subsection (5)(g) applies; and
- (b) provisions which apply where an act would constitute an infringement of a patent but for subsection (5)(g).

(6B) For the purposes of subsection (5)(h), use for an agricultural purpose—

- (a) includes making an animal or animal reproductive material available for the purposes of pursuing the farmer’s agricultural activity; but
- (b) does not include sale within the framework, or for the purposes, of a commercial reproduction activity.

(6C) In paragraphs (g) and (h) of subsection (5) “sale” includes any other form of commercialisation.”.

5. After section 76 insert—

“Biotechnological inventions

76A.—(1) Any provision of, or made under, this Act is to have effect in relation to a patent or an application for a patent which concerns a biotechnological invention, subject to the provisions of Schedule A2.

(2) Nothing in this section or Schedule A2 is to be read as affecting the application of any provision in relation to any other kind of patent or application for a patent.”.

6.—(1) Section 125A (disclosure of invention by specification: availability of samples of micro-organisms) is amended as follows.

(2) In the sidenote, for “micro-organisms” substitute “biological material”.

(3) In subsection (1), for “requires for its performance the use of a micro-organism” substitute “involves the use of or concerns biological material”.

(4) In subsection (2)(a), for “micro-organism” substitute “biological material”.

7. In section 130 (interpretation) insert in proper alphabetical order—

““biological material” means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system;”;

““biotechnological invention” means an invention which concerns a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used;”.

8.—(1) Insert the Schedule set out in Schedule 1 to these Regulations as Schedule A1 to the Act.

(2) Insert the Schedule set out in Schedule 2 to these Regulations as Schedule A2 to the Act.

**Transitional provisions**

9. The amendments effected to the Act by these Regulations shall apply to applications for patents (and to patents granted in pursuance of such applications) made on or after the commencement date.

27th July 2000

*Kim Howells,*  
Parliamentary Under-Secretary of State for  
Consumers and Corporate Affairs,  
Department of Trade and Industry