

**EXPLANATORY MEMORANDUM TO
THE PATENTS (ISLE OF MAN) ORDER 2013**

2013 No. 2602

1. This explanatory memorandum has been prepared by the Intellectual Property Office (IPO- the operating name of the Patent Office), an Executive Agency of the Department for Business Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. The purpose of the Patents (Isle of Man) Order 2013 is to ensure that the Patents Act 1977, in its application to the Isle of Man, operates in the same way in the Isle of Man as in England and Wales.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None

4. Legislative context

4.1. The Order is made under sections 124(3) and 132(2) of the Patents Act 1977.

5. Territorial Extent and Application

This instrument applies to the Isle of Man.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is needed.

7. Policy background

• **What is being done and why**

7.1. The Isle of Man does not have its own register of patents, but the Patents Act 1977 (of Parliament) extends to the Isle of Man. Accordingly, patents registered in the UK IPO or in the European Patent Office are protected under Manx law for 20 years from applications for registration.

7.2. The Patents Act 1977 was modified in its application to the Isle of Man by the Patents Act 1977 (Isle of Man) Order 2003 (SI 2003/1249), replacing SI 1978/621 and 1990/2295.

7.3. The following legislation has amended the Patents Act 1977 since 2003:

7.3.1. The Patents Act 2004 extends to the Isle of Man (s.18(2)).

- 7.3.2. The Regulatory Reform (Patents) Order 2004 (SI 2004/2357) extends to the Isle of Man.
 - 7.3.3. The Medicines (Marketing Authorisations etc.) Amendment Regulations 2005 (SI 2005/2759) reg.3 amends the 1977 Act s.60 and does not extend to the Isle of Man.
 - 7.3.4. The Intellectual Property (Enforcement, etc.) Regulations 2006 (SI 2006/1028) art.3 makes new provision for assessing damages in actions for infringement of intellectual property rights, including patents, and does not extend to the Isle of Man.
 - 7.3.5. The Registered Design Act 1949 and Patents Act 1977 (Electronic Communications) Order 2006 (SI 2006/1229) art.4 amends the 1977 Act s.124A and does not extend to the Isle of Man.
 - 7.3.6. The Patents (Compulsory Licensing and Supplementary Protection Certificates) Regulations 2007 (SI 2007/3293) reg. 2 inserts new ss.128A and 128B and Schedule 4 in the 1977 Act, and does not extend to the Isle of Man.
 - 7.3.7. The Patents Act 1977 (Amendment) Regulations 2011 (SI 2011/2059) reg.2 inserts a new s.118A in the 1977 Act, and does not extend to the Isle of Man.
- 7.4. The Patents (Isle of Man) Order 2013 No XXX modifies the Patents Act 1977 in its application to the Isle of Man, and revokes the Patents Act 1977 (Isle of Man) Order 2003. Its principal effects are (i) to incorporate into the Patents Act 1977, as it has effect in the Isle of Man, the amendments made by the above legislation which do not already extend to the Isle of Man, and (ii) where necessary, to modify those amendments, and amendments which already extend, in their application to the Isle of Man.

- **Consolidation**

- 7.5. There are no plans to consolidate the Patents (Isle of Man) Order 2013.

8. Consultation outcome

A consultation was carried out in the Isle of Man in 2011. No impact on businesses or the private sector is foreseen.

9. Guidance

Guidance is available on the Isle of Man Government website at <http://www.wheretheyoucan.im/default.aspx>

10. Impact

- 10.1. No impact on business, charities or voluntary bodies is foreseen
- 10.2. No impact on the public sector is foreseen.
- 10.3. Impact Assessments have therefore not been carried out.

11. Regulating small business

The legislation applies to all businesses regardless of size.

12. Monitoring & review

The review and updating of Orders in Council to grant reciprocity for intellectual property is continuous.

13. Contact

Ana de Miguel at the Intellectual Property Office (Tel: 0163381 3817 or email: ana.demiguel@ipo.gov.uk) can answer any queries regarding the instrument.