STATUTORY INSTRUMENTS

2014 No. 2411

PATENTS

The Patents (Supplementary Protection Certificates) Regulations 2014

Made - - - -	*8th September 2014*
Laid before Parliament	*10th September 2014*
Coming into force - -	*1st October 2014*

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to intellectual property (including both registered and unregistered rights)(**2**).

The Secretary of State makes the following Regulations under the powers conferred by that section as read with paragraph 1A of Schedule 2 to that Act(**3**).

The Regulations make provision for a purpose mentioned in that section and it appears to the Secretary of State that it is expedient for the reference to Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products(**4**) to be construed as a reference to that instrument as amended from time to time.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Patents (Supplementary Protection Certificates) Regulations 2014.

(2) These Regulations come into force on 1st October 2014.

(3) These Regulations have the same extent as the Patents Act 1977(**5**), except that they do not extend to the Isle of Man.

(**1**) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part 1 of the Schedule.
(**2**) S.I. 2006/608.
(**3**) 1972 c.68; paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c.51), section 28 and amended by the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part 1 of the Schedule.
(**4**) OJ No L152, 16.6.2009, p.1.
(**5**) 1977 c.37; section 128B and Schedule 4A were inserted by S.I. 2007/3293.

Amendment of the Patents Act 1977

2.—(1) The Patents Act 1977 is amended as follows.

(2) In section 128B (supplementary protection certificates), in subsection (2)(a), for "Council Regulation (EEC) No 1768/92 of 18th June 1992 concerning the creation of a supplementary protection certificate for medicinal products"(**6**) substitute "Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products".

(3) In Schedule 4A (supplementary protection certificates)—

(a) in paragraph 7(a), for "Council Regulation (EEC) No 1768/92 of 18th June 1992 concerning the creation of a supplementary protection certificate for medicinal products" substitute "Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products";

(b) after paragraph 7 insert—

"Transitional provision

8.—(1) A reference (express or implied) in this Act to the Medicinal Products Regulation, or a provision of it, is to be read as being or (subject to context) including a reference to the old Regulation, or the corresponding provision of the old Regulation, in relation to times, circumstances or purposes in relation to which the old Regulation, or that provision, had effect.

(2) Other than in relation to times, circumstances or purposes referred to in subparagraph (1), anything done, or having effect as if done, under (or for the purposes of or in reliance on) the old Regulation or a provision of the old Regulation and in force or effective immediately before 1st October 2014 (the day on which the Patents (Supplementary Protection Certificates) Regulations 2014 came into force) has effect on or after that date for the purposes of this Act as if done under (or for the purpose of or in reliance on) the Medicinal Products Regulation or the corresponding provision of it.

(3) In this paragraph "the old Regulation" means Council Regulation (EEC) No 1768/92 of 18th June 1992 concerning the creation of a supplementary protection certificate for medicinal products."

Baroness Neville-Rolfe
Parliamentary Under Secretary of State for
Business, Innovation and Skills
Department for Business, Innovation and Skills

8th September 2014

(**6**) OJ No L182, 2.7.1992, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the references in section 128B(2) of, and paragraph 7(a) of Schedule 4A to, the Patents Act 1977 ("the Act") to Council Regulation (EEC) No 1768/92 of 18th June 1992 concerning the creation of a supplementary protection certificate for medicinal products. This Regulation, as amended, was codified in Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6th May 2009 concerning the supplementary protection certificate for medicinal products ("codified version").

Section 128B(2)(a) of the Act has been amended to refer to supplementary protection certificates issued under the codified version. The definition in paragraph 7(a) of Schedule 4A has been updated to refer to the codified version.

The reference to the codified version will be ambulatory to include such amendments as are made to it from time to time. This derives from paragraph 6(2) of Schedule 4A to the Act.

A new paragraph 8 has been added to Schedule 4A to the Act to make transitional provision to provide for a reference in the Act to the codified version to be read as being or including a reference to Council Regulation (EEC) No 1768/92 in relation to times, circumstances or purposes in relation to which that Regulation had effect. Other than in relation to such times, circumstances or purposes, anything done, or having effect as if done, under Council Regulation (EEC) No 1768/92 will, after these Regulations come into force, have effect for the purposes of the Act as if done under the codified version.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.