



# Patents Act 1977

## 1977 CHAPTER 37

### PART I

#### NEW DOMESTIC LAW

##### *General provisions as to amendment of patents and applications*

#### **75 Amendment of patent in infringement or revocation proceedings.**

- (1) In any proceedings before the court or the comptroller in which the validity of a patent [<sup>F1</sup>may be ] put in issue the court or, as the case may be, the comptroller may, subject to section 76 below, allow the proprietor of the patent to amend the specification of the patent in such manner, and subject to such terms as to advertising the proposed amendment and as to costs, expenses or otherwise, as the court or comptroller thinks fit.
- (2) A person may give notice to the court or the comptroller of his opposition to an amendment proposed by the proprietor of the patent under this section, and if he does so the court or the comptroller shall notify the proprietor and consider the opposition in deciding whether the amendment or any amendment should be allowed.
- (3) An amendment of a specification of a patent under this section shall have effect and be deemed always to have had effect from the grant of the patent.
- (4) Where an application for an order under this section is made to the court, the applicant shall notify the comptroller, who shall be entitled to appear and be heard and shall appear if so directed by the court.
- [<sup>F2</sup>(5) In considering whether or not to allow an amendment proposed under this section, the court or the comptroller shall have regard to any relevant principles applicable under the European Patent Convention.]

*Changes to legislation: Patents Act 1977, Cross Heading: General provisions as to amendment of patents and applications is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### Textual Amendments

- F1** Words in s. 75(1) substituted (1.1.2005) by [Patents Act 2004 \(c. 16\)](#), s. 17(1), [Sch. 2 para. 19](#); S.I. 2004/3205, [art. 2\(k\)](#) (with [art. 9](#))
- F2** S. 75(5) inserted (13.12.2007) by [Patents Act 2004 \(c. 16\)](#), [ss. 2\(5\)](#), 17(1); S.I. 2007/3396, [art. 2\(d\)](#)

### [<sup>F3</sup>76 Amendments of applications and patents not to include added matter.

- (1) An application for a patent which—
- (a) is made in respect of matter disclosed in an earlier application, or in the specification of a patent which has been granted, and
  - (b) discloses additional matter, that is, matter extending beyond that disclosed in the earlier application, as filed, or the application for the patent, as filed,
- may be filed under section 8(3), 12 or 37(4) above, or as mentioned in [<sup>F4</sup>section 15(9)] above, but shall not be allowed to proceed unless it is amended so as to exclude the additional matter.

[ Where, in relation to an application for a patent—

- <sup>F5</sup>(1A) (a) a reference to an earlier relevant application has been filed as mentioned in section 15(1)(c)(ii) above; and
- (b) the description filed under section 15(10)(b)(i) above discloses additional matter, that is, matter extending beyond that disclosed in the earlier relevant application,
- the application shall not be allowed to proceed unless it is amended so as to exclude the additional matter.]

- (2) No amendment of an application for a patent shall be allowed under [<sup>F6</sup>section 15A(6)], 18(3) or 19(1) if it results in the application disclosing matter extending beyond that disclosed in the application as filed.
- (3) No amendment of the specification of a patent shall be allowed under section 27(1), 73 or 75 if it—
- (a) results in the specification disclosing additional matter, or
  - (b) extends the protection conferred by the patent.]

[<sup>F7</sup>(4) In subsection (1A) above “relevant application” has the meaning given by section 5(5) above.]

#### Textual Amendments

- F3** S. 76 substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 295, [Sch. 5 para. 20](#)
- F4** Words in s. 76(1) substituted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), [arts. 1\(2\)](#), [13\(2\)](#) (with [arts. 20-23](#))
- F5** S. 76(1A) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), [arts. 1\(2\)](#), [13\(3\)](#) (with [arts. 20-23](#))
- F6** Words in s. 76(2) substituted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), [arts. 1\(2\)](#), [13\(4\)](#) (with [arts. 20-23](#))
- F7** S. 76(4) inserted (1.1.2005) by [The Regulatory Reform \(Patents\) Order 2004 \(S.I. 2004/2357\)](#), [arts. 1\(2\)](#), [13\(5\)](#) (with [arts. 20-23](#))

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[<sup>F8</sup>**76A** *Biotechnological inventions*

- (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.]

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**Textual Amendments**

**F8** S. 76A inserted (28.7.2000) by [S.I. 2000/2037](#), **reg. 5**

**Changes to legislation:**

Patents Act 1977, Cross Heading: General provisions as to amendment of patents and applications is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by [S.I. 2006/1056 Sch. para. 2\(b\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by [2004 c. 16 s. 2\(4\)](#) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)