

2004 No. 2177 (C. 94)

PATENTS

The Patents Act 2004 (Commencement No. 1 and Consequential and Transitional Provisions) Order 2004

<i>Made</i> - - - -	<i>20th August 2004</i>
<i>Laid before Parliament</i>	<i>25th August 2004</i>
<i>Coming into force</i> - -	<i>22nd September 2004</i>

The Secretary of State, in exercise of the powers conferred upon her by section 17(1), (4) and (6) of the Patents Act 2004(a), and after consultation with the Council on Tribunals pursuant to section 8(1) of the Tribunals and Inquiries Act 1992(b), hereby makes the following Order:

Citation, commencement and interpretation of this Order

1.—(1) This Order may be cited as the Patents Act 2004 (Commencement No. 1 and Consequential and Transitional Provisions) Order 2004, and shall come into force on 22nd September 2004.

(2) In this Order—

“the 1977 Act” means the Patents Act 1977(c);

“the 2004 Act” means the Patents Act 2004;

“the Rules” means the Patents Rules 1995(d).

Commencement of the 2004 Act

2. 22nd September 2004 is the day appointed for the purposes of the coming into force of the following provisions of the 2004 Act—

paragraph 24 of Schedule 2;

paragraph 26 of Schedule 2 (except for paragraph 26(2)); and

section 16(1) and (2) (for the purposes of the above provisions of Schedule 2 and the corresponding repeals in Schedule 3).

(a) 2004 c. 16.

(b) 1992 c. 53.

(c) 1977 c. 37. Sections 120 and 123 of that Act are amended by paragraphs 24 and 26(1), (3) and (4) of Schedule 2 to the Patents Act 2004 (which are brought into force by article 2 of this Order). Section 123 was previously amended by paragraph 29 of Schedule 5, paragraph 22 of Schedule 7, and Schedule 8 to the Copyright, Designs and Patents Act 1988 (c. 48). By article 3 of SI 1981/1670, the reference in section 123(5) to the Minister for the Civil Service is to be construed as if it were a reference to the Treasury.

(d) SI 1995/2093, to which amendments relevant to this Order have been made by SI 1999/1092, 1999/3197, 2001/1412 and 2003/513.

Consequential provisions

3. The Rules are amended as follows.

4.—(1) In rule 4 (forms), for paragraphs (1) and (2) there is substituted—

“(1) The forms of which the use is required by these Rules are those set out in directions under section 123(2A) (but this is without prejudice to rule 121(1)).

(2) Such a requirement to use a form is satisfied by the use of—

- (a) a form which is a replica of the form set out in such directions; or
- (b) a form which is acceptable to the comptroller and contains the information required by the form as so set out.

(2A) Such directions shall be published in accordance with rule 115(2).”.

(2) What is now rule 115 (the Journal) becomes paragraph (1) of rule 115 and after that paragraph there is inserted—

“(2) The comptroller shall publish in the Journal any directions he gives under section 120(1) or 123(2A).”.

5. The following provisions are omitted—

rule 3(d);

rule 98;

rule 99;

Schedule 1.

Transitional provisions

6.—(1) This article applies on the coming into force, in accordance with article 2, of the amendments to section 120 of the 1977 Act (and references to section 120 are to that section 120 as so amended).

(2) The comptroller shall be deemed to have given directions under section 120(1) (and to have published them in the prescribed manner) specifying the hours specified in rule 98 of the Rules (immediately before it was revoked by article 5) as the hours at which time the Patent Office is taken to be closed for the purposes of the transaction by the public of the business specified therein.

(3) The comptroller shall be deemed to have given directions under section 120(1) (and to have published them in the prescribed manner) specifying the days specified in rule 99 of the Rules (immediately before it was revoked by article 5) as excluded days for the purposes of the transaction by the public of the business specified therein.

7.—(1) This article applies on the coming into force, in accordance with article 2, of the amendments to section 123 of the 1977 Act.

(2) The comptroller shall be deemed to have set out, in directions under section 123(2A) of that Act, those forms set out in Schedule 1 to the Rules (immediately before it was revoked by article 5) as the forms of which the use is required by the Rules (and to have published the directions in the prescribed manner).

8. The directions deemed to have been given, in accordance with article 6 or 7, shall continue in effect until they are revoked by directions given under section 120(1) or 123(2A) of the 1977 Act.

20th August 2004

Gerry Sutcliffe,
Parliamentary Under-Secretary of State for
Employment Relations, Competition and Consumers
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force, on 22nd September 2004, paragraph 24 and paragraph 26(1), (3) and (4) of Schedule 2 to the Patents Act 2004.

Paragraph 24 of that Schedule amends section 120 of the Patents Act 1977 (“the 1977 Act”) by amending subsection (1) and inserting a new subsection (3), and paragraph 26(1), (3) and (4) amends section 123 by inserting a new subsection (2A) and repealing subsections (4) and (5). The effect of those amendments is to permit the comptroller (i.e. the Comptroller-General of Patents, Designs, and Trade Marks) to give directions regarding certain matters which had formerly to be prescribed in rules made by statutory instrument; and to remove the requirement of Treasury consent for certain matters.

Articles 4 and 5 make consequential amendments to the Patents Rules 1995 (SI 1995/2093, last amended by SI 2003/513), and in particular provide for the publication of such directions in the Patents and Designs Journal.

Articles 6 to 8 make transitional provision. Thus provisions which (prior to those amendments to the 1977 Act) were contained in rules are deemed to continue in effect as directions given under section 120(1) (as amended) or under the new section 123(2A) of the 1977 Act.

A full regulatory impact assessment has not been prepared for this instrument, as it has no impact on the costs of business distinct from that of the Patents Act 2004 itself.

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