CHAPTER 87

Patents Act, 1949

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An Act to consolidate certain enactments relating to patents.

[16th December 1949.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Application, investigation, opposition, etc.

Persons entitled to make application.

1.—(1) An application for a patent for an invention may be made by any of the following persons, that is to say:—

(*a*) by any person claiming to be the true and first inventor of the invention;

(*b*) by any person being the assignee of the person claiming to be the true and first inventor in respect of the right to make such an application;

and may be made by that person either alone or jointly with any other person.

(2) Without prejudice to the foregoing provisions of this section, an application for a patent for an invention in respect of which protection has been applied for in a convention country may be made by the person by whom the application for protection was made or by the assignee of that person:

Provided that no application shall be made by virtue of this subsection after the expiration of twelve months from the date of the application for protection in a convention country or, where more than one such application for protection has been made, from the date of the first application.

(3) An application for a patent may be made under subsection (1) or subsection (2) of this section by the personal representative of any deceased person who, immediately before his death, was entitled to make such an application.

(4) An application for a patent made by virtue of subsection (2) of this section is in this Act referred to as a convention application.

Application.

2.—(1) Every application for a patent shall be made in the prescribed form and shall be filed at the Patent Office in the prescribed manner.

(2) If the application (not being a convention application) is made by virtue of an assignment of the right to apply for a patent for the invention, there shall be furnished with the application or within such period as may be prescribed after the filing of the application a declaration, signed by the person claiming to be the true and first inventor or his personal representative, stating that he assents to the making of the application.

(3) Every application (other than a convention application) shall state that the applicant is in possession of the invention and shall name the person claiming to be the true and first inventor; and where the person so claiming is not the applicant or one of the applicants, the application shall contain a declaration that the applicant believes him to be the true and first inventor.

(4) Every convention application shall specify the date on which and the convention country in which the application for protection, or the first such application, was made, and shall state that no application for protection in respect of the invention had been made in a convention country before that date by the applicant or any person from whom he derives title.

(5) Where applications for protection have been made in one or more convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single convention application may, subject to the provisions of section four of this Act, be made in respect of those inventions at any time within twelve months from the date of the earliest of the said applications for protection:

Provided that the fee payable on the making of any such application shall be the same as if separate applications had

been made in respect of each of the said inventions; and the requirements of the last foregoing subsection shall in the case of any such application apply separately to the applications for protection in respect of each of the said inventions.

Complete and provisional specifications.

3.—(1) Every application for a patent (other than a convention application) shall be accompanied by either a complete specification or a provisional specification; and every convention application shall be accompanied by a complete specification.

(2) Where an application for a patent is accompanied by a provisional specification, a complete specification shall be filed within twelve months from the date of filing of the application and if the complete specification is not so filed the application shall be deemed to be abandoned:

Provided that the complete specification may be filed at any time after twelve months but within fifteen months from the date aforesaid if a request to that effect is made to the comptroller and the prescribed fee paid on or before the date on which the specification is filed.

(3) Where two or more applications accompanied by provisional specifications have been filed in respect of inventions which are cognate or of which one is a modification of another, a single complete specification may, subject to the provisions of this and the next following section, be filed in pursuance of those applications, or, if more than one complete specification has been filed, may with the leave of the comptroller be proceeded with in respect of those applications.

(4) Where an application for a patent (not being a convention application) is accompanied by a specification purporting to be a complete specification, the comptroller may, if the applicant so requests at any time before the acceptance of the specification, direct that it shall be treated for the purposes of this Act as a provisional specification, and proceed with the application accordingly.

(5) Where a complete specification has been filed in pursuance of an application for a patent accompanied by a provisional specification or by a specification treated by virtue of a direction under the last foregoing subsection as a provisional specification, the comptroller may, if the applicant so requests at any time before the acceptance of the complete specification, cancel the provisional specification and post-date the application to the date of filing of the complete specification.

Contents of specification.

4.—(1) Every specification, whether complete or provisional, shall describe the invention, and shall begin with a title indicating the subject to which the invention relates.

(2) Subject to any rules made by the Board of Trade under this Act, drawings may, and shall if the comptroller so requires,

be supplied for the purposes of any specification, whether complete or provisional; and any drawings so supplied shall, unless the comptroller otherwise directs, be deemed to form part of the specification, and references in this Act to a specification shall be construed accordingly.

(3) Every complete specification—

(*a*) shall particularly describe the invention and the method by which it is to be performed;

(*b*) shall disclose the best method of performing the invention which is known to the applicant and for which he is entitled to claim protection; and

(*c*) shall end with a claim or claims defining the scope of the invention claimed.

(4) The claim or claims of a complete specification must relate to a single invention, must be clear and succinct, and must be fairly based on the matter disclosed in the specification.

(5) Rules made by the Board of Trade under this Act may require that in such cases as may be prescribed by the rules, a declaration as to the inventorship of the invention, in such form as may be so prescribed, shall be furnished with the complete specification or within such period as may be so prescribed after the filing of that specification.

(6) Subject to the foregoing provisions of this section, a complete specification filed after a provisional specification, or filed with a convention application, may include claims in respect of developments of or additions to the invention which was described in the provisional specification or, as the case may be, the invention in respect of which the application for protection was made in a convention country, being developments or additions in respect of which the applicant would be entitled under the provisions of section one of this Act to make a separate application for a patent.

(7) Where a complete specification claims a new substance, the claim shall be construed as not extending to that substance when found in nature.

Priority date of claims of complete specification.

5.—(1) Every claim of a complete specification shall have effect from the date prescribed by this section in relation to that claim (in this Act referred to as the priority date); and a patent shall not be invalidated by reason only of the publication or use of the invention, so far as claimed in any claim of the complete specification, on or after the priority date of that claim, or by the grant of another patent upon a specification claiming the same invention in a claim of the same or later priority date.

(2) Where the complete specification is filed in pursuance of a single application accompanied by a provisional specification or by a specification which is treated by virtue of a direction under subsection (4) of section three of this Act as a provisional specification, and the claim is fairly based on the matter disclosed in that specification, the priority date of that claim shall be the date of filing of the application.

(3) Where the complete specification is filed or proceeded with in pursuance of two or more applications accompanied by such specifications as are mentioned in the last foregoing subsection, and the claim is fairly based on the matter disclosed in one of those specifications, the priority date of that claim shall be the date of filing of the application accompanied by that specification.

(4) Where the complete specification is filed in pursuance of a convention application and the claim is fairly based on the matter disclosed in the application for protection in a convention country or, where the convention application is founded upon more than one such application for protection, in one of those applications, the priority date of that claim shall be the date of the relevant application for protection.

(5) Where, under the foregoing provisions of this section, any claim of a complete specification would, but for this provision, have two or more priority dates, the priority date of that claim shall be the earlier or earliest of those dates.

(6) In any case to which subsections (2) to (5) of this section do not apply, the priority date of a claim shall be the date of filing of the complete specification.

Examination of application.

6.—(1) When the complete specification has been filed in respect of an application for a patent, the application and specification or specifications shall be referred by the comptroller to an examiner.

(2) If the examiner reports that the application or any specification filed in pursuance thereof does not comply with the requirements of this Act or of any rules made by the Board of Trade thereunder, or that there is lawful ground of objection to the grant of a patent in pursuance of the application, the comptroller may either—

(*a*) refuse to proceed with the application; or

(*b*) require the application or any such specification as aforesaid to be amended before he proceeds with the application.

(3) At any time after an application has been filed under this Act and before acceptance of the complete specification, the comptroller may, at the request of the applicant and upon payment of the prescribed fee, direct that the application shall be post-dated to such date as may be specified in the request:

Provided that—

(*a*) no application shall be post-dated under this subsection to a date later than six months from the date on which it was actually made or would, but for this subsection, be deemed to have been made; and

(*b*) a convention application shall not be post-dated under this subsection to a date later than the last date on which, under the foregoing provisions of this Act, the application could have been made.

(4) Where an application or specification filed under this Act is amended before acceptance of the complete specification, the comptroller may direct that the application or specification shall be post-dated to the date on which it is amended or, if it has been returned to the applicant, to the date on which it is refiled.

(5) Rules made by the Board of Trade under this Act may make provision for securing that where, at any time after an application or specification has been filed under this Act and before acceptance of the complete specification, a fresh application or specification is filed in respect of any part of the subject matter of the first-mentioned application or specification, the comptroller may direct that the fresh application or specification shall be ante-dated to a date not earlier than the date of filing of the first-mentioned application or specification.

(6) An appeal shall lie from any decision of the comptroller under subsection (2) or subsection (4) of this section.

Search for anticipation by previous publication.

7.—(1) Subject to the provisions of the last foregoing section, the examiner to whom an application for a patent is referred under this Act shall make investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, has been published before the date of filing of the applicant's complete specification in any specification filed in pursuance of an application for a patent made in the United Kingdom and dated within fifty years next before that date.

(2) The examiner shall, in addition, make such investigation as the comptroller may direct for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, has been published in the United Kingdom before the date of filing of the applicant's complete specification in any other document (not being a document of any class described in subsection (1) of section fifty of this Act).

(3) If it appears to the comptroller that the invention, so far as claimed in any claim of the complete specification, has been published as aforesaid, he may refuse to accept the specification unless the applicant either—

(*a*) shows to the satisfaction of the comptroller that the priority date of the claim of his complete specification is not later than the date on which the relevant document was published; or

(*b*) amends his complete specification to the satisfaction of the comptroller.

(4) An appeal shall lie from any decision of the comptroller under this section.

Search for anticipation by prior claim.

8.—(1) In addition to the investigation required by the last foregoing section, the examiner shall make investigation for the purpose of ascertaining whether the invention, so far as claimed in any claim of the complete specification, is claimed in any claim of any other complete specification published on or after the date of filing of the applicant's complete specification, being a specification filed—

(*a*) in pursuance of an application for a patent made in the United Kingdom and dated before that date; or

(*b*) in pursuance of a convention application founded upon an application for protection made in a convention country before that date.

(2) If it appears to the comptroller that the said invention is claimed in a claim of any such other specification as aforesaid, he may, subject to the provisions of this section, direct that a reference to that other specification shall be inserted by way of notice to the public in the applicant's complete specification unless within such time as may be prescribed either—

(*a*) the applicant shows to the satisfaction of the comptroller that the priority date of his claim is not later than the priority date of the claim of the said other specification ; or

(*b*) the complete specification is amended to the satisfaction of the comptroller.

(3) If in consequence of the investigation under section seven of this Act or otherwise it appears to the comptroller—

(*a*) that the invention, so far as claimed in any claim of the applicant's complete specification, has been claimed in any such specification as is mentioned in subsection (1) of that section ; and

(*b*) that the other specification was published on or after the priority date of the applicant's claim,

then unless it has been shown to the satisfaction of the comptroller under that section that the priority date of the applicant's claim is not later than the priority date of the claim of that other specification, the provisions of subsection (2) of this section shall apply as they apply in relation to a specification published on or after the date of filing of the applicant's complete specification.

(4) The powers of the comptroller under this section to direct the insertion of a reference to another specification may be exercised either before or after a patent has been granted for the invention claimed in that other specification, but any direction given before the grant of such a patent shall be of no effect unless and until such a patent is granted.

(5) An appeal shall lie from any direction of the comptroller under this section.

Reference in case of potential infringement.

9.—(1) If, in consequence of the investigations required by the foregoing provisions of this Act or of proceedings under section fourteen or section thirty-three of this Act, it appears to the comptroller that an invention in respect of which application for a patent has been made cannot be performed without substantial risk of infringement of a claim of any other patent, he may direct that a reference to that other patent shall be inserted in the applicant's complete specification by way of notice to the public unless within such time as may be prescribed either—

(*a*) the applicant shows to the satisfaction of the comptroller that there are reasonable grounds for contesting the validity of the said claim of the other patent; or

(*b*) the complete specification is amended to the satisfaction of the comptroller.

(2) Where, after a reference to another patent has been inserted in a complete specification in pursuance of a direction under the foregoing subsection,—

(*a*) that other patent is revoked or otherwise ceases to be in force; or

(*b*) the specification of that other patent is amended by the deletion of the relevant claim; or

(*c*) it is found, in proceedings before the court or the comptroller, that the relevant claim of that other patent is invalid or is not infringed by any working of the applicant's invention,

the comptroller may, on the application of the applicant, delete the reference to that other patent.

(3) An appeal shall lie from any decision or direction of the comptroller under this section.

Refusal of application in certain cases.

10.—(1) If it appears to the comptroller in the case of any application for a patent—

(*a*) that it is frivolous on the ground that it claims as an invention anything obviously contrary to well-established natural laws; or

(*b*) that the use of the invention in respect of which the application is made would be contrary to law or morality; or

(*c*) that it claims as an invention a substance capable of being used as food or medicine which is a mixture of known ingredients possessing only the aggregate of the known properties of the ingredients, or that it claims as an invention a process producing such a substance by mere admixture,

he may refuse the application.

(2) If it appears to the comptroller that any invention in respect of which an application for a patent is made might be used in any manner contrary to law, he may refuse the application unless the specification is amended by the insertion of such disclaimer in respect of that use of the invention, or such other reference to the illegality thereof, as the comptroller thinks fit.

(3) An appeal shall lie from any decision of the comptroller under this section.

Supplementary provisions as to searches, etc.

11.—(1) The powers of the comptroller under section eight or section nine of this Act may be exercised either before or after the complete specification has been accepted or a patent granted to the applicant, and references in those sections to the applicant shall accordingly be construed as including references to the patentee.

(2) Where a complete specification is amended under the foregoing provisions of this Act before it has been accepted, the amended specification shall be examined and investigated in like manner as the original specification.

(3) The examination and investigations required by the foregoing provisions of this Act shall not be deemed to warrant the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of or in connection with any such examination or investigation or any report or other proceedings consequent thereon.

Time for putting application in order for acceptance.

12.—(1) An application for a patent shall be void unless within twelve months from the date of filing of the complete specification, or within such longer period as may be allowed under the following provisions of this section, the applicant has complied with all requirements imposed on him by or under

this Act, whether in connection with the complete specification or otherwise in relation to the application; and where the application or any specification or, in the case of a convention application, any document filed as part of the application, has been returned to the applicant by the comptroller in the course of the proceedings, the applicant shall not be deemed to have complied with the said requirements unless and until he has refiled it.

(2) The period allowed by subsection (1) of this section shall be extended to such period, not exceeding fifteen months from the date of filing of the complete specification, as may be specified in a notice given by the applicant to the comptroller, if the notice is given and the prescribed fee paid before the expiration of the period so specified.

(3) If at the expiration of the period allowed under the foregoing provisions of this section an appeal to the Appeal Tribunal is pending under any of the provisions of this Act in respect of the application (or, in the case of an application for a patent of addition, either in respect of that application or in respect of the application for the patent for the main invention) or the time within which such an appeal could be brought in accordance with the rules of that Tribunal (apart from any future extension of time thereunder) has not expired, then—

(*a*) where such an appeal is pending, or is brought within the time aforesaid or before the expiration of any extension of that time granted (in the case of a first extension) on an application made within that time or (in the case of a subsequent extension) on an application made before the expiration of the last previous extension, the said period shall be extended until such date as the Appeal Tribunal may determine;

(*b*) where no such appeal is pending or is so brought, the said period shall continue until the end of the time aforesaid, or, if any extension of that time is granted as aforesaid, until the expiration of the extension or last extension so granted.

Acceptance and publication of complete specification.

13.—(1) Subject to the provisions of the last foregoing section, the complete specification filed in pursuance of an application for a patent may be accepted by the comptroller at any time after the applicant has complied with the requirements mentioned in subsection (1) of that section, and if not so accepted within the period allowed under that section for compliance with those requirements, shall be accepted as soon as may be thereafter:

Provided that the applicant may give notice to the comptroller requesting him to postpone acceptance until such date, not being later than fifteen months from the date of filing of the complete specification, as may be specified in the notice; and if

such notice is given and, where the notice requests a postponement to a date later than twelve months from the date aforesaid, the prescribed fee is paid, the comptroller may postpone acceptance accordingly.

(2) On the acceptance of a complete specification the comptroller shall give notice to the applicant, and shall advertise in the Journal the fact that the specification has been accepted and the date on which the application and the specification or specifications filed in pursuance thereof will be open to public inspection.

(3) Any reference in this Act to the date of the publication of a complete specification shall be construed as a reference to the date advertised as aforesaid.

(4) After the date of the publication of a complete specification and until the sealing of a patent in respect thereof, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the publication of the complete specification:

Provided that an applicant shall not be entitled to institute any proceedings for infringement until the patent has been sealed.

Opposition to grant of patent.

14.—(1) At any time within three months from the date of the publication of a complete specification under this Act, any person interested may give notice to the comptroller of opposition to the grant of the patent on any of the following grounds:—

(*a*) that the applicant for the patent, or the person described in the application as the true and first inventor, obtained the invention or any part thereof from him, or from a person of whom he is the personal representative;

(*b*) that the invention, so far as claimed in any claim of the complete specification, has been published in the United Kingdom, before the priority date of the claim—

(i) in any specification filed in pursuance of an application for a patent made in the United Kingdom and dated within fifty years next before the date of filing of the applicant's complete specification;

(ii) in any other document (not being a document of any class described in subsection (1) of section fifty of this Act);

(*c*) that the invention, so far as claimed in any claim of the complete specification, is claimed in any claim of a complete specification published on or after the priority date of the applicant's claim and filed in pursuance of an application for a patent in the United Kingdom, being a claim of which the priority date is earlier than that of the applicant's claim;

(*d*) that the invention, so far as claimed in any claim of the complete specification, was used in the United Kingdom before the priority date of that claim;

(*e*) that the invention, so far as claimed in any claim of the complete specification, is obvious and clearly does not involve any inventive step having regard to matter published as mentioned in paragraph (*b*) of this subsection, or having regard to what was used in the United Kingdom before the priority date of the applicant's claim;

(*f*) that the subject of any claim of the complete specification is not an invention within the meaning of this Act;

(*g*) that the complete specification does not sufficiently and fairly describe the invention or the method by which it is to be performed;

(*h*) that, in the case of a convention application, the application was not made within twelve months from the date of the first application for protection for the invention made in a convention country by the applicant or a person from whom he derives title,

but on no other ground.

(2) Where any such notice is given, the comptroller shall give notice of the opposition to the applicant, and shall give to the applicant and the opponent an opportunity to be heard before he decides on the case.

(3) The grant of a patent shall not be refused on the ground specified in paragraph (*c*) of subsection (1) of this section if no patent has been granted in pursuance of the application mentioned in that paragraph; and for the purposes of paragraph (*d*) or paragraph (*e*) of the said subsection (1) no account shall be taken of any secret use.

(4) An appeal shall lie from any decision of the comptroller under this section.

Refusal of patent without opposition.

15.—(1) If at any time after the acceptance of the complete specification filed in pursuance of an application for a patent and before the grant of a patent thereon it comes to the notice of the comptroller, otherwise than in consequence of proceedings in opposition to the grant under the last foregoing section, that the invention, so far as claimed in any claim of the complete specification, has been published in the United Kingdom before the priority date of the claim—

(*a*) in any specification filed in pursuance of an application for a patent made in the United Kingdom and dated within fifty years next before the date of filing of the applicant's complete specification; or

(*b*) in any other document (not being a document of any class described in subsection (1) of section fifty of this Act),

the comptroller may refuse to grant the patent unless within such time as may be prescribed the complete specification is amended to his satisfaction.

(2) An appeal shall lie from any decision of the comptroller under this section.

Mention of inventor as such in patent.

16.—(1) If the comptroller is satisfied, upon a request or claim made in accordance with the provisions of this section—

(*a*) that the person in respect of or by whom the request or claim is made is the inventor of an invention in respect of which application for a patent has been made, or of a substantial part of that invention; and

(*b*) that the application for the patent is a direct consequence of his being the inventor,

the comptroller shall, subject to the provisions of this section, cause him to be mentioned as inventor in any patent granted in pursuance of the application, in the complete specification, and in the register of patents:

Provided that the mention of any person as inventor under this section shall not confer or derogate from any rights under the patent.

(2) For the purposes of this section the actual deviser of an invention or a part of an invention shall be deemed to be the inventor, notwithstanding that any other person is for any of the other purposes of this Act treated as the true and first inventor; and no person shall be deemed to be the inventor of an invention or a part of an invention by reason only that it was imported by him into the United Kingdom.

(3) A request that any person shall be mentioned as aforesaid may be made in the prescribed manner by the applicant for the patent or (where the person alleged to be the inventor is not the applicant or one of the applicants) by the applicant and that person.

(4) If any person (other than a person in respect of whom a request in relation to the application in question has been made under the last foregoing subsection) desires to be mentioned as aforesaid, he may make a claim in the prescribed manner in that behalf.

(5) A request or claim under the foregoing provisions of this section must be made not later than two months after the date of the publication of the complete specification, or within such further period (not exceeding one month) as the comptroller may, on an application made to him in that behalf before the expiration of the said period of two months and subject to payment of the prescribed fee, allow.

(6) No request or claim under the foregoing provisions of this section shall be entertained if it appears to the comptroller that the request or claim is based upon facts which, if proved in the case of an opposition under the provisions of paragraph (*a*) of subsection (1) of section fourteen of this Act by the person in respect of or by whom the request or claim is made, would have entitled him to relief under that section.

(7) Subject to the provisions of the last foregoing subsection, where a claim is made under subsection (4) of this section, the comptroller shall give notice of the claim to every applicant for the patent (not being the claimant) and to any other person whom the comptroller may consider to be interested; and before deciding upon any request or claim made under subsection (3) or subsection (4) of this section, the comptroller shall, if required, hear the person in respect of or by whom the request or claim is made, and, in the case of a claim under the said subsection (4), any person to whom notice of the claim has been given as aforesaid.

(8) Where any person has been mentioned as inventor in pursuance of this section, any other person who alleges that he ought not to have been so mentioned may at any time apply to the comptroller for a certificate to that effect, and the comptroller may, after hearing, if required, any person whom he may consider to be interested, issue such a certificate, and if he does so, he shall rectify the specification and the register accordingly.

(9) An appeal shall lie from any decision of the comptroller under this section.

Substitution of applicants, etc.

17.—(1) If the comptroller is satisfied, on a claim made in the prescribed manner at any time before a patent has been granted, that by virtue of any assignment or agreement made by the applicant or one of the applicants for the patent, or by operation of law, the claimant would, if the patent were then granted, be entitled thereto or to the interest of the applicant therein, or to an undivided share of the patent or of that interest, the comptroller may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants, according as the case may require.

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for a patent except with the consent of the other joint applicant or applicants.

(3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the benefit of an invention unless either—

(*a*) the invention is identified therein by reference to the number of the application for the patent; or

(*b*) there is produced to the comptroller an acknowledgment by the person by whom the assignment or agreement was made that the assignment or agreement relates to the invention in respect of which that application is made; or

(*c*) the rights of the claimant in respect of the invention have been finally established by a decision of any court or by a determination of the comptroller or the Appeal Tribunal under the following provisions of this Act.

(4) Where one of two or more joint applicants for a patent dies at any time before the patent has been granted, the comptroller may, upon a request in that behalf made by the survivor or survivors, and with the consent of the personal representative of the deceased, direct that the application shall proceed in the name of the survivor or survivors alone.

(5) If any dispute arises between joint applicants for a patent whether or in what manner the application should be proceeded with, the comptroller may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it shall be proceeded with, or for both those purposes, according as the case may require.

(6) An appeal shall lie from any decision of the comptroller under this section.

Provisions for secrecy of certain inventions.

18.—(1) Where, either before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the comptroller that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions; and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(2) Where the comptroller gives any such directions as aforesaid, he shall give notice of the application and of the directions to a competent authority, and thereupon the following provisions shall have effect, that is to say:—

(*a*) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the realm and unless

a notice under paragraph (*c*) of this subsection has previously been given by that authority to the comptroller, shall reconsider that question before the expiration of nine months from the date of filing of the application for the patent and at least once in every subsequent year;

(*b*) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the comptroller in connection therewith;

(*c*) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the realm, that authority shall give notice to the comptroller to that effect;

(*d*) on the receipt of any such notice the comptroller shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(3) Where a complete specification filed in pursuance of an application for a patent for an invention in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, is accepted during the continuance in force of the directions, then—

(*a*) if any use of the invention is made during the continuance in force of the directions by or on behalf of or to the order of a Government department, the provisions of sections forty-six to forty-nine of this Act shall apply in relation to that use as if the patent had been granted for the invention; and

(*b*) if it appears to a competent authority that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, that authority may, with the consent of the Treasury, make to him such payment (if any) by way of compensation as appears to them to be reasonable having regard to the novelty and utility of the invention and the purpose for which it is designed, and to any other relevant circumstances.

(4) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section or under section twelve of the Atomic Energy Act, 1946, no renewal fees shall be payable in respect of any period during which those directions were in force.

(5) No person resident in the United Kingdom shall, except under the authority of a written permit granted by or on behalf of the comptroller, make or cause to be made any application outside the United Kingdom for the grant of a patent for an invention unless—

(*a*) an application for a patent for the same invention has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom; and

(*b*) either no directions have been given under subsection (1) of this section or under section twelve of the Atomic Energy Act, 1946, in relation to the application in the United Kingdom, or all such directions have been revoked:

Provided that this subsection shall not apply in relation to an invention for which an application for protection has first been filed in a country outside the United Kingdom by a person resident outside the United Kingdom.

(6) If any person fails to comply with any direction given under this section or makes or causes to be made an application for the grant of a patent in contravention of this section, he shall be guilty of an offence and liable—

(*a*) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine, or

(*b*) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

(7) In this section the expression "competent authority" means a Secretary of State, the Admiralty or the Minister of Supply.

Grant, effect and term of patent

Grant and sealing of patent.

19.—(1) Subject to the provisions of this Act with respect to opposition, and to any other power of the comptroller to refuse the grant, a patent sealed with the seal of the Patent Office shall, if the prescribed request is made within the time allowed under this section, be granted to the applicant or applicants within that time or as soon as may be thereafter; and the date on which the patent is sealed shall be entered in the register of patents.

(2) Subject to the following provisions of this Act with respect to patents of addition, a request under this section for

the sealing of a patent shall be made not later than the expiration of four months from the date of the publication of the complete specification:

Provided that—

(*a*) where at the expiration of the said four months any proceeding in relation to the application for the patent is pending in any court or before the comptroller or the Appeal Tribunal, the request may be made within the prescribed period after the final determination of that proceeding;

(*b*) where the applicant or one of the applicants has died before the expiration of the time within which under the provisions of this subsection the request could otherwise be made, the said request may be made at any time within twelve months after the date of the death or at such later time as the comptroller may allow.

(3) The period within which under the last foregoing subsection a request for the sealing of a patent may be made may from time to time be extended by the comptroller to such longer period as may be specified in an application made to him in that behalf, if the application is made and the prescribed fee paid within that longer period:

Provided that the first-mentioned period shall not be extended under this subsection by more than six months or such shorter period as may be prescribed.

(4) Where in any case the longest period for making a request for the sealing of a patent allowable in that case by or under the foregoing provisions of this section has been allowed, and it is proved to the satisfaction of the comptroller that hardship would arise in connection with the prosecution by an applicant of an application for a patent in any country outside the United Kingdom unless that period is extended, that period may be extended from time to time to such longer period as appears to the comptroller to be necessary in order to prevent that hardship arising if an application in that behalf is made to him, and the prescribed fee is paid, within the first-mentioned period, or in the case of a second or subsequent application under this subsection, within the period to which that period was extended on the last preceding application thereunder.

(5) For the purposes of this section a proceeding shall be deemed to be pending so long as the time for any appeal therein (apart from any future extension of that time) has not expired, and a proceeding shall be deemed to be finally determined when the time for any appeal therein (apart from any such extension) has expired without the appeal being brought.

Amendment of patent granted to deceased applicant.

20. Where, at any time after a patent has been sealed in pursuance of an application under this Act, the comptroller is satisfied that the person to whom the patent was granted had died, or (in the case of a body corporate) had ceased to exist, before the patent was sealed, he may amend the patent by substituting for the name of that person the name of the person to whom the patent ought to have been granted; and the patent shall have effect, and shall be deemed always to have had effect, accordingly.

Extent, effect and form of patent.

21.—(1) A patent sealed with the seal of the Patent Office shall have the same effect as if it were sealed with the Great Seal of the United Kingdom, and shall have effect throughout the United Kingdom and the Isle of Man:

Provided that a patent may be assigned for any place in or part of the United Kingdom or Isle of Man as effectually as if it were granted so as to extend to that place or part only.

(2) Subject to the provisions of this Act and of subsection (3) of section three of the Crown Proceedings Act, 1947, a patent shall have the same effect against the Crown as it has against a subject.

(3) A patent shall be in such form as may be authorised by rules made by the Board of Trade under this Act.

(4) A patent shall be granted for one invention only; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Date and term of patent.

22.—(1) Every patent shall be dated with the date of filing of the complete specification:

Provided that no proceeding shall be taken in respect of an infringement committed before the date of the publication of the complete specification.

(2) The date of every patent shall be entered in the register of patents.

(3) Except as otherwise expressly provided by this Act, the term of every patent shall be sixteen years from the date of the patent.

(4) A patent shall cease to have effect, notwithstanding anything therein or in this Act, on the expiration of the period prescribed for the payment of any renewal fee if that fee is not paid within the prescribed period or within that period as extended under this section.

(5) The period prescribed for the payment of any renewal fee shall be extended to such period, not being more than three months longer than the prescribed period, as may be specified

in a request made to the comptroller if the request is made and the renewal fee and the prescribed additional fee paid before the expiration of the period so specified.

Extension on ground of inadequate remuneration.

23.—(1) If upon application made by a patentee in accordance with this section the court is satisfied that the patentee has not been adequately remunerated by the patent, the court may by order extend the term of the patent, subject to such restrictions, conditions and provisions, if any, as may be specified in the order, for such period (not exceeding five years or, in an exceptional case, ten years) as may be so specified; and any such order may be made notwithstanding that the term of the patent has previously expired.

(2) An application for an order under this section shall be made by petition after such advertisement as may be prescribed by rules of court, and shall be made not more than twelve nor less than six months before the expiration of the term of the patent or at such later time (not being later than the expiration of the said term) as the court may allow.

(3) Any person desiring to oppose the making of an order under this section, or to claim the inclusion therein of any restrictions, conditions or provisions, may within such period as may be prescribed by rules of court give notice of opposition to the court.

(4) On the hearing of any application under this section the applicant and any person by whom notice of opposition has been duly given shall be made parties to the proceeding; and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

(5) In considering any application under this section the court shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) Not more than one order shall be made under this section in respect of the same patent, but an order may be made under this section in respect of a patent in respect of which one or more orders have been made under the next following section.

Extension on ground of war loss.

24.—(1) If upon application made by a patentee in accordance with this section the court or the comptroller is satisfied that the patentee as such has suffered loss or damage (including loss of opportunity of dealing in or developing the invention) by reason of hostilities between His Majesty and any foreign state, the court or comptroller may by order extend the term of the patent subject to such restrictions, conditions and provisions, if any, as may be specified in the order, for such period (not exceeding ten years) as may be so specified; and any such order may be made notwithstanding that the term of the patent has previously expired.

(2) An application for an order under this section may be made at the option of the applicant to the court or to the comptroller: but if the comptroller considers that an application made to him raises issues of a kind which would be more fittingly decided by the court, he may if he thinks fit refer the application for decision by the court.

(3) An application under this section shall be made not more than twelve nor less than six months before the expiration of the term of the patent or at such later time as the court or comptroller may allow:

Provided that the court or comptroller shall not allow an application to be made later than the expiration of the said term unless satisfied that the applicant has been prevented from making the application before the expiration of that term by being on active service or by other circumstances arising by reason of any such hostilities as aforesaid.

(4) Where an application under this section is made to the court, it may be made by petition or by originating summons after such advertisement as may be prescribed by rules of court; and where an application under this section is made to the comptroller, it shall be made in such manner as may be prescribed by rules made by the Board of Trade under this Act.

(5) Any person desiring to oppose the making of an order under this section, or to claim the inclusion therein of any restrictions, conditions or provisions, may give notice of opposition to the court or, as the case may be, the comptroller—

(*a*) in the case of an application to the court, within such period as may be prescribed by rules of court; and

(*b*) in the case of an application to the comptroller, within such period as may be prescribed by rules made by the Board of Trade under this Act.

(6) On the hearing of any application under this section the applicant and any person by whom notice of opposition has been duly given shall be made parties to the proceeding; and in the case of an application to the court, the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

(7) Two or more orders may be made under this section in respect of the same patent, and an order may be made under this section in respect of a patent in respect of which an order has been made under the last foregoing section: but the aggregate term of any extensions granted in pursuance of orders made under this section shall not exceed ten years.

(8) No order shall be made under this section on the application of—

(*a*) a person who is a subject of such a foreign state as is mentioned in subsection (1) of this section; or

(*b*) a company the business of which is managed or controlled by such persons or is carried on wholly or mainly for the benefit of or on behalf of such persons, notwithstanding that the company may be registered within His Majesty's dominions;

and for the purpose of this section no account shall be taken of any loss or damage suffered by any person during any period during which he was such a subject as aforesaid, or by any company during any period during which its business was managed or controlled or carried on as aforesaid.

(9) An appeal shall lie from any decision of the comptroller under this section.

Extension on ground of war loss of licensee.

25. Subject to the provisions of the last foregoing section, an order for the extension of the term of a patent may be made under that section on the application of a person holding a licence from the patentee giving to the licensee, or to the licensee and persons authorised by him, to the exclusion of all other persons, permission to make, use, exercise and vend the invention, if the court or comptroller is satisfied that the licensee as such has suffered any such loss or damage as is mentioned in subsection (1) of that section.

Patents of addition.

26.—(1) Subject to the provisions of this section, where application is made for a patent in respect of any improvement in or modification of an invention (in this Act referred to as "the main invention") and the applicant also applies or has applied for a patent for that invention or is the patentee in respect thereof, the comptroller may, if the applicant so requests, grant the patent for the improvement or modification as a patent of addition.

(2) Subject to the provisions of this section, where an invention, being an improvement in or modification of another invention, is the subject of an independent patent and the patentee in respect of that patent is also the patentee in respect of the patent for the main invention, the comptroller may, if the patentee so requests, by order revoke the patent for the improvement or modification and grant to the patentee a patent of addition in respect thereof, bearing the same date as the date of the patent so revoked.

(3) A patent shall not be granted as a patent of addition unless the date of filing of the complete specification was the same as or later than the date of filing of the complete specification in respect of the main invention.

(4) A patent of addition shall not be sealed before the sealing of the patent for the main invention; and if the period within which, but for this provision, a request for the sealing of a patent of addition could be made under section nineteen of this Act expires before the period within which a request for the sealing of the patent for the main invention may be so made, the request for the sealing of the patent of addition may be made at any time within the last-mentioned period.

(5) A patent of addition shall be granted for a term equal to that of the patent for the main invention, or so much thereof as is unexpired, and shall remain in force during that term or until the previous cesser of the patent for the main invention and no longer:

Provided that—

(*a*) if the term of the patent for the main invention is extended under the foregoing provisions of this Act, the term of the patent of addition may also be extended accordingly; and

(*b*) if the patent for the main invention is revoked under this Act, the court or comptroller, as the case may be, may order that the patent of addition shall become an independent patent for the remainder of the term of the patent for the main invention, and thereupon the patent shall continue in force as an independent patent accordingly.

(6) No renewal fees shall be payable in respect of a patent of addition; but, if any such patent becomes an independent patent by virtue of an order under the last foregoing subsection, the same fees shall thereafter be payable, upon the same dates, as if the patent had been originally granted as an independent patent.

(7) The grant of a patent of addition shall not be refused, and a patent granted as a patent of addition shall not be revoked or invalidated, on the ground only that the invention claimed in the complete specification does not involve any inventive step having regard to any publication or use of—

(*a*) the main invention described in the complete specification relating thereto; or

(*b*) any improvement in or modification of the main invention described in the complete specification of a patent of addition to the patent for the main invention or of an application for such a patent of addition;

and the validity of a patent of addition shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

(8) An appeal shall lie from any decision of the comptroller under this section.

Restoration of lapsed patents and patent applications

Restoration of lapsed patents.

27.—(1) Where a patent has ceased to have effect by reason of a failure to pay any renewal fee within the prescribed period or within that period as extended under section twenty-two of this Act, and the comptroller is satisfied, upon application made within three years from the date on which the patent ceased to have effect, that the failure was unintentional and that no undue delay has occurred in the making or prosecution of the application, he shall by order restore the patent and any patent of addition specified in the application which has ceased to have effect on the cesser of that patent.

(2) An application under this section may be made by the person who was the patentee or by his personal representative; and where the patent was held by two or more persons jointly, the application may, with the leave of the comptroller, be made by one or more of them without joining the others.

(3) An application under this section shall contain a statement (to be verified in such manner as may be prescribed) fully setting out the circumstances which led to the failure to pay the renewal fee; and the comptroller may require from the applicant such further evidence as he may think necessary.

(4) If after hearing the applicant (if the applicant so requires or the comptroller thinks fit) the comptroller is satisfied that a prima facie case has been made out for an order under this section, he shall advertise the application in the Journal; and within the prescribed period any person may give notice to the comptroller of opposition thereto on either or both of the following grounds, that is to say—

(*a*) that the failure to pay the renewal fee was not unintentional; or

(*b*) that there has been undue delay in the making of the application.

(5) If notice of opposition is given within the period aforesaid, the comptroller shall notify the applicant, and shall give to him and to the opponent an opportunity to be heard before he decides the case.

(6) If no notice of opposition is given within the period aforesaid or if, in the case of opposition, the decision of the comptroller is in favour of the applicant, the comptroller shall, upon payment of any unpaid renewal fee and such additional fee as may be prescribed, make the order in accordance with the application.

(7) An order under this section for the restoration of a patent—

(*a*) may be made subject to such conditions as the comptroller thinks fit, including in particular a condition requiring the registration in the register of patents of any matter in respect of which the provisions of this Act as to entries in that register have not been complied with; and

(*b*) shall contain such provision as may be prescribed for the protection of persons who may have begun to avail themselves of the patented invention between the date when the patent ceased to have effect and the date of the application under this section;

and if any condition of an order under this section is not complied with by the patentee, the comptroller may, after giving to the patentee an opportunity to be heard, revoke the order and give such directions consequential on the revocation as he thinks fit.

(8) An appeal shall lie from any decision of the comptroller under this section.

Restoration of lapsed applications for patents.

28.—(1) Where a patent has not been sealed by reason only that the prescribed request was not made within the time allowed for that purpose by or under section nineteen of this Act, then if the comptroller is satisfied, upon application made within six months after the expiration of that time by the applicant for the patent, that the failure to make the request was unintentional, he may order the patent to be sealed notwithstanding that the prescribed request was not made as aforesaid.

(2) An application under this section shall contain a statement (to be verified in such manner as may be prescribed) fully setting out the circumstances which led to the failure to make the prescribed request; and the comptroller may require from the applicant such further evidence as he may think necessary.

(3) If after hearing the applicant (if the applicant so requires or the comptroller thinks fit) the comptroller is satisfied that a prima facie case has been made out for an order under this section, he shall advertise the application in the Journal; and within the prescribed period any person may give notice to the comptroller of opposition thereto on the ground that the failure to make the prescribed request was not unintentional.

(4) If notice of opposition is given within the period aforesaid, the comptroller shall notify the applicant and shall give to him and to the opponent an opportunity to be heard before he decides the case.

(5) If no notice of opposition is given within the period aforesaid, or if in the case of opposition the decision of the comptroller is in favour of the applicant, the comptroller shall, upon payment

of the fee prescribed in respect of the making of the request for sealing and of such additional fee as may be prescribed, make the order in accordance with the application.

(6) An order under this section for the sealing of a patent shall contain such provision as may be prescribed for the protection of persons who may have begun to avail themselves of the invention between the date when the time allowed by or under section nineteen of this Act for making the prescribed request expired and the date of the application under this section.

(7) An appeal shall lie from any decision of the comptroller under this section.

Amendment of specifications

Amendment of specification with leave of comptroller.

29.—(1) Subject to the provisions of section thirty-one of this Act, the comptroller may, upon application made under this section by a patentee, or by an applicant for a patent at any time after the acceptance of the complete specification, allow the complete specification to be amended subject to such conditions, if any, as the comptroller thinks fit:

Provided that the comptroller shall not allow a specification to be amended under this section upon an application made while any action before the court for infringement of the patent or any proceeding before the court for the revocation of the patent is pending.

(2) Every application for leave to amend a specification under this section shall state the nature of the proposed amendment and shall give full particulars of the reasons for which the application is made.

(3) Any application for leave to amend a specification under this section, and the nature of the proposed amendment, shall be advertised in the prescribed manner:

Provided that where the application is made before the publication of the complete specification, the comptroller may, if he thinks fit, dispense with advertisement under this subsection or direct that advertisement shall be postponed until the complete specification is published.

(4) Within the prescribed period after the advertisement of an application under this section, any person may give notice to the comptroller of opposition thereto; and where such a notice is given within the period aforesaid, the comptroller shall notify the person by whom the application under this section is made and shall give to that person and to the opponent an opportunity to be heard before he decides the case.

(5) An appeal shall lie from any decision of the comptroller under this section.

(6) This section shall not apply in relation to any amendment of a specification effected in proceedings in opposition to the grant of a patent or on a reference to the comptroller of a dispute as to the infringement or validity of a claim, or effected in pursuance of any provision of this Act authorising the comptroller to direct a reference to another specification or patent to be inserted, or to refuse to grant a patent, or to revoke a patent, unless the specification is amended to his satisfaction.

Amendment of specification with leave of the court.

30.—(1) In any action for infringement of a patent or any proceeding before the court for the revocation of a patent, the court may, subject to the provisions of the next following section, by order allow the patentee to amend his complete specification in such manner, and subject to such terms as to costs, advertisements or otherwise, as the court may think fit; and if in any such proceedings for revocation the court decides that the patent is invalid, the court may allow the specification to be amended under this section instead of revoking the patent.

(2) Where an application for an order under this section is made to the court, the applicant shall give notice of the application to the comptroller, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

Supplementary provisions as to amendment of specification.

31.—(1) After the acceptance of a complete specification, no amendment thereof shall be effected except by way of disclaimer, correction or explanation, and no amendment thereof shall be allowed, except for the purpose of correcting an obvious mistake, the effect of which would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before the amendment, or that any claim of the specification as amended would not fall wholly within the scope of a claim of the specification before the amendment.

(2) Where, after the date of the publication of a complete specification, any amendment of the specification is allowed or approved by the comptroller, the court or the Appeal Tribunal under this Act, the right of the patentee or applicant to make the amendment shall not be called in question except on the ground of fraud; and the amendment shall in all courts and for all purposes be deemed to form part of the specification:

Provided that in construing the specification as amended reference may be made to the specification as originally published.

(3) Where, after the date of the publication of a complete specification, any amendment of the specification is allowed or approved as aforesaid, the fact that the specification has been amended shall be advertised in the Journal.

Revocation and surrender of patents

Revocation of patent by court.

32.—(1) Subject to the provisions of this Act, a patent may, on the petition of any person interested, be revoked by the court on any of the following grounds, that is to say,—

(*a*) that the invention, so far as claimed in any claim of the complete specification, was claimed in a valid claim of earlier priority date contained in the complete specification of another patent granted in the United Kingdom;

(*b*) that the patent was granted on the application of a person not entitled under the provisions of this Act to apply therefor;

(*c*) that the patent was obtained in contravention of the rights of the petitioner or any person under or through whom he claims;

(*d*) that the subject of any claim of the complete specification is not an invention within the meaning of this Act;

(*e*) that the invention, so far as claimed in any claim of the complete specification, is not new having regard to what was known or used, before the priority date of the claim, in the United Kingdom;

(*f*) that the invention, so far as claimed in any claim of the complete specification, is obvious and does not involve any inventive step having regard to what was known or used, before the priority date of the claim, in the United Kingdom;

(*g*) that the invention, so far as claimed in any claim of the complete specification, is not useful;

(*h*) that the complete specification does not sufficiently and fairly describe the invention and the method by which it is to be performed, or does not disclose the best method of performing it which was known to the applicant for the patent and for which he was entitled to claim protection;

(*i*) that the scope of any claim of the complete specification is not sufficiently and clearly defined or that any claim of the complete specification is not fairly based on the matter disclosed in the specification;

(*j*) that the patent was obtained on a false suggestion or representation;

(*k*) that the primary or intended use or exercise of the invention is contrary to law;

(*l*) that the invention, so far as claimed in any claim of the complete specification, was secretly used in the United Kingdom, otherwise than as mentioned in subsection (2) of this section, before the priority date of that claim.

(2) For the purposes of paragraph (*l*) of subsection (1) of this section, no account shall be taken of any use of the invention—

(*a*) for the purpose of reasonable trial or experiment only; or

(*b*) by a Government department or any person authorised by a Government department, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention directly or indirectly to a Government department or person authorised as aforesaid; or

(*c*) by any other person, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention, and without the consent or acquiescence of the applicant or of any person from whom he derives title;

and for the purposes of paragraph (*e*) or paragraph (*f*) of the said subsection (1) no account shall be taken of any secret use.

(3) Without prejudice to the provisions of subsection (1) of this section, a patent may be revoked by the court on the petition of a Government department, if the court is satisfied that the patentee has without reasonable cause failed to comply with a request of the department to make, use or exercise the patented invention for the services of the Crown upon reasonable terms.

(4) Every ground on which a patent may be revoked shall be available as a ground of defence in any proceeding for the infringement of the patent.

Revocation of patent by comptroller.

33.—(1) At any time within twelve months after the sealing of a patent, any person interested who did not oppose the grant of the patent may apply to the comptroller for an order revoking the patent on any one or more of the grounds upon which the grant of the patent could have been opposed:

Provided that when an action for infringement, or proceedings for the revocation, of a patent are pending in any court, an application to the comptroller under this section shall not be made except with the leave of the court.

(2) Where an application is made under this section, the comptroller shall notify the patentee and shall give to the applicant and the patentee an opportunity to be heard before deciding the case.

(3) If on an application under this section the comptroller is satisfied that any of the grounds aforesaid are established, he may by order direct that the patent shall be revoked either unconditionally or unless within such time as may be specified in the order the complete specification is amended to his satisfaction:

Provided that the comptroller shall not make an order for the unconditional revocation of a patent under this section

unless the circumstances are such as would have justified him in refusing to grant the patent in proceedings under section fourteen of this Act.

(4) An appeal shall lie from any decision of the comptroller under this section.

Surrender of patent.

34.—(1) A patentee may at any time by notice given to the comptroller offer to surrender his patent.

(2) Where such an offer is made the comptroller shall advertise the offer in the prescribed manner; and within the prescribed period after such advertisement any person interested may give notice to the comptroller of opposition to the surrender.

(3) Where any such notice of opposition is duly given the comptroller shall notify the patentee.

(4) If the comptroller is satisfied, after hearing the patentee and any opponent, if desirous of being heard, that the patent may properly be surrendered, he may accept the offer and by order revoke the patent.

(5) An appeal shall lie from any decision of the comptroller under this section.

Voluntary endorsement of patent

Endorsement of patent "licences of right".

35.—(1) At any time after the sealing of a patent the patentee may apply to the comptroller for the patent to be endorsed with the words "licences of right"; and where such an application is made, the comptroller shall notify the application to any person entered on the register as entitled to an interest in the patent, and if satisfied, after giving any such person an opportunity to be heard, that the patentee is not precluded by contract from granting licences under the patent, cause the patent to be endorsed accordingly.

(2) Where a patent is endorsed under this section—

(*a*) any person shall, at any time thereafter, be entitled as of right to a licence under the patent upon such terms as may, in default of agreement, be settled by the comptroller on the application of the patentee or the person requiring the licence;

(*b*) the comptroller may, on the application of the holder of any licence granted under the patent before the endorsement, order the licence to be exchanged for a licence to be granted by virtue of the endorsement upon terms to be settled as aforesaid;

(*c*) if in proceedings for infringement of the patent (otherwise than by the importation of goods) the defendant undertakes to take a licence upon terms to be settled

by the comptroller as aforesaid, no injunction shall be granted against him, and the amount (if any) recoverable against him by way of damages shall not exceed double the amount which would have been payable by him as licensee if such a licence had been granted before the earliest infringement;

(*d*) the renewal fees payable in respect of the patent after the date of the endorsement shall be one half of the renewal fees which would be payable if the patent were not so endorsed.

(3) The licensee under any licence granted by virtue of the endorsement of a patent under this section shall (unless, in the case of a licence the terms of which are settled by agreement, the licence otherwise expressly provides) be entitled to call upon the patentee to take proceedings to prevent any infringement of the patent; and if the patentee refuses or neglects to do so within two months after being so called upon, the licensee may institute proceedings for the infringement in his own name as if he were patentee, making the patentee a defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(4) An application for the endorsement of a patent under this section shall contain a statement (to be verified in such manner as may be prescribed) that the patentee is not precluded by contract from granting licences under the patent; and the comptroller may require from the applicant such further evidence as he may think necessary.

(5) An application made under this section for the endorsement of a patent of addition shall be treated as an application for the endorsement of the patent for the main invention also, and an application made under this section for the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the endorsement of the patent of addition also; and where a patent of addition is granted in respect of a patent already endorsed under this section, the patent of addition shall also be so endorsed.

(6) All endorsements of patents under this section shall be entered in the register of patents and shall be published in the Journal and in such other manner as the comptroller thinks desirable for bringing the endorsement to the notice of manufacturers.

(7) An appeal shall lie from any decision of the comptroller under this section.

Cancellation of endorsement under section 35.

36.—(1) At any time after a patent has been endorsed under the last foregoing section, the patentee may apply to the comptroller for cancellation of the endorsement; and where such an application is made and the balance paid of all renewal fees which would have been payable if the patent had not been endorsed, the comptroller may, if satisfied that there is no existing licence under the patent or that all licensees under the patent consent to the application, cancel the endorsement accordingly.

(2) Within the prescribed period after a patent has been endorsed as aforesaid, any person who claims that the patentee is, and was at the time of the endorsement, precluded by a contract in which the claimant is interested from granting licences under the patent may apply to the comptroller for cancellation of the endorsement.

(3) Where the comptroller is satisfied, on application made under the last foregoing subsection, that the patentee is and was precluded as aforesaid, he shall cancel the endorsement; and thereupon the patentee shall be liable to pay, within such period as may be prescribed, a sum equal to the balance of all renewal fees which would have been payable if the patent had not been endorsed, and if that sum is not paid within that period the patent shall cease to have effect at the expiration of that period.

(4) Where the endorsement of a patent is cancelled under this section, the rights and liabilities of the patentee shall thereafter be the same as if the endorsement had not been made.

(5) The comptroller shall advertise in the prescribed manner any application made to him under this section; and within the prescribed period after such advertisement—

(*a*) in the case of an application under subsection (1) of this section, any person interested; and

(*b*) in the case of an application under subsection (2) of this section, the patentee,

may give notice to the comptroller of opposition to the cancellation.

(6) Where any such notice of opposition is given, the comptroller shall notify the applicant, and shall give to the applicant and the opponent an opportunity to be heard before deciding the case.

(7) An application made under this section for the cancellation of the endorsement of a patent of addition shall be treated as an application for the cancellation of the endorsement of the patent for the main invention also, and an application made under this section for the cancellation of the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the cancellation of the endorsement of the patent of addition also.

(8) An appeal shall lie from any decision of the comptroller under this section.

Compulsory licences, etc.

Compulsory endorsement.

37.—(1) At any time after the expiration of three years from the date of the sealing of a patent, any person interested may apply to the comptroller upon any one or more of the grounds specified in the next following subsection for a licence under the patent or for the endorsement of the patent with the words "licences of right."

(2) The grounds upon which application may be made for an order under this section are as follows, that is to say:—

(*a*) that the patented invention, being capable of being commercially worked in the United Kingdom, is not being commercially worked therein or is not being so worked to the fullest extent that is reasonably practicable;

(*b*) that a demand for the patented article in the United Kingdom is not being met on reasonable terms, or is being met to a substantial extent by importation;

(*c*) that the commercial working of the invention in the United Kingdom is being prevented or hindered by the importation of the patented article;

(*d*) that by reason of the refusal of the patentee to grant a licence or licences on reasonable terms—

(i) a market for the export of the patented article manufactured in the United Kingdom is not being supplied; or

(ii) the working or efficient working in the United Kingdom of any other patented invention which makes a substantial contribution to the art is prevented or hindered; or

(iii) the establishment or development of commercial or industrial activities in the United Kingdom is unfairly prejudiced;

(*e*) that by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, the manufacture, use or sale of materials not protected by the patent, or the establishment or development of commercial or industrial activities in the United Kingdom is unfairly prejudiced.

(3) Subject as hereinafter provided, the comptroller may, if satisfied that any of the grounds aforesaid are established, make an order in accordance with the application; and where the order is for the grant of a licence, it may require the licence to be granted upon such terms as the comptroller thinks fit:

Provided that—

(*a*) where the application is made on the ground that the patented invention is not being commercially worked in the United Kingdom or is not being worked to the fullest extent that is reasonably practicable, and it appears to the comptroller that the time which has elapsed since the sealing of the patent has for any reason been insufficient to enable it to be so worked, he may by order adjourn the application for such period as will in his opinion give sufficient time for the invention to be so worked;

(*b*) an order shall not be made under this section for the endorsement of a patent on the ground that a market for the export of the patented article is not being supplied, and any licence granted under this section on that ground shall contain such provisions as appear to the comptroller to be expedient for restricting the countries in which the patented article may be sold or used by the licensee;

(*c*) no order shall be made under this section in respect of a patent on the ground that the working or efficient working in the United Kingdom of another patented invention is prevented or hindered unless the comptroller is satisfied that the patentee in respect of that other invention is able and willing to grant to the patentee and his licensees a licence in respect of that other invention on reasonable terms.

(4) An application under this section may be made by any person notwithstanding that he is already the holder of a licence under the patent; and no person shall be estopped from alleging any of the matters specified in subsection (2) of this section by reason of any admission made by him, whether in such a licence or otherwise, or by reason of his having accepted such a licence.

(5) In this section the expression " patented article " includes any article made by a patented process.

Provisions as to licences under section 37.

38.—(1) Where the comptroller is satisfied, on application made under the last foregoing section, that the manufacture, use or sale of materials not protected by the patent is unfairly prejudiced by reason of conditions imposed by the patentee upon the grant of licences under the patent, or upon the purchase, hire or use of the patented article or process, he may, subject to the provisions of that section, order the grant of licences under the patent to such customers of the applicant as he thinks fit as well as to the applicant.

(2) Where an application under the last foregoing section is made by a person being the holder of a licence under the patent, the comptroller may, if he makes an order for the grant of a licence to the applicant, order the existing licence to be cancelled, or may, if he thinks fit, instead of making an order for the grant of a licence to the applicant, order the existing licence to be amended.

(3) Where on an application under the last foregoing section the comptroller orders the grant of a licence, he may direct that the licence shall operate—

(*a*) to deprive the patentee of any right which he may have as patentee to make, use, exercise or vend the invention or to grant licences under the patent;

(*b*) to revoke all existing licences in respect of the invention.

(4) Subsection (3) of section thirty-five of this Act shall apply to any licence granted in pursuance of an order under the last foregoing section as it applies to a licence granted by virtue of the said section thirty-five.

Exercise of powers on applications under section 37.

39.—(1) The powers of the comptroller upon an application under section thirty-seven of this Act shall be exercised with a view to securing the following general purposes, that is to say:—

(*a*) that inventions which can be worked on a commercial scale in the United Kingdom and which should in the public interest be so worked shall be worked therein without undue delay and to the fullest extent that is reasonably practicable;

(*b*) that the inventor or other person beneficially entitled to a patent shall receive reasonable remuneration having regard to the nature of the invention;

(*c*) that the interests of any person for the time being working or developing an invention in the United Kingdom under the protection of a patent shall not be unfairly prejudiced.

(2) Subject to the foregoing subsection, the comptroller shall, in determining whether to make an order in pursuance of any such application, take account of the following matters, that is to say:—

(*a*) the nature of the invention, the time which has elapsed since the sealing of the patent and the measures already taken by the patentee or any licensee to make full use of the invention;

(*b*) the ability of any person to whom a licence would be granted under the order to work the invention to the public advantage; and

(*c*) the risks to be undertaken by that person in providing capital and working the invention if the application is granted;

but shall not be required to take account of matters subsequent to the making of the application.

Endorsement etc. on application of Crown

40.—(1) At any time after the expiration of three years from the date of the sealing of a patent, any Government department may apply to the comptroller upon any one or more of the grounds specified in section thirty-seven of this Act for the endorsement of the patent with the words "licences of right" or for the grant to any person specified in the application of a licence under the patent; and the comptroller may, if satisfied that any of those grounds are established, make an order in accordance with the application.

(2) Subsections (3) and (5) of section thirty-seven of this Act and sections thirty-eight and thirty-nine of this Act shall, so far as applicable, apply in relation to an application and an order under the last foregoing subsection as they apply in relation to an application and an order under the said section thirty-seven.

(3) Where according to a report of the Monopolies and Restrictive Practices Commission as laid before Parliament under section nine of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, conditions to which that Act applies prevail in respect of the supply of goods of any description which consist of or include patented articles, or in respect of exports of such goods, or in respect of the application to goods of any description of any process which consists of or includes a patented process, and, not earlier than three months from the date on which the report was laid before the Commons House of Parliament, a resolution has been passed by that House declaring that those conditions or any things which, according to the report as laid before Parliament, are done by the parties concerned, as a result of or for the purpose of preserving those conditions, operate or may be expected to operate against the public interest, a competent authority within the meaning of the said Act of 1948 may apply to the comptroller for an order under the next following subsection in respect of the patent.

(4) If upon an application under the last foregoing subsection it appears to the comptroller that the matters which, according to the resolution mentioned in that subsection, operate or may be expected to operate against the public interest include—

(*a*) any conditions in a licence or licences granted by the patentee under the patent restricting the use of the invention by the licensee or the right of the patentee to grant other licences under the patent; or

(*b*) a refusal by the patentee to grant licences under the patent on reasonable terms,

he may by order cancel or modify any such condition as aforesaid or may, if he thinks fit, instead of making such an order or in addition to making such an order, order the patent to be endorsed with the words " licences of right ".

Inventions relating to food or medicine, etc.

41.—(1) Without prejudice to the foregoing provisions of this Act, where a patent is in force in respect of—

(*a*) a substance capable of being used as food or medicine or in the production of food or medicine; or

(*b*) a processs for producing such a substance as aforesaid; or

(*c*) any invention capable of being used as or as part of a surgical or curative device,

the comptroller shall, on application made to him by any person interested, order the grant to the applicant of a licence under the patent on such terms as he thinks fit, unless it appears to him that there are good reasons for refusing the application.

(2) In settling the terms of licences under this section the comptroller shall endeavour to secure that food, medicines, and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees' deriving a reasonable advantage from their patent rights.

(3) A licence granted under this section shall entitle the licensee to make, use, exercise and vend the invention as a food or medicine, or for the purposes of the production of food or medicine or as or as part of a surgical or curative device, but for no other purposes.

Revocation of patent.

42.—(1) Where an order for the grant of a licence under a patent has been made in pursuance of an application under section thirty-seven of this Act, any person interested may, at any time after the expiration of two years from the date of that order, apply to the comptroller for the revocation of the patent upon any of the grounds specified in subsection (2) of the said section thirty-seven; and if upon any such application the comptroller is satisfied—

(*a*) that any of the said grounds are established; and

(*b*) that the purposes for which an order may be made in pursuance of an application under the said section thirty-seven could not be achieved by the making of any such order as is authorised to be made in pursuance of such an application,

he may order the patent to be revoked.

(2) An order for the revocation of a patent under this section may be made so as to take effect either unconditionally or in the event of failure to comply, within such reasonable period as may be specified in the order, with such conditions as may be imposed by the order with a view to achieving the purposes aforesaid; and the comptroller may, on reasonable cause shown in any case, by subsequent order extend any period so specified.

Procedure on application under sections 37 to 42.

43.—(1) Every application under sections thirty-seven to forty-two of this Act shall specify the nature of the order sought by the applicant and shall contain a statement (to be verified in such manner as may be prescribed) setting out the nature of the applicant's interest (if any) and the facts upon which the application is based.

(2) Where the comptroller is satisfied, upon consideration of any such application, that a prima facie case has been made out for the making of an order, he shall direct the applicant to serve copies of the application upon the patentee and any other persons appearing from the register of patents to be interested in the patent in respect of which the application is made, and shall advertise the application in the Journal.

(3) The patentee or any other person desiring to oppose the application may, within such time as may be prescribed or within such further time as the comptroller may on application (made either before or after the expiration of the prescribed time) allow, give to the comptroller notice of opposition.

(4) Any such notice of opposition shall contain a statement (to be verified in such manner as may be prescribed) setting out the grounds on which the application is opposed.

(5) Where any such notice of opposition is duly given, the comptroller shall notify the applicant, and shall, subject to the provisions of the next following section with respect to arbitration, give to the applicant and the opponent an opportunity to be heard before deciding the case.

(6) In any proceedings on an application made in relation to a patent under sections thirty-seven to forty-two of this Act, any statement with respect to the making, using, exercising or vending of the patented invention, or with respect to the grant or refusal of licences under the patent, contained in a report of the Monopolies and Restrictive Practices Commission as laid before Parliament under section nine of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, shall be prima facie evidence of the matters stated.

Appeal and references to arbitrator.

44.—(1) An appeal shall lie from any order made by the comptroller in pursuance of an application under sections thirty-seven to forty-two of this Act.

(2) On any appeal under this section the Attorney General or such other counsel as he may appoint shall be entitled to appear and be heard.

(3) Where any such application is opposed in accordance with the last foregoing section, and either—

(*a*) the parties consent; or

(*b*) the proceedings require a prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the comptroller conveniently be made before him,

the comptroller may at any time order the whole proceedings, or any question or issue of fact arising therein, to be referred to an arbitrator agreed on by the parties, or, in default of agreement, appointed by the comptroller.

(4) Where the whole proceedings are referred as aforesaid, section nine of the Arbitration Act, 1934 (which relates to the statement of cases by arbitrators) shall not apply to the arbitration; but unless the parties otherwise agree before the award of the arbitrator is made, an appeal shall lie from the award to the Appeal Tribunal.

(5) Where a question or issue of fact is referred as aforesaid, the arbitrator shall report his findings to the comptroller.

Supplementary provisions.

45.—(1) Any order under this Act for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were a deed, executed by the patentee and all other necessary parties, granting a licence in accordance with the order.

(2) An order may be made on an application under sections thirty-seven to forty of this Act for the endorsement of a patent with the words " licences of right " notwithstanding any contract which would have precluded the endorsement of the patent on the application of the patentee under section thirty-five of this Act; and any such order shall for all purposes have the same effect as an endorsement made in pursuance of an application under the said section thirty-five.

(3) No order shall be made in pursuance of any application under sections thirty-seven to forty-two of this Act which would be at variance with any treaty, convention, arrangement or engagement applying to the United Kingdom and any convention country.

Use of patented inventions for services of the Crown

Use of patented inventions for services of the Crown.

46.—(1) Notwithstanding anything in this Act, any Government department, and any person authorised in writing by a Government department, may make, use and exercise any patented invention for the services of the Crown in accordance with the following provisions of this section.

(2) If and so far as the invention has before the priority date of the relevant claim of the complete specification been duly recorded by or tried by or on behalf of a Government department otherwise than in consequence of the communication thereof directly or indirectly by the patentee or any person from whom he derives title, any use of the invention by virtue of this section may be made free of any royalty or other payment to the patentee.

(3) If and so far as the invention has not been so recorded or tried as aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Government department and the patentee with the approval of the Treasury, or as may in default of agreement be determined by the court on a reference under section forty-eight of this Act.

(4) The authority of a Government department in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.

(5) Where any use of an invention is made by or with the authority of a Government department under this section, then, unless it appears to the department that it would be contrary to the public interest so to do, the department shall notify the patentee as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

(6) For the purposes of this and the next following section, any use of an invention for the supply to the government of any country outside the United Kingdom, in pursuance of any agreement or arrangement between His Majesty's Government in the United Kingdom and the government of that country, of articles required for the defence of that country shall be deemed to be a use of the invention for the services of the Crown; and the power of a Government department or a person authorised by a Government department under this section to make, use and exercise an invention shall include power—

(*a*) to sell such articles to the government of any country in pursuance of any such agreement or arrangement as aforesaid; and

(*b*) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

(7) The purchaser of any articles sold in the exercise of powers conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of His Majesty.

Rights of third parties in respect of Crown use.

47.—(1) In relation to any use of a patented invention, or an invention in respect of which an application for a patent is pending, made for the services of the Crown—

(*a*) by a Government department or a person authorised by a Government department under the last foregoing section; or

(*b*) by the patentee or applicant for the patent to the order of a Government department,

the provisions of any licence, assignment or agreement made, whether before or after the commencement of this Act, between the patentee or applicant for the patent, or any person who derives title from him or from whom he derives title, and any person other than a Government department shall be of no effect so far as those provisions restrict or regulate the use of the invention, or any model, document or information relating thereto, or provide for the making of payments in respect of any such use, or calculated by reference thereto; and the reproduction or publication of any model or document in connection with the said use shall not be deemed to be an infringement of any copyright subsisting in the model or document.

(2) Where an exclusive licence granted otherwise than for royalties or other benefits determined by reference to the use of the invention is in force under the patent, then—

(*a*) in relation to any use of the invention which, but for the provisions of this and the last foregoing section, would constitute an infringement of the rights of the licensee, subsection (3) of the last foregoing section shall have effect as if for the reference to the patentee there were substituted a reference to the licensee; and

(*b*) in relation to any use of the invention by the licensee by virtue of an authority given under the last foregoing section, that section shall have effect as if the said subsection (3) were omitted.

(3) Subject to the provisions of the last foregoing subsection, where the patent, or the right to apply for or obtain the patent, has been assigned to the patentee in consideration of royalties or other benefits determined by reference to the use of the invention, then—

(*a*) in relation to any use of the invention by virtue of section forty-six of this Act, subsection (3) of that section shall have effect as if the reference to the patentee included a reference to the assignor, and any sum payable by virtue of that subsection shall be divided

between the patentee and the assignor in such proportion as may be agreed upon between them or as may in default of agreement be determined by the court on a reference under the next following section; and

(*b*) in relation to any use of the invention made for the services of the Crown by the patentee to the order of a Government department, subsection (3) of section forty-six of this Act shall have effect as if that use were made by virtue of an authority given under that section.

(4) Where, under subsection (3) of section forty-six of this Act, payments are required to be made by a Government department to a patentee in respect of any use of an invention, any person, being the holder of an exclusive licence under the patent (not being such a licence as is mentioned in subsection (2) of this section) authorising him to make that use of the invention, shall be entitled to recover from the patentee such part (if any) of those payments as may be agreed upon between that person and the patentee, or as may in default of agreement be determined by the court under the next following section to be just having regard to any expenditure incurred by that person—

(*a*) in developing the said invention; or

(*b*) in making payments to the patentee, other than royalties or other payments determined by reference to the use of the invention, in consideration of the licence;

and if, at any time before the amount of any such payment has been agreed upon between the Government department and the patentee, that person gives notice in writing of his interest to the department, any agreement as to the amount of that payment shall be of no effect unless it is made with his consent.

Reference of disputes as to Crown use.

48.—(1) Any dispute as to the exercise by a Government department or a person authorised by a Government department of the powers conferred by section forty-six of this Act, or as to terms for the use of an invention for the services of the Crown thereunder, or as to the right of any person to receive any part of a payment made in pursuance of subsection (3) of that section, may be referred to the court by either party to the dispute in such manner as may be prescribed by rules of court.

(2) In any proceedings under this section to which a Government department are a party, the department may—

(*a*) if the patentee is a party to the proceedings, apply for revocation of the patent upon any ground upon which a patent may be revoked under section thirty-two of this Act;

(*b*) in any case, put in issue the validity of the patent without applying for its revocation.

(3) If in such proceedings as aforesaid any question arises whether an invention has been recorded or tried as mentioned in section forty-six of this Act, and the disclosure of any document recording the invention, or of any evidence of the trial thereof, would in the opinion of the department be prejudicial to the public interest, the disclosure may be made confidentially to counsel for the other party or to an independent expert mutually agreed upon.

(4) In determining under this section any dispute between a Government department and any person as to terms for the use of an invention for the services of the Crown, the court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the invention in question.

(5) In any proceedings under this section the court may at any time order the whole proceedings or any question or issue of fact arising therein to be referred to a special or official referee or an arbitrator on such terms as the court may direct; and references to the court in the foregoing provisions of this section shall be construed accordingly.

Special provisions as to Crown use during emergency.

49.—(1) During any period of emergency within the meaning of this section, the powers exercisable in relation to an invention by a Government department, or a person authorised by a Government department under section forty-six of this Act, shall include power to make, use, exercise and vend the invention for any purpose which appears to the department necessary or expedient—

(*a*) for the efficient prosecution of any war in which His Majesty may be engaged;

(*b*) for the maintenance of supplies and services essential to the life of the community;

(*c*) for securing a sufficiency of supplies and services essential to the well-being of the community;

(*d*) for promoting the productivity of industry, commerce and agriculture;

(*e*) for fostering and directing exports and reducing imports, or imports of any classes, from all or any countries and for redressing the balance of trade;

(*f*) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community; or

(*g*) for assisting the relief of suffering and the restoration and distribution of essential supplies and services in

any part of His Majesty's dominions or any foreign countries that are in grave distress as the result of war;

and any reference in that section or in section forty-seven or section forty-eight of this Act to the services of the Crown shall be construed as including a reference to the purposes aforesaid.

(2) In this section the expression "period of emergency" means the period ending with the tenth day of December, nineteen hundred and fifty, or such later date as may be prescribed by Order in Council, and any other period beginning on such date as may be declared by Order in Council to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency for the purposes of this section.

(3) A draft of any Order in Council under this section shall be laid before Parliament; and the draft shall not be submitted to His Majesty except in pursuance of an Address presented by each House of Parliament praying that the Order be made.

Anticipation, etc.

Previous publication.

50.—(1) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that the invention was published in the United Kingdom—

(*a*) in a specification filed in pursuance of an application for a patent made in the United Kingdom and dated more than fifty years before the date of filing of the first-mentioned specification;

(*b*) in a specification describing the invention for the purposes of an application for protection in any country outside the United Kingdom made more than fifty years before that date; or

(*c*) in any abridgement of or extract from any such specification published under the authority of the comptroller or of the government of any country outside the United Kingdom.

(2) Subject as hereinafter provided, an invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that the invention was published before the priority date of the relevant claim of the specification, if the patentee or applicant for the patent proves—

(*a*) that the matter published was obtained from him or (where he is not himself the true and first inventor) from any person from whom he derives title, and was published without his consent or the consent of any such person; and

(*b*) where the patentee or applicant for the patent or any person from whom he derives title learned of the publication before the date of the application for the

patent or (in the case of a convention application) before the date of the application for protection in a convention country, that the application or the application in a convention country, as the case may be, was made as soon as reasonably practicable thereafter:

Provided that this subsection shall not apply if the invention was before the priority date of the claim commercially worked in the United Kingdom, otherwise than for the purpose of reasonable trial, either by the patentee or applicant for the patent or any person from whom he derives title or by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title.

(3) Where a complete specification is filed in pursuance of an application for a patent made by a person being the true and first inventor or deriving title from him, an invention claimed in that specification shall not be deemed to have been anticipated by reason only of any other application for a patent in respect of the same invention, made in contravention of the rights of that person, or by reason only that after the date of filing of that other application the invention was used or published, without the consent of that person, by the applicant in respect of that other application, or by any other person in consequence of any disclosure of the invention by that applicant.

(4) Notwithstanding anything in this Act, the comptroller shall not refuse to accept a complete specification or to grant a patent, and a patent shall not be revoked or invalidated, by reason only of any circumstances which, by virtue of this section, do not constitute an anticipation of the invention claimed in the specification.

Previous communication, display or working.

51.—(1) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of the communication of the invention to a Government department or to any person authorised by a Government department to investigate the invention or its merits, or of anything done, in consequence of such a communication, for the purpose of the investigation.

(2) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of—

(*a*) the display of the invention with the consent of the true and first inventor at an exhibition certified by the Board of Trade for the purposes of this section, or the use thereof with his consent for the purposes of such an exhibition in the place where it is held.

(*b*) the publication of any description of the invention in consequence of the display or use of the invention at any such exhibition as aforesaid;

(*c*) the use of the invention, after it has been displayed or used at any such exhibition as aforesaid and during the period of the exhibition, by any person without the consent of the true and first inventor; or

(*d*) the description of the invention in a paper read by the true and first inventor before a learned society or published with his consent in the transactions of such a society,

if the application for the patent is made by the true and first inventor or a person deriving title from him not later than six months after the opening of the exhibition or the reading or publication of the paper as the case may be.

(3) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only that, at any time within one year before the priority date of the relevant claim of the specification, the invention was publicly worked in the United Kingdom—

(*a*) by the patentee or applicant for the patent or any person from whom he derives title; or

(*b*) by any other person with the consent of the patentee or applicant for the patent or any person from whom he derives title,

if the working was effected for the purpose of reasonable trial only and if it was reasonably necessary, having regard to the nature of the invention, that the working for that purpose should be effected in public.

(4) Notwithstanding anything in this Act, the comptroller shall not refuse to accept a complete specification or to grant a patent, and a patent shall not be revoked or invalidated, by reason only of any circumstances which, by virtue of this section, do not constitute an anticipation of the invention claimed in the specification.

Use and publication after provisional specification or foreign application.

52.—(1) Where a complete specification is filed or proceeded with in pursuance of an application which was accompanied by a provisional specification or by a specification treated by virtue of a direction under subsection (4) of section three of this Act as a provisional specification, then, notwithstanding anything in this Act, the comptroller shall not refuse to grant the patent, and the patent shall not be revoked or invalidated by reason only that any matter described in the provisional specification or in the specification treated as aforesaid as a provisional specification was used or published at any time after the date of filing of that specification.

(2) Where a complete specification is filed in pursuance of a convention application, then, notwithstanding anything in this Act, the comptroller shall not refuse to grant the patent, and the patent shall not be revoked or invalidated by reason only that any matter disclosed in any application for protection in a convention country upon which the convention application is founded was used or published at any time after the date of that application for protection.

Priority date in case of obtaining.

53. Where an application is made for a patent for an invention which has been claimed in a complete specification filed in pursuance of any other such application, then if—

(*a*) the comptroller has refused to grant a patent in pursuance of that other application on the ground specified in paragraph (*a*) of subsection (1) of section fourteen of this Act;

(*b*) a patent granted in pursuance of that other application has been revoked by the court or the comptroller on the ground specified in paragraph (*a*) of subsection (1) of section fourteen or paragraph (*c*) of subsection (1) of section thirty-two of this Act; or

(*c*) the complete specification filed in pursuance of the said other application has, in proceedings under section fourteen or section thirty-three of this Act, been amended by the exclusion of the claim relating to the said invention in consequence of a finding by the comptroller that the invention was obtained by the applicant or patentee from any other person,

the comptroller may direct that the first-mentioned application and any specification filed in pursuance thereof shall be deemed, for the purposes of the provisions of this Act relating to the priority date of claims of complete specifications, to have been filed on the date on which the corresponding document was or was deemed to have been filed in the proceedings upon the said other application.

Miscellaneous provisions as to rights in inventions

Co-ownership of patents.

54.—(1) Where after the commencement of this Act a patent is granted to two or more persons, each of those persons shall, unless an agreement to the contrary is in force, be entitled to an equal undivided share in the patent.

(2) Subject to the provisions of this and the next following section, where two or more persons are registered as grantee or proprietor of a patent, then, unless an agreement to the contrary is in force, each of those persons shall be entitled, by himself or his agents, to make, use, exercise and vend the patented invention for his own benefit without accounting to the other or others.

(3) Subject to the provisions of the next following section, and to any agreement for the time being in force, a licence under a patent shall not be granted, and a share in a patent shall not be assigned, except with the consent of all persons, other than the licensor or assignor, who are registered as grantee or proprietor of the patent.

(4) Where an article is sold by one of two or more persons registered as grantee or proprietor of a patent, the purchaser and any person claiming through him shall be entitled to deal with it in the same manner as if the article had been sold by a sole patentee.

(5) Subject to the provisions of this section, the rules of law applicable to the ownership and devolution of personal property generally shall apply in relation to patents as they apply in relation to other choses in action; and nothing in subsection (1) or subsection (2) of this section shall affect the mutual rights or obligations of trustees or of the personal representatives of a deceased person, or their rights or obligations as such.

Power of comptroller to give directions to co-owners.

55.—(1) Where two or more persons are registered as grantee or proprietor of a patent, the comptroller may, upon application made to him in the prescribed manner by any of those persons, give such directions in accordance with the application as to the sale or lease of the patent or any interest therein, the grant of licences under the patent, or the exercise of any right under the last foregoing section in relation thereto, as he thinks fit.

(2) If any person registered as grantee or proprietor of the patent fails to execute any instrument or to do any other thing required for the carrying out of any direction given under this section within fourteen days after being requested in writing so to do by any of the other persons so registered, the comptroller may, upon application made to him in the prescribed manner by any such other person, give directions empowering any person to execute that instrument or to do that thing in the name and on behalf of the person in default.

(3) Before giving directions in pursuance of an application under this section, the comptroller shall give an opportunity to be heard—

(*a*) in the case of an application under subsection (1) of this section, to the other person or persons registered as grantee or proprietor of the patent;

(*b*) in the case of an application under subsection (2) of this section, to the person in default.

(4) An appeal shall lie from any decision or direction of the comptroller under this section.

(5) No directions shall be given under this section so as to affect the mutual rights or obligations of trustees or of the personal representatives of a deceased person, or their rights or obligations as such.

Disputes as to inventions made by employees.

56.—(1) Where a dispute arises between an employer and a person who is or was at the material time his employee as to the rights of the parties in respect of an invention made by the employee either alone or jointly with other employees or in respect of any patent granted or to be granted in respect thereof, the comptroller may, upon application made to him in the prescribed manner by either of the parties, and after giving to each of them an opportunity to be heard, determine the matter in dispute, and may make such orders for giving effect to his decision as he considers expedient:

Provided that if it appears to the comptroller upon any application under this section that the matter in dispute involves questions which would more properly be determined by the court, he may decline to deal therewith.

(2) In proceedings before the court between an employer and a person who is or was at the material time his employee, or upon an application made to the comptroller under subsection (1) of this section, the court or comptroller may, unless satisfied that one or other of the parties is entitled, to the exclusion of the other, to the benefit of an invention made by the employee, by order provide for the apportionment between them of the benefit of the invention, and of any patent granted or to be granted in respect thereof, in such manner as the court or comptroller considers just.

(3) A decision of the comptroller under this section shall have the same effect as between the parties and persons claiming under them as a decision of the court.

(4) An appeal shall lie from any decision of the comptroller under this section.

Avoidance of certain restrictive conditions.

57.—(1) Subject to the provisions of this section, any condition of a contract for the sale or lease of a patented article or of an article made by a patented process or for licence to use or work a patented article or process, or relating to any such sale, lease or licence, shall be void in so far as it purports—

(*a*) to require the purchaser, lessee or licensee to acquire from the vendor, lessor or licensor, or his nominees, or prohibit him from acquiring from any specified person, or from acquiring except from the vendor, lessor or licensor, or his nominees, any articles other than the patented article or an article made by the patented process;

(*b*) to prohibit the purchaser, lessee or licensee from using articles (whether patented or not) which are not supplied by, or any patented process which does not belong

to, the vendor, lessor or licensor, or his nominees, or to restrict the right of the purchaser, lessee or licensee to use any such articles or process.

(2) In proceedings against any person for infringement of a patent, it shall be a defence to prove that at the time of the infringement there was in force a contract relating to the patent made by or with the consent of the plaintiff and containing a condition void by virtue of this section.

(3) A condition of a contract shall not be void by virtue of this section if—

(*a*) at the time of the making of the contract the vendor, lessor or licensor was willing to sell or lease the article, or grant a licence to use or work the article or process, as the case may be, to the purchaser, lessee or licensee, on reasonable terms specified in the contract and without any such condition as is mentioned in subsection (1) of this section; and

(*b*) the purchaser, lessee or licensee is entitled under the contract to relieve himself of his liability to observe the condition upon giving to the other party three months' notice in writing and subject to payment to him of such compensation (being, in the case of a purchase a lump sum, and in the case of a lease or licence a rent or royalty for the residue of the term of the contract) as may be determined by an arbitrator appointed by the Board of Trade.

(4) If in any proceeding it is alleged that any condition of a contract is void by virtue of this section, it shall lie on the vendor, lessor or licensor to prove the matters set out in paragraph (*a*) of the last foregoing subsection.

(5) A condition of a contract shall not be void by virtue of this section by reason only that it prohibits any person from selling goods other than those supplied by a specified person, or, in the case of a contract for the lease of or licence to use a patented article, that it reserves to the lessor or licensor or his nominees the right to supply such new parts of the patented article as may be required to put or keep it in repair.

Determination of certain contracts.

58.—(1) Any contract for the sale or lease of a patented article or for licence to manufacture, use or work a patented article or process, or relating to any such sale, lease or licence, whether made before or after the commencement of this Act, may at any time after the patent or all the patents by which the article or process was protected at the time of the making of the contract has or have ceased to be in force, and notwithstanding

anything to the contrary in the contract or in any other contract, be determined by either party on giving three months notice in writing to the other party.

(2) Where notice is given under this section to determine a contract made before the twenty-eighth day of August, nineteen hundred and seven, the party by whom the notice is given shall be liable to pay to the other party such compensation as may, in default of agreement, be determined by an arbitrator appointed by the Board of Trade.

(3) The provisions of this section shall be without prejudice to any right of determining a contract exercisable apart from this section.

Proceedings for infringement, etc.

Restrictions on recovery of damages for infringement.

59.—(1) In proceedings for the infringement of a patent damages shall not be awarded against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable ground for supposing, that the patent existed; and a person shall not be deemed to have been aware or to have had reasonable grounds for supposing as aforesaid by reason only of the application to an article of the word "patent", "patented", or any word or words expressing or implying that a patent has been obtained for the article, unless the number of the patent accompanied the word or words in question.

(2) In any proceeding for infringement of a patent the court may, if it thinks fit, refuse to award any damages in respect of any infringement committed after a failure to pay any renewal fee within the prescribed period and before any extension of that period.

(3) Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act after the publication of the specification, no damages shall be awarded in any proceeding in respect of the use of the invention before the date of the decision allowing the amendment, unless the court is satisfied that the specification as originally published was framed in good faith and with reasonable skill and knowledge.

(4) Nothing in this section shall affect the power of the court to grant an injunction in any proceedings for infringement of a patent.

Order for account in action for infringement.

60. In an action for infringement of a patent the plaintiff shall be entitled, at his option, to an account of profits in lieu of damages.

Counterclaim for revocation in action for infringement.

61. A defendant in an action for infringement of a patent may, without presenting a petition, apply in accordance with rules of court by way of counterclaim in the action for revocation of the patent.

Relief for infringement of partially valid specification.

62.—(1) If in proceedings for infringement of a patent it is found that any claim of the specification, being a claim in respect of which infringement is alleged, is valid, but that any other claim is invalid, the court may grant relief in respect of any valid claim which is infringed:

Provided that the court shall not grant relief by way of damages or costs except in the circumstances mentioned in the next following subsection.

(2) Where the patent is dated before the first day of November, nineteen hundred and thirty-two, or the plaintiff proves that the invalid claim was framed in good faith and with reasonable skill and knowledge, the court shall grant relief in respect of any valid claim which is infringed subject to the discretion of the court as to costs and as to the date from which damages should be reckoned.

(3) As a condition of relief under subsection (1) or subsection (2) of this section the court may direct that the specification shall be amended to its satisfaction upon an application made for that purpose under section thirty of this Act, and such an application may be made accordingly whether or not all other issues in the proceedings have been determined.

(4) In relation to a patent which is dated before the first day of November, nineteen hundred and thirty-two, the provisions of this section shall have effect notwithstanding anything in subsection (3) of section fifty-nine of this Act.

Proceedings for infringement by exclusive licensee.

63.—(1) Subject to the provisions of this section, the holder of an exclusive licence under a patent shall have the like right as the patentee to take proceedings in respect of any infringement of the patent committed after the date of the licence, and in awarding damages or granting any other relief in any such proceedings, the court shall take into consideration any loss suffered or likely to be suffered by the exclusive licensee as such or, as the case may be, the profits earned by means of the infringement so far as it constitutes an infringement of the rights of the exclusive licensee as such.

(2) In any proceedings taken by the holder of an exclusive licence by virtue of this section, the patentee shall, unless he is joined as plaintiff in the proceedings, be added as defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Certificate of contested validity of specification.

64.—(1) If in any proceedings before the court the validity of any claim of a specification is contested, and that claim is found by the court to be valid, the court may certify that the validity of that claim was contested in those proceedings.

(2) Where any such certificate has been granted, then if in any subsequent proceedings before the court for infringement of the patent or for revocation of the patent, a final order or judgment is made or given in favour of the party relying on the validity of the patent, that party shall, unless the court otherwise directs, be entitled to his costs as between solicitor and client so far as concerns the claim in respect of which the certificate was granted:

Provided that this subsection shall not apply to the costs of any appeal in any such proceedings as aforesaid.

Remedy for groundless threats of infringement proceedings.

65.—(1) Where any person (whether entitled to or interested in a patent or an application for a patent or not) by circulars, advertisements or otherwise threatens any other person with proceedings for infringement of a patent, any person aggrieved thereby may bring an action against him for any such relief as is mentioned in the next following subsection.

(2) Unless in any action brought by virtue of this section the defendant proves that the acts in respect of which proceedings were threatened constitute or, if done, would constitute, an infringement of a patent or of rights arising from the publication of a complete specification in respect of a claim of the specification not shown by the plaintiff to be invalid, the plaintiff shall be entitled to the following relief, that is to say:—

(*a*) a declaration to the effect that the threats are unjustifiable;

(*b*) an injunction against the continuance of the threats; and

(*c*) such damages, if any, as he has sustained thereby.

(3) For the avoidance of doubt it is hereby declared that a mere notification of the existence of a patent does not constitute a threat of proceedings within the meaning of this section.

Power of court to make declaration as to non-infringement.

66.—(1) A declaration that the use by any person of any process, or the making or use or sale by any person of any article, does not or would not constitute an infringement of a claim of a patent may be made by the court in proceedings between that person and the patentee or the holder of an exclusive licence under the patent, notwithstanding that no assertion to the contrary has been made by the patentee or licensee, if it is shown—

(*a*) that the plaintiff has applied in writing to the patentee or licensee for a written acknowledgment to the effect of the declaration claimed, and has furnished him with full particulars in writing of the process or article in question; and

(*b*) that the patentee or licensee has refused or neglected to give such an acknowledgment.

(2) The costs of all parties in proceedings for a declaration brought by virtue of this section shall, unless for special reasons the court thinks fit to order otherwise, be paid by the plaintiff.

(3) The validity of a claim of the specification of a patent shall not be called in question in proceedings for a declaration brought by virtue of this section, and accordingly the making or refusal of such a declaration in the case of a patent shall not be deemed to imply that the patent is valid.

(4) Proceedings for a declaration may be brought by virtue of this section at any time after the date of the publication of the complete specification in pursuance of an application for a patent, and references in this section to the patentee shall be construed accordingly.

Reference to comptroller of disputes as to infringement.

67.—(1) Any dispute between a patentee or an exclusive licensee and any other person—

(*a*) whether any claim of the specification of a patent is infringed by anything done by that other person; or

(*b*) whether any such claim which is alleged to be so infringed is valid,

may, by agreement between the parties, be referred to the comptroller for determination in accordance with such procedure as may be prescribed by rules made by the Board of Trade under this Act:

Provided that if it appears to the comptroller that any dispute referred to him under this section involves questions which would more properly be determined by the court, he may decline to deal therewith.

(2) If on a reference under this section the comptroller finds that any claim of the specification of the patent is valid and is infringed, he may, subject to the provisions of this section and of section fifty-nine of this Act, grant relief by way of damages; but the damages awarded in the proceedings shall not (unless otherwise agreed between the parties) exceed one thousand pounds.

(3) Subsection (1) of section thirty and section sixty-two of this Act shall apply to proceedings before the comptroller on a reference under this section as they apply to proceedings for infringement of a patent before the court.

(4) The Arbitration Acts, 1889 and 1934, shall not apply to proceedings before the comptroller on a reference under this section.

(5) The decision of the comptroller on a reference under this section shall not be binding upon any party thereto in any subsequent proceedings before the court for infringement of the patent or for revocation of the patent; but a patentee or licensee shall not be entitled, in any such subsequent proceedings for infringement, to any relief in respect of an alleged infringement which was in issue in proceedings under this section.

International Agreements, etc.

Orders in Council as to convention countries.

68.—(1) His Majesty may, with a view to the fulfilment of a treaty, convention, arrangement or engagement, by Order in Council declare that any country specified in the Order is a convention country for the purposes of this Act:

Provided that a declaration may be made as aforesaid for the purposes either of all or of some only of the provisions of this Act, and a country in the case of which a declaration made for the purposes of some only of the provisions of this Act is in force shall be deemed to be a convention country for the purposes of those provisions only.

(2) His Majesty may by Order in Council direct that any of the Channel Islands, any colony, any British protectorate or protected state, or any territory administered by His Majesty's Government in the United Kingdom under the trusteeship system of the United Nations, shall be deemed to be a convention country for the purposes of all or any of the provisions of this Act; and an Order made under this subsection may direct that any such provisions shall have effect, in relation to the territory in question, subject to such conditions or limitations, if any, as may be specified in the Order.

(3) For the purposes of subsection (1) of this section, every colony, protectorate, territory subject to the authority or under the suzerainty of another country, and territory administered by another country in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations, shall be deemed to be a country in the case of which a declaration may be made under that subsection.

Supplementary provisions as to convention applications.

69.—(1) Where a person has applied for protection for an invention by an application which—

(*a*) in accordance with the terms of a treaty subsisting between any two or more convention countries, is equivalent to an application duly made in any one of those convention countries, or

(*b*) in accordance with the law of any convention country, is equivalent to an application duly made in that convention country,

he shall be deemed for the purposes of this Act to have applied in that convention country.

(2) For the purpose of this Act, matter shall be deemed to have been disclosed in an application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or in documents submitted by the applicant for

protection in support of and at the same time as that application; but no account shall be taken of any disclosure effected by any such document unless a copy of the document is filed at the Patent Office with the convention application or within such period as may be prescribed after the filing of that application.

Special provisions as to vessels, aircraft and land vehicles.

70.—(1) Where a vessel or aircraft registered in a convention country, or a land vehicle owned by a person ordinarily resident in such a country, comes into the United Kingdom or the Isle of Man (including the territorial waters thereof) temporarily or accidentally only, the rights conferred by a patent for an invention shall not be deemed to be infringed by the use of the invention—

(*a*) in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof, so far as the invention is used on board the vessel and for its actual needs only; or

(*b*) in the construction or working of the aircraft or land vehicle or of the accessories thereof,

as the case may be.

(2) This section shall not affect the provisions of section fifty-three of the Civil Aviation Act, 1949 (which exempts certain aircraft from seizure on patent claims).

Extension of time for certain convention applications.

71.—(1) If the Board of Trade are satisfied that provision substantially equivalent to the provision to be made by or under this section has been or will be made under the law of any convention country, they may make rules empowering the comptroller to extend the time for making application under subsection (2) of section one of this Act for a patent for an invention in respect of which protection has been applied for in that country in any case where the period specified in the proviso to that subsection expires during a period prescribed by the rules.

(2) Rules made under this section—

(*a*) may, where any agreement or arrangement has been made between His Majesty's Government in the United Kingdom and the government of the convention country for the supply or mutual exchange of information or articles, provide, either generally or in any class of case specified in the rules, that an extension of time shall not be granted under this section unless the invention has been communicated in accordance with the agreement or arrangement;

(*b*) may, either generally or in any class of case specified in the rules, fix the maximum extension which may be granted under this section and provide for reducing

the term of any patent granted on an application made by virtue of this section, and (notwithstanding anything in section ninety-nine of, or the First Schedule to, this Act) vary, with the approval of the Treasury, the time for the payment of renewal fees in respect of such a patent and the amount of such fees;

(*c*) may prescribe or allow any special procedure in connection with applications made by virtue of this section;

(*d*) may empower the comptroller to extend, in relation to an application made by virtue of this section, the time limited by or under the foregoing provisions of this Act for doing any act, subject to such conditions, if any, as may be imposed by or under the rules;

(*e*) may provide for securing that the rights conferred by a patent granted on an application made by virtue of this section shall be subject to such restrictions or conditions as may be specified by or under the rules and in particular to restrictions and conditions for the protection of persons (including persons acting on behalf of His Majesty) who, otherwise than as the result of a communication made in accordance with such an agreement or arrangement as is mentioned in paragraph (*a*) of this subsection, and before the date of the application in question or such later date as may be allowed by the rules, may have made, used, exercised or vended the invention or may have applied for a patent in respect thereof.

Protection of inventions communicated under international agreements.

72.—(1) Subject to the provisions of this section, the Board of Trade may make rules for securing that, where an invention has been communicated in accordance with an agreement or arrangement made between His Majesty's Government in the United Kingdom and the government of any other country for the supply or mutual exchange of information or articles,—

(*a*) an application for a patent made by the person from whom the invention was communicated or his personal representative or assignee shall not be prejudiced, and a patent granted on such an application shall not be invalidated, by reason only that the invention has been communicated as aforesaid or that in consequence thereof—

(i) the invention has been published, made, used, exercised or vended, or

(ii) an application for a patent has been made by any other person, or a patent has been granted on such an application;

(*b*) any application for a patent made in consequence of such a communication as aforesaid may be refused and any patent granted on such an application may be revoked.

(2) Rules made under subsection (1) of this section may provide that the publication, making, use, exercise or vending of an invention, or the making of any application for a patent in respect thereof shall, in such circumstances and subject to such conditions or exceptions as may be prescribed by the rules, be presumed to have been in consequence of such a communication as is mentioned in that subsection.

(3) The powers of the Board of Trade under this section, so far as they are exercisable for the benefit of persons from whom inventions have been communicated to His Majesty's Government in the United Kingdom by the government of any other country, shall only be exercised if and to the extent that the Board are satisfied that substantially equivalent provision has been or will be made under the law of that country for the benefit of persons from whom inventions have been communicated by His Majesty's Government in the United Kingdom to the government of that country.

(4) References in the last foregoing subsection to the communication of an invention to or by His Majesty's Government or the government of any other country shall be construed as including references to the communication of the invention by or to any person authorised in that behalf by the government in question.

Register of patents, etc.

Register of patents.

73.—(1) There shall be kept at the Patent Office a register of patents, in which there shall be entered particulars of patents in force, of assignments and transmissions of patents and of licences under patents, and notice of all matters which are required by or under this Act to be entered in the register and of such other matters affecting the validity or proprietorship of patents as the comptroller thinks fit.

(2) Subject to the provisions of this Act and to rules made by the Board of Trade thereunder, the register of patents shall, at all convenient times, be open to inspection by the public; and certified copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of a prescribed fee.

(3) The register of patents shall be prima facie evidence of any matters required or authorised by or under this Act to be entered therein.

(4) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register of patents, and the comptroller shall not be affected by any such notice.

Registration of assignments, etc.

74.—(1) Where any person becomes entitled by assignment, transmission or operation of law to a patent or to a share in a patent, or becomes entitled as mortgagee, licensee or otherwise to any other interest in a patent, he shall apply to the comptroller in the prescribed manner for the registration of his title as proprietor or co-proprietor, or, as the case may be, of notice of his interest, in the register of patents.

(2) Without prejudice to the provisions of the foregoing subsection, an application for the registration of the title of any person becoming entitled by assignment to a patent or a share in a patent, or becoming entitled by virtue of a mortgage, licence or other instrument to any other interest in a patent, may be made in the prescribed manner by the assignor, mortgagor, licensor or other party to that instrument, as the case may be.

(3) Where application is made under this section for the registration of the title of any person, the comptroller shall, upon proof of title to his satisfaction—

(*a*) where that person is entitled to a patent or a share in a patent, register him in the register of patents as proprietor or co-proprietor of the patent, and enter in that register particulars of the instrument or event by which he derives title; or

(*b*) where that person is entitled to any other interest in the patent, enter in that register notice of his interest, with particulars of the instrument (if any) creating it.

(4) Subject to the provisions of this Act relating to co-ownership of patents, and subject also to any rights vested in any other person of which notice is entered in the register of patents, the person or persons registered as grantee or proprietor of a patent shall have power to assign, grant licences under, or otherwise deal with the patent, and to give effectual receipts for any consideration for any such assignment, licence or dealing:

Provided that any equities in respect of the patent may be enforced in like manner as in respect of any other personal property.

(5) Rules made by the Board of Trade under this Act may require the supply to the comptroller for filing at the Patent Office of copies of such deeds, licences and other documents as may be prescribed by the rules.

(6) Except for the purposes of an application to rectify the register under the following provisions of this Act, a document in respect of which no entry has been made in the register of patents under subsection (3) of this section shall not be admitted in any court as evidence of the title of any person to a patent or share of or interest in a patent unless the court otherwise directs.

Rectification of register.

75.—(1) The court may, on the application of any person aggrieved, order the register of patents to be rectified by the making of any entry therein or the variation or deletion of any entry therein.

(2) In proceedings under this section the court may determine any question which it may be necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of any application to the court under this section shall be given in the prescribed manner to the comptroller, who shall be entitled to appear and be heard on the application, and shall appear if so directed by the court.

(4) Any order made by the court under this section shall direct that notice of the order shall be served on the comptroller in the prescribed manner; and the comptroller shall, on the receipt of the notice, rectify the register accordingly.

Power to correct clerical errors, etc.

76.—(1) The comptroller may, in accordance with the provisions of this section, correct any clerical error in any patent, any application for a patent or any document filed in pursuance of such an application, or any error in the register of patents.

(2) A correction may be made in pursuance of this section either upon a request in writing made by any person interested and accompanied by the prescribed fee, or without such a request.

(3) Where the comptroller proposes to make any such correction as aforesaid otherwise than in pursuance of a request made under this section, he shall give notice of the proposal to the patentee or the applicant for the patent, as the case may be, and to any other person who appears to him to be concerned, and shall give them an opportunity to be heard before making the correction.

(4) Where a request is made under this section for the correction of any error in a patent or application for a patent or any document filed in pursuance of such an application, and it appears to the comptroller that the correction would materially alter the meaning or scope of the document to which the request relates, and ought not to be made without notice to persons affected thereby, he shall require notice of the nature of the proposed correction to be advertised in the prescribed manner.

(5) Within the prescribed time after any such advertisement as aforesaid any person interested may give notice to the comptroller of opposition to the request, and where such notice of opposition is given the comptroller shall give notice thereof to the person by whom the request was made, and shall give to him and to the opponent an opportunity to be heard before he decides the case.

Evidence of entries, documents, etc.

77.—(1) A certificate purporting to be signed by the comptroller and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be prima facie evidence of the matters so certified.

(2) A copy of any entry in any register or of any document kept in the Patent Office or of any patent, or an extract from any such register or document, purporting to be certified by the comptroller and to be sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

Requests for information as to patent or patent application.

78. The comptroller shall, on request made to him in the prescribed manner by any person and on payment of the prescribed fee, furnish the person making the request with such information relating to any patent or application for a patent as may be specified in the request, being information in respect of any such matters as may be prescribed.

Restriction upon publication of specifications, etc.

79.—(1) An application for a patent, and any specification filed in pursuance thereof, shall not, except with the consent of the applicant, be published by the comptroller or be open to public inspection at any time before the date advertised in the Journal in pursuance of subsection (2) of section thirteen of this Act.

(2) The reports of examiners made under this Act shall not be open to public inspection or be published by the comptroller; and such reports shall not be liable to production or inspection in any legal proceeding unless the court or officer having power to order discovery in the proceeding certifies that the production or inspection is desirable in the interests of justice, and ought to be allowed:

Provided that the comptroller may, on application made in the prescribed manner by any person, disclose the result of any search made under section seven or section eight of this Act in respect of any application for a patent where the complete specification has been published.

Loss or destruction of patent.

80. Where the comptroller is satisfied that a patent has been lost or destroyed or cannot be produced, he may at any time cause a duplicate thereof to be sealed.

Proceedings before Comptroller

Exercise of discretionary powers of comptroller.

81. Without prejudice to any provisions of this Act requiring the comptroller to hear any party to proceedings thereunder, or to give to any such party an opportunity to be heard, the

comptroller shall give to any applicant for a patent, or for amendment of a specification, an opportunity to be heard before exercising adversely to the applicant any discretion vested in the comptroller by or under this Act.

Costs and security for costs.

82.—(1) The comptroller may, in any proceedings before him under this Act, by order award to any party such costs as he may consider reasonable, and direct how and by what parties they are to be paid; and any such order may be made a rule of court.

(2) If any party by whom notice of any opposition is given under this Act or by whom application is made to the comptroller for the revocation of a patent or for the grant of a licence under a patent or for the determination of a dispute as to an invention under section fifty-six of this Act, or by whom notice of appeal is given from any decision of the comptroller under this Act, neither resides nor carries on business in the United Kingdom or the Isle of Man, the comptroller, or in the case of appeal, the Appeal Tribunal, may require him to give security for the costs of the proceedings or appeal, and in default of such security being given may treat the opposition, application or appeal as abandoned.

Evidence before comptroller.

83.—(1) Subject to rules made by the Board of Trade under this Act the evidence to be given in any proceedings before the comptroller under this Act may be given by affidavit or statutory declaration; but the comptroller may if he thinks fit in any particular case take oral evidence in lieu of or in addition to such evidence as aforesaid, and may allow any witness to be cross-examined on his affidavit or declaration.

(2) Subject to any such rules as aforesaid, the comptroller shall, in respect of the examination of witnesses on oath and the discovery and production of documents, have all the powers of an official referee of the Supreme Court, and the rules applicable to the attendance of witnesses in proceedings before such a referee shall apply to the attendance of witnesses in proceedings before the comptroller.

The Court and the Appeal Tribunal

The Court.

84.—(1) Subject to the provisions of this Act relating to Scotland, Northern Ireland and the Isle of Man, any petition under section twenty-three or section twenty-four of this Act and any reference or application to the court under this Act shall, subject to rules of court, be dealt with by such judge of the High Court as the Lord Chancellor may select for the purpose.

(2) Rules of court shall make provision for the appointment of scientific advisers to assist the court in proceedings for infringement of patents and in proceedings under this Act, and for regulating the functions of such advisers.

(3) The remuneration of any adviser appointed in pursuance of rules made in accordance with this section shall be defrayed out of moneys provided by Parliament.

(4) Any action for infringement of a patent shall be tried without a jury unless the court otherwise directs.

The Appeal Tribunal.

85.—(1) Subject to the provisions of this Act with respect to Scottish appeals, any appeal from the comptroller under this Act shall lie to the Appeal Tribunal.

(2) The Appeal Tribunal shall be a judge of the High Court nominated for the purpose by the Lord Chancellor.

(3) The expenses of the Appeal Tribunal shall be defrayed and the fees to be taken therein may be fixed as if the Tribunal were a court of the High Court.

(4) The Appeal Tribunal may examine witnesses on oath and administer oaths for that purpose.

(5) Upon any appeal under this Act the Appeal Tribunal may by order award to any party such costs as the Tribunal may consider reasonable and direct how and by what parties the costs are to be paid; and any such order may be made a rule of court.

(6) The Appeal Tribunal shall, with regard to the right of audience, observe the same practice as before the first day of November, nineteen hundred and thirty-two, was observed in the hearing of appeals by the law officer.

(7) Upon any appeal under this Act the Appeal Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.

(8) Subject to the foregoing provisions of this section, the Appeal Tribunal may make rules for regulating all matters relating to proceedings before it under this Act.

(9) Rules made under this section shall provide for the appointment of scientific advisers to assist the Appeal Tribunal upon appeals under this Act and for regulating the functions of such advisers; and the remuneration of a scientific adviser appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.

(10) An appeal to the Appeal Tribunal under this Act shall not be deemed to be a proceeding in the High Court.

Appeals from decisions of the comptroller in Scottish cases.

86.—(1) Where, in accordance with rules made by the Board of Trade under this Act, the comptroller has directed that any hearing for the purpose of proceedings under section fifty-five or section fifty-six of this Act shall be held in Scotland, any appeal from the comptroller in those proceedings shall lie to the Scottish Appeal Tribunal constituted in accordance with the provisions of this section.

(2) The Scottish Appeal Tribunal shall consist of a judge of the Court of Session nominated for the purpose by the Lord President of that Court.

(3) The Courts of Law Fees (Scotland) Act, 1895 (which confers power on the Court of Session to regulate fees), shall apply to the Scottish Appeal Tribunal as if the Tribunal were a court the fees payable in which would be regulated by the Lords of Council and Session under section two of that Act.

(4) The Scottish Appeal Tribunal may examine witnesses on oath and administer oaths for that purpose.

(5) Upon any appeal under this section, the Scottish Appeal Tribunal may by order award to any party such expenses as the Tribunal may consider reasonable and direct how and by what party the expenses are to be paid; and any such order may be recorded for execution in the books of council and session and shall be enforceable accordingly.

(6) Upon any appeal under this section, the Scottish Appeal Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought.

(7) Subject to the foregoing provisions of this section, rules may be made by Act of Sederunt for regulating all matters relating to proceedings before the Scottish Appeal Tribunal under this section.

(8) Rules made under this section shall provide for the appointment of scientific advisers to assist the Scottish Appeal Tribunal upon appeals under this Act and for regulating the functions of such advisers; and the remuneration of a scientific adviser appointed in accordance with such rules shall be defrayed out of moneys provided by Parliament.

(9) An appeal to the Scottish Appeal Tribunal under this section shall not be deemed to be a proceeding in the Court of Session.

Appeals to Court of Appeal and Court of Session.

87.—(1) An appeal shall lie to the Court of Appeal—

(*a*) from any decision of the Appeal Tribunal on an appeal under section thirty-three or section forty-two of this Act where the effect of the decision is the revocation of a patent;

(*b*) from any decision of the Appeal Tribunal under section fifty-five of this Act;

(*c*) with the leave of the Tribunal, from any decision of the Tribunal under section fourteen of this Act, where the effect of the decision is the refusal of the grant of a patent on the ground specified in paragraph (*d*) or paragraph (*e*) of subsection (1) of that section.

(2) No appeal shall lie from any decision of the court under section twenty-three or section twenty-four of this Act.

(3) An appeal shall lie to the Court of Session from any decision of the Scottish Appeal Tribunal under section fifty-five of this Act.

Patent Agents

Restrictions on practice as patent agent.

88.—(1) An individual shall not, either alone or in partnership with any other person, practise, describe himself or hold himself out as a patent agent, or permit himself to be so described or held out, unless he is registered as a patent agent in the register of patent agents or, as the case may be, unless he and all his partners are so registered; and a company shall not practise, describe itself or hold itself out or permit itself to be described or held out as aforesaid unless—

(*a*) in the case of a company which began to carry on business as a patent agent before the seventeenth day of November, nineteen hundred and seventeen, a director or the manager of the company is registered as aforesaid and the name of that director or manager is mentioned as being so registered in all professional advertisements, circulars or letters issued by or with the consent of the company in which the name of the company appears;

(*b*) in any other case, every director of the company and, if the company has a manager who is not a director, that manager, is registered as aforesaid.

(2) Any person who contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, twenty pounds, and in the case of a second or subsequent offence, fifty pounds.

(3) Notwithstanding anything in any enactment prescribing the time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this section may be begun at any time within twelve months from the date of the offence.

(4) Nothing in this section shall be construed as prohibiting solicitors from taking such part in proceedings under this Act as has heretofore been taken by solicitors.

(5) A patent agent shall not be guilty of an offence under section forty-seven of the Solicitors Act, 1932, or section thirty-nine of the Solicitors (Scotland) Act, 1933 (which prohibits the preparation for reward of certain instruments by persons not legally qualified) by reason only of the preparation by him for use in proceedings under this Act before the comptroller or the Appeal Tribunal of any document other than a deed.

(6) No person who was not registered in the register of patent agents before the fifteenth day of July, nineteen hundred and nineteen, shall be so registered unless he is a British subject or a citizen of the Republic of Ireland.

Power of comptroller to refuse to deal with certain agents.

89.—(1) Rules made by the Board of Trade under this Act may authorise the comptroller to refuse to recognise as agent in respect of any business under this Act—

(*a*) any individual whose name has been erased from, and not restored to, the register of patent agents, or who is for the time being suspended from acting as a patent agent;

(*b*) any person who has been convicted of an offence under the last foregoing section;

(*c*) any person who is found by the Board of Trade (after being given an opportunity to be heard) to have been convicted of any offence or to have been guilty of any such misconduct as, in the case of an individual registered in the register of patent agents, would render him liable to have his name erased therefrom;

(*d*) any person, not being registered as a patent agent, who in the opinion of the comptroller is engaged wholly or mainly in acting as agent in applying for patents in the United Kingdom or elsewhere in the name or for the benefit of a person by whom he is employed;

(*e*) any company or firm, if any person whom the comptroller could refuse to recognise as agent in respect of any business under this Act is acting as a director or manager of the company or is a partner in the firm.

(2) The comptroller shall refuse to recognise as agent in respect of any business under this Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man.

Offences

Falsification of register, etc.

90. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

Unauthorised claim of patent rights.

91.—(1) If any person falsely represents that any article sold by him is a patented article, he shall be liable on summary conviction to a fine not exceeding five pounds; and for the purposes of this provision a person who sells an article having stamped, engraved or impressed thereon or otherwise applied

thereto the word " patent " or " patented ", or any other word expressing or implying that the article is patented, shall be deemed to represent that the article is a patented article.

(2) If any person uses on his place of business, or on any document issued by him, or otherwise, the words " Patent Office " or any other words suggesting that his place of business is, or is officially connected with, the Patent Office, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Unauthorised assumption of Royal Arms.

92.—(1) The grant of a patent under this Act shall not be deemed to authorise the patentee to use the Royal Arms or to place the Royal Arms on any patented article.

(2) If any person, without the authority of His Majesty, uses in connection with any business, trade, calling or profession the Royal Arms (or Arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal Arms, then, without prejudice to any proceedings which may be taken against him under section sixty-one of the Trade Marks Act, 1938, he shall be liable on summary conviction to a fine not exceeding twenty pounds:

Provided that this section shall not affect the right, if any, of the proprietor of a trade mark containing such Arms to continue to use that trade mark.

Offences by companies.

93. Where an offence under section eighteen or section eighty-eight of this Act is committed by a body corporate, every person who at the time of the commission of the offence is a director, general manager, secretary or other similar officer of the body corporate, or is purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Rules, etc.

General power of Board of Trade to make rules, etc.

94.—(1) Subject to the provisions of this Act, the Board of Trade may make such rules as they think expedient for regulating the business of the Patent Office in relation to patents and for regulating all matters by this Act placed under the direction or control of the comptroller or the Board, and in particular, but without prejudice to the generality of the foregoing provision—

(*a*) for prescribing the form of applications for patents and of any specifications, drawings or other documents which may be filed at the Patent Office, and for requiring copies to be furnished of any such documents;

(*b*) for regulating the procedure to be followed in connection with any application or request to the comptroller or in connection with any proceeding before the comptroller and for authorising the rectification of irregularities of procedure;

(*c*) for regulating the keeping of the register of patents and the registration of patent agents, and for authorising, in such cases as may be prescribed by the rules, the erasure from the register of patent agents of the name of any person registered therein or the suspension of the right of any such person to act as a patent agent;

(*d*) for authorising the publication and sale of copies of specifications, drawings and other documents in the Patent Office, and of indexes to and abridgements of such documents;

(*e*) for prescribing anything authorised or required by this Act to be prescribed by rules made by the Board.

(2) Rules made under this section shall provide for the publication by the comptroller—

(*a*) of a journal (in this Act referred to as "the Journal") containing particulars of applications for patents and other proceedings under this Act; and

(*b*) of reports of cases relating to patents, trade marks and registered designs decided by the comptroller, the Appeal Tribunal or any court.

Provisions as to rules and Orders.

95.—(1) Any rules made by the Board of Trade under this Act shall be advertised twice in the Journal.

(2) Any rules made by the Board of Trade in pursuance of section seventy-one or section seventy-two of this Act, and any order made, direction given, or other action taken under the rules by the comptroller, may be made, given or taken so as to have effect as respects things done or omitted to be done on or after such date, whether before or after the coming into operation of the rules or of this Act, as may be specified in the rules.

(3) Any power to make rules conferred by this Act on the Board of Trade or on the Appeal Tribunal shall be exercisable by statutory instrument; and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing rules made by the Appeal Tribunal in like manner as if the rules had been made by a Minister of the Crown.

(4) Any statutory instrument containing rules made by the Board of Trade under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any Order in Council made under this Act may be revoked or varied by a subsequent Order in Council.

Proceedings of Board of Trade.

96.—(1) Anything required or authorised by this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary, under-secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(3) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

Supplemental

Service of notices, etc., by post.

97. Any notice required or authorised to be given by or under this Act, and any application or other document so authorised or required to be made or filed, may be given, made or filed by post.

Hours of business and excluded days.

98.—(1) Rules made by the Board of Trade under this Act may specify the hour at which the Patent Office shall be deemed to be closed on any day for purposes of the transaction by the public of business under this Act or of any class of such business, and may specify days as excluded days for any such purposes.

(2) Any business done under this Act on any day after the hour specified as aforesaid in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be deemed to have been done on the next following day not being an excluded day; and where the time for doing anything under this Act expires on an excluded day, that time shall be extended to the next following day not being an excluded day.

Fees.

99. Subject to the provisions of this Act, there shall be paid in respect of the grant of patents and applications therefor, and in respect of other matters relating to patents arising under this Act, such fees as may be prescribed by rules made by the Board of Trade with the consent of the Treasury:

Provided that the fees so prescribed in respect of the instruments and matters specified in the First Schedule to this Act shall not exceed the amounts specified in that Schedule.

Annual report of comptroller.

100. Before the first day of June in every year the comptroller shall cause to be laid before both Houses of Parliament a report with respect to the execution of this Act, and every such report shall include an account of all fees, salaries and allowances, and other money received and paid under this Act during the previous year.

Interpretation.

101.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"Appeal Tribunal" means the judge nominated under section eighty-five of this Act;

"applicant" includes a person in whose favour a direction has been given under section seventeen of this Act, and the personal representative of a deceased applicant;

"article" includes any substance or material, and any plant, machinery or apparatus, whether affixed to land or not;

"assignee" includes the personal representative of a deceased assignee, and references to the assignee of any person include references to the assignee of the personal representative or assignee of that person;

"comptroller" means the Comptroller-General of Patents, Designs and Trade Marks;

"convention application" has the meaning assigned to it by subsection (4) of section one of this Act;

"court" means the High Court;

"date of filing", in relation to any document filed under this Act, means the date on which the document is filed or, where it is deemed by virtue of any provision of this Act or of rules made thereunder to have been filed on any different date, means the date on which it is deemed to be filed;

"exclusive licence" means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and "exclusive licensee" shall be construed accordingly;

"invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies and any new method or process of testing applicable to the improvement or control of manufacture, and includes an alleged invention;

" Journal " has the meaning assigned to it by subsection (2) of section ninety-four of this Act;

" patent " means Letters Patent for an invention;

" patent agent " means a person carrying on for gain in the United Kingdom the business of acting as agent for other persons for the purpose of applying for or obtaining patents in the United Kingdom or elsewhere;

" patent of addition " means a patent granted in accordance with section twenty-six of this Act;

" patentee " means the person or persons for the time being entered on the register of patents as grantee or proprietor of the patent;

" prescribed " means prescribed by rules made by the Board of Trade under this Act;

" priority date " has the meaning assigned to it by section five of this Act;

" published ", except in relation to a complete specification, means made available to the public; and without prejudice to the generality of the foregoing provision a document shall be deemed for the purposes of this Act to be published if it can be inspected as of right at any place in the United Kingdom by members of the public, whether upon payment of a fee or otherwise;

" the Statute of Monopolies " means the Act of the twenty-first year of the reign of King James the First, chapter three, intituled " An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof ".

(2) For the purposes of subsection (3) of section one, so far as it relates to a convention application, and for the purposes of section seventy-two of this Act, the expression " personal representative ", in relation to a deceased person, includes the legal representative of the deceased appointed in any country outside the United Kingdom.

Saving for Royal prerogative, etc.

102.—(1) Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of letters patent or to the withholding of a grant thereof.

(2) Nothing in this Act shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use articles forfeited under the laws relating to customs or excise.

Application to Scotland.

103. In the application of this Act to Scotland—

(1) In any action for infringement of a patent in Scotland the action shall be tried without a jury unless the court otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts:

(2) Proceedings for revocation of a patent shall be in the form of an action of reduction, and service of all writs and summonses in that action shall be made according to the forms and practice existing immediately before the commencement of the Patents and Designs Act, 1907:

(3) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to patents; and with reference to any such proceedings, the term "the Court" shall mean the Court of Session:

(4) Notwithstanding anything in this Act, the expression "the Court" shall in reference to proceedings in Scotland for the extension of the term of a patent mean the Court of Session:

(5) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly:

(6) The expression "injunction" means "interdict"; the expression "chose in action" means a right of action or an incorporeal moveable; the expression "an account of profits" means "an accounting and payment of profits"; the expression "arbitrator" means "arbiter"; the expression "plaintiff" means "pursuer"; the expression "defendant" means "defender".

Application to Northern Ireland.

104. In the application of this Act to Northern Ireland—

(1) All parties shall, notwithstanding anything in this Act, have in Northern Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Northern Ireland only:

(2) The provisions of this Act conferring a special jurisdiction on the court, as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Northern Ireland in any proceedings relating to patents; and with reference to any such proceedings the term "the Court" means the High Court in Northern Ireland:

(3) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly:

(4) References to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland:

(5) References to a Government department shall be construed as including references to a department of the Government of Northern Ireland:

(6) The expression "summary conviction" shall be construed as meaning conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland) amending that Act.

Isle of Man.

105. This Act shall extend to the Isle of Man, subject to the following modifications:—

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement, or in any action or proceeding respecting a patent competent to those courts;

(2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the court:

(3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

Repeals, transitional provisions and amendment.

106.—(1) Subject to the provisions of this section, the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Without prejudice to the provisions of the Interpretation Act, 1889, with respect to repeals, the transitional provisions set out in the Third Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of the Patents and Designs Act, 1949.

(3) For subsection (8) of section twelve of the Atomic Energy Act, 1946, there shall be substituted the following subsection:—

"(8) The power of the Minister of Supply and persons authorised by the Minister of Supply under section forty-six of the Patents Act, 1949, shall include power to make, use, exercise or vend an invention for such purposes relating to the production or use of atomic energy or research into matters connected therewith as the Minister thinks necessary or expedient, and any reference in that section or in sections forty-seven and forty-eight of that Act to the services of the Crown shall be construed as including a reference to those purposes."

Short title and commencement.

107.—(1) This Act may be cited as the Patents Act, 1949.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty, immediately after the coming into operation of the Patents and Designs Act, 1949.

SCHEDULES

Section 99.

FIRST SCHEDULE

MAXIMUM FEES	£	s.	d.
On application for patent	1	0	0
On filing of complete specification	4	0	0
On sealing of patent	5	0	0
Renewal fees in respect of—			
fifth year of patent	10	0	0
sixth year of patent	10	0	0
seventh year of patent	10	0	0
eighth year of patent	10	0	0
ninth year of patent	15	0	0
tenth year of patent	15	0	0
eleventh year of patent	20	0	0
twelfth year of patent	20	0	0
thirteenth year of patent	20	0	0
fourteenth year of patent	20	0	0
fifteenth year of patent	20	0	0
sixteenth year of patent	20	0	0

SECOND SCHEDULE

Section 106.

ENACTMENTS REPEALED

Session and Chapter	Short title	Extent of repeal
7 Edw. 7. c. 29.	The Patents and Designs Act, 1907.	The whole Act, except section forty-seven, subsections (1), (2) and (3) of section sixty-two, sections sixty-three and sixty-four, and except sections eighty-two, ninety-one and ninety-one A in their application to trade marks and except section eighty-eight in its application to any Order in Council made under section ninety-one A.
9 & 10 Geo. 5. c. 80.	The Patents and Designs Act, 1919.	The whole Act.
18 & 19 Geo. 5. c. 3.	The Patents and Designs (Convention) Act, 1928.	The whole Act, except section four.
22 & 23 Geo. 5. c. 32.	The Patents and Designs Act, 1932.	The whole Act, except so much of the Schedule as amends section ninety-one of the Patents and Designs Act, 1907.
1 & 2 Geo. 6. c. 29.	The Patents, etc. (International Conventions) Act, 1938.	The whole Act, except sections eight, nine and ten, subsection (6) of section twelve and so much of the Schedule as amends section ninety-one of the Patents and Designs Act, 1907.
2 & 3 Geo. 6. c. 32.	The Patents and Designs (Limits of Time) Act, 1939.	The whole Act, except section four.
5 & 6 Geo. 6. c. 6.	The Patents and Designs Act, 1942.	The whole Act.
9 & 10 Geo. 6. c. 26.	The Emergency Laws (Transitional Provisions) Act, 1946.	Section seven.
9 & 10 Geo. 6. c. 44.	The Patents and Designs Act, 1946.	Sections one, two, three and five, subsection (3) of section six, subsection (2) of section seven and subsection (4) of section eight.
11 & 12 Geo. 6. c. 10.	The Emergency Laws (Miscellaneous Provisions) Act, 1947.	In section five, paragraph (*b*) of subsection (2) and subsection (3).
12 & 13 Geo. 6. c. 62.	The Patents and Designs Act, 1949.	The whole Act, except section forty-nine, and so much of the First Schedule as amends sections eighty-two, eighty-eight and ninety-one A of the Patents and Designs Act, 1907.

Section 106

THIRD SCHEDULE

Transitional Provisions

1. Subject to the provisions of this Schedule, any Order in Council, rule, order, requirement, certificate, notice, decision, direction, authorisation, consent, application, request or thing made, issued, given or done under any enactment repealed by this Act shall, if in force at the commencement of this Act, and so far as it could have been made, issued, given or done under this Act, continue in force and have effect as if made, issued, given or done under the corresponding enactment of this Act.

2. Section five of this Act shall apply in relation to a complete specification filed before the commencement of this Act as it applies to a complete specification filed after the commencement of this Act:

Provided that for the purposes of the said section five a claim of any such specification filed after a provisional specification shall be deemed to be fairly based on the matter disclosed in the provisional specification unless the claim is for a further or different invention to that contained in the provisional specification.

3. Notwithstanding anything in subsection (2) of section three of this Act, a complete specification shall not be filed in pursuance of an application which, by virtue of section five of the Patents and Designs Act, 1907, was deemed to be abandoned at any time before the commencement of this Act:

Provided that nothing in this paragraph shall affect any power of the comptroller under section six of the Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939, to extend the time for filing a complete specification.

4. Where a complete specification has been filed before the commencement of this Act but has not been accepted, then, in relation to matters arising before the acceptance or refusal of acceptance of the complete specification, the provisions of this Act shall not apply, but the provisions of the Patents and Designs Act, 1907, shall continue to apply notwithstanding the repeal of that Act.

5. The provisions of sections fourteen and thirty-three of this Act relating to the grounds on which the grant of a patent may be opposed or on which a patent may be revoked by the comptroller shall not apply in any case where the complete specification was accepted before the commencement of this Act, but the provisions of the Patents and Designs Act, 1907, relating to those matters shall continue to apply in any such case notwithstanding the repeal of that Act.

6. The power of the comptroller under section fifteen of this Act to refuse the grant of a patent unless the complete specification is amended to his satisfaction shall not be exercisable in relation to any complete specification which was accepted before the commencement of this Act.

7. The provisions of section fifty-three of this Act shall apply in relation to any application for a patent made before the commencement of this Act as they apply in relation to such an application made after the commencement of this Act.

8. Notwithstanding anything in this Act, a patent sealed before the commencement of this Act, and bearing a date within the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the commencement of this Act, may be revoked by the court on the ground specified in paragraph (*oo*) of subsection (2) of section twenty-five of the Patents and Designs Act, 1907.

9. Where, in relation to any invention, the time for giving notice to the comptroller under section forty-five of the Patents and Designs Act, 1907, expired before the commencement of this Act and the notice was not given, subsections (2) and (4) of section fifty-one of this Act shall not apply in relation to that invention or any patent for that invention.

10. In relation to a complete specification which was accepted before the commencement of this Act, this Act shall have effect as if for the words " the date of the publication ", wherever those words occur, there were substituted the words " the date of the acceptance ".

11. Where a specification filed before the commencement of this Act has become open to public inspection, it shall continue to be open to public inspection notwithstanding anything in section seventy-nine of this Act.

12. Where a specification which, before the commencement of this Act, has become open to public inspection under subsection (4) of section ninety-one of the Patents and Designs Act, 1907, has been amended before acceptance, nothing in subsection (2) of section thirty-one of this Act shall be construed as authorising reference to be made, in construing the specification, to the specification as it subsisted before acceptance.

13. Where two or more persons are registered as grantee or proprietor in respect of a patent which was granted or for which application was made before the commencement of this Act, the right of each of those persons to assign the whole or part of his interest in the patent shall not be restricted by reason only of the provisions of section fifty-four of this Act.

14. A condition of any contract in force immediately before the commencement of this Act shall not be invalidated by reason only of the provisions of section fifty-seven of this Act.

15. The provisions of section thirty of the Patents and Designs Act, 1907, and of any rules made by virtue of that section shall continue to apply in relation to any patent granted before the commencement of this Act in pursuance of that section notwithstanding the repeal of that Act.

16. Notwithstanding the repeal of the Patents and Designs Act, 1907, subsection (2) of section thirty-eight A of that Act shall continue to apply in any case where the complete specification was filed before the commencement of this Act.

17. Subsections (1) and (3) of section twenty-two of this Act shall not apply to any patent granted before the commencement of this Act.

3RD SCH. —*cont.*

18. Subsection (1) of section twenty-six of this Act shall apply in relation to any application made before the commencement of this Act as it applies in relation to an application made after the commencement of this Act.

19. Section twenty-seven of this Act shall have effect, in relation to a patent which has ceased to have effect before the commencement of this Act, as if for the reference to section twenty-two of this Act there were substituted a reference to section seventeen of the Patents and Designs Act, 1907.

20. Where the time allowed under section twelve of the Patents and Designs Act, 1907, for the sealing of a patent has expired before the commencement of this Act and the patent has not been sealed, section twenty-eight of this Act shall have effect in relation to the application for the patent as if for the reference to section nineteen of this Act there were substituted a reference to section twelve of the Patents and Designs Act, 1907.

21. In relation to any proceedings pending at the commencement of this Act the provisions of sections thirty and sixty-two of this Act shall not apply but the provisions of sections twenty-two and thirty-two A of the Patents and Designs Act, 1907, shall continue to apply notwithstanding the repeal of that Act.

22. Section sixty-three of this Act shall not apply in relation to any infringement of a patent committed before the commencement of this Act.

23. Any register kept under the Patents and Designs Act, 1907, shall be deemed to form part of the corresponding register under this Act.

24. Nothing in this Act shall affect the term of any patent granted before the commencement of the Patents, etc. (International Conventions) Act, 1938.

25. Nothing in this Act shall affect the operation of section four of the Patents and Designs Act, 1946.

26. Any document referring to any enactment repealed by this Act shall be construed as referring to the corresponding enactment of this Act.

27. Any reference in this Schedule to the Patents and Designs Act, 1907, shall be construed as a reference to that Act as amended by any subsequent enactment other than the Patents and Designs Act, 1949.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Statute of Monopolies	21 Jac. 1. c. 3.
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict. c. 93.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Courts of Land Fees (Scotland) Act, 1895 ...	58 & 59 Vict. c. 14.
Patents and Designs Act, 1907	7 Edw. 7. c. 29.
Solicitors Act, 1932	22 & 23 Geo. 5. c. 37.
Solicitors (Scotland) Act, 1933	23 & 24 Geo. 5. c. 21.
Arbitration Act, 1934	24 & 25 Geo. 5. c. 14.
Trade Marks Act, 1938	1 & 2 Geo. 6. c. 22.
Patents, etc. (International Conventions) Act, 1938	1 & 2 Geo. 6. c. 29.
Patents, Designs, Copyright and Trade Marks (Emergency) Act, 1939	2 & 3 Geo. 6. c. 107.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
Patents and Designs Act, 1946	9 & 10 Geo. 6. c. 44.
Atomic Energy Act, 1946	9 & 10 Geo. 6. c. 80.
Crown Proceedings Act, 1947	10 & 11 Geo. 6. c. 44.
Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948	11 & 12 Geo. 6. c. 66.
Patents and Designs Act, 1949	12, 13 & 14 Geo. 6. c. 62.
Civil Aviation Act, 1949	12, 13 & 14 Geo. 6. c. 67.

CHAPTER 88

Registered Designs Act, 1949

ARRANGEMENT OF SECTIONS

Registrable designs and proceedings for registration

Section
1. Designs registrable under Act.
2. Proprietorship of designs.
3. Proceedings for registration.
4. Registration of same design in respect of other articles, etc.
5. Provisions for secrecy of certain designs.
6. Provisions as to confidential disclosure, etc.

Effect of registration, etc.

7. Right given by registration.
8. Period of copyright.
9. Exemption of innocent infringer from liability for damages.
10. Compulsory licence in respect of registered design.
11. Cancellation of registration.
12. Use for services of the Crown.

International Arrangements

13. Orders in Council as to convention countries.
14. Registration of design where application for protection in convention country had been made.
15. Extension of time for applications under s. 14 in certain cases.
16. Protection of designs communicated under international agreements.