TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Small Dwellings Acquisition Act, 1899	62 & 63 Vict. c. 44.
Housing (Scotland) Act, 1925	15 & 16 Geo. 5. c. 15.
Housing (Rural Workers) Act, 1926	16 & 17 Geo. 5. c. 56.
Hire Purchase and Small Debt (Scotland) Act, 1932.	22 & 23 Geo. 5. c. 38.
Rent and Mortgage Interest Restrictions (Amendment) Act, 1933.	23 & 24 Geo. 5. c. 32.
Housing (Rural Workers) Amendment Act, 1938	1 & 2 Geo. 6. c. 35.
Housing (Agricultural Population) (Scotland) Act, 1938.	1 & 2 Geo. 6. c. 38.
Building Societies Act, 1939	2 & 3 Geo. 6. c. 55.
Housing (Scotland) Act, 1944	7 & 8 Geo. 6. c. 39.
Building Materials and Housing Act, 1945 ...	9 & 10 Geo. 6. c. 20.
Housing (Financial Provisions) (Scotland) Act, 1946.	9 & 10 Geo. 6. c. 54.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Hill Farming Act, 1946	9 & 10 Geo. 6. c. 73.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.
National Assistance Act, 1948	11 & 12 Geo. 6. c. 29.
Agriculture (Scotland) Act, 1948	11 & 12 Geo. 6. c. 45.

CHAPTER 62

Patents and Designs Act, 1949

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An Act to amend the enactments relating to Patents and Designs and to provide for the appointment of an additional puisne judge of the High Court.

[30th July 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:—

PART I

PATENTS

Application for patent, grant of patent, etc.

Application for patent assignee.

1.—(1) An application for a patent for an invention may be made under the principal Act 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) Where an application for a patent (not being a convention application) is made under the principal Act by virtue of an assignment of the right to make such an application, 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.

Amendments relating to specifications.

2.—(1) Every complete specification filed in pursuance of an application for a patent shall disclose the best method of performing the invention which is known to the applicant and for which he is entitled to claim protection.

(2) The claim or claims of a complete specification must be clear and succinct and must be fairly based on the matter disclosed in the specification.

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(3) Rules made by the Board of Trade under the principal 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.

(4) Subject to the foregoing provisions of this section and of subsection (2) of section fourteen of the principal Act, 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 the principal Act as amended by this Act to make a separate application for a patent.

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

Date and term of patent.

3.—(1) Every patent granted after the commencement of this Act, including a patent granted in pursuance of a convention application, shall be dated with the date of filing of the complete specification:

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

(2) Except as otherwise expressly provided by the principal Act, the term of every patent granted after the commencement of this Act shall be sixteen years from the date of the patent.

(3) The date of every patent granted as aforesaid shall be entered in the register of patents.

Priority date of claims of complete specification.

4.—(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

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or a specification which is treated by virtue of a direction under subsection (3) of section three of the principal 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) For the purposes of this Act and the principal 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.

(6) 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.

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

Publication of matter described in provisional specification or priority document.

5. Notwithstanding anything in the principal Act or this Act, the comptroller shall not refuse to grant a patent, and a patent shall not be revoked or invalidated—

(*a*) where the 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 (3)

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of section three of the principal Act as amended by this Act as a provisional specification, 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;

(*b*) where the complete specification is filed in pursuance of a convention application, 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.

Additional powers of comptroller in relation to applications.

6.—(1) If in consequence of the investigations required by sections seven and eight or of proceedings under sections eleven and twenty-six of the principal 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) The powers of the comptroller under the foregoing provisions of this section may be exercised either before or after the complete specification has been accepted or a patent granted to the applicant, and the references in those provisions to the applicant shall accordingly be construed as including references to the patentee.

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(4) 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 section eleven of the principal Act, that the invention, so far as claimed in any claim of the complete specification, has, before the priority date of the claim, been published in the United Kingdom otherwise than as mentioned in subsection (1) of section forty-one of the principal 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.

(5) No amendment of a complete specification shall be made in pursuance of the last foregoing subsection, and no such amendment shall be made in pursuance of subsection (1) of this section after the acceptance of the specification—

(*a*) otherwise than by way of disclaimer, correction or explanation; or

(*b*) (except for the purpose of correcting an obvious mistake) so 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.

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

Additional grounds of opposition to grant of patent.

7. An application for a patent may be opposed under section eleven of the principal Act upon any of the following grounds, in addition to the grounds mentioned in that section, that is to say—

(*a*) 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;

(*b*) 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 in the United Kingdom, before the priority date of the claim, in any specification or other document (not being a specification or document of any class described in subsection (1) of section forty-one of the principal Act) or having regard to what was used in the United Kingdom before that date;

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

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(*d*) in the case of a convention application, that 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:

Provided that for the purposes of paragraph (*a*) or paragraph (*b*) of this section no account shall be taken of any secret use.

Amendment of patent granted to deceased applicant.

8. Where, at any time after a patent has been sealed in pursuance of an application under the principal 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.

Extension of term of patent.

9.—(1) An order for the extension of the term of a patent may be made under subsection (5) of section eighteen of the principal Act (which provides for extension on the ground of inadequate remuneration) notwithstanding that one or more orders have been made in relation to the same patent under subsection (6) of that section (which provides for extension on the ground of war loss); but not more than one order shall be made under the said subsection (5) in relation to the same patent.

(2) An order for the extension of the term of a patent may be made under the said subsection (6) 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 that subsection.

Patents of addition.

10.—(1) Subject to the provisions of this section, a patent in respect of an improvement or modification of an invention (in this Act referred to as "the main invention") may be granted as a patent of addition under subsection (2) of section nineteen of the principal Act notwithstanding that the application for that patent was made at the same time as or before the application for the patent for the main invention.

(2) A patent shall not be granted as a patent of addition under subsection (2) or subsection (3) of the said section nineteen 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.

PART I —*cont.*

(3) 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 expires before the period within which a request for the sealing of the patent for the main invention may be made, the request for the sealing of the patent of addition may be made at any time within the last-mentioned period.

(4) 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.

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

Substitution of applicants, etc.

11.—(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

PART I —*cont.*

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

Restoration of lapsed applications for patents.

12.—(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 the principal 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

PART I —*cont.*

the invention between the date when the time allowed by or under the principal 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.

Licences of right and revocation

Voluntary indorsement of patents.

13.—(1) The comptroller shall not be required to advertise a request under section twenty-four of the principal Act for the indorsement of a patent with the words " licences of right " but shall notify the request to any person entered on the register as entitled to an interest in the patent and shall give that person an opportunity of being heard before acting upon the request.

(2) Where the indorsement of a patent is cancelled in pursuance of an application under subsection (3) of the said section twenty-four, the rights and liabilities of the patentee shall thereafter be the same as if the indorsement had not been made; and 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 indorsed, and if that sum is not paid within that period the patent shall cease to have effect at the expiration of that period.

(3) An application made under the said section twenty-four by the patentee or any other person for the cancellation of the indorsement of a patent of addition shall be treated as an application for the cancellation of the indorsement of the patent for the main invention also, and an application so made for the cancellation of the indorsement 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 indorsement of the patent of addition also.

(4) Where a patent has been indorsed under the said section twenty-four the comptroller may, on the application of the holder of any licence granted under the patent before the indorsement, order the licence to be exchanged for a licence to be granted by virtue of the indorsement upon such terms as may, in default of agreement, be settled by the comptroller on the application of the patentee or the holder of the licence which is to be exchanged.

(5) An appeal shall lie from any decision of the comptroller under the last foregoing subsection.

Revocation of patent by court.

14.—(1) The following section shall be substituted for section twenty-five of the principal Act:—

" **25.**—(1) Subject to the provisions of this Act, a patent may, on the petition of any person interested, be revoked

PART I —*cont.*

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 ascertained, 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.

PART I —*cont.*

(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 proceedings for the infringement of the patent."

(2) The following subsection shall be substituted for subsection (3) of section ninety-four of the principal Act:—

" (3) 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 form and practice existing at the commencement of this Act."

Abuse and insufficient use of patent rights

Repeal of principal Act, ss. 27 and 38A (3).

15. The following nine sections of this Act shall have effect in substitution for the provisions of section twenty-seven and subsection (3) of section thirty-eight A of the principal Act, and accordingly those provisions shall cease to have effect.

Compulsory licences.

16.—(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 indorsement of the patent with the words " licences of right ". PART I —*cont.*

(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

PART I —*cont.*

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 indorsement 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 s. 16.

17.—(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.

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(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) Paragraph (*d*) of subsection (1) of section twenty-four of the principal 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 twenty-four.

Exercise of powers on applications under s. 16.

18.—(1) The powers of the comptroller upon an application under section sixteen 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.

PART I —*cont.*

Indorsement of patent on application of Government department.

19.—(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 sixteen of this Act for the indorsement 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 sixteen of this Act and sections seventeen and eighteen 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 sixteen.

(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 indorsed with the words " licences of right ".

PART I —*cont.*

Inventions relating to food or medicine, etc.

20.—(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 process 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.

21.—(1) Where an order for the grant of a licence under a patent has been made in pursuance of an application under section sixteen 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 sixteen; 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 sixteen 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.

PART I —*cont.*

Procedure and evidence on application under ss. 16 to 21.

22.—(1) Every application under sections sixteen to twenty-one 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 sixteen to twenty-one 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.

23.—(1) An appeal shall lie from any order made by the comptroller in pursuance of an application under sections sixteen to twenty-one of this Act.

(2) 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. PART I —*cont.*

(3) 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.

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

(5) 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.

Supplementary provisions as to orders under ss. 16 to 21.

24.—(1) An order may be made on an application under sections sixteen to nineteen of this Act for the indorsement of a patent with the words "licences of right" notwithstanding any contract which would have precluded the indorsement of the patent on the application of the patentee under section twenty-four of the principal Act; and any such order shall for all purposes have the same effect as an indorsement made in pursuance of an application under the said section twenty-four.

(2) No order shall be made in pursuance of any application under sections sixteen to twenty-one 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

Repeal of principal Act, s. 29.

25. The following five sections of this Act shall have effect in substitution for section twenty-nine of the principal Act, and accordingly that section shall cease to have effect.

Effect of patent as against Crown.

26.—(1) 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.

(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 any articles forfeited under the laws relating to customs or excise.

Use of patented inventions for services of the Crown.

27.—(1) Notwithstanding anything in the principal 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.

PART I —*cont.*

(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 twenty-nine 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

PART I —*cont.*

(*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 use for services of the Crown.

28.—(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

PART I —*cont.*

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 twenty-seven 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 twenty-seven 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 twenty-seven 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 use for Services of the Crown.

29.—(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 twenty-seven 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.

PART I —*cont.*

(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 twenty-five of the principal Act as amended by 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 twenty-seven 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 user during emergency.

30.—(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 twenty-seven 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;

PART I —*cont.*

(*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 twenty-eight or section twenty-nine 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.

Provision for secrecy of certain inventions

Provisions for ensuring secrecy in respect of inventions relevant for defence purposes.

31.—(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

PART I —*cont.*

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 the principal 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 twenty-seven to thirty 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 by way of compensation (if any) 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.

PART I —*cont.*

(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) Where an offence under this section 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.

PART I —*cont.*

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

Amendment of Atomic Energy Act, 1946, section 12.

32.—(1) Subsection (5) of section twelve of the Atomic Energy Act, 1946 (which restricts the making of applications outside the United Kingdom for patents for inventions relating to atomic energy) shall cease to have effect.

(2) For subsection (8) of the said section twelve 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 twenty-seven of the Patents and Designs 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 twenty-eight and twenty-nine of that Act to the services of the Crown shall be construed as including a reference to those purposes."

Legal Proceedings

Appointment of scientific advisers.

33.—(1) 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 relating to patents under the principal Act or this Act, and for regulating the functions of such advisers.

(2) 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.

Order for account in action for infringement.

34.—(1) 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.

(2) In the application of this Act to Scotland the foregoing subsection shall have effect as if for the words "an account of profits" there were substituted the words "an accounting and payment of profits".

Proceedings by licensee for infringement.

35.—(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,

PART I —*cont.*

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.

Threats of legal proceedings, and additional power to make declaration as to non-infringement.

36.—(1) 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 section thirty-six of the principal Act.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

37.—(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, PART I —*cont.*

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 the principal Act restricting the award of damages in particular cases, 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) Section twenty-two and section thirty-two A of the principal 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.

Co-ownership of patents, etc.

Co-ownership of patents.

38.—(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 section and of section thirty-seven of the principal Act, 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.

PART I —*cont.*

(3) Subject to the provisions of section thirty-seven of the principal Act, 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.

Disputes as to inventions made by employees.

39.—(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.

PART I —*cont.*

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

Claims for chemical substances.

40.—(1) Where a complete specification includes a claim for a substance the claim shall not be invalidated by reason only that it is not limited to the substance when produced by specified methods or processes of manufacture, notwithstanding that the substance is a substance prepared or produced by chemical processes or intended for food or medicine; but the comptroller may refuse an application for a patent if it appears to him 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.

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

PART II

DESIGNS

System of registration of designs.

41.—(1) After the commencement of this Act designs registered under Part II of the principal Act shall cease to be registered in classes; but subject to the following provisions of this section a design may, upon application made by the person claiming to be the proprietor, be registered under the said Part II in respect of any article or set of articles specified in the application.

(2) A design shall not be registered under Part II of the principal Act unless it is new or original, and in particular shall not be so registered in respect of any article if it is the same as a design which before the date of the application for registration has been registered or published in the United Kingdom in respect of the same or any other article or differs from such a design only in immaterial details or in features which are variants commonly used in the trade.

(3) Rules made by the Board of Trade under the principal Act may provide for excluding from registration under Part II of that Act designs for such articles, being articles which are primarily literary or artistic in character, as the Board think fit.

Revised definition of "design" and "article".

42. The following definitions shall be substituted for the definitions of "design" and "article" contained in section ninety-three of the principal Act, that is to say:—

"design" means features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished

PART II —*cont.*

article appeal to and are judged solely by the eye, but does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform; and

"article", in relation to designs, means any article of manufacture and includes any part of an article if that part is made and sold separately.

Effects of copyright and legal proceedings.

43.—(1) The registration of a design under Part II of the principal Act shall give to the registered proprietor the copyright in the registered design, that is to say, the exclusive right in the United Kingdom and the Isle of Man to make or import for sale or for use for the purposes of any trade or business, or to sell, hire or offer for sale or hire, any article in respect of which the design is registered, being an article to which the registered design or a design not substantially different from the registered design has been applied, and to make anything for enabling any such article to be made as aforesaid, whether in the United Kingdom or the Isle of Man or elsewhere.

(2) In proceedings for the infringement of copyright in a registered design 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 design was registered; 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 marking of an article with the word "registered" or any abbreviation thereof, or any word or words expressing or implying that the design applied to the article has been registered, unless the number of the design accompanied the word or words or the abbreviation in question.

(3) Nothing in the last foregoing subsection shall affect the power of the court to grant an injunction in any proceedings for infringement of copyright in a registered design.

(4) Section sixty of the principal Act shall cease to have effect.

Provisions for ensuring secrecy in respect of designs relevant for defence purposes.

44. The provisions of section thirty-one of this Act shall apply in relation to designs and applications for the registration of designs as they apply in relation to inventions and applications for patents for inventions, subject to the following modifications, that is to say—

(*a*) in subsection (1), for the words from "and while such directions" to the end of the subsection there shall be substituted the words "and rules shall be made by

PART II —*cont.*

the Board of Trade under the principal Act for securing that the representation or specimen of a design in the case of which directions are given under this section shall not be open to inspection at the Patent Office during the continuance in force of the directions";

(*b*) in subsection (2), in paragraph (*b*), for the words "the application and any documents furnished to the comptroller in connection therewith" there shall be substituted the words "the representation or specimen of the design filed in pursuance of the application"; and in paragraph (*d*), after the words "the application" there shall be inserted the words "or registration";

(*c*) subsections (3) and (4) shall not apply; and

(*d*) subsection (5) shall apply only in relation to an application for the registration of a design of any class prescribed for the purposes of that subsection, and the reference in paragraph (*b*) of that subsection to section twelve of the Atomic Energy Act, 1946, shall be omitted.

PART III

GENERAL

Registration of assignments, etc.

45. Without prejudice to the provisions of section seventy-one of the principal Act, an application for the registration of the title of any person becoming entitled by assignment, or by virtue of a mortgage, licence or other instrument, to a patent or registered design or to a share or other interest in a patent or registered design, may be made under subsection (1) or subsection (2) of the said section seventy-one, as the case may be, by the assignor, mortgagor, licensor or other party to the instrument; and the provisions of the said section seventy-one shall have effect accordingly.

Preparation of documents by patent agents.

46. For the removal of doubt it is hereby declared that a patent agent is not guilty of an offence under section forty-seven of the Solicitors Act, 1932, or section thirty-nine of the Solicitors (Scotland) Act, 1933 (which prohibit 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 the principal Act or this Act before the comptroller or the Appeal Tribunal of any document other than a deed.

Appeals from decisions of the comptroller.

47.—(1) Subject to the provisions of this Act with respect to Scottish appeals, all appeals from the comptroller under the principal Act or this Act shall lie to the Appeal Tribunal.

PART III —*cont.*

(2) An appeal shall lie to the Court of Appeal—

(*a*) from any decision of the Tribunal under section twenty-six of the principal Act or section twenty-one of this Act where the effect of the decision is the revocation of a patent;

(*b*) with the leave of the Tribunal, from any decision of the Tribunal under section eleven of the principal Act where the effect of the decision is the refusal of the grant of a patent on the ground specified in paragraph (*a*) or paragraph (*b*) of section seven of this Act;

(*c*) from any decision of the Tribunal under section thirty-seven of the principal Act.

Appeals from decisions of the comptroller in Scottish cases.

48.—(1) Where, in accordance with rules made by the Board of Trade under the principal Act, the comptroller has directed that any hearing for the purpose of proceedings under section thirty-seven of that Act or under section thirty-nine 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) An appeal shall lie to the Court of Session from any decision of the Scottish Appeal Tribunal under section thirty-seven of the principal Act.

(3) 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.

(4) 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.

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

(6) 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.

(7) 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.

(8) 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.

PART III —*cont.*

(9) 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.

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

Increase of number of judges of High Court.

49. The number of puisne judges of the High Court who may be appointed under the Supreme Court of Judicature (Consolidation) Act, 1925, shall be increased by one; and accordingly subsection (1) of section two of the said Act of 1925, and subsections (1) and (2) of section one of the Supreme Court of Judicature (Amendment) Act, 1944, shall have effect as if for the word "thirty-two", wherever that word occurs, there were substituted the word "thirty-three".

Interpretation and construction.

50.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

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

"convention application" means an application for a patent made by virtue of section ninety-one of the principal Act;

"design" has the meaning assigned to it by section forty-two of this Act;

"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;

"Journal" means the journal published under section forty-six of the principal Act;

"principal Act" means the Patents and Designs Act, 1907, as amended by any subsequent enactment including (except where the context otherwise requires) this Act;

"set of articles" means a number of articles of the same general character ordinarily on sale or intended to be used together, to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, is applied.

PART III —*cont.*

(2) Any question arising under Part II of this Act whether a number of articles constitute a set of articles shall be determined by the comptroller; and, notwithstanding anything in the principal Act, any determination of the comptroller under this subsection shall be final.

(3) Any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set.

(4) This Act shall be construed as one with the principal Act.

Amendments, repeals and transitional provisions.

51.—(1) The provisions of the principal Act specified in the First Schedule to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential upon the foregoing provisions of this Act.

(2) Subject to the following provisions of this section, the provisions of the principal Act specified in the Second Schedule to this Act are hereby repealed.

(3) 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 this Act.

(4) Nothing in this section shall affect so much of section ninety-one of the principal Act as relates to trade marks.

Application to Northern Ireland.

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

(*a*) references to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland;

(*b*) references to a Government department shall be construed as including references to a department of the Government of Northern Ireland; and

(*c*) 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.

Short title and commencement.

53.—(1) This Act may be cited as the Patents and Designs Act, 1949.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty.

SCHEDULES

FIRST SCHEDULE

Section 51.

Minor and consequential amendments of principal Act

Section 1

In subsection (3) for the words from the beginning to "patent, and" there shall be substituted the words "Every application for a patent (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, shall contain a declaration that the applicant believes him to be the true and first inventor; and every such application."

Subsection (4) shall be omitted.

Section 2

In subsection (1) the words "the nature of", and in subsection (2) the words "and ascertain the nature of" shall be omitted.

For subsection (3) there shall be substituted the following subsection:—

"(3) 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."

In subsection (4) for the words "a distinct statement of the invention claimed" there shall be substituted the words "a claim or claims defining the scope of the invention claimed."

Subsection (5) shall be omitted.

Section 3

For subsections (1) and (2) there shall be substituted the following subsections:—

"(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 refuse to proceed with the application or require the application or any such specification as aforesaid to be amended before he proceeds therewith."

1ST SCH. —*cont.*

In subsection (3) after the word "application", where that word occurs for the first time, there shall be inserted the words "(not being a convention application)" and for the words "treat the specification" there shall be substituted the words "at any time before the acceptance of the specification, direct that it shall be treated for the purposes of this Act."

In subsection (4) for the words from "direct that the application" to the end of the subsection there shall be substituted the words "post-date the application 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 day on which, under section ninety-one of this Act, the application could have been made."

In subsection (5) after the word "under" there shall be inserted the words "subsection (2) or subsection (7) of" and the words from "who shall" to the end of the subsection shall be omitted.

In subsection (6) for the word "specification" there shall be substituted the words "complete specification".

At the end of the section there shall be added the following subsections—

"(7) 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.

(8) 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,"

Section 4

In section four the words from the beginning to "provisional protection" shall be omitted.

Section 5

In subsection (2) for the words "thirteen months" there shall be substituted the words "fifteen months".

In subsection (3) the words from "at the expiration" to the end of the subsection shall be omitted.

1ST SCH. —*cont.*

Section 6

Subsections (1), (2) and (4) shall be omitted ; and for subsection (3) there shall be substituted the following subsection:—

"(3) 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 subsection (3) of section three of this Act 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."

Section 7

For section seven there shall be substituted the following section:—

Search for anticipation by previous publications in United Kingdom.

"7.—(1) Subject to the provisions of section three of this Act, 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 document not being—

(*a*) a specification filed in pursuance of an application for a patent made in the United Kingdom ; or

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

(*c*) 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.

(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."

1ST SCH. —*cont.*

Section 8

For section eight there shall be substituted the following section:—

Search for anticipation by prior claim and supplementary provisions as to searches.

"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.

(6) The powers of the comptroller under this section may be exercised either before or after the complete specification has been

accepted or a patent granted to the applicant, and references in this section to the applicant shall accordingly be construed as including references to the patentee: 1ST SCH. —*cont.*

Provided that after the acceptance of a complete specification no amendment thereof shall be made in pursuance of this section otherwise than by way of disclaimer, correction or explanation, or (except for the purpose of correcting an obvious mistake) so 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.

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

(8) 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."

Section 8A

For subsections (1) and (2) there shall be substituted the following subsections:—

"(1) An application for a patent shall be void unless it is in order within the period allowable under this section.

(2) For the purposes of this section an application shall be deemed to be in order when 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 not before; 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."

In subsection (4) the words from the beginning to "said period" shall be omitted; for the words "eighteen months from the date of the application" and the words "twenty-one months from the date of the application" there shall be substituted respectively the words "twelve months from the date of filing of the complete specification" and the words "fifteen months from the date of filing of the complete specification."

In subsection (5) for the words "eighteen months from the date of the application" there shall be substituted the words "twelve months from the date of filing of the complete specification"; in paragraph (*a*) of the proviso for the words "nineteen, to twenty or to twenty-one months from the date of the application" there shall be substituted the words "such period, not exceeding fifteen months from the date of filing of the complete specification, as may be

1ST SCH. —*cont.*

specified in the notice"; and in paragraph (*b*) of the proviso, the words "beginning on the date of the application and" shall be omitted.

Section 9

For the words from "the acceptance", where those words occur for the second time, to the end of the section there shall be substituted the words "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; and 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."

Section 10

For the word "acceptance", in both places where that word occurs, there shall be substituted the word "publication"; and the words "or the expiration of the time for sealing" shall be omitted.

Section 11

In subsection (1) after the word "person" there shall be inserted the word "interested"; and for the words from "two months from" to "allow" there shall be substituted the words "three months from the date of the publication of a complete specification".

In paragraph (*a*) of the said subsection after the word "applicant" there shall be inserted the words "for the patent, or the person described in the application as the true and first inventor", and for the word "legal" there shall be substituted the word "personal".

In paragraph (*b*) of the said subsection for the words from the beginning to "a complete specification" there shall be substituted the words "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, in any specification"; for the words "such date", where those words occur for the first time, there shall be substituted the words "the date of filing of the applicant's complete specification"; and the words "has been made available to the public by publication" and the words "published in the United Kingdom before such date" shall be omitted.

For paragraph (*bb*) of the said subsection there shall be substituted the following paragraph:—

> "(*bb*) 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; or"

In paragraph (*c*) of the said subsection the words "the nature of" and the words "and ascertained" shall be omitted.

Paragraphs (*d*) and (*e*) of the said subsection shall be omitted, and at the end of the subsection there shall be added the words "Provided that the grant of a patent shall not be refused on the ground specified

in paragraph (*bb*) of this subsection if no patent has been granted in pursuance of the application mentioned in that paragraph." 1ST SCH. —*cont.*

In subsection (3) the words from "who shall" to the end of the subsection shall be omitted.

Section 11*A*

In subsection (5) for the words "advertisement of the acceptance" there shall be substituted the word "publication".

In subsection (10) the words from "who shall" to the end of the subsection shall be omitted.

Section 12

For subsections (1) to (4) there shall be substituted the following subsections:—

"(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) 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.

(3) An appeal shall lie from any decision of the comptroller under the last foregoing subsection.

(4) Subject to the provisions of the Patents and Designs Act, 1949, 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".

1ST SCH. —*cont.*

In subsection (5) for the words "allowed by or under the provisions of the last preceding subsection for the sealing of a patent" there shall be substituted the words "within which under the last foregoing subsection a request for the sealing of a patent may be made"; and for the words "period so allowed as aforesaid for the sealing of a patent" there shall be substituted the words "first-mentioned period".

In subsection (6) for the words "sealing the patent" there shall be substituted the words "making a request for the sealing of a patent".

At the end of the section there shall be added the following subsection:—

"(7) 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."

Section 15

For section fifteen there shall be substituted the following section:—

"Fraudulent applications.

15.—(1) An invention claimed in a complete specification filed in pursuance of an application for a patent made by a person being the true and first inventor or deriving title from him shall not be deemed to have been anticipated—

(*a*) 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

(*b*) 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;

and accordingly the comptroller shall not refuse to accept the specification or to grant a patent in pursuance of the first-mentioned application, and the patent when granted shall not be revoked or invalidated by reason only of such matters as aforesaid.

(2) 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 eleven of this Act; or

(*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 eleven or paragraph (*c*) of subsection (1) of section twenty-five of this Act; or

(*c*) the complete specification filed in pursuance of the said other application has, in proceedings under section eleven or

1ST SCH. —*cont.*

section twenty-six 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 the Patents and Designs Act, 1949, 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."

Section 16

For section sixteen there shall be substituted the following section:—

Single patent for cognate inventions.

"16. 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 Act, 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."

Section 17

In subsection (2) for the words "the patentee pays the fee" there shall be substituted the words "that fee is paid", and the words "by the patentee" and "(which shall not exceed ten pounds)" shall be omitted.

Section 18

In subsection (1) for the words from "at least" to the end of the subsection there shall be substituted the words "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".

For subsection (2) there shall be substituted the following subsection:—

"(2) 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."

In subsection (5) for the words from "or may order" to the end of the subsection there shall be substituted the words "subject to such conditions, restrictions and provisions, if any, as may be specified in the order; and any such order may be made notwithstanding that the term of the patent has previously expired".

In subsection (6) the words from "owing" to "such hostilities" shall be omitted; and at the end of the subsection there shall be inserted the words "and for the purposes of this subsection 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".

1ST SCH. —*cont.*

In subsection (7) the words "the proviso to" shall be omitted; for the words "that proviso" there shall be substituted the words "that subsection"; and the words "or that a new patent for the invention may have been previously granted" and the words "whether by way of extension or grant of a new patent", in both places where those words occur, shall be omitted.

In subsection (8) at the end of paragraph (*a*) there shall be inserted the words "and the period within which notice of opposition may be given shall be prescribed by general rules under this Act"; and in paragraph (*c*) the words from "and on such an appeal" to the end of the section shall be omitted.

Section 19

In subsection (5) the words from the beginning to "addition, and" shall be omitted.

Section 20

For section twenty there shall be substituted the following section:—

"Restoration of lapsed patents.

20.—(1) Where any 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 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."

Section 21

For subsection (1) there shall be substituted the following subsection:—

"(1) 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 by way of disclaimer, correction or explanation, subject to such conditions, if any, as the comptroller thinks fit.

Every applicant 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."

In subsection (2) for the words "The request" there shall be substituted the words "Any application for leave to amend a specification under this section"; for the words "one month from its first advertisement" there shall be substituted the words "the prescribed period after the advertisement"; and at the end of the subsection there shall be added the words:—

"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 publication of the complete specification."

In subsection (3) for the words "hear and decide the case" there shall be substituted the words "give to that person and to the opponent an opportunity to be heard before he decides the case."

1ST SCH. —*cont.*

Subsection (4) shall be omitted.

For subsection (5) there shall be substituted the following subsection:—

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

For subsection (6) there shall be substituted the following subsection:—

"(6) No amendment 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."

For subsection (7) there shall be substituted the following subsection:—

"(7) 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 fact that the specification has been amended shall be advertised in the Journal, 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."

In subsection (8) for the words "This subsection shall not apply when and so long as" there shall be substituted the words "Leave to amend a specification shall not be granted under this section on an application made while".

At the end of the section there shall be added the following subsection:—

"(9) This section (except subsection (7)) 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."

Section 22

After the words "think fit" there shall be inserted the words "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."

In the proviso for the words from the beginning to "before the amendment" there shall be substituted the words "Provided that (except for the purpose of correcting an obvious mistake) no amendment shall be so allowed 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."

Section 24

In subsection (1) for the words "the comptroller shall, if the patentee so requests, cause the patent to be indorsed with the words 'licences of right' and a corresponding entry to be made in the register" there shall be substituted the words "the patentee may apply to the comptroller for the patent to be indorsed with the words 'licences of right'; and where such an application is made the comptroller shall, if satisfied that the patentee is not precluded by contract from granting licences under the patent, cause the patent to be indorsed accordingly."

In paragraph (*a*) of subsection (1) for the words "paragraphs (*c*) and (*d*)" there shall be substituted the words "paragraph (*d*)"; and paragraphs (*b*) and (*c*), and in paragraph (*d*) the words from "Service" to the end of the paragraph, shall be omitted.

For subsection (2) there shall be substituted the following subsection:—

"(2) An application for the indorsement 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."

For subsection (3) there shall be substituted the following subsection:—

"(3) Within the prescribed period after a patent has been indorsed under this section, any person who claims that the patentee is and was at the time of the indorsement 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 indorsement; and where the comptroller is satisfied on any such application that the patentee is and was precluded as aforesaid, he shall cancel the indorsement."

In subsection (4) for the word "request," in both places where that word occurs, there shall be substituted the word "application".

In subsection (5) for the word "invention" there shall be substituted the word "indorsement".

In subsection (6) the words "advertise the application in the prescribed manner and shall" shall be omitted.

In subsection (7) for the words from the beginning to "indorsement" there shall be substituted the words "The comptroller shall advertise in the prescribed manner any application made to him

1ST SCH. —*cont.*

for the cancellation of the indorsement of a patent; and within the prescribed period after such advertisement—

(*a*) in the case of an application under subsection (3) of this section, the patentee; and

(*b*) in the case of an application under subsection (6) of this section, any person interested,

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

Section 26

In subsection (1) for the words from the beginning of the subsection to "so entitled" there shall be substituted the words "Any person interested who did not oppose the grant of a patent".

In subsection (2) for the words from "make an order" where those words occur for the first time, to "application" there shall be substituted the words "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"; and for the words "revoking the patent", where those words occur for the second time, there shall be substituted the words "for the unconditional revocation of the patent".

In subsection (3) the words "in the prescribed manner" shall be omitted; and for the words from "and the comptroller may" to the end of the subsection there shall be substituted the words "and where such an offer is made—

(*a*) 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;

(*b*) where any such notice of opposition is duly given the comptroller shall notify the patentee;

(*c*) 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."

Section 28

In subsection (1) for the words from "a book" to the end of the subsection there shall be substituted the words "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 all such other matters affecting the validity or proprietorship of patents as the comptroller thinks fit".

Subsection (2) shall be omitted.

For subsection (4) there shall be substituted the following subsection:—

"(4) 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."

1ST SCH. —*cont.*

Section 31

In subsection (1) the words from the beginning to "assistance", and subsections (2) and (3), shall cease to have effect.

Section 32*A*

In paragraph (*a*) the words from "and to such terms" to "deemed desirable" and the words from "and in exercising" to the end of the paragraph shall be omitted; in paragraphs (*a*) and (*b*) for the words "the patentee" in both places where those words occur there shall be substituted the words "the plaintiff"; in paragraph (*b*) the words from "and may impose" to the end of the paragraph shall be omitted; and paragraph (*c*) shall be omitted.

At the end of the section there shall be added the following subsection:—

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

Section 33

For the words "nor had reasonable means" to "an article with" there shall be substituted the words "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"; for the words from "stamped" to "number of the patent" there shall be substituted the words "unless the number of the patent accompanied the word or words in question"; and for the words "any proceedings for an injunction" there shall be substituted the words "the power of the court to grant an injunction in any proceedings for infringement of a patent."

Section 35

For section 35 there shall be substituted the following section:—

Certificate of contested validity of specification.

"35.—(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."

Section 36

In subsection (1) the words "or other like proceedings" and the words from "or an infringement" to the end of the subsection shall

1ST SCH. —*cont.*

be omitted and after the words "infringement of a patent" there shall be inserted the words "or of rights arising from the publication of a complete specification."

Section 37

In subsection (2) for the words "joint patentees" where those words occur for the first time there shall be substituted the words "the persons registered as grantee or proprietor of a patent", and for those words where they occur for the second time there shall be substituted the words "persons so registered"; after the word "invention" there shall be inserted the words "or any interest therein"; and for the words from "or otherwise" to the end of the subsection there shall be substituted the words "or the exercise of any right under section thirty-eight of the Patents and Designs Act, 1949, as he thinks fit".

In subsection (3) for the words "joint patentees" there shall be substituted the words "persons registered as grantee or proprietor" and for the words "by directions given under the last foregoing subsection, empower" there shall be substituted the words "upon application made to him in the prescribed manner by any such other person, and after giving to the person in default an opportunity to be heard, give directions empowering".

In subsection (4) for the words from the beginning to "affect" there shall be substituted the words "No directions shall be given under this section so as to affect", and for the words "or any rights or obligations arising out of those relationships" there shall be substituted the words "or their rights or obligations as such".

Section 38

In subsection (1) for the words from the beginning to "public policy" there shall be substituted the words—

"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;"

After the words "on reasonable terms" there shall be inserted the words "specified in the contract, and"; and the words from "In any action" to the end of the subsection shall be omitted.

1ST SCH. —*cont.*

In subsection (2) for the words from "relating to" to "patented process" there shall be substituted the words "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"; and after the word "pay" there shall be inserted the words "to the other party".

Subsection (3) shall be omitted.

For subsection (4) there shall be substituted the following subsection:—

"(4) In proceedings against any person for an 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."

In subsection (5), in paragraph (*a*) for the word "of" there shall be substituted the words "supplied by".

Section 41

In subsection (1) for the words "covered by a patent" there shall be substituted the words "claimed in a complete specification"; for the words "made available to the public by publication" there shall be substituted the word "published"; in paragraph (*a*) for the words "not less than fifty years before the date of the patent" there shall be substituted the words "more than fifty years before the date of filing of the first-mentioned specification"; in paragraph (*b*) for the words "not less" there shall be substituted the word "more"; and paragraph (*d*) shall be omitted.

For subsection (2) there shall be substituted the following subsection:—

"(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 reason-

1ST SCH. —*cont.*

able 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."

At the end of the section there shall be added the following subsections:—

"(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) 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.

(5) Notwithstanding anything in this Act or the Patents and Designs Act, 1949,—

(*a*) the comptroller shall not refuse to accept a complete specification or to grant a patent; and

(*b*) a patent shall not be revoked or invalidated,

by reason only of any circumstances which by virtue of the provisions of this section do not constitute an anticipation of the invention claimed in the specification."

Section 43

In subsection (1) for the words "legal representative" there shall be substituted the words "personal representative."

Section 45

For section forty-five there shall be substituted the following section:—

"Publication of invention at exhibitions or before learned societies.

45. 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;

1ST SCH. —*cont.*

(*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;

(*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; and accordingly the comptroller shall not refuse to accept the specification or to grant a patent thereon, and the patent when granted shall not be revoked or invalidated by reason only of such matters as aforesaid."

Section 46

For section forty-six, there shall be substituted the following section:—

Publication of journal and reports.

"46. Rules made by the Board of Trade under section eighty-six of this Act shall provide for the publication by the comptroller—

(*a*) of a 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."

Section 49

For subsection (1) there shall be substituted the following subsection:—

"(1) An application for the registration of a design under this Part of this Act shall be made in the prescribed form and shall be filed at the Patent Office in the prescribed manner and for the purpose of deciding whether a design is new or original the comptroller may make such searches, if any, as he thinks fit."

Subsection (2) shall cease to have effect.

For subsection (3) there shall be substituted the following subsection:—

"(3) The comptroller may refuse any application for the registration of a design or may register the design in pursuance of the application subject to such modifications, if any, as he thinks fit; but an appeal shall lie from any decision of the comptroller under this subsection."

For subsection (5) there shall be substituted the following subsection:—

"(5) Except as otherwise expressly provided by this Act, a design when registered shall be registered as of the date on which

1ST SCH —*cont.*

the application for registration was made, or such other date (whether earlier or later than that date) as the comptroller may in any particular case direct:

Provided that no proceedings shall be taken in respect of any infringement committed before the date on which the certificate of registration of the design under this Act is issued."

Section 50

Subsection (1) shall cease to have effect.

In subsection (2) for the words "Where the proprietor of a registered design applies for registration in the same class of goods" there shall be substituted the words "Where the registered proprietor of a design registered in respect of any article makes an application for registration in respect of one or more other articles of the registered design, or for registration in respect of the same or one or more other articles"; for the words from "of that other design" where those words first occur to the end of paragraph (*b*) there shall be substituted the words "made on that application be invalidated by reason only of the previous registration or publication of the registered design."

In the proviso for the words "copyright conferred by the registration of that other design" there shall be substituted the words "copyright in a design registered by virtue of this section"; and before the words "registered design" there shall be inserted the word "original".

After subsection (2) there shall be inserted the following subsection:—

"(3) Where any person makes an application for the registration of a design in respect of any article and either—

(*a*) that design has been previously registered by another person in respect of some other article; or

(*b*) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof,

then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the foregoing provisions of this section shall apply as if at the time of making the application the applicant had been the registered proprietor of that design."

Section 51

In subsection (1) after the word "registration" there shall be inserted the words "in the prescribed form".

In subsection (2) for the words "in case of loss of the original certificate" there shall be substituted the words "in a case where he is satisfied that the certificate of registration has been lost or destroyed".

1ST SCH. —*cont.*

Section 52

In subsection (1) after the words "Patent Office" there shall be inserted the words "under the control of the comptroller"; the words "book called the" shall be omitted; and at the end of the subsection there shall be inserted the words "or as the comptroller may think fit."

Subsection (2) shall cease to have effect.

Section 53

In subsections (2) and (3) the words "or within such further time (not exceeding three months) as the comptroller may, on a request made to him before the expiration of that further time, allow" shall be omitted; for the word "manner" there shall be substituted the word "form" and after the word "fee" there shall be inserted the words "before the expiration of the said five years or within such further period (not exceeding three months) thereafter as may be specified in a request made to the comptroller and accompanied by the prescribed additional fee".

In subsection (3) for the words "may subject to any rules under this Act" there shall be substituted the word "shall".

Section 54

Section fifty-four shall cease to have effect.

Section 55

For the words from "be deemed to be" to the end of the section there shall be substituted the words "constitute grounds on which an application to register the design may be refused or the registration thereof invalidated." At the end of the section there shall be added the following subsection:—

"(2) An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of the communication of the design by the proprietor thereof to a Government department or to any person authorised by a Government department to consider the merits of the design, or of anything done in consequence of such a communication."

Section 56

For section fifty-six there shall be substituted the following section:—

Inspection of registered designs.

"56.—(1) Subject to the following provisions of this section and to any rules made by the Board of Trade in pursuance of sections thirty-one and forty-four of the Patents and Designs Act, 1949, the representation or specimen of a design registered under this Act shall be open to inspection at the Patent Office on and after the day on which the certificate of registration is issued.

(2) In the case of a design registered in respect of an article of any class prescribed for the purposes of this subsection, no representation or specimen filed in pursuance of the application shall, until the expiration of such period after the day on which the certificate of registration is issued as may be prescribed in

1ST SCH. —*cont.*

relation to articles of that class, be open to inspection at the Patent Office except by the registered proprietor, a person authorised in writing by the registered proprietor, or a person authorised by the comptroller or by the court:

Provided that where the comptroller proposes to refuse an application for the registration of any other design on the ground that it is the same as or differs only in immaterial details or in features which are ordinary trade variants from the first-mentioned design, the applicant shall be entitled to inspect the representation or specimen of the first-mentioned design filed in pursuance of the application for registration of that design.

(3) In the case of a design registered in respect of an article of any class prescribed for the purposes of the last foregoing subsection, the representation or specimen of the design shall not, during the period prescribed as aforesaid, be inspected by any person by virtue of this section except in the presence of the comptroller or of an officer acting under him; and except in the case of an inspection authorised by the proviso to that subsection, the person making the inspection shall not be entitled to take a copy of the representation or specimen of the design or any part thereof."

Section 57

For the words "the registration still exists in respect of the design, and if so in respect of what classes of goods" there shall be substituted the words "the design is registered, and if so, in respect of what articles and whether any extension of the period of copyright has been granted".

Section 58

In paragraph (*a*) of subsection (1) for the words "has been published in the United Kingdom prior to the date of the registration" there shall be substituted the words "was not, at the date of the registration thereof, new or original or on any other ground on which the comptroller could have refused to register the design".

For paragraph (*b*) of subsection (1) there shall be substituted the following paragraph:—

"(*b*) for the grant of a compulsory licence in respect of the design on the ground that the design is not applied in the United Kingdom by any industrial process or means to the article in respect of which it is registered to such an extent as is reasonable in the circumstances of the case."

In the proviso to subsection (1) for the words "with any country outside the United Kingdom" there shall be substituted the words "applying to the United Kingdom and any convention country".

In subsection (2) for the words "this section" there shall be substituted the words "the foregoing provisions of this section"; and the words "and the comptroller may at any time refer any such application to the Appeal Tribunal for trial" shall cease to have effect.

At the end of the section there shall be added the following subsection:—

"(3) The comptroller may, upon a request made in the prescribed manner by the registered proprietor, cancel the registration of a design."

1ST SCH. —*cont.*

Section 58A

For the words "section twenty-nine of this Act" there shall be substituted the words "sections twenty-seven to thirty of the Patents and Designs Act, 1949"; and at the end of the section there shall be added the words "subject to the following modifications:—

(*a*) for references to making, exercising and using, or to making, exercising, using and vending, a patented invention, there shall be substituted references to using a registered design;

(*b*) for references to the priority date of any claim of the complete specification and to the acceptance of the complete specification in respect of the patent, there shall be substituted references to the date of registration of the design; and

(*c*) for paragraph (*a*) of subsection (2) of section twenty-nine there shall be substituted the following paragraph—

'(*a*) if the registered proprietor is a party to the proceedings, apply for cancellation of the registration of the design upon any ground upon which the registration of a design may be cancelled on an application to the court under section seventy-two of the principal Act'".

Section 59

For section fifty-nine there shall be substituted the following section:—

Disclosure of designs at exhibitions.

"59. An application for the registration of a design shall not be refused and the registration thereof shall not be invalidated by reason only—

(*a*) that a representation of the design, or any article to which the design has been applied, has been displayed, with the consent of the proprietor of the design, at an exhibition certified by the Board of Trade for the purposes of this section;

(*b*) that after any such display as aforesaid, and during the period of the exhibition, a representation of the design or any such article as aforesaid has been displayed by any person without the consent of the proprietor; or

(*c*) that a representation of the design has been published in consequence of any such display as is mentioned in paragraph (*a*) of this section,

if the application for registration of the design is made not later than six months after the opening of the exhibition."

Section 68

For the words from "either" to the end of the section there shall be substituted the words "the complete specification has been published".

Section 69

For subsection (1) there shall be substituted the following subsection:—

"(1) An application for a patent and any specification filed in pursuance thereof, shall not, except with the consent of the

1ST SCH. —*cont.*

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 section nine of this Act".

In subsection (2) the words "drawings, photographs, tracings" shall be omitted and for the words "public inspection" there shall be substituted the words "inspection at the Patent Office".

Section 70

For section seventy there shall be substituted the following section:—

"Power of comptroller to correct clerical errors.

70.—(1) The comptroller may, in accordance with the provisions of this section,—

(*a*) 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;

(*b*) correct any error in an application for the registration or in the representation of a design or any error in the register of designs.

(2) A correction may be made in pursuance of this section either on 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—

(*a*) in the case of such a correction as is mentioned in paragraph (*a*) of subsection (1) of this section, to the patentee or applicant for the patent;

(*b*) in the case of such a correction as is mentioned in paragraph (*b*) of subsection (1) of this section, to the registered proprietor or applicant for registration of the design,

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."

Section 71

In subsection (1) the words "the copyright in" shall be omitted; after the words "registered design" there shall be inserted the words "or to a share in a patent or registered design"; after the words "his

1ST SCH. —*cont.*

title" there shall be inserted the words "as proprietor or co-proprietor"; after the word "proprietor" there shall be inserted the words "or co-proprietor"; and for the words from "cause an entry to be made" to the end of the subsection there shall be substituted the words "enter in the register particulars of the instrument or event by which he derives title."

In subsection (2) for the words "his title" there shall be substituted the words "notice of his interest".

In subsection (3) for the words "proprietor of a patent or" there shall be substituted the words "grantee or proprietor of a patent or as the proprietor of a" and the word "absolutely" shall be omitted.

In subsection (4) for the words "copyright in a" there shall be substituted the word "registered"; and after the words "or to any" there shall be inserted the words "share or".

Section 72

In subsection (1) the words "in the prescribed manner" shall be omitted.

Section 73

The words "(if so required within the prescribed time by the applicant)" shall be omitted.

Section 73A

In subsection (2), after the word "design", where that word occurs for the second time, there shall be inserted the words "or for the determination of a dispute as to an invention under section thirty-nine of the Patents and Designs Act, 1949" the words "or the court" in both places where those words occur and the word "compulsory" shall be omitted and for the word "proceedings", where that word occurs for the second time, there shall be substituted the words "opposition, application".

Section 77

In subsection (1) for the words from "shall be given" to "to the contrary" there shall be substituted the words "may be given by affidavit or statutory declaration"; and for the words "evidence by declaration" to the end of the subsection there shall be substituted the words "such evidence as aforesaid, and may allow any witness to be cross-examined on his affidavit or declaration".

For subsection (2) there shall be substituted the following subsection:—

> "(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."

Section 79

After the words "kept there" there shall be inserted the words "and copies purporting to be so certified and sealed of representations and specimens of designs kept there".

1ST SCH. —*cont.*

Section 82

For section eighty-two, there shall be substituted the following section:—

"Hours of business and excluded days.

82.—(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.

(3) Rules made by the Board of Trade under the Trade Marks Act, 1938, may, in relation to any business under that Act, make provision for any matter for which provision may be made, by virtue of subsection (1) of this section, by rules made by the Board of Trade under this Act; and accordingly subsection (2) of this section shall apply in relation to any business under the said Act of 1938 as if for references therein to this Act there were substituted references to that Act."

Section 83

Section eighty-three shall cease to have effect.

Section 83*A*

The words "embodied in" shall be omitted.

Section 84

In the proviso to subsection (1), after the word "letters" there shall be inserted the words "issued by or with the consent of the company".

For subsection (2) there shall be substituted the following subsection:—

> "(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; and where an offence under this section 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."

In subsection (4) after the word "business" there shall be inserted the words "of acting as agent for other persons for the purpose".

1ST SCH. —*cont.*

Section 85

In subsection (1), after the words "erased from" there shall be inserted the words "and not restored to"; and after the words "register of patent agents" where those words occur for the first time, there shall be inserted the words "or who has been convicted of an offence under the last foregoing section" and after that subsection there shall be inserted the following subsection:—

"(1A) Rules under this Act may authorise the comptroller to refuse to recognise as agent in respect of any business under this Act 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."

Section 86

For subsection (1) there shall be substituted the following subsection:—

"(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 designs and for regulating all matters by this Act or the Patents and Designs Act, 1949, 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 applications for registration of designs and of any specifications, drawings, representations, specimens or other documents which may be filed at the Patent Office, and for requiring copies to be furnished of any such representations, specimens or 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 register of designs;

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

(*e*) for authorising the publication and sale of copies of specifications, representations of designs, drawings and other documents in the Patent Office, and of indexes to and abridgements of specifications, drawings or other documents;

(*f*) for prescribing anything authorised or required by this Act or the Patents and Designs Act, 1949, to be prescribed by rules made by the Board."

1ST SCH. —*cont.*

Subsection (2) shall be omitted.

In subsection (3) the words " or any of them " and the words " or those to which the resolution applies " shall be omitted.

Section 87

In subsection (1) for the words from " or a secretary " to the end of the subsection there shall be substituted the words " 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 ".

In subsection (2) after the word " secretary " there shall be inserted the word " under-secretary ".

Section 88

The words from " shall " to " but " shall be omitted.

Section 89

In subsection (2) after the word " registered " there shall be inserted the words " in respect of that article ".

In subsection (3) for the words " a registered design " there shall be substituted the words " registered in respect of the article ".

Section 91

For subsections (1) to (4) there shall be substituted the following subsections:—

" (1) An application for a patent for an invention in respect of which protection has been applied for in a Convention country, or for registration of a design in respect of which protection has been so applied for may be made by the person by whom the application for protection was made or his personal representative or assignee:

Provided that no application shall be made by virtue of this section after the expiration—

(*a*) in the case of an application for a patent, 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, and

(*b*) in the case of an application for registration of a design, of six months from that date.

(2) An application for a patent made by virtue of this section shall be accompanied by a complete specification, and every such application—

(*a*) shall specify the date on which and the Convention country in which the application for protection, or the first such application, was made; and

(*b*) 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.

1ST SCH. —*cont.*

(3) 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 application for a patent may, subject to the provisions of this Act and the Patents and Designs Act, 1949, 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 a separate application 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 relation to each of the said inventions.

(4) An application for the registration of a design made by virtue of this section shall not be refused and the registration of a design on such an application shall not be invalidated by reason only of the registration or publication of the design in the United Kingdom or the Isle of Man during the period specified in subsection (1) of this section as that within which the application for registration may be made; and a design registered on an application made by virtue of this section shall be registered as of the date of the application for protection in the Convention country, or, where more than one such application for protection has been made, the date of the first such application:

Provided that no proceedings shall be taken in respect of any infringement committed before the date on which the certificate of registration of the design under this Act is issued."

Section 91*A*

In subsection (2) for the words from "in respect of which" to "United Kingdom" there shall be substituted the words "administered by His Majesty's Government in the United Kingdom in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations".

In subsection (3) for the words from "in respect of which" to "exercised" there shall be substituted the words "administered by another country in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations".

Section 91*B*

In subsection (1) the words "in priority to other applicants", in both places where those words occur, shall be omitted and for the words "proviso (*a*)" there shall be substituted the words "paragraph (*a*) or, as the case may be, paragraph (*b*) of the proviso".

In subsection (2) paragraph (*d*) shall be omitted; in paragraph (*f*) for the words "the design applied" there shall be substituted the words "articles to which the design is applied have been imported or made"; and for the word "reservations" there shall be substituted the word "restrictions".

1ST SCH. —*cont.*

Section 91*C*

In subsection (1), in paragraph (*a*) for the words " the legal representative " there shall be substituted the words " the personal representative "; in paragraph (*b*) for the words " any such application shall have priority over " there shall be substituted the words " an application for a patent or for the registration of a design made as aforesaid shall not be prejudiced, and the grant of a patent or the registration of a design in pursuance of such an application shall not be invalidated, by "; after the word " design " where that word occurs for the first time, there shall be inserted the words " or by the grant of a patent or the registration of a design on such an application " and the words " or any part thereof ", where those words occur for the second time, shall be omitted.

Section 91*D*

In subsection (1) the words " or any of them " and the words " to which the resolution applies " shall be omitted.

Section 92

For subsection (2) there shall be substituted the following subsection :—

" (2) Subject to the provisions of this Act relating to Scotland, Northern Ireland and the Isle of Man, any petition under section eighteen 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.

No appeal shall lie from any decision of the court under section eighteen of this Act."

Section 92*A*

In subsection (3), there shall be omitted from the words after paragraph (*c*) the words " and the awarding of costs " and there shall be added at the end of the subsection the words " and upon any appeal under this Act to the Appeal Tribunal, the Tribunal may exercise any power which could have been exercised by the comptroller in the proceeding from which the appeal is brought."

For subsection (4) there shall be substituted the following subsection :—

" (4) Rules made under this section shall provide for the appointment of scientific advisers to assist the Tribunal upon appeals under this Act relating to patents 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."

Section 93

The definitions of " His Majesty's dominions outside the United Kingdom ", " proprietor of a new or original design " and " working on a commercial scale " shall be omitted.

1ST SCH. —*cont.*

In the definition of "invention," after the word "Monopolies" there shall be inserted the words "and any new method or process of testing applicable to the improvement or control of manufacture".

For the definition of "inventor" and "applicant" there shall be substituted the following definition:—

"'applicant' includes a person in whose favour a direction has been given under section eleven of the Patents and Designs Act, 1949, and the personal representative of a deceased applicant".

After the last-mentioned definition there shall be inserted the following definition:—

"'article', in relation to patents, has the meaning assigned to it by section fifty of the Patents and Designs Act, 1949".

For the definition of "copyright" there shall be substituted the following definition:—

"'copyright' has the meaning assigned to it by section forty-three of the Patents and Designs Act, 1949".

After the definition of "date of application" there shall be inserted the following definition:—

"'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".

At the end of the section there shall be added the following words:—

"'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;

'priority date' has the meaning assigned to it by section four of the Patents and Designs Act, 1949;

'published', where that expression is used (otherwise than in relation to a complete specification) in any provision relating to patents, 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 any such provision as aforesaid 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;

'registered proprietor', in relation to a design, means the person or persons for the time being entered in the register of designs as the proprietor of the design;

'set of articles' has the meaning assigned to it by subsection (1) of section fifty of the Patents and Designs Act, 1949.

1ST SCH. —*cont.*

(2) For the purposes of section ninety-one and ninety-one C 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.

(3) Subject to the provisions of this and the next following subsection, the author of a design shall be treated for the purposes of this Act as the proprietor of the design:

Provided that where the design is executed by the author for another person for good consideration, that other person shall be treated for the purposes of this Act as the proprietor.

(4) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or as the case may be the original proprietor and that other person, shall be treated for the purposes of this Act as the proprietor of the design or as the proprietor of the design in relation to that article."

Section 94

At the end of the section there shall be added the words "the expression 'chose in action' means a right of action or an incorporeal moveable; the expression 'arbitrator' means arbiter; the expression 'plaintiff' means pursuer; and the expression 'defendant' means defender".

First Schedule

For the words from "Fees on Instruments" to the end of the Schedule there shall be substituted the words:—

"*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 51.

Provisions of principal Act repealed

Subsection (4) of section one.
Subsection (5) of section two.
Subsections (1), (2) and (4) of section six.
Paragraphs (*d*) and (*e*) of subsection (1) of section eleven.
Section thirteen.
Subsection (1) of section seventeen.
Subsection (4) of section twenty-one.
Paragraphs (*b*) and (*c*) of subsection (1) of section twenty-four.
Section twenty-seven.
Subsection (2) of section twenty-eight.
Section twenty-nine.
Section thirty.
Subsections (2) and (3) of section thirty-one.
Section thirty-four.
Subsection (1) of section thirty-seven.
Subsection (3) of section thirty-eight.
Section thirty-eight A.
Paragraph (*d*) of subsection (1) of section forty-one.
Section forty-two.
Subsection (2) of section forty-three.
Subsection (2) of section forty-nine.
Subsection (1) of section fifty.
Subsection (2) of section fifty-two.
Section fifty-four.
Section sixty.
Section eighty-three.
Subsection (2) of section eighty-six.
Paragraph (*d*) of subsection (2) of section ninety-one B.

THIRD SCHEDULE

Section 51.

Transitional Provisions

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

Provided that for the purposes of the said section four 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.

3RD SCH. —*cont.*

2. Notwithstanding anything in section five of the principal Act as amended by this Act, a complete specification shall not be filed after the commencement of this Act in respect of an application which, by virtue of the said section five, 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.

3. Where a complete specification has been filed before the commencement of this Act but has not been accepted, the provisions of the principal Act shall have effect, in relation to matters arising before the acceptance or refusal of acceptance of the complete specification, as if this Act had not been passed.

4. Section seven of this Act shall not apply in any case where the complete specification was accepted before the commencement of this Act, but the provisions of sections eleven and twenty-six of the principal 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 in any such case have effect as if this Act had not been passed.

5. The power of the comptroller under subsection (4) of section six 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.

6. Subsection (2) of the section substituted by this Act for section fifteen of the principal Act shall apply in relation to any application for a patent made before the commencement of this Act as it applies in relation to an application made after the commencement of this Act.

7. 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 principal Act.

8. Where, in relation to any invention or design, the time for giving notice to the comptroller under section forty-five or section fifty-nine of the principal Act expired before the commencement of this Act and the notice was not given, the provisions of the sections substituted by this Act for those sections shall not apply in relation to that invention or any patent for that invention or in relation to that design or any registration of that design.

9. In relation to a complete specification which was accepted before the commencement of this Act, this Act and the principal Act as amended by 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."

10. 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 any amendment of section sixty-nine of the principal Act effected by this Act.

11. 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 principal Act, has been amended before acceptance, nothing in section twenty-one of the principal Act as amended by this Act shall be construed as authorising reference to be made, in construing the specification, to the specification as it subsisted before acceptance.

12. 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 thirty-eight of this Act.

13. The amendments effected by this Act of section twenty-two and section thirty-two A of the principal Act shall not affect any proceedings which are pending at the commencement of this Act.

14. A condition in any contract in force immediately before the commencement of this Act shall not be invalidated by reason only of any amendment of section thirty-eight of the principal Act effected by this Act.

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

16. The provisions of section thirty of the principal Act 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 as if this Act had not been passed.

17. Section thirty-five of this Act shall not apply in relation to any infringement of a patent committed before the commencement of this Act.

18. Any design registered before the commencement of this Act shall be deemed to be registered under the principal Act in respect of articles of the class in which it is registered.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict. c. 93.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Courts of Law Fees (Scotland) Act, 1895 ...	58 & 59 Vict. c. 14.
Patents and Designs Act, 1907	7 Edw. 7. c. 29.
Supreme Court of Judicature (Consolidation) Act, 1925	15 & 16 Geo. 5. c. 49.
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, Designs, Copyright and Trade Marks (Emergency) Act, 1939	2 & 3 Geo. 6. c. 107.
Supreme Court of Judicature (Amendment) Act, 1944	7 & 8 Geo. 6. c. 9.
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.

CHAPTER 63

Legal Aid and Solicitors (Scotland), Act 1949

ARRANGEMENT OF SECTIONS

PART I

LEGAL AID AND LEGAL ADVICE

Legal Aid

Section.
1. Scope and general conditions of legal aid.
2. Financial conditions of legal aid.
3. Contributions from assisted persons and payments out of property recovered.
4. Assessment of disposable capital and income and of maximum contribution.
5. Legal aid in matters not involving litigation.
6. Solicitors and counsel.

Legal Advice

7. Right to and nature of legal advice.

Administration and Finance

8. Functions of Law Society.
9. Legal Aid (Scotland) Fund.
10. Accounts and audit.
11. Pension rights of employees.