# EXPLANATORY MEMORANDUM TO THE

# PATENTS (CONVENTION COUNTRIES) ORDER 2007

# 2007 No. 276

**1.** This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

## 2. Description

This Instrument declares a number of countries to be convention countries for the purposes of the Patents Act 1977 (c. 37) ("the 1977 Act").

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

None

## 4. Legislative Background

4.1 This Instrument is being made under section 90(1) and section 124(3) of the 1977 Act.

4.2 The purpose of this Order is to list those countries that are Convention countries for the purposes of section 5 of the 1977 Act. The countries included in the Schedule to this Order are either signatories to the International Convention for the Protection of Industrial Property ("the Paris Convention") or the Agreement establishing the World Trade Organisation (including the Agreement on Trade Related aspects of Intellectual Property Rights) ("the TRIPs Agreement").

4.3 It is necessary, to satisfy the United Kingdom's international obligations, for every country who is a signatory to either of the Paris Convention or the TRIPs Agreement to be accorded certain rights. The rights are accorded by the 1977 Act to all "convention countries"; this Order only lists those countries that are considered to be "convention countries" it does not set out the rights accorded.

4.4 With the exception of Yemen, all of the specified countries are already considered to be convention countries for the purposes of section 5. Both Serbia and Montenegro have made declarations that they will separately continue to honour commitments signed up to as the state union of Serbia and Montenegro.

4.5 This Order revokes the Patents (Convention Countries) Order 2006. This Order provides a consolidated list of countries that are convention countries for the purposes of section 5 of the Patents Act 1977.

## 5. Extent

5.1 This instruments apply to all of the United Kingdom and to the Isle of Man. It does not apply to the Channel Islands

5.2 The Isle of Man has not been consulted about this Order. Under section 132 (2) of the 1977 Act, the Isle of Man is considered to be part of the United Kingdom. However, Patent processing for the whole of the United Kingdom, including the Isle of Man, is dealt with at the Patent Office. Given that there are no options to consider in the Order, as it is merely a list of countries, we did not consult the Isle of Man but they have been informed.

5.3 The 1977 Act does not extend to the Channel Islands as they make their own legislation on this subject.

## 6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

7.1 The Department has not consulted the public on this Order. This is because the changes made by this Instrument are directly related to the United Kingdom's international obligations.

## 8. Impact

8.1 A Regulatory Impact Assessment has not been prepared as this Instrument is made in pursuance of the United Kingdom's international obligations.

## 9. Contact

9.1 Dave Woolf at the Patent Office (an executive agency of the Department of Trade and Industry) 01633 814669 and e-mail: robin.stout@patent.gov.uk can answer any queries regarding the instrument.