

CONSULTATION PAPER

PROPOSED CHANGES TO THE PATENTS RULES

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CONSULTATION PAPER

PROPOSED CHANGES TO THE PATENTS RULES

Introduction

1. The Patents Rules 1995 (S.I.1995/2093, as amended) set out procedural and administrative requirements which apply to patents and patent applications. This consultation paper sets out some proposed changes to the 1995 Rules and seeks comments on those proposals.

Summary

2. There are three proposals for change. Two proposals relate to the removal of provisions in the 1995 Rules which are incompatible with the efficient operation of the Patent Office's recently-introduced system for electronic case-files for patent applications.
3. The third proposal concerns a change to the 1995 Rules which is necessary if the UK is to comply with the amended Regulations under the WIPO Patent Co-operation Treaty ("PCT").

Background

4. The Patents Rules 1995 are the main piece of secondary legislation made under the Patents Act 1977. They regulate the business and procedure of the Patent Office in respect of patents and patent applications – and so they give details of (for example) formal and filing requirements, time periods and deadlines, and procedures concerning how patent disputes are resolved at the Office.
5. The 1995 Rules have been amended 11 times since they came into force. Further details can be found from the Office's view of the 1995 Rules as they currently stand¹.
6. A substantial modernisation and consolidation of the 1995 Rules has been proposed, and the idea was welcomed in an informal consultation exercise last year². Although some work has been done on this exercise, the government has agreed not to make further progress until the outcome of the Gowers Review of Intellectual Property³ is known, and any recommendations have been considered.

1 See www.patent.gov.uk/patent/p-decisionmaking/p-law/p-law-legislation.htm

2 See www.patent.gov.uk/about/about-consult/about-informal/about-informal-archive.htm

3 See www.hm-treasury.gov.uk/independent_reviews/gowers_review_intellectual_property/gowersreview_index.cfm

7. Nevertheless, it is necessary to make a few relatively small alterations to the 1995 Rules as they now stand.

Proposal 1 – Confidentiality of documents filed at the Office

8. The Patent Office now has electronic case-files for all newly-filed patent applications. These electronic case files allow the Office to work more efficiently and provide a system for handling patent applications which dovetails with the electronic filing of such applications. In time, this will extend to existing paper patent application files, which are to be digitised and added to the system.
9. However, one effect of the software – which is based around the European Patent Office’s “Phoenix” system – is that it cannot provide a 14 day period during which all documents filed remain confidential.
10. The proposal is therefore to delete rule 93(4)(a), which states that any document filed at the Office (except in relation to an opinion under section 74A) is kept confidential for 14 days. This would apply to any document filed on or after the commencement date.
11. This would mean that, generally speaking, any document which relates to a published patent application or patent will be open to inspection on filing. However, rule 94(1) to (4) will remain in place, so that a request for confidentiality can be made at the time of filing the document. If such a request is made, the document will not become open while the request is considered.
12. In practice, requests for confidentiality are rare – and the few requests which are received are made on filing of the document. Thus the practical effect of the proposed change is almost negligible. However, as a safety net, it will remain possible under rule 94(1) for the filer of the document (or for any relevant party) to request confidentiality up to 14 days after the document has been filed. The difference will be, of course, that the document will have been open to inspection in the meantime. But again the document will become confidential once the request has been made, and will remain so while the request is considered. The 14 days for making the request will remain extendable at the comptroller’s discretion.
13. It should be noted that it is proposed to delete rule 94(5). The provision assumes that the document is not open to inspection for 14 days (or longer, if that period is extended). It is therefore incorrect if rule 93(4)(a) is deleted. The closing part of rule 94(5), which reiterates that a document becomes confidential while a request is being considered, is also unnecessary in the light of the final part of rule 94(1).
14. We propose that the 14-day confidentiality period would be removed for any document filed on or after 1 April 2007.

Proposal 2 – Duplicate copies of patent application filings

15. With newly-filed patent applications now being handled electronically, there is no need for patent applicants to file everything in duplicate. We therefore propose deletion of rule 20(2).
16. There would be no requirement to file duplicate copies of documents needed to obtain a filing date. Nor would later-filed documents (such as the claims or abstract), drawings or replacement pages be needed in duplicate.
17. Where a patent specification is amended after grant, the Office may require a duplicate copy of the specification (as amended) to be filed. See rules 40(8), 53(ii), 77(2) and 78(5). We do not propose to abolish this requirement now – because at present it is only patent application files which are handled electronically. These specific rules currently require duplicates by reference to rule 20. So if rule 20(2) is deleted, it is necessary to make explicit that the requirement for duplicates in these circumstances remain. We propose to do this by amendment to rule 112.
18. We propose that the requirement to file duplicate copies of documents on patent applications would cease for all new applications filed on or after 1 April 2007. We also propose that it will no longer be necessary to file duplicate copies on pending applications, if those applications were filed on or after 26 June 2006. That is because such applications are held only as electronic case-files. For applications filed before 26 June 2006, it would be necessary to continue to file duplicate copies of documents.

Proposal 3 – Late declaration of priority in respect of PCT applications

19. From 1 April 2007, the PCT Regulations will make it possible for an applicant to make a late declaration of priority on a PCT application. In other words, it will be possible to request that a PCT application is given a priority date which is up to 14 months earlier than the date of filing of the application itself. This accords with existing arrangements available in the UK for domestic applications (and comes from the WIPO Patent Law Treaty).
20. In particular, the new rule 49ter PCT will allow a request to be made either with the relevant Receiving Office in the international phase or with each relevant designated Office in the national phase⁴. In this respect, new rule 49ter.2 PCT states that the applicant has up to 1 month from entry into the national phase to make such a request with the relevant designated Office.
21. To implement this in UK law, the 14 month deadline set out in rule 6A is disapplied in respect of PCT applications, and in rule 85 a new provision makes clear that the '1 month from national phase entry' deadline applies.

⁴ See pages 28-30 of Annex II of the following document on the WIPO website at: www.wipo.int/edocs/mdocs/govbody/en/pct_a_34/pct_a_34_6.doc

22. This does not mean that it is possible, on a PCT application, to have a priority declaration which is up to 32 months earlier than the application in suit. As noted above, the PCT (like national law) will make it possible in certain circumstances for a priority application to be 14 months older than the application in suit. But the request for this to happen can, under the PCT, be made up to 1 month after entering the national phase.
23. It should be noted that a late declaration may not generally be allowed if the applicant has requested (early) publication under section 16. See existing rule 6A(2)(d) and (3). However, we propose that this restriction will not apply to a request for a late declaration on a PCT application which has entered the national phase. This is because new rule 49ter PCT does not envisage such a limitation.
24. The new arrangements on PCT late declarations will apply to pending PCT applications which enter the national phase on or after 1 April 2007 (as well, of course, to new PCT applications filed on or after that date). The new provisions will therefore not apply to pending PCT applications which have already entered the UK national phase. This mirrors the transitional provision set out in respect of the relevant new PCT rule.

The draft Patents (Amendment) Rules 2007

25. The draft Patents (Amendment) Rules 2007 are presented in Annex A, and the changes that they would make to the 1995 Rules are shown in Annex B. A draft Regulatory Impact Assessment is shown in Annex C.
26. Subject to the outcome of this consultation, we propose that the changes will come into force on 1 April 2007. This is not one of the two annual "common commencement dates", but is the date on which the related changes to the PCT Regulations take effect.

How and when to respond

27. Please send your comments on the proposals by **7 FEBRUARY 2007** to:

James Porter
The Patent Office
Concept House
Cardiff Road
Newport NP10 8QQ

Tel: 01633 814521
Fax: 01633 814491
E-mail: consultation@patent.gov.uk

28. Responses may be sent by post, fax or email. Please indicate in what capacity your response is submitted. If you are responding on behalf of a

representative group, please give a summary of the people and organisations that you represent.

29. You should contact the Patent Office's consultation co-ordinator (see Annex D) if you have any comments or complaints about the handling of this consultation.

Who is being consulted

30. This consultation document has been prepared in accordance with the Government Code of Practice on Written Consultations, set out in Annex D. Copies have been sent to the individuals and organisations listed in Annex E. It is also available on the Patent Office website⁵ and on paper from James Porter (contact details in paragraph 27).

Openness and publication of responses

31. Your response will be made public unless you make clear that you want it to remain confidential. In this respect, many fax and e-mail responses automatically carry a statement that the contents are confidential or only for the eyes of the recipient. In the context of this consultation, such statements will not be taken as a request for confidentiality, and you should make a specific request if you do not wish your response to be made public. We will handle any personal data that you provide in accordance with the Data Protection Act 1998 and the Freedom of Information Act 2000.

⁵ See www.patent.gov.uk/about/about-consult/about-formal/about-formal-current.htm

ANNEX A

DRAFT PATENTS (AMENDMENT) RULES 2007

STATUTORY INSTRUMENTS

2007 No.

PATENTS

The Patents (Amendment) Rules 2007

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	<i>1st April 2007</i>

The Secretary of State makes the following Rules in exercise of the powers conferred on him by section 123 of the Patents Act 1977⁽⁶⁾:

1. These Rules may be cited as the Patents (Amendment) Rules 2007 and they come into force on 1st April 2007.
2. The Patents Rules 1995⁽⁷⁾ are amended as follows.

Late declaration of priority for international application for a patent (UK)

- 3.—(1) Rule 6A (request to the comptroller for a late declaration) is amended as follows.
 - (2) After paragraph (1) insert—

“(1A) Subject to rule 85(3A), a request under section 5(2B) may only be made before the end of the period allowed under section 5(2A)(b).”.
 - (3) For paragraph (2) substitute—

“(2) A request under section 5(2B) shall be—

 - (a) made on Form 3/77; and
 - (b) supported by evidence of why the application in suit was not filed before the end of the period allowed under section 5(2A)(a).

(2A) Such a request may only be made where—

 - (a) the condition in paragraph (3) is met; or
 - (b) the request is made in relation to an international application for a patent (UK).”.
 - (4) Rule 85 (international applications for patents) is amended as follows.
 - (5) After paragraph (3) insert—

⁽⁶⁾ 1977 c. 37; to which there are amendments not relevant to these Rules.

⁽⁷⁾ SI 1995/2093, amended by SI 2002/529, 2003/513, 2004/2358, 2005/2496; there are other amending instruments but none is relevant.

“(3A) Where an international application for a patent (UK) has begun the national phase, a request may be made under section 5(2B) before the end of the period of 1 month beginning with the date the national phase of the application begins.”.

(6) The amendments made by this rule shall not apply to any international application for a patent (UK) which began the national phase of the application before the coming into force of these Rules.

Removing requirement to file duplicates in respect of patent applications

4.—(1) Rule 20 (size and presentation of documents) is amended as follows.

(2) Paragraph (2) is revoked.

(3) In paragraph (16), for “(2)” substitute “(3)”.

(4) What is now rule 112 (copies of documents) shall become paragraph (1) of rule 112, and after that paragraph insert—

“(2) A specification filed under rule 40(8), 53(ii), 77(2) or 78(5) shall be filed in duplicate.”.

(5) The amendments made by this rule shall not apply to any application for a patent filed before 26 June 2006.

Removing restriction on inspection of newly filed documents

5.—(1) In rule 93 (inspection of documents), paragraph (4)(a) is revoked.

(2) In rule 94 (confidential documents), paragraph (5) is revoked.

(3) The amendments made by this rule shall not apply to any document filed at the Patent Office before the coming into force of these Rules.

ANNEX B

PATENTS RULES 1995 AS PROPOSED TO BE AMENDED

This Annex shows the changes proposed to be made. Deletions are shown in strike-out and additions are shown underlined.

Rule 6A – Request to the comptroller for permission to make a late declaration under section 5(2B)

6A.-(1) The period prescribed for the purposes of section 5(2A)(b) shall be the period of two months.

(1A) Subject to rule 85(3A), a request under section 5(2B) may only be made before the end of the period allowed under section 5(2A)(b).

~~(2) A request under section 5(2B) may only be made where—~~

- ~~(a) it is made on Form 3/77;~~
- ~~(b) it is made before the end of the period allowed under section 5(2A)(b);~~
- ~~(c) it is supported by evidence of why the application in suit was not filed before the end of the period allowed under section 5(2A)(a); and~~
- ~~(d) the condition in paragraph (3) is met.~~

(2) A request under section 5(2B) shall be –

- (a) made on Form 3/77; and
- (b) supported by evidence of why the application in suit was not filed before the end of the period allowed under section 5(2A)(a).

(2A) Such a request may only be made where –

- (a) the condition in paragraph (3) is met; or
- (b) the request is made in relation to an international application for a patent (UK).

(3) The condition is that –

- (a) the applicant has not made a request under section 16(1) to publish the application during the period prescribed for the purposes of that section; or
- (b) any request made was withdrawn before the preparations for the publication of the application by the Patent Office had been completed.

(4) Where an applicant makes a request under section 5(2B), he shall make the declaration for the purposes of section 5(2) at the same time as making that request.

Rule 20 – Size and presentation of documents

20.-(1) All documents (including drawings) making up an application for a patent or replacing such documents shall be in the English language.

~~(2) The specification, abstract and any replacement sheet thereof shall be filed in duplicate.~~

[Paragraphs (3) to (15) unchanged]

(16) Where the application for a patent is delivered in electronic form or using electronic communications, paragraphs ~~(2)~~ (3) to (10), (13) and (15) shall not apply to the extent that they have been removed or varied by the comptroller in directions made under section 124A and the application shall comply with such directions.

Rule 85 – International applications for patents: sections 89 and 89A

85.-(1) Subject to the provisions of this rule, in relation to an international application for a patent (UK) which is, under section 89, to be treated as an application for a patent under the Act, the prescribed period for the purposes of section 89A(3) and (5) is thirty one months calculated from the date which, by virtue of section 89B(1)(b), is to be treated as the declared priority date or, where there is no declared priority date, the date of filing of the international application for a patent (UK).

[Paragraphs (2) and (3) unchanged]

(3A) Where an international application for a patent (UK) has begun the national phase, a request may be made under section 5(2B) before the end of the period of 1 month beginning with the date the national phase of the application begins.

[Paragraphs (4) to (13) unchanged]

Rule 93 – Inspection of documents under section 118

93.-(1) Subject to paragraph (5) below, and to the restrictions prescribed in paragraph (4) below, after the date of publication of an application for a patent in accordance with section 16, the comptroller shall, upon request and payment of the prescribed fee, if any, permit all documents filed or kept at the Patent Office in relation to the application or any patent granted in pursuance of it, to be inspected at the Patent Office.

[Paragraphs (2) and (3) unchanged]

(4) The restrictions referred to in paragraph (1) above are-

~~(a) that no document (other than a document filed in connection with a request under section 74A) shall be open to inspection until fourteen days after it has been filed at the Patent Office;~~

[sub-paragraphs (b) to (h) unchanged]

[Paragraphs (5) and (6) unchanged]

Rule 94 – Confidential documents

94.-(1) A person filing at, or sending to, the Patent Office, a document other than a Patents Form or a document filed in connection with a request under section 74A, or any party to any proceedings to which the document relates, may, within fourteen days of the filing or sending of the document, request the comptroller (giving reasons for the request) to direct that the document or any part of it specified by him be treated as confidential, and the comptroller may, at his discretion, so direct; and while the request is being considered by the comptroller, that document or part thereof (hereinafter referred to as the relevant document) shall not be open to public inspection.

[Paragraphs (2) to (4) unchanged]

~~(5) Where the period referred to in paragraph (1) above is extended under rule 110, the relevant document shall not be, or, if the period is extended after it has expired, shall cease to be, open to public inspection until the expiry of the extended period, and if a request for a direction is made the relevant document shall not be open to public inspection while the matter is being determined by the comptroller.~~

Rule 112 – Copies of documents

112.~~(1)~~ Where a document, other than a published United Kingdom specification or application, is referred to in any reference, notice, statement, counter-statement, observations or evidence required by the Act or these Rules to be filed at the Patent Office or sent to the comptroller, copies of the document shall be furnished to the Patent Office within the same period as the reference, notice, statement, counter-statement, observations or evidence in which they are first referred to may be filed and in the following number –

(a) where the document in which they were so referred to had to be filed or sent in duplicate or the original document had to be accompanied by a copy thereof, in duplicate; and

(b) in all other cases, one:

Provided that where a copy of any evidence or observations is required by the Act or these Rules to be sent direct to any person, a copy of any document referred to in that document shall also be sent direct to that person.

(2) A specification filed under rule 40(8), 53(ii), 77(2) or 78(5) shall be filed in duplicate.

ANNEX C

DRAFT REGULATORY IMPACT ASSESSMENT

Consultation on proposed changes to the Patents Rules

1 Introduction

1.1 This Regulatory Impact Assessment (“RIA”) supports and is being issued with the consultation paper on three proposed changes to the Patents Rules 1995. The RIA is produced in accordance with Cabinet Office RIA Guidelines. Interested parties are asked to comment on the proposals and on the alternative options identified. The consultation paper, including the RIA, is available in paper form by contacting:

James Porter
The Patent Office
Concept House
Cardiff Road
Newport NP10 8QQ

Tel: +44 (0)1633 814521
Fax: +44 (0)1633 814491
E-mail: consultation@patent.gov.uk

2 Purpose and Intended Effect

2.1 The three changes which are proposed have the objectives of:

- removing unnecessary and burdensome provisions which are no longer suitable in the light of the Patent Office’s move to electronic case-files for patent applications; and
- implementing a new provision under the Patent Co-operation Treaty.

2.2 The proposed changes will cover the whole of the UK, together with the Isle of Man.

3 Background

3.1 The Patents Rules 1995 (S.I.1995/2093, as amended) are the main piece of secondary legislation made under the Patents Act 1977. They regulate the business and procedure of the Patent Office in respect of patents – and so they give details of (for example) formal and filing requirements for making a patent application, time periods and deadlines, and procedures concerning how patent disputes are resolved at the Office.

3.2 The 1995 Rules reflect the fact that the UK patents system is a product of domestic policy and a number of international agreements, across Europe and beyond. Particularly relevant in this context is the Patent Co-operation Treaty (“PCT”). The PCT is an international patents treaty which was agreed in 1970. It currently has 133 contracting states, including the UK, and it provides a streamlined procedure by which patents in many countries can be obtained by filing a single patent application at one of a few specially-selected patent offices.

3.3 Three changes to the 1995 Rules are proposed. The first two changes concern provisions which are incompatible with the efficient operation of the Patent Office's recently-introduced electronic case-file system for patent applications. They involve removing the requirement to file duplicate copies of documents making up a patent application, and removing a 14-day period during which any document filed at the Patent Office is automatically kept confidential.

3.4 The third change is necessary to reflect revised Regulations under the PCT. Doing so will ensure continuing UK compliance with that Treaty. The revised Regulations will make it possible for an applicant to request that his international application is given a "priority date" which is up to 14 months earlier than the date of filing of the application itself. Although this is already the position for domestic UK applications, a change to the 1995 Rules is necessary to ensure that this now applies to international patent applications.

3.5 These changes are discussed in more detail in the consultation paper available on the Patent Office website at www.patent.gov.uk/about/about-consult/about-formal.htm

4 Rationale for Intervention

4.1 If we do nothing, then provisions which are unnecessary in the light of the Office's electronic case-files system will continue to be imposed on the public. Other provisions which stop that system from working efficiently will also be retained.

4.2 Furthermore, if we do nothing, the UK will cease to comply with the PCT, to which it is a signatory.

4.3 The proposed amendments address the above matters, leading to Rules which are consistent with the new electronic case-file system and which keep the UK in line with the PCT.

5 Consultation

5.1 A public consultation on the proposed changes is taking place during late 2006. This contains an explanation of the proposed changes and the draft Statutory Instrument. Furthermore, when the changes to the PCT Regulations were being negotiated, key patents interests and user groups were consulted regularly on the proposals. They were supportive of the PCT providing for late declaration of priority.

6 Options

Do nothing

6.1 If we do nothing in respect of the provisions which are incompatible with the electronic case-file system, these provisions will continue to require users to provide duplicates when they are of no use to the Patent Office. They will also, being provisions which are formulated on the basis of paper files, not allow the new system to operate efficiently and with most benefit. This is clearly wasteful for all concerned. If we do nothing in respect of the provisions which implement the change to the PCT, then at best the UK patent system will become incompatible with the PCT, leading to legal uncertainty and confusion. At worst, the UK would have to leave the PCT. For these reasons, and the others set out in this RIA, we believe that doing nothing is clearly not in the best interests of the Office or of its users.

Non-legislative changes

6.2 There is no mid-way position, by which these matters can be addressed in a non-legislative way.

Make the necessary changes to the Rules

6.3 This is the strongly preferred option. It involves making the minimum changes necessary in order to remove the provisions which are incompatible with the electronic case-file system, and to implement the small change being made to the PCT Regulations.

Costs and Benefits

7 Sectors and groups affected

7.1 Individuals or organisations of any size, in any part of the UK or beyond, and in any area of economic activity (including not-for-profit organisations) may apply for a patent or become parties to patent litigation. We believe that the small proposed changes will benefit all such patent users.

7.2 As an indication of the numbers affected by the proposed changes, the number of patent applications received by the Patent Office is around 28,000 annually. Around 13,000 of these are published, and 8-9,000 patents are granted as a result. The Office also expects to receive some 4,000 PCT applications during 2006/2007.

8 Benefits

8.1 All patent applicants will benefit from not having to provide duplicate sets of papers – either when filing their patent application or when providing further papers later in the process. Anyone sending a document to the Office will retain the benefit of being able to ask that the document in question be kept confidential. Although there is now the stricter requirement of having to make this request at the time of filing the document, rather than up to 14 days later, in reality there is likely to be little detriment. This is because, in practice, parties request confidentiality when they file the document in question.

8.2 All patent applicants who chose to obtain patent protection in the UK via the PCT system will potentially benefit from the ability to make a late declaration of priority. In other words, they will benefit by being able to retain their priority date in the circumstances where they intended, but were unable, to file the PCT application within 12 months of that date.

9 Costs

9.1 The only costs associated with the proposed changes would appear to arise because patent attorneys and others familiar with the existing Rules will need to become acquainted with the changes. However, they are not particularly complex or wide-reaching, and so these costs are not thought to be significant. The Patent Office will issue guidance reflecting the changes – to help with this process.

10 Small firms impact test

10.1 The Patent Office does not have information from users on the size of organisation they belong to. However, it is able to identify patent applicants or proprietors who are not represented by an agent of any kind and refers to these as private applicants (“PAs”). While any size or type of organisation may be unrepresented, we believe that most PAs are SMEs or individuals working alone. Conversely, many SMEs or private individuals may employ agents and so fall outside our PA category. Nonetheless, information about PAs is the best approximation we have to SMEs.

10.2 Our figures suggest that about a quarter of patent applications are filed by PAs, but these cases are proportionately less likely than others to be pursued to grant, and to be renewed after grant. Consequently, PAs are relatively unlikely to be affected by either costs or benefits of the proposed changes.

10.3 As noted at 9.1 above, we believe that the costs (if any) arising from the proposed changes will fall on patent attorneys and experienced users of the patent system. While some SMEs are regular users of the patent system, they and PAs are less likely to have established a developed understanding of patent procedures, and so will not need to expend effort understanding these relatively small changes. In any case, the Office provides extra help and guidance to PAs (including a dedicated support unit), and takes particular care to explain the legal requirements and procedures involved in obtaining patent protection.

10.4 We have no evidence that previous amendments to the Rules have caused any increase in agents’ fees. Thus SMEs who do choose to use a patent attorney or other agent are not likely to be affected in this way.

10.5 Overall, we conclude that the proposals will not have any significant adverse impact on SMEs. Indeed, SMEs will benefit, along with other users, from the proposed changes – as set out in paragraphs 8.1 and 8.2 above.

11 Competition assessment

11.1 Patents may be applied for or owned by any individual or by any organisation of any size, based in the UK or abroad, and in any economic sector or market.

11.2 We believe that no firm has more than 10% market share in the broad market for intellectual property rights and no three firms together have 50% of the market share.

11.3 The proposed changes will affect firms which file large numbers of applications for patents more than organisations which do not. However, there is no reason to indicate that the proposed changes will affect some firms more than others.

11.4 There is no evidence that the proposals would affect market structures, or change the number or size of firms.

11.5 The proposed rules changes would apply equally to new or established firms, and so there would not be higher set-up or ongoing costs for new or potential firms that existing firms did not have to meet.

11.6 Intellectual property rights are all concerned with innovation, so there will be some sectors affected which are characterised by rapid technological change. However, the proposals do not affect the nature or scope of any of those rights.

11.7 The proposals will not in any way restrict the ability of firms to choose the price, quality, range or location of their products. The nature and extent of patent rights will remain exactly the same under the proposals as under the existing regime.

12 Enforcement, sanctions and monitoring

12.1 Nobody has to apply for any form of intellectual property and so the proposals will not be enforced. Applicants who wish to obtain patents or to maintain their rights once granted will have to comply with the new Rules as they would with the current Rules. The only sanction is that if applicants or proprietors do not comply with the Rules, then their applications will not be processed or their granted rights will cease. Monitoring compliance will be on a case-by-case basis, ensuring that the Rules are complied with as they apply to the individual case. The proposals do not change any existing enforcement, sanctions or monitoring regimes.

12.2 The Patent Office will assess the effects of the proposals. There are well established mechanisms for customers to comment about any aspect of Patent Office services (including a feedback form at www.patent.gov.uk/about/about-ourperform/about-quality.htm and a dedicated e-mail account at customer.feedback@patent.gov.uk) which will remain in place. Feedback of all types is regularly collated and checked to ensure that individual complaints are dealt with and any underlying problems are identified and addressed. The Patent Office recognises that external circumstances will change and that there will almost inevitably be further changes to the Rules in the future to meet or anticipate such changes.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

Date

[Minister's name, title, department]

Contact point for enquiries and comments:

James Porter
The Patent Office
Concept House
Cardiff Road
Newport NP10 8QQ

Tel: 01633 814521
E-mail: consultation@patent.gov.uk

ANNEX D

CONSULTATION CODE OF PRACTICE

The six consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Comments about the consultation process

If you have any comments about how this consultation process is being conducted, please tell the Patent Office's Consultation Co-ordinator, who is:

Maria Ciavatta
The Patent Office
Concept House
Cardiff Road
Newport NP10 8QQ

Tel: 01633 814796
Fax: 01633 814509
E-mail: consultation@patent.gov.uk

ANNEX E

WHERE COPIES OF THIS CONSULTATION HAVE BEEN SENT

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Anti-Counterfeiting Group
Arnander Irvine & Zietman
Ashurst Morris Crisp
Association for University Research & Industry Links
Association of British Insurers
Association of the British Pharmaceutical Industry
Babcock International Ltd
Baker & McKenzie
Bar Council
Beresford & Co
Berwin Leighton
Bharat Electronics Ltd
Biotechnology and BSRC
Boulton Wade Tennant
BPI
BPP Leeds IP Group
Bristows
British Association of Picture Libraries and Agencies
British Brands Group
British Generics Manufacturers Association Ltd
British Library
British Pharmaceutical Group Ltd
British Poultry & Meat Federation
British Retail Consortium
Cardiff Law School
Chartered Institute of Patent Attorneys
Chemical Industries Association
CIMMYT
Competition Law Association
Confederation of British Industry
Consumer Electronics Association
Consumers' Association Ltd
Cranfield University
Crop Protection Association
Davenport Lyons
Deloitte & Touche
Department of Trade and Industry
Educational Recording Agency
Eureka Manufacturing Co. Ltd
Europe Analytica
Federation of the Electronics Industry
FICPI
Frank B Dehn
Freshfields
Gallafent & Co
Gibbs Technologies Limited
Gill Jennings & Every
GlaxoSmithKline
Gowers Review Team
Greenpeace
Harbottle & Lewis
Howrey Simon Arnold & White
Incorporated Society of British Advertisers
Institute of Trademark Attorneys
Intellectual Property Law Advisors
International Chambers of Commerce
Inventorslink Inc
Jones Day
Lancaster University
LES Britain & Ireland – EC Laws Committee
Linklaters & Paines
Lodestar Translations
Lovells
Magister Ltd
Marketforce Communications
Marks & Clerk
Mewburn Ellis
Microsoft Ltd
Milbank Tweed Hadley & McCloy
Ministry of Defence
Mishcon de Reya
Norton Rose
Office of Government Commerce
Olswang
Pfizer Limited
Pillsbury Winthrop Shaw Pittman
PJB Publications
Practical Law Company
Preventative Medicines Tech Inc.
Queen Mary IP Research Institute
RWS Group
S. J. Berwin LLP
Sagittarius Intellectual Property Consultants Ltd
SCRIPT
SIBLE University of Sheffield
Simmons & Simmons
State Patent Bureau of the Republic of Lithuania
Tarlo Lyons
Taylor & Meyer
The Law Society
The Law Society of Scotland
The Patent Judges
Thompsons Solicitors
Trade Marks Patents and Designs Federation
Treasury Solicitors
University of Alicante
University of Cambridge
University of Hull
University of London Queen Mary & Westfield College
University of Oxford
University of Plymouth
University of Reading
University of Strathclyde
Urquhart-Dykes & Lord
Vereenigde
Visteon Global Technologies
Wedlake Bell
Wyatt & Wang Ltd