

Amending patent forms 21, 28 and 30 and changing processing of Patent Form 7; Guidance on invalidity and surrender of Supplementary Protection Certificates; Orphan Works

Intellectual Property Office

Department of Business, Energy and Industrial Strategy

RPC rating: **validated**

This Opinion covers three small measures; for each, a brief description of the change, its impacts (as set out in the IA) and the quality of the submission is given in the table below. All three have an Equivalent Annual Net Direct Cost to Business (EANDCB) which rounds to zero.

Measure	Description	Impact	Quality of submission
Amending patent forms 21, 28 and 30 and changing processing of Patent Form 7 (implemented 09/16)	Form 21: is used by applicants to register a change of patent ownership. This form has been amended to improve the clarity of information requests from the regulator and the role of signatories to forms. The regulator expects this to decrease the number of clarifications subsequently required	Form 21: the regulator expects attorneys to spend an additional 10 minutes of time reviewing the form relative to the previous version. However, the assessment expects 20% fewer applications will need follow-up information, saving attorneys 45 minutes of time in each case. Across 14,000 annual	The assessment is proportionate and describes the amendments to forms and procedure clearly. It would have been improved by including a brief summary of the evidence underpinning the IPO's assumptions,

	<p>from businesses.</p> <p>Form 28: is used by patent proprietors to request an entry in the register of patent licences. The address box has been altered for reasons of administrative efficiency.</p> <p>Form 30: is used by patent proprietors to cancel entries in the register of patent licences. A component used for administrative purposes by the regulator has been removed.</p> <p>Form 7: is completed on patent applications to inform the IPO of product inventors. The IPO has altered administrative practices so that inventors are no longer notified when they are named on a submitted form.</p>	<p>submissions and at a wage of £30.15 an hour¹, the estimated cost to business totals £7,000.</p> <p>Form 28: the change is not expected to have any impact on businesses as applicants provide no information that was not previously required.</p> <p>Form 30: with the reduced form length, attorneys are expected to save 27 minutes of time in each application. Across a total of 9 forms received annually, savings are expected to be negligible.</p> <p>Form 7: the regulator states that inventors previously took no action following notification, and no impact on business is therefore expected.</p>	<p>including assumptions around the length of time devoted to reading forms and corresponding with the IPO. It would also have benefited from stating whether it included postage costs in calculating the costs to business.</p> <p>However, as neither the inclusion of postage costs nor any plausible change in the assumptions would alter the net estimated cost to business materially, the RPC can verify the EANDCB provided.</p>
<p>Guidance on invalidity and surrender of</p>	<p>SPCs provide an additional period of protection for patented chemical</p>	<p>The guidance is expected to be viewed and used only by legal</p>	<p>The assessment provides a clear and proportionate</p>

¹ Based on ASHE figures for legal professionals, uplifted for non-wage labour costs.

<p>Supplementary Protection Certificates (SPCs) (implemented 09/16)</p>	<p>products in the period between the product's regulatory approval and permission to be sold on the market.</p> <p>Guidance has been produced for the specific event when, if a patent is declared invalid by courts, a rights-holder may surrender their corresponding SPC. Rights-holders are legally obliged to inform the IPO of active proceedings when requesting surrender of rights. This guidance reminds businesses of their obligations and provides information on the IPO's new processes for checking the legal status of patents before an SPC enters into force.</p>	<p>professionals.</p> <p>The regulator expects guidance to be viewed 310 times each year. At an expected reading speed of 150 words per minute and a wage rate of £30.15, the assessment estimates the total cost to business to be below £1,000.</p> <p>The revisions to the IPO's processes have not been costed; the regulator notes that there will be costs as a result of additional correspondence with the IPO over SPCs which are identified as invalid. It argues that these will largely be offset by benefits to third parties who will not have to undertake additional work to check the status of SPCs. Given the small number of companies affected, the IPO argues that it would be disproportionate to gather evidence to support detailed costing.</p>	<p>analysis of the expected direct impacts of the guidance changes. It also describes the costs and benefits of the IPO's process changes clearly.</p> <p>The submission would have benefitted from calculating the cost to business of correspondence with the regulator over SPCs and the benefits of no longer undertaking additional work to check the status of SPCs. However, because of the scope of expected impacts, the RPC, in this instance, can validate the measure.</p>
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<p>Orphan Works (implemented 07/15-09/16)</p>	<p>An orphan works licensing scheme (OWLS) was established in 2014 to provide licences for works where a copyright holder is unknown, subject to an applicant completing a diligent search.</p> <p>Two pieces of guidance associated with the licence were updated during the reporting period: an overview of OWLS and diligent search guidance.</p>	<p>320 businesses are expected by the regulator to apply for licences over ten years. The regulator expects two hours of an employee's time to be saved by guidance measures per business (with a wage equal to £9.40 an hour). Additionally, the regulator anticipates that 9% of businesses will no longer need to seek external advice on licensing procedure. Total benefits from the guidance are estimated to equal £20,000 over ten years.</p> <p>The assessment estimates total costs from reading guidance to be £4,600 over four years. Costs associated with the increased length of guidance are estimated to be negligible.</p>	<p>The assessment would have benefited from providing greater detail on how savings are derived from guidance and justifying the assumptions used in the calculations of savings to business. For example, the IPO provides no rationale for the average number of hours saved, the proportion of businesses seeking professional guidance, or the cost of such guidance.</p> <p>Given the large number of applications originally expected, the submission would have been improved by presenting further evidence to support the assumption that there would only be 50 applications over the reporting period.</p> <p>However, given the number of</p>
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Opinion: EANDCB validation
 Origin: domestic
 RPC reference number: RPC-BIS-IPO-3968/70/71
 Date of implementation: see table

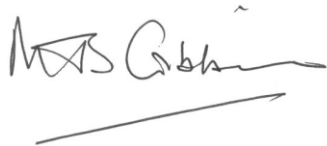
			businesses affected is likely to be small, the RPC is able to validate the EANDCB of zero.
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Departmental assessment

Classification	All Qualifying regulatory provisions
Equivalent annual net cost to business (EANCB)	All £0.0 million
Business net present value	All £0.0 million

RPC assessment

Classification	All Qualifying Regulatory Provisions
EANCB – RPC validated ²	All zero
Business Impact Target (BIT) Score ¹	All zero



Michael Gibbons CBE, Chairman

² For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.