



# THE PATENTS ACT, 1970

## Section 101

### Rights of third parties in respect of use of invention for purposes of Government

(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 purposes of Government—

- (a) by the Central Government or any person authorised by the Central Government under section 100; or
- (b) by the patentee or applicant for the patent to the order made by the Central Government,

the provisions of any licence, assignment or agreement granted or made, between the patentee or applicant for the patent (or any person who derives title for him or from whom he derives title) and any person other than the Central Government shall be of no effect so far as those provisions—

(i) restrict or regulate the use for the purposes of Government of the invention, or of any model document or information relating thereto, or

(ii) provide for the making of payments in respect of any use of the invention or of the model, document or information relating thereto for the purposes of Government,

and the reproduction or publication of any model or document in connection with the said use for the purposes of Government shall not be deemed to be an infringement of any copyright subsisting in the model or document.

(2) Where the patent, or the right to apply for or obtain the patent, has been assigned to the patentee in consideration of royalties or other benefits determined by reference to the use of the invention then, in relation to any use of the invention made for the purposes of Government by the patentee to the order of the Central Government, sub-section (3) of section 100 shall have effect as if that use were made by virtue of an authority given under that section; and use of the invention for the purposes of Government by virtue of sub-section (3) of that section shall have effect as if the reference to the patentee included a reference to the assignor of the patent, and any sum payable by virtue of that sub-section 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 High Court on a reference under section 103.

(3) Where by virtue of sub-section (3) of section 100, payments are required to be made by the Central Government or persons authorised under sub-section (1) of that section in respect of the use of an invention for the purposes of Government and where in respect of such patent there is an exclusive licensee authorised under his licence to use the invention for the purposes of Government, such sum shall be shared by the patentee and such licensee in such proportions, if any, as may be agreed upon between them or as may in default of agreement be determined by the High Court on a reference under section 103 to be just, having regard to any expenditure incurred by the licensee—

- (a) in developing the said invention; or

(b) in making payments to the patentees other than royalties or other benefits determined by reference to the use of the invention in consideration of the licence.

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