

Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs

TITLE II

THE LAW RELATING TO DESIGNS

Section 1

Requirements for protection

Article 3

Definitions

For the purposes of this Regulation:

- (a) ‘design’ means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation;
- (b) ‘product’ means any industrial or handicraft item, including *inter alia* parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;
- (c) ‘complex product’ means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product;
- (d) [^{F1}‘qualifying country’ and ‘qualifying territory’ mean a country or territory designated by regulations made under Article 7.]

Textual Amendments

- F1** Art. 3(d) inserted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 4** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 4

Requirements for protection

- 1 A design shall be protected by a [^{F2}supplementary unregistered] design to the extent that it is new and has individual character.
- 2 A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:
 - a if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and
 - b to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1. (See end of Document for details)

3 'Normal use' within the meaning of paragraph (2)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

Textual Amendments
F2 Words in Art. 4(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 5** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 5

Novelty

1 A design shall be considered to be new if no identical design has been made available to the public:

- a in the case of [^{F3}a supplementary] unregistered ^{F4}... design, before the date on which the design for which protection is claimed has first been made available to the public;
- ^{F5}b

2 Designs shall be deemed to be identical if their features differ only in immaterial details.

Textual Amendments
F3 Words in Art. 5(1)(a) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 6(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
F4 Word in Art. 5(1)(a) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 6(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
F5 Art. 5(1)(b) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 6(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 6

Individual character

1 A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:

- a in the case of [^{F6}a supplementary] unregistered ^{F7}... design, before the date on which the design for which protection is claimed has first been made available to the public;
- ^{F8}b

2 In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1. (See end of Document for details)

Textual Amendments

- F6** Words in Art. 6(1)(a) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 7(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in Art. 6(1)(a) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 7(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Art. 6(1)(b) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 7(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

l^{F9} Article 7

Disclosure

1 Subject to paragraph 4, for the purposes of applying Articles 5 and 6, a supplementary unregistered design shall be deemed to have been made available to the public where paragraph 2 or 3 applies.

2 This paragraph applies where before IP completion day, the design was published or exhibited, used in trade or otherwise disclosed except where those events could not have become known in the normal course of business to the circles specialised in the sector operating within the European Union.

3 This paragraph applies where on or after IP completion day but before the date mentioned in Articles 5(1)(a) or 6(1)(a), the design was published or exhibited, used in trade or otherwise disclosed except where those events could not have become known in the normal course of business to the circles specialised in the sector operating within the United Kingdom, a qualifying country or a qualifying territory.

4. A design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

5. For the purposes of this Regulation, a “qualifying country” is a country designated as such, and a “qualifying territory” is a territory designated as such, in Regulations made by the Secretary of State.

6. Regulations under paragraph 5 are to be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House.]

Textual Amendments

- F9** Art. 7 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 8** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 17(b), 19); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1. (See end of Document for details)

Article 8

Designs dictated by their technical function and designs of interconnections

1 A [F¹⁰supplementary unregistered] design shall not subsist in features of appearance of a product which are solely dictated by its technical function.

2 A [F¹⁰supplementary unregistered] design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3 Notwithstanding paragraph 2, a [F¹⁰supplementary unregistered] design shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Textual Amendments

F10 Words in Art. 8 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 9** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 9

Designs contrary to public policy or morality

A [F¹¹supplementary unregistered] design shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

Textual Amendments

F11 Words in Art. 9 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 9** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1.