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DRAFT STATUTORY INSTRUMENTS

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**2001 No.**

**The Registered Designs Regulations 2001**

**Transitional provisions: pre-1989 registrations**

13.—(1) This Regulation applies to—

- (a) any registration under the Registered Designs Act 1949 which—
  - (i) has resulted from an application made before 1st August 1989; and
  - (ii) has given rise to a copyright in a registered design which is in force at the coming into force of these Regulations;
- (b) any registration under the Act of 1949 which—
  - (i) has resulted from an application made before 1st August 1989; and
  - (ii) has given rise to a copyright in a registered design which is not in force at the coming into force of these Regulations but which would be capable of coming back into force by virtue of an extension of the period of copyright under section 8(2) of the Act of 1949 if that provision were amended as set out in paragraph (8); and
- (c) any registration which subsequently ceases to fall within sub-paragraph (b) because the copyright in the registered design has come back into force by virtue of an extension of the period of copyright under section 8(2) of the Act of 1949 as amended by paragraph (8).

(2) Subject as follows, the amendments and repeals made by these Regulations shall not apply to any provision of the Act of 1949 which only has effect in relation to applications for registration made before 1st August 1989 or any registrations resulting from such applications.

(3) Any such provision and any other provision of the Act of 1949 as it has effect immediately before the coming into force of these Regulations in relation to registrations which fall within paragraph (1) (“pre-1989 registrations”) shall continue to apply so far as it relates to the cancellation or invalidation of pre-1989 registrations (other than cancellation by virtue of section 11(3) of that Act and by reference to an expiry of copyright occurring on or after the coming into force of these Regulations).

(4) Accordingly the amendments and repeals made by these Regulations shall, so far as they relate to the cancellation or invalidation of registrations, not apply in relation to pre-1989 registrations.

(5) The amendments and repeals made by these Regulations shall otherwise apply (subject to paragraphs (2) and (9) to (12) and Regulation 14) in relation to pre-1989 registrations.

(6) Amendments and repeals corresponding to the amendments and repeals made by these Regulations (other than those relating to the cancellation or invalidation of registrations) shall be treated as having effect, with necessary modifications and subject to Regulation 14, in relation to any provision of the Act of 1949 which only has effect in relation to applications for registration made before 1st August 1989 or any registrations resulting from such applications.

(7) In the application by virtue of paragraph (6) of amendments corresponding to those made by Regulation 5, the fact that pre-1989 registrations are in respect of any articles, or sets of articles, shall be disregarded.

(8) In section 8(2) of the Act of 1949 as it has effect in relation to pre-1989 registrations (period of copyright)—

- (a) after the words “second period”, where they appear for the second time, there shall be inserted “and for a fourth period of five years from the expiration of the third period and for a fifth period of five years from the expiration of the fourth period”;
- (b) after the words “second or third” there shall be inserted “or fourth or fifth”; and
- (c) after the words “second period”, where they appear for the third time, there shall be inserted “or the third period or the fourth period”.

(9) The amendments made by Regulation 4 shall not operate so as to alter the dates of registration of designs to which pre-1989 registrations apply.

(10) Where—

- (a) the date of registration for the purposes of calculating the period of copyright, or any extension of that period, under section 8(2) of the Act of 1949 as it has effect in relation to pre-1989 registrations was determined by virtue of section 14(2) of that Act; and
- (b) that date is earlier than the date which would otherwise have been the date of registration for those purposes;

the difference between the two dates shall be added to any period of five years which is current on the coming into force of these Regulations or, if no such period is current but a subsequent extension is effected under section 8 of the Act of 1949 as amended by paragraph (8), to the period resulting from that extension.

(11) Any reference in section 8(2) of the Act of 1949 as amended by paragraph (8) to a period of five years shall, in the case of any such period which is extended by virtue of paragraph (10), be treated as a reference to the extended period.

(12) The repeal by these Regulations of the proviso in section 4(1) of the Act of 1949 shall not apply to the right in a design to which a pre-1989 registration applies.