



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART III

#### DESIGN RIGHT

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##### EXCEPTIONS TO RIGHTS OF DESIGN RIGHT OWNERS

##### *Crown use of designs*

#### **243 Crown use: compensation for loss of profit**

- (1) Where Crown use is made of a design, the government department concerned shall pay—
  - (a) to the design right owner, or
  - (b) if there is an exclusive licence in force in respect of the design, to the exclusive licensee,compensation for any loss resulting from his not being awarded a contract to supply the articles made to the design.
- (2) Compensation is payable only to the extent that such a contract could have been fulfilled from his existing manufacturing capacity; but is payable notwithstanding the existence of circumstances rendering him ineligible for the award of such a contract.
- (3) In determining the loss, regard shall be had to the profit which would have been made on such a contract and to the extent to which any manufacturing capacity was under-used.
- (4) No compensation is payable in respect of any failure to secure contracts for the supply of articles made to the design otherwise than for the services of the Crown.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The amount payable shall, if not agreed between the design right owner or licensee and the government department concerned with the approval of the Treasury, be determined by the court on a reference under section 252; and it is in addition to any amount payable under section 241 or 242.
- (6) In the application of this section to Northern Ireland, the reference in subsection (5) to the Treasury shall, where the government department concerned is a Northern Ireland department, be construed as a reference to the Department of Finance and Personnel.