



Intellectual Property Act 2014

2014 CHAPTER 18

PART 1

DESIGN

Registered designs

10 Legal proceedings and appeals

- (1) In section 24B of the Registered Designs Act 1949 (exemption of innocent infringer from liability), in subsection (1), omit “, and no order shall be made for an account of profits,”.
- (2) After section 27 of that Act insert—

“27A Appeals from decisions of registrar

- (1) An appeal against a decision of the registrar under this Act may be made to—
 - (a) a person appointed by the Lord Chancellor (an “appointed person”), or
 - (b) the court.
- (2) On an appeal under this section to an appointed person, the appointed person may refer the appeal to the court if—
 - (a) it appears to the appointed person that a point of general legal importance is involved,
 - (b) the registrar requests that the appeal be so referred, or
 - (c) such a request is made by any party to the proceedings before the registrar in which the decision appealed against was made.
- (3) Before referring an appeal to the court under subsection (2), the appointed person must give the appellant and any other party to the appeal an opportunity to make representations as to whether it should be so referred.

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- (4) Where, on an appeal under this section to an appointed person, the appointed person does not refer the appeal to the court—
 - (a) the appointed person must hear and determine the appeal, and
 - (b) the appointed person's decision is final.
- (5) Sections 30 and 31 (costs, evidence) apply to proceedings before an appointed person as they apply to proceedings before the registrar.
- (6) In the application of this section to England and Wales, “the court” means the High Court.

27B Persons appointed to hear and determine appeals

- (1) A person is not eligible for appointment under section 27A(1)(a) unless the person—
 - (a) satisfies the judicial-appointment eligibility condition on a 5-year basis,
 - (b) is an advocate or solicitor in Scotland of at least 5 years' standing,
 - (c) is a member of the Bar of Northern Ireland or solicitor of the Court of Judicature of Northern Ireland of at least 5 years' standing, or
 - (d) has held judicial office.
- (2) An appointed person must hold and vacate office in accordance with his terms of appointment, subject to subsections (3) to (5).
- (3) An appointed person is to be paid such remuneration (whether by way of salary or fees) and such allowances as the Secretary of State may with the approval of the Treasury decide.
- (4) An appointed person may resign office by notice in writing to the Lord Chancellor.
- (5) The Lord Chancellor may by notice in writing remove an appointed person (“A”) from office if—
 - (a) A has become bankrupt or made an arrangement with A's creditors or, in Scotland, A's estate has been sequestrated or A has executed a trust deed for A's creditors or entered into a composition contract,
 - (b) A is incapacitated by physical or mental illness, or
 - (c) A is, in the opinion of the Lord Chancellor, otherwise unable or unfit to perform A's duties as an appointed person.
- (6) Before exercising a power under section 27A or this section, the Lord Chancellor must consult the Secretary of State.
- (7) The Lord Chancellor may remove a person from office under subsection (5) only with the concurrence of the appropriate senior judge.
- (8) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
 - (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or

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- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (3) In section 27(1)(a) of that Act, after “the High Court or” insert “ (subject to section 27A(6)) ”.
- (4) Section 28 of that Act (the Appeal Tribunal) is repealed.
- (5) In section 37(3) of that Act (provision as to rules and orders)—
 - (a) omit “or on the Appeal Tribunal”, and
 - (b) omit the words from “; and the Statutory Instruments Act 1946” to the end.
- (6) In section 44(1) of that Act (interpretation), omit the definition of “Appeal Tribunal”.
- (7) In section 249 of the Copyright, Designs and Patents Act 1988 (right of appeal as to terms of licence of right)—
 - (a) in subsection (1), for the words from “the Appeal Tribunal” to the end substitute “ a person appointed under section 27A of the Registered Designs Act 1949 ”, and
 - (b) omit subsection (2).
- (8) In section 251(4) of that Act (right of appeal against decisions of comptroller relating to design right)—
 - (a) before “the High Court” insert “—
 - (a)”,
 - and
 - (b) at the end insert “, or
 - (b) a person appointed under section 27A of the Registered Designs Act 1949”.
- (9) In the House of Commons Disqualification Act 1975, in Schedule 1 (offices disqualifying for membership), in Part 3 (other disqualifying offices), at the appropriate place insert— “ Person appointed under section 27A of the Registered Designs Act 1949 to hear and determine appeals against decisions of the registrar under that Act ”.
- (10) In the Constitutional Reform Act 2005, in Schedule 7 (protected functions of the Lord Chancellor), in paragraph 4, at the appropriate place insert— “ *Registered Designs Act 1949 (c.88)* Sections 27A and 27B. ”
- (11) Section 143 of the Tribunals, Courts and Enforcement Act 2007 (which makes provision about appeals in relation to design rights) is repealed.

Commencement Information

- 11** [S. 10\(1\)](#) in force at 1.10.2014 by [S.I. 2014/2330](#), [art. 3](#), [Sch.](#)
- 12** [S. 10\(2\)](#) in force at 15.7.2014 for specified purposes by [S.I. 2014/1715](#), [art. 3](#)
- 13** [S. 10\(2\)](#) in force at 6.4.2015 in so far as not already in force by [S.I. 2015/165](#), [art. 3](#)
- 14** [S. 10\(3\)-\(11\)](#) in force at 6.4.2015 by [S.I. 2015/165](#), [art. 3](#)

Changes to legislation:

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