



# Registered Designs Act 1949

1949 CHAPTER 88 12 13 and 14 Geo 6

## *Registrable designs and proceedings for registration*

### [<sup>F1</sup>1 Registration of designs.

- (1) A design may, subject to the following provisions of this Act, be registered under this Act on the making of an application for registration.
- (2) In this Act “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 or materials of the product or its ornamentation.
- (3) In this Act—

“complex product” means a product which is composed of at least two replaceable component parts permitting disassembly and reassembly of the product; and

“product” means any industrial or handicraft item other than a computer program; and, in particular, includes packaging, get-up, graphic symbols, typographic type-faces and parts intended to be assembled into a complex product.]

#### Textual Amendments

- F1** Ss. 1-1D substituted (9.12.2001) for s. 1 by [S.I. 2001/3949](#), [reg. 2](#) (with transitional provisions in [regs. 10-14](#))

### [<sup>F2</sup>1A Substantive grounds for refusal of registration.

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#### Textual Amendments

- F2** S. 1A omitted (1.10.2006) by virtue of [Regulatory Reform \(Registered Designs\) Order 2006](#) (S.I. 2006/1974), [arts. 1\(1\), 3](#)

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**[<sup>F3</sup>1B Requirement of novelty and individual character.**

- (1) A design shall be protected by a right in a registered design to the extent that the design is new and has individual character.
- (2) For the purposes of subsection (1) above, a design is new if no identical design or no design whose features differ only in immaterial details has been made available to the public before the relevant date.
- (3) For the purposes of subsection (1) above, a design has 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 before the relevant date.
- (4) In determining the extent to which a design has individual character, the degree of freedom of the author in creating the design shall be taken into consideration.
- (5) For the purposes of this section, a design has been made available to the public before the relevant date if—
  - (a) it has been published (whether following registration or otherwise), exhibited, used in trade or otherwise disclosed before that date; and
  - (b) the disclosure does not fall within subsection (6) below.
- (6) A disclosure falls within this subsection if—
  - (a) it could not reasonably have become known before the relevant date in the normal course of business to persons carrying on business in [<sup>F4</sup>the geographical area comprising the United Kingdom and the European Economic Area] and specialising in the sector concerned;
  - (b) it was made to a person other than the designer, or any successor in title of his, under conditions of confidentiality (whether express or implied);
  - (c) it was made by the designer, or any successor in title of his, during the period of 12 months immediately preceding the relevant date;
  - (d) it was made by a person other than the designer, or any successor in title of his, during the period of 12 months immediately preceding the relevant date in consequence of information provided or other action taken by the designer or any successor in title of his; or
  - (e) it was made during the period of 12 months immediately preceding the relevant date as a consequence of an abuse in relation to the designer or any successor in title of his.
- (7) In subsections (2), (3), (5) and (6) above “the relevant date” means the date on which the application for the registration of the design was made or is treated by virtue of section 3B(2), (3) or (5) or 14(2) of this Act as having been made.
- (8) For the purposes of this section, 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 complex product; and
  - (b) to the extent that those visible features of the component part are in themselves new and have individual character.
- (9) In subsection (8) above “normal use” means use by the end user; but does not include any maintenance, servicing or repair work in relation to the product.]

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#### Textual Amendments

- F3** Ss. 1-1D substituted (9.12.2001) for s. 1 by [S.I. 2001/3949](#), [reg. 2](#) (with transitional provisions in [regs. 10-14](#))
- F4** Words in [s. 1B\(6\)\(a\)](#) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), [reg. 1](#), [Sch. 8 para. 2](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### [<sup>F5</sup>1C Designs dictated by their technical function.

- (1) A right in a registered design shall not subsist in features of appearance of a product which are solely dictated by the product's technical function.
- (2) A right in a registered design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions so as 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) Subsection (2) above does not prevent a right in a registered design subsisting in a design serving the purpose of allowing multiple assembly or connection of mutually interchangeable products within a modular system.]

#### Textual Amendments

- F5** Ss. 1-1D substituted (9.12.2001) for s. 1 by [S.I. 2001/3949](#), [reg. 2](#) (with transitional provisions in [regs. 10-14](#))

### [<sup>F6</sup>1D Designs contrary to public policy or morality.

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

#### Textual Amendments

- F6** Ss. 1-1D substituted (9.12.2001) for s. 1 by [S.I. 2001/3949](#), [reg. 2](#) (with transitional provisions in [regs. 10-14](#))

## 2 Proprietorship of designs.

[<sup>F7</sup>(1) The author of a design shall be treated for the purposes of this Act as the original proprietor of the design, subject to the following provisions.

<sup>F8</sup>(1A) . . . . .

(1B) Where<sup>F9</sup>... a design is created by an employee in the course of his employment, his employer shall be treated as the original proprietor of the design.]

(2) Where a design<sup>F10</sup> . . . becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or as the case may be the original

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proprietor and that other person, shall be treated for the purposes of this Act as the proprietor of the design<sup>F11</sup> . . .

[<sup>F12</sup>(3) In this Act the “ author ” of a design means the person who creates it.

(4) In the case of a design generated by computer in circumstances such that there is no human author, the person by whom the arrangements necessary for the creation of the design are made shall be taken to be the author.]

#### Textual Amendments

- F7** S. 2(1) substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 267(2)
- F8** S. 2(1A) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), ss. 6(1)(a), 24(1); S.I. 2014/2330, art. 3, Sch. (with art. 4)
- F9** Words in s. 2(1B) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), ss. 6(1)(b), 24(1); S.I. 2014/2330, art. 3, Sch. (with art. 4)
- F10** Words in s. 2(2) repealed (9.12.2001) by S.I. 2001/3949, reg. 9(2), Sch. 2 (with transitional provisions in regs. 10-14)
- F11** Words in s. 2(2) repealed (9.12.2001) by S.I. 2001/3949, reg. 9(2), Sch. 2 (with transitional provisions in regs. 10-14)
- F12** S. 2(3)(4) inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 267(3)(4)

#### [<sup>F13</sup> Applications for registration.

(1) An application for the registration of a design<sup>F14</sup> or designs<sup>F15</sup> . . . shall be filed at the Patent Office in the prescribed manner.

<sup>F16</sup>(2) . . . . .

(3) An application for the registration of a design<sup>F17</sup> or designs] in which national unregistered design right subsists shall be made by the person claiming to be the design right owner.

<sup>F18</sup>(4) . . . . .

(5) An application for the registration of a design which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within such time as may be prescribed shall be deemed to be abandoned.]

#### Textual Amendments

- F13** Ss. 3-3D substituted (9.12.2001) for s. 3 by S.I. 2001/3949, reg. 4 (with transitional provisions in regs. 10-14)
- F14** Words in s. 3(1) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), 11(2)
- F15** Words in s. 3(1) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), ss. 12(2), 24(1); S.I. 2014/2330, art. 3, Sch.
- F16** S. 3(2) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), ss. 6(2), 24(1); S.I. 2014/2330, art. 3, Sch.
- F17** Words in s. 3(3) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), 11(4)
- F18** S. 3(4) omitted (1.10.2006) by virtue of [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), 4

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### **[<sup>F19</sup>3A Determination of applications for registration.**

- (1) Subject as follows, the registrar shall not refuse [<sup>F20</sup>to register a design included in an application under this Act].
- (2) If it appears to the registrar that an application for the registration of a design [<sup>F21</sup>or designs] has not been made in accordance with any rules made under this Act, he may refuse [<sup>F22</sup>to register any design included in it].
- (3) If it appears to the registrar that [<sup>F23</sup>the applicant is not under section 3(2) or (3) or 14 entitled to apply for the registration of a design included in the application, he shall refuse to register that design.]
- [<sup>F24</sup>(4) If it appears to the registrar that the application for registration includes—
  - (a) something which does not fulfil the requirements of section 1(2) of this Act;
  - (b) a design that does not fulfil the requirements of section 1C or 1D of this Act; or
  - (c) a design to which a ground of refusal mentioned in Schedule A1 to this Act applies,he shall refuse to register that thing or that design.]]

#### **Textual Amendments**

- F19** Ss. 3-3D substituted (9.12.2001) for s. 3 by [S.I. 2001/3949](#), **reg. 4** (with transitional provisions in [regs. 10-14](#))
- F20** Words in s. 3A(1) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **12(2)**
- F21** Words in s. 3A(2) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **12(3)(a)**
- F22** Words in s. 3A(2) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **12(3)(b)**
- F23** Words in s. 3A(3) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **12(4)**
- F24** S. 3A(4) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **5**

### **[<sup>F25</sup>3B Modification of applications for registration.**

- (1) The registrar may, at any time before an application for the registration of a design [<sup>F26</sup>or designs] is determined, permit the applicant to make such modifications of the application as the registrar thinks fit.
- (2) Where an application for the registration of a design [<sup>F27</sup>or designs] has been modified before it has been determined in such a way that [<sup>F28</sup>any design included in the application] has been altered significantly, the registrar may, for the purpose of deciding whether and to what extent the design is new or has individual character, direct that the application [<sup>F29</sup>so far as relating to that design] shall be treated as having been made on the date on which it was so modified.
- (3) Where—
  - (a) an application for the registration of [<sup>F30</sup>more than one design] has been modified before it has been determined to exclude one or more designs from the application; and

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- (b) a subsequent application for the registration of a design so excluded has, within such period (if any) as has been prescribed for such applications, been made by the person who made the earlier application or his successor in title, the registrar may, for the purpose of deciding whether and to what extent the design is new or has individual character, direct that the subsequent application shall be treated as having been made on the date on which the earlier application was, or is treated as having been, made.
- (4) Where <sup>F31</sup>... the registration of a design has been refused on any ground mentioned in [<sup>F32</sup>section 3A(4)(b) or (c)] of this Act, the application [<sup>F33</sup>for the design] may be modified by the applicant if it appears to the registrar that—
- (a) the identity of the design is retained; and
  - (b) the modifications have been made in accordance with any rules made under this Act.
- (5) An application modified under subsection (4) above shall be treated as the original application and, in particular, as made on the date on which the original application was made or is treated as having been made.
- (6) Any modification under this section may, in particular, be effected by making a partial disclaimer in relation to the application.]

#### Textual Amendments

- F25** Ss. 3-3D substituted (9.12.2001) for s. 3 by [S.I. 2001/3949](#), **reg. 4** (with transitional provisions in [regs. 10-14](#))
- F26** Words in s. 3B(1) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(2)**
- F27** Words in s. 3B(2) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(3)(a)**
- F28** Words in s. 3B(2) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(3)(b)**
- F29** Words in s. 3B(2) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(3)(c)**
- F30** Words in s. 3B(3) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(4)**
- F31** Words in s. 3B(4) omitted (1.10.2006) by virtue of [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(5)(a)**
- F32** Words in s. 3B(4) substituted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **6**
- F33** Words in s. 3B(4) inserted (1.10.2006) by [Regulatory Reform \(Registered Designs\) Order 2006 \(S.I. 2006/1974\)](#), arts. 1(1), **13(5)(b)**

#### [<sup>F34</sup>3C Date of registration of designs.

- (1) Subject as follows, a design, when registered, shall be registered as of the date on which the application was made or is treated as having been made.
- (2) Subsection (1) above shall not apply to an application which is treated as having been made on a particular date by section 14(2) of this Act or by virtue of the operation of section 3B(3) or (5) of this Act by reference to section 14(2) of this Act.
- (3) A design, when registered, shall be registered as of—

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- (a) in the case of an application which is treated as having been made on a particular date by section 14(2) of this Act, the date on which the application was made;
- (b) in the case of an application which is treated as having been made on a particular date by virtue of the operation of section 3B(3) of this Act by reference to section 14(2) of this Act, the date on which the earlier application was made;
- (c) in the case of an application which is treated as having been made on a particular date by virtue of the operation of section 3B(5) of this Act by reference to section 14(2) of this Act, the date on which the original application was made.]

**Textual Amendments**

**F34** Ss. 3-3D substituted (9.12.2001) for s. 3 by [S.I. 2001/3949](#), [reg. 4](#) (with transitional provisions in [regs. 10-14](#))

**[<sup>F35</sup>3D Appeals in relation to applications for registration.**

An appeal lies from any decision of the registrar under section 3A or 3B of this Act.]

**Textual Amendments**

**F35** Ss. 3-3D substituted (9.12.2001) for s. 3 by [S.I. 2001/3949](#), [reg. 4](#) (with transitional provisions in [regs. 10-14](#))

<sup>F36</sup>**4** .....

**Textual Amendments**

**F36** S. 4 repealed (9.12.2001) by [S.I. 2001/3949](#), [reg. 9\(2\)](#), [Sch. 2](#) (with transitional provisions in [regs. 10-14](#))

**5 Provisions for secrecy of certain designs.**

(1) Where, either before or after the commencement of this Act, an application for the registration of a design has been made, and it appears to the registrar that the design is one of a class notified to him by [<sup>F37</sup>the Secretary of State] as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the design, or the communication of such information to any person or class of persons specified in the directions.

[<sup>F38</sup>(2) The Secretary of State shall by rules make provision for securing that where such directions are given—

- (a) the representation or specimen of the design, <sup>F39</sup> . . .
- (b) .....

shall not be open to public inspection at the Patent Office during the continuance in force of the directions.]

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- (3) Where the registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to <sup>F37</sup>the Secretary of State], and thereupon the following provisions shall have effect, that is to say:—
- (a) <sup>F37</sup>the Secretary of State] shall, upon receipt of such notice, consider whether the publication of the design would be prejudicial to the defence of the realm and unless a notice under paragraph (c) of this subsection has previously been given by that authority to the registrar, shall reconsider that question before the expiration of nine months from the date of filing of the application for registration of the design and at least once in every subsequent year;
  - (b) for the purpose aforesaid, <sup>F37</sup>the Secretary of State] may, at any time after the design has been registered or, with the consent of the applicant, at any time before the design has been registered, inspect the representation or specimen of the design <sup>F40</sup> . . . filed in pursuance of the application;
  - (c) if upon consideration of the design at any time it appears to <sup>F37</sup>the Secretary of State] that the publication of the design would not, or would no longer, be prejudicial to the defence of the realm, <sup>F41</sup>he] shall give notice to the registrar to that effect;
  - (d) on the receipt of any such notice the registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application or registration, whether or not that time has previously expired.
- (4) No person resident in the United Kingdom shall, except under the authority of a written permit granted by or on behalf of the registrar, make or cause to be made any application outside the United Kingdom for the registration of a design of any class prescribed for the purposes of this subsection unless—
- (a) an application for registration of the same design has been made in the United Kingdom not less than six weeks before the application outside the United Kingdom; and
  - (b) either no directions have been given under subsection (1) of this section in relation to the application in the United Kingdom or all such directions have been revoked:

Provided that this subsection shall not apply in relation to a design for which an application for protection has first been filed in a country outside the United Kingdom by a person resident outside the United Kingdom.

(5) . . . . . <sup>F42</sup>

#### Textual Amendments

- F37** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 272, **Sch. 3 para. 3(2)**
- F38** S. 5(2) substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 272, **Sch. 3 para. 3(3)**
- F39** S. 5(2)(b) and the preceding word “and” repealed (9.12.2001) by [S.I. 2001/3949, reg. 9\(2\)](#), **Sch. 2** (with transitional provisions in [regs. 10-14](#))
- F40** Words in s. 5(3)(b) repealed (9.12.2001) by [S.I. 2001/3949, reg. 9\(2\)](#), **Sch. 2** (with transitional provisions in [regs. 10-14](#))
- F41** Words substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 272, **Sch. 3 para. 3(2)**



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**F42** S. 5(5) repealed by Copyright, Designs and Patents Act 1988 (c. 48, SIF 67A), ss. 272, 303(2), Sch. 3 para. 3(5), **Sch. 8**

**F43**<sup>6</sup> .....

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**Textual Amendments**

**F43** S. 6 repealed (9.12.2001) by S.I. 2001/3949, reg. 9(2), **Sch. 2** (with transitional provisions in regs. 10-14)

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