



# Registered Designs Act 1949

## 1949 CHAPTER 88

### *Supplemental*

#### **39 Hours of business and excluded days.**

- (1) Rules made by the Board of Trade under this Act may specify the hour at which the Patent Office shall be deemed to be closed on any day for purposes of the transaction by the public of business under this Act or of any class of such business, and may specify days as excluded days for any such purposes.
- (2) Any business done under this Act on any day after the hour specified as aforesaid in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be deemed to have been done on the next following day not being an excluded day; and where the time for doing anything under this Act expires on an excluded day, that time shall be extended to the next following day not being an excluded day.

#### **40 Fees.**

There shall be paid in respect of the registration of designs and applications therefor, and in respect of other matters relating to designs arising under this Act, such fees as may be prescribed by rules made- by the Board of Trade with the consent of the Treasury.

#### **41 Service of notices, etc., by post.**

Any notice required or authorised to be given by or under this Act, and any application or other document so authorised or required to be made or filed, may be given, made or filed by post.

**42 Annual report of registrar.**

The Comptroller-General of Patents, Designs and Trade Marks shall, in his annual report with respect to the execution of the Patents Act, 1949, include a report with respect to the execution of this Act as if it formed a part of or was included in that Act.

**43 Savings.**

- (1) Nothing in this Act shall be construed as authorising or requiring the registrar to register a design the use of which would, in his opinion, be contrary to law or morality.
- (2) Nothing in this Act shall affect the right of the Crown or of any person deriving title directly or indirectly from the Crown to sell or use articles forfeited under the laws relating to customs or excise.

**44 Interpretation.**

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned by them, that is to say—

" Appeal Tribunal " means the judge nominated under section twenty-eight of this Act.

" article " means any article of manufacture and includes any part of an article if that part is made and sold separately; '

" assignee " includes the personal representative of a deceased assignee, and references to the assignee of any person include references to the assignee of the personal representative or assignee of that person ;

" copyright " has the meaning assigned to it by subsection (1) of section seven of this Act;

" court " means the High Court;

" design " has the meaning assigned to it by subsection (3) of section one of this Act;

" Journal " means the journal published by the comptroller under the Patents Act, 1949 ;

" prescribed " means prescribed by rules made by the Board of Trade under this Act;

" proprietor " has the meaning assigned to it by section two of this Act;

" registered proprietor " means the person or persons for the time being entered in the register of designs as proprietor of the design ;

" registrar " means the Comptroller-General of Patents Designs and Trade Marks;

" set of articles " means a number of articles of the same general character ordinarily on sale or intended to be used together, to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, is applied.

- (2) Any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set.
- (3) Any question arising under this Act whether a number of articles constitute a set of articles shall be determined by the registrar; and notwithstanding anything in this Act any determination of the registrar under this subsection shall be final.

- (4) For the purposes of subsection'(1) of section fourteen and of section sixteen of this Act, the expression " personal representative ", in relation to a deceased person, includes the legal representative of the deceased appointed in any country outside the United Kingdom.

#### **45 Application to Scotland.**

In the application of this Act to Scotland—

- (1) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to designs; and with reference to any such proceedings, the term " the Court " shall mean the Court of Session:
- (2) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification, shall be served on the registrar, and he shall rectify the register accordingly:
- (3) The expression " injunction " means " interdict " ; the expression " arbitrator " means " arbiter " ; the expression " plaintiff " means " pursuer " ; the expression " defendant " means " defender " .

#### **46 Application to Northern Ireland.**

In the application of this Act to Northern Ireland—

- (1) The provisions of this Act conferring a special jurisdiction on the court, as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Northern Ireland in any proceedings relating to designs; and with reference to any such proceedings the term " the Court " means the High Court in Northern Ireland:
- (2) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the registrar, and he shall rectify the register accordingly:
- (3) References to enactments of the Parliament of the United Kingdom shall be construed as references to those enactments as they apply in Northern Ireland:
- (4) References to a Government department shall be construed as including references to a department of the Government of Northern Ireland:
- (5) The expression " summary conviction " shall be construed as meaning conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland) amending that Act.

#### **47 Isle of Mac.**

This Act shall extend to the Isle of Man subject to the following modifications:—

- (1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement or in any action or proceeding respecting a design competent to those courts ;

- (2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the court;
- (3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

#### **48 Repeals, savings, and transitional provisions.**

- (1) Subject to the provisions of this section the enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) Subject to the provisions of this section, any Order in Council, rule, order, requirement, certificate, notice, decision, direction, authorisation, consent, application, request or thing made, issued, given or done under any enactment repealed by this Act shall, if in force at the commencement of this Act, and so far as it could have been made, issued, given or done under this Act, continue in force and have effect as if made, issued, given or done under the corresponding enactment of this Act.
- (3) Any register kept under the Patents and Designs Act, 1907, shall be deemed to form part of the corresponding register under this Act.
- (4) Any design registered before the commencement of this Act shall be deemed to be registered under this Act in respect of articles of the class in which it is registered.
- (5) Where, in relation to any design the time for giving notice to the registrar under section fifty-nine of the Patents and Designs Act, 1907, expired before the commencement of this Act and the notice was not given, subsection (2) of section six of this Act shall not apply in relation to that design or any registration of that design.
- (6) Any document referring to any enactment repealed by this Act shall be construed as referring to the corresponding enactment of this Act.
- (7) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section thirty-eight of the Interpretation Act, 1889, (which relates to the effect of repeals).

#### **49 Short title and commencement.**

- (1) This Act may be cited as the Registered Designs Act, 1949.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and fifty, immediately after the coming into operation of the Patents and Designs Act, 1949.