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STATUTORY INSTRUMENTS

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**2001 No. 3949**

**The Registered Designs Regulations 2001**

**Designs registrable under the 1949 Act**

2. For section 1 of the Registered Designs Act 1949(1) (designs registrable under Act) there shall be substituted—

**“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.

**1A Substantive grounds for refusal of registration.**

(1) The following shall be refused registration under this Act—

- (a) anything which does not fulfil the requirements of section 1(2) of this Act;
- (b) designs which do not fulfil the requirements of sections 1B to 1D of this Act;
- (c) designs to which a ground of refusal mentioned in Schedule A1 to this Act applies.

(2) A design (“the later design”) shall be refused registration under this Act if it is not new or does not have individual character when compared with a design which—

- (a) has been made available to the public on or after the relevant date; but
- (b) is protected as from a date prior to the relevant date by virtue of registration under this Act or an application for such registration.

(3) In subsection (2) above “the relevant date” means the date on which the application for the registration of the later 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.

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(1) 1949 c. 88. Section 1 as originally enacted was substituted by section 265 of the Copyright, Designs and Patents Act 1988 (c. 48) (“the 1988 Act”) but not in relation to applications for registration made before 1st August 1989. Subsection (6) was added by section 13(1) of the Olympic Symbol etc. (Protection) Act 1995 (c. 32) in relation to applications for registration made on or after 20th September 1995.

**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 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.

**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.

**1D Designs contrary to public policy or morality.**

**1D.** A right in a registered design shall not subsist in a design which is contrary to public policy or to accepted principles of morality.”