

## SCHEDULE 8

### Other amendments to legislation

#### PART 1

##### Further amendments to the 1949 Act

1. The 1949 Act is further amended as follows.

2. In section 1B(1) (requirement of novelty and individual character), in subsection (6)(a), for “the European Economic Area”, substitute “the geographical area comprising the United Kingdom and the European Economic Area”.

3. In section 11ZA(2) (grounds for invalidity of registration), in subsection (1A)(b) omit subparagraphs (i) and (ii) and insert “by virtue of registration under this Act or an application for such registration.”

4. In section 11ZB(3) (applications for declaration of invalidity), in subsection (4)—

(a) omit “or the Community Design Regulation”;

(b) omit “, the holder of the registered Community design”.

5. In section 20(4) (rectification of register), in subsection (1B)—

(a) omit “or the Community Design Regulation”;

(b) omit “, the holder of the registered Community design”.

6. In section 24D(5) (order as to disposal of infringing articles etc), in subsection (5)—

(a) in paragraph (b) at the end of the paragraph (after the semi-colon in that paragraph) insert “or”;

(b) at the end of paragraph (c) omit “or”;

(c) omit paragraph (d).

7. In section 24G(6) (meaning of “infringing article”), omit subsection (5).

8. After section 25(7) (certificate of contested validity of registration), insert—

##### **“25A Privilege for communications with those on the special list of professional designs representatives**

(1) This section applies to communications as to any matter relating to the protection of a design as a registered design.

(2) Any such communication—

(a) between a person and a professional designs representative; or

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(1) Section 1B was inserted by [S.I. 2001/3949](#), regulation 2.

(2) Section 11ZA was inserted by [S.I. 2001/3949](#), regulation 7 and amended by [S.I. 2006/1974](#), article 7(2), [S.I. 2007/3378](#), regulation 2.

(3) Section 11ZB was inserted by [S.I. 2001/3949](#), regulation 7 and amended by [S.I. 2003/550](#), regulation 2(3)(a) and (b), [S.I. 2006/1974](#), article 8(2),(3),(4) and (5).

(4) Section 20 was amended by the Copyright, Designs and Patents Act 1988 (c.48), section 272, Schedule 3, paragraph 11, [S.I. 2001/3949](#), regulation 8(2),(3),(4), [S.I. 2003/550](#), regulation 2(4)(a) and (b) and [S.I. 2006/1974](#), article 10(2) and (3).

(5) Section 24D was inserted by [S.I. 2006/1028](#), Schedule 1, paragraph 3.

(6) Section 24G was inserted by [S.I. 2006/1028](#), Schedule 1, paragraph 3 and amended by [S.I. 2011/1043](#), article 6(1)(f).

(7) Section 25 was amended by the Copyright, Designs and Patents Act 1988 (c.48), section 272, Schedule 3, paragraph 14, [S.I. 2001/3949](#), Schedule 1, paragraph 8(2) and (3).

(b) for the purposes of obtaining, or in response to a request for, information which a person is seeking for the purpose of instructing a professional designs representative,

is privileged from, or in Scotland protected against, disclosure in legal proceedings in the same way as a communication between a person and a solicitor or, as the case may be, a communication for the purpose of obtaining, or in response to a request for, information which a person is seeking for the purpose of instructing a solicitor.

(3) In subsection (2) “professional designs representative” means a person whose name appears on the special list of professional representatives for design matters maintained by the European Union Intellectual Property Office referred to in Article 78(4) of Council Regulation (EC) 6/2002 of 12th December 2001 on Community designs as it has effect in EU law.”.

**9.** In section 35ZA(8) (offence of unauthorised copying etc of design in course of business), omit subsection (7).

**10.** In section 44(9) (interpretation), in subsection (1), omit the definitions of “Community Design Regulation” and “registered Community design”.

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(8) Section 35ZA was inserted by the Intellectual Property Act 2014 (c.18), section 13.

(9) Section 44 was amended by the Copyright, Designs and Patents Act 1988 (c.48), section 272, Schedule 3, paragraph 31(3), (4),(6),(7),(8),(9) and (10), S.I. 2001/3949, Schedule 2, paragraph 1, 14(2),(3) and (4), S.I. 2003/550, regulation 2(5), S.I. 2006/1229, article 3 and the Intellectual Property Act 2014 (c.18), section 10(6).