



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

FIRST SCHEDULE

PROVISIONS AS TO THE USE OF REGISTERED DESIGNS FOR THE SERVICES OF THE CROWN AND AS TO THE RIGHTS OF THIRD PARTIES IN RESPECT OF SUCH USE

Compensation for loss of profit

- 2A (1) Where Crown use is made of a registered design, the government department concerned shall pay—
- (a) to the registered proprietor, or
 - (b) if there is an exclusive licence in force in respect of the design, to the exclusive licensee,
- compensation for any loss resulting from his not being awarded a contract to supply the articles to which the design is applied.
- (2) Compensation is payable only to the extent that such a contract could have been fulfilled from his existing manufacturing capacity; but is payable notwithstanding the existence of circumstances rendering him ineligible for the award of such a contract.
 - (3) In determining the loss, regard shall be had to the profit which would have been made on such a contract and to the extent to which any manufacturing capacity was under-used.
 - (4) No compensation is payable in respect of any failure to secure contracts for the supply of articles to which the design is applied otherwise than for the services of the Crown.
 - (5) The amount payable under this paragraph shall, if not agreed between the registered proprietor or licensee and the government department concerned with the approval of the Treasury, be determined by the court on a reference under paragraph 3; and it is in addition to any amount payable under paragraph 1 or 2 of this schedule.
 - (6) In this paragraph—

Status: This is the original version (as it was originally enacted).

“Crown use”, in relation to a design, means the doing of anything by virtue of paragraph 1 which would otherwise be an infringement of the right in the design; and

“the government department concerned”, in relation to such use, means the government department by whom or on whose authority the act was done.