



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

CHAPTER II

RIGHTS OF DESIGN RIGHT OWNER AND REMEDIES

Infringement of design right

228 Meaning of “infringing article”.

- (1) In this Part “infringing article”, in relation to a design, shall be construed in accordance with this section.
- (2) An article is an infringing article if its making to that design was an infringement of design right in the design.
- (3) An article is also an infringing article if—
 - (a) it has been or is proposed to be imported into the United Kingdom, and
 - (b) its making to that design in the United Kingdom would have been an infringement of design right in the design or a breach of an exclusive licence agreement relating to the design.
- (4) Where it is shown that an article is made to a design in which design right subsists or has subsisted at any time, it shall be presumed until the contrary is proved that the article was made at a time when design right subsisted.
- (5) Nothing in subsection (3) shall be construed as applying to an article which may lawfully be imported into the United Kingdom by virtue of any enforceable [F1EU] right within the meaning of section 2(1) of the M1European Communities Act 1972.

Status: Point in time view as at 22/04/2011. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 228. (See end of Document for details)

- (6) The expression “infringing article” does not include a design document, notwithstanding that its making was or would have been an infringement of design right.

Textual Amendments

- F1** Word substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 6

Marginal Citations

- M1** 1972 c. 68.

Status:

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