



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

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EXCEPTIONS TO RIGHTS OF DESIGN RIGHT OWNERS

Crown use of designs

240 Crown use of designs.

- (1) A government department, or a person authorised in writing by a government department, may without the licence of the design right owner—
 - (a) do anything for the purpose of supplying articles for the services of the Crown, or
 - (b) dispose of articles no longer required for the services of the Crown; and nothing done by virtue of this section infringes the design right.
- (2) References in this Part to “the services of the Crown” are to—
 - (a) the defence of the realm,
 - (b) foreign defence purposes, and
 - (c) health service purposes.
- (3) The reference to the supply of articles for “foreign defence purposes” is to their supply—
 - (a) for the defence of a country outside the realm in pursuance of an agreement or arrangement to which the government of that country and Her Majesty’s Government in the United Kingdom are parties; or
 - (b) for use by armed forces operating in pursuance of a resolution of the United Nations or one of its organs.

Status: Point in time view as at 01/04/2004. This version of this provision has been superseded.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 240. (See end of Document for details)

- (4) The reference to the supply of articles for “health service purposes” are to their supply for the purpose of providing—
- [^{F1}(za) primary medical services or primary dental services under Part 1 of the National Health Service Act 1977 [^{F2}or primary medical services under Part 1 of the National Health Service (Scotland) Act 1978]]
 - [^{F3}(a) pharmaceutical services, general medical services or general dental services under—
 - (i) Part II of the National Health Service Act 1977 [^{F4}(in the case of pharmaceutical services)],
 - (ii) Part II of the National Health Service (Scotland) Act 1978 [^{F5}(in the case of pharmaceutical services or general dental services)], or
 - (iii) the corresponding provisions of the law in force in Northern Ireland; or
 - (b) personal medical services or personal dental services in accordance with arrangements made under—
 - (i) ^{F6}
 - (ii) section 17C of the 1978 Act [^{F7}(in the case of personal dental services)], or
 - (iii) the corresponding provisions of the law in force in Northern Ireland][^{F8}or
 - (c) local pharmaceutical services provided under—
 - (i) a pilot scheme established under section 28 of the Health and Social Care Act 2001; or
 - (ii) an LPS scheme established under Schedule 8A to the National Health Service Act 1977 (c. 49).]
- (5) In this Part—
- “Crown use”, in relation to a design, means the doing of anything by virtue of this section which would otherwise be an infringement of design 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.
- (6) The authority of a government department in respect of Crown use of a design may be given to a person either before or after the use and whether or not he is authorised, directly or indirectly, by the design right owner to do anything in relation to the design.
- (7) A person acquiring anything sold in the exercise of powers conferred by this section, and any person claiming under him, may deal with it in the same manner as if the design right were held on behalf of the Crown.

Textual Amendments

- F1** S. 240(4)(za) inserted (1.4.2004) by *Health and Social Care (Community Health and Standards) Act 2003* (c. 43), ss. 184, 199(1), **Sch. 11 para. 52(a)**; S.I. 2004/288, **art. 5** (with art. 8) (as amended by S.I. 2004/866, art. 2) and by S.I. 2004/480, **art. 4** (with art. 7) (as amended by S.I. 2004/1019, art. 2)
- F2** Words in s. 240(4)(za) inserted (1.4.2004) by *The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004* (S.I. 2004/957), art. 2, **Sch. para. 5(a)**
- F3** S. 240(4)(a)(b) substituted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. 1 para. 63**; S.I. 1998/631, art. 2(1)(b), **Sch. 2** (subject to arts. 3-5)

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- F4** Words in s. 240(4)(a)(i) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 199(1), **Sch. 11 para. 52(b)**; S.I. 2004/288, **art. 5** (with art. 8) (as amended by S.I. 2004/866, art. 2) and by S.I. 2004/480, **art. 4** (with art. 7) (as amended by S.I. 2004/1019, art. 2)
- F5** Words in s. 240(4)(a)(ii) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, **Sch. para. 5(b)**
- F6** S. 240(4)(b)(i) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 196, 199(1), Sch. 11 para. 52(c), **Sch. 14 Pt. 4**; S.I. 2004/288, **art. 5** (with art. 8) (as amended by S.I. 2004/866, art. 2) and by S.I. 2004/480, **art. 4** (with art. 7) (as amended by S.I. 2004/1019, art. 2)
- F7** Words in s. 240(4)(b)(ii) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 2, **Sch. para. 5(c)**
- F8** S. 240(4)(c) and the word "or" immediately preceding it inserted (1.7.2002 for W. and 1.1.2003 for E.) by 2001 c. 15, ss. 67(1), 70(2), Sch. 5 Pt. 1 para. 7 (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2(1), Sch. Pt. I; S.I. 2003/53, **art. 2**

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 240.