

**Changes to legislation:** Registered Designs Act 1949, PART 1 is up to date with all changes known to be in force on or before 21 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1B

#### INTERNATIONAL DESIGNS

##### Textual Amendments

- F1** Schs. 1A, 1B inserted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 3 para. 3** (with Sch. 5 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 23); 2020 c. 1, Sch. 5 para. 1(1)

### PART 1

#### EXISTING INTERNATIONAL DESIGNS

*International designs in respect of which the European Union is designated to be treated as registered under the Act*

- 1 (1) A design which, immediately before [<sup>F2</sup>IP completion day], meets the requirements of sub-paragraph (2) (a “protected international registered design (EU)”) is to be treated on and after [<sup>F2</sup>IP completion day] as if an application for its registration had been made, and it had been registered, under this Act.
- (2) The requirements referred to in sub-paragraph (1) are—
- (a) the design is the subject of an international registration which designates the European Union;
  - (b) the international registration has been published by the International Bureau pursuant to Article 10(3) of the Geneva Act;
  - (c) the European Union Intellectual Property Office has sent to the International Bureau a statement under Rule 18*bis* of the Common Regulations under the 1999 Act and the 1960 Act of the Hague Agreement to the effect that protection is granted in relation to the design, or the period under Article 106e(1) of the Community Design Regulation for communicating to the International Bureau a notification of refusal in respect of the international registration has expired; and
  - (d) the effects of the international registration so far as they relate to the design have neither been—
    - (i) refused by the European Union Intellectual Property Office pursuant to Article 106e(1) of the Community Design Regulation; nor
    - (ii) declared wholly invalid pursuant to Article 106f of the Community Design Regulation.
- (3) Where prior to [<sup>F2</sup>IP completion day] the effects of the international registration to which a protected international registered design (EU) is subject are declared partly

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invalid so far as relating to that design pursuant to Article 106f of the Community Design Regulation, the re-registered international design which derives from the protected international registered design (EU) has effect under this Act to the extent that the effects of the international registration so far as relating to the design have not been declared invalid.

- (4) A registered design which comes into being by virtue of sub-paragraph (1) is referred to in this Schedule as a “re-registered international design”.
- (5) This Act applies to a re-registered international design as it applies to other registered designs except as otherwise provided in this Schedule.
- (6) For the purposes of this Act—
  - (a) the date of registration of a re-registered international design is the date on which the protected international registered design (EU) from which the re-registered international design derives was treated as registered under the Geneva Act, and
  - (b) the date of the application of a re-registered international design is the date treated, under Article 9 of the Geneva Act, as the filing date of the application for the registration of the protected international registered design (EU) from which the re-registered international design derives.
- (7) Nothing in this Act authorises the imposition of a fee, or the making of provision by rules or regulations which authorises the imposition of a fee, in respect of any matter relating to a re-registered international design (see instead provision made by regulations under Schedule 4 to the European Union (Withdrawal) Act 2018).
- (8) The following provisions of this Act do not apply to a re-registered international design—
  - (a) section 7A(6);
  - (b) section 18.
- (9) In this Schedule—
  - (a) “the Community Design Regulation” means Council Regulation (EC) No 6/2002 of 12th December 2001 on Community Designs as it had effect immediately before [F<sup>2</sup>IP completion day];
  - (b) “the Geneva Act” means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted by the Diplomatic Conference on 2 July 1999;
  - (c) “the International Bureau” means the International Bureau of the World Intellectual Property Organization; and
  - (d) “international registration” means the international registration of an industrial design effected according to the Geneva Act.

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#### Textual Amendments

- F2** Words in Sch. 1B substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), 21(d)(i)

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*Entries to be made in the register in relation to designs treated as registered under this Act*

- 2 (1) The registrar must as soon as reasonably practicable on or after [F<sup>2</sup>IP completion day] enter a re-registered international design in the register of designs.
- (2) The obligation under section 22(1) (inspection of registered designs) applies to a re-registered international design on and after the day on which the re-registered international design is entered in the register (notwithstanding that no certificate of registration has been granted).

**Textual Amendments**

- F2** Words in *Sch. 1B* substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by *The Intellectual Property (Amendment etc.) (EU Exit) Regulations 2020* (S.I. 2020/1050), regs. 1(2), 21(d)(i)

*Opt out*

- 3 (1) Subject to sub-paragraph (2), the holder of the international registration to which a protected international registered design (EU) is subject (“the proprietor”) may at any time on or after [F<sup>2</sup>IP completion day] serve a notice on the registrar that the design is not to be treated as if it had been registered under this Act.
- (2) A notice under sub-paragraph (1) may not be served where on or after [F<sup>2</sup>IP completion day]—
- (a) the re-registered international design which derives from the protected international registered design (EU) (or any interest in it)—
    - (i) has been assigned or otherwise transferred except by an assent by personal representatives, or
    - (ii) has had an interest created in it by a mortgage, licence or other instrument; or
  - (b) proceedings based on the re-registered international design have been initiated by the proprietor or with the proprietor's consent.
- (3) A notice served under sub-paragraph (1) must:
- (a) identify the protected international registered design (EU); and
  - (b) include the name and address of any person who, to the best of the proprietor's knowledge, has an interest in the protected international registered design (EU).
- (4) A notice under sub-paragraph (1) is of no effect unless the proprietor in that notice certifies that any such person—
- (a) has been given not less than three months' notice of the proprietor's intention to serve such a notice; or
  - (b) is not affected by, or if affected consents to, the notice.
- (5) Where a notice has been served under sub-paragraph (1)—
- (a) the design ceases with effect from [F<sup>2</sup>IP completion day] to be treated as if it had been registered under this Act,
  - (b) the obligation imposed on the registrar under paragraph 2 (entries to be made in the register in relation to designs treated as registered under this Act) ceases to have effect, and

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- (c) the registrar must make any necessary amendments to the register.

#### Textual Amendments

- F2** Words in [Sch. 1B](#) substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), [21\(d\)\(i\)](#)

#### *Effect of claim of priority*

- 4 (1) This paragraph applies where a right of priority has been claimed in accordance with Article 6 of the Geneva Act in respect of the international registration to which a protected international registered design (EU) is subject.
- (2) The proprietor of the re-registered international design which derives from the protected international registered design (EU) is to be treated on and after [F<sup>2</sup>IP completion day] as having the same claim of priority.
- (3) Accordingly, the relevant date for the purposes of establishing whether (or to what extent) the re-registered international design is new or has individual character is the date of filing of the application for registration of a design in a convention country or a member of the World Trade Organization which formed the basis for the claim of priority.

#### Textual Amendments

- F2** Words in [Sch. 1B](#) substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), [21\(d\)\(i\)](#)

#### *Unregistered pre-exit transfers*

- 5 (1) This paragraph applies where immediately before [F<sup>2</sup>IP completion day]—
- there is a change in ownership of the international registration to which a protected international registered design (EU) is subject,
  - the change in ownership has effect in respect of the European Union and the protected international registered design (EU), and
  - the change in ownership has not been entered in the international register (a “relevant transfer”).
- (2) Section 19 (registration of assignments, etc.) applies in relation to a relevant transfer as if it were an assignment of the re-registered international design which derives from the protected international registered design (EU) which has been transferred.

#### Textual Amendments

- F2** Words in [Sch. 1B](#) substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), [21\(d\)\(i\)](#)

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*Pre-exit licences to continue to have effect in the United Kingdom*

- 6 (1) This paragraph applies where immediately before [F<sup>2</sup>IP completion day] a protected international registered design (EU) is the subject of a licence which—
- (a) authorises the doing of acts in the United Kingdom which would otherwise infringe the protected international registered design (EU), and
  - (b) does not expire on [F<sup>2</sup>IP completion day] (a “relevant licence”).
- (2) Subject to any agreement to the contrary between the licensee and the licensor, a relevant licence continues to authorise the doing of acts which would otherwise infringe the re-registered international design which derives from the protected international registered design (EU).
- (3) Sub-paragraph (2) is subject to the terms on which the relevant licence was granted, subject to such modifications as are necessary for their application in the United Kingdom.
- (4) Section 19 (registration of assignments, etc.) applies in relation to a relevant licence as if it were a licence of the re-registered international design deriving from the protected international registered design (EU) which is subject to the relevant licence, subject to the following modification.
- (5) Section 19(5) does not apply to the licence until after the expiry of the period of 12 months beginning with the day after that on which [F<sup>2</sup>IP completion day] falls.

**Textual Amendments**

- F2** Words in [Sch. 1B](#) substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), [21\(d\)\(i\)](#)

*Security interests in protected<sup>F3</sup>... international registered designs (EU)*

- 7 (1) This paragraph applies where immediately before [F<sup>2</sup>IP completion day] a protected international registered design (EU) is the subject of an interest which has been granted as security and does not expire on [F<sup>2</sup>IP completion day] (a “relevant security interest”).
- (2) References to the protected international registered design (EU), or the international registration to which the protected international registered design (EU) is subject, in any document which grants or refers to the relevant security interest are to be read as including references to the re-registered international design which derives from the protected international registered design (EU).
- (3) Section 19 (registration of assignments, etc.) applies in relation to a relevant security interest as if it were a security interest granted in respect of the re-registered design deriving from the protected international registered design (EU) which is subject to the relevant security interest, subject to the following modification.
- (4) Section 19(5) does not apply to the interest until after the expiry of 12 months beginning with the day after that on which [F<sup>2</sup>IP completion day] falls.

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#### Textual Amendments

- F2** Words in *Sch. 1B* substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **21(d)(i)**
- F3** Word in *Sch. 1B* para. 7 heading omitted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by virtue of [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **21(d)(ii)**

#### *Continuity of rights in relation to a protected international registered design (EU)*

- 8 (1) References to a protected international registered design (EU), or the international registration to which a protected international registered design (EU) is subject, in any document entered into before [F<sup>2</sup>IP completion day] shall, unless there is evidence that the document was not intended to have effect in the United Kingdom, be read on and after [F<sup>2</sup>IP completion day] as including references to the re-registered international design or the registration of the re-registered international design which derives from the protected international registered design (EU).
- (2) Subject to any agreement to the contrary, a consent granted before [F<sup>2</sup>IP completion day] by the holder of the international registration to which a protected international registered design (EU) is subject to the doing on or after [F<sup>2</sup>IP completion day] of an act in the United Kingdom which would otherwise infringe the re-registered international design which derives from the protected international registered design (EU) is to be treated for the purposes of section 7A as a consent to the doing of that act granted by the registered proprietor of the re-registered international design.

#### Textual Amendments

- F2** Words in *Sch. 1B* substituted in earlier amending provision S.I. 2019/638, Sch. 3 para. 3 (31.12.2020) by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **21(d)(i)**

#### *Pending proceedings concerning a protected international registered design (EU)*

- 9 (1) This paragraph applies where on [F<sup>2</sup>IP completion day] a protected international registered design (EU) is the subject of proceedings which are pending (“pending proceedings”) before a court in the United Kingdom designated for the purposes of Article 80 (“a Community design court”).
- (2) Subject to sub-paragraphs (3) and (4), the provisions contained or referred to in Title IX of the Community Design Regulation (with the exceptions of Articles 86(2), (4), (5) and 91) shall continue to apply to the pending proceedings as if the United Kingdom were still a Member State with effect from [F<sup>2</sup>IP completion day].
- (3) Where the pending proceedings involve a claim for infringement or for threatened infringement of a protected international registered design (EU), without prejudice to any other relief by way of damages, accounts or otherwise available to the holder of the international registration to which the protected international registered design (EU) is subject, the Community design court may grant an injunction to prohibit

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unauthorised use of the re-registered international design which derives from the protected international registered design (EU).

- (4) Where the pending proceedings involve a counterclaim for a declaration of invalidity in relation to a protected international registered design (EU), the Community design court may declare the registration of the re-registered international design which derives from the protected international registered design (EU) to be invalid (wholly or in part).
- (5) Where the registration of a re-registered international design is declared invalid to any extent, the registration shall to that extent be treated as having been invalid from the date of registration or from such other date as the court may direct.
- (6) For the purposes of this paragraph proceedings are treated as pending on [F<sup>2</sup>IP completion day] if they were instituted but not finally determined before [F<sup>2</sup>IP completion day].

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*Effect of injunction protecting a protected international registered design (EU)*

- 10 (1) This paragraph applies where immediately before [F<sup>2</sup>IP completion day] an injunction is in force prohibiting the performance of acts in the United Kingdom which infringe or would infringe a protected international registered design (EU) (a “relevant injunction”).
- (2) Subject to any order of the court to the contrary, a relevant injunction will have effect and be enforceable to prohibit the performance of acts which infringe or would infringe the right in a re-registered international design to the same extent as in relation to the protected international registered design (EU) from which the re-registered international design derives as if it were an injunction granted by the court.]

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**Textual Amendments**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 22(1)(aa) and word inserted by [2014 c. 18 s. 9\(2\)](#)
- s. 22(5) inserted by [2014 c. 18 s. 9\(4\)](#)
- s. 22(6)(7) inserted by [2014 c. 18 s. 9\(5\)](#)