

EXPLANATORY MEMORANDUM TO
THE INTELLECTUAL PROPERTY ACT 2014 (AMENDMENT) REGULATIONS
2014

2014 No. 2329

- 1.** 1.1 This explanatory memorandum has been prepared by the Intellectual Property Office, an Executive Agency of the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument corrects two errors in the wording of section 13 of the Intellectual Property Act 2014. Section 13 introduces a criminal sanction for the intentional copying of registered designs. The corrections relate specifically to the forfeiture provisions as they operate in Scotland.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 13 of the Intellectual Property Act 2014 makes the intentional copying of a UK or EU registered design in the course of business a criminal offence. Relating to the enforcement of the offence, section 13 inserts new sections 35ZA to 35ZD into the Registered Designs Act 1949. The instrument corrects the forfeiture provisions in Scotland (what will be new section 35ZD of the Registered Designs Act 1949).

4.2 Section 13 comes into force 1st October and so this instrument needs to be brought into effect before then to ensure that the section is correct in law as soon as it comes into force.

5. Territorial Extent and Application

5.1 The Intellectual Property Act 2014 extends to the UK.

5.2 This instrument will apply to Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and makes an insubstantial technical change to primary legislation no statement is required.

7. Policy background

- *What is being done and why*

7.1 Textual errors need to be corrected so that forfeiture provisions are in line with the enforcement of other Intellectual Property criminal offences, namely the Trade Marks Act 1994, and have effect as originally intended.

8. Consultation outcome

8.1 We have been in consultation with the Office of the Advocate General who is content with the approach taken in this instrument.

9. Guidance

9.1 Although business guidance and training materials mention forfeiture provisions no specific guidance on this aspect is necessary given they replicate forfeiture provisions in other similar Intellectual Property offences.

10. Impact

10.1 As noted, this instrument makes a technical change to primary legislation. No impact on the public or private sector is foreseen as a result of this change and so no impact assessment is necessary.

11. Regulating small business

11.1 The legislation applies to small business, but the changes proposed will have a negligible impact as described above.

12. Monitoring & review

12.1 The Intellectual Property Office is in the process of developing an evaluation strategy for all legislation for which it has responsibility. This instrument will be included within that, which requires evaluation to be carried out within 5 years of implementation. For this instrument, this means 2019.

13. Contact

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