
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Intellectual Property Act 2014 (c.18) (“the Act”). It brings into force on 1st October 2014 sections 1 to 8, 9(1), 10(1) and 11 to 21 of the Act and the Schedule to the Act.

Sections 1 to 4 of the Act amend the Copyright, Designs and Patents Act 1988 (c.48) in relation to the UK unregistered design right. In particular, provision is made in relation to the definition of unregistered design right, the initial ownership of unregistered designs, qualification criteria for unregistered designs and exceptions to infringement of unregistered design right.

Section 5 of the Act amends the Copyright, Designs and Patents Act 1988 in relation to designs registered at the European Union’s design registry (the Office for Harmonization in the Internal Market) whose registrations also cover the UK and, in particular, makes provision in relation to exceptions to infringement of UK copyright associated with such designs.

Sections 6 to 14 of the Act amend the Registered Designs Act 1949 (c.88) in relation to UK registered designs. In particular, provision is made in relation to the initial ownership of designs, the identity of the applicant for the registration of a design, third party rights, UK entry to the Hague System for the International Registration for Industrial Designs, changes in ownership and the register of designs, remedies for innocent infringement, the new opinions service, use of directions by the registrar, the offence of unauthorised copying and offences committed by partnerships. With respect to the Hague System and the opinions service, these provisions will have full effect when secondary legislation is made under the respective powers introduced by sections 8 and 11 of the Act.

Sections 15 to 19 of the Act and the Schedule to the Act amend the Patents Act 1977 (c.37) in relation to patents. In particular, provision is made in relation to the recovery of damages for patent infringement, the patent opinions service, the Unified Patent Court, sharing information with overseas patent offices, patent applications in or for World Trade Organisation members, third party rights, the adjustment of time periods to the anniversary date model, representatives of the Attorney General in proceedings, recipients of confidential disclosures in disputes as to Crown use, the correction of a typographical error and fees payable in respect of European patents (UK) that were revoked but subsequently restored.

Section 20 of the Act amends the Freedom of Information Act 2000 (c.36) to provide an exemption for information obtained in the course of, or derived from, a programme of research where a report of the research is to be published.

Section 21 of the Act requires the Secretary of State to present to Parliament each year a report that sets out how, in the Secretary of State’s opinion, the activities of the Patent Office have supported innovation and growth in the UK.

Articles 4 to 8 of this Order set out transitional provisions regarding sections 6(1) (ownership of UK registered design), 15 (patent infringement: marking products with internet links), 16(4) (patent opinions service) and 18 (sharing information with overseas patent offices) of the Act and paragraph 6 of the Schedule (fees payable in respect of restored European patents (UK)) to the Act.