

SCHEDULE 1

Amendments to the Design Regulation and 2005 Regulations relating to the creation and application of the supplementary unregistered design right etc.

PART 2

2005 Regulations and the supplementary unregistered design right

53. The 2005 Regulations are amended as follows.

Regulation 1: interpretation

54. In regulation 1—

(a) for the definitions in paragraph (2), substitute—

““design court” has the meaning given by Article 81 of the Design Regulation;

“Design Regulation” means Council Regulation (EC) No 6/2002 of 12th December 2001 on Community Designs as amended by regulation 4(1) of, and Part 1 of Schedule 1 to, the Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2018; and

“supplementary unregistered design” has the meaning given by Article 1 of the Design Regulation.”;

(b) omit paragraph (3).

Regulation 1A: infringement proceedings

55. In regulation 1A—

(a) in paragraph (1) omit “Community”, in both places it appears;

(b) in paragraph (2)—

(i) for “paragraphs (3) to”, substitute “paragraph”;

(ii) for “Community”, in both places where it appears, substitute “supplementary unregistered”;

(c) omit paragraphs (3) and (4);

(d) in paragraph (5)—

(i) for “an”, in both places where it appears before “unregistered”, substitute “a supplementary”;

(ii) omit “Community”, in both places where it appears.

Regulation 1B: order for delivery up

56. In regulation 1B—

(a) in paragraph (1)(b)—

(i) for “Community”, in the first and second places where it appears, substitute “supplementary unregistered”;

(ii) omit “Community”, in the third place where it appears;

(iii) before “court”, in the second place where it appears, insert “design”;

(b) in paragraph (2), before “court”, in both places where it appears, insert “design”;

Status: This is the original version (as it was originally made).

- (c) in paragraph (4), for “Community”, substitute “supplementary unregistered”;
- (d) in paragraph (8), before “court”, insert “design”.

Regulation 1C: order for disposal

57. In regulation 1C—

- (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), omit “Community”;
 - (ii) in sub-paragraph (a), for “Community”, substitute “supplementary unregistered”;
 - (iii) in sub-paragraph (b), before “court”, insert “design”;
- (b) in paragraph (2)—
 - (i) before “court”, insert “design”;
 - (ii) for “Community”, substitute “supplementary unregistered”;
- (c) in paragraphs (3) and (4), before “court”, insert “design”.

Regulation 1D: meaning of “infringing article”

58. In regulation 1D—

- (a) in paragraphs (2), (3)(b) and (4), for “Community”, in each place where it appears, substitute “supplementary unregistered”;
- (b) in paragraph (5), for the words from “an enforceable” to the end substitute “anything which forms part of retained EU law as a result of section 3 or 4 of the European Union (Withdrawal) Act 2018(1)”.

Regulation 2: unjustified threats: threats of infringement proceedings

59. In regulation 2(1), for “Community”, in both places where it appears, substitute “supplementary unregistered”.

Regulation 2B: unjustified threats: permitted communications

60. In regulation 2B—

- (a) in paragraph (2), for “Community”, in each place where it appears, substitute “supplementary unregistered”;
- (b) in paragraph (3), before “court”, insert “design”;
- (c) in paragraph (5)—
 - (i) omit sub-paragraphs (a)(i) and (ii);
 - (ii) in sub-paragraph (a)(iii)—
 - (aa) for “an”, substitute “a supplementary”;
 - (bb) omit “Community”;
 - (iii) in sub-paragraph (b), for “Community”, in both places where it appears, substitute “supplementary unregistered”.

(1) 2018 c.16.

Regulation 2C, 2E and 2F: unjustified threats: general

- 61.—(1) In regulation 2C(2), for “Community”, substitute “supplementary unregistered”.
- (2) Omit regulation 2E.
- (3) In regulation 2F, for “Community”, substitute “supplementary unregistered”.

Regulation 3: false representation

- 62. Omit regulation 3.

Regulation 4: privileged communications

- 63. In regulation 4—
 - (a) in paragraph (1), for “any”, in the second place where it appears, substitute “a supplementary unregistered”;
 - (b) for paragraph (3), substitute—
 - “(3) In paragraph (2) “professional designs representative” means a person whose name appears on the special list of professional representatives for design matters maintained by the European Union Intellectual Property Office referred to in Article 78(4) of Council Regulation (EC) 6/2002 of 12th December 2001 on Community designs as it had effect immediately before exit day.”.

Regulation 5 and the Schedule: services of the Crown

- 64.—(1) In regulation 5—
 - (a) in the heading, for “Community”, substitute “supplementary unregistered”;
 - (b) omit “registered Community designs and”;
 - (c) before “unregistered”, insert “supplementary”;
 - (d) omit “Community”, in the second place where it appears.
- (2) In the Schedule—
 - (a) for “Community”, in each place where it appears, substitute “supplementary unregistered”;
 - (b) before “court”, in each place where it appears, insert “design”;
 - (c) omit paragraph 5(6).