



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART IV

#### REGISTERED DESIGNS

##### *Amendments of the Registered Designs Act 1949*

#### **271 Crown use: compensation for loss of profit.**

- (1) In Schedule 1 to the <sup>M1</sup>Registered Designs Act 1949 (Crown use), after paragraph 2 insert—

##### **Compensation for loss of profit.**

- “2A (1) Where Crown use is made of a registered design, the government department concerned shall pay—
- (a) to the registered proprietor, or
  - (b) if there is an exclusive licence in force in respect of the design, to the exclusive licensee,
- compensation for any loss resulting from his not being awarded a contract to supply the articles to which the design is applied.
- (2) Compensation is payable only to the extent that such a contract could have been fulfilled from his existing manufacturing capacity; but is payable notwithstanding the existence of circumstances rendering him ineligible for the award of such a contract.
- (3) In determining the loss, regard shall be had to the profit which would have been made on such a contract and to the extent to which any manufacturing capacity was underused.
- (4) No compensation is payable in respect of any failure to secure contracts for the supply of articles to which the design is applied otherwise than for the services of the Crown.
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*Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 271. (See end of Document for details)*

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- (5) The amount payable under this paragraph shall, if not agreed between the registered proprietor or licensee and the government department concerned with the approval of the Treasury, be determined by the court on a reference under paragraph 3; and it is in addition to any amount payable under paragraph 1 or 2 of this Schedule.
- (6) In this paragraph—
- “Crown use”, in relation to a design, means the doing of anything by virtue of paragraph 1 which would otherwise be an infringement of the 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.”.
- (2) In paragraph 3 of that Schedule (reference of disputes as to Crown use), for sub-paragraph (1) substitute—
- “(1) Any dispute as to—
- (a) the exercise by a Government department, or a person authorised by a Government department, of the powers conferred by paragraph 1 of this Schedule,
- (b) terms for the use of a design for the services of the Crown under that paragraph,
- (c) the right of any person to receive any part of a payment made under paragraph 1(3), or
- (d) the right of any person to receive a payment under paragraph 2A, may be referred to the court by either party to the dispute.”.
- (3) The above amendments apply in relation to any Crown use of a registered design after the commencement of this section, even if the terms for such use were settled before commencement.

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**Marginal Citations**

**M1** 1949 c. 88.

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 271.