



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

CHAPTER I

DESIGN RIGHT IN ORIGINAL DESIGNS

Introductory

213 Design right.

- (1) Design right is a property right which subsists in accordance with this Part in an original design.
- (2) In this Part “design” means the design of any aspect of the shape or configuration (whether internal or external) of the whole or part of an article.
- (3) Design right does not subsist in—
 - (a) a method or principle of construction,
 - (b) features of shape or configuration of an article which—
 - (i) enable the article to be connected to, or placed in, around or against, another article so that either article may perform its function, or
 - (ii) are dependent upon the appearance of another article of which the article is intended by the designer to form an integral part, or
 - (c) surface decoration.
- (4) A design is not “original” for the purposes of this Part if it is commonplace in the design field in question at the time of its creation.
- (5) Design right subsists in a design only if the design qualifies for design right protection by reference to—

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- (a) the designer or the person by whom the design was commissioned or the designer employed (see sections 218 and 219), or
- (b) the person by whom and country in which articles made to the design were first marketed (see section 220),

or in accordance with any Order under section 221 (power to make further provision with respect to qualification).

[^{F1}(5A) Design right does not subsist in a design which consists of or contains a controlled representation within the meaning of the Olympic Symbol etc. (Protection) Act 1995.]

- (6) Design right does not subsist unless and until the design has been recorded in a design document or an article has been made to the design.
- (7) Design right does not subsist in a design which was so recorded, or to which an article was made, before the commencement of this Part.

Textual Amendments

F1 S. 213(5A) inserted (20.9.1995 with effect as mentioned in s. 14(2)(3) of the amending Act) by 1995 c. 32, s. 14(1); S.I. 1995/2472, art. 2

214 The designer.

- (1) In this Part the “designer”, in relation to a design, means the person who creates it.
- (2) In the case of a computer-generated design the person by whom the arrangements necessary for the creation of the design are undertaken shall be taken to be the designer.

215 Ownership of design right.

- (1) The designer is the first owner of any design right in a design which is not created in pursuance of a commission or in the course of employment.
- (2) Where a design is created in pursuance of a commission, the person commissioning the design is the first owner of any design right in it.
- (3) Where, in a case not falling within subsection (2) a design is created by an employee in the course of his employment, his employer is the first owner of any design right in the design.
- (4) If a design qualifies for design right protection by virtue of section 220 (qualification by reference to first marketing of articles made to the design), the above rules do not apply and the person by whom the articles in question are marketed is the first owner of the design right.

216 Duration of design right.

- (1) Design right expires—
 - (a) fifteen years from the end of the calendar year in which the design was first recorded in a design document or an article was first made to the design, whichever first occurred, or

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- (b) if articles made to the design are made available for sale or hire within five years from the end of that calendar year, ten years from the end of the calendar year in which that first occurred.
- (2) The reference in subsection (1) to articles being made available for sale or hire is to their being made so available anywhere in the world by or with the licence of the design right owner.

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