



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

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EXCEPTIONS TO RIGHTS OF DESIGN RIGHT OWNERS

Availability of licences of right

239 Undertaking to take licence of right in infringement proceedings

- (1) If in proceedings for infringement of design right in a design in respect of which a licence is available as of right under section 237 or 238 the defendant undertakes to take a licence on such terms as may be agreed or, in default of agreement, settled by the comptroller under that section—
 - (a) no injunction shall be granted against him,
 - (b) no order for delivery up shall be made under section 230, and
 - (c) the amount recoverable against him by way of damages or on an account of profits shall not exceed double the amount which would have been payable by him as licensee if such a licence on those terms had been granted before the earliest infringement.
- (2) An undertaking may be given at any time before final order in the proceedings, without any admission of liability.
- (3) Nothing in this section affects the remedies available in respect of an infringement committed before licences of right were available.