



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART III

#### DESIGN RIGHT

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#### EXCEPTIONS TO RIGHTS OF DESIGN RIGHT OWNERS

##### *Crown use of designs*

#### **242 Rights of third parties in case of Crown use.**

- (1) The provisions of any licence, assignment or agreement made between the design right owner (or anyone deriving title from him or from whom he derives title) and any person other than a government department are of no effect in relation to Crown use of a design, or any act incidental to Crown use, so far as they—
  - (a) restrict or regulate anything done in relation to the design, or the use of any model, document or other information relating to it, or
  - (b) provide for the making of payments in respect of, or calculated by reference to such use;and the copying or issuing to the public of copies of any such model or document in connection with the thing done, or any such use, shall be deemed not to be an infringement of any copyright in the model or document.
- (2) Subsection (1) shall not be construed as authorising the disclosure of any such model, document or information in contravention of the licence, assignment or agreement.
- (3) Where an exclusive licence is in force in respect of the design—
  - (a) if the licence was granted for royalties—

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*Changes to legislation: There are currently no known outstanding effects for the  
 Copyright, Designs and Patents Act 1988, Section 242. (See end of Document for details)*

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- (i) any agreement between the design right owner and a government department under section 241 (settlement of terms for Crown use) requires the consent of the licensee, and
    - (ii) the licensee is entitled to recover from the design right owner such part of the payment for Crown use as may be agreed between them or, in default of agreement, determined by the court;
  - (b) if the licence was granted otherwise than for royalties—
    - (i) section 241 applies in relation to anything done which but for section 240 (Crown use) and subsection (1) above would be an infringement of the rights of the licensee with the substitution for references to the design right owner of references to the licensee, and
    - (ii) section 241 does not apply in relation to anything done by the licensee by virtue of an authority given under section 240.
- (4) Where the design right has been assigned to the design right owner in consideration of royalties—
  - (a) section 241 applies in relation to Crown use of the design as if the references to the design right owner included the assignor, and any payment for Crown use shall be divided between them in such proportion as may be agreed or, in default of agreement, determined by the court; and
  - (b) section 241 applies in relation to any act incidental to Crown use as it applies in relation to Crown use of the design.
- (5) Where any model, document or other information relating to a design is used in connection with Crown use of the design, or any act incidental to Crown use, section 241 applies to the use of the model, document or other information with the substitution for the references to the design right owner of references to the person entitled to the benefit of any provision of an agreement rendered inoperative by subsection (1) above.
- (6) In this section—
  - “act incidental to Crown use” means anything done for the services of the Crown to the order of a government department by the design right owner in respect of a design;
  - “payment for Crown use” means such amount as is payable by the government department concerned by virtue of section 241; and
  - “royalties” includes any benefit determined by reference to the use of the design.

**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 242.