



Intellectual Property Act 2014

2014 CHAPTER 18

PART 1

DESIGN

Unregistered design right

1 Meaning of “design” and “original”

- (1) In section 213(2) of the Copyright, Designs and Patents Act 1988 (unregistered design right: meaning of “design”), in subsection (2), omit “any aspect of”.
- (2) In section 51 of that Act (copyright infringement: exception for certain designs), in subsection (3), in the definition of “design”, omit “any aspect of”.
- (3) In section 213(4) of that Act (unregistered design right: meaning of “original”)—
 - (a) after “commonplace” insert “in a qualifying country”, and
 - (b) at the end insert “; and “qualifying country” has the meaning given in section 217(3)”.
- (4) Subsection (3) applies only to designs created after the commencement of that subsection.

2 Ownership of design

- (1) In section 215 of the Copyright, Designs and Patents Act 1988 (ownership of unregistered design right)—
 - (a) in subsection (1), omit “in pursuance of a commission or”,
 - (b) omit subsection (2), and
 - (c) in subsection (3), omit “, in a case not falling within subsection (2)”.
- (2) In consequence of subsection (1)—

Status: This is the original version (as it was originally enacted).

- (a) in section 213(5)(a) of that Act (person by reference to whom design qualifies for design right), for “the design was commissioned or the designer employed” substitute “the designer was employed”,
 - (b) in section 218 of that Act (design qualifies for design right by reference to designer), in subsection (1), omit “in pursuance of a commission or”,
 - (c) in section 219 of that Act (the title to which becomes “Qualification by reference to employer”), in subsection (1), for “in pursuance of a commission from, or in the course of employment with,” substitute “in the course of employment with”,
 - (d) in subsection (2) of that section, omit “a joint commission or” and “commissioners or”,
 - (e) in subsection (3) of that section, omit “jointly commissioned or”, “commissioners or” and “commissioner or”,
 - (f) in that subsection, for “215(2) or (3)” substitute “215(3)”,
 - (g) in section 220 of that Act (qualification by reference to first marketing), in subsection (1), omit “, commissioner”,
 - (h) in subsection (4)(a) of that section, omit “, commissioner of the design”,
 - (i) in section 263 of that Act (definitions), in subsection (1), in the definition of “British design”, omit “the design is commissioned or”,
 - (j) in that subsection, omit the definition of “commission”, and
 - (k) in section 264 of that Act (index of defined expressions), omit the entry for “commission”.
- (3) This section does not apply to—
- (a) any design created before the commencement of this section, or
 - (b) any design created after the commencement of this section in pursuance of a commission (irrespective of whether the design was commissioned before or after that commencement) provided that—
 - (i) the designer and the commissioner of the design have entered into a contract relating to the commission of the design, and
 - (ii) the contract was entered into before that commencement.

3 Qualification criteria

- (1) In section 217 of that Act (qualifying individuals and qualifying persons), in subsection (1)—
- (a) omit the definition of “qualifying individual”, and
 - (b) for the definition of “qualifying person” substitute—
 - ““qualifying person” means—
 - (a) an individual habitually resident in a qualifying country, or
 - (b) a body corporate or other body having legal personality which—
 - (i) is formed under the law of a part of the United Kingdom or another qualifying country, and
 - (ii) has in any qualifying country a place of business at which substantial business activity is carried on.”
- (2) In that section, omit subsection (4).
- (3) In section 218 of that Act (qualification by reference to designer)—

- (a) in subsection (2), omit “a qualifying individual or, in the case of a computer-generated design,”
 - (b) in subsection (3), omit “a qualifying individual or, as the case may be,”, and
 - (c) in subsection (4), omit “qualifying individuals or”.
- (4) In section 220 of that Act (qualification by reference to first marketing)—
- (a) in subsection (1)(a), omit “who is exclusively authorised to put such articles on the market in the United Kingdom”,
 - (b) in subsection (2), for “requirements” substitute “requirement”,
 - (c) in subsection (3), for “those requirements” substitute “that requirement”, and
 - (d) omit subsection (4).
- (5) In section 264 of that Act (index of defined expressions), in the Table, omit the entry for “qualifying individual”.
- (6) This section applies only to designs created after the commencement of this section.

4 Infringement: exceptions

After section 244 of the Copyright, Designs and Patents Act 1988 (but before the following cross-heading) insert—

“Miscellaneous

244A Exception for private acts, experiments and teaching

Design right is not infringed by—

- (a) an act which is done privately and for purposes which are not commercial;
- (b) an act which is done for experimental purposes; or
- (c) an act of reproduction for teaching purposes or for the purpose of making citations provided that—
 - (i) the act of reproduction is compatible with fair trade practice and does not unduly prejudice the normal exploitation of the design, and
 - (ii) mention is made of the source.

244B Exception for overseas ships and aircraft

Design right is not infringed by—

- (a) the use of equipment on ships or aircraft which are registered in another country but which are temporarily in the United Kingdom;
- (b) the importation into the United Kingdom of spare parts or accessories for the purpose of repairing such ships or aircraft; or
- (c) the carrying out of repairs on such ships or aircraft.”