Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. XXXX

EXITING THE EUROPEAN UNION INTELLECTUAL PROPERTY

The Intellectual Property (Exhaustion of Rights) (EU Exit) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(**1**).

In accordance with paragraph 1(3) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Intellectual Property (Exhaustion of Rights) (EU Exit) Regulations 2018 and come into force on exit day.

PART 2

Effect of certain retained EU law

Exhaustion of intellectual property rights

2.—(1) Anything which—

(**1**) 2018 c.16; see section 20(1) of that Act for the definition of "Minister of the Crown".

(a) was, immediately before exit day, an enforceable EU right relating to the exhaustion of rights of the owner of an intellectual property right under Articles 34 to 36 of the Treaty on the Functioning of the European Union(**2**) or Articles 11 to 13 of the Agreement on the European Economic Area(**3**), and

(b) is retained EU law by virtue of section 4 of the European Union (Withdrawal) Act 2018,

has the same effect on and after exit day, despite the United Kingdom not being a member State, as it had immediately before exit day.

(2) In this regulation "enforceable EU right" has the meaning given by section 2(1) of the European Communities Act 1972(**4**) (as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018).

PART 3

Amendment of primary legislation

Amendment of the Registered Designs Act 1949

3.—(1) The Registered Designs Act 1949(**5**) is amended as follows.

(2) In section 7A (infringements of rights in registered designs)(**6**), in subsection (4), after "market in" insert "the United Kingdom or".

(3) In section 24G (meaning of "infringing article")(**7**), in subsection (5), for the words from "an enforceable" to the end substitute "anything which forms part of retained EU law as a result of section 3 or 4 of the European Union (Withdrawal) Act 2018".

Amendment of the Copyright, Designs and Patents Act 1988

4.—(1) The Copyright, Designs and Patents Act 1988(**8**) is amended as follows.

(2) In section 18 (infringement by issue of copies to the public)(**9**), in subsection (2), after "put into circulation in" insert "the United Kingdom or".

(3) In section 27 (meaning of "infringing copy")(**10**), in subsection (5), for the words from "any enforceable" to the end substitute "anything which forms part of retained EU law as a result of section 3 or 4 of the European Union (Withdrawal) Act 2018".

(4) In section 182B (consent required for issue of copies to the public)(**11**)—

(a) in subsection (2), for "EEA" (in each place) substitute "UK-EEA area";

(b) in subsection (3)—

(i) in paragraph (b), for "another" substitute "an";

(ii) in the words after that paragraph, for "EEA" (in both places) substitute "UK-EEA area";

(c) after subsection (3) insert—

(**2**) OJNo. C83, 30.3.2010, p.47.
(**3**) OJ No. L1, 3.1.1994, p.3.
(**4**) 1972 c.68.
(**5**) 1949 c.88.
(**6**) Section 7A was inserted by S.I. 2001/3949.
(**7**) Section 24G was inserted by S.I. 2006/1028.
(**8**) 1988 c.48.
(**9**) Section 18 was amended by S.I. 1992/3233, S.I. 1996/2967 and S.I. 2018/995.
(**10**) Section 27 was amended by S.I. 2011/1043; there are other amending instruments not relevant to these Regulations.
(**11**) Section 182B was inserted by S.I. 1996/2967.