Draft Order laid before Parliament under section 37(4B) of the Registered Designs Act 1949, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. XXXX

DESIGNS

The Designs (International Registration of Industrial Designs) Order 2017

Made - - - - ***

Coming into force in accordance with article 1(2)

The Secretary of State makes this Order in exercise of the power conferred by section 15ZA of the Registered Designs Act 1949(**1**).

In accordance with section 37(4B) of the Registered Designs Act 1949, a draft of the Order has been laid before and approved by resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Designs (International Registration of Industrial Designs) Order 2017.

(2) This Order comes into force on the date on which the United Kingdom becomes bound by the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs(**2**) pursuant to article 28(3)(b) of that Act.

(3) This Order extends to England and Wales, Scotland, Northern Ireland and the Isle of Man.

Interpretation

2. In this Order—

"the 2006 Rules" means the Registered Design Rules 2006(**3**);

"the Act" means the Registered Designs Act 1949 and "section" means a section of that Act;

(**1**) 1949 c.88; section 15ZA was inserted by section 8(1) of the Intellectual Property Act 2014 (c.18).

(**2**) Article 28(3) of the Geneva Act of the Hague Agreement provides that "(a) Any State or intergovernmental organisation that has deposited its instrument of ratification or accession three months or so before the date of entry into force of this Act shall become bound by this Act on the date of entry into force of this Act. (b) Any other State or intergovernmental organisation shall become bound by this Act three months after the date on which it has deposited its instruments of ratification or accession or at any later date indicated in that instrument." The date will be notified in the London, Edinburgh and Belfast Gazettes. It will also be possible to find out the date on which the Geneva Act comes into force in the United Kingdom by referring to the relevant page on Gov.UK. The link to that page is https://www.gov.uk/government/collections/treaty-series-2013.

(**3**) S.I. 2006/1975, amended by S.I. 2008/2683, S.I. 2009/546, S.I. 2013/444.

"Common Regulations" means the regulations adopted under Article 24 of the Geneva Act with effect from 1st January 2017;

"Geneva Act" means the Geneva Act of the Hague Agreement concerning the international registration of industrial designs adopted by the diplomatic conference on 2nd July 1999(**4**);

"holder", in relation to an international registration, means the person in whose name an international registration is recorded in the International Register;

"International Bureau" means the International Bureau of the World Intellectual Property Organisation;

"International Register" means the register of industrial designs maintained by the International Bureau for the purposes of the Geneva Act;

"international registration" means a registration of a design in the International Register for the purpose of the Geneva Act and the Common Regulations;

"protected international registration (UK)" means a grant of protection under Rule 18bis of the Common Regulations for a design which is the subject of a request for international registration (UK), and references to "protection" and "protected" are construed accordingly;

"request for international registration (UK)"means a request for international registration made in pursuance of Article 5(1) of the Geneva Act in respect of which the United Kingdom is a designated Contracting Party.

International registration

3. The provisions of the Act (except those listed in Part 1 of Schedule 1) and the 2006 Rules (except those listed in Part 2 of Schedule 1) apply to a design which is the subject of a protected international registration (UK) and a request for international registration (UK) with the following modifications—

(a) references to a registered design are to include references to a design which is the subject of a protected international registration (UK);

(b) references to a registered proprietor are to include references to a holder of an international registration in respect of which a protected international registration (UK) applies;

(c) references to an application for registration of a design are to include references to a request for international registration (UK);

(d) references to an applicant for registration are to include references to the holder of an international registration making a request for an international registration (UK);

(e) references to registration of a design are to include the conferring of protection for a design so that it becomes a protected international registration (UK) and include any changes to the registration;

(f) references to the register are to the International Register;

(g) the modifications to the Act and the 2006 Rules set out in Schedule 2; and

(h) such further modifications as the context requires for the purpose of giving effect to those provisions as applied by this Order.

(**4**) The National Archive Reference for the Geneva Act of the Hague Agreement is FO 949/1049/0: 0. The text of the Geneva Act of the Hague Agreement is also available at http://www.wipo.int/wipolex/en/details.jsp?id=12531.

Communication of information to the International Bureau

4. Notwithstanding any other enactment or rule of law, the registrar may communicate to the International Bureau any information which the registrar is required to communicate under the Act (as it has effect by virtue of this Order) or pursuant to the Geneva Act or Common Regulations.

Name
Minister of State for Universities, Science and Innovation
Department for Business, Energy & Industrial Strategy

Date

SCHEDULE 1 Article 3

LEGISLATIVE DISAPPLICATIONS

PART 1

PROVISIONS OF THE ACT WHICH DO NOT APPLY TO PROTECTED INTERNATIONAL REGISTRATIONS (UK) OR REQUESTS FOR INTERNATIONAL REGISTRATION (UK)

section 3 (application for registration)

section 3A(2) (determination of applications for registration)

section 3B (modification of applications for registration)

section 3C(2) and (3) (date of registrations of designs)

section 5 (provisions for secrecy of certain designs)

section 8A (restoration of lapsed right in design)

section 8B (effect of order for restoration of right)

section 11 (cancellation of registration)

section 11ZD (modification of registration)

section 14(1) and (3) (registration of design where application for protection in a convention country has been made)

section 15 (extension of time for application under s. 14 in certain cases)

section 15B(2) (assignment, &c. of registered designs and applications for registered designs)

section 17 (register of designs etc.) except section 17(8)

section 18 (certificate of registration)

section 19 (registration of assignments, etc.)

section 20 (rectification of register)

section 21 (power to correct clerical errors)

section 22 (inspection of registered designs)

section 31A(1)(a) (power to require to use forms)

section 33 (offences under s. 5)

section 36(1A)(ab) and (d) (general power of Secretary of State to make rules, etc.)

PART 2

PROVISIONS OF THE 2006 RULES WHICH DO NOT APPLY TO PROTECTED INTERNATIONAL REGISTRATIONS (UK) OR REQUESTS FOR INTERNATIONAL REGISTRATION (UK)

rule 4 (applications)

rule 5 (formal requirements)

rule 6 (partial disclaimers)

rule 7(2) and (5) (convention applications)