

Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs

TITLE II

THE LAW RELATING TO DESIGNS

Section 1

Requirements for protection

Article 3

Definitions

For the purposes of this Regulation:

- (a) ‘design’ means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation;
- (b) ‘product’ means any industrial or handicraft item, including *inter alia* parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;
- (c) ‘complex product’ means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product;
- (d) [^{F1}‘qualifying country’ and ‘qualifying territory’ mean a country or territory designated by regulations made under Article 7.]

Textual Amendments

- F1** Art. 3(d) inserted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 4** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 4

Requirements for protection

- 1 A design shall be protected by a [^{F2}supplementary unregistered] design to the extent that it is new and has individual character.
- 2 A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:
 - a if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and
 - b to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

3 ‘Normal use’ within the meaning of paragraph (2)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

Textual Amendments

F2 Words in Art. 4(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 5** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 5

Novelty

1 A design shall be considered to be new if no identical design has been made available to the public:

- a in the case of [^{F3}a supplementary] unregistered ^{F4}... design, before the date on which the design for which protection is claimed has first been made available to the public;
- ^{F5}b

2 Designs shall be deemed to be identical if their features differ only in immaterial details.

Textual Amendments

F3 Words in Art. 5(1)(a) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 6(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F4 Word in Art. 5(1)(a) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 6(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F5 Art. 5(1)(b) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 6(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 6

Individual character

1 A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:

- a in the case of [^{F6}a supplementary] unregistered ^{F7}... design, before the date on which the design for which protection is claimed has first been made available to the public;
- ^{F8}b

2 In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Textual Amendments

- F6** Words in Art. 6(1)(a) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 7(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in Art. 6(1)(a) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 7(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Art. 6(1)(b) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 7(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

I^{F9} Article 7

Disclosure

1 Subject to paragraph 4, for the purposes of applying Articles 5 and 6, a supplementary unregistered design shall be deemed to have been made available to the public where paragraph 2 or 3 applies.

2 This paragraph applies where before IP completion day, the design was published or exhibited, used in trade or otherwise disclosed except where those events could not have become known in the normal course of business to the circles specialised in the sector operating within the European Union.

3 This paragraph applies where on or after IP completion day but before the date mentioned in Articles 5(1)(a) or 6(1)(a), the design was published or exhibited, used in trade or otherwise disclosed except where those events could not have become known in the normal course of business to the circles specialised in the sector operating within the United Kingdom, a qualifying country or a qualifying territory.

4. A design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

5. For the purposes of this Regulation, a “qualifying country” is a country designated as such, and a “qualifying territory” is a territory designated as such, in Regulations made by the Secretary of State.

6. Regulations under paragraph 5 are to be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House.]

Textual Amendments

- F9** Art. 7 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 8** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 17(b), 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Article 8

Designs dictated by their technical function and designs of interconnections

1 A [F¹⁰supplementary unregistered] design shall not subsist in features of appearance of a product which are solely dictated by its technical function.

2 A [F¹⁰supplementary unregistered] design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3 Notwithstanding paragraph 2, a [F¹⁰supplementary unregistered] design shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Textual Amendments

F10 Words in Art. 8 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 9** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 9

Designs contrary to public policy or morality

A [F¹¹supplementary unregistered] design shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

Textual Amendments

F11 Words in Art. 9 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 9** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Section 2

Scope and term of protection

Article 10

Scope of protection

1 The scope of the protection conferred by a [F¹²supplementary unregistered] design shall include any design which does not produce on the informed user a different overall impression.

2 In assessing the scope of protection, the degree of freedom of the designer in developing his design shall be taken into consideration.

Textual Amendments

- F12** Words in Art. 10(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 9** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 11

Commencement and term of protection of the [^{F13}supplementary] unregistered ^{F14}... design

1 A design which meets the requirements under Section 1 shall be protected by [^{F15}a supplementary] unregistered ^{F16}... design for a period of three years as from the date on which the design was first made available to the public within the [^{F17}United Kingdom, a qualifying country or a qualifying territory].

2 For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the [^{F18}United Kingdom, a qualifying country or a qualifying territory] if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known to the circles specialised in the sector concerned, operating within the [^{F18}United Kingdom, a qualifying country or a qualifying territory]. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

Textual Amendments

- F13** Word in Art. 11 heading inserted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in Art. 11 heading omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 11(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(b)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Word in Art. 11(1) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 11(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(b)(iii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in Art. 11(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 10(c)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

^{F19}Article 12

Commencement and term of protection of the registered Community design

Textual Amendments

F19 Art. 12 omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 11** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

^{F20}Article 13

Renewal

Textual Amendments

F20 Art. 13 omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 11** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Section 3

Right to the [^{F21}supplementary unregistered] design

Article 14

Right to the [^{F22}supplementary unregistered] design

1 The right to the [^{F22}supplementary unregistered] design shall vest in the designer or his successor in title.

2 If two or more persons have jointly developed a design, the right to the [^{F22}supplementary unregistered] design shall vest in them jointly.

3 However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the [^{F22}supplementary unregistered] design shall vest in the employer, unless otherwise agreed ^{F23}....

Textual Amendments

F22 Words in Art. 14 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 13(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

F23 Words in Art. 14(3) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 13(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 15

Claims relating to the entitlement to a [^{F24}supplementary unregistered] design

1 If [^{F25}a supplementary] unregistered ^{F26}... design is disclosed or claimed by ^{F27}... a person who is not entitled to it under Article 14, the person entitled to it under that provision may, without prejudice to any other remedy which may be open to him, claim to become recognised as the legitimate holder of [^{F28}that] design.

2 Where a person is jointly entitled to a [^{F29}supplementary unregistered] design, that person may, in accordance with paragraph 1, claim to become recognised as joint holder.

3 Legal proceedings under paragraphs 1 or 2 shall be barred three years after ^{F30}... the date of disclosure of [^{F31}a supplementary] unregistered ^{F32}... design. This provision shall not apply if the person who is not entitled to [^{F33}that] design was acting in bad faith at the time when such design was ^{F34}... disclosed or was assigned to him.

^{F35}4

Textual Amendments

- F24** Words in Art. 15 heading substituted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in Art. 15(1) substituted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(b)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Word in Art. 15(1) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in Art. 15(1) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(b)(iii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Word in Art. 15(1) substituted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(b)(iv)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in Art. 15(2) substituted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(c)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in Art. 15(3) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(d)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Art. 15(3) substituted (31.12.2020) by The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(d)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Word in Art. 15(3) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(d)(iii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

- F33** Word in Art. 15(3) substituted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(d)(iv)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in Art. 15(3) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(d)(v)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F35** Art. 15(4) omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 14(e)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F36 Article 16

Effects of a judgement on entitlement to a registered Community design

Textual Amendments

- F36** Arts. 16-18 omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 15** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F36 Article 17

Presumption in favour of the registered holder of the design

Textual Amendments

- F36** Arts. 16-18 omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 15** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F36 Article 18

Right of the designer to be cited

Textual Amendments

- F36** Arts. 16-18 omitted (31.12.2020) by virtue of The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/638), reg. 1, **Sch. 1 para. 15** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Textual Amendments

- F21** Words in Title 2 Section 3 heading substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 12** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Section 4

Effects of the [^{F37}supplementary unregistered] design

Article 19

Rights conferred by the [^{F38}supplementary unregistered] design

1 A [^{F39}supplementary unregistered] design shall confer on its holder the exclusive right to use it and to prevent any third party not having his consent from using it. The aforementioned use shall cover, in particular, the making, offering, putting on the market, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or stocking such a product for those purposes.

2 [^{F40}A supplementary] unregistered ^{F41}... design shall, however, confer on its holder the right to prevent the acts referred to in paragraph 1 only if the contested use results from copying the protected design.

The contested use shall not be deemed to result from copying the protected design if it results from an independent work of creation by a designer who may be reasonably thought not to be familiar with the design made available to the public by the holder.

^{F42}3

Textual Amendments

- F38** Words in Art. 19 heading substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 17(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F39** Words in Art. 19(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 17(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F40** Words in Art. 19(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 17(c)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F41** Word in Art. 19(2) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 17(c)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F42** Art. 19(3) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 17(d)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Article 20

Limitation of the rights conferred by a [F43supplementary unregistered] design

1 The rights conferred by a [F44supplementary unregistered] design shall not be exercised in respect of:

- a acts done privately and for non-commercial purposes;
- b acts done for experimental purposes;
- c acts of reproduction for the purpose of making citations or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the design, and that mention is made of the source.

2 In addition, the rights conferred by a [F45supplementary unregistered] design shall not be exercised in respect of:

- a the equipment on ships and aircraft registered in a third country when these temporarily enter the territory of the [F46United Kingdom];
- b the importation in the [F47United Kingdom] of spare parts and accessories for the purpose of repairing such craft;
- c the execution of repairs on such craft.

Textual Amendments

- F43** Words in Art. 20 heading substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 18(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F44** Words in Art. 20(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 18(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F45** Words in Art. 20(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 18(b)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F46** Words in Art. 20(2)(a) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 18(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F47** Words in Art. 20(2)(b) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 18(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 21

Exhaustion of rights

The rights conferred by a [F48supplementary unregistered] design shall not extend to acts relating to a product in which a design included within the scope of protection of the [F48supplementary unregistered] design is incorporated or to which it is applied, when the product has been put on the market in the [F49United Kingdom or the European Economic Area] by the holder of the [F48supplementary unregistered] design or with his consent.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Textual Amendments

- F48** Words in Art. 21 substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 19(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F49** Words in Art. 21 substituted (31.12.2020) by [S.I. 2019/638](#), reg. 1, **Sch. 1 para. 19(b)** (as substituted by [The Intellectual Property \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1050\)](#), regs. 1(2), **17(c)**)

^{F50} Article 22

Rights of prior use in respect of a registered Community design

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Textual Amendments

- F50** Art. 22 omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 20** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

^{F51} Article 23

Government use

.....

Textual Amendments

- F51** Art. 23 omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 20** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Textual Amendments

- F37** Words in Title 2 Section 4 heading substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 16** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

Section 5

Invalidity

Article 24

Declaration of invalidity

^{F52}1

2 A [^{F53}supplementary unregistered] design may be declared invalid even after [^{F54}it] has lapsed ^{F55}....

3 An unregistered [^{F56}supplementary unregistered] design shall be declared invalid by a ^{F57}... design court on application to such a court or on the basis of a counterclaim in infringement proceedings.

Textual Amendments

F52 Art. 24(1) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F53 Words in Art. 24(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(b)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F54 Word in Art. 24(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F55 Words in Art. 24(2) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(b)(iii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F56 Words in Art. 24(3) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(c)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

F57 Word in Art. 24(3) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 21(c)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 25

Grounds for invalidity

1 A [^{F58}supplementary unregistered] design may be declared invalid only in the following cases:

- a if the design does not correspond to the definition under Article 3(a);
- b if it does not fulfil the requirements of Articles 4 to 9;
- c if, by virtue of a court decision, the right holder is not entitled to the ^{F59}... design under Article 14;

^{F60}d

- e if a distinctive sign is used in a subsequent design, and ^{F61}... the law ^{F62}... governing that sign confers on the right holder of the sign the right to prohibit such use;

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

- f if the design constitutes an unauthorised use of a work protected under ^{F63}... copyright law ^{F64}...;
- g if the design constitutes an improper use of any of the items listed in Article 6ter of the ‘Paris Convention’ for the Protection of Industrial Property hereafter referred to as the ‘Paris Convention’, or of badges, emblems and escutcheons other than those covered by the said Article 6ter and which are of particular public interest in [^{F65}the United Kingdom, a qualifying country or a qualifying territory].

2 The ground provided for in paragraph (1)(c) may be invoked solely by the person who is entitled to the [^{F66}supplementary unregistered] design under Article 14.

3 The grounds provided for in paragraph (1) ^{F67}..., (e) and (f) may be invoked solely by ^{F68}... holder of the earlier right.

4 The ground provided for in paragraph (1)(g) may be invoked solely by the person or entity concerned by the use.

^{F69}5

^{F70}6

Textual Amendments

- F58** Words in Art. 25(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F59** Word in Art. 25(1)(c) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F60** Art. 25(1)(d) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(iii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F61** Words in Art. 25(1)(e) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(iv)(aa)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F62** Words in Art. 25(1)(e) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(iv)(bb)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F63** Word in Art. 25(1)(f) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(v)(aa)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F64** Words in Art. 25(1)(f) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(v)(bb)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F65** Words in Art. 25(1)(g) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(a)(vi)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F66** Words in Art. 25(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(b)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F67** Word in Art. 25(3) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/638), reg. 1, **Sch. 1 para. 22(c)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by [S.I. 2020/1050](#), regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II. (See end of Document for details)

- F68** Words in Art. 25(3) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 22(c)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F69** Art. 25(5) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 22(d)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F70** Art. 25(6) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 22(d)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Article 26

Consequences of invalidity

1 A [^{F71}supplementary unregistered] design shall be deemed not to have had, as from the outset, the effects specified in this Regulation, to the extent that it has been declared invalid.

2 Subject to ^{F72}... claims for compensation for damage caused by negligence or lack of good faith on the part of the holder of the [^{F73}supplementary unregistered] design, or to unjust enrichment, the retroactive effect of invalidity of the [^{F73}supplementary unregistered] design shall not affect:

- a any decision on infringement which has acquired the authority of a final decision and been enforced prior to the invalidity decision;
- b any contract concluded prior to the invalidity decision, in so far as it has been performed before the decision; however, repayment, to an extent justified by the circumstances, of sums paid under the relevant contract may be claimed on grounds of equity.

Textual Amendments

- F71** Words in Art. 26(1) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 23(a)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F72** Words in Art. 26(2) omitted (31.12.2020) by virtue of [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 23(b)(i)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)
- F73** Words in Art. 26(2) substituted (31.12.2020) by [The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/638\)](#), reg. 1, **Sch. 1 para. 23(b)(ii)** (with reg. 4, Sch. 2 Pt. 1) (as amended by S.I. 2020/1050, regs. 1(2), 14, 19); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, TITLE II.