

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

TITLE II

**THE LAW RELATING TO DESIGNS**

Section 4

**Effects of the Community design**

*Article 19*

**Rights conferred by the Community design**

1 A registered Community 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 An unregistered Community 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.

3 Paragraph 2 shall also apply to a registered Community design subject to deferment of publication as long as the relevant entries in the register and the file have not been made available to the public in accordance with Article 50(4).

*Article 20*

**Limitation of the rights conferred by a Community design**

- 1 The rights conferred by a Community 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 Community 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 Community;
  - b the importation in the Community of spare parts and accessories for the purpose of repairing such craft;

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*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 4. (See end of Document for details)*

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- c the execution of repairs on such craft.

#### *Article 21*

### **Exhaustion of rights**

The rights conferred by a Community design shall not extend to acts relating to a product in which a design included within the scope of protection of the Community design is incorporated or to which it is applied, when the product has been put on the market in the Community by the holder of the Community design or with his consent.

#### *Article 22*

### **Rights of prior use in respect of a registered Community design**

1 A right of prior use shall exist for any third person who can establish that before the date of filing of the application, or, if a priority is claimed, before the date of priority, he has in good faith commenced use within the Community, or has made serious and effective preparations to that end, of a design included within the scope of protection of a registered Community design, which has not been copied from the latter.

2 The right of prior use shall entitle the third person to exploit the design for the purposes for which its use had been effected, or for which serious and effective preparations had been made, before the filing or priority date of the registered Community design.

3 The right of prior use shall not extend to granting a licence to another person to exploit the design.

4 The right of prior use cannot be transferred except, where the third person is a business, along with that part of the business in the course of which the act was done or the preparations were made.

#### *Article 23*

### **Government use**

Any provision in the law of a Member State allowing use of national designs by or for the government may be applied to Community designs, but only to the extent that the use is necessary for essential defence or security needs.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 4.