



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART III

DESIGN RIGHT

CHAPTER V

MISCELLANEOUS AND GENERAL

Interpretation

258 Construction of references to design right owner.

- (1) Where different persons are (whether in consequence of a partial assignment or otherwise) entitled to different aspects of design right in a work, the design right owner for any purpose of this Part is the person who is entitled to the right in the respect relevant for that purpose.
- (2) Where design right (or any aspect of design right) is owned by more than one person jointly, references in this Part to the design right owner are to all the owners, so that, in particular, any requirement of the licence of the design right owner requires the licence of all of them.

259 Joint designs.

- (1) In this Part a “joint design” means a design produced by the collaboration of two or more designers in which the contribution of each is not distinct from that of the other or others.
- (2) References in this Part to the designer of a design shall, except as otherwise provided, be construed in relation to a joint design as references to all the designers of the design.

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260 Application of provisions to articles in kit form.

- (1) The provisions of this Part apply in relation to a kit, that is, a complete or substantially complete set of components intended to be assembled into an article, as they apply in relation to the assembled article.
- (2) Subsection (1) does not affect the question whether design right subsists in any aspect of the design of the components of a kit as opposed to the design of the assembled article.

261 Requirement of signature: application in relation to body corporate.

The requirement in the following provisions that an instrument be signed by or on behalf of a person is also satisfied in the case of a body corporate by the affixing of its seal—

- section 222(3) (assignment of design right),
- section 223(1) (assignment of future design right),
- section 225(1) (grant of exclusive licence).

262 Adaptation of expressions in relation to Scotland.

In the application of this Part to Scotland—

- “account of profits” means accounting and payment of profits;
- “accounts” means count, reckoning and payment;
- “assignment” means assignation;
- “costs” means expenses;
- “defendant” means defender;
- “delivery up” means delivery;
- “injunction” means interdict;
- “interlocutory relief” means interim remedy; and
- “plaintiff” means pursuer.

263 Minor definitions.

- (1) In this Part—

“British design” means a design which qualifies for design right protection by reason of a connection with the United Kingdom of the designer or the person by whom ^{F1}... the designer is employed;

“business” includes a trade or profession;

^{F2}
...

“the comptroller” means the Comptroller-General of Patents, Designs and Trade Marks;

“computer-generated”, in relation to a design, means that the design is generated by computer in circumstances such that there is no human designer,

“country” includes any territory;

“the Crown” includes the Crown in right of Her Majesty’s Government in Northern Ireland [^{F3}and the Crown in right of the Scottish Administration]^{F4}and the Crown in right of the Welsh Assembly Government];

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“design document” means any record of a design, whether in the form of a drawing, a written description, a photograph, data stored in a computer or otherwise;

“employee”, “employment” and “employer” refer to employment under a contract of service or of apprenticeship;

“government department” includes a Northern Ireland department [^{F5}and any part of the Scottish Administration][^{F6}and any part of the Welsh Assembly Government].

- (2) References in this Part to “marketing”, in relation to an article, are to its being sold or let for hire, or offered or exposed for sale or hire, in the course of a business, and related expressions shall be construed accordingly; but no account shall be taken for the purposes of this Part of marketing which is merely colourable and not intended to satisfy the reasonable requirements of the public.
- (3) References in this Part to an act being done in relation to an article for “commercial purposes” are to its being done with a view to the article in question being sold or hired in the course of a business.

Textual Amendments

- F1** Words in s. 263(1) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 2(2)(i), 24(1)** (with [s. 2\(3\)](#)); [S.I. 2014/2330](#), [art. 3](#), [Sch.](#)
- F2** Words in s. 263(1) omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 2(2)(j), 24(1)** (with [s. 2\(3\)](#)); [S.I. 2014/2330](#), [art. 3](#), [Sch.](#)
- F3** Words in definition of “the Crown” in s. 263(1) inserted (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 93\(4\)\(a\)](#); [S.I. 1998/3178](#), [art. 3](#)
- F4** S. 263(1): words in definition of “the Crown” inserted by [Government of Wales Act 2006 \(c. 32\)](#), [s. 160\(1\)](#), [Sch. 10 para. 31\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after “the 2007 election” (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.
- F5** Words in definition of “government department” in s. 263(1) inserted (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\), 4](#), [Sch. 2 Pt. I para. 93\(4\)\(b\)](#); [S.I. 1998/3178](#), [art. 3](#)
- F6** S. 263(1): words in definition of “government department” inserted by [Government of Wales Act 2006 \(c. 32\)](#), [s. 160\(1\)](#), [Sch. 10 para. 31\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after “the 2007 election” (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

264 Index of defined expressions.

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section)—

account of profits and accounts (in Scotland)	section 262
assignment (in Scotland)	section 262

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British designs	section 263(1)
business	section 263(1)
commercial purposes	section 263(3)
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the comptroller	section 263(1)
computer-generated	section 263(1)
costs (in Scotland)	section 262
country	section 263(1)
the Crown	section 263(1)
Crown use	sections 240(5) and 244(2)
defendant (in Scotland)	section 262
delivery up (in Scotland)	section 262
design	section 213(2)
design document	section 263(1)
designer	sections 214 and 259(2)
design right	section 213(1)
design right owner	sections 234(2) and 258
employee, employment and employer	section 263(1)
exclusive licence	section 225(1)
government department	section 263(1)
government department concerned (in relation to Crown use)	section 240(5)
infringing article	section 228
injunction (in Scotland)	section 262
interlocutory relief (in Scotland)	section 262
joint design	section 259(1)
licence (of the design right owner)	sections 222(4), 223(3) and 258
making articles to a design	section 226(2)
marketing (and related expressions)	section 263(2)
original	section 213(4)
plaintiff (in Scotland)	section 262
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qualifying person	sections 217(1) and (2)
signed	section 261

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Textual Amendments

- F7** Words in s. 264 omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 2(2)(k)**, [24\(1\)](#) (with [s. 2\(3\)](#)); [S.I. 2014/2330](#), [art. 3](#), Sch.
- F8** Words in s. 264 omitted (1.10.2014) by virtue of [Intellectual Property Act 2014 \(c. 18\)](#), **ss. 3(5)**, [24\(1\)](#) (with [s. 3\(6\)](#)); [S.I. 2014/2330](#), [art. 3](#), Sch.

Status:

Point in time view as at 26/02/2015.

Changes to legislation:

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