

ENTERPRISE AND REGULATORY REFORM ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Miscellaneous and General

Copyright and rights in performances

Section 74: Exploitation of design derived from artistic work

515. [Section 74](#) repeals section 52 of the Copyright, Designs and Patents Act 1988 (“CDPA 1988”). The repeal of section 52 means that articles to which the section applies will have full copyright protection for the period of the life of the author plus 70 years. Accordingly, the exception provided by section 52 cannot be relied upon, and the copy of a copyright work will in future be an infringing copy. The [Copyright \(Industrial Process and Excluded Articles\) \(No.2\) Order 1989 No. 1070](#) made under section 52 would therefore cease to have effect.
516. [Section 52](#) applies where an artistic work, following the authorisation of the copyright holder, has been copied by an industrial process and marketed anywhere in the world. Twenty-five years after copies of the artistic work were first marketed, the work may be copied by third parties without infringing copyright. The 1989 Order also defines when an article is to be regarded as being made by an industrial process. This is where the article is one of more than 50 copies of an artistic work or it consists of goods manufactured in lengths or pieces except where those are hand-made. An example of the application of section 52 is as follows, a jeweller makes a ring which qualifies for copyright protection as a work of artistic craftsmanship. The ring is then manufactured with more than 50 copies being made and it is marketed throughout the world. Twenty-five years after the end of the year in which the ring was first marketed, third parties can make their own copies without infringing copyright in the original ring.
517. [Section 52\(6\)\(a\)](#) excludes films from the scope of the section. The [Copyright \(Industrial Process and Excluded Articles\) \(No.2\) Order 1989 No. 1070](#) made under section 52(4) also excludes from the scope of the section sculptures (other than casts or models used or intended to be used as models or patterns to be multiplied by any industrial process), wall plaques, medals and medallions and printed material primarily of a literary or artistic character.