
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Registered Designs Act 1949 (“the 1949 Act”) and the Community Design Regulations 2005 (S.I. 2005/2339) (“the 2005 Regulations”) which are necessary as a result of the accession by the European Community to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs: see Council Decision (EC) No 954/2006 (OJ No L386, 29.12.2006, pp. 28 - 43). The text of the Geneva Act is attached to that Decision, and is also available electronically from www.wipo.int/hague/en/legal_texts.

The Geneva Act, which was adopted on 2nd July 1999 and entered into force on 23rd December 2003, allows designers to obtain design protection in a number of countries through a single international registration, and permits intergovernmental organisations to become a party to the Act provided that a number of conditions are fulfilled. In particular, the organisation must maintain an Office through which protection of industrial designs may be obtained with effect in the territory of the organisation. A Community design registered at the Office for Harmonization in the Internal Market (trade marks and designs) under Council Regulation (EC) No 6/2002 (OJ L 3, 5.1.2002, p.1) (“the Community Design Regulation”) does indeed have effect in the territory of the Community, and the 2005 Regulations make provision for the operation of the Community Design Regulation in the United Kingdom.

The amendments to the Community Design Regulation which are necessary to give effect to the Community’s accession to the Geneva Act were made by Council Regulation (EC) No 1891/2006 (OJ No L 386, 29.12.2006, pp.14 - 16), which enters into force on the date on which the Geneva Act enters into force with respect to the European Community (1st January 2008).

As a result of the Community’s accession to the Geneva Act, it will be possible for holders of an international registration under that Act to apply for protection of their designs under the registered Community design system. An international registration designating the Community has, from the date of its registration, the same effect as an application for a registered Community design; and if no refusal is notified in accordance with Article 12 of the Geneva Act, or any such refusal is withdrawn, the registration has the same effect as the registration of a design as a registered Community design.

Regulation 2 provides for the amendment of section 11ZA of the 1949 Act (as amended by the Regulatory Reform (Registered Designs) Order 2006, S.I. 2006/1974). Section 11ZA contains the grounds upon which the registration of a design may be declared invalid. The amendment made by this regulation ensures that, for those purposes, a prior international registration designating the Community is treated in the same way as a prior registered Community design (or application for such a design).

Regulation 3 amends the 2005 Regulations to ensure that, under those Regulations, such international registrations are treated in the same way as Community designs and in particular registered Community designs.

This instrument ensures that, in accordance with the new Articles 106d and 106f of the Community Design Regulation, an international registration designating the Community has the same effect as the registration (or application for registration) of a design under that Regulation.

A full impact assessment of the effect that this instrument will have on the costs of business has been prepared, and has been placed in the libraries of both Houses of Parliament. It is also available from June Davies, The UK Intellectual Property Office, Concept House, Cardiff Road, Newport, NP10 8QQ, and is available electronically from www.ipo.gov.uk.