

## SCHEDULE 1

Modifications of the Registered Designs Act 1949 in its application to the Isle of Man

42. Immediately before Schedule 1 insert—

“SCHEDULE A1

Sections 3A(4)(c) and 11ZA(1)(c)

Grounds for refusal of registration in relation to emblems etc.

*Grounds for refusal in relation to certain emblems etc.*

1.—(1) A design shall be refused registration under this Act if it involves the use of—

- (a) the Royal arms, or any of the principal armorial bearings of the Royal arms, or any insignia or device so nearly resembling the Royal arms or any such armorial bearing as to be likely to be mistaken for them or it;
- (b) a representation of the Royal crown or any of the Royal flags;
- (c) a representation of Her Majesty or any member of the Royal family, or any colourable imitation thereof; or
- (d) words, letters or devices likely to lead persons to think that the applicant either has or recently has had Royal patronage or authorisation;

unless it appears to the registrar that consent for such use has been given by or on behalf of Her Majesty or (as the case may be) the relevant member of the Royal family.

(2) A design shall be refused registration under this Act if it involves the use of—

- (a) the national flag of the United Kingdom (commonly known as the Union Jack); or
- (b) the flag of England, Wales, Scotland, Northern Ireland or the Isle of Man,

and it appears to the registrar that the use would be misleading or grossly offensive.

(3) A design shall be refused registration under this Act if it involves the use of—

- (a) arms to which a person is entitled by virtue of a grant of arms by the Crown; or
- (b) insignia so nearly resembling such arms as to be likely to be mistaken for them;

unless it appears to the registrar that consent for such use has been given by or on behalf of the person concerned and the use is not in any way contrary to the law of arms.

(4) A design shall be refused registration under this Act if it involves the use of a controlled representation within the meaning of the Olympic Symbol etc. (Protection) Act 1995(1) unless it appears to the registrar that—

- (a) the application is made by the person for the time being appointed under section 1(2) of the Olympic Symbol etc. (Protection) Act 1995 (power of Secretary of State to appoint a person as the proprietor of the Olympics association right); or
- (b) consent for such use has been given by or on behalf of the person mentioned in paragraph (a) above.

(5) References in this section to the Olympic Symbol etc (Protection) Act 1995 are to that Act as it has effect in the United Kingdom.

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(1) 1995 c.32.

*Grounds for refusal in relation to emblems etc. of Paris Convention countries*

2.—(1) A design shall be refused registration under this Act if it involves the use of the flag of a Paris Convention country unless—

- (a) the authorisation of the competent authorities of that country has been given for the registration; or
- (b) it appears to the registrar that the use of the flag in the manner proposed is permitted without such authorisation.

(2) A design shall be refused registration under this Act if it involves the use of the armorial bearings or any other state emblem of a Paris Convention country which is protected under the Paris Convention unless the authorisation of the competent authorities of that country has been given for the registration.

(3) A design shall be refused registration under this Act if—

- (a) the design involves the use of an official sign or hallmark adopted by a Paris Convention country and indicating control and warranty;
- (b) the sign or hallmark is protected under the Paris Convention; and
- (c) the design could be applied to or incorporated in goods of the same, or a similar, kind as those in relation to which the sign or hallmark indicates control and warranty;

unless the authorisation of the competent authorities of that country has been given for the registration.

(4) The provisions of this paragraph as to national flags and other state emblems, and official signs or hallmarks, apply equally to anything which from a heraldic point of view imitates any such flag or other emblem, or sign or hallmark.

(5) Nothing in this paragraph prevents the registration of a design on the application of a national of a country who is authorised to make use of a state emblem, or official sign or hallmark, of that country, notwithstanding that it is similar to that of another country.

*Grounds for refusal in relation to emblems etc. of certain international organisations*

3.—(1) This paragraph applies to—

- (a) the armorial bearings, flags or other emblems; and
- (b) the abbreviations and names,

of international intergovernmental organisations of which one or more Paris Convention countries are members.

(2) A design shall be refused registration under this Act if it involves the use of any such emblem, abbreviation or name which is protected under the Paris Convention unless—

- (a) the authorisation of the international organisation concerned has been given for the registration; or
- (b) it appears to the registrar that the use of the emblem, abbreviation or name in the manner proposed—
  - (i) is not such as to suggest to the public that a connection exists between the organisation and the design; or
  - (ii) is not likely to mislead the public as to the existence of a connection between the user and the organisation.

(3) The provisions of this paragraph as to emblems of an international organisation apply equally to anything which from a heraldic point of view imitates any such emblem.

(4) Nothing in this paragraph affects the rights of a person whose bona fide use of the design in question began before 4th January 1962 (when the relevant provisions of the Paris Convention entered into force in relation to the United Kingdom).

*Paragraphs 2 and 3: supplementary*

4.—(1) For the purposes of paragraph 2 above state emblems of a Paris Convention country (other than the national flag), and official signs or hallmarks, shall be regarded as protected under the Paris Convention only if, or to the extent that—

- (a) the country in question has notified the United Kingdom in accordance with Article 6ter(3) of the Convention that it desires to protect that emblem, sign or hallmark;
- (b) the notification remains in force; and
- (c) the United Kingdom has not objected to it in accordance with Article 6ter(4) or any such objection has been withdrawn.

(2) For the purposes of paragraph 3 above the emblems, abbreviations and names of an international organisation shall be regarded as protected under the Paris Convention only if, or to the extent that—

- (a) the organisation in question has notified the United Kingdom in accordance with Article 6ter(3) of the Convention that it desires to protect that emblem, abbreviation or name;
- (b) the notification remains in force; and
- (c) the United Kingdom has not objected to it in accordance with Article 6ter(4) or any such objection has been withdrawn.

(3) Notification under Article 6ter(3) of the Paris Convention shall have effect only in relation to applications for the registration of designs made more than two months after the receipt of the notification.

*Interpretation*

5. In this Schedule—

“a Paris Convention country” means a country, other than the United Kingdom, which is a party to the Paris Convention; and

“the Paris Convention” means the Paris Convention for the Protection of Industrial Property of 20th March 1883.”.

**Commencement Information**

**II** Sch. 1 para. 42 in force at 11.11.2013, see **art. 1**

**Changes to legislation:**

There are currently no known outstanding effects for the The Registered Designs (Isle of Man) Order 2013, Paragraph 42.