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STATUTORY INSTRUMENTS

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**2019 No. 638**

**The Designs and International Trade Marks  
(Amendment etc.) (EU Exit) Regulations 2019**

**Citation and commencement**

1. These Regulations may be cited as the Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

**Interpretation**

2. In these Regulations—

“1949 Act” means the Registered Designs Act 1949;

“1994 Act” means the Trade Marks Act 1994;

“2005 Regulations” means the Community Design Regulations 2005(1);

“continuing unregistered Community design” has the meaning given by regulation 4(2);

“Design Regulation” means Council Regulation (EC) No 6/2002 of 12th December 2001 on Community Designs as amended by Council Regulation (EC) 1891/2006 of 18th December 2006 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs and by the Decision of the European Union of 5th December 2011 on the admission of the Republic of Croatia to the European Union;

“Registered Designs Rules” means the Registered Designs Rules 2006(2); and

“Trade Marks Rules” means the Trade Marks Rules 2008(3).

**Amendments to the Design Regulation and the 2005 Regulations relating to the creation and application of the supplementary unregistered design etc.**

3.—(1) The Design Regulation is amended by Part 1 of Schedule 1 to create the supplementary unregistered design.

(2) The 2005 Regulations are amended by Part 2 of Schedule 1 to apply them to the supplementary unregistered design.

**Unregistered Community designs existing immediately before exit day**

4.—(1) The amendments to the Design Regulation and the 2005 Regulations made by regulation 3 do not apply to an unregistered Community design which is protected under the Design Regulation immediately prior to exit day and remains protected on exit day.

(2) That design is referred to as a “continuing unregistered Community design”.

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- (1) S.I. 2005/2339, amended by S.I. 2006/1028, 2007/3378, 2011/1043 and 2014/2400 and the Intellectual Property (Unjustified Threats) Act 2017, c.14.
- (2) S.I. 2006/1975, as amended by S.I. 2008/2683, 2009/546, 2013/444 and 2014/2405.
- (3) S.I. 2008/1797, as amended by S.I. 2009/546, S.I. 2009/2089, S.I. 2012/1003, S.I. 2013/2235, S.I. 2018/825; there are other amending instruments but none are relevant.

(3) The Design Regulation and the 2005 Regulations apply to a continuing unregistered Community design subject to—

- (a) as regards the Design Regulation, the modifications set out in Part 1 of Schedule 2; and
- (b) as regards the 2005 Regulations, the modifications set out in Part 2 of Schedule 2.

**Certain registered Community designs and international designs to have effect under the 1949 Act**

5. Schedule 3 contains amendments to the 1949 Act to make provision:

- (a) for certain registered Community designs to be treated as registered under the 1949 Act from exit day and about certain applications for registered Community designs made before exit day; and
- (b) for certain international registered designs designating the European Union to be treated as registered under the 1949 Act from exit day and about certain applications for international designs designating the European Union made before exit day.

**International trade marks**

6. Schedule 4 contains amendments to the 1994 Act to make provision for certain international trade marks protected in the European Union to be treated as registered trade marks under the 1994 Act from exit day and about certain applications for the protection of an international trade mark in the European Union and transformation applications made before exit day.

**Fees payable in respect of re-registered designs, international re-registered designs, and comparable trade marks (IR)**

7. Schedule 5 makes provision for the payment of fees in respect of—

- (a) a re-registered design (as that term is defined for the purposes of Schedule 1A to the 1949 Act as inserted by Schedule 3);
- (b) an international re-registered design (as that term is defined for the purposes of Schedule 1B to the 1949 Act as inserted by Schedule 3);
- (c) a comparable trade mark (IR) (as that term is defined for the purposes of Schedule 2B to the 1994 Act as inserted by Schedule 4).

**Amendments to the Registered Designs Rules**

8. Schedule 6, which contains amendments to the Registered Designs Rules, has effect.

**Amendments to the Trade Marks Rules**

9. Schedule 7, which contains amendments to the Trade Marks Rules, has effect.

**Other amendments to legislation**

10.—(1) Schedule 8, which contains other amendments to legislation, has effect.

(2) Any application or proceeding under the 1994 Act which was made or commenced before the coming into force of these Regulations shall be dealt with under the 1994 Act as it had effect before paragraph (1) comes into force.

**Revocation**

11. The Community Designs (Designation of Community Design Courts) Regulations 2005(4) are revoked.

18th March 2019

*Chris Skidmore*  
Minister of State for Universities, Science,  
Research and Innovation  
Department for Business, Energy and Industrial  
Strategy

We consent to the making of these regulations

15th March 2019

*Rebecca Harris*  
*Jeremy Quin*  
Two of the Lords Commissioners of Her  
Majesty's Treasury