

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the following statutory instruments (the “existing regulations”) which were made as a consequence of the United Kingdom exiting the European Union:

- The Intellectual Property (Exhaustion of Rights) (EU Exit) Regulations 2019 ([S.I. 2019/265](#));
- The Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 ([S.I. 2019/269](#)) (“the Trade Marks Regulations”);
- The Intellectual Property (Copyright and Related Rights) (Amendment) (EU Exit) Regulations 2019 ([S.I. 2019/605](#)) (“the Copyright Regulations”);
- The Designs and International Trade Marks (Amendment etc.) (EU Exit) Regulations 2019 ([S.I. 2019/638](#)) (“the Designs Regulations”); and
- The Patents (Amendment) (EU Exit) Regulations 2019 ([S.I. 2019/801](#)) (“the Patents Regulations”).

These Regulations substitute “IP completion day” for the various references to “exit day” in the existing regulations (“IP completion day” is defined in the European Union (Withdrawal Agreement) Act [2020 \(c.1\)](#) (“the 2020 Act”) as 11pm on 31st December 2020). This will ensure that the provisions in the existing regulations will take effect by reference to IP completion day rather than exit day. The existing regulations will come into force on IP completion day by operation of paragraph 1 of Schedule 5 to the 2020 Act. These Regulations also amend certain errors contained in the existing regulations. For example, Part 2 corrects an error where a reference to Schedule ZA1 to the Copyright, Designs & Patents Act 1988 had been inadvertently retained in regulation 31(a) of the Copyright Regulations despite its deletion from that Act by another provision of the Copyright Regulations.

Part 4 amends the Trade Marks Regulations to make further changes to the Trade Marks Act 1994 (“the 1994 Act”) and the Trade Marks Rules 2008 to implement Article 54(3) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community signed on 24th January 2020 (“the Withdrawal Agreement”), insofar as it relates to European Union trade marks. The Trade Marks Regulations provide that a European Union trade mark (“an existing EUTM”) which is registered immediately before exit day (now amended to “IP completion day”) is to be treated on and after that day as if it were a trade mark registered under the 1994 Act (“a comparable trade mark (EU)”).

New paragraph 21A of Schedule 2A to the 1994 Act applies where on IP completion day an existing EUTM is the subject of revocation or invalidity proceedings, which after IP completion day results in the revocation of or a declaration of invalidity in respect of the existing EUTM. Where the registrar (as defined in the 1994 Act) receives notice or otherwise becomes aware of such revocation or declaration of invalidity, the comparable trade mark (EU) which derives from the existing EUTM must be revoked or declared invalid to the same extent as the existing EUTM and with effect from the same date except where the grounds on which the existing EUTM was revoked or declared invalid would not have applied had the proceedings been brought against the comparable trade mark (EU) under the 1994 Act.

New rule 43A of the Trade Marks Rules 2008 ([S.I. 2008/1797](#)) sets out the procedural matters which apply where the registrar receives notice or otherwise becomes aware of the revocation of or declaration of invalidity in respect of an existing EUTM.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Part 5 amends the Designs Regulations to make further changes to the Registered Designs Act 1949 (“the 1949 Act”) and the Registered Designs Rules 2006 to implement Article 54(3) of the Withdrawal Agreement insofar as it relates to registered Community designs. The Designs Regulations provide that a registered Community design (“an existing registered Community design”) which is registered immediately before exit day (now amended to “IP completion day”) is to be treated on and after that day as if it were a design registered under the 1949 Act (“a re-registered design”).

New paragraph 9A of Schedule 1A to the 1949 Act applies where on IP completion day an existing registered Community design is the subject of invalidity proceedings, which after IP completion day results in a declaration of invalidity. Where the registrar (as defined in the 1949 Act) receives notice or otherwise becomes aware of such declaration of invalidity, the re-registered design which derives from the existing registered Community design must be declared invalid to the same extent as the existing registered Community design and with effect from the same date, except where the grounds on which the existing registered Community design was declared invalid would not have applied had the proceedings been brought against the re-registered design under the 1949 Act.

New rule 15A of the Registered Designs Rules 2006 ([S.I. 2006/1975](#)) sets out the procedural matters which apply where the registrar receives notice or otherwise becomes aware of the declaration of invalidity in respect of an existing registered Community design.

Part 6 amends the Patents Regulations to correct minor errors, to acknowledge the treatment of Community plant variety rights as plant breeders’ rights by virtue of the Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019 ([S.I. 2019/204](#)) (“the Plant Breeders’ Regulations”), and to update transitional provisions to refer to IP completion day.

Part 7 amends the Patents Act 1977 to replace references to EU law with equivalent domestic legislation, aligning with amendments made by the Plant Breeders’ Regulations.

Part 8 and the Schedule relate to supplementary protection certificates for medicinal products and arise out of changes made by Regulation (EU) 2019/933 of the European Parliament and of the Council of 20th May 2019 amending Regulation (EC) No 469/2009 concerning the supplementary protection certificate for medicinal products. Part 8 amends Regulation 2019/933 and the Patents Rules 2007 ([S.I. 2007/3291](#)) and contains transitional provisions. The Schedule amends Regulation (EC) No 469/2009 to address inoperabilities occurring as a result of the aforementioned changes.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public and voluntary sectors is foreseen.

An explanatory memorandum is available alongside this instrument on the Legislation UK website at [www.legislation.gov.uk](http://www.legislation.gov.uk).