
STATUTORY INSTRUMENTS

2014 No. 2330 (C. 100)

INTELLECTUAL PROPERTY

**The Intellectual Property Act 2014 (Commencement
No. 3 and Transitional Provisions) Order 2014**

Made - - - - *28th August 2014*

The Secretary of State makes the following Order in exercise of powers conferred by sections 23(1) (b), 24(1) and 24(2) of the Intellectual Property Act 2014(1).

Citation and interpretation

1. This Order may be cited as the Intellectual Property Act 2014 (Commencement No. 3 and Transitional Provisions) Order 2014.

2. In this Order—

“the Act” means the Intellectual Property Act 2014; and

“the commencement date” means 1st October 2014.

Provisions of the Act coming into force on the commencement date

3. The day appointed for the coming into force of the provisions of the Act specified in the Schedule is the commencement date.

Transitional provision regarding ownership of design

4. Section 6(1) of the Act does not apply to—

(a) any design created before the commencement date, or

(b) any design created on or after the commencement date in pursuance of a commission (irrespective of whether the design was commissioned before, on or after the commencement date) provided that—

(i) the designer and the commissioner of the design have entered into a contract relating to the commission of the design, and

(ii) the contract was entered into before the commencement date.

Transitional provision regarding marking products with internet links

5. Section 15 of the Act does not apply in respect of the infringement of a patent referred to in section 62(1) of the Patents Act 1977(2) where the infringement occurred before the commencement date.

Transitional provision regarding the patent opinions service

6. Section 16(4) of the Act applies where a request for an opinion is made under section 74A(1) of the Patents Act 1977(3) on or after the commencement date.

Transitional provision regarding sharing information with overseas patent offices

7. Section 18 of the Act does not apply in respect of an application for a patent under the Patents Act 1977 whose date of filing is before the commencement date.

Transitional provision regarding payment of European patent (UK) renewal fees following restoration

8. (1) Paragraph 6 of the Schedule to the Act applies where, under the European Patent Convention, a European patent (UK) is restored on or after the commencement date.

(2) In this article, “European Patent Convention” and “European patent (UK)” have the meanings given to those terms in section 130(1) of the Patents Act 1977(4).

28th August 2014

Baroness Neville-Rolfe
Parliamentary Under Secretary of State for
Business, Innovation and Skills
Department for Business, Innovation and Skills

(2) 1977 c.37; section 62(1) is amended by section 15(1) of the Act (section 15(1) is brought into force by this Order).
(3) 1977 c.37; section 74A was inserted by section 13(1) of the Patents Act 2004 (c.16) and is amended by section 16(1) of the Act (section 16(1) is brought into force by this Order).
(4) 1977 c.37; there are amendments to section 130(1) which are not relevant to this Order.

SCHEDULE

Article 3

PROVISIONS COMING INTO FORCE ON THE COMMENCEMENT DATE

Unregistered Design Right

- Section 2 (ownership of design)
- Section 3 (qualification criteria)
- Section 4 (infringement: exceptions)

Registered Community Design

- Section 5 (infringement: exception)

Registered Designs

- Section 6 (ownership of design and application for registration)
- Section 7 (right of prior use)
- Section 8 (accession to the Hague Agreement)
- Section 9(1) (the register: changes of ownership)
- Section 10(1) (legal proceedings)
- Section 11 (opinions service)
- Section 12 (use of directions by the registrar)
- Section 13 (offence of unauthorised copying etc. of design in course of business)
- Section 14 (offences committed by partnerships)

Patents

- Section 15 (infringement: marking product with internet link)
- Section 16 (opinions service)
- Section 17 (Unified Patent Court)
- Section 18 (sharing information with overseas patent offices)
- Section 19 and the Schedule (minor amendments to the Patents Act 1977)

Miscellaneous

- Section 20 (freedom of information: exemption for research)
- Section 21 (reporting duty)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Intellectual Property Act 2014 (c.18) (“the Act”). It brings into force on 1st October 2014 sections 1 to 8, 9(1), 10(1) and 11 to 21 of the Act and the Schedule to the Act.

Sections 1 to 4 of the Act amend the Copyright, Designs and Patents Act 1988 (c.48) in relation to the UK unregistered design right. In particular, provision is made in relation to the definition of unregistered design right, the initial ownership of unregistered designs, qualification criteria for unregistered designs and exceptions to infringement of unregistered design right.

Section 5 of the Act amends the Copyright, Designs and Patents Act 1988 in relation to designs registered at the European Union’s design registry (the Office for Harmonization in the Internal Market) whose registrations also cover the UK and, in particular, makes provision in relation to exceptions to infringement of UK copyright associated with such designs.

Sections 6 to 14 of the Act amend the Registered Designs Act 1949 (c.88) in relation to UK registered designs. In particular, provision is made in relation to the initial ownership of designs, the identity of the applicant for the registration of a design, third party rights, UK entry to the Hague System for the International Registration for Industrial Designs, changes in ownership and the register of designs, remedies for innocent infringement, the new opinions service, use of directions by the registrar, the offence of unauthorised copying and offences committed by partnerships. With respect to the Hague System and the opinions service, these provisions will have full effect when secondary legislation is made under the respective powers introduced by sections 8 and 11 of the Act.

Sections 15 to 19 of the Act and the Schedule to the Act amend the Patents Act 1977 (c.37) in relation to patents. In particular, provision is made in relation to the recovery of damages for patent infringement, the patent opinions service, the Unified Patent Court, sharing information with overseas patent offices, patent applications in or for World Trade Organisation members, third party rights, the adjustment of time periods to the anniversary date model, representatives of the Attorney General in proceedings, recipients of confidential disclosures in disputes as to Crown use, the correction of a typographical error and fees payable in respect of European patents (UK) that were revoked but subsequently restored.

Section 20 of the Act amends the Freedom of Information Act 2000 (c.36) to provide an exemption for information obtained in the course of, or derived from, a programme of research where a report of the research is to be published.

Section 21 of the Act requires the Secretary of State to present to Parliament each year a report that sets out how, in the Secretary of State’s opinion, the activities of the Patent Office have supported innovation and growth in the UK.

Articles 4 to 8 of this Order set out transitional provisions regarding sections 6(1) (ownership of UK registered design), 15 (patent infringement: marking products with internet links), 16(4) (patent opinions service) and 18 (sharing information with overseas patent offices) of the Act and paragraph 6 of the Schedule (fees payable in respect of restored European patents (UK)) to the Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Intellectual Property Act 2014 have been brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 10(2) (partially)	15th July 2014	2014/1715 (C.74)
Section 23	1st August 2014	2014/2069 (C.94)
