

Draft Regulations laid before Parliament under paragraph 5(1) and (5) of Schedule 5 to the Retained EU Law (Revocation and Reform) Act 2023, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2023 No. ****

RETAINED EU LAW REFORM

INTELLECTUAL PROPERTY

**The Design Right, Artist’s Resale Right and Copyright
(Amendment) Regulations 2023**

Made - - - -

Coming into force

Regulations 3 and 4

Remainder

1st April 2024

1st January 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 14(1), (2), (3) and (7) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023 (“the 2023 Act”)(a).

The Secretary of State is a relevant national authority for the purposes of section 14(1), (2) and (3) of the 2023 Act(b).

In accordance with paragraph 5(1) and (5) of Schedule 5 to the 2023 Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Design Right, Artist’s Resale Right and Copyright (Amendment) Regulations 2023.

(2) These Regulations, except for regulations 3 and 4, come into force on 1st January 2024.

(3) Regulations 3 and 4 come into force on 1st April 2024.

(4) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(a) 2023 c. 28.

(b) The term “relevant national authority” is defined in section 21(1) of the Retained EU Law (Revocation and Reform) Act 2023.

Amendment of the Design Right (Semiconductor Topographies) Regulations 1989

2.—(1) The Design Right (Semiconductor Topographies) Regulations 1989(a) are amended as follows.

(2) In regulation 4(2) (modified definition of “qualifying country”), in the modified section 217(3) of the Copyright, Designs and Patents Act 1988(b), for paragraph (d) substitute—

“(d) any other country that is a member of the World Trade Organisation.”.

(3) Omit the Schedule (qualifying countries).

Amendment of the Artist’s Resale Right Regulations 2006

3.—(1) The Artist’s Resale Right Regulations 2006(c) are amended as follows.

(2) In regulation 3(4) (artist’s resale right: calculation of sale price), omit “, and converted into euro at the European Central Bank reference rate prevailing at the contract date”.

(3) In regulation 12(3)(b) (“resale”: minimum sale price), for “1000 euro” substitute “£1,000”.

(4) In regulation 12(4)(b) (“resale”: minimum sale price for works recently acquired directly from author), for “10,000 euro” substitute “£10,000”.

(5) In Schedule 1 (calculation of resale royalty)—

(a) in paragraph 1, in the table—

(i) for “0 to 50,000 euro” substitute “£0 to £50,000”;

(ii) for “50,000.01 to 200,000 euro” substitute “£50,000.01 to £200,000”;

(iii) for “200,000.01 to 350,000 euro” substitute “£200,000.01 to £350,000”;

(iv) for “350,000.01 to 500,000 euro” substitute “£350,000.01 to £500,000”;

(v) for “500,000 euro” (in the second place those words occur) substitute “£500,000”;

(b) in paragraph 2, for “12,500 euro” substitute “£12,500”.

Artist’s resale right: transitional provision

4.—(1) The amendments made by regulation 3 do not apply to any sale where the contract date preceded 1st April 2024.

(2) In paragraph (1) “sale” and “contract date” have the meanings given by regulation 2 of the Artist’s Resale Right Regulations 2006.

Amendment of the Copyright Tribunal Rules 2010

5.—(1) The Copyright Tribunal Rules 2010(d) are amended as follows.

(2) In rule 13(2)(c) (response to proceedings: address for service), for “European Economic Area” substitute “United Kingdom”.

(3) In rule 15(4)(d) (request for permission to intervene in proceedings: address for service), for “European Economic Area” substitute “United Kingdom”.

(a) S.I. 1989/1100; relevant amending instruments are S.I. 2006/1833, 2008/1434, 2018/1052.

(b) 1988 c. 48.

(c) S.I. 2006/346, to which there are amendments not relevant to these Regulations.

(d) S.I. 2010/791.

Amendment of the Collective Management of Copyright (EU Directive) Regulations 2016

6. The Collective Management of Copyright (EU Directive) Regulations 2016(a) are amended in accordance with regulations 7 and 8.

Exemptions for collective management organisations qualifying as micro-entities

7.—(1) In regulation 9(5) (exemption from certain staff training requirements), for the words from “business” to the end substitute “company that qualifies as a micro-entity under section 384A of the Companies Act 2006(b).”.

(2) In regulation 15(6) (exemption from duty to treat a user with a licence in good faith), for the words from “business” to the end substitute “company that qualifies as a micro-entity under section 384A of the Companies Act 2006.”.

(3) In regulation 31(4) (exemption from duty to make complaints procedures available to users), for the words from “business” to the end substitute “company that qualifies as a micro-entity under section 384A of the Companies Act 2006.”.

(4) In regulation 32(4) (exemption from duty to ensure availability of an alternative dispute resolution procedure for certain disputes), for the words from “business” to the end substitute “company that qualifies as a micro-entity under section 384A of the Companies Act 2006.”.

Audit of annual transparency report: exemption for collective management organisations qualifying as small

8.—(1) Regulation 21 (annual transparency report) is amended as follows.

(2) In paragraph (2)—

(a) for sub-paragraph (b) (but not the “and” after it) substitute—

“(b) be audited by a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006 in respect of the accounting information referred to in paragraph (4)(a), (g), (h), (i), (j) and (k) included in the report (but see paragraph (6));”;

(b) for sub-paragraph (c) substitute—

“(c) reproduce in full the audit report including any qualifications to that report (but see paragraph (6)).”.

(3) After paragraph (5) insert—

“(6) Paragraph (2)(b) and (c) do not apply to the annual transparency report for a financial year in relation to which the collective management organisation was a company that qualified as small under section 382(1) to (6) of the Companies Act 2006(c).”.

Date

Name
Department for Science, Innovation and Technology

(a) S.I. 2016/221, to which there are amendments not relevant to these Regulations.

(b) 2006 c. 46. Section 384A was inserted by S.I. 2013/3008, regulation 4(1) and (4).

(c) 2006 c. 46. Section 382 was amended by S.I. 2013/3008, regulation 4(1) and (2) and S.I. 2015/980, regulation 4(1) and (3).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend provisions of the Design Right (Semiconductor Topographies) Regulations 1989 (S.I. 1989/1100), the Artist's Resale Right Regulations 2006 (S.I. 2006/346), the Copyright Tribunal Rules 2010 (S.I. 2010/791) and the Collective Management of Copyright (EU Directive) Regulations 2016 (S.I. 2016/221). The provisions that are amended are secondary retained EU law within the meaning of section 11(2) of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28).

Regulation 2 amends the Design Right (Semiconductor Topographies) Regulations 1989 ("the 1989 Regulations"). The 1989 Regulations modify the application of Part 3 of the Copyright, Designs and Patents Act 1988 (c.48) ("the 1988 Act") to a design which is a semiconductor topography. Regulation 2 amends the modified section 217(3) of the 1988 Act to include within the definition of "qualifying country" any country that is a member of the World Trade Organisation.

Regulation 3 amends the Artist's Resale Right Regulations 2006 ("the 2006 Regulations"). The requirement to calculate the sale price in euro is removed, and all the thresholds specified in the 2006 Regulations in euro are replaced with thresholds specified in GBP. The amendments do not apply to sales where the contract date preceded the date on which the amendments come into force (regulation 4).

Regulation 5 amends the Copyright Tribunal Rules 2010 to require a response to proceedings, or a request for permission to intervene in proceedings, to state an address for service in the United Kingdom.

Regulations 6 to 8 amend the Collective Management of Copyright (EU Directive) Regulations 2016. Regulation 7 replaces existing exemptions from certain obligations for collective management organisations ("CMOs") that fall within the European Commission's definition of a micro enterprise with equivalent exemptions for CMOs that are companies that qualify as a micro-entity under section 384A of the Companies Act 2006 (c. 46) ("the 2006 Act"). Regulation 8 exempts CMOs that are companies that qualify as small under section 382(1) to (6) of the 2006 Act from the requirement for CMOs to have accounting information in their annual transparency report audited.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

A copy of this instrument and the Explanatory Memorandum are available from the Intellectual Property Office, Concept House, Cardiff Road, Newport, South Wales, NP10 8QQ. The Explanatory Memorandum is also available alongside this instrument on the Legislation UK website at www.legislation.gov.uk.