

persons acting on behalf of Her Majesty) who, otherwise than as the result of a communication made in accordance with such an agreement or arrangement as is mentioned in paragraph (a) of this subsection, and before the date of the application in question or such later date as may be allowed by the regulations, may have imported or made articles to which the design is applied or may have made an application for registration of the design.

Cf. Registered Designs Act 1949, s. 15 (U.K.); 1943, No. 6, s. 5

As to the date from which regulations made under this section may take effect, see s. 24.

23. Protection of designs communicated under arrangements with other countries—(1) Subject to the provisions of this section, regulations may be made under this Act for securing that, where a design has been communicated in accordance with an agreement or arrangement made between Her Majesty's Government in New Zealand and the Government of any other country for the supply or mutual exchange of information or articles,—

(a) An application for the registration of the design made by the person from whom the design was communicated, or his personal representative or assignee, shall not be prejudiced, and the registration of the design in pursuance of such an application shall not be invalidated, by reason only that the design has been communicated as aforesaid or that in consequence thereof—

(i) The design has been published or applied; or

(ii) An application for registration of the design has been made by any other person, or the design has been registered on such an application:

(b) Any application for the registration of a design made in consequence of such a communication as aforesaid may be refused and any registration of a design made on such an application may be cancelled.

(2) Regulations made under subsection (1) of this section may provide that the publication or application of a design, or the making of any application for registration thereof, shall, in such circumstances and subject to such conditions or exceptions as may be prescribed by the regulations, be presumed to have been in consequence of such a communication as is mentioned in that subsection.

(3) The power to make regulations under this section, so far as it is exercisable for the benefit of persons from whom designs have been communicated to Her Majesty's Government in New Zealand by the Government of any other country, shall only be exercised if and to the extent that the Governor-General is satisfied that substantially equivalent provision has been or will be made under the law of that country for the benefit of persons from whom designs have been communicated by Her Majesty's Government in New Zealand to the Government of that country.

(4) References in subsection (3) of this section to the communication of a design to or by Her Majesty's Government in New Zealand or the Government of any other country shall be construed as including references to the communication of the design by or to any person authorised in that behalf by the Government in question.

Cf. Registered Designs Act 1949, s. 16 (U.K.); 1946, No. 32, s. 4

24. Regulations under section 22 or section 23—Any regulations made under section 22 or section 23 of this Act, and any order made, direction given, or other action taken under the regulations by the Commissioner, may be made, given, or taken so as to have effect as respects things done or omitted to be done on or after such date, whether before or after the coming into operation of the regulations or of this Act, as may be specified in the regulations.

Cf. Registered Designs Act 1949, s. 37 (2) (U.K.); 1943, No. 6, s. 7

Register of Designs, etc.

25. Register of designs—(1) There shall be kept at the Patent Office under the control of the Commissioner a register of designs, in which there shall be entered the names and addresses of proprietors of registered designs, notices of assignments and of transmissions of registered designs, and such other matters as may be prescribed or as the Commissioner may think fit.

(2) Subject to the provisions of this Act and to regulations made thereunder, the register of designs shall, at all convenient times, be open to inspection by the public; and certified copies sealed with the seal of the Patent Office of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.

(3) The register of designs shall be prima facie evidence of any matters required or authorised by this Act to be entered therein.

(4) No notice of any trust, whether expressed, implied, or constructive, shall be entered in the register of designs, and the Commissioner shall not be affected by any such notice.

Cf. Registered Designs Act 1949, s. 17 (U.K.); 1921–22, No. 18, ss. 55, 118, 119

26. Certificate of registration—(1) The Commissioner shall grant a certificate of registration in the prescribed form to the registered proprietor of a design when the design is registered.

(2) The Commissioner may, in a case where he is satisfied that the certificate of registration has been lost or destroyed, or in any other case in which he thinks it expedient, on application made to him in the prescribed manner and on payment of the prescribed fee, furnish a further certificate.

Cf. Registered Designs Act 1949, s. 18 (U.K.); 1921–22, No. 18, s. 54

27. Registration of assignments, etc.—(1) Where any person becomes entitled by assignment, transmission, or operation of a law to a registered design or to a share in a registered design, or becomes entitled as mortgagee, licensee, or otherwise to any other interest in a registered design, he shall apply to the Commissioner in the prescribed manner for the registration of his title as proprietor or co-proprietor, or, as the case may be, of notice of his interest, in the register of designs.

(2) Without prejudice to the provisions of subsection (1) of this section, an application for the registration of the title of any person becoming entitled by assignment to a registered design or a share in a registered design, or becoming entitled by virtue of a mortgage, licence, or other instrument to any other interest in a registered design, may be made in the prescribed manner by the assignor, mortgagor, licensor, or other party to that instrument, as the case may be.

(3) Where application is made under this section for the registration of the title of any person, the Commissioner shall, upon proof of title to his satisfaction,—

(a) Where that person is entitled to a registered design or a share in a registered design, register him in the register of designs as proprietor or co-proprietor of

the design, and enter in that register particulars of the instrument or event by which he derives title; or

- (b) Where that person is entitled to any other interest in the registered design, enter in that register notice of his interest, with particulars of the instrument (if any) creating it.

(4) Subject to any rights vested in any other person of which notice is entered in the register of designs, the person or persons registered as proprietor of a registered design shall have power to assign, grant licences under, or otherwise deal with the design, and to give effectual receipts for any consideration for any such assignment, licence, or dealing:

Provided that any equities in respect of the design may be enforced in like manner as in respect of any other personal property.

(5) Except for the purposes of an application to rectify the register under the following provisions of this Act, a document in respect of which no entry has been made in the register of designs under subsection (3) of this section shall not be admitted in any Court as evidence of the title of any person to a registered design or share of or interest in a registered design unless the Court otherwise directs.

Cf. Registered Designs Act 1949, s. 19 (U.K.); 1921–22, No. 18, s. 122

28. Rectification of register by the Court—(1) The Court may, on the application of any person aggrieved, order the register of designs to be rectified by the making of any entry therein or the variation or deletion of any entry therein.

(2) In proceedings under this section the Court may determine any question which it may be necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of any application to the Court under this section shall be given in the prescribed manner to the Commissioner, who shall be entitled to appear and be heard on the application, and shall appear if so directed by the Court.

(4) Any order made by the Court under this section shall direct that notice of the order shall be served on the Commissioner in the prescribed manner; and the Commissioner shall, on receipt of the notice, rectify the register accordingly.

Cf. Registered Designs Act 1949, s. 20 (U.K.); 1921–22, No. 18, s. 123

29. Power of Commissioner to correct errors—

(1) Where a mistake exists in the register of designs or in any document issued under this Act by reason of any error or omission on the part of the Patent Office, the Commissioner may, in accordance with the provisions of this section, correct the mistake, and for that purpose may require the production of the document.

(2) Where the Commissioner proposes to make any such correction as aforesaid he shall give notice of the proposal to the persons who appear to him to be concerned, and shall give them an opportunity to be heard before making the correction.

(3) Where a mistake exists in the register of designs, or in any application for registration of a design or other document filed in pursuance of such an application, or in any proceedings in connection with any design, by reason of an error or an omission on the part of the proprietor of the design or of the applicant for registration of the design or of any other person concerned, a correction may be made in accordance with the provisions of this section upon a request in writing by any person interested and payment of the prescribed fee. If it appears to the Commissioner that the correction would materially alter the meaning or scope of the document to which the request relates and ought not to be made without notice to persons likely to be affected thereby, he shall require notice of the nature of the proposed correction to be advertised in the prescribed manner.

(4) Within the prescribed time after any such advertisement as aforesaid, any person interested may give notice to the Commissioner of opposition to the request, and where any such notice of opposition is given the Commissioner shall give notice thereof to the person by whom the request was made, and shall give to him and to the opponent an opportunity to be heard before he decides the case.

(5) An appeal to the Court shall lie from any decision of the Commissioner under this section.

Cf. Registered Designs Act 1949, s. 21 (U.K.); 1921–22, No. 18, s. 121; 1946, No. 32, s. 7

As to appeals, see s. 35.

30. Inspection of registered designs—(1) Subject to the following provisions of this section and to any regulations made in pursuance of subsection (2) of section 9 of this Act, the representation or specimen of a design registered under this Act shall be open to inspection at the Patent Office on