

# Patents, Designs and Marks Act 1986

## 1986 CHAPTER 39

An Act to amend the enactments relating to the registers of trade marks, designs and patents so as to enable them to be kept otherwise than in documentary form and so as to give the enactment due effect in relation to any portion of a register not kept in documentary form; to make amendments of the Trade Marks Act 1938 in relation to the use of the Royal Arms and other devices, emblems and titles and in relation to the protection of trade marks and service marks for whose protection application has been made overseas; to make other amendments of the Trade Marks Act 1938 in its application to service marks and amendments of other Acts in relation to such marks; and for connected purposes.

[18th July 1986]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Annotations: Commencement Information

1 Act partly in force at Royal Assent see s. 4(6)(7).

1 Registers of trade marks, designs and patents—computerisation etc. The amendments specified in Schedule 1 to this Act (which relate to computerisation of the registers there mentioned and to associated matters) shall have effect.

F12. ....

Annotations: F1 S. 2 repealed (31.10.1994) by 1994 c. 26, s. 106(2), Sch. 5; S.I. 1994/2550, art. 2

3 Repeals.

(1) The enactments mentioned in Part I of Schedule 3 to this Act are repealed to the extent specified in the third column of that Part of that Schedule in consequence of section 1 above and Schedule 1 to this Act.

(2)The enactments mentioned in Part II of Schedule 3 to this Act are repealed to the extent specified in the third column of that Part of that Schedule in consequence of section 2 above and Schedule 2 to this Act.

4 Short title, extent and commencement.

(1)This Act may be cited as the Patents, Designs and Marks Act 1986.

(2)The amendment or repeal of any enactment by this Act has the same extent as that enactment.

(3)Subject to subsection (2) above, this Act extends to Northern Ireland.

F2(4). . . . .

(5)Her Majesty may by Order in Council make provision for extending to the Isle of Man, with such exceptions, adaptations or modifications as may be specified in the Order, sections 1 and 3(1) above so far as they relate to the M1Registered Designs Act 1949 and the M2Patents Act 1977.

(6)Section 1 above (with Schedule 1) and section 3 above, so far as it relates to Part I of Schedule 3, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint and different days may be appointed in pursuance of this subsection for different provisions or different purposes of the same provision.

(7)Section 2 above (with Schedule 2) and section 3 above, so far as it relates to Part II of Schedule 3, shall come into force on the same day as the M3Trade Marks (Amendment) Act 1984; but anything done before their commencement which, if it had been done after it, would have constituted an application for the registration of a service mark shall be treated as if it had been done immediately after it.

Annotations: Amendments (Textual)F2S. 4(4) repealed (31.10.1994) by 1994 c. 26, s. 106(2), Sch. 5; S.I. 1994/2550, art. 2

Modifications etc. (not altering text)C1S. 4(6) power of appointment conferred by s. 4(6) fully exercised: S.I. 1986/1273, 1274, 1988/1824Marginal CitationsM11949 c. 88. M21977 c. 37. M31984 c. 19.

# SCHEDULES

## Section 1.SCHEDULE 1

### Computerisation

#### Trade Marks Act 1938 (c.22)

F31.....Annotations: Amendments  
(Textual)F3Sch. 1 para. 1 repealed (31.10.1994) by 1994 c. 26, s. 106(2), Sch. 5;  
S.I. 1994/2550, art. 2

F42.....Annotations: Amendments (Textual)  
F4Sch. 1 para. 2 repealed (31.10.1994) by 1994 c. 26, s. 106(2), Sch. 5; S.I.  
1999/2550, art. 2

#### Registered Designs Act 1949 (c.88)

3 The following section shall be substituted for section 17 of the Registered Designs Act 1949—“17 Register of designs etc.(1)The registrar shall maintain the register of designs, in which shall be entered—

- (a)the names and addresses of proprietors of registered designs;
- (b)notices of assignments and of transmissions of registered designs; and
- (c)such other matters as may be prescribed or as the registrar may think fit.

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

(3)The register need not be kept in documentary form.

(4)Subject to the provisions of this Act and to rules made by the Secretary of State under it, the public shall have a right to inspect the register at the Patent Office at all convenient times.

(5)Any person who applies for a certified copy of an entry in the register or a certified extract from the register shall be entitled to obtain such a copy or extract

on payment of a fee prescribed in relation to certified copies and extracts; and rules made by the Secretary of State under this Act may provide that any person who applies for an uncertified copy or extract shall be entitled to such a copy or extract on payment of a fee prescribed in relation to uncertified copies and extracts.

(6) Applications under subsection (5) above or rules made by virtue of that subsection shall be made in such manner as may be prescribed.

(7) In relation to any portion of the register kept otherwise than in documentary form—

(a) the right of inspection conferred by subsection (4) above is a right to inspect the material on the register; and

(b) the right to a copy or extract conferred by subsection (5) above or rules is a right to a copy or extract in a form in which it can be taken away and in which it is visible and legible.

(8) Subject to subsection (11) below, the register shall be prima facie evidence of anything required or authorised by this Act to be entered in it and in Scotland shall be sufficient evidence of any such thing.

(9) A certificate purporting to be signed by the registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be prima facie evidence, and in Scotland shall be sufficient evidence, of the matters so certified.

(10) Each of the following—

(a) a copy of an entry in the register or an extract from the register which is supplied under subsection (5) above;

(b) a copy of any representation, specimen or document kept in the Patent Office or an extract from any such document,

which purports to be a certified copy or certified extract shall, subject to subsection (11) below, be admitted in evidence without further proof and without production of any original; and in Scotland such evidence shall be sufficient evidence.

(11) In the application of this section to England and Wales nothing in it shall be taken as detracting from section 69 or 70 of the Police and Criminal Evidence Act 1984 or any provision made by virtue of either of them.

(12) In this section “certified copy” and “certified extract” mean a copy and extract certified by the registrar and sealed with the seal of the Patent Office.”.

### **Patents Act 1977 (c.37)**

4. The following section shall be substituted for section 32 of the Patents Act 1977—“32 Register of patents etc.(1)The comptroller shall maintain the register of patents, which shall comply with rules made by virtue of this section and shall be kept in accordance with such rules.

(2) Without prejudice to any other provision of this Act or rules, rules may make provision with respect to the following matters, including provision imposing requirements as to any of those matters—

(a) the registration of patents and of published applications for patents;

(b) the registration of transactions, instruments or events affecting rights in or under patents and applications;

(c) the furnishing to the comptroller of any prescribed documents or description of documents in connection with any matter which is required to be registered;

(d) the correction of errors in the register and in any documents filed at the Patent Office in connection with registration; and

(e) the publication and advertisement of anything done under this Act or rules in relation to the register.

(3) Notwithstanding anything in subsection (2)(b) above, no notice of any trust, whether express, implied or constructive, shall be entered in the register and the comptroller shall not be affected by any such notice.

(4) The register need not be kept in documentary form.

(5) Subject to rules, the public shall have a right to inspect the register at the Patent Office at all convenient times.

(6) Any person who applies for a certified copy of an entry in the register or a certified extract from the register shall be entitled to obtain such a copy or extract on payment of a fee prescribed in relation to certified copies and extracts; and rules may provide that any person who applies for an uncertified copy or extract shall be entitled to such a copy or extract on payment of a fee prescribed in relation to uncertified copies and extracts.

(7) Applications under subsection (6) above or rules made by virtue of that subsection shall be made in such manner as may be prescribed.

(8) In relation to any portion of the register kept otherwise than in documentary form—

(a) the right of inspection conferred by subsection (5) above is a right to inspect the material on the register; and

(b) the right to a copy or extract conferred by subsection (6) above or rules is a right to a copy or extract in a form in which it can be taken away and in which it is visible and legible.

(9) Subject to subsection (12) below, the register shall be prima facie evidence of anything required or authorised by this Act or rules to be registered and in Scotland shall be sufficient evidence of any such thing.

(10) A certificate purporting to be signed by the comptroller and certifying that any entry which he is authorised by this Act or rules to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be prima facie evidence, and in Scotland shall be sufficient evidence, of the matters so certified.

(11) Each of the following, that is to say—

(a) a copy of an entry in the register or an extract from the register which is supplied under subsection (6) above;

(b) a copy of any document kept in the Patent Office or an extract from any such document, any specification of a patent or any application for a patent which has been published,

which purports to be a certified copy or a certified extract shall, subject to subsection (12) below, be admitted in evidence without further proof and without production of any original; and in Scotland such evidence shall be sufficient evidence.

(12) In the application of this section to England and Wales nothing in it shall be taken as detracting from section 69 or 70 of the Police and Criminal Evidence Act 1984 or any provision made by virtue of either of them.

(13) In this section “certified copy” and “certified extract” mean a copy and extract certified by the comptroller and sealed with the seal of the Patent Office.

(14) In this Act, except so far as the context otherwise requires—

“register”, as a noun, means the register of patents;

“register”, as a verb, means, in relation to any thing, to register or register particulars, or enter notice, of that thing in the register and, in relation to a person, means to enter his name in the register;

and cognate expressions shall be construed accordingly.”.

Section 2

## **SCHEDULE 2**

**Service Marks etc.. . . . .**

Annotations: Amendments (Textual) F5 Sch. 2 repealed (31.10.1994) by 1994 c. 26, s. 106(2), Sch. 5; S.I. 1994/2550, art. 2.

Section 3.

## **SCHEDULE 3**

### **Repeals**

#### **Part I**

##### **Repeals Consequential on Section 1 and Schedule 1**

Chapter	Short title	Extent of repeal
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1 & 2 Geo. 6 c. 22.	Trade Marks Act 1938.	Sections 57 and 58.
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12, 13 & 14 Geo. 6 c. 88.	Registered Designs Act 1949.	Section 24.
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1977 c. 37.	Patents Acts 1977.	Section 35.
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#### **Part II**

##### **Repeals Consequential on Section 2 and Schedule 2**

Chapter	Short title	Extent of repeal
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7 Edw. 7 c. 29.	Patents and Designs Act 1907.	Sections 88, 91 and 91A.
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4 & 5 Geo. 5 c. 18.	Patents and Designs Act 1914.	The whole Act.
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18 & 19 Geo. 5 c. 3.	Patents and Designs (Convention) Act 1928.	The whole Act.
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1 & 2 Geo. 6. c. 22.	Trade Marks Act 1938.	In section 19(1), the proviso.
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1 & 2 Geo. 6. c. 29.	Patents &c. (International Conventions) Act 1938.	The whole Act.
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12, 13 & 14 Geo. 6 c. 62.	Patents and Designs Act 1949.	The whole Act.
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1984 c. 19.	Trade Marks (Amendment) Act 1984.	Section 1(3).
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In section 2(3), the words “and the Isle of Man”. In Schedule 1, paragraphs 1 and 21.

In Schedule 2, paragraph 5 and the heading preceding it.