

Statutory Document No. 0077/13

*European Communities (Isle of Man) Act 1973***DESIGN RIGHT (AMENDMENT) REGULATIONS 2013**

Laid before Tynwald: 19 March 2013
Coming into Operation: 1 April 2013

The Council of Ministers makes the following Regulations under section 2B of the European Communities (Isle of Man) Act 1973.

1 Title

These Regulations are the Design Right (Amendment) Regulations 2013.

2 Commencement

These Regulations come into operation on 1 April 2013.

3 Amendment of Design Rights Act 1991

- (1) Section 17 (rights and remedies of design right owner) is amended as follows.
- (2) After subsection (2) insert —
 - (2A) Where in an action for infringement of design right it is shown that the defendant knew, or had reason to believe, that he was committing an infringement, the damages awarded to the claimant shall be appropriate to the actual prejudice he suffered as a result of the infringement.
 - (2B) The High Court —
 - (a) in awarding such damages shall take into account all appropriate aspects, including in particular —
 - (i) the negative economic consequences, including any lost profits, which the claimant has suffered;
 - (ii) any unfair profits made by the defendant; and
 - (iii) elements other than economic factors, including the moral prejudice caused to the claimant by the infringement; or

- (b) may where appropriate award such damages on the basis of the royalties or fees which would have been due had the defendant obtained a licence. **22**.
- (3) In subsection (3), at the beginning insert **66** Subject to subsections (2A) and (2B), **22**.

MADE 28TH FEBRUARY 2013

W GREENHOW
Chief Secretary

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

These Regulations amend the Design Right Act 1991 to conform with Article 13 of Directive 2004/48/EC, which concerns damages for infringement of intellectual property. This Directive was applied to the Isle of Man with modifications by the European Union (Intellectual Property) Order 2013 (SD 0073/13).