

STATES OF JERSEY



Jersey

DRAFT PATENTS LAW AND REGISTERED DESIGNS LAW (JERSEY) AMENDMENT REGULATIONS 202-

**Lodged au Greffe on 29th July 2024
by the Minister for External Relations
Earliest date for debate: 10th September 2024**

STATES GREFFE

REPORT

Summary

The draft Patents Law and Registered Designs Law (Jersey) Amendment Regulations 202- (the draft Regulations), if approved by the States Assembly, will ensure compliance of Jersey law with both the Patent Cooperation Treaty (PCT) and the Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs (**Hague Agreement**).

Background

These Regulations are intended to support the future economic development of Jersey as well as enhance its international reputation. Seeking extension of modern intellectual property treaties to Jersey contributes to making the Island an attractive place for businesses. As Members will be aware, Jersey's longstanding commitment to the implementation of international standards is a cornerstone of the Island's reputation. Indeed, it is a commitment which this Assembly has consistently promoted and supported.

Whilst the subject matter of both international treaties is quite different, their purpose is very similar. Namely, to create international systems allowing users to seek intellectual property protection in a large number of countries worldwide by filing a single 'international' application. This replaces the need to file several, separate national applications and allows users to save time and money by enabling them to easily and swiftly acquire patent or design protection in multiple markets.

The draft Regulations

Both the [Patents \(Jersey\) Law 1957 \(PJL\)](#) and [Registered Designs \(Jersey\) Law 1957 \(RDJL\)](#) provide for re-registration of intellectual property rights first registered in the UK. This means that, currently, in Jersey, there is no substantive examination of the content of the intellectual property right, before a corresponding registration in Jersey. In each case the secondary registration in Jersey can only remain in force so long as the right remains in force in the UK. These Regulations will make it simpler to gain protection in Jersey of international patents and international registered designs that designate the UK.

These Regulations, if approved, will be a small but important means of ensuring we sustain our approach to the implementation of intellectual property standards and enhance our international reputation. In order to ensure compliance with the PCT and the Hague Agreement, the draft Regulations make a number of minor changes to the PJL and RDJL.

More specifically, the draft Regulations make provision so that applications for registration, under the systems provided by the PCT and the Hague Agreement, which designate the UK, would automatically cover Jersey. This means that if a patent, derived from a PCT application, is granted in the UK, it will automatically also provide protection in Jersey. There would be no need for the right holder to register it locally. The same principle would apply to design rights granted in the UK in accordance with the Hague Agreement.

In addition, on extension of the PCT and the Hague Agreement, Jersey residents and businesses would be able to file applications for international registration under the systems provided for by these treaties, which they currently are not able to do. This would enable them to seek protection for their intellectual property in a large number of countries by filing a single 'international' application. This could be an attractive option, as filing an international application avoids the need to seek protection separately in many individual countries.

If the draft Regulations are adopted by the States, the process to seek extension of the UK's ratification of both PCT and the Hague Agreement will follow.

Financial and staffing implications

There would be no additional resource implications as a result of the adoption of these draft Regulations.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

EXPLANATORY NOTE

These Regulations –

- (a) amend the Patents (Jersey) Law 1957 (“Patents Law”) to automatically recognise patents granted in the United Kingdom following an international application for a patent, for the purpose of enabling the extension of the UK’s ratification of the Patent Co-operation Treaty to Jersey; and
- (b) amend the Registered Designs (Jersey) Law 1957 (“Registered Designs Law”) to automatically recognise registered designs that take effect in the United Kingdom following the issue of a statement of grant of protection under Rule 18bis of the Common Regulations, for the purpose of enabling the extension of the UK’s ratification of the Geneva Act of the Hague Agreement to Jersey.

Regulation 2 amends Article 1(1) of the Patents Law to insert definitions of “international application for a patent”, “international patent (UK)” and “registered patent”.

Regulation 3 inserts Articles 7A and 7B into the Patents Law. Article 7A provides that an international patent (UK) appearing on the register of patents (UK) is treated as registered under the Patents Law, and the date of registration is taken to be the date of the grant of the international patent (UK) under the Patents Act 1977 of the United Kingdom (“Patents Act (UK)”). Article 7B provides that certain provisions of the Patents Law relating to registration do not apply in respect of an international patent (UK) that is treated under Article 7A as registered under the Patents Law.

Regulation 4 amends Article 8 of the Patents Law to provide that the rights arising under Article 8(1) in respect of an international patent (UK) that is treated as registered under the Patents Law have effect in Jersey from the priority date of the invention in respect of which the patent is granted under the Patents Act (UK).

Regulation 6 amends Article 1(1) of the Registered Designs Law to insert definitions of “Common Regulations”, “Geneva Act”, “International Register” and “international registered design (UK)”.

Regulation 7 inserts Articles 8A and 8B into the Registered Designs Law. Article 8A provides that an international registered design (UK) appearing on the International Register is taken to be a registered design under the Registered Designs Law, and the date of registration is taken to be the date on which the design is entered on the International Register. Article 8B provides that certain provisions of the Registered Designs Law relating to registration do not apply in respect of an international registered design (UK) that is taken to be a registered design under the Registered Designs Law.

Regulation 8 gives the title of these Regulations and provides that they come into force 7 days after they are made.



Jersey

DRAFT PATENTS LAW AND REGISTERED DESIGNS LAW (JERSEY) AMENDMENT REGULATIONS 202-

Contents

Regulation

PART 1		6
AMENDMENT OF THE PATENTS (JERSEY) LAW 1957		6
1	Amendment of Patents (Jersey) Law 1957	6
2	Article 1 (interpretation) amended	6
3	Articles 7A and 7B inserted.....	6
4	Article 8 (effect of registration) amended	7
PART 2		7
AMENDMENT OF THE REGISTERED DESIGNS (JERSEY) LAW 1957		7
5	Amendment of Registered Designs (Jersey) Law 1957.....	7
6	Article 1 (interpretation) amended	7
7	Articles 8A and 8B inserted.....	8
PART 3		8
FINAL PROVISIONS		8
8	Citation and commencement	8



Jersey

DRAFT PATENTS LAW AND REGISTERED DESIGNS LAW (JERSEY) AMENDMENT REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Article 24A(1)(b) of the [Patents \(Jersey\) Law 1957](#) and Article 20A(1)(b) of the [Registered Designs \(Jersey\) Law 1957](#) –

PART 1

AMENDMENT OF THE [PATENTS \(JERSEY\) LAW 1957](#)

1 Amendment of [Patents \(Jersey\) Law 1957](#)

This Part amends the [Patents \(Jersey\) Law 1957](#).

2 Article 1 (interpretation) amended

In Article 1(1) –

- (a) after the definition “Government department”, there is inserted –
“ “international application for a patent” means an international application for a patent (UK) that is treated under section 89 of the Patents Act 1977 as an application for a patent under that Act;
“international patent (UK)” means a patent granted in the United Kingdom under section 18 of the Patents Act 1977 following an international application for a patent made on or after the day on which the Patents Law and Registered Designs Law (Jersey) Amendment Regulations 202- come into force;”;
- (b) after the definition “register of patents”, there is inserted –
“ “registered patent” includes an international patent (UK) that is treated under Article 7A as registered under this Law.”.

3 Articles 7A and 7B inserted

After Article 7 there is inserted –

“7A Registration of international patents (UK)

- (1) An international patent (UK) appearing on the register of patents (UK) is treated as registered under this Law.
- (2) The date of registration of an international patent (UK) under this Law is taken to be the date of the grant of the international patent (UK) under the Patents Act 1977.
- (3) In this Article, “register of patents (UK)” means the register maintained under section 32 of the Patents Act 1977.

7B Application of this Law to international patents (UK)

Articles 4 to 7, 8(3)(b) and (4)(a), 9, 10, 11, 14(2)(a) and 15(2) of this Law do not apply in respect of an international patent (UK) that is treated under Article 7A as registered under this Law.”.

4 Article 8 (effect of registration) amended

- (1) This Regulation amends Article 8.
- (2) In paragraph (2), for “The” there is substituted “Subject to paragraph (2A), the”.
- (3) After paragraph (2) there is inserted –
“(2A) For an international patent (UK) that is treated under Article 7A as registered under this Law, the rights referred to in paragraph (1) –
 - (a) have effect in Jersey from the priority date of the invention in respect of which the patent is granted under the Patents Act 1977; and
 - (b) subsist only for as long as those rights subsist in the United Kingdom.”.
- (4) In paragraph (3), for “Notwithstanding paragraph (2)” there is substituted “Despite paragraphs (2) and (2A)”.
- (5) After paragraph (4) there is inserted –
“(5) In paragraph (4)(b) and (c), “registered under this Law” includes “treated under Article 7A as registered under this Law”.”.

PART 2AMENDMENT OF THE [REGISTERED DESIGNS \(JERSEY\) LAW 1957](#)**5 Amendment of [Registered Designs \(Jersey\) Law 1957](#)**

This Part amends the [Registered Designs \(Jersey\) Law 1957](#).

6 Article 1 (interpretation) amended

In Article 1(1) –

- (a) before the definition “complex product”, there is inserted –

“ “Common Regulations” means the regulations adopted under Article 24 of the Geneva Act with effect from 1 January 2017;”;

(b) after the definition “design”, there is inserted –

“ “Geneva Act” means the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, done at Geneva, July 2, 1999;”;

(c) after the definition “Government department”, there is inserted –

“ “International Bureau” means the International Bureau of the World Intellectual Property Organisation;

“International Register” means the register of industrial designs maintained by the International Bureau for the purposes of the Geneva Act;

“international registered design (UK)” means a registered design that takes effect in the United Kingdom under the Registered Designs Act (as modified by the International Registration of Industrial Designs Order) following the issue of a statement of grant of protection under Rule 18bis of the Common Regulations as a result of an application made on or after the day on which the Patents Law and Registered Designs Law (Jersey) Amendment Regulations 202- come into force;

“International Registration of Industrial Designs Order” means the Designs (International Registration of Industrial Designs) Order 2018 of the United Kingdom (S.I. 2018/23);”.

7 Articles 8A and 8B inserted

After Article 8 there is inserted –

“8A Registration of international registered designs (UK)

- (1) An international registered design (UK) appearing on the International Register is taken to be a registered design under this Law.
- (2) The date of registration of an international registered design (UK) under this Law is taken to be the date on which the design is entered on the International Register.

8B Application of this Law to international registered designs (UK)

Articles 4 to 8, 9(3)(b), 10, 11, 12 and 15(2)(a) of this Law do not apply in respect of an international registered design (UK) that is taken to be a registered design under this Law.”.

PART 3

FINAL PROVISIONS

8 Citation and commencement

These Regulations may be cited as the Patents Law and Registered Designs Law (Jersey) Amendment Regulations 202- and come into force 7 days after they are made.