EXPLANATORY MEMORANDUM TO

THE REGISTERED DESIGNS (AMENDMENT) RULES 2014

2014 No. 2405

1. 1.1 This explanatory memorandum has been prepared by the Intellectual Property Office (IPO), an Executive Agency of the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Registered Designs Rules 2006[1](Rules) to reflect amendments recently made to the Registered Designs Act 1949 (RDA). The relevant amendments permit administrative changes to the designs registration system. Forms and other documents, which are required to be filed with the IPO, and also the hours of business of the IPO will be determined under 'directions' given by the registrar[2], rather than by secondary legislation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 12 of the Intellectual Property Act 2014 (IPA) amended the RDA to enable the registrar to issue directions relating to the use of forms (new section 31A RDA) and to change the IPO's hours of business or days in relation to designs matters (section 39 RDA). This replaces the previous system which required amendments to the Rules (secondary legislation made by the Secretary of State).

4.2 This instrument amends the Rules to provide that where the registrar gives directions they must be published on a relevant website.

5. Territorial Extent and Application

5.1 This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

[1] http://www.legislation.gov.uk/uksi/2006/1975/contents/made
[2] The Comptroller-General of Patents Designs and Trade Marks and Chief Executive Officer of the IPO

7.1 The Government considered it unnecessarily bureaucratic, and time consuming to require that minor changes in the way the IPO functions are dealt with by secondary legislation.

7.2 The changes are similar to existing powers which the IPO has in relation to similar procedural matters for both patents and trade marks. Those powers specify that any directions amending the forms or hours of business must be "published" by the registrar in the Journal (in the case of patents) and on the IPO website (in the case of trade marks). It is anticipated that the first directions for registered designs will be issued later this year.

8. Consultation outcome

8.1 The IPO ran a public consultation[3] from July to October 2012 to seek views on a number of measures intended to improve the contribution of the design Intellectual Property system to UK economic growth and to inform decisions on legislative and other action in these areas.

8.2 In the consultation the Government set out its intention to amend the RDA by giving the registrar the power to specify the content and layout of statutory forms, and to specify the hours of business of the IPO by means of directions, rather than by secondary legislation.

8.3 The majority of respondents agreed with this proposal taking the view that it would enable the IPO to reduce delays in streamlining administrative systems.

9. Guidance

9.1 Business guidance[4] for the designs elements of the IPA was published on 30th June 2014. It covers all of the designs measures including these changes to the IPO's administrative procedures.

10. Impact

10.1 An Impact Assessment has not been prepared for this measure as it is an enabling measure and does not have any direct effect on business.

11. Regulating small business

11.1 The legislation applies to small business, but the changes proposed will not have a direct impact as described above.

12. Monitoring & review

12.1 The IPO is in the process of developing an evaluation strategy for all legislation for which it has responsibility. This instrument will be included within that, which requires evaluation to be carried out within 5 years of implementation. For this instrument, this means 2019.

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[3] http://www.ipo.gov.uk/pro-policy/consult/consult-closed/consult-closed-2012/consult-2012-designs.htm
[4] https://www.gov.uk/government/publications/changes-to-design-law-business-guidance

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