

IMPORTANT CHANGES TO NEW ZEALAND'S DESIGN LAW

Posted on 06/04/2011 by [Mike Hawkins](#)

AS OF 19 APRIL 2011, IMPORTANT CHANGES TO NEW ZEALAND'S DESIGN LAW COME INTO EFFECT DUE TO THE DESIGNS AMENDMENT ACT 2010

[http://www.legislation.govt.nz/act/public/2010/0015/latest/DLM2852841.html?search=ts_act designs noresel&p=1&sr=1](http://www.legislation.govt.nz/act/public/2010/0015/latest/DLM2852841.html?search=ts_act%20designs%20noresel&p=1&sr=1)

AND ITS ASSOCIATED DESIGNS AMENDMENT REGULATIONS 2011.

[http://www.legislation.govt.nz/regulation/public/2011/0075/latest/DLM3614201.html?search=ts regulation designs noresel&p=1&sr=1](http://www.legislation.govt.nz/regulation/public/2011/0075/latest/DLM3614201.html?search=ts%20regulation%20designs%20noresel&p=1&sr=1)

THE MOST IMPORTANT OF THESE CHANGES CAN BE SUMMARISED AS FOLLOWS:

- (i) AN ABANDONED DESIGN APPLICATION OR LAPSED DESIGN REGISTRATION MAY NOW BE RESTORABLE PROVIDED THAT APPLICATIONS ARE MADE FOR RESTORATION WITHIN 3 MONTHS OF ABANDONEMENT OR WITHIN 12 MONTHS OF LAPSING. ANY OPPOSITION TO SUCH RESTORATION IS REQUIRED WITHIN 2 MONTHS OF THE APPLICATION BEING ADVERTISED IN

THE JOURNAL;

(ii) A 3RD PARTY WHICH MADE USE OF THE DESIGN WHILE THE APPLICATION WAS ABANDONED OR THE REGISTRATION WAS LAPSED, OR MADE PREPARATIONS TO DO SO, HAS CONTINUING RIGHTS TO USE THE DESIGN AFTER RESTORATION. UNFORTUNATELY, IN OUR VIEW, THOSE RIGHTS , FOR 3-D DESIGNS, ARE MORE EXTENSIVE THAN THOSE THE SAME 3RD PARTY WOULD HAVE IN RESPECT OF ANY RELATED COPYRIGHT WORKS , SUCH AS DRAWINGS OR PROTOTYPES, SO THAT THE 3RD PARTY MAY HAVE AN ONGOING DEFENCE AGAINST USING THE RESTORED DESIGN REGISTRATION BUT NOT AGAINST INFRINGING THE MUTUALLY INCLUSIVE COPYRIGHT UNDER THE COPYRIGHT ACT 1994 RELATING TO THE SAME 3-D DESIGN;

(iii) AN APPLICANT MAY NOW REQUEST THAT ISSUANCE OF THE CERTIFICATE OF REGISTRATION IS DELAYED BY UP TO 15 MONTHS FROM THE APPLICATION DATE;

(iv) THE COMMISSIONER OF DESIGNS IS NOW EMPOWERED TO PUBLISH THE BASIC DETAILS OF PENDING DESIGN APPLICATIONS INCLUDING THEIR DATE, NUMBER, AND THOSE DETAILS APPEARING ON THE APPLICATION FORM;

(v) ELECTRONIC COMMUNICATION BETWEEN THE APPLICANT AND THE COMMISSIONER OF DESIGNS IS NOW PERMITTED.

THE ABOVE IS INTENDED TO PROVIDE MERELY A BRIEF REVIEW OF THIS IMPORTANT NEW LEGISLATION. IF ANY MORE DETAILED INFORMATION OR ADVICE IS REQUIRED PLEASE DO NOT HESITATE TO CONTACT US.