

## **Term and Initial Period of “Deemed Hong Kong Designs” (UK designs filed before 27 June 1997) Remains Unchanged Despite Changes in the British Law.**

Due to the implementation of European Designs Directive 98/71/EC, UK Designs which were filed with a claim to priority will have their term calculated from their filing dates and not, as is currently the case, their priority dates. Similarly, the next renewal date on such Designs will be based on the UK filing date instead of the priority date.

A number of our clients have enquired as to whether this change in the UK Law will change the due date for requesting first renewal in Hong Kong of “deemed” Hong Kong Designs (UK designs filed before 27 June 1997).

The answer is no. The Transitional Provisions to the Hong Kong Designs Ordinance stipulate that the due date for first renewal be calculated as ending on the earlier of the date on which the right in the design expires under the Registered Designs Act 1949 and the date on which the right in the design would expire under that Act if it were not renewed (remembering that an application for renewal must be filed in Hong Kong 6 months and one day prior to that date).

The Interpretation section of the Transitional Provisions state that “The *Registered Designs Act 1949*” means the Registered Designs Act 1949 (1949 c. 88 U.K.), as amended and as applied to Hong Kong by the United Kingdom Designs (Protection) Ordinance (Cap. 44).” This was the Ordinance in force prior to the enactment of the new Ordinance on 27 June 1997.

The Hong Kong Designs Registry has confirmed that there has been no change in any due dates for designs and they have made it clear that they have no intention of issuing any amendment to the Designs Ordinance to take into account the recent changes in British Law.

**Please therefore be careful to continue calculating the due date for initial renewal in Hong Kong for deemed Hong Kong Designs from the original registration date/renewal date and *not* the new dates provided for under the new UK Law.**