

Designs Act, 2000

Section 42 - AVOIDANCE OF CERTAIN RESTRICTIVE CONDITIONS

1) It shall not be lawful to insert- (i) in any contract for or in relation to the sale or lease of an article in respect of which a design is registered; or (ii) in a licence to manufacture or use an article in respect of which a design is registered; (iii) in a licence to package the article in respect of which a design is registered, condition the effect of which may be - (a) to require the purchaser, lessee, or licensee to acquire from the vendor, lessor, or licensor or his nominees, or to prohibit him from acquiring or to restrict in any manner or to any extent his right to acquire from any person or to prohibit him from acquiring except from the vendor, lessor or his nominees any article other than the article in respect of which a design is registered; or (b) to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee, to use an article other than the article in respect of which a design is registered which is not supplied by the vendor, lessor or licensor or his nominee, and any such condition shall be void. (2) A condition of the nature referred to in clause (a) or clause (b) of sub-sec. (1) shall not cease to be a condition falling within that sub -see merely by reason of the fact that the agreement containing it has been entered into separately, whether before or after the contract relating to the sale, lease or licence of the article in respect of which a design is registered. (3) In proceeding against any person for any act in contravention of Sec.22-, it shall be a defence to prove that at the time of such contravention there was in force a contract relating to the registered design and containing a condition declared unlawful by this section: Provided that this sub-section shall not apply if the plaintiff is not a party to the contract and proves to the satisfaction of the court that the restrictive condition was inserted in the contract without his knowledge and consent, express or implied. (4) Nothing in this section shall - (a) affect a condition in a contract by which a person is prohibited from selling goods other than those of a particular person; (b) validate a contract which, but for this section, would be invalid; (c) affect a condition in a contract for the lease of, or licence to use, an article in respect of which a design is registered, by which the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the article, in respect of which a design is registered, as may be required or to put or keep it in repair. (5) The provision of this section shall also apply to contracts made before the commencement of this act if, and in so far as, any restrictive conditions declared unlawful by this section continue in force after the expiration of one year from such commencement.