

Designs Act, 2000

Chapter 10 - Powers, Etc., of Central Government

(1) Any person who has applied for protection for any design in the United Kingdom or any or other convention countries or group of countries or countries which are members of inter-governmental organisations, or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the registration of the said design under this Act shall be in priority to other applicants and shall have the same date as the date of the application in the United Kingdom or any of such other convention countries or group of countries or countries which are members of inter-governmental organisations, as the case may be:

Provided that-

the application is made within six months from the application for protection in the United Kingdom or any such other convention countries or group of countries or countries which are members of inter-governmental organisations, as the case may be;

nothing in this section shall entitle the proprietor of the design to recover damages for piracy of design happening prior to the actual date on which the design is registered in India.

(2) The registration of a design shall not be invalidated by reason only of the exhibition or use of or the publication of a description or representation of the design in India during the period specified in this section as that within which the application may be made.

(3) The application for registration of a design under this section has been made in the same manner as an ordinary application under this Act.

(4) Where it is made to appear to the Central Government that the legislature of the United Kingdom or any such other convention country or a country which is member of any group of countries or inter-governmental organisation as may be notified by the Central Government in this behalf has made satisfactory provision for the protection of designs registered in India, the Central Government may, by notification in the Official Gazette, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of designs registered in the United Kingdom or that other convention country or such country which is member of any group of countries or inter-governmental organisation, as the case may be.

Explanation 1. -For the purposes of this section, the expression "convention countries", "group of countries" or "inter-governmental organisation" means, respectively, such countries, group of countries or inter-governmental organisation to which the Paris Convention for Protection of Industrial Property, 1883 as revised at Stockholm in 1967 and as amended in 1979 or the Final Act, embodying the results of the Uruguay Round of Multilateral Trade Negotiations, provided for the establishment of World Trade Organisation applies.

Explanation 2. -Where more than one application for protection referred to in sub-section (1) has been made for similar protections in the United Kingdom or one or more convention countries, group of countries or countries which are members of inter-governmental organizations, the period of six months referred to in clause (a) of that sub-section shall be reckoned from the date of which the earlier or the earliest application, as the case may be, of such applications has been made.

Section 45 - Report of the Controller to be placed before Parliament

The Central Government shall cause to be placed before both Houses of Parliament once a year a report respecting the execution of this Act by or under the Controller.

Section 46 - Protection of security of India

Notwithstanding anything contained in this Act, the Controller shall-

not disclose any information relating to the registration of a design or any application relating to the registration of a design under this Act, which he considers prejudicial to the interest of the security of India; and

take any action regarding the cancellation of registration of such designs registered under this Act which the Central

Government may, by notification in the Official Gazette, specify in the interest of the security of India.

Explanation. -For the purposes of this section, the expression "security of India" means any action necessary for the security of India which relates to the application of any design registered under this Act to any article used for war or applied directly or indirectly for the purposes of military establishment or for the purposes of war or other emergency in international relations.

Section 47 - Power of Central Government to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

the form of application for registration of design, the manner of filing it at the patent office and the fee which shall accompany it, under sub-section (2) of section 5;

(b) the time within which the registration is to be effected under sub-section (5) of section 5;

(c) the classification of articles for registration under sub-section (1) of section 6;

(d) the particulars of design to be published and the manner of their publication under section 7;

(e) the manner of making claim under sub-section (1) of section 8;

(f) the manner of making applications to the Controller under sub-section (5) of section 8;

(g) the additional matters required to be entered in the register of designs and the safeguards to be made in maintaining such register in computer floppies or diskettes under sub-section (1) of section 10;

(h) the manner of making application and fee to be paid for extension of the period of copyright and the fee payable thereto, under sub-section (2) of section 11;

(i) the manner of making application for restoration of design and the fee to be paid with it under sub-section (1) of section 12;

(j) the manner of verification of statement contained in an application under sub-section (2) of section 12;

(k) the additional fee to be paid for restoration of the registration of design under sub-section (1) of section 13;

(l) the provisions subject to which the right of the registered proprietor shall be under sub-section (1) of section 14.

(m) the number of exact representation or specimen of the design to be furnished to the Controller under clause (a) of sub-section (1) of section 15;

(n) the mark, words or figures with which the article is to be marked denoting that the design is registered under clause (b) of sub-section (1) of section 15;

(o) the rules to dispense with or modify as regards any class or description of articles any of the requirements of section 15 as to marking under sub-section (2) of that section;

(p) the fee to be paid for and the manner of inspection under sub-section (1) of section 17;

(q) the fee to be paid to obtain a certified copy of any design under sub-section (2) of section 17;

(r) the fee on payment of which the Controller shall inform under section 18;

(s) the form for giving notice to the Controller under clause (a) of the proviso to section 21;

(t) the fee to be paid in respect of the registration of designs and application therefor, and in respect of other matters relating to designs under sub-section (1) of section 24;

(u) the fee to be paid for giving certified copy of any entry in the register under section 26;

(v) the fee to be accompanied with the requests in writing for correcting any clerical error under section 29;

(w) the form in which an application for registration as proprietor shall be made and the manner in which the Controller shall cause an entry to be made in the register of the assignment, transmission or other instrument effecting

the title under sub-section (1) of section 30;

(x) the form in which an application for title shall be made and the manner in which the Controller shall cause notice of the interest to be entered in the register of designs with particulars of the instrument, if any, creating such interest under sub-section (2) of section 30;

(y) the manner of filing an application for registration and for making application for extension of time as referred to in sub-section (3) of section 39;

(z) the manner of making application to the Controller for rectification of register under sub-section (1) of section 31;

(za) the manner in which the notice of rectification shall be served on the Controller under sub-section (4) of section 31;

(zb) the rules regulating the proceedings before the Controller under section 32;

(zc) the time which shall be granted to the applicants for being heard by the Controller under section 33;

(zd) the fee to be accompanied with an appeal under sub-section (1) of section 36;

(ze) any other matter which is required to be, or may be, prescribed.

(3) The power to make rules under this section shall be subject to the conditions of the rules being made after previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Act.
