

The Danish Designs Act¹⁾
(Act No.1259,20 December 2000)

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Chapter I
General Provisions

1. The creator of a design (the designer), or his or her successor in title, may acquire by registration in accordance with this Act the exclusive right to the design (design right), cf. Section 9.

2. In this Act;

(i) “design” shall mean the appearance of a product or part of a product resultant from the features of, in particular, the lines, contours, colour, shape, texture or material of the product and its ornamentation,

(ii) “product”: shall mean any industrial or handicraft item, including parts intended to be assembled into a complex product, packaging, get-up, graphics symbols, and typographic typefaces, however excluding computer programmes,

(iii) “complex product” shall mean a product composed of multiple components which can be replaced, permitting disassembly and reassembly of the product.

3.—(1) A design right can only be obtained where the design is new and has individual character.

(2) A design shall be deemed new if no identical design has been available to the public before the filing date of the application for registration or, if priority is claimed, the date of

priority, cf. Section 16. Designs shall be deemed to be identical where their features differ only in immaterial details.

(3) A design shall be deemed to have individual character where the overall impression it produces on the informed user differs from the overall impression produced on such user by any design which has been available to the public before the filing date of the application or, if priority is claimed, the date of priority, cf. Section 16. In assessing the individual character of a design, the degree of freedom of the designer in developing the design shall be taken into consideration.

4.—(1) A design of a component in a complex product shall only be deemed to be new and have individual character where;

(i) the component upon being incorporated into the complex product remains visible during normal use of the product, and

(ii) the visible features of the component comply with the requirements as to novelty and individual character.

(2) “Normal use” shall mean use of the complex product by the end user excluding maintenance, servicing, or repair work.

5.—(1) A design shall be deemed to have been made available to the public where it has been published following a registration or otherwise made public, or has been displayed, exploited commercially, or otherwise disclosed.

(2) A design shall not, however, be deemed to have been made available to the public where;

(i) the circumstances stated in Section 1 could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community, before the filing date of the application or, if priority is claimed, the date of priority, cf. Section 16, or

(ii) the design has been disclosed to a third party under explicit or implicit conditions of confidentiality.

6. A design shall not be deemed to have been made available to the public where it has been published during the 12-month period preceding the filing date of the application or, if priority is claimed, the date of priority, cf. Section 16,

(i) by the designer, his or her successor in title, or a third party as a result of information provided or step taken by the designer, or his or her successor in title, or

(ii) as a consequence of a abuse in relation to the designer or his or her successor in title.

7.—(1) A design right shall not subsist where the design;

(i) conflicts with public policy or accepted principles of morality,

(ii) conflicts with a prior design which has been made available to the public after the filing date of the application or, if priority is claimed, the date of priority, cf. Section 16, provided the application date of the prior design precedes the application date of the design in question,

(iii) where the design, unauthorised;

(a) constitutes use of any of the items listed in Article 6c of the Paris Convention for the Protection of Industrial Property, or other badges, emblems, and escutcheons not covered by Article 6c of the said Convention, which are of particular public interest,

(b) includes a trademark, trade name, or distinctive sign of real property of another person,

(c) constitutes use of a work protected by copyright laws,

(d) contains a prior design.

(2) A prior design means a design protected by;

(i) application or registration in this state,

(ii) application for registration as a Community design,

(iii) an non-registered Community design, or

(iv) an international application or registration effective in this state.

8.—(1) A design right shall not subsist in features of the appearance of a product which;

(i) are solely dictated by its technical function, or

(ii) must be reproduced in their exact form and dimensions in order to permit the product to which the design is applied to be mechanically connected to or placed in, on, around or against another product, to enable either product to perform its function.

(2) Notwithstanding subsection 1(ii), a design right may subsist in a design, which is new and has individual character pursuant to Section 3, provided the design allows for multiple assembly or connection of products within a modular system, consisting of mutually interchangeable parts.

9.—(1) Subject to the exceptions stated in Sections 10-12, the design right shall imply that no other person may exploit the design without explicit consent from the registered owner. The aforementioned exploitations shall include, in particular, the making, offering, marketing, importing, exporting or use of a product to which the design is applied, or stocking such a product for those purposes.

(2) The design right pursuant to subsection 1 shall include any design, which does not produce on the informed user a different overall impression. In assessing the scope of the

design right, the degree of freedom of the designer in developing his or her design shall be taken into consideration.

10. The rights conferred by a design right shall not extend to;

(i) acts done for non-commercial purposes;

(ii) acts done for experimental purposes; or;

(iii) acts of reproduction for the purpose of making citations, or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice normal exploitation of the design, and reference is made to the source.

11. In addition, the rights conferred by a design right shall not extend to;

(i) equipment on ships and aircraft registered in another state, when these temporarily enter the territory of this state, and

(ii) the importation to this state of spare parts and accessories for the purpose of repairing such craft and the execution of repairs on such craft,

12. The rights conferred by a design right shall not extend to acts relating to a product containing a protected design, when the product has been marketed in The European Economic Area (the EEA) by the registered owner of the design right or with his or her consent.

Chapter II

Application for Registration of Designs

13.—(1) Applications for registration of designs shall be filed with the Patent and Trademark Office:

(2) The applications shall state the name or company name of the applicant and contain a reproduction of the design.

(3) The application may moreover contain a model. Where a model is filed, the model shall constitute the base for the registration of the design.

(4) Where the applicant is not the creator of the design, the applicant or the creator may request that the creator of the design be specified in the design register. Where the design is the result of collaboration between more than one designer, a specification of the group of designers in question may replace a specification of the individual designers.

(5) The prescribed fees shall accompany the application.

14.—(1) An application may only have legal effect from the day the applicant files a picture or model illustrating the design.

(2) An application may not be altered so as to relate to a design other than the design stated in the application.

15. An application may comprise more than one design, provided the products for which the designs are to be applied are related, cf. the international arrangement relating to classification of industrial designs and models signed in Locarno on 8 October 1968 (The Locarno arrangement).

16.—(1) Where a design is contained in an application for registration of a design or for protection of a utility model in another state which is a party to the Paris Convention of 20 March 1883 for the Protection of Industrial Property, or which is a member of the World Trade Organisation (the WTO), and the design registration is applied for in this state within six months of the date of filing in this other state, the application shall, pursuant to Sections 3 and 7(1)(ii) and (iii), on request of the applicant be considered as filed simultaneously with the application in this other state.

(2) The same right to priority pursuant to subsection 1 applies, even where the prior application for protection does not originate from a state party to the Convention or WTO, provided a similar priority from a Danish design application is granted in the state, where the prior application was filed, and the legislation in the state in question principally complies with the Paris Convention.

(3) The same right to priority pursuant to subsection 1 also applies where the design is included in an application for protection of a design or utility model in this state.

(4) Where an application for registration is filed in this state within six months after the design has been displayed for the first time at an official or officially recognised international exhibition, the application shall pursuant to Sections 3 and 7(1)(ii) and (iii) on request of the applicant obtain priority from this date. The exhibitions referred to are such exhibitions as defined in the Convention on International Exhibitions, signed in Paris on 22 November 1928, subsequently revised on 30 November 1972.

17.—(1) The Patent and Trademark Office shall ensure that the application relates to a design, cf. Section 2(i), and that the provision of Section 7(1)(i) does not obstruct registration, and furthermore, that the application only contains one design, however cf. Section 15.

(2) The applicant may request the Patent and Trademark Office to examine other matters of significance for the design right, to the knowledge of the Office. The applicant shall for the request pay the prescribed fee.

(3) The Minister for Trade and Industry shall lay down the rules for the examination, its extent, and the fee for the examination.

18. Where the application complies with the rules and regulations and no objection has been found to registration, the design shall be registered. The registration is published by the Patent and Trademark Office. Publication may be deferred for up to six months counted from the filing date or, if priority is claimed, the date of priority, cf. Section 16, provided the applicant so requests in his or her application.

19.—(1) Where the applicant has not observed the rules and regulations laid down for the application, or the Patent and Trademark Office otherwise finds objection to the

registration of the application, The Patent and Trademark Office shall notify the applicant accordingly and invite him or her to file his or her observations or to take step to correct his or her application within a fixed time limit.

(2) Where the applicant fails within expiry of the time-limit to file his or her observations or to take step to correct the application, the application shall be ~~bl~~ved. The notification referred to in subsection 1 shall contain information to this effect.

(3) The examination of the application may be re-established on request of the applicant, provided he files his or her observations or takes step to correct the application within two months after expiry of the fixed time-limit, and within the same time-limit pays the prescribed re-establishment fee. Re-establishment may be granted only once.

(4) Where the Patent and Trademark Office finds any objection to granting registration after the applicant has had an opportunity to file his or her observations on the objection, the application shall be rejected unless the Patent and Trademark Office finds grounds for renewing the request pursuant to subsection 1.

20.—(1) Where the Patent and Trademark Office pursuant to Section 19 finds any objection to registration, the design may be registered in an amended form, provided it in an amended form complies with the requirements for protection, and the identity of the design is retained.

(2) Where the applicant is not in agreement with the decision of the Patent and Trademark Office pursuant to subsection 1 as to registration in an amended form, the application is rejected.

Chapter III Publicity and Obligation to Provide Information

21.—(1) From the date when the application is registered, the application documents shall be available to the public.

(2) Six months after the filing date or, if priority has been claimed, the date of priority, cf. Section 16, the application documents shall be made available to the public, even where the application has not been published, pursuant to Section 18. However, where it has been decided to shelve or reject the application, the documents shall not be made available unless the applicant requests re-establishment or appeals against the rejection.

(3) Where the applicant so requests, the documents shall be made available earlier than prescribed in subsection 1 and 2.

(4) When the documents have been made available pursuant to subsection 2 or 3, a notice to that effect shall be published.

22.—(1) Where one applicant before another claims to be entitled to an application for a design registration prior to the application documents being made available to the public, he or she shall on request make the documents available to the other.

(2) Any person who, either upon direct approach to another or by advertisement or by labelling on products or their wrapping, or in any other way indicates that a design is registered or sought registered without also indicating the registration or application number, shall without undue delay communicate this information to whoever may request it. Where it is not explicitly specified that a design is registered or sought registered, but where this information may prompt an understanding that this in fact is the case, the information as to whether the design is registered or sought registered shall without undue delay be communicated.

Chapter IV Period of Validity for Registration of a Design

23.—(1) A design registration shall be valid for the period or periods of five years, as filed for in the application, from the filing date of the application. Registration may, on request, be renewed for further periods to a total of 25 years. Each period runs from the expiry of the preceding period.

(2) Notwithstanding subsection 1, registration may be valid for a maximum of 15 years for a design of a component, which is used in the repairs of a complex product, providing the product with its original appearance.

24.—(1) Application for renewal of a design registration shall be filed by paying to the Patent and Trademark Office the prescribed renewal fee not earlier than three months before and not later than six months after expiry of the registration period. Where the fee is paid after expiry of the period, an augmented fee shall be paid.

(2) The Patent and Trademark Office shall collect the prescribed renewal fee from the registered owner of the design or his or her agent, but shall not be held responsible for any loss of right as a consequence of non-collection.

(3) Where the prescribed renewal fee has not been paid within six months after expiry of the registration period, the registration shall be cancelled.

(4) Renewal of the registrations shall be published.

Chapter V Termination of the Registration by a Judgment or Administrative Decision, etc

25.—(1) Any person may, when a design has been registered, with the Patent and Trademark Office file a request for complete or partial cancellation of the registration. The request may exclusively be reasoned by;

- (i) the registration not complying with Sections 1-8,
- (ii) the application being amended contrary to Section 14(2),
- (iii) the provisions of Section 15 not being complied with,
- (iv) the registration being maintained for more than 15 years, contrary to Section 23(2)

- (2) A request pursuant to subsection 1 may only be filed concerning;
- (i) the design right by the person claiming to be rightfully entitled to the design,
 - (ii) the rights stated in Section 7(1)(ii) and (iii) (b-d), by the person claiming to be rightfully entitled to the rights in question,
 - (iii) exploitation of the rights stated in Section 7(1)(iii) (a), by the person affected by the exploitation.

(3) Where proceedings before a court as to a design remain to be finally settled, a request may not be filed pursuant to subsection 1 as to the design in question. Where proceedings as to a design are brought before the Court prior to a final decision on the request, pursuant to subsection 1, relating to the same design, the Patent and Trademark Office or the Patent Board of Appeal shall temporarily shelve the consideration of the request ending the final settlement of the proceedings, unless the request has been filed by the registered owner of the design.

(4) For requests pursuant to subsection 1, the prescribed fee shall be paid.

26.—(1) A request pursuant to Section 25(1) shall be accompanied by documentation. Where the material for such documentation is deemed insufficient, the Patent and Trademark Office may demand additional material in order to consider the request.

(2) Where another person than the registered owner of the design registration has filed the request, the registered owners shall be informed of the submitted material and be invited to file his or her observations.

27.—(1) A design registration may be declared completely or partially invalid by a judgment, where;

- (i) the registration did not comply with Sections 1-8,
- (ii) the application was amended contrary to Section 14(2).
- (iii) the provisions of Section 15 have not been complied with, or
- (iv) the registration has been maintained for more than 15 years, contrary to Section 23(2).

(2) Any person may institute proceedings pursuant to subsection 1. Proceedings may, however, only be instituted concerning;

- (i) the design right by the person claiming to be rightfully entitled to the design,
- (ii) the rights stated in Section 7(1)(ii) and (iii) (b-d) by the person claiming to be rightfully entitled to the rights in question,
- (iii) exploitation of the rights stated in Section 7(1)(iii) (a) by the person affected by the exploitation.

(3) Proceedings as to subsection 2(i) shall be instituted within a year subsequent to the person in question having acquired knowledge of the registration and of other factors, on which, the proceedings are based. Where the registered owner of the design acted in good faith when the design was registered, or when the design right passed to him or her, the proceedings may not be instituted later than three years after the registration of the design.

(4) A design may be declared invalid after the design right has terminated, or the registered owner of the design renounces his or her right.

28.—(1) A design registration may be maintained in an amended form provided the design in the amended form conforms to the requirements for protection, and retains its identity.

(2) Where the registered owner of a design is not in agreement with a decision as to maintaining the registration in an amended form or fails to pay the prescribed fee for publication of the amendment, the registration is cancelled.

29.—(1) Where any person claims to be entitled to a design registered or applied for, the Patent and Trademark Office may, finding the claim doubtful, invite him or her to institute proceedings within a fixed time-limit. Where the invitation is not complied with, the claim may be disregarded. Notification to this effect shall be given in the request.

(2) Where proceedings have been instituted as to the title to a design, the Patent and Trademark Office shall suspend the examination of the application, pending the final settlement of the proceedings.

30.—(1) Where anyone proves before the Patent and Trademark Office that he or she and not the applicant or the registered owner of the design is entitled to a design comprised in a design registered or applied for, the Patent and Trademark Office shall transfer the application or registration to him or her if he so requests. The transferee shall pay the prescribed fee.

(2) Where transfer of application or registration is requested, the application may not be amended, shelved, rejected, or accepted, and the registration may not be amended or cancelled, completely or partially, before the request for transfer has been finally considered.

31.—(1) Where a design has been registered in the name of a person who is not the rightful owner as defined in Section 1, the Court shall, where a claim is filed by the rightful owner, transfer the design right to him or her. Where another person is entitled to the design right, the Patent and Trademark Office shall transfer the registration to the entitled person.

(2) Where a person disqualified from design registration in good faith has exploited the design in this state, or has taken substantial steps for that purpose, he or she may, against payment of reasonable compensation and on fulfilment of other reasonable terms, continue commenced or commence intended exploitation, provided the general character is maintained. In similar circumstances, licensees shall enjoy the same right.

(3) The rights pursuant to subsection 2 may only pass to others with the business in which the design is exploited, or in which exploitation of the design was intended.

32.—(1) Where an objection exists to the maintenance of a design registration in accordance with a decision pursuant to Section 25(1) or a judgment, the registration shall be cancelled by the Patent and Trademark Office. The Office shall moreover cancel the registration, where the registered owner of the design renounces his or her right.

(2) Where the Patent and Trademark Office based on a request pursuant to Section 25(1) finds no grounds for complete or partial cancellation of the registration, the request is dismissed, and the registration is maintained.

33.—(1) The Patent and Trademark Office shall publish the termination of a design registration. The Office shall moreover publish amendments in the design registration resultant to a decision or a judgment as to complete or partial cancellation, or of the transfer of the design right to another party.

(2) For the publication of a registration in an amended form, the prescribed fee shall be paid.

Chapter VI **Appeals**

34. Appeals against the final decision of the Patent and Trademark Office regarding a design application may be filed with the Patent Board of Appeal by the applicant. The same applies for the registered owner of the design, where a design registration is completely or partially cancelled. Where the design registration is maintained in an amended or original form, the decision may be appealed against by the person having filed the request for complete or partial cancellation of the design registration. Where the latter withdraws his or her appeal, the appeal may nevertheless be examined, provided there exists special grounds for such action.

35.—(1) Appeals pursuant to Section 34 are filed with the Patent Board of Appeal within two months after the Patent and Trademark Office has notified the party in question of the decision. The prescribed fee for appeals shall be paid within the same time-limit. Failure to do so shall result in dismissal of the appeal. Filing an appeal with the Patent Board of Appeal shall have suspensive effect.

(2) The decisions of the Patent Board of Appeal may not be brought before another administrative authority.

(3) Decisions of the Patent and Trademark Office, which may be brought before the Patent Board of Appeal, may not be brought before the courts, before the decision of the Patent Board of Appeal is available. Where a party wants to bring a decision of the Patent Board of Appeal before the courts, the proceedings shall be instituted within two months of the day the party in question was notified of the decision. The proceedings shall have suspensive effect.

Chapter VII

Liability to Punishment and Liability for Damages, etc.

36.—(1) Any person who intentionally infringes the design right (design infringement) shall be liable to a fine. Under aggravating circumstances, including in particular if the purpose of the infringement is a significant and obviously unlawful profit, the penalty may be increased to imprisonment of up to one year.

(2) Corporations, etc. may be liable to pay damages pursuant to Chapter 5 of the penal code.

(3) Proceedings shall be instituted by the injured party. Proceedings as to infringement pursuant to subsection 1, 2nd clause shall, however, be instituted by the public authorities on request of the injured party.

37.—(1) Any person who intentionally or negligently commits design infringement shall be liable to pay reasonable compensation for the exploitation of the design and damages for the further injury, which the infringement may have caused.

(2) Where any person commits design infringement, which is not intentional or due to negligence, and he or she has obtained a profit thereby, he or she is liable to pay compensation and damages pursuant to the provisions of subsection 1, where and to the extent this is found reasonable, however not exceeding the profit he or she is assumed to have made by the design infringement.

38.—(1) Where design infringement has been committed, and a claim has been filed by the injured party, the Court may to the extent found reasonable, in order to prevent continued design infringement, decide that products illegally manufactured or imported into this state, or products, the use of which would imply design infringement, shall be amended in a specified manner or be destroyed or, in case of illegally manufactured or imported products, be surrendered to the injured party against compensation. This does, however, not apply to the person, who in good faith has acquired the products in question or acquired the right to the same, and has not himself committed the design infringement.

(2) Where special circumstances exist, the Court may, notwithstanding the provisions of subsection 1 and where so claimed, grant permission to dispose freely of products illegally manufactured or imported during the registered period or part thereof against reasonable compensation and on other wise reasonable conditions.

39.—(1) Where anyone unauthorised exploits a design sought registered after the application documents have been made available to the public, and the application results in a design registration, the provisions as to design infringement shall apply *mutatis mutandis*. This does, however, not apply to the provision of Section 38. Compensation for damage arising from infringement committed before the application documents were made available to the public shall be payable only to the extent provided for in Section 37(2).

(2) The limitation period for claims of compensation pursuant to subsection 1 shall not come to an end before one year after registration of the design.

40. In proceedings as to design infringement the invalidity of the design right may only be put in issue where a claim for cancellation of the registration has been filed against the registered owner of the design, possibly after the latter has been summoned pursuant to the rules of Section 45. Where the design registration is cancelled, the provisions of Sections 36-39 shall not apply.

41.—(1) Any person who, in the cases referred to in Section 22, fails to comply with his or her obligations or gives false information shall be liable to a fine where a heavier penalty is not provided for by other legislation, and shall be liable to compensate the injury caused thereby to the extent found reasonable.

(2) The provisions of Section 36(2) and (3) shall apply *mutatis mutandis*.

Chapter VIII **Provisions of Administration of Justice**

42.—(1) Civil proceedings, on the outcome of which the application of this Act has considerable significance, shall be brought before The Maritime and Commercial Court of Copenhagen, unless the parties agree otherwise.

(2) The Maritime and Commercial Court of Copenhagen is the Community design court of first instance, and the Danish Supreme Court is the Community design court of second instance pursuant to the Community design regulation.

43.—(1) Injunctions pursuant to the Community design regulation are issued by the Bailiffs Court.

(2) Injunctions pursuant to the Community design regulation, which shall have effect in every Member State, are issued by the Maritime and Commercial Court in Copenhagen.

(3) Injunctions as to a Community design and other designs protected by virtue of this Act are issued by the Maritime and Commercial Court in Copenhagen, provided the injunction concerning the Community design shall have effect in every Member State.

(4) The provisions of Chapter 57 of the Danish Administration of Justice Act shall apply *mutatis mutandis*.

(5) The judgements of the Maritime and Commercial Court may pursuant to subsection 2 and 3 be brought before the Danish Eastern High Court.

44.—(1) Any person who institutes proceedings for complete or partial cancellation of a design registration or for transfer of the registration shall notify the Patent and Trademark Office hereof for entry in the design register, and by registered mail give notification of the proceedings to any registered licensee whose address is indicated in the register. A licensee intending to institute proceedings as to infringement of design right shall correspondingly notify the registered owner of the design thereof.

(2) Where the plaintiff in the writ fails to document that notification pursuant to subsection 1 has taken place, the Court may fix a time-limit for the plaintiff to fulfil the conditions. Where this time-limit is disregarded, the proceedings shall be dismissed.

45.—(1) In proceedings as to design infringement brought by the registered owner of the design, the defendant shall give notification, pursuant to the rules laid down in Section 44(1) to the Patent and Trademark Office and registered licensees, where the defendant intends to file a claim for cancellation of the registration. The provision of Section 44(2) shall apply *mutatis mutandis*, signifying that the claim for cancellation of the registration is dismissed where the fixed time-limit is disregarded.

(2) In proceedings as to design infringement brought by a licensee, the defendant may summon the registered owner of the design without regard to his or her venue and file a claim against him or her for cancellation of the registration. The provisions of Chapter 34 of the Administration of Justice Act shall apply *mutatis mutandis*.

46. Transcripts of judgments in cases referred to in Sections 27-29, 31, 32, and 36-39 shall be submitted to the Patent and Trademark Office by order of the Court.

Chapter IX Miscellaneous Provisions

47. The Patent and Trademark Office may invite an applicant or a registered owner of a design to appoint an agent residing in the The European Economic Area (the EEA) to represent him or her as to the application or the registration. The name and address of the agent shall be entered into the design register.

48.—(1) Where non-observance of a time-limit vis-à-vis the Patent and Trademark Office prescribed by or provided for in this Act causes loss of rights, the Patent and Trademark Office shall on request re-establish the rights, provided the design applicant has taken all due care reasonably required. The request shall be filed with the Patent and Trademark Office within two months from the removal of the obstacle causing non-observance of the time-limit, however not later than one year after expiry of the time-limit. The omitted actions shall be performed and the fee prescribed for re-establishment shall be paid within the same time-limits.

(2) The provision of subsection 1 shall apply *mutatis mutandis*, where a registered owner of a design has failed to pay the renewal fee within the time-limit as laid down in Section 24(1), provided the request for re-establishment is filed and the renewal fee paid not later than six months after expiry of the time-limit.

(3) The provision of subsection 1 and 2 shall apply *mutatis mutandis* for time-limits vis-à-vis the Patent Board of Appeal. Rights shall be re-established by the Patent Board of Appeal.

(4) The provisions of subsection 1 shall not apply to the time-limits referred to in Section 16.

49.—(1) The Minister for Trade and Industry shall lay down further provisions for design applications and their examination, priority, division, of design applications and registrations, renewal or abandonment of, as well as requests for complete or partial cancellation of design registrations, the keeping of the design register, exchange of electronic data with the Patent and Trademark Office and the Patent Board of Appeal, the publication and contents of the Dansk Design Tidende (the Danish Designs Gazette), and the procedures of the Patent and Trademark Office. It may, furthermore, be laid down that the records of applications filed with the Patent and Trademark Offices shall be available to the public. The Minister for Trade and Industry may also lay down rules to specify days on which the Patent and Trademark Offices shall be closed.

(2) The Minister for Trade and Industry shall lay down the rules necessary for applying the Community design regulation.

(3) The Minister for Trade and Industry may moreover prescribe fees for examination of cases as to application for registration of a design or renewal of design registration. The Minister for Trade and Industry may also prescribe fees for examination of Community designs.

50. A registered design may also be protected by the law of copyright from the point in time, where the design has been created or determined in a given form.

51.—(1) Where a design has passed to another, a license has been granted, a design has been mortgaged, execution has been levied on the design, or the registered owner of the design is subject to insolvency proceedings, this shall on request be entered into the design register. The same applies for entering a name of the creator of a design and rights pursuant to Section 31(2).

(2) A request for entry, amendment, or deletion of information in the design register, pursuant to subsection 1 shall be accompanied by the necessary documentation. For the request, the prescribed fee shall be paid.

(3) For a registration including more than one design, cf. Section 15, the passing of a design right to another person may only be entered into the register provided the passing includes all designs.

(4) Proceedings relating to a design may always be instituted against the person entered into the register as the owner of the design, and notifications from the Patent and Trademark Office may be submitted to the registered owner.

52.—(1) The Patent and Trademark Office may on request assume the responsibility of resolving specific tasks relating to designs and design rights.

(2) The law of open administration shall, except for Section 4(2), not apply for the tasks mentioned in subsection 1.

(3) The Minister for Trade and Industry shall lay down the rules for this service and the relating fees.

Chapter X

International Design Registration

53. An “international design registration” shall mean a registration pursuant to the amendment to the Haag arrangement for international registration of designs adopted in Geneva on 2 July 1999 (The Geneva agreement).

54. An international design registration with validity in Denmark shall have the same legal effect, as was the design registered in this state.

55. An international design application shall be filed with the Patent and Trademark Office or the International Bureau. The international design application may be filed with the Patent and Trademark Office by Danish citizens as well as individuals or corporations residing in or residents of Denmark, or owners of a regular industrial or commercial enterprise in Denmark.

56. On filing an international design application, priority may be claimed from a state party to the Paris Convention or member of the World Trade Organisation (WTO).

57. Within the time-limit laid down in the Geneva agreement, The Patent and Trademark Office may notify the International Bureau that the validity of the design in Denmark is completely or partially rejected, where the design fails to comply with the conditions of registration pursuant to this Act.

58. The rules laid down in the Geneva agreement shall apply for the renewal of an international design registration.

59. The Minister for Trade and Industry shall lay down rules for implementation of the provisions of this chapter. Special rules may also be laid down as to publication of internationally registered designs. The Minister for Trade and Industry may, moreover, prescribe fees for the examination of cases therewith.

Chapter XI

Provisions as to Entry into Force and Transitional Provisions

60.—(1) This Act shall enter into force on 1 October 2001. The Minister for Trade and Industry shall, however, fix the effective date for Chapter 10.

(2) The Consolidate Designs Act No. 251 of 17 April 1989, is repealed, however, cf. subsection 3.

(3) The Act applies to designs registered and design applications filed after the effective date. For registered designs and design applications filed prior to the effective date, the provisions of the legislation hitherto in force shall remain in full force.

(4) Any person who prior to the entering into force of the Act pursuant to Section 6 of the Consolidate Designs Act, No. 251 of 17 April 1989, was exploiting a design for commercial purpose in this state, or has taken substantial steps for that purpose, may continue such exploitation.

61. This Act shall not apply to the Faroe Islands and Greenland, but may by Royal Ordinance, be put into force for the Faroe Islands and Greenland with the deviations deemed appropriate considering the special conditions of the Faroe Islands and Greenland.

Given at Christiansborg Castle, on 20 December 2000

Under Our Royal Hand and Seal

Margrethe R.

¹⁾ The Act contains provisions implementing the directive of the European Parliament and the Council, No. 98/71/Community of 13 October 1998 as to legal protection of designs (The Official Journal of the European Communities 1998 No. L289, p.28).