

THE LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON INDUSTRIAL DESIGNS

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Chapter 1. Fundamentals

Article 1. (Mission of Law on Industrial Designs)

The Law of the DPRK on Industrial Designs aims to contribute to the improvement of the quality of goods and to the development of socialist economy by establishing a strict system and order in the application and examination for the industrial design registration and in the protection of industrial design rights.

Article 2. (Definition and kind of industrial designs)

An industrial design is a new description by way of drawings or photographs of the shape, color and ornamentation of the goods to be produced by industrial method.

Industrial designs include designs reflecting the goods such as machines, equipment, transport means, textiles, living utensils, and goods for cultural use, garments, furniture, furnishings, packing containers and their decorations.

Article 3. (Principle of application for industrial design registration)

Application for industrial design registration is the first step of the industrial design administration.

The state shall establish proper procedure of application for industrial design registration and ensure its accurate observance.

Article 4. (Principle of examination for industrial design registration)

It is the basic duty of the Industrial Design Registration Office to properly examine the industrial design registration.

The state shall establish the examination system for industrial design registration and ensure its scientific accuracy and objectivity in its examination.

Article 5. (Principle of protection for industrial design right)

To protect the industrial design right is the consistent policy of the DPRK.

The state shall protect the industrial design rights held by institutions, enterprises, organizations or citizens.

Article 6. (Principle for renewal of industrial design)

The state shall pay close attention to the industrial design administration to ensure the content renewal of the designs with the development of national economy and the increase of commodity production.

Article 7. (Exchange and cooperation in the industrial design administration)

The state shall promote exchange and cooperation with international organizations and foreign countries in the industrial design administration.

Chapter 2. Application for industrial design registration

Article 8. (Basic requirements of an application for industrial design registration)

Proper application for industrial design registration is a precondition to examine the industrial design registration in due time.

Institutions, enterprises, organizations or citizens shall accurately apply for the registration of the industrial design that has been created.

Article 9. (Filing an application for industrial design registration)

Institutions, enterprises, organizations or citizens wishing to apply for the industrial design registration shall prepare the application and submit it to the Industrial Design Registration Office.

In case of a joint application, the application shall be presented under the joint name.

Article 10. (Ways of preparing the application for industrial design registration)

Each industrial design shall be prepared in one application. However, several industrial designs reflecting the different goods connected and related in structural and functional aspect may be filed in one application.

The application shall contain the title of design, its classification and names of the applicant and designer, annexed with the reproduction of design, description and evaluation report.

Article 11. (Ways of filing the application for industrial design registration)

The application for industrial design registration shall be filed directly or by post with the Industrial Design Registration Office.

If necessary, the application for industrial design registration may be filed by means of telecommunication such as e-mail or fax.

Article 12. (Application for industrial design registration by foreign legal entity)

Foreign institutions, enterprises, organizations or citizens wishing to register their industrial design in the DPRK shall file an application written in Korean with the Industrial Design Registration Office through the agency of attorneys.

Article 13. (Remedying of irregularities of application for industrial design registration)

If the application for industrial design registration is irregular, the Industrial Design Registration Office shall send it back or invite the applicant to remedy it within 3 months of the acceptance of the application.

If the irregularities are not corrected within 3 months for an unavoidable reason, the 2 months' grace period may be allowed.

Article 14. (Notification of receipt of the application for industrial design registration)

The Industrial Design Registration Office shall inform the institutions, enterprises, organizations or citizens of its receipt of their applications for industrial design registration.

Article 15. (Date of application for industrial design registration)

The date of an application for industrial design registration shall be the date when the application is received by the Industrial Design Registration Office.

Even in case that the irregularities of the application for industrial design registration are remedied within the prescribed time limit, the date of the application for industrial design

registration shall be the date when the initial application is received by the Industrial Design Registration Office.

Article 16. (Priority of application for industrial design registration)

Where the institutions, enterprises, organizations or citizens have presented the industrial designs or trial products embodying industrial designs to an exposition or exhibition, they shall have a priority in the application for the industrial design registration. In this case, the documents claiming priority shall be submitted to the Industrial Design Registration Office within 3 months from the date when the industrial design or its trial product has been presented to the exposition or exhibition.

Article 17. (Validity of priority regarding the application for industrial design registration by foreign legal entity)

The priority of the institutions, enterprises, organizations or citizens of foreign countries resulting from their national application for industrial design registration filed with their own country or any other country is valid on condition that the relevant document is presented to the Industrial Design Registration Office of the DPRK within 6 months from the date of obtaining the priority.

Article 18. (Application for industrial design registration filed with foreign countries)

The institutions, enterprises, organizations or citizens that hold industrial design rights may register their industrial designs in foreign countries. In this case, an application for industrial design registration shall be presented through the international organization concerned or attorneys after obtaining the approval from the Industrial Design Registration Office.

Chapter 3. Examination for industrial design registration

Article 19. (Period of examination for industrial design registration)

Examination for industrial design registration is an important work of checking the application for industrial design registration and deciding on its registration.

The Industrial Design Registration Office shall examine the application for industrial design registration within 6 months from the date of its receipt.

Article 20. (Requirement of materials necessary to examination for industrial design registration)

The Industrial Design Registration Office may demand the institutions, enterprises, organizations or citizens that have filed the application for industrial design registration to provide the materials necessary to the examination on the industrial design.

The institutions, enterprises, organizations or citizens that have filed the application for industrial design registration shall provide in time the materials required by the Industrial Design Registration Office.

Article 21. (Industrial designs which cannot be registered)

The following cannot be registered as industrial design:

1. The design substantially identical with or similar to the registered industrial design.
2. The design identical with or similar to the product which has been publicized and used.
3. The design contrary to the laws, public morality, good manners and customs of the DPRK.
4. Blueprint of mechanical equipment or technical process and design of fine art work, building and monument etc.
5. The design identical with or similar to the registered trademark.
6. The design without economic effectiveness, aesthetic utility or industrial applicability.

Article 22. (Examination for industrial design registration)

The Industrial Design Registration Office shall examine the industrial design which is the subject of the application for registration and make a decision either on registration or refusal.

The result of examination for industrial design registration shall be notified to the institutions, enterprises, organizations or citizens that have filed the application for trademark registration.

Article 23. (Issue of the certificate for industrial design registration)

The industrial design of which registration has been decided shall be registered in the state industrial design register and the industrial design registration certificate shall be issued to the institutions, enterprises, organizations or citizens concerned.

The registered industrial design shall be published in the Industrial Design Bulletin.

Article 24. (Filing an opposition against the registered industrial design)

The institutions, enterprises, organizations or citizens that disagree to the filed or registered industrial design may file an opposition to the Industrial Design Registration Office within 6 months from its publication date.

The Industrial Design Registration Office shall examine the opposition filed and notify its result to the relevant institutions, enterprises, organizations or citizens.

Article 25. (Filing an application for reexamination of the refused industrial design)

The institutions, enterprises, organizations or citizens that disagree to the refusal of industrial design registration may file an application for reexamination within 6 months from the date when the industrial design registration is refused.

The Industrial Design Registration Office shall reexamine the refused industrial design and notify its result to the relevant institutions, enterprises, organizations or citizens.

Article 26. (Lodging an appeal against the decision of reexamination)

Where the institutions, enterprises, organizations or citizens disagree to the decision of reexamination for industrial design registration, they may lodge an appeal to the State Industrial Design Examination Committee within 2 months from the date of the decision of reexamination.

Chapter 4. Protection of industrial design rights

Article 27. (Basic requirements for protection of industrial design rights)

Protection of industrial design rights is a basic requirement to strengthen the industrial design administration.

The Industrial Design Registration Office and the relevant institution shall protect the interests of the institutions, enterprises, organizations or citizens that hold the industrial design rights.

Article 28. (Holder of industrial design right)

The industrial design rights shall be held by the institutions, enterprises, organizations or citizens whose industrial design has been registered.

The right of industrial design registered under the joint name shall be shared by co-holders.

Article 29. (Rights of industrial design holder)

The holder of the industrial design right shall have the following rights:

1. The right to use the registered industrial design.
2. The right to assign or license the registered industrial design wholly or partially.
3. The right to cancel the registered industrial design.

Article 30. (Assignment of industrial design right)

The institutions, enterprises, organizations or citizens that wish to assign or to be assigned the industrial design rights shall prepare and submit an application for the assignment of industrial design right to the Industrial Design Registration Office.

The assignment of industrial design rights shall come into force from the date of recording to the State Industrial Design Register.

Article 31. (Licence of industrial design)

Where the institutions, enterprises, organizations or citizens that hold the industrial design rights wish to license other institutions, enterprises, organizations or citizens to use the registered industrial design, they shall conclude a contract and submit an industrial design license document to the Industrial Design Registration Office.

Article 32. (Responsibility for quality of goods reflecting the authorized industrial design)

The institutions, enterprises, organizations or citizens authorized to use an industrial design shall be responsible for the quality of the goods produced in reflection of the design.

The institutions, enterprises, organizations or citizens that have licensed the industrial design shall supervise the quality of goods produced in reflection of the design.

Article 33. (Prohibition of assignment and licence of industrial design)

The institutions, enterprises, organizations or citizens that have no due entitlement cannot be the assignee or licensee of the registered industrial design.

Article 34. (Assignment or licence of industrial design rights to foreign countries)

Where the institutions, enterprises, organizations or citizens that hold the industrial design rights wish to assign their rights or authorize their use of registered industrial designs to foreign

institutions, enterprises, organizations or citizens, they shall obtain consent from the Industrial Design Registration Office.

Article 35. (Period of industrial design protection)

The period of industrial design protection shall be 5 years from the date of application for industrial design registration.

The period of protection may be extended twice by every 5 years upon the request of the institutions, enterprises, organizations or citizens that hold the industrial design. In this case, an application for renewal of industrial design protection period shall be submitted to the Industrial Design Registration Office.

Article 36. (Renewal for the period of industrial design protection)

The application for renewal of industrial design protection period shall be filed within 6 months before the expiry of the protection period.

If necessary, the application aforementioned may be filed within 6 months after the expiry of the protection period.

Article 37. (Change of industrial design registration)

In case name and address of the owner have been changed during the industrial design protection, the institutions, enterprises, organizations or citizens that held industrial design right shall file an application for the change of industrial design registration with the Industrial Design Registration Office.

The Industrial Design Registration Office shall record the change of industrial design registration in the state industrial design register.

Article 38. (Cancellation of industrial design registration)

The institutions, enterprises, organizations or citizens that wish to cancel their registered industrial design shall file an application for the industrial design cancellation with the Industrial Design Registration Office. In this case, the certificate for industrial design registration shall also be attached.

Article 39. (Invalidation of industrial design rights)

If a registered industrial design has been cancelled, the period of its protection expired or an industrial design has not been used for 2 years from the date of its registration, the industrial design right shall be invalidated.

Chapter 5. Guidance and control over industrial design administration

Article 40. (Basic requirements of guidance and control over industrial design administration)

To strengthen the guidance and control over industrial design administration is an indispensable requirement for the encouragement of creating the industrial design creation and the protection of the industrial design rights.

The State shall strengthen guidance and control over industrial design administration.

Article 41. (Duty of the leading organ of industrial design)

The guidance over industrial design administration shall be exercised by the state leading organ of industrial design under the unified leadership of the Cabinet.

The state leading organ of industrial design shall regularly control and lead the industrial design administration.

Article 42. (Publication of the industrial design-related records)

The Industrial Design Registration Office shall periodically publish the industrial design-related records such as registration, renewal, assignment, licence, cancellation and change of holder's name or address.

Article 43. (Fees concerning industrial design administration)

The institutions, enterprises, organizations or citizens shall pay in time the fees fixed in relation with the industrial design administration.

The fees concerning the industrial design administration shall be fixed by the central price fixing organ.

Article 44. (Creation of industrial designs)

The institutions, enterprises, or organizations concerned shall strengthen the research work on the creation of industrial designs and train the necessary personnel in a far-sighted way.

Article 45. (Prohibition of illegal acts relating to industrial design rights)

The institutions, enterprises, organizations or citizens are prohibited to use the registered industrial designs without approval or violate the procedures of assignment of industrial design rights and licence of industrial designs.

Article 46. (Supervision and control over industrial design administration)

Supervision and control over industrial design administration shall be exercised by the state leading organ of industrial design and the supervision and control organs concerned.

The state leading organ of industrial design and the supervision and control organs concerned shall strictly supervise and control the institutions, enterprises, organizations or citizens in observing the procedures of application and examination for industrial design registration and in refraining from infringing industrial design rights.

Article 47. (Compensation for damages, seizure)

Where the interests of the institutions, enterprises, organizations or citizens that hold the industrial design rights are infringed, the compensation for the relevant damages shall be made or the products used for illegal acts be seized.

Article 48. (Suspension of use and cancellation of registration)

Where the registered industrial design has been used without approval, or the procedures of assigning the industrial design right and licensing the use of industrial design have been violated, the use shall be suspended or the industrial design registration cancelled.

Article 49. (Administrative or penal responsibility)

The leading officials of the institutions, enterprises and organizations as well as individual citizens responsible for the violation of this law causing grave consequences to the industrial design administration shall be subject to an administrative or penal responsibility according to the gravity.

Article 50. (Settlement of dispute)

Any dispute concerning industrial designs is settled through consultation.

In case of failure in consultation, it shall be submitted to the Industrial Design Registration Office or the state industrial design examination committee for settlement.

Where the dispute is not settled by the Industrial Design Registration Office or the state industrial design examination committee, the dispute shall be submitted to an arbitration organ or a Court for settlement.