



Layout-Designs of Integrated Circuits Act 2000 Act 601

TABLE OF CONTENTS

	<i>Page</i>
Part I :	
Preliminary	
Short Title and Commencement.....	2
Interpretation.....	2
Application.....	3
Designation of Qualifying Countries	4
Part II:	
Protection of Layout-Designs	
Protected Layout-Design.....	4
Persons that Qualify for Protection	5
Right Holder of Layout-Design.....	5
Duration of Protection.....	6
Part III:	
Rights in Relation to Layout-Designs and Infringements	
Rights of Right Holder.....	6
Infringement.....	6
Non-Infringing Acts.....	6
Innocent Infringement.....	7
Actions for Infringement.....	8
Limitation of Actions	8
Order for Delivery Up.....	9
Order for Disposal.....	9
Presumption of Protection and Right Holder	100
Affidavit Evidence	100
Part IV:	
Dealings With Layout-Design Rights	
Assignments and Licences	122
Future Rights.....	122
Exclusive Licensee.....	133
Exercise of Concurrent Rights	133
Part V:	
Use For Public Non-Commercial Purpose and Compulsory Licensing	
Interpretation of Part V	14
Use for Public Non-Commercial Purpose	144
Scope and Nature of Use for Public Non-Commercial Purpose.....	155
Duty to Inform Right Holder of Use for Public Non-Commercial Purpose.....	155
Right Holder to be Entitled to Remuneration for Use for Public Non-Commercial Purpose	16
Compulsory Licence	16
Scope and Nature of Compulsory Licence	17
High Court May Terminate Compulsory Licence	17
Part VI:	
Miscellaneous	
Jurisdiction of High Court.....	177
Regulations	177
Savings.....	18

An Act to provide for the protection of layout-designs of integrated circuits in Malaysia and for related matters.



ENACTED by the Parliament of Malaysia as follows:

Part I Preliminary

Short Title and Commencement

1.—(1) This Act may be cited as the Layout-Designs of Integrated Circuits Act 2000.

(2) This Act shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Interpretation

2.—(1) In this Act, unless the context otherwise requires—

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed by rules of court and includes a counter-claim;

“commercially exploit” includes—

(a) to sell, let for hire or otherwise distribute by way of trade;

(b) to offer or expose for sale or hire or other distribution by way of trade; and

(c) to import for the purpose of sale, letting for hire or other distribution by way of trade;

“compulsory licence” means the authorization to perform in Malaysia, without the agreement of the right holder of the protected layout-design, any act referred to in section 9;

“creator”, in relation to a computer-aided design of a layout-design, means the person who made the arrangements for the creation of the layout-design;

“exclusive licence” means a licence in writing, signed by or on behalf of a right holder authorizing the licensee, to the exclusion of all other persons including the person granting the licence, to exercise a right that would otherwise be exercisable exclusively by the right holder;

“integrated circuit” means a product, whether in its final form or in an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and on, or in or on, a piece of material and which is intended to perform an electronic function;

“layout-design” means the three-dimensional disposition, however expressed, of the elements of an integrated circuit and some or all of the interconnections of the integrated circuit or such a three dimensional disposition prepared for an integrated circuit intended for manufacture;



“material form”, in relation to a layout-design, includes any form of storage (whether visible or not) from which the layout-design, or a substantial part of the layout-design, can be reproduced;

“protected layout-design” means a layout-design that is protected under section 5;

“qualifying country” means a country or territory that is a Member to the World Trade Organization Agreement and includes a country or territory designated under section 4;

“qualifying person” means a person who qualifies for the protection of this Act under section 6;

“reproduction” means the act or process of copying the layout-design, directly or indirectly, in a material form;

“right holder” means the person that is to be regarded as the beneficiary of the protection referred to in section 9;

“unauthorized”, in relation to—

(a) a copy of a protected layout-design, means it is made without the consent of the right holder of the protected layout-design; and

(b) an integrated circuit in which a protected layout-design is incorporated, means such incorporation is done without the consent of the right holder of the protected layout-design;

“World Trade Organization Agreement means the Marrakesh Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994.

(2) A layout-design shall be taken to have been commercially exploited if the layout-design, a copy of the layout-design or an integrated circuit in which the layout-design is incorporated (whether or not the integrated circuit is contained in another article) is commercially exploited in Malaysia or elsewhere.

(3) A reference to the doing of an act (other than creating) in relation to a layout-design includes a reference to the doing of that act in relation to a substantial part of the layout-design.

(4) A reference to a copy of a layout-design includes a reference to a copy of a substantial part of the layout-design.

(5) A reference to an integrated circuit made in accordance with a layout-design includes a reference to an integrated circuit in which the layout-design is substantially incorporated.

Application

3.—(1) This Act shall apply to a layout-design, whether created before or after the commencement of this Act, but an action under this Act shall not lie in respect of any act done



before that commencement in relation to the layout-design, a copy of the layout-design or an integrated circuit in which the layout-design is incorporated.

(2) Nothing in this Act shall be deemed to affect any action taken under any other written law relating to the protection of intellectual property rights that is pending on the commencement of this Act and such action shall be continued under the applicable written law until its final disposal.

(3) Nothing in this Act shall be construed as reviving any protection for a layout-design that had expired before the commencement of this Act.

(4) This Act shall not apply in relation to any idea, procedure, process, system, method of operation, concept, principle or discovery, regardless of the form in which it is described, explained, illustrated or embodied in a layout-design.

Designation of Qualifying Countries

4.—(1) The Minister may, by order published in the *Gazette*, designate a country or territory as a qualifying country if he considers that provision has or will be made under the law of that country or territory that will give a right holder adequate protection in that country or territory in respect of a protected layout-design in which he has rights.

(2) For the purpose of subsection (1), “right holder” means a right holder who is a qualifying person.

Part II **Protection of Layout-Designs**

Protected Layout-Design

5.—(1) A layout-design shall be eligible for protection under this Act if the layout-design is an original layout-design and the right holder of the layout-design was, at the time the layout-design was created, a qualifying person.

(2) For the purposes of subsection (1), a layout-design shall be original if —

(a) it is the result of its creator’s own intellectual effort and is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation; or

(b) in relation to a layout-design that consists of a combination of elements and interconnections that are commonplace, the combination, taken as a whole, is the result of its creator’s own intellectual effort and is not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of its creation.

(3) This Act protects all independently created layout-designs referred to in subsection (1) even if they are identical and, subject to section 8, regardless of when they were created.



(4) A layout-design shall be deemed not to have been created until it has been fixed in a material form or incorporated into an integrated circuit, whichever is earlier.

Persons that Qualify for Protection

6. The protection given to a layout-design under this Act shall be available to the following persons:

(a) a natural person who—

(i) is a national of, or is domiciled or ordinarily resident in, Malaysia or in a qualifying country; or

(ii) has a real and effective industrial or commercial establishment for the creation of layout-designs or for the production of integrated circuits in Malaysia or in a qualifying country;

(b) a legal entity that—

(i) is incorporated or formed in Malaysia or in a qualifying country; or

(ii) has a real and effective industrial or commercial establishment for the creation of layout-designs or for the production of integrated circuits in Malaysia or in a qualifying country;

(c) the Government; and

(d) the government of a qualifying country.

Right Holder of Layout-Design

7.—(1) Subject to any agreement to the contrary, the right holder of a layout-design shall be determined as follows:

(a) if the layout-design is not created in pursuance of a commission or in the course of employment, the creator of the layout-design is the right holder;

(b) if the layout-design is created in pursuance of a commission, the person who commissioned the layout-design is the right holder; and

(c) if the layout-design is created by an employee in the course of his employment, the employer is the right holder.

(2) A person can be a right holder even if he shares the right in the layout-design with a person who is not a qualifying person.

(3) If the right in a layout-design is held by more than one person—

(a) a reference in this Act to the right holder is a reference to all the right holders; and



(b) any requirement for the consent of a right holder requires the consent of all the right holders.

(4) If a layout-design is owned by more than one person and such persons include a person who is not a right holder within the meaning of this Act, the protection specified in this Act shall only apply in relation to that part of the layout-design that is created by the right holder and all references in this Act to a protected layout-design shall be construed accordingly.

Duration of Protection

8.—(1) A layout-design shall be protected under this Act for a period of ten years from the date the layout-design is first commercially exploited in Malaysia or elsewhere.

(2) Notwithstanding subsection (1), the protection granted to a layout-design under this Act shall lapse fifteen years after the date the layout-design is created.

Part III **Rights in Relation to Layout-Designs and Infringements**

Rights of Right Holder

9. The right holder of a protected layout-design shall have the following rights:

(a) the right to reproduce, and to authorize the reproduction of, all or a substantial part of his protected layout-design, whether by incorporation into an integrated circuit or otherwise; and

(b) the right to commercially exploit, and to authorize the commercial exploitation of, his protected layout-design, an integrated circuit in which the protected layout-design is incorporated or an article that contains an integrated circuit in which the protected layout-design is incorporated.

Infringement

10. Subject to the provisions of this Act, it shall be an infringement of a right holder's right in a protected layout-design for any person to do or cause any other person to do any of the acts referred to in section 9 without the consent of the right holder.

Non-Infringing Acts

11. It shall not be an infringement of a right holder's right in a protected layout-design—

(a) if the reproduction is of any part of a protected layout-design that does not comply with the requirement of originality referred to in subsection 5(1);



(b) if the reproduction is done for a private purpose and not for the purpose of commercial exploitation;

(c) if the reproduction is done for the sole purpose of evaluation, analysis, research or teaching;

(d) to use the results of any evaluation, analysis or research carried out pursuant to paragraph (c) to create a different layout-design that complies with the requirement of originality referred to in subsection 5(1);

(e) to do any of the acts referred to in section 9 in respect of the different layout-design referred to in paragraph (d);

(f) for a right holder of another protected layout-design—

(i) that is identical to the first-mentioned protected layout-design; and

(ii) that is independently created,

to do any of the acts referred to in section 9 in respect of that other layout-design; or

(g) to commercially exploit a copy of the protected layout-design, an integrated circuit in which the protected layout-design is incorporated or an article that contains an integrated circuit in which the protected layout-design is incorporated after the copy, integrated circuit or article has been commercially exploited, whether in Malaysia or elsewhere, by or with the consent of the right holder.

Innocent Infringement

12.—(1) The rights of a right holder in a protected layout-design are not infringed by a person who commercially exploits, or authorizes the commercial exploitation of—

(a) a copy of the protected layout-design;

(b) an unauthorized integrated circuit, being an integrated circuit in which the protected layout-design is incorporated; or

(c) an article that contains an unauthorized integrated circuit referred to in paragraph (b),

if, at the time when the person acquired the copy, integrated circuit or article, the person did not know, and could not reasonably be expected to have known, that the copy was unauthorized, that the integrated circuit was unauthorized or that the article contained an unauthorized integrated circuit, as the case may be.

(2) If a person referred to in subsection (1) becomes aware or could reasonably be expected to have become aware that the copy was unauthorized, that the integrated circuit was unauthorized or that the article contains an unauthorized integrated circuit, as the case may be, subsection (1) shall cease to apply to any subsequent commercial exploitation of the copy, integrated circuit or article unless the person pays to the right holder such remuneration—

- (a) as may be agreed upon between the person and the right holder;
- (b) as may be determined by a method agreed upon between the person and the right holder; or
- (c) in default of agreement, as may be determined by the High Court on the application of either the person or the right holder.

(3) If the remuneration referred to in subsection (2) is to be determined by the High Court as provided under paragraph (2)(c), the remuneration payable shall be an adequate remuneration in the circumstances of the case, taking into account such royalties as would be reasonably payable under a freely negotiated licence in respect of such a protected layout-design.

Actions for Infringement

13.—(1) Subject to this Act, a right holder may bring an action for an infringement of his rights in a protected layout-design.

(2) Subject to this Act, the relief that the High Court may grant in an action under subsection (1) includes an injunction and the High Court may impose such terms on the grant of the injunction as the High Court considers fit.

(3) In addition to the injunction granted under subsection (2), the High Court may, subject to this Act, make an order for damages or an account of profits or such other relief as the High Court considers fit.

(4) If, in an action for an infringement of rights in a protected layout-design, it is established that an infringement was committed but that at the time of the infringement the defendant was not aware or had no reasonable grounds for suspecting that the act constituting the infringement was an infringement, the plaintiff shall not be entitled to any damages against the defendant in respect of the infringement but shall be entitled to an account of profits in respect of the infringement, whether any other relief is granted or not.

(5) In any action in which damages may be awarded, the High Court may, having regard to all of the circumstances of the case including the flagrancy of the infringement and any benefit shown to have accrued to the defendant by reason of the infringement, award additional damages.

Limitation of Actions

14.—(1) An action to enforce the rights of a right holder in a protected layout-design under this Part shall not be brought for an infringement of those rights or any of those rights after the expiration of six years, from the date on which the infringement occurred.

(2) An action for an account of profits in respect of an infringement of the rights of a right holder in a protected layout-design under this Part shall not be brought after the expiration of six years from the date on which the infringement occurred.



Order for Delivery Up

15.—(1) A right holder of a protected layout-design may apply to the High Court for an order that an integrated circuit or article in the possession, custody or control of any person be delivered up to the right holder or to any other person that the High Court may specify if the right holder has reason to believe that—

(a) the integrated circuit in which a protected layout-design is incorporated is to be commercially exploited; or

(b) the person knows or has reason to believe that the article has been or is to be predominantly used to make integrated circuits in which a protected layout-design is incorporated.

(2) The High Court shall not make an order for delivery up unless it also makes, or it appears to the High Court that there are grounds for making, an order under section 16.

(3) A person to whom an integrated circuit or an article referred to in subsection (1) is delivered up shall, if an order under section 16 has not been made at the time the order under this section is made, retain the integrated circuit or article pending the making of the order, or a decision not to make the order, under section 16.

Order for Disposal

16.—(1) A right holder of a protected layout-design or a person ordered to deliver up an integrated circuit or article under section 15 may apply to the High Court for—

(a) an order for disposal; or

(b) a decision that no order for disposal be made.

(2) An order for disposal may order that the integrated circuit or article delivered up under section 15—

(a) be forfeited to the right holder; or

(b) be destroyed or disposed of as the High Court may specify.

(3) In deciding what order or decision to make under subsection (1), the High Court shall have regard to whether the other remedies available to the applicant would be adequate to compensate the applicant and protect the interests of the applicant.

(4) The High Court shall issue directions as to the service of a notice of the application under this section on persons having an interest in the integrated circuit or article delivered up under section 15.

(5) Any person having an interest in the integrated circuit or article delivered up under section 15 shall be entitled to—



(a) appear in the proceedings under this section, whether or not the person is served with a notice; and

(b) appeal against any order made, whether or not that person appears in the proceedings under this section.

(6) An order made under this section shall not take effect until the end of the period within which notice of an appeal may be given or, if before the end of that period notice of appeal is duly given, until the final determination or abandonment of the proceedings on the appeal.

(7) If there is more than one person interested in the integrated circuit or article delivered up under section 15, the High Court may direct that the integrated circuit or article be sold or dealt with in any other manner and the proceeds divided and shall make any other order as it considers fit.

(8) If the High Court decides that no order should be made under this section, the person in whose possession, custody or control the integrated circuit or article was before being delivered up under section 15 shall be entitled to its return and the High Court may, on the application of that person or any person aggrieved by an order to deliver up made under section 15, make an order awarding compensation for any damage sustained by virtue of the delivery up.

(9) Nothing in this section shall render an advocate and solicitor liable to pay compensation for any damage sustained in respect of an act done by him in his professional capacity on behalf of a client.

Presumption of Protection and Right Holder

17. In any action to enforce the rights of a right holder under this Part, it shall be presumed, unless a defendant puts the matter in issue, that in respect of the layout-design that is the subject-matter of the action—

(a) the layout-design is a protected layout-design; and

(b) the plaintiff is the right holder of the protected layout-design.

Affidavit Evidence

18.—(1) In any action to enforce the rights of a right holder under this Part, evidence may be submitted by affidavit asserting facts relevant to show that—

(a) the layout-design is a protected layout-design; and

(b) the plaintiff is a right holder of the protected layout-design.

(2) An affidavit under subsection (1) may be sworn by the right holder of the protected layout-design or by his authorized agent on his behalf.



(3) A person who acts as an authorized agent of a right holder for the purposes of subsection (1) shall submit such authorization in writing together with his affidavit in accordance with the prescribed rules of court.

(4) An affidavit under subsection (1) shall be *prima facie* proof of the facts contained in the affidavit.

(5) If the High Court considers, on the application in good faith of a party, that the deponent of an affidavit should be cross-examined with respect to the matters sworn in the affidavit, the affidavit may not be used in the action unless the deponent appears as a witness for such cross-examination or the High Court before which the proceedings are being conducted, in its discretion, permits the affidavit to be used without the deponent's so appearing.

(6) Without prejudice to the powers of the High Court to award costs, the High Court may award costs—

(a) against a plaintiff—

(i) who swears an affidavit under subsection (1) that is scandalous, irrelevant or otherwise oppressive; or

(ii) if it is subsequently found that—

(A) the layout-design is not a protected layout-design;

(B) the plaintiff is not the right holder of the protected layout-design; or

(C) there is no infringement of the plaintiff's rights as a right holder of a protected layout-design;

(b) against a defendant—

(i) who applies to the High Court for the appearance of a deponent of an affidavit for the purpose of cross-examination with respect to the matters sworn in the affidavit; or

(ii) who is subsequently found liable for the infringement of the plaintiff's rights as a right holder of a protected layout-design.

(7) In awarding costs under subsection (6), the High Court shall have regard to the actual costs incurred by the defendant or plaintiff, as the case may be, as a result of the affidavit sworn by the plaintiff or the application for the appearance of a deponent and the High Court may award costs under subsection (6) exceeding the limit of costs, if any, that the High Court may award.

Part IV Dealings With Layout-Design Rights

Assignments and Licences

19.—(1) A right in a protected layout-design shall be personal property and shall be transmissible by any means by which such property may be lawfully transmitted including by assignment, by licence, by testamentary instrument and by devolution by operation of law.

(2) An assignment or other transmission may be total or partial.

(3) An assignment or other transmission shall not be effective against a third party unless—

(a) the assignment or other transmission is in writing and signed by or on behalf of the assignor; and

(b) the third party has notice of the assignment or other transmission, whether actual or constructive.

(4) If the right in a protected layout-design is held by more than one person, an assignment or licence granted by one right holder shall have effect as if the assignment or licence is also granted by the other right holders, and subject to any agreement between the right holders, fees received by any of the right holders shall be divided equally between all the right holders.

(5) A licence granted in respect of a right in a protected layout-design by a right holder binds each successor in title to the interest in the right of the right holder to the same extent as the licence was binding on the right holder, except a purchaser in good faith for value without notice (actual or constructive) of the licence and a person who derives title from the purchaser.

Future Rights

20.—(1) If by an agreement made in relation to a future right in a protected layout-design that is signed by or on behalf of the person who would be the right holder on its coming into existence the person purports to assign the future right in the protected layout-design, wholly or partially, to another person (in this section referred to as the “assignee”), then the right, on coming into existence, shall vest in the assignee or his successor in title by virtue of this subsection.

(2) If at the time when a right in a protected layout-design comes into existence the person who would be entitled to the right is dead, the right shall devolve as if, immediately before the person’s death, the person had been the right holder.

(3) A licence granted in respect of a future right in a protected layout-design by the prospective right holder binds each of his successors in title to the prospective interest in the right to the same extent as the licence was binding on the right holder, except a purchaser in



good faith for value without notice (actual or constructive) of the licence and a person who derives title from the purchaser.

Exclusive Licensee

21.—(1) An exclusive licensee shall have the same rights of action and shall be entitled to the same remedies for the infringement of those rights against a successor in title to the right holder as he has or is entitled to against the right holder.

(2) An exclusive licensee shall have, except against the right holder, the same rights of action and shall be entitled to the same remedies in respect of matters occurring after the grant of the exclusive licence as if the licence had been an assignment.

(3) An exclusive licensee's rights and remedies shall be concurrent with the rights and remedies of the right holder.

(4) In an action brought under Part III by the exclusive licensee by virtue of this section, a defence under this Act that would have been available to a defendant in the action if the action had been brought by the right holder shall be available to the defendant as against the exclusive licensee.

Exercise of Concurrent Rights

22.—(1) If an action for the infringement of a right holder's right in a protected layout-design is brought by the right holder or by the exclusive licensee under Part III and the action relates, wholly or partly, to an infringement in respect of which the right holder and the exclusive licensee have concurrent rights of action under that Part, neither the right holder nor the exclusive licensee, as the case may be, shall be entitled, except with the leave of the High Court, to proceed with the action in so far as it relates to that infringement unless the other party is either joined as a plaintiff in the action or added as a defendant.

(2) Subsection (1) shall not apply to an application by a right holder or an exclusive licensee for interlocutory relief.

(3) Without prejudice to subsections 18(6) and 18(7), a right holder or an exclusive licensee who is added as a defendant in an action under subsection (1) shall not be liable for any costs in the action unless he enters an appearance and takes part in the proceedings.

(4) If an action for the infringement of the rights of a right holder in a protected layout-design is brought and the action relates, wholly or partly, to an infringement in respect of which a right holder and an exclusive licensee have concurrent rights of action—

(a) the High Court shall, in assessing damages, take into account the terms of the licence and any pecuniary remedy previously awarded or available to either of them in respect of the infringement;

(b) the High Court shall, if an account of profits is directed to be taken in respect of that infringement in that action, apportion the profits between them as the High Court considers



just and shall give such directions as the High Court considers appropriate for giving effect to the apportionment, subject to any agreement between them as to the application of those profits;

(c) the High Court shall not, if an account of profits has been directed in favour of one of the parties in respect of an infringement, award damages in respect of the same infringement to the other party; and

(d) the High Court shall not, if an award of damages has been made or an account of profits has been directed in favour of one of the parties in respect of an infringement, direct that an account of profits be made in favour of the other party in respect of the same infringement.

(5) Subsection (4) shall apply whether or not the right holder and the exclusive licensee are both parties to the action.

(6) A right holder shall, by post or otherwise, notify any exclusive licensee who has concurrent rights of action in respect of an infringement of a right in a protected layout-design before applying for an order for delivery up under section 15, and the High Court may, on the application of the exclusive licensee, make a delivery up order that it considers just having regard to the terms of the licence.

Part V

Use For Public Non-Commercial Purpose and Compulsory Licensing

Interpretation of Part V

23.—(1) In this Part, unless the context otherwise requires, “public non-commercial purpose”, means an act that is done—

- (a) for the defence or internal security of Malaysia; or
- (b) in the public interest.

(2) If an exclusive licence is in operation in relation to any rights in a protected layout-design, the provisions of this Part shall apply as if references to the right holder of the rights in the protected layout-design were references to the exclusive licensee.

Use for Public Non-Commercial Purpose

24.—(1) An act done by the Government, or by a person designated in writing by the Minister, in relation to a protected layout-design shall not be an infringement of the rights of the right holder in the protected layout-design if—

- (a) the act is done for a public non-commercial purpose; and
- (b) the act is authorized in writing by the Minister.



(2) An authorization referred to in subsection (1) may be given before or after the act in respect of which it is given has been done.

(3) A right holder aggrieved by a decision of the Minister under subsection (1) may appeal to the High Court.

(4) The decision of the High Court on an appeal under subsection (3) shall be final.

Scope and Nature of Use for Public Non-Commercial Purpose

25.—(1) The authorization to do an act in relation to a protected layout-design under section 24—

(a) shall be both non-exclusive and non-assignable;

(b) shall be limited to the public non-commercial purpose for which the authorization under section 24 is given;

(c) shall be subject to the terms of the authorization given under section 24;

(d) does not permit the sale of the protected layout-design, a copy of the protected layout-design or an integrated circuit in which the protected layout-design is incorporated (whether or not the integrated circuit is contained in another article) to the public; and

(e) shall be limited to the doing of the acts predominantly in Malaysia.

(2) An act done under section 24 in relation to a protected layout-design shall not be taken into account in calculating the duration of protection of the layout-design referred to in section 8.

Duty to Inform Right Holder of Use for Public Non-Commercial Purpose

26.—(1) If an act is done under section 24 in relation to a protected layout-design, the Government or the person designated in writing by the Minister, as the case may be, shall—

(a) if the act had been done in situations of national emergency or other circumstances of extreme urgency, as soon as reasonably practicable, inform the right holder that the act has been done; or

(b) in any other case, inform the right holder promptly that the act has been done.

(2) The Government or the person designated in writing by the Minister, as the case may be, shall give to the right holder such information about the doing of the act as the right holder may require.

(3) Nothing in subsection (1) or (2) shall require the Government or the person designated in writing by the Minister, as the case may be, to inform the right holder or to disclose information to the right holder if doing so would or might reasonably be expected to prejudice the defence or security of Malaysia.

*Right Holder to be Entitled to Remuneration for Use for
Public Non-Commercial Purpose*

27.—(1) If an act is done under section 24 in relation to a protected layout-design, the Government or the person designated in writing by the Minister, as the case may be, shall pay to the right holder of the protected layout-design such remuneration—

(a) as may be agreed upon between the Government or the person, as the case may be, and the right holder;

(b) as may be determined by a method agreed upon between the Government or the person, as the case may be, and the right holder; or

(c) in default of agreement, as may be determined by the High Court on the application of either the Government or the person, as the case may be, or the right holder.

(2) If the remuneration referred to in subsection (1) is to be determined by the High Court as provided under paragraph (1)(c), the remuneration payable shall be an adequate remuneration in the circumstances of the case, taking into account the economic value of the authorization under section 24.

Compulsory Licence

28.—(1) A person who claims that he requires a licence to do any act referred to in section 9 in relation to a protected layout-design may apply to the High Court for the grant of a compulsory licence on any of the following grounds:

(a) that there is no production of the protected layout-design, any integrated circuit incorporating the protected layout-design or any article containing such an integrated circuit in Malaysia without any legitimate reason;

(b) that there is no production of the protected layout-design, any integrated circuit incorporating the protected layout-design or any article containing such an integrated circuit for sale in Malaysia; or

(c) that there is production of the protected layout-design, integrated circuits incorporating the protected layout-design or articles containing such integrated circuits in Malaysia but the protected layout-design, integrated circuit incorporating the protected layout-design or the article containing such an integrated circuit produced is sold at unreasonably high prices or does not meet the public demand without any legitimate reason.

(2) An application to the High Court under subsection (1) shall only be made after the applicant for the compulsory licence has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions but such efforts have not been successful within a reasonable period of time.

(3) If the High Court is satisfied that any of the grounds referred to in subsection (1) is established, the High Court may make an order for the grant of a compulsory licence in accordance with the application on such terms as the High Court considers fit.



(4) The High Court shall specify in the order the remuneration to be paid to the right holder for the compulsory licence as the High Court considers reasonable.

(5) For the purposes of subsection (4), the remuneration payable shall be an adequate remuneration in the circumstances of the case, taking into account the economic value of the compulsory licence granted under subsection (3).

Scope and Nature of Compulsory Licence

29.—(1) A compulsory licence granted under section 28 shall be—

(a) both non-exclusive and non-assignable; and

(b) subject to the payment of the remuneration specified by the High Court in the order made under subsection 28(3) to the right holder.

(2) An act done under a compulsory licence granted under section 28 in relation to a protected layout-design shall not be taken into account in calculating the duration of protection of the layout-design referred to in section 8.

High Court May Terminate Compulsory Licence

30. A compulsory licence granted under section 28 may, on the application of any interested party, be terminated by the High Court if the High Court is satisfied that the ground on which the compulsory licence was granted has ceased to exist.

Part VI Miscellaneous

Jurisdiction of High Court

31. Notwithstanding any written law to the contrary, the High Court shall have jurisdiction with respect to all actions and applications under this Act and the power to issue any direction or make any order or award in relation to any such action or application.

Regulations

32. The Minister may make regulations for all or any of the following purposes:

(a) prescribing the form in which notices are to be given under this Act and requiring a person giving such notice, either at the time of giving the notice or at such other time as may be prescribed, or at both times, to furnish evidence and to comply with such other conditions, if any, as may be prescribed;

(b) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees and charges;



(c) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for their due administration.

Savings

33.—(1) Nothing in this Act shall affect any right or privilege of any person, including the Government, under any written law, except in so far as that written law is inconsistent with this Act.

(2) Nothing in this Act shall affect the rights of the Government or any person deriving title from the Government to sell, use or otherwise deal with articles forfeited under the laws relating to customs matters.