



LAWS OF MALAYSIA

Act A1449

**INDUSTRIAL DESIGNS (AMENDMENT)
ACT 2013**

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LAWS OF MALAYSIA

Act A1449

**INDUSTRIAL DESIGNS (AMENDMENT)
ACT 2013**

An Act to amend the Industrial Designs Act 1996.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Industrial Designs (Amendment) Act 2013.

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

Amendment of section 3

2. The Industrial Designs Act 1996 [*Act 552*], which is referred to as the “principal Act” in this Act, is amended in subsection 3(1) by inserting after the definition of “Minister” the following definition:

‘ “Official Journal” means the Intellectual Property Official Journal published by the Registrar under section 46A;’.

Amendment of section 12

3. Paragraph 12(2)(a) of the principal Act is amended by inserting after the word “Malaysia” the words “or elsewhere”.

Amendment of section 22

4. Subsection 22(2) of the principal Act is amended by substituting for the word “*Gazette*” the words “Official Journal”.

Amendment of section 25

5. Section 25 of the principal Act is amended—

(a) in subsection (2), by substituting for the word “two” the word “four”; and

(b) in subsection (4), by substituting for the word “*Gazette*” the words “Official Journal”.

Amendment of section 26

6. Section 26 of the principal Act is amended by substituting for the word “*Gazette*” wherever it appears the words “Official Journal”.

Amendment of heading of Part V

7. The principal Act is amended by substituting for the heading of Part V the following heading:

“REGISTERED INDUSTRIAL DESIGN AS
PERSONAL PROPERTY”.

Substitution of sections 29 and 30

8. The principal Act is amended by substituting for sections 29 and 30 the following sections:

“Registered industrial design is personal property

29. (1) A registered industrial design is personal property and is capable of assignment, transmission or being dealt

with by operation of law in the same way as other personal or moveable property, subject to the provisions of this section.

(2) Any transmission of a registered industrial design or an application for the registration of an industrial design is subject to any rights vested in any other person of which notice is entered in the Register or of which notice is given to the Registrar.

(3) An assignment of a registered industrial design or an application for the registration of an industrial design shall not be effective unless it is in writing and signed by or on behalf of the assignor and the assignee or, as the case may be, a personal representative thereof.

(4) Subsection (3) shall apply to assignment by way of security as in relation to any other assignment.

(5) A registered industrial design may be the subject of a security interest in the same way as other personal or moveable property.

(6) The owner of a registered industrial design may grant a licence to any person to use that registered industrial design.

(7) Any rights in respect of a registered industrial design may be enforced in like manner as in respect of any other personal or moveable property.

Recording of assignment, etc.

30. (1) Where a person becomes entitled to—

- (a) a registered industrial design by way of an assignment or transmission or by operation of law or by a security interest transaction; or
- (b) an application for the registration of an industrial design by way of an assignment or transmission,

he shall apply to the Registrar in the prescribed manner to record his title or interest in the Register.

(2) The Registrar shall record the particulars of the title or interest referred to in subsection (1) in the Register.

(3) No assignment or transmission or operation of law or security interest transaction in respect of a registered industrial design shall have effect against third parties unless recorded in the Register.”.

Amendment of section 35

9. Section 35 of the principal Act is amended by inserting after subsection (3) the following subsection:

“(4) The Court shall refuse to award costs to the owner of a registered industrial design who becomes entitled to the registered industrial design by way of assignment or transmission or by operation of law or by a security interest transaction in respect of an infringement unless—

- (a) an application to record his title or interest is made under section 30 before the end of the period of six months beginning from the date of the relevant transaction; or
- (b) the Court is satisfied that it was not practicable for the said application to be made before the end of that period and that an application was made as soon as practicable thereafter.”.

New section 46A

10. The principal Act is amended by inserting after section 46 the following section:

“Intellectual Property Official Journal

46A. (1) The Registrar shall publish an Intellectual Property Official Journal which shall contain—

- (a) all matters relating to industrial designs which is required to be published under this Act or any regulations made under this Act; and
- (b) such other information or matters relating to industrial designs as the Registrar considers generally useful or important.

(2) The Official Journal shall be made available to the public on payment of the prescribed fee.

(3) Publication in the Official Journal shall constitute sufficient notice of any matter required to be published under this Act or any regulations made under this Act.

(4) A copy of the Official Journal shall on its production be admitted in legal proceedings as evidence without further proof being given that the copy was so published.

(5) A copy of the Official Journal shall be *prima facie* evidence of the facts stated therein.

(6) Where the Official Journal is published in more than one form, the date of publication of the Official Journal shall be deemed to be the date the Official Journal is first published in any form.”.

Amendment of section 47

11. Subsection 47(2) of the principal Act is amended by inserting after paragraph (c) the following paragraphs:

“(ca) to regulate the procedure for the recording of the matters required under section 30;

(cb) to prescribe any matters or information required to be published in the Official Journal;”.

Saving and transitional

12. (1) Any legal proceedings which are pending before the date of coming into operation of this Act shall be continued as if this Act had not been enacted.

(2) Any matter required to be published in the *Gazette* before the date of coming into operation of this Act shall be published accordingly in the *Gazette* as if this Act had not been enacted.

(3) Any application for the registration of an industrial design pending on the date of coming into operation of this Act shall be dealt with under the principal Act as amended by this Act.

(4) Except for a registered industrial design saved under section 49 of the principal Act, an industrial design that has been registered under the principal Act before the date of coming into operation of this Act may, on an application under section 25 of the principal Act as amended by this Act, be extended for the available further consecutive terms of five years each.

(5) Any matter published in the *Gazette* under the principal Act shall be deemed to be published in the Official Journal and section 46A shall apply accordingly without prejudice to any other written laws.

