

# Regulations of 4 April 2003 No. 418 under the Designs Act (Designs Regulations)

The Regulations entered into force on 1 May 2003

Laid down by Royal Decree of 4 April 2003 pursuant to sections 13, 16, 17, 27, 37, 49 and 52 of the Act of 14 March 2003 No. 15 relating to design protection. Submitted by the Ministry of Justice and the Police.

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## **Chapter 1. Application for registration of a design**

### **Section 1. *Application, etc. to the Norwegian Patent Office***

An application for registration of a design shall be filed in writing with the Norwegian Patent Office using the special application form.

Requirements regarding the written form laid down in the Designs Act and in these Regulations may be met by means of electronic filing to the Norwegian Patent Office pursuant to section 1, fifth paragraph of the Regulations of 11 April 2003 No. 456 concerning fees, etc. Requirements concerning the filing of multiple copies of documents do not apply when documents are filed electronically.

### **Section 2. *Language***

The information in the application shall be in Norwegian. Enclosures to the application and other documents pertaining to the case shall be in Norwegian, Danish or Swedish.

If the application, enclosures or other documents are in a language other than stipulated by the first paragraph, a translation shall be delivered within the time limit fixed by the Norwegian Patent Office. The Norwegian Patent Office may require the translation to be certified by a government authorized translator or in some other way.

The Norwegian Patent Office may in individual cases approve a language other than those mentioned in the first paragraph.

Documents concerning design registrations, including case documents concerning administrative reviews or appeals, shall be in Norwegian, Danish or Swedish. The second and third paragraphs shall apply correspondingly for such documents.

### **Section 3. *The content of the application***

The application shall be signed by the applicant or his representative and shall contain:

1. the applicant's name or business name and address. If there are two or more applicants with different addresses, one of the addresses shall be specified for correspondence.
2. the designer's or designers' name(s) or group name or business name and address.
3. information as to whether priority is claimed pursuant to section 16 of the Designs Act.
4. indication of whether and for how long the applicant wishes the registration to be deferred pursuant to section 18, second paragraph of the Designs Act.

If the applicant is represented by a representative pursuant to section 49 of the Designs Act, this person's name or business name and address shall be stated in the application.

The application shall in addition contain information as referred to in sections 4 and 5.

### **Section 4. *Product specification and class***

The application shall precisely specify the product or products to which the design is applied so that the Norwegian Patent Office is able to decide which class and subclass the product belongs to pursuant to the Locarno Agreement of 8 October 1968 No. 1 establishing an international classification for industrial designs. The class and subclass pursuant to the Locarno Agreement shall be specified in the application, but this specification is not binding for the Norwegian Patent Office.

### **Section 5. Reproductions and model**

Reproductions clearly illustrating the design shall be enclosed with the application on filing. A model may also be submitted. By “reproductions” is meant photographs, drawings or other graphic representations that are suitable for electronic recording, storage and reproduction. Technical drawings are not accepted. The dimension of the reproductions must be at least 3 cm and not larger than A4 format. Each reproduction shall have a frame that must be at least 5 mm wide.

The reproductions shall only show the product or part of the product to which the design applies. If it is wished that the design be registered in colour, reproductions and models must be in colour.

If the application concerns more than one design, cf. section 15 of the Designs Act, separate reproductions and, if appropriate, models shall be submitted for each design. Reproductions and models shall be numbered consecutively so that it is clearly indicated which design they apply to. If two or more reproductions are submitted for each design, an additional number shall be added to the main number for each reproduction (1.1, 1.2, 1.3 etc).

If it finds necessary, the Norwegian Patent Office may require that the applicant submit a model. The model must be constructed of durable and non-hazardous materials and shall not be larger than 40 x 40 cm or weigh more than 4 kg.

The Norwegian Patent Office may issue further requirements concerning the quality of the reproductions.

### **Section 6. Requirements for correct filing**

The application is regarded as filed even if it fails to fulfil the requirements laid down in section 1 second paragraph and sections 2 to 4 if it is subsequently corrected or filed according to the requirements cf. section 19 of the Designs Act.

If neither reproductions nor a model accompany the application, it will only be regarded as filed if it contains a request for priority that fulfils the requirements laid down in section 16, first paragraph of the Designs Act, cf. sections 7 to 9 of these Regulations.

**Comment [tad1]:** Side: 1 endringen skyldes at forskriften § 1 tredje ledd er fjernet, og at alle mangler ved søknaden kan rettes etter 2-mnd.-fristen i designloven § 19. Forslag til god oversettelse Debbie?

## **Chapter 2. Priority**

### **Section 7. Application priority**

The applicant may claim priority pursuant to section 16, first paragraph of the Designs Act on the basis of the first application for design registration or utility model protection that shows the design if this application was filed in a State member to the Paris Convention of 20 March 1883 No. 1 for the Protection of Industrial Property or the Agreement of 15 April 1994 No. 18 Establishing the World Trade Organization

(WTO Agreement), or if it was filed in an intergovernmental organization for such States.

The priority claim must be included in the application on filing with the Norwegian Patent Office. Priority may not be claimed after this date. A design may only have one priority.

The claim shall state which design authority the application referred to was filed with, the date it was filed and the application number. If the claim does not contain this information, the Norwegian Patent Office shall give the applicant a time limit of one month to provide the information. If the time limit is not observed, the right to priority lapses.

The Norwegian Patent Office may require a person who claims priority to provide evidence of priority within three months after being so requested by the Norwegian Patent Office. Evidence of priority shall contain information as referred to in the third paragraph, the applicant's name and a copy of the application, and be certified by the design authority that the application was filed with.

#### **Section 8.** *Basis for application priority*

In order that an application shall be able to provide a basis for priority pursuant to section 16, first paragraph of the Designs Act, it must be the first application to specify the design.

A subsequent application specifying the design may nevertheless provide a basis for priority if:

1. it was filed at the same place as the first application and by the same applicant or this person's successor in title,
2. the first application had been withdrawn, abandoned or refused without the design being made available to the public when the later application was filed,
3. the first application did not serve as a basis for any claims concerning priority, and
4. the first application did not form the basis of any established right.

#### **Section 9.** *International agreements concerning priority*

The Norwegian Patent Office may assign priority pursuant to section 16, first paragraph of the Designs Act on the basis of an application filed in a country that is not a member of the Paris Convention or the WTO Agreement if this country assigns such priority on the basis of design applications filed in Norway.

Sections 7 and 8 of the Regulations shall apply correspondingly for priority pursuant to this section.

#### **Section 10.** *Exhibition priority*

The applicant may claim priority pursuant to section 16, second paragraph of the Designs Act if the design has been shown at an official or officially recognized exhibition as referred to in the Convention regarding International Exhibitions of 22 November 1928 No. 1. Section 7, second paragraph of the Regulations shall apply correspondingly.

The priority claim shall state the name of the exhibition where the design was first shown, the country where the exhibition was held and the date of the first presentation of the design at the exhibition. If the claim does not contain this information, the Norwegian Patent Office shall give the applicant a time limit of one month to provide it. The right to priority lapses if the time limit is not observed.

The Norwegian Patent Office may require a person who claims priority to provide evidence of priority within three months after the requirement concerning this is sent by the Norwegian Patent Office. A declaration by the responsible management of the exhibition stating that the exhibition is international and giving the date of the first presentation of the design at the exhibition will be accepted as evidence of priority.

**Section 11.** *Applications concerning more than one design (co-registration)*

If the application concerns more than one design, cf. section 15 of the Designs Act, the applicant may claim priority for one or more of the designs.

Priority may be claimed on the basis of one or more previous applications. This applies even if the invoked applications were filed in different countries.

**Section 12.** *Withdrawal of claims for priority*

Claims for priority may be withdrawn by means of a written notification to the Norwegian Patent Office until the application for registration is decided.

### **Chapter 3. Processing of applications**

**Section 13.** *Standard examination*

In the notification of registration, the Norwegian Patent Office shall inform the holder of the matters examined by the Norwegian Patent Office pursuant to section 17, first paragraph of the Designs Act.

**Section 14.** *Supplementary examination*

If so requested by the applicant, the Norwegian Patent Office shall conduct a supplementary examination of the design application, cf. section 17, second paragraph of the Designs Act.

The request for a supplementary examination must be included in the application on filing with the Norwegian Patent Office. If the application concerns more than one design, the examination shall apply to all of the designs covered by the application unless otherwise stated in the application.

In the supplementary examination, the Norwegian Patent Office shall determine factors that may preclude granting of the design right pursuant to sections 3 to 5, section 7, second paragraph, and section 8 of the Designs Act. In so doing, the Norwegian Patent Office shall survey all designs that are or have been registered in Norway and all applications for design rights that have been filed with the Norwegian Patent Office for registration in Norway. The Norwegian Patent Office shall also survey trademarks that may preclude the granting of design rights pursuant to section 7, third paragraph (1) of the Designs Act.

If the Norwegian Patent Office learns of other matters that may have significance for protection of the design, these shall be included in the examination.

The Norwegian Patent Office shall inform the applicant of the result of the examination without addressing the question of whether the requirements for design right are fulfilled.

**Section 15.** *Protest during processing of applications*

The Norwegian Patent Office shall take into consideration information received in connection with a protest during processing of an application to the extent that the information applies to matters that shall be assessed by the Norwegian Patent Office when considering the application for registration, cf. sections 17 and 29 of the Designs Act. The applicant shall be given a time limit of two months to respond to information of significance for the right to registration.

Protests concerning other matters shall have no significance for processing of applications. If a protest is not upheld, the Norwegian Patent Office shall inform the protester of his right to request an administrative review pursuant to section 25 ff. of the Designs Act.

**Section 16.** *Partial refusal and registration in an amended form*

If the application includes more than one design and one or more of the designs fails to fulfil the requirements for registration pursuant to section 17, first paragraph of the Designs Act, these designs must be dealt with in separate applications pursuant to section 17 of the Regulations or be withdrawn from the application. If the applicant does not wish to comply with this, the application shall be refused in its entirety.

If the Norwegian Patent Office finds that a design may be registered in its amended form pursuant to section 14 of the Designs Act, the Norwegian Patent Office shall notify the applicant of this giving the applicant a time limit of two months to submit reproductions of the design in an amended form.

## **Chapter 4. Division and merging applications or registrations**

**Section 17.** *Division of applications*

If an application includes more than one design, the applicant may request in writing that the Norwegian Patent Office divide the application into two or more applications.

The request for division shall state the number of the original application and which of the designs each of the new applications shall apply to.

Divided applications shall receive the same application date as the original application, and each individual design shall retain its original priority.

Documents that were enclosed with the original application until the division shall be regarded as documents belonging to the new application.

**Section 18.** *Division of registrations*

If a registration includes more than one design, the holder may request in writing that the Norwegian Patent Office divide the registration into two or more registrations.

The request for division shall state the original registration number and which of the designs each of the new registrations shall apply to.

Divided registrations shall receive the same application date and registration date as the original registration, and each individual design shall retain its original priority. The provision laid down in section 17, fourth paragraph shall apply correspondingly.

**Section 19.** *Merging of applications or registrations*

The applicant or the holder may in writing request that the Norwegian Patent Office merge previously divided applications filed with the Norwegian Patent Office on the same date or merge previously divided registrations made on the basis of such applications if the designs belong to the same class pursuant to the Locarno Agreement.

The request shall state the number of the application or registration, the number of the application or registration that it is requested it be merged with and, if appropriate, which design the other application or registration shall continue to apply to.

## **Chapter 5. Registration and publication**

**Section 20.** *The content of the Design Register*

The Norwegian Patent Office shall keep a register of design applications and design registrations. The Design Register shall contain:

1. the applicant's name or business name and address and, if appropriate, the name or business name and address of the representative,
2. the designer's or designers' name(s) or group name or business name and address,
3. reproductions showing the design, indicating whether the design is in colour,
4. indication of whether a model has been submitted,
5. a specification of the product or products that the design applies to and the class(es) in the Locarno Agreement that apply to the product,
6. application date, application number and date the application is made available to the public,
7. registration date, registration number and publication date,
8. priority date, indication of where the priority application was filed and the application number of the priority application if priority is claimed, and
9. the expiry date of the registration period.

The Design Register shall also contain information concerning whether:

1. the applicant has requested deferral of registration,
2. whether fees have been paid and
3. input and output documents and decisions concerning the case.

The Design Register shall in addition contain information provided pursuant to the Designs Act and these Regulations.



If the Norwegian Patent Office is notified of changes concerning matters as referred to in the first and second paragraphs, such changes shall be recorded in the Design Register.

**Section 21.** *Access to the Design Register*

Information in the Design Register is available to the public from the application date, with such exceptions as follow from the second paragraph.

Reproductions and other documents enclosed with the application that show the design or may otherwise reveal the appearance of the design are excepted from public disclosure until the design is made publicly available pursuant to section 21, second and third paragraphs of the Designs Act.

**Section 22.** *Announcement in the Design Gazette*

The registration of a design shall be published in the Design Gazette. The publication shall contain information as referred to in section 20, first paragraph.

The Norwegian Patent Office shall also publish other information to the extent this is stipulated in the Designs Act and in these Regulations.

**Section 23.** *Recording of transfers in the register*

A request for recording in the Design Register of the transfer of a design right pursuant to section 54, second paragraph of the Designs Act or of a licence pursuant to the section 53, third paragraph of the Designs Act shall be made in writing to the Norwegian Patent Office. The request shall be signed by the person who has been registered as the design right holder or licensee or by this person's representative. The registration number and the names or business names and addresses of both parties shall be stated in the request.

If the request is not signed by the person who has been registered as holder or by this person's representative, the right to the design or licence shall be documented.

**Section 24.** *Recording of change of name or representative*

A request for recording in the Design Register of change of the applicant's, the holder's, the representative's or the licensee's name or business name and address shall be made in writing to the Norwegian Patent Office. The application number or registration number shall be stated in the request.

A notification of change of representative shall be made in writing to the Norwegian Patent Office. The request shall state the number of the application or registration and the name or company name and address of the new representative. The notification needs only to be signed by the applicant or the holder if it shall be possible for the representative to carry out such actions as referred to in section 31, second paragraph.

**Section 25.** *Expunction of registration*

A request from the holder for expunction of a registration pursuant to section 34, first paragraph of the Designs Act shall be made in writing to the Norwegian Patent Office and be signed by the holder or his representative. The request shall state the registration number and, if appropriate, indicate which design is to be expunged from the registration.

## **Chapter 6. Administrative review and appeal**

### **Section 26. *Administrative review***

Requests for administrative review shall contain information as referred to in section 27, first paragraph of the Designs Act as well as the name or business name and address of any representative.

Requests for administrative review and any subsequent communications shall be filed in duplicate.

If the request for administrative review is withdrawn, consideration of the case may only be continued pursuant to section 27, fifth paragraph of the Designs Act if the holder is notified of this within one month after the request is withdrawn.

### **Section 27. *Requests for review from the Ministry***

The Ministry of Foreign Affairs may request administrative review pursuant to section 26, second paragraph (3) of the Designs Act, apart from requests for administrative review associated with national control and guarantee marks, which may be made by the Ministry of Justice.

### **Section 28. *Partial invalidity***

If the registration includes more than one design and one or more of the designs fail to fulfil the requirements for registration pursuant to section 17, first paragraph of the Designs Act, these designs must be divided between separate registrations pursuant to section 18 of the Regulations or be withdrawn from the registration. If the applicant does not wish to comply with this, the application shall be cancelled in its entirety.

Section 16, second paragraph of the Regulations shall apply correspondingly when a registered design can be retained in an amended form pursuant to section 28 of the Designs Act.

### **Section 29. *Filing of appeals***

Appeals to the Board of Appeals pursuant to section 37 of the Designs Act shall be filed in duplicate. If the appeal applies to a decision in a case concerning administrative review, an additional copy of the appeal shall be provided for each of the other parties to the case.

## **Chapter 7. Miscellaneous provisions**

### **Section 30. *Fees***

Stipulated fees shall be paid pursuant to chapter 4 of the Regulations of 11 April 2003 No. 456 relating to fees, etc. to the Norwegian Patent Office.

**Section 31.** *Use of a representative*

The provision laid down in section 49 of the Designs Act concerning representatives does not apply to applicants or design right holders who are resident in Denmark or Sweden.

If a representative wholly or partly shall withdraw an application or request that a registration be wholly or partly removed, a written power of attorney shall be provided. This power of attorney shall be signed by the applicant or the holder and shall state the application number or registration number as well as indicating the authority of the representative in relation to the Norwegian Patent Office.

**Section 32.** *Renewal of a registration*

If requests for renewal of a registration are not filed with the Norwegian Patent Office on expiry of the registration period, the Norwegian Patent Office shall notify the holder of the time limit for filing a request for renewal of the registration pursuant to section 24, first paragraph of the Designs Act. Failure by the Patent Office to provide such notification does not entitle the holder to claim renewal after expiry of the above-mentioned time limit.

If an application for renewal fails to fulfil the requirements laid down in the Designs Act, the Norwegian Patent Office shall give the holder a reasonable time limit for correction of the irregularities.

When a registration is renewed, the Norwegian Patent Office shall notify the holder of this.

**Section 33.** *Time limits for replies*

Time limits for replies shall begin to run from the date that notification is sent from the Norwegian Patent Office.

If the notification from the Norwegian Patent Office does not state a specific date for expiry of the time limit, the time limit shall expire on the same day of the month as the date of commencement of the time limit. If there is no corresponding date in the month concerned, the time limit shall expire on the last day of the month. If the time limit for reply expires on a Saturday, Sunday or public holiday, the time limit shall be extended to the next working day.

The second paragraph shall apply correspondingly for calculation of other time limits pursuant to the Designs Act and regulations pursuant to the Act.

Unless otherwise decided by the Designs Act or these Regulations or by the Norwegian Patent Office in an individual case, the time limit for reply shall be two months.

A document is regarded as filed with the Norwegian Patent Office when the document is received by the Norwegian Patent Office, see section 1 of the regulations of 11 April 2003 No. 456 relating to fees, etc. to the Norwegian Patent Office.

**Section 34.** *Extension of time limits for correction*

If irregularities in the application or other documents are not corrected within the prescribed time limit, the Norwegian Patent Office shall provide a new corresponding

time limit if so requested. Requests for extension of a time limit must be filed in writing with the Norwegian Patent Office at the latest on the last day of the time limit.

Unless special grounds indicate further extension, a time limit may only be extended once.

The time limits pursuant to section 1, third paragraph, section 7, third paragraph, and section 10, second paragraph of the Regulations may not be extended.

#### **Section 35.** *Retention of models*

If a model has been submitted to the Norwegian Patent Office in connection with a design application, the Norwegian Patent Office shall retain the model for five years after expiry of the registration. If the holder has not requested the return of the model before this date, the Norwegian Patent Office may destroy it.

### **Chapter 8. Final provisions**

#### **Section 36.** *Repeal of other regulations*

The following regulations are repealed:

1. Regulations of 15 September 1970 No. 9122 relating to design classification
2. Regulations of 20 December 1996 No. 1163 to the Designs Act of 29 May 1970
3. Regulations of 23 December 1996 No. 1264 concerning further provisions to the Designs Act of 29 May 1970.

#### **Section 37.** *Commencement and transitional provisions*

These Regulations shall enter into force on 1 May 2003.

The previous regulations shall apply to designs which were registered or for which registration was applied prior to the entry into force of these Regulations unless otherwise provided in the third and fourth paragraphs.

The provisions of sections 26 to 28 shall also apply to registrations made on the basis of the Designs Act of 13 March 2003 even if the application was filed before these Regulations entered into force.

Chapter 7 of these Regulations, apart from section 32, first paragraph, shall also apply to designs which were registered or for which registration was applied prior to the entry into force of these Regulations.