

# DESIGN PROTECTION REGULATION

(Act 1970:486 of June 29, 1970, as last amended by Act 1991:1202, of July 25, 1991).

Application for Registration and Diary

**Section 1.** Applications for registration of a design shall be filed with the Patent and Registration Office (the Registration Authority).

**Section 2.** An application for the registration of a design shall consist of a document in writing (application document) with annexes. The application document shall be signed by the applicant or his representative and contain

1. the name, domicile and address of the applicant and, where the applicant is represented by a representative, also the name, domicile and address of the representative,
2. the name and the address of the creator of the design,
3. an indication of the goods to which the design application relates, of the class to which the design, in the opinion of the applicant, belongs and whether the design is the prototype for the shape of a product or for an ornament,
4. when the registration is applied for jointly by several persons, an indication concerning whether one of them is authorized to receive communications from the Registration Authority on behalf of all of them,
5. an indication whether priority is claimed according to [Section 8](#),
6. an indication whether the applicant has requested that a document showing the design be kept secret,
8. an indication of which annexes accompany the application.

The following documents shall be attached to the application as annexes

- a) a picture or pictures showing the design,
  - b) where the applicant is represented by a representative, a power of attorney for the representative,
  - c) a declaration as mentioned in [Article 10, third paragraph, of the Design Protection Act \(1970:485\)](#),
  - d) where the design has been created by a person other than the applicant, a document showing the applicant's right in the design.
- Together with the application the application fees and the additional fees prescribed in [Section 29](#) shall be paid.

**Section 3.** Any application document together with its annexes shall be in the Swedish, Danish or Norwegian language. The Registration Authority may, however, in particular cases decide that the indication of the goods shall be in Swedish.

Where a document presented is in a language other than what is prescribed in the first paragraph, a translation shall be presented, if the Registration Authority so requests.

**Section 4.** Pictures showing the design shall be presented in three copies in a format not exceeding A 4 (21 times 29,7 centimetres). Where the format is smaller than A 4, a copy shall be put on a white paper in format A 4. Any picture shall be appropriate for reproduction in black and white in another format.

If the applicant presents a model of the design, that model shall be of durable material and must not exceed 40 centimetres in any direction or be more heavy than 4 kilograms. Objects which are liable to go bad or are dangerous may not be presented as models.

Where an application relates to several designs, a separate picture shall be presented for each design. In the case of such applications, each picture and, where applicable, each model shall be clearly marked with subsequent numbers.

**Section 5.** The Registration Authority shall indicate on the application for registration the diary number of the application and the date when the application was received by the Authority.

**Section 6.** The Registration Authority keeps a diary of applications received for the registration of designs. The diary is open to the public.

In the diary are recorded, in respect of each application,

1. the filing date and the number in the diary,
2. the date on which a picture or a model showing the design was presented, where this date does not correspond to the filing date,
3. the goods to which the application for registration refers, the class to which the goods, in the opinion of the applicant, belongs, and whether the design is the prototype for the shape of a product or for an ornament,
4. the name, domicile and address of the applicant,
5. where the applicant is represented by a representative, the name, domicile and address of the representative,
6. the name and address of the creator of the design,
7. where priority is claimed, an indication of where the previous application was filed, and the date and the number of that application,
8. an indication of whether the applicant has requested that a document showing the design be kept secret,
9. indications of any model which has been presented in the case, of documents filed and of fees paid,
10. an indication of decisions in the case,
11. any postponement which, under [Section 14](#), has been decided because of a collision with a previous application; the corresponding indication shall be inserted in the diary page for the previous application.

**Section 7.** Where a communication has been made to the effect that a registered design has been transferred to another person, he may be recorded in the diary as the applicant only where the transfer of the right has been proved.

## Priority

**Section 8.** If a design has been included in an application for the registration of a design or for protection as a utility model in a foreign State party to the Paris Convention of March 20, 1883, for the Protection of Industrial Property and if an application for the

registration of the design is made in this country within six months from the date of the application in the foreign State, the application made here shall, for the purposes of the application of [Articles 2 and 6 of the Design Protection Act \(1970:485\)](#) be considered as having been made at the same time as the application in the foreign State. The same shall apply where the design has been included in such an application outside this country which the Registration Authority, for special reasons, considers to be equal to an application in a State party to the Convention.

In order to enjoy priority under the first paragraph, the applicant shall claim priority in the application filed in this country together with an indication of where and when the application referred to was made and, as soon as possible, give an indication of the number of the application referred to.

**Section 9.** The Registration Authority may request the applicant to prove, within a certain time, the priority claimed by filing, a) a certificate from the Authority having received the application from which priority is claimed about the date of filing and the name of the applicant, and, b) a copy, certified by that Authority, of the application document and the picture attached thereto showing the design. The time allowed shall be no less than three months from the filing of the application in this country.

If a request under the first paragraph is not complied with, priority shall not be enjoyed.

**Section 10.** A priority right may be granted only on the basis of the first application in which the design has been included.

If the person who filed the first application or his successor in title filed, with the same Authority, a later application concerning the same design, the later application may be invoked as a basis for priority provided that, at the time of its filing, a) the earlier application has been revoked, removed from the files or rejected without any document showing the design having been made public, and b) that no remaining right exists or the application had been used for claiming a priority. If a priority right has been obtained on the basis of the later application, the earlier application may not be used as a basis for priority.

**Section 11.** In the case of an application for a joint registration under [Article 11 of the Design Protection Act \(1970:485\)](#) priority can be obtained for one or more of the designs.

A priority may, in the case of such an application, be claimed from several applications, even if they have been filed in different countries.

## **Division**

**Section 12.** If an application comprises several designs, the applicant may divide the application into several applications which shall be considered as having been made at the same time as the initial application.

## **Examination of the Application for Registration**

**Section 13.** In the course of the examination of the eligibility for registration the Registration Authority shall take into consideration everything that has come to the knowledge of the Authority.

The novelty examination of the Authority shall comprise those applications for the registration of designs which have been filed before the date of the application and which are pending with the Authority, and also designs which have been entered into, or removed from, the Design Register.

The eligibility for registration under [Article 4 of the Design Protection Act \(1970:485\)](#) shall be examined by the Registration Authority to the extent called for by the contents of the design and to the extent that it can be carried out without a substantial delay in the examination of the application.

**Section 14.** In the case of a collision with a previous application for registration of a design, the authority may postpone the examination of the later application until a decision has been taken concerning the previous application or the design contained in the previous application has been made publicly available in connection with the examination of the application, or until such time as the collision does no longer exist because of an amendment to the application. The same applies in case the Authority becomes aware of a collision with a previous application for a patent or for the registration of a trademark.

## **Publication of Notices Concerning the Application for Registration, Etc.**

**Section 15.** The publication of a notice concerning an application for registration under [Article 18, first paragraph, of the Design Protection Act \(1970:485\)](#) shall contain

1. the diary number of the application,
2. the name, domicile and address of the applicant and, if the applicant is represented by a representative, the name, domicile and address of the representative,
3. the name and address of the creator of the design,
4. an indication of the goods to which the application for registration of the design applies, of the class to which the design has been assigned and of whether the design is the prototype of a shape of a product or of an ornament,
5. an indication of the day when the application was filed or, under [Article 13, first paragraph, of the Design Protection Act](#), shall be considered to have been filed,
6. an indication of priority claimed and of where the earlier application invoked was filed, of the date of that application and of its number,

7. a picture or pictures showing the design,
8. an indication of whether a model has been presented,
9. an indication of whether a picture is in color.

**Section 16.** Any opposition against an application for registration as well as later submissions from the applicant or the opposant shall, together with any annexes, be presented to the Registration Authority in three copies.

When an opposition is filed, it shall indicate the facts on which it is based.

**Section 17.** If the opponent has a representative, a power of attorney for the representative shall be filed.

**Section 18.** The applicant shall receive copies of all documents filed by an opponent.

If the applicant presents observations concerning the opposition, the Registration Authority shall decide whether further exchange of communications shall take place in the case.

**Section 19.** If a communication of relevance for the examination is presented to the Registration Authority in the course of the examination of the application but outside the time-limit for the filing of oppositions, the applicant shall be informed about this fact. Where someone has presented such a communication before the publication of a notice concerning the application, the Registration Authority shall, where the matter does not concern a better title to the design, inform him about the possibility to file an opposition in case a notice concerning the application is published.

## **The Design Register, Etc.**

**Section 20.** The Design Register is kept by the Registration Authority.

**Section 21.** When a design is entered into the Design Register it shall be given a registration number. In the case of a joint registration, all the designs are given a joint registration number. The design holder shall be presented a certificate of the registration.

The Register shall contain

1. the diary number of the application and the registration number for the design,
2. the name, domicile and address of the owner of the design and, where the owner of the design is represented by a representative, the name and, domicile and address of the representative,
3. the name and address of the creator of the design,
4. an indication of the goods to which the registration of the design refers, of the class to which it has been assigned and of whether the design is a prototype for the shape of a goods or for an ornament,
5. an indication of the date, a) when the application was filed or, according to [Article 13, first paragraph, of the Design Protection Act \(1970:485\)](#) shall be considered to have been filed, b) when a document showing the design was made publicly available, c) when a notice of the application was published, and, d) when the design was entered into the register,
6. an indication of any priority claimed, together with an indication of where the application from which priority is claimed was made, of the date of that application and of its number,
7. a picture or pictures showing the design,
8. an indication of whether a model has been presented.

**Section 22.** Where one or more applicants have, on the same day, applied for registration of two or more designs which do not substantially differ, this fact shall, at the time of the registration of the designs, be recorded in the Design Register and on the registration certificate. In such a case it shall, for each design, be recorded the application or registration numbers for the design or the designs covered by the other application or applications.

**Section 23.** A notice published under [Article 23, first paragraph, of the Design Protection Act \(1970:485\)](#) shall indicate the number and the date of the registration of the design as well as the diary number of the application and the date on which a notice of the application was published.

**Section 24.** Where someone has given notice to the Registration Authority that he intends to file an action for the invalidation of the registration of a design, for the transfer of a registration or for the granting of a compulsory license, this fact shall be recorded in the Register.

When a copy of a judgement or of a final decision has been transmitted to the Registration Authority under [Article 44 of the Design Protection Act](#), this fact shall be recorded in the Design Register. When the judgement or the decision has taken legal force, such an entry shall be made in the Register that the essential contents of the case can be obtained from the Register.

**Section 25.** An entry according to [Article 27 of the Design Protection Act](#) shall indicate the name, domicile and address of the right-owner and the date for the transfer or the license. As regards a license, an entry shall, upon request, also be made concerning whether the right of the design holder to grant further licenses has been limited.

If it can not be immediately decided whether an entry shall be made, it shall nevertheless be noted in the Register that an entry has been requested.

Where the right in a design has been seized, sequestered or kept for securing payment of a debt, this fact shall, following a request to this effect, be recorded in the Register.

A notice of the change of a representative shall be recorded in the Register.

**Section 26.** Where the design holder indicates, under [Article 33, first paragraph, of the Design Protection Act](#) that he renounces from the design right and a license is recorded in the Register, the licensee shall be informed and sufficient time be given to him to take

care of his interests in the case, before the design is removed from the Register.

**Section 27.** The renewal of the registration of a design shall be recorded in the Design Register.

The publication of a notice concerning the renewal shall contain an indication of the registration number of the design, the starting date of the renewal period and the name and address of the design holder.

**Section 28.** When a registration has ceased to be valid, the Authority shall remove the design from the Register.

The Authority shall publish a notice when a design has been removed from the Register or when a registration has, through a judgement having legal force, been transferred to another person.

## Fees

**Section 29.** The following fees shall be paid in respect of applications for registration of designs.

Application fee according to [Article 48 of the Design Protection Act \(1970:485\)](#) 1200

Additional fee according to the same Article

- a) class fee, for each class to which the design is assigned, beyond the first one 200
- b) joint registration fee, for each design, beyond the first one 800
- c) storage fee, for each model 100
- d) publication fee, for each picture, beyond the first one 100

Reinstatement fee according to [Article 14, third paragraph, of the Design Protection Act](#) 300.

**Section 30.** The following fees shall be paid in respect of matters relating to registered designs.

Renewal fee according to [Article 48 of the Design Protection Act \(1970:485\)](#)

- a) the first time 1 400
- b) the second time 1 900

Additional fee according to the same Article in respect of an application for renewal

- a) class fee, for each class to which the design is assigned, beyond the first one 200
- b) joint registration fee, for each design beyond first one 800
- c) storage fee, for each model 100
- d) where the renewal fee is paid after the expiry of a current registration period 200

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- of any owner 100
- of a license 100

**Section 31.** A fee which has not been paid in time or where an insufficient amount has been paid so that the payment can not be accepted, shall be paid back.

## Other Provisions

**Section 32.** Designs are divided into classes according to a list established by the Registration Authority.

**Section 33.** Publication of notices in design registration matters shall be effected in a Gazette issued by the Registration Authority.

**Section 34.** Models which have been filed with the Registration Authority according to [Article 10 of the Design Protection Act \(1970:485\)](#) shall be stored by the Authority until five years have elapsed from the expiry of the registration. If the design holder has not, at the expiry of the five-year period requested the model to be returned, the Registration Authority may destroy it.

**Section 35.** The provisions in [Articles 12](#) and [45 of the Design Protection Act](#) do not apply in respect of applicants or design holders having their domicile in Denmark or Norway.

**Section 36.** An action for the invalidation of a registration based on [Article 4. 1.](#) or [2. a\) of the Design Protection Act \(1970:485\)](#) may be brought by a public prosecutor, unless the Government for special cases appoints another authority.

**Section 37.** When a judgement or a final decision in a case referred to in [Articles 16, 30 to 32, 35 to 38](#) or [41 of the Design Protection Act \(1970:485\)](#) has taken legal force, the Court shall as soon as possible notify the Registration Authority.

**Section 38.** The Registration Authority prescribes further provisions concerning applications for registration and their examination, concerning matters relating to registered designs, concerning the Design Register and concerning the publication of notices in matters relating to the registration of designs.

This Regulation enters into force on October 1, 1970.