

REGISTERED DESIGNS ACT

(CHAPTER 266)

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An Act to provide for the registration of designs in Singapore.

[13th November 2000]

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REGISTERED DESIGNS ACT

(CHAPTER 266)

An Act to provide for the registration of designs in Singapore.

[13th November 2000]

Notes:—Unless otherwise stated, the abbreviations used in the references to other Acts and statutory provisions are references to the following Acts and statutory provisions. The references are provided for convenience and are not part of the Act:

Aust. Designs 1906	:	Australia Designs Act 1906
Copyright 1999 Ed.	:	Singapore Copyright Act (Chapter 63, 1999 Revised Edition)
HK Designs	:	Hong Kong Registered Designs Ordinance (Chapter 522)
Patents 1995 Ed.	:	Singapore Patents Act (Chapter 221, 1995 Revised Edition)
Patents 2002 Ed.	:	Singapore Patents Act (Chapter 221, 2002 Revised Edition)
Trade Marks 1999 Ed.	:	Singapore Trade Marks Act (Chapter 332, 1999 Revised Edition)
UK Designs 1949	:	UK Registered Designs Act 1949 (c. 88)

PART I

PRELIMINARY

Short title

1.—This Act may be cited as the Registered Designs Act.

Interpretation

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

"application for registration" , in relation to a design, means an application under section 11 for the registration of the design;

"article" means any article of manufacture and includes —

(a) any part of an article if that part is made and sold separately; and

(b) any set of articles;

"artistic work" has the meaning assigned to it in section 7 (1) of the Copyright Act (Cap. 63);

"Convention country" means a country or territory, other than Singapore, which is a party to the Paris Convention or a member of the World Trade Organisation;

"corresponding design" , in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work;

"Court" means the High Court;

"design" means features of shape, configuration, pattern or ornament applied to an article by any industrial process, but does not include —

(a) a method or principle of construction; or

(b) features of shape or configuration of an article which —

(i) are dictated solely by the function which the article has to perform;

(ii) are dependent upon the appearance of another article of which the article is intended by the designer to form an integral part; or

(iii) enable the article to be connected to, or placed in, around or against, another article so that either article may perform its function;

"designer" , in relation to a design, means the person who creates it or, if there are 2 or more such persons, each of those persons;

“exclusive licence” means a licence from the registered owner of a registered design authorising the licensee, or the licensee and persons authorised by him, to the exclusion of all other persons (including the registered owner), to use the design in the manner authorised by the licence and “exclusive licensee” shall be construed accordingly;

"Office" means the Intellectual Property Office of Singapore incorporated under the Intellectual Property Office of Singapore Act (Cap. 140);

"owner" has the meaning assigned to it in section 4;

"Paris Convention" means the Convention for the Protection of Industrial Property signed at Paris on 20th March 1883, as revised or amended from time to time;

"Register" means the Register of Designs maintained under section 53;

"registered design" means a design registered under this Act;

"registered owner" , in relation to a registered design, means the person whose name is for the time being entered in the Register as the owner of the design or, if there are 2 or more such persons, each of those persons;

"Registrar" means the Registrar of Designs referred to in section 49 and includes any Deputy Registrar of Designs referred to in that section;

"Registry" means the Registry of Designs established under section 51;

"set of articles" means 2 or more articles of the same general character that are ordinarily on sale together or intended to be used together, and to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity of the design, is applied.

[3/2001]

(2) Unless the context otherwise requires —

(a) any reference in this Act to the filing of a document shall be construed as a reference to the filing of the document with the Registrar;

(b) any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set; and

(c) any reference to the infringement of a registered design shall be construed as a reference to the infringement of any right in the design conferred by this Act.

[Copyright 1999 Ed., s. 73; Patents 1995 Ed., s. 2; Trade Marks 1999 Ed., s. 2; UK Designs 1949, ss. 1 and 44]

Act binds the Government

3.—Subject to Part IV, this Act binds the Government.

PART II

REGISTRATION OF DESIGNS

Division 1 — Ownership of Designs

Owner of design

4.—(1) Subject to this section, the designer of a design shall be treated for the purposes of this Act as the owner of the design.

(2) Where a design is created in pursuance of a commission for money or money's worth, the person commissioning the design shall be treated as the owner of the design.

(3) Where, in a case not falling within subsection (2), a design is created by an employee in the course of his employment, his employer shall be treated as the owner of the design.

(4) Subsections (2) and (3) are subject to any agreement to the contrary between the parties concerned.

(5) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the owner, either alone or jointly with the owner, that other person or, as the case may be, the owner and that other person, shall be treated for the purposes of this Act as the owner of the design or as the owner of the design in relation to that article.

(6) In the case of a design generated by computer in circumstances such that there is no human designer, the person by whom the arrangements necessary for the creation of the design are made shall be deemed to be the designer.

[UK Designs 1949, s. 2; HK Designs, s. 3]

Division 2 — Registrable Designs

New design may be registered

5.—(1) Subject to the provisions of this Part, a design which is new may, upon application by the person claiming to be the owner, be registered in respect of an article specified in the application.

(2) A design for which an application for registration is made shall not be regarded as new if it is the same as a design —

- (a) registered in respect of the same or any other article in pursuance of a prior application; or
- (b) published in Singapore or elsewhere in respect of the same or any other article before the date of the first-mentioned application,

or if it differs from such a design only in immaterial details or in features which are variants commonly used in the trade.

(3) The Registrar may, in such cases as may be prescribed, direct that, for the purpose of deciding whether a design is new, an application for registration of the design shall be treated as filed on a date earlier or later than that on which it was in fact filed.

[UK Designs 1949, ss. 1 and 3]

Designs contrary to public order or morality

6.—A design is not registrable if the publication or use of it would be contrary to public order or morality.

[HK Designs, s. 7]

Computer programs, etc., not registrable

7.—(1) No computer program or layout-design may be registered under this Act.

(2) For the purposes of subsection (1), “layout-design” has the meaning assigned to it in the Layout-Designs of Integrated Circuits Act (Cap. 159A).

(3) The Minister may make rules —

- (a) to exclude from registration under this Act designs for such articles of a primarily literary or artistic character as the Minister considers appropriate; and
- (b) to provide that any design described in the rules shall not be registered under this Act, or shall not be so registered unless such conditions as may be prescribed are met.

[UK Designs 1949, s. 1; HK Designs, s. 8]

Provisions as to confidential disclosure, etc.

8.—(1) An application for registration of a design shall not be refused, and the registration of a design shall not be revoked, by reason only of —

- (a) the disclosure of the design by the owner to any other person in such circumstances as would make it contrary to good faith for that other person to use or publish the design;
- (b) the disclosure of the design in breach of good faith by any person other than the owner of the design;

(c) in the case of a new or original textile design intended for registration, the acceptance of a first and confidential order for goods bearing the design; or

(d) the communication of the design by the owner to a Government department or the Office or to any person authorised by a Government department or the Office to consider the merits of the design, or of anything done in consequence of such a communication.

[3/2001]

(2) An application for registration of a design shall not be refused, and the registration of a design shall not be revoked, by reason only —

(a) that a representation of the design, or any article to which the design has been applied, has been displayed, with the consent of the owner of the design, at an official international exhibition;

(b) that after any such display as is mentioned in paragraph (a), and during the period of the exhibition, a representation of the design, or any article to which the design has been applied, has been displayed by any person without the consent of the owner; or

(c) that a representation of the design has been published in consequence of any such display as is mentioned in paragraph (a),

if the application for registration of the design is made no later than 6 months after the opening of the exhibition.

(3) In this section, “official international exhibition” means an official, or officially recognised, international exhibition falling within the terms of the Convention on International Exhibitions signed at Paris on 22nd November 1928, and any protocols to that Convention, as revised or amended from time to time.

[UK Designs 1949, s. 6; HK Designs, s. 9]

Provisions as to artistic works

9.—(1) Subject to subsection (2), where an application is filed by or with the consent of the owner of copyright in an artistic work for the registration of a corresponding design, the design shall not be treated for the purposes of this Act as being other than new by reason only of any use previously made of the artistic work.

(2) Subsection (1) shall not apply if the previous use consisted of or included the sale, letting for hire, or offer or exposure for sale or hire of articles to which had been applied industrially —

(a) the design in question; or

(b) a design differing from it only in immaterial details or in features which are variants commonly used in the trade,

and that previous use was made by or with the consent of the copyright owner.

(3) The Minister may make rules to provide for the circumstances in which a design is to be regarded as having been applied industrially to articles or any description of articles for the purposes of this section.

[HK Designs, s. 10]

Subsequent registration of design in respect of other articles, etc.

10.—(1) Where the registered owner of a design registered in respect of an article files —

- (a) an application for registration of the registered design in respect of one or more other articles; or
- (b) an application for registration of a design consisting of the registered design with modifications or variations not sufficient to alter the character or substantially to affect the identity of the registered design, in respect of the same or one or more other articles,

the application shall not be refused, and the registration made on the application shall not be revoked, by reason only of the previous registration or publication of the registered design.

(2) The right in a design registered by virtue of subsection (1) shall not extend beyond the end of the period, and any extended period, for which the right subsists in the original design.

(3) Where a person files an application for registration of a design in respect of an article and either —

- (a) the design has been previously registered by another person in respect of some other article; or
- (b) the design to which the application relates is a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity of the registered design,

then, if at any time while the application is pending, the applicant becomes the registered owner of the design previously registered, subsection (1) shall apply as if, at the time of filing the application, the applicant had been the registered owner of that design.

[UK Designs 1949, s. 4]

Division 3 — Proceedings for Registration

Application for registration

11.—An application for registration of a design shall be filed in the prescribed manner with the Registrar, and is subject to the payment of the prescribed application fee.

Claim to priority of Convention application

12.—(1) Subject to subsection (7), where —

- (a) a person has filed an application for the registration of a design in a Convention country in respect of certain articles;
- (b) that application is the first application for the registration of the design to be filed in any Convention country in respect of those articles (referred to in this section as the first Convention application); and
- (c) within 6 months after the date on which the first Convention application is filed, that person or his successor in title applies under this Act for the registration of the design in respect of all or any of those articles,

that person or his successor in title may, when filing the application under this Act, claim a right of priority for the registration of the design in respect of all or any of the articles for which registration was sought in the first Convention application.

[44/2004]

(2) Where any person claims a right of priority in accordance with subsection (1) in respect of an application for the registration of a design —

(a) the person shall have priority from (and including) the date on which the first Convention application was filed; and

(b) the application shall be treated, for the purposes of determining whether that or any other design is new, as filed on the date on which the first Convention application was filed.

[44/2004]

(3) Subsection (2) shall not be construed as excluding the power to give directions under section 5 (3) in relation to the application for the registration of a design.

[44/2004]

(4) Notwithstanding any of the provisions of this Act, where a right of priority is claimed in respect of an application for the registration of a design, the application shall not be refused, and the registration of the design under this Act shall not be revoked, by reason only of the fact that the first Convention application has been published during the period between —

(a) the date the first Convention application was filed; and

(b) the date the application under this Act was filed.

[44/2004]

(5) Any filing of an application for the registration of a design which in a Convention country is equivalent to a regular national filing, under its domestic legislation or an international agreement, shall be treated as giving rise to the right of priority.

[44/2004]

(6) In subsection (5), “regular national filing” means a filing which is adequate to establish the date on which the application was filed in the Convention country, whatever may be the outcome of the application.

[44/2004]

(7) Where a subsequent application for registration of a design concerning the same subject as an earlier application is filed, whether in the same or a different Convention country, and these are the first 2 applications concerning that subject to be filed in any Convention country, the subsequent application shall be considered the first Convention application if, at the date the subsequent application is filed —

(a) the earlier application has been withdrawn, abandoned or refused, without having been laid open to public inspection and without leaving any rights outstanding; and

(b) the earlier application has not yet served as a basis for claiming a right of priority.

[44/2004]

(8) For the avoidance of doubt, where subsection (7) applies —

(a) the date on which the subsequent application was filed, rather than that of the earlier application, shall be considered the starting date of the period of priority under subsection (2); and

(b) the earlier application may not thereafter serve as a basis for claiming a right of priority.

[44/2004]

(9) The Minister may make rules as to the manner of claiming priority under this section.

[44/2004]

(10) A right to priority arising under this section may be assigned or otherwise transmitted, either with the application or independently, and the reference in subsection (1) to the applicant's "successor in title" shall be construed accordingly.

[Trade Marks 1999 Ed., s. 10]

[44/2004]

Claim to priority of other overseas applications

13.—(1) The Minister may by order confer on a person who has filed an application for registration of a design in a country or territory to which the Government has entered into a treaty, convention, arrangement or engagement for the reciprocal protection of registered designs, a right to priority, for the purpose of registering the same design under this Act for some or all of the same articles, for a specified period from the date of filing of that application.

(2) An order under this section may make provision corresponding to that set out in section 12 or such other provision as appears to the Minister to be appropriate.

[Trade Marks 1999 Ed., s. 11]

Withdrawal of application

14.—(1) An applicant may withdraw his application for registration of a design by filing a notice of withdrawal with the Registrar in the prescribed manner before the date on which preparations for publication under section 18 have been completed, as determined by the Registrar.

(2) Where a notice of withdrawal is filed in accordance with subsection (1), the application shall be treated as withdrawn, and such withdrawal is irrevocable.

[HK Designs, s. 18]

Amendment of application

15.—(1) The Registrar may, on his own initiative or upon request made to him in the prescribed manner by the applicant and payment of the prescribed fee, amend an application for registration of a design.

(2) An application for registration of a design shall not be amended if, as a result of the amendment, the scope of the application would be increased by the inclusion of matter that was not in substance disclosed in the application as filed.

(3) The Registrar shall not be obliged to correct on his own initiative any error not due to the default of the Registrar.

(4) Where the Registrar proposes to make any amendment on his own initiative, he shall give notice of the proposal to every person who appears to him to be likely to be affected by the amendment, and shall give the person an opportunity to be heard before making the amendment.

[UK Designs 1949, s. 21; Aust. Designs 1906, s. 22B]

Examination of application

16.—(1) The Registrar shall examine an application for registration of a design, being an application which has not been withdrawn, to determine whether it satisfies the formal requirements.

(2) If the Registrar determines that an application fails to comply with the formal requirements, he shall notify the applicant and give him an opportunity to correct the non-compliance within such period as the Registrar determines.

(3) If the non-compliance is not corrected within the period referred to in subsection (2), the application shall be treated as withdrawn, but the Registrar may, upon —

(a) the filing by the applicant of a notice in the prescribed form requesting reinstatement of the application;

(b) the payment of the prescribed fee; and

(c) the compliance by the applicant with such conditions as the Registrar may impose,

reinstate the application.

(4) Upon reinstatement of an application, any right or means of redress lost by the applicant as a result of the withdrawal shall be restored to him.

(5) In this section and sections 17 and 18, "formal requirements" means those requirements of section 11, and of rules made for the purposes of that section, that are prescribed as formal requirements.

[HK Designs, s. 24]

Refusal of application

17.—(1) The Registrar may refuse an application for registration of a design if —

(a) after an examination by him under section 16; and

(b) after giving the applicant the opportunity to correct any non-compliance with the formal requirements,

the Registrar determines that the application does not satisfy the formal requirements.

(2) The Registrar may refuse an application for registration of a design if, on the face of the application, the design is not new or is not registrable for any other reason.

(3) The Registrar shall give notice of any refusal under this section to the applicant.

[HK Designs, s. 26]

Registration and publication

18.—Subject to section 17, if the Registrar determines that an application for registration of a design satisfies the formal requirements, he shall as soon as practicable —

- (a) register the design by entering the prescribed particulars in the Register;
- (b) enter the name of the applicant, or the successor in title to the application, in the Register as the owner of the design;
- (c) issue a certificate of registration to the person who is the registered owner of the design at the time the design is registered; and
- (d) publish a notice of the registration and a representation of the design in the prescribed manner.

[HK Designs, s. 25]

[26/2001]

Only formality examination required

19.—The Registrar, in determining whether to accept an application for registration of a design, shall not be required to consider or have regard to —

- (a) the registrability of the design;
- (b) whether the applicant is entitled to any right of priority claimed in the application; or
- (c) whether the design is properly represented in the application.

[HK Designs, s. 27]

Date of registration

20.—A design when registered shall be registered as of the date on which the application for registration is filed, and that date shall be deemed for the purposes of this Act to be the date of its registration.

[Trade Marks 1999 Ed., s. 15]

[44/2004]

Division 4 — Duration of Registration

Initial period of registration and extension

21.—(1) The initial period of registration of a design is 5 years from the date of registration of the design.

(2) The period of registration of a design may be extended for a second and third period of 5 years, by applying to the Registrar for an extension, and paying the prescribed extension fee, before the expiry of the current period of registration.

(3) The Minister may make rules for the Registrar to inform the registered owner of a design, before the expiry of the current period of registration, of the imminent expiry of the registration and the manner in which it may be extended.

(4) If the application and payment are not made before the expiry of the current period of registration, the registration of the design shall cease to be in force upon the expiry of that period and shall be removed from the Register.

(5) If, during the period of 6 months immediately following the expiry of the current period of registration, an application for extension is made and the extension fee and any prescribed late fee are paid, the registration of the design shall be treated as if it had never ceased to be in force, and accordingly —

(a) anything done under or in relation to any rights in the design by or with the consent of the owner during that period shall be treated as valid;

(b) an act which would have constituted an infringement of the design if the registration had not ceased to be in force shall be treated as an infringement; and

(c) an act which would have constituted use of the design for the services of the Government under Part IV if the registration had not ceased to be in force shall be treated as such use.

[UK Designs 1949, s. 8]

Exceptions relating to artistic works, etc.

22.—(1) Notwithstanding section 21, where it is shown that a registered design —

(a) was at the time it was registered a corresponding design in relation to an artistic work in which copyright subsists under the Copyright Act (Cap. 63); and

(b) by reason of a previous use of that work would not have been registrable but for section 9 (1),

the period of registration of the design expires when the copyright in that work expires, if that is earlier than the time at which it would otherwise expire, and it may not thereafter be extended.

(2) Notwithstanding section 21, the period of registration of a design registered by virtue of section 10 (1) shall not extend beyond the end of the period of registration, and any extended period of registration, of the original registered design.

[UK Designs 1949, s. 8]

Division 5 — Proceedings for Determination of Rights in Registered Designs

Determination of rights after registration

23.—(1) After a design is registered, any person having or claiming an interest in the design may apply to the Court to determine —

(a) who is the true owner of the design;

(b) whether the design should have been registered in the name of the person in whose name it was registered; or

(c) whether any right in the design should be transferred or granted to any other person,

and the Court shall determine the question and may make such order as it considers appropriate to give effect to the determination.

(2) Without prejudice to the generality of subsection (1), an order referred to in that subsection may contain one or more of the following directions:

(a) that the name of the applicant be entered in the Register as the owner or one of the owners of the design (whether or not to the exclusion of any other person);

(b) that the transaction by virtue of which that person has acquired any right in the design be registered;

(c) that a licence for the use of the design be granted; and

(d) that the registered owner of the design or any person having any right in the design carry out such act as the Court considers appropriate to give effect to any directions in the order.

(3) If any person to whom a direction referred to in subsection (2) (d) was given fails to comply with the direction within 14 days after the date of the order, the Court may, on application made to it by any person in whose favour or on whose application the order was made, authorise the second-mentioned person to do that thing on behalf of the person to whom the direction was given.

(4) If an application under this section is made after the end of the period of 2 years from the date of issue of the certificate of registration referred to in section 18 (c) in respect of the design in question, no order shall be made under subsection (1) transferring any right in the design from the registered owner to any other person on the ground that the registered owner was not entitled to be registered as the owner, unless it is shown that the registered owner knew at the time of the registration or of the transfer of the design to him, as the case may be, that he was not entitled to be registered as the owner.

(5) The Court shall not make any order under subsection (1) unless notice of the application has first been given to —

(a) the registered owner of the design; and

(b) each person registered as having a right in the registered design who is not a party to the application.

[HK Designs, s. 41; Patents 1995 Ed., s. 47]

Effect of order made under section 23 on third party

24.—(1) Where an order is made under section 23 (1) that a registered design be transferred from any person or persons (referred to in this section as the old owner or owners) to one or more persons (whether or not including an old owner), then, except in a case falling within subsection (2), any licences or other rights granted or created by the old owner or owners shall, subject to section 34 and to the provisions of the order, continue in force and be treated as granted by the person or persons to whom the design is ordered to be transferred (referred to in this section as the new owner or owners).

(2) Where an order is so made that a registered design shall be transferred from the old owner or owners to one or more persons none of whom was an old owner (on the ground that the design was registered in the name of a person not entitled to be registered as an owner), any licences or other rights in the design shall, subject to the provisions of the order and subsection (3), lapse on the registration of that person or those persons as the new owner or owners of the design.

(3) Where an order referred to in subsection (2) is made and, before particulars of the reference resulting in the making of the order are entered in the Register, the old owner or owners or a licensee —

(a) carried out in good faith an act which would have constituted an infringement of the design if particulars of the reference had been registered at the time the act was done; or

(b) made in good faith effective and serious preparations to carry out such an act,

the old owner or owners or the licensee shall, on making a request to the new owner or owners within the prescribed period, be entitled to be granted a licence (but not an exclusive licence) to continue to do the act or, as the case may be, to do the act.

(4) A licence under subsection (3) shall be for a reasonable period and subject to reasonable terms.

(5) The new owner or owners of the registered design or any person claiming that he is entitled to be granted a licence under subsection (3) may apply to the Court for a determination of whether —

(a) that person is so entitled; or

(b) the period or terms of any such licence granted are reasonable.

(6) The Court shall make the determination under subsection (5) and may —

(a) order the grant of a licence on such terms and for such period as it considers reasonable; or

(b) vary the period or terms of the licence.

[HK Designs, s. 42; Patents 1995 Ed., s. 48]

Licences granted by order of Court

25.—Any order made under section 23 (1) or 24 (6) for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were a deed, executed by the registered owner of the registered design and all other necessary parties, granting a licence in accordance with the order.

[HK Designs, s. 43]

Division 6 — Surrender and Revocation of Registration

Surrender of registration

26.—(1) The registration of a design may be surrendered by the registered owner in respect of all or any of the articles for which the design is registered.

(2) The Minister may make rules —

(a) as to the manner and effect of a surrender; and

(b) for protecting the interest of other persons having a right in the design.

[HK Designs, s. 30]

Revocation of registration

27.—(1) At any time after a design has been registered, any interested person may apply to the Registrar or the Court for the revocation of the registration of the design on the ground that the design was not, at the date of its registration, new, or on any other ground on which the Registrar could have refused to register the design; and the Registrar may make such order on the application as he thinks fit.

(2) At any time after a design has been registered, any interested person may apply to the Registrar or the Court for the revocation of the registration on the ground that —

(a) the design was at the time it was registered a corresponding design in relation to an artistic work in which copyright subsisted; and

(b) the right in the registered design has expired in accordance with section 22 (1),

and the Registrar may make such order on the application as he thinks fit.

(3) If proceedings concerning a design are pending in the Court, an application for the revocation of its registration must be made to the Court.

(4) If an application for the revocation of the registration of a design is made to the Registrar, he may at any time refer the application to the Court.

(5) An application to the Registrar for the revocation of the registration of a design shall be made in the prescribed manner and be accompanied by the prescribed fee.

(6) A revocation takes effect —

(a) in the case of a revocation under subsection (1), from the date of registration; and

(b) in the case of a revocation under subsection (2), from the date on which the right in the registered design expired.

(7) The Minister may make rules to provide for revocation proceedings before the Registrar and for matters relating thereto.

[UK Designs 1949, s. 11; Trade Marks 1999 Ed., s. 22]

Division 7 — Miscellaneous

Right to information

28.—(1) After the registration of a design and upon the filing of a written request by any person in the prescribed manner and the payment of the prescribed fee, the Registrar shall —

(a) give the person making the request such information; and

(b) permit him to inspect such documents,

relating to the application for registration of the design (including any representation or sample of the design) as may be specified in the request, subject, however, to such conditions as may be prescribed.

(2) Rules may be made empowering the Registrar to refuse any request in respect of such information or documents as may be prescribed.

(3) Until notice of registration of a design is published under section 18, any information or documents constituting or relating to the application for registration shall not, without the consent of the owner or the applicant, as the case may be, be published or communicated to any person by the Registrar.

(4) Subsection (3) shall not prevent the Registrar from publishing or communicating to others any prescribed information relating to an application for registration of a design.

(5) Where a person is notified that an application for registration of a design has been made and that the applicant will, if the design is registered, bring proceedings against that person in the event of his doing an act specified in the notification, that person may make a request under subsection (1).

(6) The Registrar may grant the request under subsection (1) without the consent of the applicant, notwithstanding that the design has not been registered.

[HK Designs, s. 70]

Provisions for secrecy of certain designs

29.—(1) Where an application for registration of a design has been made and it appears to the Registrar that the design is one of a class notified to him by the Minister as relevant for defence purposes, the Registrar shall give directions for prohibiting or restricting —

(a) the publication of information with respect to the design; or

(b) the communication of such information to any person or class of persons specified in the directions.

(2) Rules may be made for securing that where such directions are given —

(a) the representation of the design; and

(b) any evidence filed in support of the application for registration,

shall not be open to public inspection in the Registry during the continuance in force of the directions.

(3) Any person who fails to comply with a direction of the Registrar shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Where such directions are in force, the application —

(a) shall be held in abeyance after the formal requirements referred to in section 16 have been satisfied; and

(b) notwithstanding section 18, shall not proceed to be processed in accordance with that section until the directions are revoked under subsection (5) (d).

(5) Where the Registrar gives such directions, he shall give notice of the application and of the directions to the Minister, and thereupon the following provisions shall have effect:

(a) the Minister shall consider whether the publication of the design would be prejudicial to the defence of Singapore;

(b) the Minister may at any time inspect the representation of the design, or any evidence referred to in subsection (2) (b);

(c) if, upon the consideration of the design at any time, it appears to the Minister that the publication of the design would not, or would no longer, be prejudicial to the defence of Singapore, notice may be given to the Registrar to that effect; and

(d) on the receipt of such notice, the Registrar shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application for registration, whether or not that time has previously expired.

(6) Where —

(a) directions given under this section in relation to an application for registration of a design are revoked;

(b) the design is registered; and

(c) it appears to the Minister that the applicant has suffered hardship while the directions were in force,

the Minister may make such payment (if any) by way of compensation to the applicant as appears to the Minister to be reasonable having regard to all relevant circumstances.

(7) Nothing in this section shall prevent the disclosure of information concerning a design to a Government department or authority for the purpose of obtaining advice as to whether the directions under this section with respect to an application for registration of that design should be made, amended or revoked.

[UK Designs 1949, s. 5; Patents 1995 Ed., s. 33]

PART III

RIGHTS IN REGISTERED DESIGNS

Division 1 — Rights of Registered Owner of Registered Design

Rights conferred by registration

30.—(1) The registration of a design under this Act gives to the registered owner the exclusive right —

(a) to make in Singapore or import into Singapore —

(i) for sale or hire; or

(ii) for use for the purpose of trade or business; or

(b) to sell, hire, or offer or expose for sale or hire, in Singapore,

any article in respect of which the design is registered and to which that design or a design not substantially different from it has been applied.

(2) For the purposes of this Act, the right in a registered design is infringed by any person who, without the consent of the registered owner and while the registration is in force —

(a) does anything which by virtue of subsection (1) is the exclusive right of the registered owner;

(b) makes anything for enabling any article referred to in subsection (1) to be made in Singapore or elsewhere;

(c) does anything in relation to a kit that would constitute an infringement of the design if it had been done in relation to the assembled article; or

(d) makes anything for enabling a kit to be made or assembled, in Singapore or elsewhere, if the assembled article would be an article referred to in subsection (1).

(3) In subsection (2), “kit” means a complete or substantially complete set of components intended to be assembled into an article.

(4) In the application of subsection (2) to a registered design of which there is more than one registered owner, the reference to the registered owner shall be construed —

(a) in relation to any act, as a reference to the registered owner or those registered owners who is or are entitled to do that act by virtue of section 33 or any agreement; and

(b) in relation to any consent, as a reference to the registered owner or those registered owners who is or are the proper person or persons to give the consent by virtue of section 33 or any agreement.

(5) For the purposes of this Act, the right in a registered design is not infringed by —

(a) the doing of any act for a private non-commercial purpose; or

(b) the doing of any act for the purpose of evaluation, analysis, research or teaching.

(6) The right in a registered design is not infringed by the reproduction of a feature of the design which, by virtue of paragraph (b) of the definition of "design" in section 2 (1), is left out of account in determining whether the design is registrable.

(7) The right in a registered design is not infringed by the import, sale, hire, or offer or exposure for sale or hire of any article to which the design has been applied, and which has been placed on the market, whether in Singapore or elsewhere, by or with the consent (conditional or otherwise) of the registered owner.

[UK Designs 1949, s. 7; HK Designs, s. 31]

Rights of third parties to continue use of registered designs

31.—(1) A person who, before the date of registration of a design —

(a) does in good faith in Singapore an act which would have constituted an infringement of the design if the registration had been in force at the time the act is done; or

(b) makes in good faith effective and serious preparations to do such an act in Singapore,

has the right to continue to do the act or, as the case may be, to do the act.

(2) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (1) may —

(a) authorise the doing of that act by any of his partners for the time being in that business; and

(b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or the preparations were made.

(3) The right conferred by subsection (2) shall not include a right to grant a licence to any person to do an act referred to in subsection (1).

(4) Where an article is disposed of to another person in exercise of a right conferred by subsection (1), that other person and any person claiming through him may deal with the article in the same way as if it had been disposed of by the owner of the design concerned.

[HK Designs, s. 35]

Division 2 — Registered Design as OBJECT OF PROPERTY

Nature of registered design

32.—(1) A registered design or any right in it is personal property and may be assigned or transmitted in the same way as other personal property.

(2) A registered design or any right in it may be vested by an assent of personal representatives.

(3) A licence may be granted for the use of a registered design and, to the extent that the licence so provides, a sub-licence may be granted under any such licence.

(4) Any such licence or sub-licence —

(a) may be assigned or transmitted in the same way as personal property; and

(b) may be vested by an assent of personal representatives.

(5) Subsections (1) to (4) shall have effect subject to this Act.

(6) An assignment of a design or a right therein, or an assent relating to a registered design or a right therein, is not effective unless it is in writing and signed by or on behalf of the assignor or, as the case may be, a personal representative.

(7) Subsection (6) may be satisfied in a case where the assignor or personal representative is a body corporate by the affixing of its seal.

(8) Subsections (6) and (7) shall apply to an assignment by way of security as they apply to any other assignment.

(9) An assignment of a registered design or any right in it, or an exclusive licence in relation to a registered design, may confer on the assignee or licensee the right of the assignor or licensor to bring proceedings under section 23 or 36.

[HK Designs, s. 32]

Co-ownership of registered design

33.—(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled to an equal undivided share in the rights in the design.

(2) Subject to this section and to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled, by himself or his agent, to do in relation to the design and for his own benefit and without the consent of, or the need to account to, the other or others, an act which would otherwise amount to an infringement of the design.

(3) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, no registered owner shall, without the consent of each of the others, grant a licence for the use of the design or assign any interest in it.

(4) Nothing in subsection (1) or (2) shall affect the mutual rights or obligations of trustees or personal representatives of a deceased person, or their rights or obligations as such.

[HK Designs, s. 33]

Registration of transactions affecting registered design

34.—(1) On application being made to the Registrar by —

(a) a person claiming to be entitled to any interest in a registered design by virtue of a registrable transaction; or

(b) any other person claiming to be affected by such a transaction,

the prescribed particulars of the transaction shall be entered in the Register.

(2) The following are registrable transactions under subsection (1):

(a) an assignment of a registered design or any right in it;

(b) the grant of a licence or sub-licence for the use of a registered design;

(c) the grant of any security interest (whether fixed or floating) over a registered design or any right in it;

(d) the making by personal representatives of an assent in relation to a registered design or any right in it;

(e) an order of the Court or other competent authority transferring a registered design or any right in it.

(3) Until an application has been made for registration of the prescribed particulars of a registrable transaction, the transaction is ineffective as against a person acquiring a conflicting interest in the registered design in ignorance of it.

(4) Notwithstanding any provision of this Act, a person who becomes the registered owner or licensee of a registered design by virtue of a registrable transaction is not entitled to —

(a) damages or account of profits in respect of any infringement of the registered design occurring after the date of the transaction and before the date of application for registration of the prescribed particulars of the transaction; or

(b) compensation under section 46, pursuant to terms as agreed between the Government and the registered owner, or as determined by the court, in respect of the use of the design for the services of the Government occurring after the date of the transaction and before the date of application for registration of the prescribed particulars of the transaction.

[Trade Marks 1999 Ed., s. 39]

Rights in application for registration

35.—(1) Sections 32, 33 and 34 shall, with the necessary modifications, apply in relation to an application for registration of a design as they apply in relation to a registered design.

(2) For the purposes of subsection (1), the reference in section 34 to the making of an application for registration of particulars shall be construed as a reference to the giving of a written notice to the Registrar in the prescribed manner of particulars of the relevant transaction, instrument or event relating to the application for registration.

Division 3 — Infringement Proceedings

Infringement proceedings

36.—(1) An infringement of a registered design is actionable by the registered owner.

(2) Subject to the provisions of this Act, the relief the Court may grant in infringement proceedings includes —

(a) an injunction (subject to such terms, if any, as the Court thinks fit); and

(b) either damages or an account of profits.

(3) Subject to the provisions of this Act, no proceedings shall be taken for an infringement of a registered design committed before the date on which the certificate of registration of the design is issued under section 18.

[HK Designs, s. 48; Trade Marks 1999 Ed., s. 31]

Infringement proceedings by co-owner

37.—(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled to bring proceedings for an infringement of the design.

(2) In proceedings taken by a registered owner by virtue of this section, the other registered owner or owners shall be made a party or parties to the proceedings, but if any other registered owner is made a defendant he shall not be liable for any costs or expenses unless he takes part in the proceedings.

[HK Designs, s. 49]

Infringement proceedings by exclusive licensee

38.—(1) The holder of an exclusive licence under a registered design shall have the same right as the registered owner to bring proceedings for an infringement of the design committed after the date of the grant of the licence, and references to the registered owner in the provisions of this Act relating to infringement shall be construed accordingly.

(2) In awarding damages in any infringement proceedings taken by an exclusive licensee, the Court may take into consideration only the losses suffered or likely to be suffered by the exclusive licensee as a result of the infringement.

(3) In ordering an account of profits in any infringement proceedings taken by an exclusive licensee, the Court may take into consideration only the profits derived from the infringement which are attributable to the infringement of the exclusive licensee's rights.

(4) In any infringement proceedings taken by an exclusive licensee, the registered owner need not be made a party to the proceedings, but if the registered owner is made a defendant he shall not be liable for any costs or expenses unless he takes part in the proceedings.

[HK Designs, s. 50; Patents 2002 Ed., s. 74]

[21/2004]

General restriction on recovery of damages or profits

39.—(1) In infringement proceedings, the Court shall not award damages, nor make an order for an account of profits, against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable grounds for believing, that the design in question was registered.

(2) For the purposes of subsection (1), a person shall not be taken to have been aware, or to have had reasonable grounds for believing, that the design was registered by reason only of the application to an article, or to any printed matter accompanying an article, of the word “registered”, or any word or words or abbreviation expressing or implying that the design has been registered, unless the registration number of the design accompanied the word or words or abbreviation.

[HK Designs, s. 51]

Order for delivery up

40.—(1) Where the defendant to proceedings for infringement of a registered design has in his possession —

- (a) any infringing article in relation to that design; or
- (b) anything predominantly used for the making of infringing articles, which the defendant knows or has reason to believe has been or is to be used to make infringing articles,

the Court may, in addition to any relief granted under section 36, order the article or thing to be delivered to the plaintiff.

(2) No order shall be made under this section unless the Court also makes, or it appears to the Court that there are grounds for making, an order under section 41.

(3) A person to whom any article or thing is delivered up in pursuance of an order made under this section shall, if an order under section 41 is not made, retain them pending the making of an order, or the decision not to make an order, under that section.

(4) In this section and section 41, an article is an “infringing article” in relation to a registered design if the design or a design not substantially different from it has been applied to the article and —

- (a) the application of the design to the article was an infringement of the design;
- (b) the article is imported into Singapore in such a way as to infringe the design; or
- (c) the article is sold, let for hire, or offered or exposed for sale or hire in Singapore in such a way as to infringe the design.

[Trade Marks 1999 Ed., s. 33]

Order for disposal

41.—(1) Where any infringing article or thing has been delivered up in pursuance of an order made under section 40, an application may be made to the Court —

- (a) for an order that it be destroyed or forfeited to such person as the Court thinks fit; or
- (b) for a decision that no such order should be made.

(2) In deciding what order, if any, should be made, the Court shall have regard to —

(a) whether other remedies available in proceedings for infringement would be adequate to compensate the plaintiff and protect his interest; and

(b) the need to ensure that no infringing article or thing is disposed of in a manner that would adversely affect the plaintiff.

(3) The Court shall issue directions as to service of notice on persons having an interest in the article or thing.

(4) Any person having an interest in the article or thing is entitled —

(a) to appear in proceedings for an order under this section, whether or not that person is served with notice; and

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

(5) 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 appeal.

(6) Where there is more than one person interested in the article or thing, the Court may direct that the article or thing be sold, or otherwise dealt with, and the proceeds divided, and shall make any other order as the Court thinks just.

(7) If the Court decides that no order should be made under this section, the person in whose possession the article or thing was before being delivered up is entitled to its return.

[Trade Marks 1999 Ed., s. 34]

Declaration as to non-infringement

42.—A declaration that an act does not, or a proposed act would not, constitute an infringement of a registered design may be made by the Court in any proceedings between the person doing or proposing to do the act and the registered owner, notwithstanding that no assertion to the contrary has been made by the registered owner, if it is shown that —

(a) that person has applied in writing to the registered owner for a written acknowledgment to the effect of the declaration claimed, and has furnished him with full particulars in writing of the act in question; and

(b) the registered owner has refused or failed to give any such acknowledgment.

[HK Designs, s. 55]

Certificate of contested validity of registration

43.—(1) If in any proceedings before the Court the validity of the registration of a design is contested, and the Court finds that the design is validly registered, the Court may certify the finding and the fact that the validity of the registration was so contested.

(2) If the Court gives such a certificate and in subsequent proceedings for infringement of the design or for revocation of the registration of the design —

(a) the validity of the registration is again questioned; and

(b) the registered owner obtains a final order or judgment in his favour,

the registered owner is entitled to his costs as between solicitor and client unless the Court directs otherwise.

(3) Subsection (2) does not extend to the costs of an appeal in any such proceedings.

[UK Designs 1949, s. 25]

Remedy for groundless threats of infringement proceedings

44.—(1) Where a person (whether or not entitled to or interested in a registered design or an application for registration of a design) threatens any other person with proceedings for infringement of a registered design, any person aggrieved thereby may bring proceedings against the person making the threats for relief under this section.

(2) The relief which may be applied for are —

(a) a declaration that the threats are unjustifiable;

(b) an injunction against the continuance of the threats; and

(c) damages in respect of any loss he has sustained by the threats,

and the plaintiff is entitled to such relief unless —

(i) the defendant proves that the acts in respect of which the proceedings were threatened constitute, or if done would constitute, an infringement of the design; and

(ii) the plaintiff fails to show that the registration of the design concerned is invalid.

(3) Proceedings may not be brought under this section as regards a threat to bring proceedings for an infringement alleged to consist of the making or importing of anything.

(4) For the purposes of this section, a notification that a design is registered does not of itself constitute a threat of proceedings within the meaning of this section.

(5) Nothing in this section shall render an advocate and solicitor liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.

[UK Designs 1949, s. 26; HK Designs, s. 57]

PART IV

GOVERNMENT USE OF REGISTERED DESIGNS

Government use of registered designs

45.—(1) Notwithstanding any of the provisions of this Act, the Government and any person authorised in writing by the Government may use any registered design for the services of the Government in accordance with section 46.

(2) The authority of the Government under subsection (1) may be —

(a) given either before or after the registration of the design;

(b) given either before or after the acts in respect of which the authority is given are done; and

(c) given to any person whether or not he is authorised, directly or indirectly, by the registered owner to use the design.

(3) Without prejudice to the generality of subsection (1), any use of the design for —

(a) the supply to the government of any country or territory outside Singapore, in pursuance of any agreement or arrangement between the Government and the government of that country, of articles required —

(i) for the defence of that country; or

(ii) for the defence of any other country whose government is party to any agreement or arrangement with the Government in respect of defence matters; or

(b) the supply to the United Nations, or to the government of any country belonging to that organisation, of articles required for any armed forces operating in pursuance of a resolution of that organisation or any organ of that organisation,

shall be deemed to be a use of the design for the services of the Government; and the power of the Government or a person authorised by the Government to use the design shall include power —

(A) to sell the articles to the government or to that organisation in pursuance of the agreement or arrangement; and

(B) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

(4) Without prejudice to the generality of subsection (1), any use of a design to make an article, or any use of an article, for any purpose which appears to the Government necessary or expedient —

(a) to avoid prejudice to the security or defence of Singapore;

(b) to assist in the exercise of powers and the implementation of civil defence measures during a state of emergency or state of civil defence emergency under the Civil Defence Act (Cap. 42); or

(c) for public non-commercial use,

shall be deemed to be a use of the design for the services of the Government.

(5) The purchaser of any articles sold in the exercise of powers conferred by subsection (1), and any person claiming through him, shall have the power to deal with the articles as if the rights in the registered design were held on behalf of the Government.

(6) Notwithstanding any provision in any other written law, the reproduction or publication of any model or document in connection with any use of a design made by virtue of subsection (1) shall be deemed not to constitute an infringement of any copyright subsisting in the document by virtue of the Copyright Act (Cap. 63) or any right subsisting in a layout-design by virtue of the Layout-Designs of Integrated Circuits Act (Cap. 159A).

[Patents 1995 Ed., s. 65; UK Designs 1949, Sch. 1 Paras 1 and 2]

Terms of Government use

46.—(1) If and so far as the design has, before the date of its registration, been applied by or on behalf of the Government otherwise than in consequence of the communication of the design, directly or indirectly, by the registered owner or any person from whom he derives title, any use of the design by virtue of section 45 may be made free of any royalty or other payment to the registered owner.

(2) If and so far as the design has not been so applied, any use of the design made by virtue of section 45 at any time after the date of its registration, or in consequence of any communication referred to in subsection (1), shall be made on such terms —

(a) as may be agreed upon, either before or after the use, between the Government and the registered owner; or

(b) in default of such agreement, as may be determined by the Court on a reference under section 48.

(3) Where a design has been made use of under this section, the Government, unless it appears to the Government that it would be contrary to the public interest to do so, shall inform the registered owner as soon as possible of the fact and furnish him with such information as to the use made of the design as he from time to time reasonably requires.

[UK Designs 1949, Sch. 1 Para 1]

Provisions of licence, etc., to be ineffective

47.—In relation to any use of a registered design, or a design in respect of which an application for registration is pending, made for the services of the Government —

(a) by the Government or a person authorised by the Government under section 45; or

(b) by the registered owner or applicant for registration to the order of the Government,

the provisions of any licence, assignment or agreement made, whether before, on or after 13th November 2000, between —

(i) the registered owner or applicant for registration or any person who derives title from him or from whom he derives title; and

(ii) a person other than the Government,

shall be of no effect so far as those provisions —

(A) restrict or regulate the use of the design or any model, document or information relating to it; or

(B) provide for the making of payments in respect of, or calculated by reference to, such use.

[UK Designs 1949, Sch. 1 Para 2]

References of disputes to Court

48.—(1) Any dispute as to —

(a) the exercise by the Government, or a person authorised by the Government, of the powers conferred by section 45;

(b) the terms for the use of a design for the services of the Government; or

(c) the right of any person to receive any part of a payment pursuant to terms as agreed between the Government and the registered owner under section 46 (2),

may be referred to the Court by either party to the dispute.

(2) In any proceedings under this section to which the Government is a party, the Government may —

(a) if the registered owner is a party to the proceedings, apply for revocation of the registration of the design upon any ground upon which the registration may be revoked under this Act; or

(b) in any case, put in issue the validity of the registration of the design without applying for its revocation.

(3) In determining under this section any dispute between the Government and any person as to the terms for the use of a design for the services of the Government, the Court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly, from the Government in respect of the design.

(4) One of 2 or more registered owners of a registered design may, without the concurrence of the others, refer a dispute to the Court under this section, but shall not do so unless the others are made parties to the proceedings; but any of the others who has been made a defendant shall not be liable for any costs or expenses unless he takes part in the proceedings.

[HK Designs, s. 40; UK Designs 1949, Sch. 1 Para 3]

PART V

ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

Division 1 — Registrar

Registrar of Designs and other officers

49.—(1) There shall be a Registrar of Designs who shall have control of the Registry of Designs.

(2) There shall be one or more Deputy Registrars of Designs who shall, subject to the control of the Registrar, have all the powers and functions of the Registrar under this Act, other than the powers of the Registrar under section 50.

(3) There shall be one or more Assistant Registrars of Designs.

(4) The Registrar and all the other officers under this section shall be appointed by the Minister.

[Trade Marks 1999 Ed., s. 62]

Delegation by Registrar

50.—(1) The Registrar may, in relation to a particular matter or class of matters, by writing under his hand, delegate all or any of his powers or functions under this Act (except this power of delegation) to an Assistant Registrar of Designs or any public officer so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

(2) A delegation under this section is revocable at will and no delegation shall prevent the exercise of a power or function by the Registrar or by any Deputy Registrar of Designs.

[Trade Marks 1999 Ed., s. 63]

Registry of Designs

51.—For the purposes of this Act, there shall be an office which shall be known as the Registry of Designs.

[Trade Marks 1999 Ed., s. 64]

Seal of Registry

52.—There shall be a seal of the Registry and impressions of the seal shall be judicially noticed.

[Trade Marks 1999 Ed., s. 65]

Division 2 — Register

Register of Designs

53.—(1) The Registrar shall maintain a register to be known as the Register of Designs.

(2) There shall be entered in the Register in accordance with this Act —

(a) particulars of registered designs, including the dates of registration;

(b) the names of registered owners;

(c) particulars of transactions affecting rights in registered designs and applications for registration of designs; and

(d) such other matters as the Registrar may think fit.

(3) No notice of any trust, whether express, implied or constructive, shall be entered in the Register, and the Registrar shall not be affected by any such notice.

(4) The Register may be kept in whole or in part using a computer.

(5) Any record of a particular or other matter made by using a computer for the purpose of keeping the Register is taken to be an entry in the Register.

[UK Designs 1949, s. 17; Trade Marks 1999 Ed., s. 66]

Rectification of Register

54.—(1) The Court may, on the application of any person aggrieved, order the Register to be rectified by the making, or the variation or deletion, of any entry therein.

(2) In proceedings under this section, the Court may determine any question which may be necessary or expedient to decide in connection with the rectification of the Register.

(3) The Registrar shall, on receipt of the notice of an order of the Court to rectify the Register, rectify the Register accordingly.

(4) A rectification of the Register under this section has effect as follows:

(a) an entry made has effect from the date on which it should have been made;

(b) an entry varied has effect as if it had originally been made in its varied form; and

(c) an entry deleted shall be deemed never to have had effect,

unless, in any case, the Court directs otherwise.

[UK Designs 1949, s. 20]

Inspection of and extract from Register

55.—(1) The Register shall be available at the Registry for inspection by any person during the hours when the Registry is open for business upon payment of the prescribed fee.

(2) If the Register, or any part thereof, is kept by using a computer, subsection (1) is satisfied if a person who wants to inspect the Register or that part thereof is given access to a computer terminal from which he can read on a screen, or obtain a printed copy of, the particulars or other matters recorded in the Register or that part thereof.

(3) Any person who applies for a certified copy of an entry in the Register or a certified extract from the Register shall be entitled to obtain such copy or extract on payment of the prescribed fee.

(4) In relation to any portion of the Register kept otherwise than in documentary form, the right to a copy or an extract conferred by subsection (3) is a right to a copy or an extract in a form in which it can be taken away.

(5) In this section, “certified copy” and “certified extract” mean a copy and an extract certified by the Registrar and sealed with the seal of the Registry.

[Trade Marks 1999 Ed., s. 68]

Division 3 — Powers of Registrar

Costs in proceedings before Registrar

56.—(1) The Registrar may, in proceedings before him under this Act, by order award to any party such costs as he may consider reasonable and direct how and by what parties they are to be paid.

(2) The rules may provide for the taxation of the costs, or any part thereof, by the Registrar.

(3) A party desirous to obtain costs or to have the costs taxed shall apply to the Registrar in accordance with the rules.

(4) If a party is ordered to pay the costs of another party, the costs may be recovered in a court of competent jurisdiction as a debt due by the first party to the other party.

[Trade Marks 1999 Ed., s. 69]

Correction of Register

57.—(1) The Registrar may, in accordance with the provisions of this section, correct any clerical error in the Register.

(2) A correction may be made under this section either upon a request in writing made by any person interested, or on the Registrar's own initiative.

(3) A request referred to in subsection (2) shall be made in the prescribed form and be accompanied by the prescribed fee.

(4) The Registrar shall not be obliged to correct on his own initiative any error not due to the default of the Registrar.

(5) Where the Registrar proposes to make any correction on his own initiative, he shall give notice of the proposal to every person who appears to him to be likely to be affected by the correction, and shall give him an opportunity to be heard before making the correction.

[UK Designs 1949, s. 21]

Powers of Registrar

58.—The Registrar may, for the purposes of this Act —

- (a) summon witnesses;
- (b) receive evidence on oath, whether orally or otherwise; and
- (c) require the production of documents or articles.

[Patents 1995 Ed., s. 8]

Disobedience to summons an offence

59.—(1) A person who has been summoned to appear as a witness before the Registrar shall not, without lawful excuse, fail to appear in obedience to the summons.

(2) A person who has been required by the Registrar to produce a document or an article shall not, without lawful excuse, fail to produce the document or article.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

[Patents 1995 Ed., s. 9]

Refusal to give evidence an offence

60.—(1) A person who appears before the Registrar shall not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, which he is required by the Registrar to produce or answer.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

[Patents 1995 Ed., s. 10]

Immunity of Office and Registrar as regards official acts

61.—Neither the Office nor the Registrar nor any person acting under his authority —

(a) shall be taken to warrant the validity of the registration of any design registered under this Act or under any treaty, convention, arrangement or engagement to which Singapore is a party; or

(b) shall be subject to any liability by reason of, or in connection with, any examination required or authorised by this Act, or any such treaty, convention, arrangement or engagement, or any report or other proceedings consequent on such examination.

[HK Designs, s. 74]

[3/2001]

Appeal from decision or order of Registrar

62.—(1) Except as provided by rules made under this Act, an appeal lies to the Court from any decision or order of the Registrar under this Act.

(2) Any appeal under this Act which concerns an application for registration of a design shall be heard in camera unless the Court otherwise directs.

(3) In this section, "decision" includes any act of the Registrar done in the exercise of a discretion vested in him by or under this Act.

[HK Designs, s. 58]

Exercise of discretionary power

63.—Where any discretionary power is given to the Registrar by this Act, the Registrar shall not exercise the power without giving to any person who may be adversely affected by his decision an opportunity to be heard.

[HK Designs, s. 73]

Division 4 — Hours of Business of Registry

Hours of business and excluded days

64.—(1) The Registrar may issue practice directions to specify —

- (a) the hours of business of the Registry; and
- (b) the days which are to be treated as excluded days.

[44/2004]

(2) The Minister may prescribe the effect of doing any business under this Act —

- (a) on any day after the hours of business of the Registry; or
- (b) on any day which is an excluded day.

[44/2004]

(3) For the purposes of subsections (1) and (2) —

- (a) different hours of business may be specified for different classes of business;
- (b) different excluded days may be specified for different classes of business; and
- (c) different effects of doing business —
 - (i) outside the hours of business of the Registry; or
 - (ii) on an excluded day,

may be prescribed for different classes of business.

[Trade Marks 1999 Ed., s. 78]

[44/2004]

PART VA

THE GENEVA ACT OF THE HAGUE AGREEMENT, ETC.

Power to make provision giving effect to the Geneva Act of the Hague Agreement, etc.

64A.—(1) The Minister may make rules to give effect in Singapore to the provisions of the Geneva Act of the Hague Agreement or of any other treaty, convention, arrangement or engagement relating to designs to which Singapore is a party.

[44/2004]

(2) Without prejudice to the generality of subsection (1), rules may, in particular, be made to provide for —

(a) the procedures to be followed for the filing of applications for international registrations through the Registry;

(b) the procedures to be followed where an application for international registration fails or the international registration ceases to be in force;

(c) the effects of a successful application for international registration designating Singapore as a country in which the design is to be registered;

(d) the communication of information to the International Bureau; and

(e) the payment of fees (including transmittal fees) and amounts prescribed in respect of applications for international registrations, corrections and renewals.

[44/2004]

(3) Provision may also be made in the rules to apply, in relation to an international design (Singapore), the provisions of section 44 and Parts IV and VI.

[44/2004]

(4) In this section —

"Geneva Act of the Hague Agreement" means the Act, signed at Geneva on 2nd July 1999, of the Hague Agreement Concerning the International Registration of Industrial Designs;

"International Bureau" means the International Bureau of the World Intellectual Property Organisation;

"international design (Singapore)" means —

(a) a design which is entitled to protection in Singapore under the Geneva Act of the Hague Agreement; or

(b) a design prescribed by the Minister as an international design (Singapore);

"international registration" means the international registration of an industrial design effected according to the Geneva Act of the Hague Agreement.

[44/2004]

PART VI

OFFENCES

Falsification of Register, etc.

65.—Any person who —

- (a) makes, or causes to be made, a false entry in the Register;
- (b) makes, or causes to be made, any thing false purporting to be a copy of an entry in the Register; or
- (c) produces or tenders or causes to be produced or tendered in evidence any thing referred to in paragraph (b),

knowing or having reason to believe the entry or thing, as the case may be, is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

[HK Designs, s. 85; Trade Marks 1999 Ed., s. 50]

False representation that design is registered

66.—(1) Any person who falsely represents that a design applied to any article disposed of by him for value is registered in respect of that article shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) For the purposes of subsection (1), a person shall be deemed to represent that a design applied to any article is registered in respect of that article, if there is stamped, engraved, or impressed on or otherwise applied to the article the word "registered" or anything expressing or implying that the design applied to the article has been registered in respect of that article.

(3) Any person who, after the right in a registered design has expired, marks any article to which the design has been applied with the word "registered", or anything implying that there is a subsisting right in the design under this Act, or causes any such article to be so marked, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[HK Designs, s. 86]

Offences by partnership or body corporate

67.—(1) Proceedings for an offence under this Act alleged to have been committed by a partnership shall be brought against the partnership in the name of the firm and not in that of the partners; but without prejudice to any liability of the partners under subsection (3).

(2) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(3) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

[Trade Marks 1999 Ed., s. 107]

Composition of offences

68.—(1) The Registrar or any person authorised by him in writing may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding \$2,000.

[3/2001]

(2) The Office may, with the approval of the Minister, make regulations to prescribe the offences which may be compounded.

[3/2001]

(3) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

[3/2001]

(4) All sums collected under this section shall be paid into the funds of the Office.

[3/2001]

PART VII

MISCELLANEOUS AND GENERAL PROVISIONS

Recognition of agents

69.—Except as otherwise provided by rules made under this Act, any act required or authorised by this Act to be done by or to any person in connection with the registration of a design, or any procedure relating to a registered design or the registration of a design, may be done by or to an agent authorised by that person orally or in writing.

[Trade Marks 1999 Ed., s. 80]

General powers of Court

70.—The Court, for the purpose of determining any question in the exercise of its original or appellate jurisdiction under this Act, may make any order or exercise any other power which the Registrar could have made or exercised for the purpose of determining that question.

[HK Designs, s. 60]

Costs in proceedings before Court

71.—In all proceedings before the Court under this Act, the Court may award to any party (including the Registrar) such costs as it may consider reasonable, but the Registrar shall not be ordered to pay the costs of any other of the parties.

[Trade Marks 1999 Ed., s. 104]

Certificate of Registrar

72.—A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing which he is authorised to make or do under this Act shall be prima facie evidence of the entry having been made, and of contents thereof, and of the matter or thing having been done or not done.

[Trade Marks 1999 Ed., s. 103]

Fees to be paid to Office

73.—All fees collected in connection with any proceedings or other matter before the Registrar or the Registry, or in connection with the provision of any service by the Registry, shall be paid into the funds of the Office.

[3/2001]

General power to make rules

74.—(1) The Minister may, after consulting with the Office, make rules —

- (a) for any purpose for which rules are required or authorised to be made under this Act;
- (b) for prescribing matters authorised or required by this Act to be prescribed;
- (c) for prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act; and
- (d) generally for regulating the practice and procedure of any proceedings or other matter before the Registrar.

[3/2001]

(2) Without prejudice to the generality of subsection (1), rules made under this section may make provision —

- (a) prescribing the manner of filing of applications or other documents;
- (b) requiring persons to make such statutory declarations as may be prescribed in support of any application, notice or request;
- (c) requiring and regulating the translation of documents and the filing and authentication of any translation;
- (d) relating to the service of documents;
- (e) authorising the rectification of irregularities of procedure;
- (f) prescribing the forms to be used for any purpose relating to the registration of a design or any other proceedings or matters before the Registrar;
- (g) requiring fees to be paid in connection with any proceedings or matters before the Registrar or in connection with the provision of any services by the Registry and prescribing those fees;
- (h) empowering the Registrar, in such cases as may be prescribed, to require a party to any proceedings before the Registrar to give security for costs, in relation to those proceedings or to proceedings on appeal, and providing for the consequences if security is not given;

(i) regulating the mode of giving evidence in any proceedings before the Registrar and empowering the Registrar to compel the attendance of witnesses and the discovery and production of documents;

(j) prescribing time limits for doing anything required to be done in connection with any proceedings or matters under this Act;

(k) providing for the extension of any time limit so prescribed or specified by the Registrar, whether or not it has already expired;

(l) providing for the publication of the practice directions issued by the Registrar;

(m) providing for the publication of the forms to be used for any purpose relating to the registration of a design or any other proceedings or matters before the Registrar; and

(n) providing for the publication and sale of documents by the Registry and of information about such documents.

[44/2004]

(3) Rules made under this section may make different provisions for different cases.

Rules relating to application for registration

75.—(1) Without prejudice to the generality of section 74, the Minister may, for the purposes of section 11, make rules providing that an application for registration of a design shall or may contain —

(a) a statement describing the representation of the design;

(b) a statement describing the features of the design which the applicant considers to be new;

(c) the classification of the articles to which the design is intended to be applied, according to any class or sub-class specified by the rules; and

(d) a sample of the article to which the design reproduced in the representation is to be applied.

(2) Rules made under this section may provide for the manner in which the following are to be claimed in connection with an application for registration:

(a) any claim that section 8, 9 or 10 applies in relation to the application;

(b) any claim to a right of priority under section 12 or 13.

Savings

76.—A reference in any law or document to the repealed United Kingdom Designs (Protection) Act (Cap. 339, 1985 Ed.) shall, unless the context otherwise requires, be construed as a reference to this Act.

Transitional provisions

77.—(1) The provisions of the Schedule have effect with respect to transitional matters notwithstanding the provisions of this Act.

(2) The Minister may, by order published in the Gazette, amend the provisions of the Schedule.

(3) The Minister may by rules make such transitional provisions in relation to the Copyright Act (Cap. 63) as he may consider necessary or expedient.

THE SCHEDULE

Section 77 (1)

TRANSITIONAL PROVISIONS

Preliminary

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

"initial period of registration" , in relation to a relevant design, means the initial period of its registration referred to in paragraph 2 (3);

"relevant design" means a design that is deemed to be a registered design for the purposes of this Act by virtue of paragraph 2 (1);

"UK Act" means the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), as amended and as applied to Singapore by the United Kingdom Designs (Protection) Act (Cap. 339, 1985 Ed.);

"UK Register" means the register of designs maintained under section 17 of the UK Act.

(2) Unless the context otherwise requires, any word or expression used in this Schedule and defined in the UK Act has the same meaning as in that Act.

(3) For the purposes of this Schedule and the avoidance of doubt, the date of registration of a design under the UK Act shall be determined in accordance with *section 3 (5) of the UK Act.

* Section 3 (5) of the UK Act is the section in force as of the date of operation of the Singapore Registered Designs Act (13th November 2000).

Relevant Designs

2.—(1) A design registered under the UK Act before 13th November 2000 shall be deemed to be a registered design for the purposes of this Act in respect of the article for which it is registered under the UK Act if the registration has not expired or been cancelled on 13th November 2000.

(2) For the avoidance of doubt, the reference in sub-paragraph (1) to a design registered under the UK Act before 13th November 2000 includes a reference to a design registered under the UK Act the date of registration of which is deemed, under *section 3 (5) of the UK Act, to be a date before 13th November 2000.

* Section 3 (5) of the UK Act is the section in force as of the date of operation of the Singapore Registered Designs Act (13th November 2000)

(3) The registration of a design that is deemed to be a registered design under sub-paragraph (1) shall be for an initial period that ends on the earlier of —

(a) the date of expiry of the period for which the right in the design is subsisting on 13th November 2000, if the period may not be extended under section 8 (2) of the UK Act; or

(b) the date the period falls due for extension, if the period may be extended under that section.

Extension of Registration

3.—(1) The period of registration of a relevant design may be extended for additional periods of 5 years at a time, but the total period of registration may not exceed 25 years from the date of its registration under the UK Act.

(2) If the registered proprietor of the design desires to extend the period of registration for a further period of 5 years from the expiry of its initial period of registration, he shall submit an application to the Registrar in accordance with sub-paragraph (3).

(3) An application referred to in sub-paragraph (2) shall be made before the expiry of the initial period of its registration, and shall be accompanied by —

- (a) a representation of the design as registered under the UK Act;
- (b) a certified extract confirming registration of the design issued by the Registrar of the United Kingdom Designs Registry;
- (c) such particulars of transactions affecting rights in the design for the time being entered in the UK Register as the Registrar may require;
- (d) such other information, documents or matters as may be required by the rules; and
- (e) the prescribed renewal fee.

(4) Section 21 (5) shall, with the necessary modifications, apply in relation to an application referred to in sub-paragraph (2), except that no late fee referred to in section 21 (5) is payable for an application made within 6 months after the expiry of the initial period.

(5) After the grant of an application referred to in sub-paragraph (2), the Registrar shall enter in the Register —

- (a) particulars of the relevant design, including the date of its registration under the UK Act;
- (b) the name of the registered proprietor of the relevant design for the time being entered in the UK Register; and
- (c) such other matters as the Registrar may think fit.

(6) Section 21 shall, with the necessary modifications, apply in relation to any further extension of the period of registration of a relevant design.

(7) Rules may be made to provide for —

- (a) the form and manner of filing of an application for the extension of the period of registration of a relevant design, including the documents and information to be furnished by an applicant in support of his application;
- (b) the publication of any such renewal; and
- (c) the right to inspect documents filed in support of an application for the extension of the period of registration of a relevant design, or to request for information relating to such application or the design concerned, and the conditions for the exercise of such a right, including any fee for the inspection or information.

Application of Act to Relevant Designs

4.—For the purposes of this Act —

(a) the registered owner of a relevant design —

(i) during the initial period of registration of the design, shall be the person whose name is for the time being entered in the UK Register as the registered proprietor of the design; or

(ii) after the expiry of that period and the grant of an application referred to in paragraph 3 (2) in relation to the design, shall be the person whose name is for the time being entered in the Register as the owner of the design; and

(b) the date of registration of a relevant design shall be the date of its registration under the UK Act.

5.—A reference in section 5 (2) to a design registered in pursuance of a prior application shall be construed as including a reference to a relevant design that is registered under the UK Act in pursuance of a prior application under that Act.

6.—(1) An application under section 23 or 27, or a surrender of registration under section 26, may be made in relation to a relevant design only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 3 (2) in relation to the design.

(2) Any cancellation of the registration under the UK Act of a relevant design pursuant to section 11 of that Act, that is carried out —

(a) during the initial period of registration of the design; or

(b) after that period but pursuant to a request or application made during that period,

shall for the purposes of this Act be treated as a surrender or revocation (as the case may be) of the registration under this Act and shall have the same force and effect as if it had been made under this Act.

7.—(1) Sections 28, 29 and 53 (2) shall not apply in relation to a relevant design.

(2) After the renewal of the registration of a relevant design under paragraph 3 (2) and upon the filing of a written request by any person in the prescribed manner and the payment of the prescribed fee, the Registrar shall —

(a) give the person making the request such information; and

(b) permit him to inspect such documents,

relating to the application for renewal of the design concerned (including any representation or sample of the design) as may be specified in the request, subject, however, to such conditions as may be prescribed.

(3) Rules may be made empowering the Registrar to refuse any request in respect of such information or documents as may be prescribed.

8.—(1) An application under section 34 for the registration of the particulars of a registrable transaction in relation to a relevant design may be made only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 3 (2) in relation to the design.

(2) An application for registration under section 19 of the UK Act in respect of a registrable transaction in relation to a relevant design, being an application made at any time before the end of the initial period of registration of the design, shall, for the purposes of section 34, be treated as an application under that section for the registration of the particulars of that transaction and shall have the same force and effect as such an application.

(3) For the purposes of this paragraph, “registrable transaction” has the meaning given to that expression in section 34 (2).

9.—(1) An application under section 54 for the rectification of the Register in relation to a relevant design may be made only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 3 (2) in relation to the design.

(2) Where, pursuant to an application made under section 20 of the UK Act before the expiry of the initial period of registration of a relevant design, any rectification is ordered to be made to the UK Register in respect of the design, the Registrar shall, either on his own initiative or upon application by an interested party, make a corresponding rectification of the Register, and section 54 (4) shall have effect as if the rectification were a rectification made pursuant to section 54 (3).

LEGISLATION HISTORY

1. Act 25 of 2000 — Registered Designs Act 2000

Date of First Reading : 30.6.2000 (Bill No. 19/2000 published on 1.7.2000)
Date of Second and Third Readings : 25.8.2000
Date of commencement : 13.11.2000

2. Act 3 of 2001 — Intellectual Property Office of Singapore Act 2001 (Consequential amendments made by)

Date of First Reading : 12.1.2001 (Bill No. 1/2001 published on 13.1.2001)
Date of Second and Third Readings : 22.2.2001
Date of commencement : 1.4.2001

3. Act 26 of 2001 — Statutes (Miscellaneous Amendments and Repeal) Act 2001

Date of First Reading : 11.7.2001 (Bill No. 24/2001 published on 12.7.2001)
Date of Second and Third Readings : 25.7.2001
Date of commencement : 1.9.2001 (except sections 3 and 17)Section 3 (1.3.2002)Section 17 (22.8.2001)

4. Act 21 of 2004 — Intellectual Property (Miscellaneous Amendments) Act 2004

Date of First Reading : 19.5.2004 (Bill No. 20/2004 published on 20.5.2004)
Date of Second and Third Readings : 15.6.2004
Date of commencement : 1.7.2004

5. Act 44 of 2004 — Registered Designs (Amendment) Act 2004

Date of First Reading : 21.9.2004 (Bill No. 42/2004 published on 22.9.2004)
Date of Second and Third Readings : 19.10.2004
Date of commencement : 1.1.2005

COMPARATIVE TABLE

The following provisions in the Registered Designs Act 2000 (Act 25 of 2000) were renumbered by the Law Revision Commissioners in the 2001 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Registered Designs Act.

2001 Ed.	Act 25 of 2000
28—(5) and (6)	28—(5)
68	67A
69	68
70	69
71	70
72	71
73	73A
74	72
75	73
<i>Omitted</i>	74—(1)
76	(2)
77—(1) and (2)	75—(1) and (2)
(3)	76—(2)
Omitted	76—(1)
