

INDUSTRIAL DESIGNS (AMENDMENT) BILL, 2018

ARRANGEMENT OF SECTIONS

Section

1. Section 5 of Act 660 amended
2. Section 8A inserted
3. Section 10 of Act 660 amended
4. Section 15 of Act 660 amended
5. Section 22 of Act 660 amended
6. Section 25 of Act 660 amended
7. Section 26 of Act 660 amended

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INDUSTRIAL DESIGNS (AMENDMENT) ACT, 2018

AN ACT to amend the Industrial Designs Act, 2003 (Act 660) to provide for the protection of industrial designs in other jurisdictions in accordance with the Hague Agreement for International Deposit of Industrial Designs and for related matters.

PASSED by Parliament and assented to by the President:

Section 5 of Act 660 amended

1. The Industrial Designs Act, 2003 (Act 660) referred to in this Act as the “principal enactment”, is amended by the substitution for section 5 of

“Application for registration

5. (1) A person may apply to the Registrar for the registration of an industrial design.

(2) The application is subject to the payment of the prescribed fees and shall contain

- (a) a request,
- (b) drawings, photographs or other adequate graphic representation of the design,
- (c) an indication of the article which constitutes the industrial design or in relation to which the industrial design is used,

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- (d) a specimen of articles embodying the industrial design, and
- (e) where applicable, a declaration claiming priority as provided in the Schedule, or of one or more earlier national or regional application or international deposits, certified as correct by the office with which it was filed.

(3) Where the applicant is not the creator, the application shall contain a statement justifying the rights of the applicant to the registration of the industrial design.

(4) The effect of a declaration made under paragraph (e) of subsection (2) is as provided in the Schedule.

(5) Where an application contains a declaration referred to in paragraph (e) of subsection (2), the Registrar may require the applicant to furnish, within a specified time limit, a copy of the earlier application or international deposit, certified as correct by the office with which it was filed.

(6) Where the Registrar finds the requirement under this section and the Regulations pertaining to a declaration are not fulfilled, the declaration shall not be considered to have been made.

(7) A maximum of five industrial designs may be the subject of the same application if they relate to the same class of the International Classification or the same set or composition of articles.”.

Section 8A inserted

2. The principal enactment is amended by the insertion of a new section 8A

“Deferral of publication

8A. (1) An applicant may in writing request for a deferral of the publication of an industrial design submitted by the applicant by a maximum period of thirty months, with effect from the deposit or priority date.

(2) Despite subsection (1), an applicant may request for the immediate publication of the industrial design at any time during the deferral period.

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- (3) The Registrar shall keep the filed industrial design a secret,
 - (a) where the application is withdrawn prior to the expiration of the deferral period; or
 - (b) until the expiration of the deferral period.”.

Section 10 of Act 660 amended

3. The principal enactment is amended by the substitution for section 10 of

“Duration and renewal of registration

- 10. (1) The registration of an industrial design shall be for a period of five years from the filing date of the application for registration.
- (2) The registration may be renewed for four further consecutive periods of five years upon the payment of the prescribed fee.
- (3) A grace period of six months shall be allowed for the late payment of the renewal fee on payment of the prescribed surcharge.”.

Section 15 of Act 660 amended

4. The principal enactment is amended in section 15 by the insertion of a new subsection (2)

- “(2) The Registrar shall process an international application in accordance with
 - (a) the Treaty and Regulations made under the Treaty; and
 - (b) the administrative instructions issued under the Treaty and Regulations made under the Treaty.”.

Section 22 of Act 660 amended

5. The principal enactment is amended in section 22 by the insertion of new subsections (4), (5), (6), (7), (8) and (9)

- “(4) An interested person may give the Commissioner notice in writing indicating
 - (a) the number of packages expected,
 - (b) a description of the goods,
 - (c) details of conveyance,
 - (d) the reason for which the detention is requested, and
 - (e) any other information that the Commissioner may require.

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(5) A person who makes a request in accordance with subsection (4) shall deposit the sums of money that the Commissioner may require to cover the expenses which may be incurred in the examination of the goods.

(6) Where, in the course of checks carried out by the Commissioner in relation to goods which are the subject matter of a request under this section or before a decision is taken to grant the application, it appears to the Commissioner that the goods are in contravention of this Act, the Commissioner may

- (a) notify the holder of the right, if known, of the possible infringement of the right; and
- (b) detain the goods.

(7) Where the goods are detained by the Commissioner, the Commissioner shall invite the holder of the right, in the absence of an existing application, to make an application within three days of the date of detention.

(8) The Commissioner shall release the goods where

- (a) an application is granted under subsection (2) in respect of the goods; or
- (b) an application is not made by the holder of the right within three days after the date of detention of the goods.

(9) Counterfeit trade mark goods and pirated copyright goods which correspond with the description of goods in relation to a decision delivered during the period specified in this section is liable for forfeiture.”.

Section 25 of Act 660 amended

6. The principal enactment is amended in section 25 by the addition of new subsections (2) and (3)

“(2) The Minister may make provisions under this section for the implementation of the Hague Agreement.

(3) Provision may, in particular be made for

- (a) the procedure for the making of applications for international registration of industrial designs;
- (b) the procedure to be adopted, where the Registrar receives from the International Bureau, a request for an extension of protection to the Republic;