

Kingdom of Cambodia
INDUSTRIAL DESIGNS REGULATION
PRAKAS (REGULATION) ON THE PROCEDURE FOR THE REGISTRATION OF
INDUSTRIAL DESIGNS
Ministry of Industry, Science, Technology & Innovation
Phnom Penh, March 02, 2021

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SECTION 1 GENERAL PROVISION

Rule 1

This regulation is the provision of protection of industrial designs that are discovered and are invented and are registered for protection in the Kingdom of Cambodia in accordance with the Law on Patents, Utility Model Certificates and Industrial Designs, and the Hague Agreement concerning the international registration of industrial designs:

- To encourage innovation of new industrial designs;
- To stimulate and promote increased internal and external commerce and investment;
- To promote the transfer of technology to the Kingdom of Cambodia in order to facilitate industrial activities and the development of the economy;
- To provide protection for the industrial design rights and to combat the infringement thereof, as well as illegal business practices.

Rule 2

The goal of this regulations is:

- To determine the procedure for the registration and renewal of industrial designs;
- To determine the formalities of the rejection and declarations of priority of applications for registration of industrial designs;
- To determine the competency of the examination of applications for the registration of industrial designs;
- To determine the procedures of hearings and settlement of disputes.

Rule 3

The scope of this regulation covers the creators of new industrial designs, either natural persons or legal entities, and provides rights to the creators to exploit their registered industrial designs and to have the right to institute court proceedings against infringers who infringe their industrial designs that are registered in the Kingdom of Cambodia.

Rule 4

This Regulation may be cited as the Regulation for implementation of the Law on Patents, Utility Model Certificates and Industrial

Designs in accordance with Article 130 of the Law on Patents, Utility Model Certificates and Industrial Designs.

Rule 5

The Registration Department shall, in accordance with the Law, register and examine industrial design applications in order to protect the intellectual property of creators of industrial designs.

Rule 6

In this Regulation, the following words shall be defined:

- Law means the Law on Patents, Utility Model Certificates and Industrial Designs, promulgated by the Royal Degree NS/RKM/0103/005, dated January 22, 2003.
- Minister means the Minister of the Ministry of Industry, Science, Technology & Innovation.
- Registrar means the Director of the Department of Industrial Property.
- Registration Department means Department of Industrial Property.
- Paris Convention means the convention that was signed in Paris on the Protection of Industrial Property on March 20, 1883 and last revised.
- Earlier Application means an application which has been earlier filed or earlier registered.

SECTION 2 PROCEDURE FOR THE REGISTRATION OF INDUSTRIAL DESIGNS

Rule 7

The Registrar shall apply the International Classification of Industrial Designs as adopted under the Locarno Agreement of October 08, 1968, and updated in its subsequent editions, for all purposes relating to the registration and publication of industrial designs, as well as for the maintenance of classified search files.

Rule 8

An application for registration of an industrial design shall be accompanied by the following:

1. In accordance with Article 95 of the Law, an application for registration of an industrial design, including a request; drawings, photographs or other adequate graphic representations of the article embodying the industrial design; and an indication of the kind of product for which the industrial design is to be used, shall be filed with the Registration Department and shall be subject to the payment of the application fee.
2. A request for registration of an industrial design shall be made on Form N° 1 ID as attached in annex A of this regulation.
3. The request shall indicate each applicant's name, address, nationality and residence and shall be signed by each applicant.
4. Where the applicant is the creator, the request shall contain a statement to that effect, and, where the applicant is not the creator, the request shall indicate each creator's name and address and be accompanied by a statement justifying the applicant's right to the registration of the industrial design.
5. If the applicant is represented by an agent, the request shall also indicate and state the agent's name and address.
6. A request by the applicant for deferment of publication of the industrial design or designs comprised in the application shall be made in writing and shall indicate the period of deferment requested.

Rule 9

The number and size of the drawings, photographs and real representations shall be as follows:

1. The application shall be accompanied by the following:
 - (a) four (4) drawings or photographs or real representations or graphic representations if the industrial design is two-dimensional; or
 - (b) four (4) drawings or photographs or graphic representations of each of the different sides of the industrial design and which provides at least 6 (six) views of the different sides if the industrial design is three-dimensional (3D); and
 - (c) a printing block or printing blocks of such dimensions which shall not exceed 17 centimeters x 26 centimeters.
2. A real representation shall be of a size not exceeding 15 centimeters x 15 centimeters x 15 centimeters. No drawings, photographs, or graphic representations of the industrial design shall exceed 10 centimeters x 15 centimeters. Such representations, drawings or tracings shall be affixed on four (4) sheets of cardboard of A4 size. Drawings and tracings shall be in black ink.

Rule 10

For the application for registration of a partial industrial design, the title of the entire industrial design must be clearly described, and must not be only the name of the partial industrial design that needs the protection. The drawings or photographs of the partial industrial design shall be highlighted by line or colored line on the part that is sought for protection and highlighted by a broken line on the part that is not sought for protection. For the size of the drawing or photograph, please refer to Rule 9.

Rule 11

The language of documents and translations shall be executed as follows:

1. An application and any documents forming part of an application or any documents submitted to the Registration Department or the Registrar pursuant to the Law, this Regulation, and Regulations relating thereto shall be in Khmer.
2. For the purposes of searching and examination, applications and documents as mentioned in the paragraph (1) of this Rule which are

written in Khmer or in languages other than English shall be translated into English, and shall be submitted to the Registrar within six (6) months from the filing date.

3. For the purposes of judgment, protection, and law enforcement, applications and documents written in languages other than Khmer shall be translated into Khmer, and shall be submitted to the Registrar within six (6) months from the filing date.

Rule 12

The indication of name, nationality, address and residence shall be executed as follows:

1. The names of a natural person shall be indicated by the person's family name, given name(s), nationality, and address. The names of legal entities shall be indicated by their full, official designations.

2. Nationality shall be indicated by the name of the State of which a person is a national. Legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.

3. An address shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall contain all the relevant administrative units, including the house number, if any. An address shall also indicate a telephone number, facsimile number and e-mail address.

4. A residence shall be indicated by the name of the State of which a person is a resident.

5. All applicants for registration of an industrial design shall provide a contact address in the Kingdom of Cambodia to the Registrar for the purpose of their application.

Rule 13

A change of name, nationality and address shall be executed as follows:

1. A request by an owner or applicant of a registration of an industrial design, in order to change the name, nationality, address

or contact address as recorded for the industrial design or in their own application for registration shall be in writing.

2. Before acting on a request for change of name or nationality, the Registrar may require such proof of change as the Registrar thinks fit.

3. If the Registrar has determined that those requests are appropriate, the Registrar may proceed with the changes on the industrial design or the application for registration of industrial design. In a case where a change of name, nationality or address has been recorded; the registrar has to record the changed properly.

Rule 14

Signatures shall be executed as follows:

1. A document purporting to be signed for or on behalf of a partnership shall contain the full names of all companies and the partners, and shall be signed by all the partners or by any partner qualified to sign, stating that he/she signs on behalf of the partnership, or by any other person who satisfies the Registrar that he/she is authorized to sign the document. A document purporting to be signed for or on behalf of a commercial entity shall be signed by a director or by the secretary or other principal officer of the commercial entity, or by any other person who satisfies the Registrar that he/she is authorized to sign the document and shall bear the seal of the commercial entity. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he/she is duly authorized.

2. The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

Rule 15

A declaration of priority of an application for registration of an industrial design in accordance with Article 100 of the Law shall be executed as follows:

1. The declaration of priority referred to in Article 27 of the Law shall be made at the time of filing the application for registration of the industrial design and shall indicate:

(a) the date of filing of the earlier application;

- (b) the number of the earlier application, subject to paragraph (2) of this Rule;
- (c) the International Classification for Industrial Designs which has been allocated to the earlier application, subject to paragraph (3) of this Rule;
- (d) the State in which the earlier application was filed or, the State or States for which it was filed if the earlier application is a regional or an international application;
- (e) the Office to which it was filed if the earlier application is a regional or an international application.

2. Where at the time of filing the declaration referred to in paragraph (1) of this Rule, the number of the earlier application is not known, that number shall be furnished within the period of three (3) months after the filing date of the application with the Registration Department.

3. Where at the time of filing the declaration referred to in paragraph (1) of this Rule, an International Classification for the Industrial Design has not been allocated to the earlier application, or had not yet been allocated, the applicant shall state this fact in the declaration and shall communicate such International Classification for the Industrial Design as soon as it has been allocated.

4. The applicant may, at any time before the registration of the industrial design, amend the contents of the declaration referred to in paragraph (1) of this Rule.

5. The period for furnishing the certified copy of the earlier application, referred to in Article 28 of the Law, shall be three (3) months from the filing date of application. Where a certified copy of the earlier application has already been furnished for another application, the applicant may respond by making a reference to that other application.

6. Where the earlier application is in a language other than Khmer, the applicant shall, within six (6) months from the date of the request from the Registrar, furnish the translation in Khmer of the earlier application.

7. Unless the Registrar requests otherwise, the applicant shall provide one (1) copy of the earlier application and one (1) copy of the translation of such application.

Rule 16

Withdrawal and amendment of application shall be executed as follows:

1. The application shall be withdrawn by written declaration submitted to the Registrar and signed by each applicant or representative.
2. The fee related to the application shall not be refunded if the application is withdrawn.
3. Any amendment of the application shall be in writing.
4. An industrial design application that has been withdrawn, abandoned or refused shall be subject to the provisions of Article 4(c) (4) of the Paris Convention where appropriate.

Rule 17

The numbering and marking of an application shall be executed as follows:

1. Upon receipt of the application, the Registrar shall mark, on each document of the application, the actual date of receipt and application number, and the application number shall consist of the letters "KH", slash "/", the letters "ID", slash "/", the four-digit number of the year in which the application is received, slash "/", and a five-digit number allotted in the sequential order in which applications are received each year. Where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for registration of an industrial design.
2. The application number allotted under paragraph (1) of this Rule shall be quoted in all subsequent communications concerning the application.

Rule 18

After following the rule as mentioned in Rule 17 of this Regulation, the Registrar shall further execute as follows:

1. The Registrar shall examine whether the application fulfills the requirements of Article 95 of the Law.
2. The invitation to file any correction, under paragraph 2 of Article 101 and Article 34 of the law, shall be in writing and shall specify the correction or corrections required and request that these be filed within two (2) months from the date of the invitation.
3. Once the Registrar accords a filing date, the Registrar shall notify the applicant in writing; if the application is treated as if it had not been filed, under Article 101 and Article 34 of the Law, the Registrar shall notify the applicant in writing, specifying the reasons.
4. Where the Registrar finds that the conditions set out in Article 89, Article 90, Article 93, Article 95 and Article 96 of the Law and the Regulations pertaining thereto are not fulfilled, the Registrar shall request the applicant, in writing, to make the correction within two (2) months from the date of the request, together with the payment of the prescribed fee. If the applicant does not comply with the invitation to correct a deficiency, or where, despite corrections submitted by the applicant, the Registrar is of the opinion that the said conditions are not fulfilled, the Registrar shall reject the application and notify the applicant, in writing, by stating the reasons.
5. Refusal of the application shall not affect its filing date, which shall remain valid.
6. The Registrar shall notify the applicant, in writing, of the Registrar's decision to grant or to refuse the application, and, in the case of a decision to grant the application, he shall request the applicant to pay the registration fee within one (1) month from the date of the notification.
If there is any delay in the payment of the registration fee as stated in paragraph 1, the applicant or representative must, in writing, provide the reason for the delay to the Registrar. The delay in the payment of the registration fee shall not exceed the maximum of three (3) months.

Rule 19

The registration of an industrial design shall be executed as follows:

1. Subject to the payment of the registration fee within the period prescribed in Paragraph 6 in Rule 15 of this Regulation, the Registrar shall register the industrial design in accordance with Article 103 of the Law and this Regulation.
2. The Registrar shall allot to each industrial design a number in the sequential order of registration.
3. The registration of an industrial design shall include a representation of the industrial design and shall specify:
 - (a) the name and address of the applicant;
 - (b) the title of the industrial design;
 - (c) if the priority has been claimed from the country or countries in which or for which the earlier application was filed, and the claim has been accepted the priority date;
 - (d) the kind of products for which the industrial design is to be used.
4. The publication of the reference to the registration of an industrial design, under Article 103 of the Law, shall contain the particulars specified in paragraph (3) of this Rule.

Rule 20

The renewal of registration of an industrial design shall be executed as follows:

1. The renewal of the registration of an industrial design under Article 109 of the Law may be made by the registered owner or the representative during the six
(6) month period preceding the expiry of the registration.
2. The renewal shall be made by payment of the renewal fee within the period specified in paragraph (1) hereof or, within the six (6) month grace period allowed under Article 109 of the Law with the payment of the prescribed surcharge.
3. The renewal of an industrial design registration shall be recorded and shall be published.

4. The Registrar shall issue to the registered owner a certificate of renewal which shall contain:

- (a) the registration number of the industrial design;
- (b) the date of renewal and the date of expiry;
- (c) the name and address of the registered owner; and
- (d) an indication of the kind of product for which the industrial design has been registered.

Rule 21

A change in ownership and a license contract for the industrial design shall be executed as follows:

1. The request, under Article 114 of the Law, for recording a change of ownership of the registered industrial design or of an application therefor shall be made to the Registrar on the prescribed Form.

2. The publication of the change of ownership shall specify:

- (a) the title of the registered industrial design concerned;
- (b) the filing date, the priority date (if any) and the date of registration;
- (c) the owner and the new owner; and
- (d) the nature of the change of ownership.

3. A license contract submitted for recordal under Article 115 of the Law shall be subject to the payment of the prescribed fee.

Rule 22

An agent shall be executed as follows:

1. The appointment of an agent under Article 116 of the Law shall be appointed by a power of attorney which shall be signed by the applicant or, if there is more than one, by each applicant. The address of the agent shall, for all purposes connected with the Law and this Regulation, be treated as the address to which communications to the person or persons who appointed the agent shall be transmitted.

2. A power of attorney stated in paragraph (1) of this Rule shall accompany the application or shall be submitted within two (2) months from the filing date.

3. If the appointment of power of attorney is not made in accordance

with paragraph (2) of this Rule and Article 116 of the Law, any procedural steps taken by the agent, other than the filing of the application, shall be deemed not to have been taken.

4. Any requirements related to the agent representing the applicant as provided in paragraph (1) of this Rule shall be prescribed by Ministry of Industry, Science, Technology & Innovation in a separate provision.

Rule 23

When the last day for doing any act or taking any proceeding falls on a day when the office and the Registration Department is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the office is next open for business.

Rule 24

Extracts of information and corrections of errors shall be executed as follows:

1. Requests for certified copies of extracts from a Register or copies of any documents shall be made to the Registrar in writing.
2. A correction of an error, under Article 120 of the Law, may be made by the Registrar upon receipt of a request in writing and subject to such terms as the Registrar may consider appropriate, or on the Registrar own initiative. The correction which was made shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

Rule 25

A hearing shall be executed as follows:

1. Before acting adversely to any person using any discretionary power given to the Registrar by the Law or this Regulation, the Registrar shall notify such person, in writing, of the opportunity to be heard thereon, and shall indicate a time limit, which shall not be less than one (1) month, for filing a request for a hearing.
2. The request for a hearing shall be in writing.
3. Upon receiving such a request, the Registrar shall give the person applying, and any other interested persons, at least two (2)

weeks before the hearing, in writing, notice of the date and time of the hearing.

Rule 26

Service by mail shall be as follows:

1. Any notice, application or other document sent to the Registrar by mail or by other means shall be deemed to have been given, offered, made or filed at the time when it would be delivered in the ordinary course of the mail or by other means. In proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

2. Paragraph (1) of this Regulation does not apply to the accordance of the filing date.

Rule 27

Evidence shall be executed as follows:

1. Where under this Regulation evidence maybe filed, it shall be by statutory declaration or affidavit.

2. The Registrar may, if the Registrar thinks fit, in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his/her affidavit or declaration.

Rule 28

A statutory declaration shall be executed as follows:

1. Any statutory declaration or affidavit filed under the Law or this Regulation shall be made before any officer authorized by law in any part of Cambodia to administer an oath for the purpose of any legal proceedings.

2. A statutory declaration or affidavit made outside Cambodia shall be made before an official of a Consulate or an official of the Embassy of the Kingdom of Cambodia to that country.

Rule 29

The particulars of an industrial design and other proceedings under the Law and any other information required to be published under the Law or this Regulation and regulation shall be published, in

accordance with the directions of the Registrar, in the Official Gazette.

Rule 30

The fees to be paid for registration of an industrial design under this Regulation shall be prescribed in an inter-ministerial declaration of the Ministry of Economy and Finance and the Ministry of Industry, Science, Technology & Innovation.

Rule 31

The Department of Industrial Property shall have the authority to establish a mechanism for the settlement of a dispute related to the system for the registration of industrial designs.

Rule 32

The Department of Industrial Property shall cooperate with national, international organizations and concerning institutions for promoting the protection of industrial property and developing the system for the registration of industrial designs.

Rule 33

This Regulation is enclosed by the Annexes for the application of ID1, ID2, ID3, ID4, ID5, ID6, ID7, ID8, ID9 and ID10.

SECTION 3 FINAL PROVISION

Rule 34

Any provisions that contradict this Regulation shall be considered as null and void.

Rule 35

The Chief of Cabinet, the General Director, the Secretary General, the Director of the Center, the Director of the Department of Industrial Property, the Director of Legal Department of all units under the Ministry, the Director of the Municipal/Provincial Department of Industry, Science, Technology & Innovation and related persons or legal entities shall be responsible for the effective implementation of this Prakas from the date of signing.