

SINGAPORE
Designs Act
Registered Designs Act 2000
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THE SCHEDEULE

PART 1 PRELIMINARY

1. Short title

This Act is the Registered Designs Act 2000.

2. Interpretation

(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 anything that is manufactured (whether by an industrial process, by hand or otherwise), 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 given by section 20(1) of the Copyright Act 2021;

"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 or a non-physical product, results in a reproduction of that work;

"Court" means the General Division of the High Court;

"design" means features of shape, configuration, colours, pattern or ornament applied to any article or non-physical product that give that article or non-physical product its appearance, but does not include

(a) a method or principle of construction;

(b) features of shape, configuration or colours of an article or a non-physical product that

(i) are dictated solely by the function that the article or non-physical product has to perform;

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

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

(c) features consisting only of one or more colours that

(i) are not used with any feature of shape or configuration; and

(ii) do not give rise to any feature of pattern or ornament;

“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 the licensee, 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” is to be construed accordingly;

“formal requirements” means

- (a) the requirements of section 11(2)(c) and (4)(a); and
- (b) any other requirements of section 11, or of rules made for the purposes of that section, that are prescribed as formal requirements;

“International Bureau” means the International Bureau of the World Intellectual Property Organisation;

“non-physical product”

- (a) means anything that
 - (i) does not have a physical form;
 - (ii) is produced by the projection of a design on a surface or into a medium (including air); and
 - (iii) has an intrinsic utilitarian function that is not merely to portray the appearance of the thing or to convey information; and
- (b) includes any set of non-physical products;

“Office” means the Intellectual Property Office of Singapore incorporated under the Intellectual Property Office of Singapore Act 2001;

“owner” has the meaning given by section 4;

“Paris Convention” means the Convention for the Protection of Industrial Property signed at Paris on 20 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;

"set of articles and non-physical products" means one or more articles and one or more non-physical products

(a) all of which are of the same general character and are ordinarily on sale together or intended to be used together; and
(b) 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;

"set of non-physical products" means 2 or more non-physical products 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.

(2) Unless the context otherwise requires

(a) any reference in this Act to the filing of a document is to 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 is, in the case of a design registered in respect of a set of articles or a set of articles and non-physical products, a reference to any article of that set;

(c) any reference in this Act to a non-physical product in respect of which a design is registered is, in the case of a design registered in respect of a set of non-physical products or a set of articles and non-physical products, a reference to any non-physical product of that set; and

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

(3) In this Act, unless the context otherwise requires, a device for projecting a non-physical product

- (a) is any device that when activated projects the non-physical product on a surface or into a medium (including air); and
- (b) includes any product or component that is used in or with a device mentioned in paragraph (a) to project the non-physical product on a surface or into a medium (including air).

3. Act binds Government

Subject to Part 4, this Act binds the Government.

PART 2 REGISTRATION OF DESIGNS

Division 1 Ownership of Designs

4. Owner of design

- (1) Subject to this section, the designer of a design is to be treated for the purposes of this Act as the owner of the design.
- (2) Where a design is created by an employee in the course of his or her employment, his or her employer is to be treated as the owner of the design.
- (3) Subsection (2) is subject to any agreement to the contrary between the parties concerned.
- (4) Where a design, or the right to apply a design to any article or non-physical product, 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, is to 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 or non-physical product.

(5) 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 is deemed to be the designer.

Division 2 Registrable Designs

5. New design may be registered

- (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, a non-physical product, or a set of articles and non-physical products, specified in the application.
- (2) A design for which an application for registration is made is not to be regarded as new if it is the same as a design
- (a) registered in respect of the same or any other article, non-physical product or set of articles and non-physical products

pursuant to a prior application; or

(b) published in Singapore or elsewhere in respect of the same or any other article, non-physical product or set of articles and non-physical products 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 is to be treated as filed on a date earlier or later than that on which it was in fact filed.

6. Designs contrary to public order or morality

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

7. Computer programs, etc., not registrable

(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 given by the Layout-Designs of Integrated Circuits Act 1999.

(3) The Minister may make rules

(a) to exclude from registration under this Act designs for such articles and non-physical products of a primarily literary or artistic character as the Minister considers appropriate; and

(b) to provide that any design described in the rules must not be registered under this Act, or must not be so registered unless such conditions as may be prescribed are met.

8. Disclosure, etc., of design before certain date

(1) Subject to subsection (3), an application for registration of a design must not be refused, and the registration of a design must 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.

(2) Subject to subsection (3), an application for registration of a design must not be refused, and the registration of a design must 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) This section only applies to

(a) a disclosure mentioned in subsection (1)(a) or (b);

(b) an acceptance mentioned in subsection (1)(c);

(c) a communication mentioned in subsection (1)(d), or anything done in consequence of such a communication;

(d) a display mentioned in subsection (2)(a) or (b); or

(e) a publication mentioned in subsection (2)(c), that occurs before 30 October 2017.

(4) 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 22 November 1928, and any protocols to that Convention, as revised or amended from time to time.

8A. Disclosure of design on or after certain date

(1) An application for registration of a design must not be refused, and the registration of a design must not be revoked, by reason only of any of the following:

(a) a disclosure of the design made to a person other than the designer, or any successor in title of the designer, under conditions of confidentiality (whether express or implied);
(b) a disclosure of the design made by the designer, or any successor in title of the designer, during the period of 12 months immediately before the date of filing of the application for registration of the design;
(c) a disclosure of the design made by a person other than the designer, or any successor in title of the designer, during the period of 12 months immediately before the date of filing of the application for registration of the design, in consequence of information provided, or any other action taken, by the designer or any successor in title of the designer;
(d) a disclosure of the design made during the period of 12 months immediately before the date of filing of the application for registration of the design, as a consequence of an abuse in relation to the designer or any successor in title of the designer.

(2) This section only applies to a disclosure mentioned in subsection (1)(a), (b), (c) or (d) that is made on or after 30 October 2017.

8B. Disclosure of design to be registered in respect of non-physical product

An application for registration of a design in respect of a non-physical product must not be refused, and the registration pursuant to that application of the design in respect of the non-physical product must not be revoked, by reason only of a disclosure of the design made before the date of filing of that application, if that application is filed during the period of 12 months immediately after 30 October 2017.

9. Provisions as to artistic works

(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 is not to 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) does not apply if
(a) the previous use consisted of or included the sale, letting for

hire, or offer or exposure for sale or hire, of

- (i) articles or non-physical products to which had been applied
 - (A) the design in question; or
 - (B) a design differing from the design in question only in immaterial details or in features that are variants commonly used in the trade (called in this subsection an immaterial variant); or
- (ii) devices for projecting any non-physical products mentioned in sub-paragraph (i);

- (b) the design in question or an immaterial variant had been applied industrially in relation to those articles, non-physical products or devices; and
- (c) the 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, in relation to articles, non-physical products or devices for projecting non-physical products, for the purposes of this section.

10. Subsequent registration of design in respect of other articles or non-physical products, etc.

(1) Where the registered owner of a design registered in respect of an article or a non-physical product files

- (a) an application for registration of the registered design in respect of one or more other articles or non-physical products; 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 or non-physical products,

the application must not be refused, and the registration made on the application must 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) does 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 or a non-physical product and either

- (a) the design has been previously registered by another person in

respect of some other article or non-physical product; 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 or non-physical product 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) applies as if, at the time of filing the application, the applicant had been the registered owner of that design.

Division 3 Proceedings for Registration

11. Application for registration

- (1) An application for registration of a design must be filed in the prescribed manner with the Registrar, and is subject to the payment of the prescribed application fee.
- (2) The application must
- (a) contain a request for the registration of a design;
 - (b) state the name and address of the applicant; and
 - (c) contain a clear representation of the design.
- (3) Except as otherwise provided in section 16A, the date on which the application is filed is the earliest date on which
- (a) the fee payable under subsection (1) has been paid or is treated by the Registrar as paid; and
 - (b) all the requirements under subsection (2) have been satisfied.
- (4) An application may be filed under subsection (1) for the registration of 2 or more designs, if
- (a) the articles, non-physical products, or sets of articles and non-physical products, to which any of those designs is intended to be applied, as specified in the application, fall within the same class, or (if they fall within more than one class) all of the same classes, under the classification mentioned in section 75(1)(c), as the articles, non-physical products, or sets of articles and non-physical products, to which each of the other designs is intended to be applied, as specified in the application; and
 - (b) the application complies with such other requirements as may be prescribed.

(5) Every application filed under subsection (1) for the registration of 2 or more designs is to be treated as if a separate application had been filed under that subsection for the registration of each of those designs.

12. Claim to priority of Convention application

(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, non-physical products, or sets of articles and non- physical products;

(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, non-physical products, or sets of articles and non-physical products (called in this section the first Convention application);

(c) within 6 months after the date on which the first Convention application is filed, that person or that person's successor in title applies under this Act for the registration of the design in respect of all or any of those articles, non-physical products, or sets of articles and non- physical products; and

(d) that person or that person's successor in title provides to the Registrar, upon request by the Registrar

(i) any prescribed information; and

(ii) any supporting document,

in the manner and within the time specified by the Registrar, that person or that person's 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, non-physical products, or sets of articles and non-physical products for which registration was sought in the first Convention application.

(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 has priority from (and including) the date on which the first Convention application was filed; and

(b) the application is to 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.

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

(4) Despite 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 must not be refused, and the registration of the design under this Act must 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.

(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, is to be treated as giving rise to the right of priority.

(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.

(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 is to 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.

(8) To avoid doubt, where subsection (7) applies

- (a) the date on which the subsequent application was filed, rather than that of the earlier application, is to 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.

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

(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" is to be construed accordingly.

13. Claim to priority of other overseas applications

(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, non-physical products, or sets of articles and non-physical products, 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.

14. Withdrawal of application

(1) An applicant may withdraw his or her 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 is to be treated as withdrawn, and such withdrawal is irrevocable.

15. Amendment of application

(1) Subject to subsection (4) and the rules mentioned in section 74(2A), the Registrar may, on the Registrar's own initiative or upon request made to the Registrar 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 must 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 class or classes (under the classification mentioned in section 75(1)(c)) of articles, non-physical products, or sets of articles and non-physical products, to which a design is intended to be applied, as specified in an application for registration of the design, must not be amended if

(a) the application is derived under section 11(5) from an application filed under section 11(1) for the registration of 2 or more designs; and

(b) the amendment would result in the articles, non-physical products, or sets of articles and non-physical products, to which any of those designs is intended to be applied, and the articles, non-physical products, or sets of articles and non-physical products, to which another of those designs is intended to be applied, falling within different classes.

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

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

16. Examination of application

(1) The Registrar must 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, the Registrar must notify the applicant and give the applicant 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 is to 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 must be restored to the applicant.

16A. New application treated as filed on date of filing of earlier application

(1) Where, on examining an application for registration of a design (called in this section the earlier application) under section 16(1), the Registrar determines that the earlier application fails to comply with either or both of the formal requirements of section 11(2) (c) and (4) (a) (where applicable), the Registrar may, when notifying the applicant of the non-compliance under section 16(2), invite the applicant to correct the non-compliance by filing one or more new applications under section 11.

(2) A new application must not be filed under subsection (1) if

- (a) a notice of withdrawal has been filed under section 14 in relation to the earlier application;
- (b) the earlier application has been treated as withdrawn under section 16(3);
- (c) the earlier application has been refused under section 17; or
- (d) the earlier application has been registered under section 18.

(3) The Registrar must refuse any new application filed in contravention of subsection (2).

(4) Each new application filed under subsection (1) is to be treated as filed on the date of filing of the earlier application, if all of the following requirements are satisfied:

- (a) the new application complies with the requirements of section

11;

- (b) the new application is made by the applicant, or the successor in title of the applicant, for the earlier application;
- (c) the new application does not include any matter that was not in substance disclosed in the earlier application.

17. Refusal of application

- (1) The Registrar may refuse an application for registration of a design if
 - (a) after an examination by the Registrar 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 must give notice of any refusal under this section to the applicant.

18. Registration and publication

Subject to sections 17 and 18A(3), if the Registrar determines that an application for registration of a design satisfies the formal requirements, the Registrar must 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.

18A. Deferment of publication

- (1) An applicant may, when filing the applicant's application for registration of a design, request that any publication under section 18 of the design be deferred for the prescribed period after the date of filing of that application.

(2) A request under subsection (1) must be made in the prescribed manner and accompanied by the prescribed fee.

(3) Despite section 18, the Registrar must defer the publication under that section of a design which is the subject of a request under subsection (1) for the prescribed period referred to in that subsection.

(4) The Minister may make rules to provide for the deferment of the publication under section 18 of a registered design and for matters relating thereto.

19. Only formality examination required

The Registrar, in determining whether to accept an application for registration of a design, is not 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.

20. Date of registration

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

Division 4 Duration of Registration

21. Initial period of registration and extension

(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, not earlier than the prescribed period before the date of expiry of the current period of registration, and not later than the date of 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 ceases to be in force upon the expiry of that period and must be removed from the Register.

(5) If, during the prescribed period after the date of 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 is to 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 is to 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 is to 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 4 if the registration had not ceased to be in force is to be treated as such use.

(6) The Minister may make rules to provide for the restoration of the registration of a design which has been removed from the Register, subject to such conditions as may be prescribed.

22. Exceptions relating to artistic works, etc.

(1) Despite 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 2021; 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) Despite section 21, the period of registration of a design registered by virtue of section 10(1) does not extend beyond the end

of the period of registration, and any extended period of registration, of the original registered design.

Division 5 Proceedings for Determination of Rights in Registered Designs

23. Determination of rights after registration

(1) After a design is registered, any person having or claiming an interest in the design may apply to the Court to determine who is the true owner of the design; whether the design should have been registered in the name of the person in whose name it was registered; or whether any right in the design should be transferred or granted to any other person, and the Court is to determine the question and may make such order as it considers appropriate to give effect to the determination.

(2) Without limiting 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;
- (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 is to 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 the registered owner (as the case may be) that the registered owner was not entitled to be registered as the owner.

(5) The Court is not to 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.

24. Effect of order made under section 23 on third party

(1) Where an order is made under section 23(1) that a registered design be transferred from any person or persons (called in this section 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, subject to section 34 and to the provisions of the order, continue in force and are to be treated as granted by the person or persons to whom the design is ordered to be transferred (called in this section the new owner or owners).

(2) Where an order is so made that a registered design must 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 will, 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 are, on making a request to the new owner or owners within the prescribed period, 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) must 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 the person 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 is to 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.

25. Licences granted by order of Court

Any order made under section 23(1) or 24(6) for the grant of a licence, without affecting any other method of enforcement, has 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.

Division 6 Surrender and Revocation of Registration

26. Surrender of registration

(1) The registration of a design may be surrendered by the registered owner in respect of all or any of the articles, non-physical products, or sets of articles and non-physical products 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.

27. Revocation of registration

(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 the Registrar 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 the Registrar 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, the Registrar 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 must 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.

Division 7 Miscellaneous

28. Right to information

- (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 must
- (a) give the person making the request such information; and
 - (b) permit that person 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 must 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) does 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 that person 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, even though the design has not been registered.

29. Provisions for secrecy of certain designs

- (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 the Registrar by the Minister as relevant for defence purposes, the Registrar must 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,

must 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) must be held in abeyance after the formal requirements referred to in section 16 have been satisfied; and
- (b) despite section 18, must 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, the Registrar must give notice of the application and of the directions to the Minister, and thereupon the following provisions have effect:

- (a) the Minister must 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;
- (d) on the receipt of such notice, the Registrar must revoke the directions and may, subject to such conditions (if any) as the Registrar 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 prevents 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.

PART 3 RIGHTS IN REGISTERED DESIGNS

Division 1 Rights of Registered Owner of Registered Design

30. Rights conferred by registration

- (1) The registration of a design under this Act gives to the registered owner the following exclusive rights:
- (a) to make in Singapore, or import into Singapore, for sale or hire, or for use for the purpose of trade or business
 - (i) any article in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied; or
 - (ii) any device for projecting a non-physical product (being a non-physical product in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied);
 - (b) to sell, hire, or offer or expose for sale or hire, in Singapore
 - (i) any article or non-physical product in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied; or
 - (ii) any device for projecting a non-physical product mentioned in sub-paragraph (i).
- (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 is to 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) or (c) 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

- (a) the import, sale, hire, or offer or exposure for sale or hire of
 - (i) any article to which the design has been applied, if the article has been placed on the market, whether in Singapore or elsewhere, by or with the consent (conditional or otherwise) of the registered owner; or
 - (ii) any device for projecting a non-physical product (being a non-physical product to which the design has been applied), if the device has been placed on the market, whether in Singapore or elsewhere, by or with the consent (conditional or otherwise) of the registered owner; or
- (b) the sale, hire, or offer or exposure for sale or hire of any non-physical product to which the design has been applied, if the non-physical product has been placed on the market, whether in Singapore or elsewhere, by or with the consent (conditional or otherwise) of the registered owner.

30A. Registration subject to disclaimer

(1) An applicant for registration of a design, or the registered owner of a registered design, may disclaim any right in relation to

a specified feature of the design.

(2) Where the registration of a design is subject to a disclaimer, the rights given by section 30 are restricted accordingly.

(2A) Where an applicant for registration of a design, or the registered owner of a registered design, disclaimed any right in relation to a specified feature of the design

(a) at any time before 26 May 2022; and

(b) in any application, request or other document that otherwise complied with the requirements of this Act and the rules made under this Act, then

(c) subsection (1) applies in relation to that disclaimer as if that subsection were in force on the date of the making of the disclaimer; and

(d) subsection (2) applies in relation to the registration of that design and (if the disclaimer were to apply beginning on a date before 26 May 2022) is taken to have always applied in relation to the registration beginning on the date the disclaimer was to begin to apply.

(2B) However, nothing in subsection (2A) applies to, or may be construed to affect

(a) any decision or judgment issued by any court given before 12 September 2022 in relation to that design; or

(b) any proceedings before any court commenced before 12 September 2022 in relation to that design.

(3) The Minister may make rules under section 75 as to the publication and entry in the register of a disclaimer.

31. Rights of third parties to continue use of registered designs

(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 the person's 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) does not include a right to grant a licence to any person to do an act referred to in subsection (1).

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

Division 2 Registered Design as Object of Property

32. Nature of registered design

(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) 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) apply to an assignment by way of security as they apply to any other assignment.

(9) A registered design or any right in it may be the subject of a charge in the same way as other personal or movable property.

(10) 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.

33. Co-ownership of registered design

(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them is 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 is entitled, by himself, herself or itself or the registered owner's agent, to do in relation to the design and for the registered owner's 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, a registered owner must not, without the consent of each of the others

- (a) grant a licence for the use of the design;
- (b) assign any interest in the design; or
- (c) charge his, her or its share in the rights in the design.

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

34. Registration of transactions affecting registered design

- (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 must 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) Despite 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.

(5) Provision may be made by rules as to the amendment, alteration or removal from the Register of any particulars in the Register relating to any registrable transaction.

35. Rights in application for registration

(1) Sections 32, 33 and 34 apply, with the necessary modifications, 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 is to 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

36. Infringement proceedings

(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 may 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.

37. Infringement proceedings by co-owner

(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them is 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 must be made a party or parties to the proceedings, but any other registered owner if made a defendant is not liable for any costs or expenses unless that registered owner takes part in the proceedings.

38. Infringement proceedings by exclusive licensee

(1) The holder of an exclusive licence under a registered design has 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 are to 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 the registered owner is not liable for any costs or expenses unless the registered owner takes part in the proceedings.

39. General restriction on recovery of damages or profits

(1) In infringement proceedings, the Court must not award damages, nor make an order for an account of profits, against a defendant who proves that at the date of the infringement the defendant 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 is not to 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, a non-physical product, or a device for projecting a

non-physical product, or to any printed matter accompanying an article, a non-physical product, or a device for projecting a non-physical product, 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.

40. Order for delivery up

- (1) Where the defendant to proceedings for infringement of a registered design has in the defendant's possession
 - (a) any infringing article in relation to that design;
 - (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; or
 - (c) any infringing device in relation to that design,
the Court may, in addition to any relief granted under section 36, order the article, thing or infringing device to be delivered to the claimant.
- (2) An order is not to 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, thing or infringing device is delivered up pursuant to an order made under this section must, 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.
- (5) In this section and section 41, an infringing device in relation

to a registered design is a device for projecting a non-physical product where

- (a) the design, or a design not substantially different from that design, has been applied to the non-physical product; and
- (b) either or both of the following apply:
 - (i) the device is made in Singapore or imported into Singapore in such a way as to infringe the design;
 - (ii) the device is sold, let for hire, or offered or exposed for sale or hire in Singapore in such a way as to infringe the design.

41. Order for disposal

(1) Where any infringing article or thing, or any infringing device, has been delivered up pursuant to 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 must have regard to

- (a) whether other remedies available in proceedings for infringement would be adequate to compensate the claimant and protect the plaintiff's interest; and
- (b) the need to ensure that no infringing article or thing, and no infringing device, is disposed of in a manner that would adversely affect the claimant.

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

(4) Any person having an interest in the article, thing or infringing device 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 does 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, thing or infringing device, the Court may
- (a) direct that the article, thing or infringing device be sold, or otherwise dealt with, and the proceeds divided; and
 - (b) 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, thing or infringing device was before being delivered up is entitled to its return.

42. Declaration as to non-infringement

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, even though 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 the registered owner with full particulars in writing of the act in question; and
- (b) the registered owner has refused or failed to give any such acknowledgment.

43. Certificate of contested validity of registration

- (1) If in any proceedings before the Registrar or the Court the validity of the registration of a design is contested, and the Registrar or the Court finds that the registration of the design is valid, the Registrar or the Court may certify the finding and the fact that the validity of the registration was so contested.
- (2) Where a certificate is given under subsection (1) and in subsequent proceedings for infringement of the design or for revocation of the registration of the design before the Registrar or the Court
- (a) the validity of the registration is again questioned; and
 - (b) the registered owner obtains a final order or judgment in the registered owner's favour relying on the validity of the

registration as found in the earlier proceedings, the registered owner is entitled to the registered owner's costs as between solicitor and client unless the Registrar or the Court directs otherwise.

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

44. Remedy for groundless threats of infringement proceedings

(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 the person has sustained by the threats,

and the claimant is entitled to such relief unless

- (d) 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
- (e) the claimant 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 renders an advocate and solicitor liable to an action under this section in respect of an act done by him or her in his or her professional capacity on behalf of a client.

PART 4 GOVERNMENT USE OF REGISTERED DESIGNS

45. Government use of registered designs

(1) Despite 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 the person is authorised, directly or indirectly, by the registered owner to use the design.

(3) Without limiting subsection (1), any use of the design for

- (a) the supply to the government of any country or territory outside Singapore, pursuant to any agreement or arrangement between the Government and the government of that country, of articles, non-physical products, or devices for projecting non-physical products, 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, non-physical products, or devices for projecting non-physical products, required for any armed forces operating pursuant to a resolution of that organisation or any organ of that organisation,
is 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 includes power

- (c) to sell the articles, non-physical products, or devices for projecting non-physical products, to the government or to that organisation pursuant to the agreement or arrangement; and

- (d) to sell to any person any articles, non-physical products, or devices for projecting non-physical products, originally intended for the services of the Government which are no longer required for the purpose for which they were made.

(4) Without limiting subsection (1), any use of a design 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 1986; or
- (c) for public non-commercial use,

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

(5) The purchaser of any articles, non-physical products, or devices for projecting non-physical products, sold in the exercise of powers conferred by subsection (1), and any person claiming through the purchaser, has the power to deal with the articles, non-physical products, or devices for projecting non-physical products, as if the rights in the registered design were held on behalf of the Government.

(6) Despite 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) is deemed not to constitute an infringement of any copyright subsisting in the document by virtue of the Copyright Act 2021 or any right subsisting in a layout-design by virtue of the Layout-Designs of Integrated Circuits Act 1999.

46. Terms of Government use

(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 the registered owner 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), must 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, must inform the registered owner as soon as possible of the fact and furnish the registered owner with such information as to the use made of the design as the registered owner from time to time reasonably requires.

47. Provisions of licence, etc., to be ineffective

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 13 November 2000, between
- (c) the registered owner or applicant for registration or any person who derives title from the registered owner or applicant or from whom the registered owner or applicant derives title; and
- (d) a person other than the Government, shall be of no effect so far as those provisions
- (e) restrict or regulate the use of the design or any model, document or information relating to it; or
- (f) provide for the making of payments in respect of, or calculated by reference to, such use.

48. References of disputes to Court

- (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 is to have regard to any benefit or compensation which that person or any person from whom that person 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 must not do so unless the others are made parties to the proceedings; but any of the others who has been made a defendant is not liable for any costs or expenses unless the defendant takes part in the proceedings.

PART 5 ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

Division 1 Registrar

49. Registrar of Designs and other officers

(1) There is to be a Registrar of Designs who has control of the Registry of Designs.

(2) There are to be one or more Deputy Registrars of Designs who, 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 are to be one or more Assistant Registrars of Designs.

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

50. Delegation by Registrar

(1) The Registrar may, in relation to a particular matter or class of matters, by writing under the Registrar's hand, delegate all or any of the Registrar's powers or functions under this Act (except this power of delegation) to an Assistant Registrar of Designs, any public officer, or any person with the relevant qualifications for or experience in the matter or class of matters, 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 prevents the exercise of a power or function by the Registrar or by any Deputy Registrar of Designs.

(3) A person with the relevant qualifications or experience referred to in subsection (1) is, when exercising the delegated powers and functions, deemed to be a public servant for the purposes of the Penal Code 1871.

51. Registry of Designs

For the purposes of this Act, there is to be an office known as the Registry of Designs.

52. Seal of Registry

There is to be a seal of the Registry and impressions of the seal are to be judicially noticed.

Division 2 Register

53. Register of Designs

- (1) The Registrar must maintain a register to be known as the Register of Designs.
- (2) There must 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 implied or constructive trust may be entered in the Register, and the Registrar is not affected by any such notice.
- (4) A notice of an express trust or of the beneficiary of an express trust, or both, may be entered in the Register; but
 - (a) the Registrar is not affected by any such notice in the Register; and
 - (b) to avoid doubt, a failure to enter such notice in the Register does not affect any rights or duties under the trust.
- (5) The Register may be kept in whole or in part using a computer.
- (6) 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.

54. Rectification of Register

- (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 must, 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;

(c) an entry deleted is deemed never to have had effect, unless, in any case, the Court directs otherwise.

55. Inspection of and extract from Register

(1) The Register must be available at the Registry for inspection by any person during the hours when the Registry is open for business.

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

(3) Any person who applies for a certified copy of an entry in the Register or a certified extract from the Register is 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.

Division 3 Powers of Registrar

56. Costs in proceedings before Registrar

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

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

(3) A party desirous to obtain costs or to have the costs assessed must 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.

57. Correction of Register

(1) The Registrar may, in accordance with the provisions of this section and the rules mentioned in section 74(2A), 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) must be made in the prescribed form and be accompanied by the prescribed fee.

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

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

58. Powers of Registrar

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, articles or devices for projecting non-physical products.

59. Disobedience to summons an offence

(1) A person who has been summoned to appear as a witness before the Registrar must 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, an article or a device for projecting a non-physical product must not, without lawful excuse, fail to produce the document, article or device.

(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.

60. Refusal to give evidence an offence

(1) A person who appears before the Registrar must not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents, articles or devices for projecting non-physical products, or to answer questions, which the person 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.

61. Immunity of Office and Registrar as regards official acts

Neither the Office nor the Registrar nor any person acting under its, his or her authority

- (a) is to 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) is 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.

62. Appeal from decision or order of Registrar

(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 must be heard in private unless the Court otherwise directs.

(3) An appeal does not lie to the appellate court from a decision of the Court on appeal from a decision or order of the Registrar under this Act unless permission to appeal is given by the appellate court.

(4) In this section

“appellate court” means the court to which an appeal under subsection (3) is to be made under section 29C of the Supreme Court of Judicature Act 1969;

“decision” includes any act of the Registrar done in the exercise of a discretion vested in the Registrar by or under this Act.

63. Exercise of discretionary power

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

Division 4 Hours of Business of Registry

64. Hours of business and excluded days

(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.

(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.

(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.

PART 5A THE GENEVA ACT OF THE HAGUE AGREEMENT, ETC.

64A. Power to make provision giving effect to the Geneva Act of the Hague Agreement, etc.

(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.

(2) Without limiting 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.

(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 4 and 6.

(4) In this section

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

“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.

PART 6 OFFENCES

65. Falsification of Register, etc.

Any person who

- (a) makes, or causes to be made, a false entry in the Register;
- (b) makes, or causes to be made, anything 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 anything 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.

66. False representation that design is registered

(1) Any person who falsely represents that a design applied to any article, non-physical product or set of articles and non-physical products disposed of by the person for value is registered in respect of that article, non-physical product or set of articles and non-physical products 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) a person is 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 anything expressing or implying that the design applied to the article has been registered in respect of that article;
- (b) a person is deemed to represent that a design applied to any non-physical product is registered in respect of that non-physical product, if
 - (i) there is applied to the non-physical product anything expressing or implying that the design applied to the non-physical product has been registered in respect of that non-physical product; or
 - (ii) there is stamped, engraved or impressed on or otherwise applied to a device for projecting the non-physical product anything expressing or implying that the design applied to the non-physical product has been registered in respect of that non-physical product; and
- (c) a person is deemed to represent that a design applied to a set

of articles and non-physical products is registered in respect of that set, if there is stamped, engraved or impressed on or otherwise applied to that set or any part of that set (including a device for projecting a non-physical product that is part of that set) anything expressing or implying that the design applied to the set has been registered in respect of that set.

(3) A person 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, if the person, after the right in a registered design has expired

- (a) marks any article to which the design has been applied with anything implying that there is a subsisting right in the design under this Act, or causes any such article to be so marked;
- (b) applies, or causes to be applied, to a non-physical product to which the design has been applied, anything implying that there is a subsisting right in the design under this Act; or
- (c) marks any device for projecting a non-physical product (being a non-physical product to which the design has been applied) with anything implying that there is a subsisting right in the design under this Act, or causes any such device to be so marked.

67. Offences by partnership or body corporate

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

(2) A fine imposed on a partnership on its conviction in such proceedings must 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 or she as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

68. Composition of offences

(1) The Registrar or any person authorised in writing by the Registrar may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) \$5,000.

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

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

(4) All sums collected under this section must be paid into the Consolidated Fund.

PART 6A ASSISTANCE BY BORDER AUTHORITIES

Division 1 Preliminary provisions

68A. Interpretation of this Part

In this Part, unless the context otherwise requires
“aircraft” has the same meaning as in section 2(1) of the Regulation
of Imports and Exports Act 1995

“authorised officer” means

- (a) an officer of customs as defined in section 3(1) of the Customs
Act 1960; or
- (b) any officer or class or description of officers appointed by the
Minister by notification in the Gazette to exercise the powers and
perform the duties conferred and imposed on an authorised officer by
this Part;

“conveyance” has the same meaning as in section 2(1) of the
Regulation of Imports and Exports Act 1995;

“Director General” means the Director General of Customs appointed
under section 4(1) of the Customs Act 1960;

“goods in transit” means goods imported, whether or not landed or
transhipped within Singapore, which are to be carried to another
country either by the same or another conveyance;

“infringement action” means an action for an infringement of a
registered design;

“infringing article” means an article in respect of which a design
is registered and to which the design, or a design not substantially
different from that design, has been applied, where

- (a) the article is made in Singapore without the consent of the
registered owner and in a way that infringes the design; or
- (b) the article is made in another country or territory without the
consent of the registered owner and in a way that, had it been made
in Singapore, would have infringed the design;

“infringing device” means a device for projecting a non-physical
product, being a non-physical product in respect of which a design
is registered and to which the design or a design not substantially
different from that design, has been applied, where

- (a) the device is made in Singapore without the consent of the
registered owner and in a way that infringes the design; or
- (b) the device is made in another country or territory without the
consent of the registered owner and in a way that, had it been made
in Singapore, would have infringed the design;

“infringing goods” means an infringing article or infringing device; “owner”, in relation to the registered design, means the registered owner of the registered design and includes an exclusive licensee of the registered design;

“requestor” means a person who gives a written notice under section 68D(1) to the Director General;

“retention period”, in relation to seized goods, means

(a) the period specified in a notice given under section 68G(2) in respect of those goods; or

(b) if that period has been extended under section 68G(6), that period as so extended;

“seized goods” means goods seized under section 68D(4);

“senior authorised officer” means

(a) a senior officer of customs as defined in section 3(1) of the Customs Act 1960; or

(b) any officer or class or description of officers appointed by the Minister by notification in the Gazette to exercise the powers and perform the duties conferred and imposed on a senior authorised officer by this Part;

“vehicle” and “vessel” have the respective meanings given by section 2(1) of the Regulation of Imports and Exports Act 1995.

68B. Delegation of Director General's powers

The Director General may delegate to a senior officer of customs (within the meaning of section 3(1) of the Customs Act 1960) any of the powers of the Director General under this Part (except the power of delegation conferred by this section), subject to such conditions or restrictions as the Director General may determine.

68C. Fees

(1) The Minister charged with the responsibility for customs duties may make rules to prescribe the fees payable to the Director General in connection with the administration of this Part.

(2) Without limiting subsection (1), rules may be made to prescribe the fees for the following purposes:

(a) for the escort of a conveyance conveying seized goods;

(b) for the attendance of an authorised officer or a senior authorised officer in connection with the inspection or destruction of seized goods;

(c) for the attendance of an authorised officer or a senior

authorised officer in connection with any other act or service under this Part.

Division 2 Seizure of goods on request

68D. Request for seizure of infringing goods

(1) The owner of a registered design may give the Director General a written notice

- (a) stating that the owner is
 - (i) the registered owner of the registered design; or
 - (ii) the exclusive licensee of the registered design;
- (b) stating that goods that are infringing goods in relation to the registered design are expected to be imported or exported;
- (c) providing sufficient information
 - (i) to identify the goods;
 - (ii) to enable the Director General to ascertain when and where the goods are expected to be imported or exported, as the case may be; and
 - (iii) to satisfy the Director General that the goods are infringing goods in relation to the registered design; and
- (d) requesting the Director General to seize the goods.

(2) A notice under subsection (1) must be

- (a) in the form determined by the Director General, and supported by such documents and information as the Director General may require; and
- (b) accompanied by the fee prescribed under section 68C.

(3) A notice under subsection (1) remains in force until the 59th day after the day on which the notice was given, unless it is revoked, before the end of that period, by a written notice given to the Director General by the requestor.

(4) If

- (a) a notice has been given under subsection (1) in respect of a registered design;
- (b) the notice has not lapsed or been revoked; and
- (c) a person imports or proposes to export goods, not being goods in transit, that, in the opinion of an authorised officer, are infringing goods in relation to the registered design in question, an authorised officer may seize the goods.

(5) The Minister may make rules that are necessary or convenient to be prescribed for carrying out or giving effect to this Division, and in particular to provide

- (a) for the times at which, and the manner in which, notices are to be given;
- (b) for the giving of information and evidence to the Director General; and
- (c) that an authorised officer may refuse to seize any goods because of non-compliance with any direction of the Director General or any such rule.

68E. Security for liability or expense of seizure, storage and disposal

An authorised officer may refuse to seize goods under section 68D unless the requestor

- (a) deposits with the Director General a sum of money that, in the opinion of the Director General, is sufficient; or
- (b) gives security, to the satisfaction of the Director General, for the reimbursement to the Government of any liability or reasonable expense it is likely to incur in relation to the seizure, storage and disposal of the goods, and for the payment of such compensation as may be ordered by the Court under section 68M(2) or 68N(6).

68F. Secure storage of seized goods

At the Director General's direction, seized goods must be taken to a secure place the Director General directs, either by the person in possession, custody or control of those goods immediately before the seizure or the requestor, whoever the Director General considers appropriate.

68G. Notice of seizure

(1) As soon as is practicable after goods are seized under section 68D, the Director General must give to the importer or exporter (as the case may be), and the requestor, personally, by post or (with the prior consent of the addressee) by email, a written notice identifying the goods and stating that they have been seized.

(2) A notice under subsection (1) must state that the goods will be released to the importer or exporter (as the case may be) unless

(a) an infringement action in respect of the goods is instituted by the requestor within a specified period after the day specified in the notice; and

(b) the requestor gives written notice to the Director General within that period stating that the infringement action has been instituted.

(3) The period to be specified for the purposes of subsection (2) (a) is the period prescribed for the purposes of that provision.

(4) The day specified for the purposes of subsection (2) (a) must not be earlier than the day on which the notice is given.

(5) The requestor may, by written notice given to the Director General before the end of the period specified in a notice for the purposes of subsection (2) (a) (called in this section the initial period), request that the period be extended.

(6) Subject to subsection (7), if

(a) a request is made in accordance with subsection (5); and

(b) the Director General is satisfied that it is reasonable that the request be granted,

the Director General may extend the initial period by such period as is prescribed.

(7) A decision on a request made in accordance with subsection (5) must be made within 2 working days after the request is made, but such a decision cannot be made after the end of the initial period to which the request relates.

68H. Persons bound to give information or produce documents

(1) At any time after goods have been seized under section 68D, an authorised officer or a senior authorised officer who has reasonable cause to believe that a person has any information or document that the officer considers is relevant for any of the purposes in subsection (2), may require that person to provide to the officer that information or document at a time and place specified by the officer.

(2) The purposes mentioned in subsection (1) are

(a) to enable the Director General to satisfy a request under

section 68I (whether or not such a request has actually been received);

(b) to enable any action to be taken under this Division in relation to future shipments of goods; and

(c) for a statistical or research purpose.

(3) A person who

(a) without reasonable excuse, fails to comply with a requirement under subsection (1); or

(b) in purported compliance with such requirement, knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) A person is not excused from providing any information or document in compliance with a requirement under subsection (1) on the ground that it might tend to incriminate the person.

(5) Where the person claims, before providing any information or document pursuant to a requirement under subsection (1), that it might tend to incriminate the person, then the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under subsection (3).

(6) No information or document that is provided pursuant to a requirement under subsection (1) may be published, or communicated or disclosed to any person, except where and to the extent it is necessary for a purpose in subsection (2).

(7) A person who contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

68I. Information on import or export

(1) After goods have been seized under section 68D, the Director General may, upon the request of the requestor, and if the Director General is satisfied that the information is necessary to enable the

requestor to institute an infringement action, give the requestor the name and contact details of any person connected with the import or proposed export (as the case may be) of the seized goods.

(2) Subsection (1) applies despite any duty of confidentiality imposed by the common law on the Director General or a person to whom the Director General has delegated the power under that subsection.

68J. Inspection of seized goods

(1) The Director General may permit the requestor, or the importer or exporter (as the case may be), to inspect the seized goods.

(2) If the requestor gives the Director General the requisite undertakings, the Director General may permit the requestor to remove a sample of the seized goods from the custody of the Director General for inspection by the requestor.

(3) If the importer or exporter (as the case may be) gives the Director General the requisite undertakings, the Director General may permit the importer or exporter to remove a sample of the seized goods from the custody of the Director General for inspection by the importer or exporter.

(4) The requisite undertakings are undertakings in writing that the person giving the undertaking will

(a) return the sample to the Director General at a specified time

that is satisfactory to the Director General; and

(b) take reasonable care to prevent damage to the sample.

(5) If the Director General permits inspection of the seized goods, or the removal of a sample, by the requestor in accordance with this section, the Director General is not liable to the importer or exporter (as the case may be) for any loss or damage suffered by the importer or exporter (as the case may be) arising out of

(a) damage to any of the seized goods incurred during that inspection; or

(b) anything done by the requestor or any other person to, or in relation to, the sample removed from the custody of the Director General or any use made by the requestor of such a sample.

68K. Forfeiture of seized goods by consent

(1) Subject to subsection (2), the importer or exporter (as the case may be) may, by written notice and the giving of the prescribed written undertakings to the Director General, consent to the seized goods being forfeited to the Government.

(2) The notice in subsection (1) must be given before any infringement action in relation to the seized goods is instituted.

(3) If the importer or exporter (as the case may be) satisfies the requirements of subsection (1), the seized goods are forfeited to the Government and must be disposed of

- (a) in the manner prescribed by rules made under this Act; or
- (b) if no manner of disposal is so prescribed, as the Director General directs.

68L. Compulsory release of seized goods to importer or exporter

(1) The Director General must release the seized goods (not being goods forfeited to the Government under section 68K) to the importer or exporter (as the case may be) as soon as possible after the date of expiry of the retention period for the goods if the requestor has not, before that date

- (a) instituted an infringement action in relation to the goods; and
- (b) given written notice to the Director General stating that the infringement action has been instituted.

(2) If

- (a) an infringement action has been instituted in relation to the seized goods; and
 - (b) on the 22nd day after the day on which the action was instituted, there is not in force an order of the Court in which the action was instituted preventing the release of the goods,
- the Director General must release the goods to the importer or exporter (as the case may be) as soon as possible after the first mentioned day.

(3) If the requestor gives written notice to the Director General stating that the requestor consents to the release of the seized goods, the Director General must release the goods to the importer or exporter (as the case may be) as soon as possible.

(4) This section has effect subject to section 680.

68M. Compensation for failure to take action

(1) Where goods have been seized pursuant to a notice given under section 68D(1) and the requestor concerned fails to take infringement action within the retention period for the goods, a person aggrieved by such seizure may apply to the Court for an order of compensation against the requestor.

(2) Where the Court is satisfied that the plaintiff to an action under this section had suffered loss or damage as a result of the seizure of the goods, the Court may order the requestor to pay compensation in such amount as the Court thinks fit to the plaintiff.

68N. Infringement actions

(1) The Court in which an infringement action is pending may, on the application of a person having a sufficient interest in the subject matter of the action, allow the person to be joined as a defendant to the action.

(2) An authorised officer is entitled to be heard on the hearing of an infringement action.

(3) In addition to any relief that may be granted apart from this section, the Court may

(a) at any time, order that the seized goods be released to the importer or exporter (as the case may be) subject to such conditions, if any, as the Court thinks fit;

(b) order that the seized goods not be released to the importer or exporter (as the case may be) before the end of a specified period; or

(c) order that the seized goods be forfeited to the Government.

(4) The Court may not make an order under subsection (3)(a) if it is satisfied that the Government or any statutory authority is required or permitted under any other law to retain control of the seized goods.

(5) The Director General must comply with an order made under subsection (3).

(6) If

(a) the infringement action is dismissed or discontinued, or the Court decides that the relevant registered design was not infringed; and

(b) a defendant to the infringement action satisfies the Court that the defendant has suffered loss or damage as a result of the seizure of the goods,

the Court may order the requestor to pay compensation in such amount as the Court thinks fit to that defendant.

68O. Retention of control of seized goods

Despite section 68L, in a case in which no order has been made under section 68N(3) in relation to the seized goods, the Director General is not obliged to release or dispose of the goods if the Government is required or permitted, under any other law, to retain control of the goods.

68P. Disposal of seized goods

(1) If the Court orders that seized goods are to be forfeited to the Government, the goods must be disposed of

(a) in the manner prescribed by rules made under this Act; or

(b) if no manner of disposal is so prescribed, as the Director General directs.

(2) If

(a) the Director General gives to the importer or exporter a written notice of the release of seized goods; and

(b) the importer or exporter fails to take custody of the seized goods within the period specified in the notice,

the Director General may dispose of the goods

(i) in the manner prescribed by rules made under this Act; or

(ii) if no manner of disposal is so prescribed, as the Director General directs.

68Q. Insufficient security

(1) If the reasonable expenses incurred by the Director General in relation to any action taken by the Director General under this Division, or taken in accordance with an order of the Court under this Division exceed the amount deposited, or the amount of the security given, under section 68E, the amount of the excess is a debt due to the Government.

(2) The debt created by subsection (1) is due by the requestor, or, if there are 2 or more requestors, by the requestors jointly and severally.

Division 3 Powers of inspection

68R. Powers of inspection in relation to vehicles

(1) A senior authorised officer, or an authorised officer acting in accordance with the general or special directions of a senior authorised officer, may board any vehicle in Singapore and may inspect all parts of the vehicle for goods liable to be seized under section 68D.

(2) For the more effective exercise of the powers conferred by this section, a senior authorised officer or an authorised officer may require the person in charge of a vehicle

- (a) to stop and not to proceed until so authorised; or
- (b) to bring the vehicle to any examination station.

(3) It is presumed in any proceedings arising out of anything done under this section, unless the contrary is proved, that any authorised officer, not being a senior authorised officer, by whom the thing was done was acting in accordance with the general or special direction of a senior authorised officer.

(4) Any person who contravenes this section or who fails to comply with any lawful requisition or direction given or made under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

68S. Examination of packages, etc.

(1) Any goods, package, box, chest or other article which is being or has recently been imported, or is being exported, and in regard to which a reasonable suspicion exists that it is or that it contains goods liable to be seized under section 68D may be

- (a) examined and inspected by an authorised officer or detained until any person in charge of it has opened it for examination and inspection;
- (b) subjected to such infringement verification, or tests or

analysis as the authorised officer thinks fit; or
(c) marked, locked, sealed or otherwise secured by an authorised officer pending examination and inspection.

(2) An authorised officer may require the person in charge of any package, box, chest or other article mentioned in subsection (1) to open the package, box, chest or article (as the case may be) for examination and inspection.

(3) If the person in charge of the package, box, chest or other article mentioned in subsection (1) refuses, or fails after being given reasonable time and opportunity, to comply with the requirement under subsection (2), a senior authorised officer, or an authorised officer acting in accordance with an order of a senior authorised officer, may forcibly open the package, box, chest or article to facilitate the examination and inspection of it.

(4) Any person, other than an authorised officer, who removes, opens, breaks or tampers with any mark, lock, seal or other means of securing any goods, package, box, chest or other article mentioned in subsection (1)(c) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) In this section, "infringement verification" means any process (whether involving the owner of the registered design concerned or not) to determine if any article is or contains goods liable to be seized under section 68D(4).

68T. Power to remove packages and goods to examination station

(1) For the more convenient exercise of the powers conferred by section 68S, an authorised officer may remove any package, box, chest or other article or any goods to an examination station or may require it to be so removed by the owner of it or the owner's agent or any person having the custody, charge or control of it.

(2) A person who fails to comply with such requirement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000.

(3) Upon the failure by a person to comply with such requirement, an

authorised officer may remove the package, box, chest, article or goods in the manner provided by subsection (1), and all the expenses of such removal (as certified by a senior authorised officer) are recoverable as a fine from that person or from the owner of the package, box, chest, article or goods.

68U. Inspection of baggage and belongings on person

- (1) Any person landing or being about to land or having recently landed from any vessel or aircraft, or leaving any vessel or aircraft in Singapore whether for the purpose of landing or otherwise, or entering or having recently entered Singapore by land, sea or air, must
 - (a) on demand by an authorised officer, either permit the person's goods and baggage to be inspected by the officer for any goods liable to be seized under section 68D or, together with the goods and baggage, accompany the officer to an examination station, and there permit those goods and baggage to be inspected in the presence and under the supervision of a senior authorised officer for any goods liable to be seized under section 68D;
 - (b) on demand by a senior authorised officer, permit the person's goods and baggage to be inspected by the officer, or in the presence and under the supervision of the officer, for any goods liable to be seized under section 68D; or
 - (c) on demand by a senior authorised officer, remove belongings kept in or under the clothing of the person, for inspection for any goods liable to be seized under section 68D.
- (2) The goods and baggage of any person who requests to be present when they are inspected must not be inspected except in the person's presence, unless the person fails to be present after being given reasonable facility for being present.
- (3) Any person who refuses or fails, without reasonable excuse, to comply with any lawful demand made under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 3 months or to both.

68V. Powers of authorised officers to enter certain premises

- (1) For the purpose of exercising the powers conferred by sections 68R to 68U, an authorised officer may, without warrant, enter upon

- (a) any islet, landing place, wharf, dock, railway or quay;
- (b) any premises of a provider of port services or facilities licensed or exempted under the Maritime and Port Authority of Singapore Act 1996; or
- (c) any premises of any airport operated under a licence or exemption under the Civil Aviation Authority of Singapore Act 2009.

(2) In this section, "railway" has the meaning given by the Railways Act 1905.

Division 4 Miscellaneous provisions

68W. Obstruction

Any person who

- (a) refuses any authorised officer or senior authorised officer access to any vehicle or place which the officer is entitled to under this Part; or
- (b) obstructs or hinders any authorised officer or senior authorised officer in the execution of any power conferred on that officer by this Part,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both.

68X. Protection from personal liability

No liability shall lie personally against the Director General, an authorised officer, a senior authorised officer, or any person acting under the direction of the Director General for anything done or omitted to be done with reasonable care and in good faith in the course of or in connection with

- (a) the exercise or purported exercise of any power under this Part;
- (b) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Part; or
- (c) the compliance or purported compliance with this Part.

PART 7 MISCELLANEOUS AND GENERAL PROVISIONS

69. Recognition of agents

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.

70. General powers of Court

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.

71. Costs in proceedings before Court

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 must not be ordered to pay the costs of any other of the parties.

72. Certificate of Registrar

A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing which the Registrar is authorised to make or do under this Act is *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.

72A. Amendment of documents other than application for registration

Subject to the rules mentioned in section 74(2A), the Registrar may, at the written request of a person who has made an application (other than an application for registration of a design), or filed a notice or other document for the purposes of this Act, or at the written request of the person's agent, amend the application, notice or document

- (a) to correct a clerical error or an obvious mistake; or
- (b) if the Registrar is of the opinion that it is fair and reasonable in all the circumstances of the case to do so.

73. Fees

(1) There must be paid in respect of applications, registrations and other matters under this Act such fees as may be prescribed.

(2) All fees collected must be paid into the funds of the Office.

(3) Subsection (2) does not apply to fees prescribed in rules made under section 64A(2)(e) which are to be forwarded to the International Bureau.

74. General power to make rules

(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.

(2) Without limiting subsection (1), rules made under this section may make provision

- (a) prescribing the manner of filing of applications or other documents;
- (b) as to the practice and procedure of any proceedings or other matter before the Registrar;
- (c) requiring persons to make such statutory declarations as may be prescribed in support of any application, notice or request;
- (d) requiring and regulating the translation of documents and the filing and authentication of any translation;
- (e) relating to the service of documents;
- (f) authorising the rectification of irregularities of procedure;
- (g) 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;
- (h) 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;
- (i) 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;

(j) 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;

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

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

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

(n) 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;

(o) providing for the publication and sale of documents by the Registry and of information about such documents; and

(p) for the reinstatement, and the conditions for the reinstatement, of

- (i) any application which is treated as withdrawn; or
- (ii) any right which has been abrogated, or thing which has ceased to be in force or to exist, by reason of a failure to comply with any time limit which has been prescribed or which the Registrar has specified.

(2A) Without limiting subsection (1), rules made under this section may make provision to enable the Registrar to publish a request

- (a) to correct an error in the Register; and
- (b) to amend an application, a notice or other document, and to provide for the making of objections to the correction or amendment by a person claiming to be affected by it.

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

75. Rules relating to application for registration

(1) Without limiting section 74, the Minister may, for the purposes of section 11, make rules providing that an application for registration of a design must 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, non-physical products, or sets of articles and non-physical products, to which the design is intended to be applied; and

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

(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.

76. Saving

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

77. Transitional provisions

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

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

(3) For a period of 2 years after 21 November 2021, the Minister may, by rules, prescribe such transitional provisions in relation to that Act as the Minister may consider necessary or expedient.

THE SCHEDULE

TRANSITIONAL PROVISIONS

1. Preliminary

(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 Revised Edition);

"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 meaning given by that Act.

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

2. Relevant Designs

(1) A design registered under the UK Act before 13 November 2000 is 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 13 November 2000.

(2) To avoid doubt, the reference in sub-paragraph (1) to a design registered under the UK Act before 13 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 13 November 2000.

(3) The registration of a design that is deemed to be a registered design under sub-paragraph (1) is 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 13 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.

3. Extension of Registration

(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, the registered proprietor must submit an application to the Registrar in accordance with sub-paragraph (3).

(3) An application referred to in sub-paragraph (2) must be made before the expiry of the initial period of its registration, and must 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) applies, with the necessary modifications, 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 must 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 applies, with the necessary modifications, 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 the applicant's 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.

4. Application of Act to Relevant Designs

For the purposes of this Act

- (a) the registered owner of a relevant design
 - (i) during the initial period of registration of the design, is 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, is 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 is the date of its registration under the UK Act.

5.

A reference in section 5(2) to a design registered pursuant to a prior application is to be construed as including a reference to a relevant design that is registered under the UK Act pursuant to 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,

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

7.

(1) Sections 28, 29 and 53(2) do 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 must

- (a) give the person making the request such information; and
- (b) permit the person 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, is, for the purposes of section 34, to be treated as an application under that section for the registration of the particulars of that transaction and has the same force and effect as such an application.

(3) For the purposes of this paragraph, "registrable transaction" has the meaning given by 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 must, either on his or her own initiative or upon application by an interested party, make a corresponding rectification of the Register, and section 54(4) has effect as if the rectification were a rectification made pursuant to section 54(3).