

LEGISLATIVE DECREE NO. (6) OF 2006
WITH RESPECT TO INDUSTRIAL DESIGNS

We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain,

In accordance with the Constitution,

The Regulations with respect to industrial patents, Designs and Trade Marks of 1955, as amended by Legislative Decree No.22 of 1977;

The Law of Civil and Commercial Procedures Act promulgated by Legislative Decree No.12 of 1971, as amended;

Law of Commerce promulgated by Decree Law No. 7 of 1987, as amended;

Legislative Decree No. (7) of 1994 with respect to the Ratification of the Document Establishing the World Trade Organization;

Legislative Decree No. 31 of 1996 ratifying the Paris Convention for the Protection of Industrial Property;

The Civil Law promulgated by Legislative Decree No. 19 of 2001;

The Criminal Procedural Law promulgated by Legislative Decree No. 46 of 2002;

The decree No. 1 of 1995 ratifying the Convention Establishing the World Intellectual Property Organization (WIPO);

The Shura Council and the Council of Deputies have agreed to the following Law, which we hereby approve and ratify and promulgate.

Chapter I

General Provisions

Article (1)

An industrial design is any composition of lines and colors ,or any three-dimensional form whether or not associated with colors.

Article (2)

A. Industrial designs shall enjoy the protection provided for in this Law. An industrial design can be registered on conditions that:

1. it is novel and filed independently;
2. it is applicable in industry and craft, and gives special appearance to an industrial or craft product;
3. it is not disclosed to the public in the Kingdom of Bahrain or elsewhere by any means , including using or publication thereof , prior to prior to the date of filing the registration application or the priority date of the application, if any.

Notwithstanding the novelty condition provided for in item (1) of the foregoing paragraph, an industrial design shall not lose its novelty If it was disclosed to the public by any means after the filing of its registration application in a country member in the World Trade Organization or in the Paris Convention for the Protection of Industrial Property , or in a country that applies reciprocity to the Kingdom; or if the disclosure has occurred as a result of evident abuse or unfair act of others, provided that all this occurs within six months prior to the registration date of the application in the Kingdom or the priority date of the application, if any .

The Regulations shall determine the procedures for the benefit of the right of priority.

Article (3)

The following industrial designs shall not be registered:

- (1) Designs whose shape is basically due to the technical or functional requirements of the product.

- (2) Designs which are contrary to public order or morality.
- (3) Designs that include emblems, religious symbols, stamps or flags of the Kingdom or other states.
- (4) Designs which are identical or similar to a registered trademark or a well-known mark.

Article (4)

The protection provisions provided for in this Law shall not prejudice any right concerning industrial designs conferred by law, or by the international conventions and agreements adopted by the Kingdom.

Article (5)

The competent authority at the Ministry of Industry and Commerce shall maintain a register to be called (Industrial Designs Register) wherein the accepted industrial designs and all details relating thereto shall be recorded, in addition to whatever action affecting such designs, in accordance with the provisions of this Law , and the implementing Regulations and Orders thereof.

Article (6)

Without prejudice to the provisions of the international conventions in force in the Kingdom of Bahrain, any natural person or legal entity who is a citizen of the Kingdom of Bahrain or a foreigner of a country member in the World Trade Organization or the Paris Convention for the Protection of Industrial property, or that applies reciprocity to the Kingdom, or if the person has real and effective industrial or commercial establishments in the territories of such countries, shall have the right to file an application for the registration of an industrial design in conformity with the provisions of this Law.

Article (7)

If an application for the registration of an industrial design is filed in a country member of the World Trade Organization or the Paris Convention for the Protection of Industrial property, or a country that applies reciprocity to the Kingdom, the person concerned or the successor of his rights shall be entitled to file an application of the same design

within 6 months from the filing date thereof in the foreign country, in conformity with the procedures ,terms and conditions provided for in this Law. In such case, the date of the first application shall be considered as the basis of the right of priority.

Article (8)

The rights conferred by the registration of an industrial design shall belong to the creator or his successor in title. If two or more persons have jointly made a creation , the right to the design shall belong to them jointly and equally, unless they have agreed otherwise. No person shall be deemed a joint creator of an industrial design if his efforts are only confined to assistance in its execution.

If more than one person have made the same creation independently, the right to the design shall belong to the person who was first to file the registration application.

Article (9)

Without prejudice to the provisions of Article (631) of the Civil Law, The rights conferred by the registration of an industrial design shall belong to the employer, if the creation results from execution of a contract providing for exerting efforts to develop a creation.

Article (10)

If an employee –uncommissioned to make creations under a work contract –creates an industrial design relating to the field of activity of the employer by utilizing expertise, documents ,implements, prime materials or facilities made available by the employer, he shall be required to inform the employer of the registration decision of the industrial design immediately after the issue thereof by a registered letter with acknowledgement of receipt. the employer shall have the choice , within three months from the notification date, either to exploit the created industrial design or to acquire the rights conferred thereby against a fair compensation paid to the employee.

The employer right to choose shall lapse if the period prescribed in the foregoing paragraph lapses without informing the employee ,by a registered letter with acknowledgement of receipt, of his choice.

The provisions provided for in this article and the foregoing article shall apply to civil employees of the government and the like.

Article (11)

The application for the registration of an industrial design filed by a creator within a year from the termination of his employment in a private or public establishment, shall be considered as filed during the period of employment. Both the creator and the employer shall be entitled to all rights provided for in the two preceding Articles, as the case may be.

Article (12)

The protection conferred by this Law shall confer on the holder of an industrial design the right to prohibit a third party from manufacturing, selling or importing a product reproducing, incorporating or substantially similar to such an industrial design, where undertaken for commercial purposes.

Article (13)

The protection period of an industrial design shall be for a period of ten years as from the date of filing the registration application in the Kingdom. The protection shall be extended for a further period of five years, when the right holder applies for renewal within the last year of the protection period.

The owner may, however, apply for renewal of the registration, within three months after the expiry of the prescribed protection period.

The protection renewal application shall be in the manner prescribed by the Regulations.

Article (14)

Fees shall be paid on filing an application for the registration of an industrial design. Progressive annual fees shall also be paid as of the second year of the date of the decision issued for the registration of the industrial design until the expiration of the prescribed protection period for industrial designs.

additional fees shall be paid in case of failure to pay the annual fees for a period exceeding 6 months.

Chapter II

Registration of Industrial Designs

Article (15)

The application for the registration of an industrial design shall be filed ,according to the form prescribed for such purpose, by the creator or his successor in title with the competent authority of the Ministry of Industry and Commerce, in accordance with the provisions provided for in this Law and the terms, conditions and procedures prescribed by the Regulations. An application may include up to 50 industrial designs, provided that they all constitute a unity.

The applicant shall, in all cases, provide full data of any application relating to the same industrial design and any matter relating thereof previously filed elsewhere, as well as any decision relating to such applications.

Article (16)

The applicant for an industrial design may - at any time before the issue of the registration decision - withdraw his application or rectify any substantive errors in the application or its annexes, in accordance with the procedures prescribed by the Regulations.

Article (17)

- A. The competent authority of the Ministry of Industry and Commerce shall examine the application for the registration on an industrial design and its annexes to ascertain that the formal requirements prescribed by the Regulations are satisfied, and may require the applicant to introduce any amendments or complements it deems necessary to decide on the application.
- B. The competent authority of the Ministry of Industry and Commerce shall issue the decision of the acceptance of the application for the registration of an industrial design within 60 days from the date of satisfying the requirements stated in the foregoing paragraph. The decision issued for the rejection of an industrial design shall be motivated , and the applicant shall be

notified thereof by a registered letter with acknowledgement of receipt within 30 days of the issue thereof.

Article (18)

The decision issued for the acceptance of the application for the registration of an industrial design shall be published in the manner prescribed by the Regulations

The person concerned shall be granted , upon the completion of the registration, a certificate indicating the registration of the industrial design , stamped with the Stamp of the Ministry of Industry and Commerce , according to the form prescribed for such purpose.

Article (19)

The competent authority of the Ministry of Industry and Commerce may at any time , on its own initiative or upon request from any interested party, issue a motivated decision to add any data to the Industrial Designs Register which could have been omitted, or to modify or to omit any data included therein which is contrary to fact or unlawfully recorded therein. Such a decision , and all this , shall be published in accordance with the rules and procedures and in the manner prescribed by the Regulations.

Fees shall be paid on filing an application according to the provisions of this Article.

Chapter III

Industrial Designs Transfer of Ownership , Licensing , Mortgaging and Seizure

Article (20)

The ownership of an industrial design may be transferred wholly or partly with or without compensation, as well as by inheritance. It may be subject to mortgage, exploitation license, or right of disposal.

The ownership of an industrial design may not be transferred, mortgaged or disposed of to a third party before the date on which such transfer, mortgage or disposal is recorded in the Industrial Designs Register, and published in the manner prescribed by the Regulations.

Article (21)

A creditor may seize the ownership of industrial designs belonging to his debtor in conformity with the provisions concerning seizure of movable garnished assets or the debtor assets in possession of a third party, as the case may be . The competent authority of the Ministry of Industry and Commerce shall be exempt from the provisions relating to the declaration by the garnishee of the amount in his possession due to the garnisher.

The creditor shall notify the competent authority of the seizure and the results of the public auction to be recorded in the Industrial Designs Register. The said seizure and results of the public auction shall not be invoked against a third party before being duly recorded, in the manner prescribed by the Regulations.

Fees shall be paid on recording in the Industrial Designs Register.

Chapter IV

Lapse of Rights Conferred by an Industrial Design, and Considering Decision of Registration as if it had never been issued.

Article (22)

- A. Rights conferred by an industrial design shall lapse under any of the following cases:
- (1) Expiration of the protection period provided for in Article 13 of this Law.
 - (2) Relinquishment by the industrial design holder of his rights without prejudice to the rights of third parties.
 - (3) Failure to pay the due fees , for a period exceeding one year , in violation of the provisions of Article 14 of this Law , and in spite of a warning by a registered letter with acknowledgement of receipt stating the due date , in the time period prescribed by the Regulations.
- B. In case a final decision is issued revoking the registration of the industrial design, or in case a decision of the cancellation of the industrial design is issued in accordance with the provisions of

Article 23 of this Law, considering the registration of the industrial design as if it had never been issued.

- C. Any industrial design lapsed, revoked or cancelled shall be recorded in the Industrial Designs Register , and shall be published in the manner prescribed by the Regulations.

Article (23)

The competent authority of the Ministry of Industry and Commerce may at any time , on its own initiative or upon request from any interested party, issue a motivated decision to cancel the registration of an industrial design , if it is determined that it has been registered in violation of the provisions of this Law, all this shall be in accordance with the rules and procedures and in the manner prescribed by the Regulations.

Fees shall be paid on filing an application according to the provisions of this Article.

Chapter V

Miscellaneous Provisions

Article (24)

Industrial designs ,satisfying the registration conditions provided for in this Law, shall enjoy temporary protection during the display thereof at exhibitions designated by a decision issued by the Minister, held in or outside the territory of the kingdom of Bahrain.

The Regulations shall prescribe the terms, conditions and procedure for the grant of such protection.

Article (25)

Any person may request to consult the Industrial Designs Register and obtain extracts ,copies, or details therefrom, according to the rules and procedures and in the manner prescribed by the Regulations.

Fees shall be paid on consulting the Register and on obtaining extracts ,copies, or details therefrom.

Article (26)

Any concerned party shall be entitled to appeal any decision issued under the provisions of this Law to the Minister of Industry and Commerce , within 30 days from the notification date thereof.

The appeal shall be decided on, and the applicant shall be notified in writing of the decision issued with respect thereof, within 60 day from its filing date.

The appeal applicant may challenge the rejection decision before the Supreme Civil Court within 60 days from the notification date of the appeal rejection, or if the period provided for in the foregoing paragraph lapses with no notification.

Challenging before the Court shall not be permitted unless an appeal is filed and it is rejected by an issued decision , or if the period prescribed for deciding thereon lapses with no notification.

Article (27)

The Minister of Industry and Commerce shall ,subject to the approval of the Ministers Council, issue an order prescribing such fees , and the terms and percentage of the increase and reduction thereof, as well as the cases for refund or waiver of these fees.

Article (28)

The officers designated by the Minister of Industry and Commerce to ascertain the implementation of the provisions of this law and the Orders for the implementation thereof shall have the power to inspect the relevant business premises.

The officers authorized by the Minister of Justice ,in agreement with the Minister of Industry and Commerce , shall have judiciary powers in inspecting offences that fall under their jurisdiction and relate to their duties.

The statements issued with respect to such offences shall be referred to the public prosecutor by an order issued by the Minister of Industry and Commerce or his delegated official.

Article (29)

- A. In case of infringement ,or to prevent an imminent infringement, of any right prescribed by the provisions of this Law, the right holder shall be entitled to obtain an order on the basis of a petition

from the President of the Competent Court considering the merits of the case to adopt one or more appropriate precautionary measures:

- (1) To draw up detailed description of the goods – including imported goods upon their arrival – materials, equipments and implements used or might be used in the infringement, and to preserve relevant evidence in regard to the infringement.
- (2) To order the seizure of the articles stated in item (1) of this Article.
- (3) To desist the infringement.

B. The petition shall be accompanied by adequate evidence proving that the applicant is the right holder and the right is being infringed or that such infringement is imminent.

The President of the Court shall have the authority to require the applicant to provide any information necessary to enable the authority, which executes the precautionary measures, to identify the concerned goods, materials, equipments and implements.

C. The president of the court, when necessary, shall be authorized to issue the aforementioned decision expeditiously –without the summons of the other party- where any delay in the decision issue is likely to cause irreparable harm to the applicant, or if there is a risk of evidence being destroyed, provided that the other party shall be notified promptly of the decision after the issue date thereof.

D. The order issued for the adoption of the procedures provided for in item (A) of this Article may involve delegation of one or more experts to assist in the execution, and shall require appropriate security or financial assurance adequate to compensate for any unlawful prejudice caused by such procedure.

E. The convicted person may appeal such an order before the Competent Court within 10 days following the date of the notification or issue thereof – as the case may be – in such a case, the Court may confirm or revoke the order, totally or partly.

- F. The merits of the case shall be submitted within 15 days from the issue date of the order, otherwise such an order shall cease to have effect.

Article (30)

Without prejudice to any more severe punishment stipulated in another law, a punishment of imprisonment for a period of no less than three months and no more than a year and a fine of no less than 500 Bahraini Dinars and no more than 2,000 Bahraini Dinars, or by either punishment, shall be inflicted upon any person who:

- A. Uses, for commercial purposes, an industrial design registered in accordance with the provisions of this Law or a design substantially similar thereto.
- B. Sells, offers for sale, imports, or possesses with the intention to trade, a product reproducing, incorporating or substantially similar to an industrial design registered in accordance with the provisions of this Law, where undertaken for commercial purposes.

The Court may order the publication of the judgment in a daily gazette once or more at the expense of the convicted party.

In case of repetition, the penalty shall be a punishment of imprisonment for a period of no less than six months and no more than two years and a fine of no less than 1,000 Bahraini Dinars and no more than 4,000 Bahraini Dinars, or by either punishment, along with the closure of the enterprise or project, or the suspension of the activity –as the case may be– for a period of no less than 15 days and no more than 6 months, with the publication of the judgment in a daily gazette once or more at the expense of the convicted party.

The Court, in the event of conviction, may order the seizure or destruction of all infringing articles, as well as the machines and implements used in committing the offense.

Further, the Court, in the event of acquittal, may order the seizure or destruction of the articles stated in the foregoing paragraph, if they have prejudice the rights provided for in this Law, or have been used in the infringement thereof.

Article (31)

The Minister of Industry and Commerce shall issue the Regulations and Orders necessary to implement the provisions of this Law , within 6 months from the date on which the provisions of this Law come into effect.

Article (32)

The Ministers - each in their respective capacity - shall implement this Law , which shall come into effect the day following the date of its publication in the Official Gazette.

Hamad Bin Isa Al Khalifa
King of the Kingdom of Bahrain

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